

February 10, 2009

Carole Smith, Superintendent  
Portland School District 1J  
501 N Dixon St.  
PO Box 3107  
Portland, OR 97227

Dear Superintendent Smith:

Enclosed please find the NCLB Title III report for Portland School District 1J. The review was part of the regular monitoring required by Oregon's participation in NCLB. In general, the report documents the District's good work and efforts to implement the provisions on NCLB (ESEA 2001) Title III. The Oregon Department of Education (ODE) recognizes that efforts are already underway to ensure the Portland School District is in compliance with NCLB Title III, State and Federal requirements around services for English Language Learners.

The report lists five (5) program findings that will require response and action by the District. These findings indicate the concerns, the suggested remedies and the timeline(s) for providing evidence of compliance to the ODE. If you have questions or concerns about the findings or the reporting timeline, please contact Carmen West at (503) 947-5669 or by e-mail at [carmen.west@state.or.us](mailto:carmen.west@state.or.us) or Winston Cornwall at (503) 947- 5675 or by e-mail at [winston.cornwall@state.or.us](mailto:winston.cornwall@state.or.us).

We would again like to thank you and the District for your hospitality and professionalism before, during, and after the visit. Please do not hesitate to call upon the ODE for technical assistance as needed.

Sincerely,

Colleen Mileham, Ph.D.  
Interim Assistant Superintendent  
Office of Educational Improvement  
and Innovation  
(503) 947-5663  
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Enclosure

**Portland School District 1J**  
**Final Report: NCLB Title III Program Review**  
**January 7-9 & 26-28, 2009**

In January 2009, the Oregon Department of Education (ODE) conducted a NCLB Title III program review of the Portland School District's implementation of the provisions of the No Child Left Behind Act (ESEA, 2001) and state ESL/Bilingual programs. The review had two main purposes:

1. To assure that the District was in compliance with the law and regulations of federal and state statutes around services to English Language Learners.
2. To provide an opportunity for the district and the ODE team to review current programs supplemented by NCLB Title III funds.

This report has five sections:

1. **General Program Overview:** Briefly describes how each program supplements program related activities.
2. **Finding:** Describes issues of compliance that will require response and correction by the district in order to continue to be eligible for NCLB funding. Each finding is accompanied by a description of the required action and timeline.
3. **Citation:** Provides the text from federal or state law that addresses each finding.
4. **Recommendation:** Lists observations and practices for the district's consideration as it reviews and revises programs.
5. **Commendation:** Describes observations of exemplary practices by the district.

**Title III: Language Instruction for Limited English Proficient  
and Immigrant Students Program Review**

**Overview:**

As part of the Portland School District Title III monitoring visit, members of the team reviewed program specific documentation and discussed program specific needs and achievements including technical assistance related to program issues. This was followed by visits to forty-nine of the district's schools for the purpose of observing practices and looking at document review pieces of the district's LEP program.

**FINDING # 1**

**Finding:**

Not every English Language Learner identified as Limited English Proficient is provided specifically designed instruction for the acquisition of English across the district schools.

**Citation:**

**Oregon Revised Statutes - ORS 336.079 Special English courses for certain children.** Specific courses to teach speaking, reading and writing of the English language shall be provided at kindergarten and each grade level to those children who are unable to profit from classes taught in English. Such courses shall be taught to such a level in school as may be required until children are able to profit from classes conducted in English. [1971 c.326 §3; 1993 c.45 §77].

**NCLB Sec. 3102**

- (1) districts are to ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;
- (2) assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b).

**Title VI (of the Civil Rights Act of 1964) 34 CFR 100.3**

- (a) *General.* No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which this part applies.

[The LEP curriculum should be designed and implemented to ensure the language assistance programs and educational services will assist LEP students to become proficient in English as well as participate in and benefit from the district's regular educational program.]

**Office for Civil Rights Memorandum – May 25, 1970 “*Identification of Discrimination and Denial of Services on the Basis of National Origin.*”**

...Where the inability to speak and understand the English language excludes national origin (minority) students from effective participation in the education program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

[It is expected that students who speak very limited or no English will receive more intensive English language instruction and assistance than students who speak some English.]

