



U.S. Department of Justice  
Civil Rights Division

U.S. Department of Education  
Office for Civil Rights



---

August 3, 2010

**BY FACSIMILE AND FIRST CLASS MAIL**

Mr. Tom Horne  
Superintendent of Public Instruction  
Arizona Department of Education  
1535 West Jefferson Street  
Phoenix, Arizona 85007

Re: Arizona Department of Education  
OCR Case Number 08094026  
DOJ Case Number 169-8-81

Dear Superintendent Horne:

In 2009, OCR received two complaints, which it consolidated under OCR Case Number 08094026. The complainants alleged violations of Title VI of the Civil Rights Act of 1964 regarding Arizona Department of Education's (AZDE) recent decision to change the processes by which school districts and charter schools are required to identify students who are not proficient in English. AZDE mandated that, beginning in SY 2009-10, the Home Language Survey (HLS) be changed from a three-question survey, which asked for the student's first acquired and most often used language as well as the home language, to a one-question survey, which asks only, "What is the primary language of the student?" The complainants alleged that due to AZDE's decision to change to a single question HLS, students who are English Language Learners (ELL students) and eligible to receive ELL services are not being served because they are not being identified.

As part of our investigation, we reached out to you, the complainants, and many Arizona school districts for information pertinent to the allegation. The information we considered included documentation at the state, district, and school levels, as well as witness interviews. Based on our careful review of this information, existing OCR policy, and Federal law, we have determined that AZDE's one-question HLS, even when supplemented by the teacher referral process, does not comply with Title VI because these identification procedures do not adequately identify and serve ELL students who need English language development services and, at a minimum, unnecessarily delay their identification and services.

As your Education Unit Chief Counsel pointed out, the Title VI complaints are related to the claims under the Equal Educational Opportunities Act (EEOA), 20 U.S.C. § 1703(f), in *Horne v. Flores*. (Email from J. Pollock, AZDE Education Unit Chief Counsel, to A. Romine, OCR Supervisory Team Leader, on April 12, 2010.) The United States Department of Justice (DOJ) enforces the EEOA. Similarly, DOJ has determined that AZDE's identification procedures do not comply with Title VI or the EEOA. Together, OCR and DOJ

Page 2

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

hope to be able to resolve these compliance issues through a Resolution Agreement, a proposed version of which is attached.

### I. Background

Both the U.S. Department of Education, Office for Civil Rights and the Department of Justice are responsible for enforcing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. part 100. Under the statute and regulation, recipients of Federal financial assistance are prohibited from discriminating on the basis of race, color, or national origin. It is national origin status, specifically, and the limited English proficiency that may attend such status, which invokes Title VI jurisdiction regarding the allegation under investigation. AZDE is a recipient of financial assistance from the U.S. Department of Education and is, therefore, subject to Title VI and its implementing regulation. Additionally, local educational agencies (LEAs) in Arizona that receive Federal financial assistance are also required to comply with Title VI. DOJ is further authorized to enforce the EEOA, which requires that state educational agencies and LEAs take appropriate action to overcome language barriers that impede equal participation by students in the instructional program. 20 U.S.C. § 1703(f).

The complaints received under Title VI allege that ELL students are not receiving ELL services because they are not being identified due to AZDE's one-question HLS. In a March 2009 memorandum to LEAs, AZDE mandated that, effective July 1, 2009, the HLS be changed from a three-question survey to a one-question survey that asks only, "*What is the primary language of the student?*" AZDE further directed LEAs to guide parents to answer with the "language used most often by the student."<sup>1</sup> Beginning with SY 2009-10, if a parent or guardian answered this question by indicating a language other than English, the student would be "assessed to determine eligibility for participation in an ELL program,"<sup>2</sup> or, in other words, assessed for ELL status by being given the Arizona English Language Learner Assessment (AZELLA).

In August 2009, AZDE supplemented this mandate in two ways. First, on August 14, 2009, AZDE issued a "Clarification/2009 Primary Home Language Other than English (PHLOTE) Form," which provides:

[Regarding] the identification of continuing ELLs who arrive as new students at a new school, it is the responsibility of the school to check on the eligibility of these new students for any ELL services provided at their previous school. This will ensure that all eligible students will be given the opportunity to receive ongoing ELL services.

