

## **VOLUNTARY RESOLUTION AGREEMENT**

### **New York City Department of Education Case No. 02-12-1269**

In order to resolve Case No. 02-12-1269, the New York City Department of Education (NYCDOE) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

#### **Action Item I: The Provision of Translation and Interpretation Services**

- A. Effective September 1, 2020, the NYCDOE will (a) include in the file/record of each student with a current Individualized Education Program (“IEP”) or Section 504 plan, and each student who has been referred for an evaluation to determine whether the student is a student with a disability, as defined by the IDEA and/or Section 504 (collectively, “students with disabilities”), information regarding the preferred oral and written language of the parent(s)<sup>1</sup> of such students; (b) refer to this information in connection with communications with such parents relating to the provision of special education and/or related aids and services; (c) identify in IEPs and Section 504 plans the preferred spoken language of each student’s parent; (d) for parents whose preferred language is one of the nine major languages other than English (“LEP parents”) used by parents of students in New York City schools (“covered languages”), provide LEP parents of students with disabilities with translated notices of meetings, notices seeking consent, prior written notices, Related Service Authorizations (RSAs), and Nickerson Letters (collectively “notices”); (e) require schools or the NYCDOE to provide, upon request from an LEP parent, translation of IEPs, Section 504 plans, and/or evaluations reports that have been paid for by the NYCDOE into the covered language; and, (f) offer to provide interpreters for parents at social history meetings, IEP and Section 504 meetings (including annual review meetings), impartial hearings, manifestation determination review meetings and meetings regarding behavior intervention plans (BIP) (collectively “special education meetings”).
- B. During the 2019-2020 and 2020-2021 school years, the NYCDOE will implement a pilot program in a minimum of three districts to centrally translate current IEPs into the covered languages upon request, and provide school-based translations of Section 504 plans and student evaluation reports upon request, for students who attend a school located in the two community school districts or who attend a District 75 school. With respect to the non-District 75 districts, the pilot program will include students attending public schools located in the district, for

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<sup>1</sup> The term “parent” means the student’s parent or guardian or any person in a parental or custodial relationship to the student. The definition of parent includes birth or adoptive parent, step-parent, legally appointed guardian, foster parent and “person in parental relation” to a child attending school. The term “person in parental relation” refers to a person who has assumed the care of a child because the child’s parents or guardians are not available, whether due to, among other things, imprisonment, mental illness, living outside the state, or abandonment of the child.

which IEPs are developed at the school level, and non-public and charter schools located in the district, for which IEPs are developed at the CSE level. The results of this pilot will inform the development of the system to translate current IEPs, Section 504 plans, and evaluation reports into the covered languages upon request in all districts and CSEs by September 1, 2021. The NYCDOE reserves the right to create a system maintained at the school or central level, or a combination thereof. The NYCDOE may submit to OCR a request for an extension of time to address problems identified during the pilot that require additional time to resolve; such request shall be accompanied by a written statement identifying the reason for the request for an extension, and the proposed revised timeframe. OCR will, in good faith, consider any such request.

- C. During the 2020-2021 school year, the NYCDOE will begin to implement a system(s) to track (a) requests for translation of IEPs, Section 504 plans, and evaluation reports; including the covered language requested, the date of the request, and the date the translation was provided; and (b) requests for interpretation and provision of interpretation services at special education meetings.
- D. By August 1, 2021, the NYCDOE will conduct a review of the provision of language access services to LEP parents of students with disabilities, including (a) reviewing data about provision of interpretation and translation services at NYCDOE schools; (b) conducting parent surveys regarding their experiences receiving language assistance; and (c) reviewing the provision of trainings, including frequency, attendance rates, and content.

**Reporting Requirements:**

- a) By August 1, 2021, and August 1, 2022, the NYCDOE will submit documentation to OCR demonstrating that it has implemented Action Items I(A) and I(B) during school years 2020-2021 and 2021-2022, including in the 18 schools listed in Appendix A.
- b) By August 1, 2021, the NYCDOE will submit documentation to OCR demonstrating that it has begun to implement a system(s) to track requests for translation of IEPs, Section 504 plans, and evaluation reports, pursuant to Action Item I(C). The NYCDOE will include a summary of the information collected by the system(s) for the 18 schools listed in Appendix A.
- c) By October 31, 2021, the NYCDOE will provide to OCR a copy of the review conducted pursuant to Action Item I(D).