**Corrective Action:**

Within 60 days of receipt of this report, the district must provide documentation as evidence that each ELL identified student is receiving instruction for the acquisition of the English language. evidence includes:

1. a copy of the common definitions of ELD program models used by the district across all schools. The documentation will consist of:
  - (a) the identification of the research-base instructional model (s) used by the schools to provide English language development instruction,
  - (b) a description of how the program model (s) will address the State English Language Proficiency Standards as *distinct* from English Language Arts State Standards.
2. Incorporate ELD classes in each of the schools' master schedule allowing for groupings by proficiency level, up to two adjacent proficiency levels per group. Provide the ODE with copy of each school's master schedule that includes number of ELLs served in each period by proficiency level.

**FINDING # 2**

**Finding:**

Academic development and on-grade level core subject instruction, using instructional methodologies that are research-base and are recognized as effective with language minority students are not consistently provided across the district schools. At some schools, English Language Learners participate in the school's core curriculum taught by few GLAD trained teachers. At other schools,

ELLs are not offered meaningful participation in all core content classes offered by the schools.

**Citations:**

**ORS 329.045 (3)**

- (3) School districts and public charter schools shall offer students instruction in mathematics, science, English, history, geography, economics, civics, physical education, health, the arts and second languages that meets the academic content standards adopted by the State Board of Education and meets the requirements adopted by the State Board of Education and the board of the school district or public charter school.

**OAR 581-23-100 Eligibility Criteria for Student Weighting for Purposes of State School Fund Distribution.**

- (4) Pursuant to **ORS 327.013(7)(a)(B)**, the resident school districts shall receive an additional .5 times the ADM of all eligible students enrolled in an English as a Second Language program. To be eligible, a student must be in the ADM of the school district in grades K through 12 and be a language minority student attending English as a Second Language (ESL) classes in a program which meets basic U.S. Department of Education, Office of Civil Rights guidelines. These guidelines provide for:
- (a) A systematic procedure for identifying students who may need ESL classes, and for assessing their language acquisition and academic needs;
  - (b) A planned program for ESL and **academic development**, using instructional methodologies recognized as effective with language minority students;
  - (c) Instruction by credentialed staff and trained in instructional strategies that are effective with second language learners and language minority students;
  - (d) Adequate equipment and instructional materials;
  - (e) Evaluation of program effectiveness in preparing ESL students for academic success in the mainstream curriculum.

**Castañeda vs. Pickard 648 F.2d 989 (5<sup>th</sup> Cir. 1981)**

The Castañeda vs. Pickard case established three criteria for a program that serves LEP students. These measures determine whether a school district is serving the LEP students and if the program addresses the needs of these students. The principles are as follows:

- The district is using a program recognized as either (sound) or (legitimately experimental) by some experts;
- The programs/practices actually used by the district are reasonably calculated to implement the methodology used; and
- The district has taken action if, after a trial period, the approach used fails to produce results

**Corrective Action and Timeline:**

Within 30 days of receipt of this report, the district will develop a plan for K-12 teachers that:

1. identifies core teachers to be trained in Sheltered Instruction for the first and second years of the plan;
2. has an implementation timeline;
3. has an evaluation component that will track the effectiveness of the training; and
4. includes a training timeline for administrators to learn how to evaluate this initiative.

Within 60 days of receipt of this report the district will ensure that training for the first cohort of core staff in Sheltered Instruction has been implemented and will provide the ODE with evidence that this phase of the corrective action has been met.

Within 90 days of receipt of this report: The district will:

1. ensure that the shelter instruction initiative is being faithfully executed in accordance with the research supporting that program, and
2. provide ODE with evidence that the above listed plan is executed as planned.

**FINDING # 3**

**Finding:**

Not every English Language Learner participates in the schools' on-grade level core curriculum. At some schools ELLs are not enrolled in nor are they offered meaningful participation in all on-grade level core content classes offered by the schools. At other schools, ELLs are denied access to on-grade level classes based on language proficiency rather than knowledge of core content.