Then, on August 26, 2009, AZDE issued a memorandum to Superintendents, Principals, and ELL Coordinators, along with an updated Arizona Department of Education Guidelines & Procedures No. EX-48 "Process for Administration of AZELLA (Arizona English Language Learners Assessment) by Home

---

<sup>1</sup> State of Education 2009 Report, Superintendent Tom Horne. Arizona Department of Education Memorandum, Primary Home Language Other Than English (PHLOTE) Identification for the 2009-2010 School Year (March 12, 2009). See also Primary Home Language Other Than English (PHLOTE) Home Language Survey (Effective July 1, 2009) form.

<sup>2</sup> Arizona Department of Education Memorandum, Primary Home Language Other Than English (PHLOTE) Identification for the 2009-2010 School Year, at 1 (March 12, 2009).

Page 3

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

Language Survey or Mainstream Classroom Teacher" (hereafter Ex. 48). In the August 26<sup>th</sup> updated Guidelines, AZDE clarified that a mainstream classroom teacher may initiate the process for the administration of the AZELLA by requesting a parent/guardian conference for potential ELL students who are not identified by the one-question HLS for testing. See Ex. 48. At the conference, the teacher "must present evidence" of his or her bases for initiating the conference that may result in the administration of the AZELLA to the student. *Id.*

AZDE's Guidelines state that "the following are *required criteria* [for teachers] in determining the need for an AZELLA administration:

The student exhibits that his or her primary language is other than English.

The student does not respond to everyday language, questions, or commands given in English.

The student does not complete written assignments given in English."

*Id.* (emphasis added). The Guidance then states: "Upon determination at the parent/guardian conference of the need for administration of the AZELLA instrument, (*based on any of the above-listed criteria*), and with written permission from the parent/guardian, the student in the mainstream classroom will be administered the AZELLA instrument." *Id.* (emphasis added). The form for teacher and parent referrals for testing states "check all that apply" with respect to the three required criteria. *Id.*

AZDE prohibits LEAs from using any other process to identify PHLOTE (students with a primary or home language other than English) students for testing other than the HLS and the teacher referral process. While LEAs may appropriately develop a separate form to collect additional information, AZDE prohibits them from using information collected on that form "in the eligibility determination process of assessing a student for English language proficiency." (Letter from AZDE to OCR of Aug. 31, 2009, Ex. 1, Instructions for Administering the Primary Home Language Other than English (PHLOTE) Home Language Survey.)

## II. Investigation of the HLS Complaints

During our investigation of whether AZDE's new identification procedures violate Title VI and the EEOA, we reviewed and considered information provided by the complainants and AZDE. We also requested information from a sampling of 20 large Arizona LEAs, 18 of which responded to our inquiry, about their experiences implementing the new HLS and teacher referral process. We also received related information from an additional eight LEAs, both large and small, where OCR is currently monitoring compliance agreements based on Title VI legal requirements.

We considered the new, single-question HLS and the guidance material provided by AZDE to LEAs. We talked to LEAs about how they understood that guidance and their experience implementing the new HLS. We listened to educators and heard their concerns about how parents understood the question. During the course of the investigation many LEAs reported that parents are confused by how to answer the question regarding what is the "primary language" of the student. LEAs also reported difficulty in getting reliable information from some parents, due to the vagueness of the narrow HLS question and the discrepancy of staff members' interpretation of the one question in the HLS. We consistently

Page 4

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

learned through data and witness interviews across many large and small Arizona districts that large numbers of ELL students were not being identified as ELLs because of the HLS and were unable to participate meaningfully in the LEAs' educational programs.

We looked at data regarding how many PHLOTE and ELL students were identified before and after the changes to the HLS. Identified PHLOTE students are the ones who are tested through the AZELLA to determine ELL status; if they are never identified as PHLOTE through the HLS or teacher referral process, they never receive ELL testing. Since AZDE mandated that LEAs use the single-question HLS, most of the LEAs reported a sharp decline in the number of PHLOTE students identified by the HLS. AZDE's own data show that the number of students assessed with the AZELLA in SY 2008-09, (which includes PHLOTE students, ELL students, and former ELL students in monitor year one and two), declined substantially compared with SY 2009-10, from 250,092 to 136,245 - a decline of 113,847 students assessed. We further examined AZDE's data and determined that the number of PHLOTE students tested with the AZELLA has similarly declined; the same drop is reflected in data supplied by LEAs.

In addition, the data show that the number of newly identified ELL students decreased substantially across Arizona since AZDE's mandate for a narrow HLS. Overall, AZDE's ELL program counts show a decline of 33,382 students between SY 2008-09, when the three-question HLS was in place, and SY 2009-10, when the one-question HLS was in place:

SY 2008-09	132,213 ELL students; and
SY 2009-10	98,831 ELL students.

