

SECTION I- BACKGROUND

- A. The Tucson Unified School District (hereinafter referred to as “TUSD”), is a large, primarily urban school district located in Tucson, Arizona. TUSD’s student body exceeds sixty-two thousand students. TUSD operates seven Family Resource and Wellness Centers (hereinafter referred to as “FRWCs”) located at seven different school sites in the district. The primary mission of the FRWCs is “to improve educational achievement by facilitating the delivery of community determined health, social, educational and recreational services to children, youth and families in the Tucson metropolitan area, thereby removing barriers to success.” Consistent with their mission, FRWCs provide many TUSD students and their families with tutoring services, use of computers, counseling, physicals, bus passes, food and clothing.
- B. Approximately 17% of TUSD’s total student body is identified as Limited English Proficient (hereinafter referred to as “LEP”).¹ For purposes of this Agreement, “LEP persons” are individuals whose primary language is not English and who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with TUSD and its FRWCs. TUSD has identified nearly 50 languages that are spoken by its LEP student population. Languages spoken by TUSD’s LEP students include Spanish, Vietnamese, Russian, Cantonese, Mandarin, Arabic, Farsi, various Eastern European languages, various Native American languages and several East Indian languages and dialects.
- C. In recognition of its responsibilities as a recipient of federal financial assistance from the U.S. Department of Health and Human Services (hereinafter referred to as “HHS”), the Tucson Unified School District and its Family Resource and Wellness Centers acknowledge that they are subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and implementing HHS regulation, 45 C.F.R. Part 80, which prohibits discrimination on the basis of race, color, and national origin by recipients of federal financial assistance.

¹TUSD identifies its Limited English Proficient persons (LEPs) as students whose Primary or Home Language is Other than English (PHLOTEs) and whose scores are below the proficiency level on the District adopted English language proficiency assessment instrument. Students whose scores are below the proficiency level on the District adopted English language assessment instrument are identified as English Language Learners (ELLs). PHLOTE households include students who may be English proficient but whose parents are LEP. Throughout this document we will use the term LEP rather than the terms PHLOTE and ELL because LEP is the term used in OCR’s “LEP Policy Guidance Memorandum”. For purposes of this Agreement, the term LEP encompasses both PHLOTE/ELL individuals.

- D. The HHS Office for Civil Rights (hereinafter referred to as “OCR”) received a complaint, OCR Docket Number 09-01-3298, alleging, among other things, that the Family Resource and Wellness Center located at Catalina High School failed to assess the language needs of the population eligible to be served, failed to provide LEPs with either oral or written notice regarding the availability of or how to access qualified language assistance and failed to provide LEP families with qualified language assistance either through the use of competent interpreters or a telephone interpreting service.
- E. In response to OCR’s investigation, TUSD expressed a willingness to resolve the issues in this complaint. Prior to the issuance of formal findings and in the interest of achieving voluntary compliance, TUSD agrees to take the steps contained in this Resolution Agreement as a means of resolving the issues in this complaint investigation.
- F. It is understood and agreed by OCR that TUSD’s agreement to take the steps outlined herein does not constitute an admission of a violation by TUSD of Title VI or of the implementing HHS regulation.
- G. TUSD acknowledges that this Resolution Agreement is predicated on assurances to HHS of its intention to act in full and complete compliance with Title VI and the implementing HHS regulation.

SECTION II- GENERAL PROVISIONS

- A. Effective Date of Agreement. This Resolution Agreement becomes effective on the date of its execution by both parties.
- B. Facilities covered by Agreement. This Agreement shall cover the seven FRWCs operated by TUSD.
- C. Effect on Other Compliance Matters. This Resolution Agreement is unrelated to any other issues, reviews, or complaints that may be pending before OCR or any other federal agency regarding TUSD’s or its FRWCs’ compliance with applicable statutes or regulations enforced by OCR or another agency. This Agreement does not preclude further OCR investigations or compliance reviews of TUSD or its FRWCs. Any compliance matters arising from subsequent or pending reviews or investigations will be

addressed and resolved separately in accordance with the procedures and standards of the statute and implementing regulation applicable to the matter raised.