**Action Item II: Ensuring Competent Interpretation and Timely Translation**

- A. Within 90 days of execution of this agreement, the NYCDOE will develop guidance to schools, Language Access Coordinators and Field Language Access Coordinators, CSE Offices, and Borough Field Support Centers, on the provision of interpretation and translation services. As part of this guidance, the NYCDOE should consider including the following:

- 1) Best practice guidance that interpretation at special education meetings should be provided by a person who is not otherwise participating in the meeting in a different role;
  - 2) The availability of in-person and/or online interpreter training, including for new and experienced staff member interpreters; and best practice guidance that staff member interpreters should be trained.
  - 3) The availability of training or information about interpreter ethics, including the importance of neutrality and confidentiality, and cultural sensitivity;
  - 4) Best practice guidance that interpreters should be familiar with special education terminology, and the availability of a NYCDOE-provided glossary of specific terminology that may be used during meetings as well as information on interpreter ethics;
  - 5) Maintaining a current list of bilingual staff members at each school or office who indicate that they are willing to provide interpretation assistance to parents with a preferred language other than English;
  - 6) Best practice guidance that translations of IEPs, Section 504 plans, and evaluation reports should be completed within 30 calendar days;
  - 7) Best practice guidance that form notices translated into the covered languages should be provided to LEP parents of students with disabilities at the same time that English-speaking families receive such notices in English;
  - 8) Procedures and best practices for requesting translation assistance;
  - 9) Designation of a person for parents to contact if they encounter difficulty with a request for a translated document; and
  - 10) The availability of materials and/or Translation and Interpretation Unit and/or vendor support to facilitate school-furnished translations of student-specific special education documents, including Section 504 plans and student evaluations, such as templates in the nine covered languages of the fixed text and the drop down menus that appear in IEPs.
- B. Following school years 2019-2020 and 2020-2021, the NYCDOE will conduct an internal review of its vendors' provision of translation and interpretation services, considering, among other things, (a) data available regarding the number of requests fulfilled, the languages requested, and the locations making the requests; (b) quality reviews of vendor-translated documents by Translation and Interpretation Unit staff; (c) any complaints regarding vendors from parents, community members, and NYCDOE staff; and (d) any other relevant information. The NYCDOE will share the results of the internal review with the vendors to ensure the quality and timeliness of translation and interpretation services, and/or take any other action with respect to the vendors that the NYCDOE deems appropriate based on the internal review.

**Reporting Requirements:**

- a) Within 90 days of execution of this agreement, the NYCDOE will submit to OCR for review its proposed guidance consistent with Action Item II(A). OCR will respond within 30 calendar days. The NYCDOE will consider OCR’s suggestions but is not required to incorporate them into the guidance.
- b) Within 60 calendar days of receipt of OCR’s written responses from its review, the NYCDOE will submit documentation to OCR demonstrating adoption of the guidance. The guidance will be disseminated by no later than the start of school year 2020-21.
- c) By August 1, 2021, for the 18 schools listed in Appendix A, the NYCDOE will submit documentation to OCR demonstrating that the schools implemented the guidance adopted pursuant to Action Item II(A).
- d) Within 60 calendar days of the completion of the internal reviews described in Action Item II(B), the NYCDOE will provide to OCR a copy of the review and a summary of any actions taken based on the results of the review.

**Action Item III: Training**

During the 2020-21 school year, the NYCDOE will provide training to appropriate staff at each of its schools, CSE Offices, and Borough/Citywide Offices, as to the responsibility to provide translated documents and interpretation services to LEP parents. The trainings will include, at a minimum, information regarding:

- A. the duty to provide, upon request, translated Section 504 plans, IEPs, and evaluation reports to parents of students with disabilities with a preferred covered language other than English; and how schools can effectuate such translations, which may include Translation and Interpretation Unit resources;
- B. the specific procedures for obtaining translations of Section 504 plans, IEPs, evaluation reports, and notices;
- C. LEP parents’ right, upon request, to interpreters provided by the NYCDOE; and that parents should not be asked to bring their own interpreters, nor should students be used as interpreters;
- D. the duty to provide, upon request, appropriate interpretation services at special education meetings to LEP parents of students with disabilities;
- E. the procedures for obtaining interpretation services for special education meetings;
- F. how to use interpreters by telephone; and
- G. how to assist LEP parents whose preferred languages are not among the covered languages.

**Reporting Requirement:** By August 1, 2021, the NYCDOE will submit to OCR a copy of the training materials developed for the trainings pursuant to Action Item III; a description of how the trainings were rolled out to NYCDOE schools; and a list of the CSE Offices, and Borough/Citywide Offices that received the training.