We learned from LEAs that at least part of this decrease is attributable to the new HLS.<sup>3</sup> LEAs report that the reductions in their number of identified ELL students correspond with drops in their number of PHLOTE students, which are at least partially and sometimes substantially attributable to use of the single-question HLS. According to LEAs, many additional PHLOTE and ELL students would have been identified if the two additional questions were retained on the HLS and LEAs were free to consider known language background information.

We considered AZDE's reasons for making the change, namely to stop what AZDE calls the "misclassification" of American Indian and Hispanic students as ELL students simply because some other language is spoken in their homes and they have a reading or writing problem.<sup>4</sup> (Letter from AZDE to OCR of Aug. 31, 2009, at 4.) We explored this rationale in part by reviewing examples of specific students and groups of students, such as Navajo and Hispanic students, whom some local educators determined were not adequately identified by the new HLS for English language proficiency testing. Local educators with knowledge of second language acquisition believe AZDE's mandate fails to identify and serve in particular American Indian students who are ELL students and not proficient in either the American Indian language or English, and who could benefit from ELL services because their English language skills have been significantly impacted by a language other than English. Local educators

<sup>3</sup> To the extent this drop is attributable to the one-question HLS, it implicates AZDE's Title VI and EEOA obligations as set forth in this letter. See *infra* note 5.

<sup>4</sup> We also reviewed the sources of information that AZDE cited in support of this reasoning, and we reached a different conclusion as to whether they provide a rationale for narrowing the HLS to a single question.

Page 5

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

reported that these students are often missed by the HLS and not referred by teachers for testing given that the required referral criteria do not apply.

We also considered AZDE's guidance materials regarding the teacher referral process and talked to LEAs about their experiences implementing this process. LEAs reported that educators believed that students must meet all three criteria to qualify for the teacher referral process; consequently, students who did not meet all of the criteria were not referred even though the educators believed they were ELL students. Teachers expressed concern about the restrictions AZDE has placed on their ability to exercise sound educational judgment when determining which students should be referred for AZELLA testing.

We examined data regarding the number of referrals, the timeliness of referrals, and their impact on individual students' educational progress. We received evidence that only a small number of ELL students missed by the one-question HLS were identified by the teacher referral process and that most identified through this process and tested to determine ELL status were identified as ELL only after considerable and unnecessary delay. According to the LEAs, these students could have been identified sooner had AZDE not prohibited identification methods outside of the one-question HLS and teacher referral process. Some LEAs reported that the teacher referral process has not been an effective means to identify the ELL students missed by the one-question HLS for reasons that include but are not limited to: the onerous and confusing criteria required of mainstream teachers to complete the referral process; the failure of the process to meaningfully identify American Indian students requiring English language acquisition services; the reluctance of teachers and parents to use a process that likely would result in a mid-year change in placement by the time the conference takes place and test scores are available; and the fact that, even when the process is used to refer students for testing, it often results in substantial delay before students are identified as ELL students.

### **III. Basis for the Proposed Resolution Agreement**

We considered the weight of the evidence summarized above in light of Federal law and existing OCR policy. After careful deliberation, we determined that AZDE is not in compliance with Title VI and the EEOA because its use of the one-question HLS, even when supplemented by the teacher referral process, fails to identify many ELL students and unnecessarily delays the identification of other ELL students who could have been identified in a timely way had more questions been asked about their language backgrounds and had LEAs been able to use available information to refer students for testing.

Timely identification of ELL students is the first step to ensure these students are provided with the services that are required by Title VI and the EEOA. If they are not identified, they do not receive those services. If the new processes cause delay in identification, the ELL students lose valuable educational time. We have particular concerns regarding how the new processes are under-identifying Hispanic and American Indian students who may be English language learners.

The enclosed Resolution Agreement is designed to address OCR's and DOJ's determination that AZDE's identification procedures raises compliance concerns under Title VI and the EEOA. The Agreement permits AZDE either to reinstitute the three-question HLS that it used for years or to implement a new effective process that asks additional questions and permits LEAs to use the information available to them to ensure that all ELL students needing services are identified. We are providing you with this Resolution Agreement for negotiation purposes only; please do not distribute it to anyone not involved

Page 6

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

in the negotiations. Once AZDE has complied fully with the terms of the Agreement, it will have come into compliance with Title VI and the EEOA with respect to this issue.<sup>5</sup>

This letter serves as your notice under OCR's Case Processing Manual section 303(b) that if you do not indicate your willingness to voluntarily resolve the identified areas of non-compliance within 30 calendar days or if negotiations have reached an impasse, OCR will issue a letter of findings and may start enforcement action. This letter also serves as your notice under the EEOA that AZDE's current processes for identifying potential ELLs do not comply with the EEOA. See 20 U.S.C. § 1710.