**Citation:**

**OAR 581-23-100 Eligibility Criteria for Student Weighting for Purposes of State School Fund Distribution.**

- (4) Pursuant to **ORS 327.013(7)(a)(B)**, the resident school districts shall receive an additional .5 times the ADM of all eligible students enrolled in an English as a Second Language program. To be eligible, a student must be in the ADM of the school district in grades K through 12 and be a language minority student attending English as a Second Language (ESL) classes in a program which meets basic U.S. Department of Education, Office of Civil Rights guidelines. These guidelines provide for:

- (a) A systematic procedure for identifying students who may need ESL classes, and for assessing their language acquisition and academic needs;
- (b) A planned program for ESL and **academic development**, using instructional methodologies recognized as effective with language minority students;
- (c) Instruction by credentialed staff and trained in instructional strategies that are effective with second language learners and language minority students;
- (d) Adequate equipment and instructional materials;
- (e) Evaluation of program effectiveness in preparing ESL students for academic success in the mainstream curriculum.

**ORS 329.045 (3)** School districts and public charter schools shall offer students instruction in mathematics, science, English, history, geography, economics, civics, physical education, health, the arts and second languages that meets the academic content standards adopted by the State Board of Education and meets the requirements adopted by the State Board of Education and the board of the school district or public charter school.

**ORS 326.011 Policy**

In establishing policy for the administration and operation of the public elementary and secondary schools and public community colleges in the State of Oregon and in carrying out its duties as prescribed by law, the State Board of Education shall consider the goals of modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system and community college program. [1965 c.100 §1; 1971 c.513 §8]

**OAR 581-022-1210 District Curriculum**

- (1) Each school district shall provide a planned K-12 instructional program.
- (2) The planned K-12 instructional program shall include the following:
  - (a) Common Curriculum Goals and academic content standards to include:
    - (A) English;
    - (B) Mathematics;
    - (C) Science;
    - (D) Social Science (including history, geography, economics and civics);
    - (E) The Arts;
    - (F) Second Languages;
    - (G) Health Education; and
    - (H) Physical Education.
  - (b) Additional Common Curriculum Goals for technology.
  - (c) Essential Learning Skills, as contained in the Common Curriculum Goals and academic content standards;

- (d) Career-related learning standards, as contained in the Common Curriculum Goals and academic content standards; and
- (e) Career education which may include career and technical education.
- (3) The school district shall also provide instruction in other areas identified in chapter 581, division 022 of the Oregon Administrative Rules, including:
  - (a) Infectious diseases, including AIDS/HIV and Hepatitis B;
  - (b) Prevention education in drugs and alcohol; and
  - (c) Emergency plans and safety programs.
- (4) The school district is also accountable to provide instruction in compliance with requirements set forth in ORS Chapter 336, Conduct of Schools Generally.

**NCLB Sec. 3115 (c) Required Subgrantee Activities**

An eligible entity receiving funds under section 3114(a) shall use the funds –  
(1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing (A) English proficiency; and (B) **student academic achievement**.

**Title VI (of the Civil Rights Act of 1964) 34 CFR 100.3**

(b) *Specific* (ii) Provide any service, financial aid, or other benefit to an individual which is different, or provided in a different manner, from that provided to others under the program.

(b) *Specific* (iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.

[The LEP curriculum should be designed and implemented to ensure the language assistance programs and educational services will assist LEP students to become proficient in English and benefit from the district's regular educational program. Students in any school who do not receive the district's selected, research-based design for English language acquisition are not receiving services and the equal educational opportunity to which they are entitled as language minority national origin students.]

**Corrective Action:**

Within 60 days of receipt of this report, the district will:

1. revise the schedules of ELLs to ensure each English Language Learner is enrolled in all required core content classes;
2. include English Language Development classes; and
3. at an agreed upon time between the district and the ODE, a Department's team will return to verify the implementation of the revised schedules.

## FINDING # 4

### **Finding:**

The data reported to the ODE regarding the district's ELD programs do not reflect the practices that are in place in the district's schools.

### **Citation:**

#### **NCLB Sec. 3123 (a) Reporting Requirements, (b). (2)**

on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach limited English proficient children.

#### **NCLB Sec. 3115 (c) Required Subgrantee Activities**

An eligible entity receiving funds under section 3114(a) shall use the funds – (1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are **based on scientifically based research** demonstrating the effectiveness of the programs in increasing

- (A) English proficiency; and
- (B) student academic achievement.