**Action Item IV: Outreach to Parents**

Commencing in the 2020-21 school year, and on an ongoing basis thereafter, the NYCDOE will provide outreach to parents of students with disabilities regarding their rights to language access. As part of this plan, the NYCDOE should, at a minimum:

- A. Provide information in English and the covered languages to parents concerning language access specific to the special education process, including the parent’s right to: (a) translation, upon request, of Section 504 plans, IEPs, evaluation reports, and notices; (b) interpretation, upon parental request, at IEP and Section 504 meetings; (c) information about how to file a complaint regarding language access services; and (d) any additional information the NYCDOE deems appropriate.
- B. Make available information regarding the right, upon parental request, to (i) translation of Section 504 plans, IEPs, evaluation reports, and notices; (ii) interpretation at IEP and Section 504 meetings, and (iii) the specific method(s) for how to request these translations, at a minimum:
  - 1) During all social history meetings;
  - 2) During the initial Section 504 meeting, CSE meeting, or Committee on Preschool Special Education (CPSE) meeting;
  - 3) During all IEP, and Section 504 meetings;
  - 4) In all written notices of Section 504 meetings and IEP meetings to LEP parents; and accompanying all special education consent forms and finalized non-translated IEPs and Section 504 plans; and
  - 5) Posted in each school, CSE Office, Family Welcome Center, and on the NYCDOE website.

**Reporting Requirements:** By August 1, 2021, and August 1, 2022, the NYCDOE will submit documentation to OCR demonstrating that it provided outreach to parents of students with disabilities regarding their rights to language access, pursuant to Action Item IV, during school years 2020-2021 and 2021-2022.

**Action Item V: Student Specific Remedies**

- A. By August 30, 2020, for each student referenced in Appendix B who is still enrolled in NYCDOE schools, including students in non-public placements, the NYCDOE will translate and provide to the student’s parent a copy of the most recent IEP and, if requested, the most recent evaluation reports for the student;

- B. At the next IEP meeting for any student referenced in Appendix B who is still enrolled in NYCDOE schools, including students in non-public placements, the NYCDOE will discuss whether the student requires additional services as a result of any failure to provide translated IEPs and/or interpretation services to the parent.
- C. By August 30, 2020, for any student referenced in Appendix B who is no longer enrolled in NYCDOE schools, the NYCDOE will contact the student's parent, or the student if over age 21, at the last known address and extend an offer to translate the student's most recent IEP and/or evaluations prepared or paid for by the NYCDOE.

**Reporting Requirements:**

- a) By September 30, 2020, the NYCDOE will provide documentation to OCR demonstrating that translated versions of the most recent IEP and the most recent evaluation reports were provided to the LEP parents of students referenced in Appendix B.
- b) By September 30, 2020, the NYCDOE will provide documentation to OCR demonstrating that it conducted an IEP meeting with the appropriate interpretation services provided, consistent with Action Item V(B) above. The NYCDOE will indicate for which students it was determined that remedial and/or compensatory services were required; and provide a copy of the plan for providing these services.
- c) By August 1, 2021, for any students for which it was determined that remedial or compensatory services were necessary, the NYCDOE will provide documentation to OCR demonstrating that the remedial or compensatory services were offered. If the offered services are accepted, the documentation will include, if applicable, the dates, times, and locations that services were provided, and the name(s) of the service provider(s).

The NYCDOE understands that by signing this resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. Further, the NYCDOE understands that during the monitoring of the resolution agreement, if necessary, OCR may visit the NYCDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the NYCDOE has fulfilled the terms and obligations of the resolution agreement. Upon NYCDOE's satisfaction of the commitments made under the resolution agreement, OCR will close this case.

The NYCDOE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the NYCDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the NYCDOE's representative below.

For the NYCDOE:

12/20/2019  
Date

/s/  
Howard Friedman, General Counsel  
New York City Department of Education

**APPENDIX A**

1. P.S. 36X, Bronx
2. P.S. 112, Bronx
3. P.S. 186X @ Walter J. Damrosch School, Bronx
4. P.S. 723X @ P. 338X, Bronx
5. P.S. 374X Knowledge and Power Preparatory Academy (KAPPA), Bronx
6. P.S. 325X Urban Science Academy, Bronx
7. P.S. 4K @ P.S. 81K, Brooklyn
8. P.S. 230K, Brooklyn
9. P.S. 505K Franklin D. Roosevelt High School, Brooklyn
10. P.S. 220K John J Pershing Junior High School, Brooklyn
11. P.S. 620K William E. Grady Career and Technical High School, Brooklyn
12. P.S. 94M @ P.S. 15M, Manhattan
13. P.S. 169M @ RFK, Manhattan
14. P.S. 224Q @ P.S. 186Q, Queens
15. P.S. 225Q @ J.H.S. 168, Queens
16. P.S. 225Q @ P.S. 7, Queens
17. P.S. 752 @ Gateway, Queens
18. P.S. 450 Long Island City High School, Queens