Because the school year is about to start and to ensure that ELL students who need services do not go without them for another school year, we ask that you or someone else with negotiating authority contact us by **August 9, 2010** so that we may resolve this matter promptly. Alternately, if you wish to accept the agreement as proposed, please execute and return two originals. We will execute these and return one original to you. We can be reached by contacting Mary Lou Mobley at 303-844-4480 or [Mary.Lou.Mobley@ed.gov](mailto:Mary.Lou.Mobley@ed.gov), and Amy Berman at 202-514-3843 or [Amy.Berman@usdoj.gov](mailto:Amy.Berman@usdoj.gov). If you do not wish to resolve this matter through a voluntary resolution agreement, please let us know immediately.

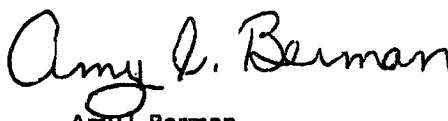
Sincerely,



Mary Lou Mobley

Director, Region VIII (Denver)

Office for Civil Rights, U.S. Department of Education



Amy I. Berman

Acting Chief, Educational Opportunities Section  
Civil Rights Division, U.S. Department of Justice

Enclosure: Draft Resolution Agreement (*for negotiation only*)

cc: Ms. Jennifer Pollock  
Education Unit Chief Counsel,  
Arizona Attorney General's Office

---

<sup>5</sup> This Agreement does not purport to remedy any other existing or potential violations of Title VI, its implementing regulation, the EEOA, or any other federal law. We are investigating AZDE's use of the Arizona English Language Learner Assessment (AZELLA) and its predecessor the Stanford English Language Proficiency (SELP) Test as well as AZDE's mandated alternative language program model, which requires ELL students to take a minimum of four hours of Structured English Immersion on a daily basis.

Page 7

Arizona Department of Education

OCR case number 08094026

DOJ Case Number 169-8-81

Ms. Cheryl Lebo  
Associate Superintendent,  
Standards and Assessment  
Arizona Department of Education

## RESOLUTION AGREEMENT

Between the Arizona Department of Education,  
the U.S. Department of Education's Office for Civil Rights (Denver), and  
the U.S. Department of Justice, Civil Rights Division

OCR Case Number 08094026  
DOJ Case Number 169-8-81

### BACKGROUND

- 1) The U.S. Department of Education, Office for Civil Rights (OCR) and the U.S. Department of Justice (DOJ) investigated two complaints, which were consolidated under the above-cited case number and filed against the Arizona Department of Education (AZDE), alleging that, due to AZDE's mandated change to the Home Language Survey (HLS) to a single question ("What is the primary language of the student?"), students who are English language learners (ELLs) and eligible to receive English language acquisition services are not being served, because they are not being identified.
- 2) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulation at 34 C.F.R. pt. 100, taken together, provide, in relevant part, that no program or activity receiving Federal financial assistance from the Department of Education may discriminate on the basis of national origin.
- 3) The Equal Educational Opportunities (EEOA), 20 U.S.C. § 1703(f), requires that state and local educational agencies take appropriate action to overcome language barriers that impede equal participation by students in the instructional program.
- 4) OCR and DOJ found that as a result of the new AZDE-mandated (HLS) and teacher referral process, eligible ELLs are not receiving English language acquisition services or are not receiving them in a timely manner. AZDE has voluntarily agreed to take the steps outlined in this Resolution Agreement to resolve these Title VI and EEOA compliance concerns.

### JURISDICTION

- 5) AZDE is subject to Title VI because it receives Federal financial assistance from the Department of Education.
- 6) AZDE is subject to the EEOA because AZDE is a state educational agency as defined by 20 U.S.C. § 1720.
- 7) The parties to this Agreement are OCR, DOJ, and AZDE. In light of this Agreement, the parties have determined that Case Number 08094026 and the EEOA noncompliance found by DOJ can be resolved through the terms of this Agreement.
- 8) In order to resolve these complaints, the parties enter into this Agreement. In consideration of, and consistent with, the terms of this Agreement, OCR agrees to refrain from initiating an enforcement



Resolution Agreement – Page 2  
OCR Case Number 08094026

action and DOJ agrees to refrain from initiating litigation regarding areas covered in the "Remedial Action" section of this Agreement, except as provided below.