#### **NCLB Sec. 901. GENERAL PROVISIONS. TITLE IX — GENERAL PROVISIONS PART A — DEFINITIONS Sec. 9101. DEFINITIONS.**

(37) SCIENTIFICALLY BASED RESEARCH- The term scientifically based research

(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) includes research that —

- (i) employs systematic, empirical methods that draw on observation or experiment;
- (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
- (iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
- (iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
- (v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

**Title VI (of the Civil Rights Act of 1964) 34 CFR 100.3**

(b) *Specific (ii)* Provide any service, financial aid, or other benefit to an individual which is different, or provided in a different manner, from that provided to others under the program.

**Corrective Action:**

Within the 2008-09 Spring NCLB LEP collection window, the district will submit a NCLB LEP data report that reflects the actual program models used by the District schools.

**FINDING # 5**

**Finding:**

Information in languages and formats that national origin parents require is not readily available at all the district schools.

**Citation:**

**Title VI (of the Civil Rights Act of 1964) 34 CFR 100.3**

- (a) *General.* No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which this part applies.
- (b) *Specific (i)* Deny an individual any service, financial aid or other benefit provided under the program.

**Corrective Action**

Within 30 days of receipt of this report the district will:

1. provide training for building administrators on utilizing district approved interpreters from the district's Interpretation and Translation Services (ITS);
2. create an expectation that each administrator will utilize interpreters upon demand;
3. create a system of communication for national origin parents to contact the district's Compliance Officer if the expectation is not met; and
4. provide the ODE with Emergency Procedures outlined in the district's ELL Plan:
  - Site administrators shall develop emergency contact procedures in the event immediate communication with parents/guardians is required.
  - The procedures shall include the following elements:

- a) administrators shall contact parents/guardian in the language stated in the registration form.
- b) if the registration form indicates that the parent/guardian requires communication in a language other than English, the site administrator shall first use any local resources available that enables communication with the parent/guardian in the designated language. [Students are not considered appropriate translators.]
- c) if no local resources are available, the site administrator shall contact interpretation/translator services which will identify an appropriate interpreter/translator and refer them to the school for immediate services.
- d) emergency service requests do not require use of the web-based forms. ITS shall be contacted immediately.

**Recommendations:**

It is recommended that the district:

1. Align ELD instructional materials with ELP standards;
  - the district establish a Professional Learning Community with ELD teachers across district schools to contribute to the alignment of ELD instruction across grade and proficiency levels as distinct from reading/English Language Arts instruction.
2. Develop a tiered system to deliver training on sheltered instruction that advances and deepens the teachers and administrators' knowledge. The training will also include:
  - monitoring the implementation,
  - an evaluation of the sheltered program.
  - The advanced level will also include how to address language-specific goals and how to teach those within the context of core instruction.
  - Encourage schools to form Professional Learning Communities around Sheltered Instruction to move that program forward.
  - Provide administrators with a tool to evaluate the effectiveness of the school's sheltered instruction program.
3. Implement and/or increase the use of ELD-based interventions at all levels, especially for students who continue to need language development after participating in an ELD program for a reasonable number of years.
  - implement across district schools the use of technology-based ELD instruction as a way to accelerate language development for

students not showing expected language development growth within a reasonable time period.

4. Provide administrators with a tool to evaluate the school's ELD program:
  - provide school administrators assistance on analyzing ELPA data and its impact on English literacy,
  - an expectation that the data be shared with all staff and,
  - an expectation that the data be incorporated into the periodic review and analysis of literacy data.
5. Review the identification process for ELLs that may need services in the Special Education program to ensure that over-identification is not occurring.
6. Revise exit criteria policy to include recently adopted Oregon Administrative Rule **581-023-0100(4)(g)** and State guidelines.
7. The district require all building administrators to provide cultural competence training, such as Glen Singleton's "Courageous Conversations" to all staff as a part of their professional development plan.

**Commendations:**

The district is commended for:

1. Providing a safe and caring environment for students across schools.
2. Community liaison staff actively engaged in promoting communication between schools and their language minority parents.
3. Interacting with parents in their own environments rather than requiring them to attend meetings at the school.
4. Continued efforts by administrative staff to integrate language minority parents in the day-to-day running of the school.
5. Consistent identification procedures which provide schools with initial assessment results, family history and other appropriate information that informs student placement.
6. After school programs that support student learning by offering academic tutoring.
7. Culturally appropriate services and supports that include health services.
8. Assessing all second graders for possible TAG identification.