- D. Prohibition Against Retaliation and Intimidation. Neither TUSD nor its FRWCs shall intimidate, threaten, coerce, or discriminate against any individual because s/he has assisted OCR or participated in any manner in OCR's review of the matter which is addressed in this Agreement.
- E. OCR's Review of TUSD's Compliance with Agreement. OCR may, at any time, review TUSD's compliance with this Resolution Agreement. As part of such review, OCR may require TUSD to provide written reports, and to permit OCR to visit TUSD's FRWCs, interview witnesses, and examine and copy documents to determine if FRWCs are complying with the provisions of this Agreement. TUSD agrees to retain the records required by OCR to assess its compliance with this Agreement and to submit the requested reports to OCR as specified below under Reporting Requirements. Unless extended by OCR for reasonable enforcement purposes, this review period shall expire automatically on June 30, 2004.
- F. Enforcement of Compliance With Agreement. If at any time OCR determines that TUSD has failed to comply with any provision of this Agreement, OCR will notify TUSD in writing. The notice shall include a statement of the basis for OCR's decision and allow TUSD 30 days to explain in writing the reasons for its actions. The time frame allowed for TUSD's response may be less than 30 days whenever OCR determines that a delay would result in irreparable injury to any alleged injured parties. If TUSD does not respond to the notice, or if upon review of TUSD's response, OCR finds that TUSD has not complied with any provision of this Agreement, OCR may request the initiation of administrative or judicial enforcement proceedings pursuant to 45 C.F.R. Section 80.6. If OCR makes such a determination, prior to commencing an investigation or enforcement action, OCR shall notify TUSD of the deficiencies and allow TUSD 45 days in which to correct the deficiencies or submit a plan of action to correct the deficiencies.
- G. OCR's Technical Assistance Commitment. OCR shall provide TUSD with appropriate technical assistance and guidance regarding the provisions of this Agreement, as necessary.
- H. Publication or Release of this Agreement. OCR places no restriction on the publication of the terms of this agreement. OCR may be required to release this Resolution

Agreement and all related materials to any person upon request consistent with the terms of the Freedom of Information Act, 5 U.S.C. Section 552, and its implementing regulation 45 C.F.R. Part 5.

- I. Modification of Agreement. This Resolution Agreement is an enforceable contract. This Agreement may be modified only by mutual agreement of the parties in writing.
- J. Authority of Signer. The signer of this document for TUSD represents that he is authorized to bind TUSD to this Agreement.

SECTION III- SPECIFIC PROVISIONS

- A. LEP Policy Commitments. TUSD shall develop and implement written policies and procedures to ensure compliance with Title VI of the Civil Rights Act of 1964, consistent with OCR's "LEP Policy Guidance Memorandum" in order to ensure that TUSD provides meaningful access to all LEPs seeking services at the FRWCs. TUSD's LEP policies and procedures shall include the following provisions.
- B. Assessment of LEPs. TUSD shall identify the non-English languages that are spoken by LEPs in the District during the academic year by retrieving the necessary data from a District-maintained database. TUSD shall use the data to reasonably estimate the needs for language assistance of the population eligible to be served by the FRWCs.
- C. Provision of Language Assistance. TUSD's LEP policies and procedures shall specify how TUSD will provide language assistance to any LEP person who seeks assistance from the FRWCs either at the FRWC facilities or by telephone.
- D. Prohibition on the Use of Family, Friends or Minors as Interpreters. In recognition of the fact that family members, friends and minors usually are not competent to interpret and in recognition of the fact that their use as interpreters could result in a breach of confidentiality, TUSD's policies and procedures shall prohibit the use of adult family members or friends and minors as interpreters unless exigent circumstances exist or unless the client wishes to decline interpretation services paid for and provided by TUSD. In these instances, TUSD shall document the exigent circumstances and/or the offer and declination of free interpreter services on a standardized form used by all FRWCs. The FRWCs shall keep the forms in a central facility.

- E. Notice of Availability of Interpreter Services. The FRWCs shall post and maintain multi-lingual signs that state that interpreters are available upon request at no cost for any client of the FRWC services. The sign shall be posted in languages spoken by at least 50 persons designated as LEP by TUSD. The sign shall initially be posted in Arabic, Chinese, Russian, Spanish and Vietnamese. TUSD shall post the signs in prominent locations throughout its FRWC facilities. In addition, TUSD shall develop a procedure to notify all LEPs, including non-English/ non-Spanish LEPs, about the services available at the FRWCs.
- F. LEP Identification Tools. FRWC shall develop a multi-lingual poster, card or other tool that allows LEP persons to identify themselves as such and request an interpreter in the individual's primary language. This tool will be available in languages spoken by at least 50 persons designated as LEP by TUSD. Thereafter, the client's primary language will be included in confidential FRWC records.
- G. Dissemination of LEP Policies to FRWC staff. TUSD shall provide its LEP policies and procedures to all FRWC staff who may communicate with or provide services to any student or family member seeking services at the FRWCs or by telephone.
- H. Review of LEP Policies and Interpreter Resources. TUSD shall review its LEP policies and compliance procedures annually and will ensure staff awareness of and compliance with Title VI obligations through in-service and professional development. TUSD shall maintain a list of persons who serve as interpreters. The interpreter list will specify if TUSD has evaluated the interpreter. TUSD shall review its listing of interpreters and interpreter resources semi-annually to ensure accuracy.
- I. Training of FRWC Staff. TUSD shall establish a policy to provide training regarding the provisions of this Agreement and its LEP policies and procedures to all FRWC staff who may communicate with or provide services to any student or family member at FRWCs or by telephone, and to other designated school officials TUSD determines will benefit from the training. Trainings shall be conducted for all current and affected FRWC staff and volunteers. Thereafter trainings shall be conducted for all new FRWC staff hires and volunteers.