#### REMEDIAL ACTION

- 9) **By August 13, 2010**, AZDE will submit to OCR and DOJ for their approval revised policies and procedures for the identification of students with a primary or home language other than English (PHLOTE) so that all PHLOTE students are identified and assessed for their English language proficiency in a timely manner, and all ELLs receive English language development services near the start of school year 2010-2011. Specifically, AZDE will revoke its policy of the HLS asking only one question, "What is the primary language of the student?" AZDE's revised policies and procedures will, at a minimum:
- a) (i) Reinstated its previous HLS with the following questions: (1) "What is the primary language used in the home regardless of the language spoken by the student?"; (2) "What is the language most often spoken by the student?"; and (3) "What is the language that the student first acquired?" or  
(ii) Develop a new HLS that asks more than one question, and at a minimum asks questions that will lead to the collection of the following language background information: the student's primary language; the student's first language learned; and languages used in the home of the student;
  - b) Direct Arizona LEAs that an answer of other than "English" on any one question of the HLS will trigger timely assessment with an appropriately valid, reliable, and normed objective assessment instrument that measures English language proficiency in the four skill areas of oral/speaking, comprehension, reading, and writing; and
  - c) Direct Arizona LEAs to provide the HLS in a language understood by LEP parents, either by translated forms or use of qualified interpreter services. AZDE will also direct LEAs to provide interpreter services where a mainstream classroom teacher has recommended a parent-teacher conference to discuss whether the student's English proficiency should be assessed.
- 10) OCR and DOJ will notify AZDE when it has approved the policies and procedures. If AZDE's proposal is not approved by OCR and DOJ, AZDE will re-submit a proposal that fully addresses all concerns communicated to AZDE by OCR and DOJ within fifteen (15) days of OCR and DOJ's notification. AZDE will formally adopt and begin implementing the approved policies and procedures within ten (10) days of OCR and DOJ's approval. AZDE will publish these policies and procedures within its OELAS ELL Monitoring Notebook Checklists, and make these available on the AZDE web page link at English Language Acquisition Services, within three (3) days of OCR and DOJ's approval.
- 11) Within fifteen (15) days of OCR and DOJ's approval of the policies and procedures, AZDE will provide training to all relevant staff and administrators at AZDE and all Arizona LEAs, on the issue of identification of PHLOTE students. Someone knowledgeable about EEOA and Title VI issues pertaining to the identification of PHLOTE students will provide the training. The training will include:
- a) A review of the LEAs' responsibilities to comply with the EEOA as well as Title VI and its implementing regulation, 34 C.F.R. Part 100, which state that educational institutions have a

Resolution Agreement – Page 3  
OCR Case Number 08094026

- responsibility to ensure equal educational opportunities for all students, including ELLs; and that where ELLs in need of an alternative language program are not being identified and served, the recipient is in violation of the EEOA and Title VI;
- b) A copy of the revised AZDE policies and procedures regarding identification of ELLs, as approved by OCR and DOJ;
  - c) LEAs' responsibilities under the approved policies and procedures; and
  - d) LEAs will be informed of their obligations regarding term 13 of this Agreement.
- 12) Within ten (10) calendar days after the conclusion of the training, AZDE will submit to OCR and DOJ proof that the training was provided. The documentation will include the dates of the training, the names and titles of the individuals who provided the training, the training agenda, and the names and titles of the administrators and staff by districts/schools who attended the training, with a copy of the sign-in sheets.
- 13) AZDE will require that Arizona LEAs communicate with parents of students for whom the one-question HLS was completed for school year 2009-2010 about the revised, OCR- and DOJ-approved identification policies and procedures. AZDE will notify LEAs that communication with these parents must be in a language they understand, and that the purpose of this notification is to ensure that their children's educational needs are being met.
- a) For those LEAs that have information about students' language backgrounds (i.e., LEAs that collected the 3-survey question information on a registration form or otherwise for school year 2009-10 or previously) and this information suggests an influence of a language other than English, these students will be assessed before school starts or within thirty (30) days of school starting with an appropriately valid, reliable, and normed objective assessment instrument that measures English language proficiency in the four skill areas of oral/speaking, comprehension, reading, and writing;
  - b) For those LEAs that only collected data for school year 2009-10 on the AZDE-mandated one-question HLS, parents will be directed to complete the revised HLS before school starts or within fifteen (15) days of school starting and will be informed that their children may have their English language proficiency assessed based on the results of the revised HLS to determine if they need English language acquisition services.
- 14) By **December 1, 2010**, AZDE will provide OCR and DOJ with supporting documentation that LEAs have met their obligations related to term 13 of this Agreement. Documentation will include copies of AZDE monitoring reports completed between August 13, 2010 and November 30, 2010.
- 15) By **July 1, 2011**, AZDE will provide OCR and DOJ with supporting documentation that LEAs have met their obligations related to term 13 of this Agreement. Documentation will include copies of AZDE monitoring reports completed between December 1, 2010 and June 30, 2011.
- 16) OCR and DOJ may require additional monitoring reports as necessary.

Resolution Agreement – Page 4  
OCR Case Number 08094026

#### **ENFORCEMENT OF THIS AGREEMENT**

- 17) If, at any time, AZDE desires to modify any portion of this Agreement because of changed conditions making performance impossible or impractical or for any other reason, it will promptly notify OCR and DOJ in writing, setting forth the facts and circumstances thought to justify modification of this Agreement and the substance of the proposed modification. Until OCR and DOJ notify AZDE in writing that it has agreed to the proposed modification, the proposed modification will not take effect. Any modifications must receive the prior written approval of OCR and DOJ. This approval shall not be unreasonably withheld or delayed.
- 18) For purposes of the immediately preceding paragraph, it is a violation of this Agreement for AZDE to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement from OCR and DOJ for an extension of the relevant time frame imposed by the Agreement.
- 19) If OCR and DOJ believe that AZDE has failed to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written permission from OCR and DOJ regarding a modification of the relevant terms under the terms set forth above, OCR and DOJ will so notify AZDE in writing and they will attempt to resolve the issue or issues in good faith. If OCR and DOJ are unable to reach a satisfactory resolution of the issue or issues raised within thirty (30) days of the date they provide notice to AZDE, OCR and DOJ may take steps to initiate an enforcement action through administrative proceedings through the Department of Education or as a referral to the U.S. Department of Justice, and DOJ may take appropriate action to enforce the terms of this Agreement and to enforce Title VI, its implementing regulations, or the EEOA.
- 20) Failure by OCR or DOJ to enforce this entire Agreement or any provision of it with regard to any deadline or any other provision shall not be construed as a waiver of OCR's or DOJ's rights to enforce other deadlines and provisions of this Agreement, or of AZDE's obligation to comply with Title VI, its implementing regulations, or the EEOA.
- 21) This Agreement constitutes the entire Agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, shall be enforceable.
- 22) This Agreement does not purport to remedy any other existing or potential violations of Title VI, its implementing regulation, the EEOA, or any other federal law. The Agreement does not affect AZDE's continuing responsibility to comply with these laws and regulations. For example, OCR and DOJ are still investigating a complaint against AZDE that its English language proficiency assessment, formerly the Stanford English Language Proficiency Test (SELP) now the Arizona English Language Proficiency Assessment (AZELLA), under-identifies potential ELLs and prematurely exits identified ELL students. This Agreement does not resolve this complaint or any other regarding AZDE's compliance with Title VI, its implementing regulation, the EEOA, or any other federal law.

Resolution Agreement – Page 5  
OCR Case Number 08094026

**IMPLEMENTATION OF THIS AGREEMENT**

- 23) This Agreement will remain in effect until OCR and DOJ determines that AZDE has fully complied with all of its provisions. Upon determining that AZDE has achieved full compliance with the terms of this Agreement, OCR and DOJ will conclude its monitoring and will notify AZDE that it is closing this case and terminating this Agreement.
- 24) The person signing for AZDE represents that he or she is authorized to bind AZDE to this Agreement.
- 25) The effective date of this Agreement is the date of the last signature below.

For the Arizona Department of Education:

For the U.S. Department of Education:

\_\_\_\_\_  
 Signatory for                      Date  
 Arizona Department of Education

\_\_\_\_\_  
 Mary Lou Mobley, Director                      Date  
 Office for Civil Rights, Region VIII (Denver)  
 U.S. Department of Education

For the U.S. Department of Justice:

\_\_\_\_\_  
 Amy Berman, Acting Chief                      Date  
 Educational Opportunities Section  
 Civil Rights Division  
 U.S. Department of Justice