- J. Competency of Interpreters. TUSD shall develop and implement a policy and procedure for assessing and evaluating the competency level for all persons who serve as interpreters including volunteers and TUSD employees. Volunteer interpreters who have not been evaluated by TUSD shall be used only in emergency situations on a temporary basis when no other interpreter is available. The interpreter will then be evaluated as soon as possible.

- K. Interpreter Training. TUSD shall establish a policy to provide annual training to all persons who serve as interpreters for TUSD regarding the role of the interpreter including the ethics of interpreting and the need to maintain confidentiality.

- L. Self-Monitoring. The FRWC's shall develop a procedure to track, by primary language, all LEPs who seek FRWCs services and report those numbers to the TUSD/FRWC Coordinator on a quarterly basis, beginning with the first quarter of the 2002-2003 school year (traditional calendar). The Coordinator will ensure that the needs of the LEP eligible client population, as reflected in the quarterly reports, are effectively met through appropriate use of interpreters.

SECTION IV- REPORTING REQUIREMENTS


- A. By September 30, 2002, TUSD shall provide documentation to OCR that it has completed Section III., A.-H, of this Resolution Agreement. Specific appropriate documentation shall include at a minimum:
 - 1. Copy of TUSD's written LEP policies and procedures covering Section III. A.-H.
 - 2. Copy of the multi-lingual sign pursuant to Section III., E.
 - 3. Copy of the poster, card or tool pursuant to Section III., F.
 - 4. Documentation that the dissemination pursuant to Section III., G. has been completed.
 - 5. Copy of the interpreter list pursuant to Section III., H.

- B. By September 30, 2002, TUSD shall provide documentation to OCR that it has completed Section III., I-L, of this Resolution Agreement. Specific appropriate documentation shall include at a minimum:
1. Documentation that the training pursuant to Section III., I has been completed.
 2. Documentation that the assessment pursuant to Section III., J has been completed.
 3. Copy of the training policy pursuant to Section III., K.
 4. Copy of the FRWC LEP tracking procedure used and FRWC reports generated pursuant to Section III.,L.
- C. Beginning with the first quarter of the 2002-2003 academic school year, October 2002, and until June 30, 2004, unless extended by OCR for reasonable enforcement purposes, TUSD shall provide, on a yearly basis unless otherwise stated below, the following documentation to OCR to ensure continuing compliance with this Agreement. Specific appropriate documentation shall include at a minimum:
1. Data concerning the total number of persons served and the total number of LEPs, compiled by primary language, served by the FRWCs for each six month period beginning October 2002.
 2. Data concerning the total number of interpreter/bilingual contacts used at the FRWCs for the same six month period as C1. Interpreter contacts refer to the number of instances for which FRWC staff, TUSD interpreters or contracted telephone language line services provided interpreter/bilingual services to LEPs.
 3. Data concerning the total number of interpreter/bilingual hours employed for the same period as C2.
 4. Data concerning the total number of written FRWC documents, compiled by language, translated into languages other than English.

5. Copy of updated multi-lingual sign, poster, and LEP identification tool, if applicable.
6. Copy of updated interpreter list, if applicable.
7. Documentation of updated interpreter competency evaluation or assessment and documentation of interpreter training attendance.
8. Documentation of new FRWC staff training on TUSD LEP Policies and Procedures, if applicable.

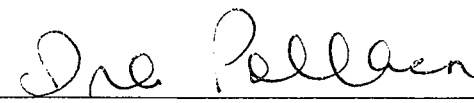
V. SIGNATURES

TUCSON UNIFIED SCHOOL DISTRICT

By 
Dr. Estanislado Paz, Superintendent
Tucson Unified School District

Date: 6-6-02

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,
OFFICE FOR CIVIL RIGHTS

By 
Ira C. Pollack, Regional Manager

Date: 6-14-02