

Portland Public Schools' Programs for English Learners: A History of Persistent Problems

Submitted by

The Portland Schools Alliance

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Purpose

In January 2009, the Oregon Department of Education (ODE) conducted a review of Portland Public Schools' programs for limited English proficient and immigrant students. A subsequent letter from Dr. Colleen Mileham of the Oregon Department of Education to Superintendent Carole Smith, dated February 10, stated that the review yielded five findings:

1. Not every English language learner (ELL) identified as limited English proficient is provided specifically designed instruction for the acquisition of English across the district schools.
2. Academic development and on-grade level core subject instruction, using instructional methodologies that are research-based 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.
3. 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.
4. The data reported to the ODE regarding the district's ELD (English language development) programs do not reflect the practices that are in place in the district's schools.
5. Information in languages and formats that national origin parents require is not readily available at all the district schools.

We look upon those findings, particularly findings 1-4, as evidence of the district's failure to follow through on its commitment to offer ELLs equitable access to a meaningful education—a commitment based on educational ethics, federal and state law, and promises the district has made in the past. Other external reviews made similar findings about the educational opportunities for English language learners in the Portland Public Schools. No one doubts that public schools have the ethical obligation to deliver an effective and appropriate education to any student who enrolls. The student is not obliged to be "easy to teach." Many students in Portland Public Schools lack proficiency in English due to their national origin. The schools must make every effort to educate those students, helping them to acquire English proficiency and making the basic curriculum comprehensible to them even before they become fully proficient.

The legal foundations for the schools' obligations to students who lack English proficiency come from Title VI of the Civil Rights Act of 1964, as interpreted by the United States Supreme Court in *Lau v. Nichols* in 1974. They also come from the Equal Educational Opportunity Act of 1974 as interpreted by the 5th Circuit Court of Appeals in *Castañeda v. Pickard*, 1981. Oregon state statutes and administrative rules also require appropriate services for English learners.

The present report puts the ODE findings into a historical context, showing that PPS has perennial problems in ensuring an appropriate education experience for its ELLs. We hope this report will prompt the district to find a way to bring itself into full compliance with state and federal guarantees of equal access to education and remain there and recommit itself to equal access to education for all its students regardless of ethnicity, economic status or English language proficiency.

History of External Program Reviews

Portland Public Schools has repeatedly made commitments to English learners and its own responsibilities toward them, particularly following external reviews that found the district not to be complying with those responsibilities.

In 1994, the U.S. Department of Education Office for Civil Rights (OCR), Region X, conducted an investigation of Portland Public Schools, a review of educational programs and services to national-origin-minority students with limited English proficiency, under authority of Title VI of the Civil Rights Act of 1964. As stated in a

letter dated December 27, 1994, from OCR Regional Director Gary Jackson to then-superintendent Jack Bierwirth, that review found, among other findings:

- District schools did not consistently follow the identification procedures in the District's alternative language plan.
- Many students who required the services of an alternative education program were not receiving those services.

In December 1994, Portland Public Schools entered into a Settlement Agreement with the Office for Civil Rights, U.S. Department of Education, under authority granted by Title VI of the Civil Rights Act of 1964; the agreement followed an extensive investigation of the district by OCR during that same year. In that agreement the District agreed to “reexamine and revise its plan to ensure that all national-origin-minority students in the District who are limited-English-proficient (LEP) and in need of language assistance services can participate effectively in the District’s regular instructional program.” The plan would:

- Include a statement that "describes the District's educational approach and program...for providing language assistance programs and educational services to LEP students....The statement of the educational approach and program should explain how the English language and academic needs of the LEP students will be met."
- Describe how the language assistance programs and educational services will assist LEP students to become proficient in English and how they relate to the District's regular educational program.
- Describe how the language assistance programs and educational services would be provided to LEP students, e.g., within class (ESL or 'sheltered') and pull-out resource services.
- Describe procedures and criteria for the placement of LEP students into language assistance programs and educational services. These procedures should delineate the amount and type of educational programs and services that will be provided to LEP students, based on their ability to participate in the District's program or regular education services.
- Identify District and building staff persons responsible for implementation of the LEP Plan at each building site.

- Describe how and when the responsible persons would monitor the building site's implementation of the LEP plan.

The Agreement stipulated that by July 20, 1995, the District would develop procedures to ensure that all schools in the District fully implement the District's revised LEP Plan. It also set forth several steps the District would follow over the next four years, including a district self-evaluation of the implementation of the provisions of the Settlement Agreement for one-third of the districts schools, culminating in a copy of the self-evaluation for the last one-third to be submitted by July 31, 1998.

We cite the 1994 Settlement Agreement in some detail because of its emphasis on defining and implementing appropriate language assistance educational programs for the district's English language learners, including assignment of responsibilities for ensuring their implementation at the building level. With that history, we feel dismay that nearly 15 years later the review by the Oregon Department of Education would still find that such programs remained undefined and unavailable to some English learners.

In the winter and spring of 1999, OCR conducted compliance site visits in the District and made 14 findings of non-compliance, including:

1. The District failed to issue progress reports to OCR showing that it had fulfilled its obligations under the 1994 Settlement Agreement between the District and OCR.
2. Students were not being properly identified for ESL (English as a second language) services
3. The District failed to appropriately track and evaluate the effectiveness of its ESL program at the school site level
4. ESL students were not properly exited from District ESL programs
5. The identification steps set forth in the district's Lau plan were not consistently implemented at different schools.
6. There was no consistent recordkeeping regarding transfers of ESL students between District schools.
7. ESL students were graded on an inconsistent basis, so there is no way to compare their progress.
8. Special education students were not being properly assessed for ESL services.

9. Some regular education teachers indicated they had not received any ESL training.
10. There was no consistency in the implementation of the District's ESL program at the various school sites.
11. Principals were not being held accountable to ensure that the District's ESL programs were properly implemented at their schools.
12. There were incomplete and inconsistent recordkeeping systems among the various schools regarding ESL program implementation.
13. Although the District has an appropriate Lau plan, the ESL program failed to ensure that it was properly implemented throughout the District.
14. The District's ESL program failed to identify specific strategies to address the issues described above.

Points 1, 3, 9, 10, 12, and 13 suggested that the district was failing in its obligations to provide an appropriate educational program for ELL students.

We look upon those findings as evidence of the district's failure to follow through on its commitment to offer ELLs equitable access to a meaningful education.

Following those findings, in December 1999, the District and OCR entered into an *Agreement to Resolve*, which specified remedial provisions similar to those contained in the 1994 *Settlement Agreement*. OCR also directed the district to devise and implement an action plan during the 1999-2000 school year that set specific goals for remediation and specific time lines, activities, and responsibilities for meeting those goals. As a result of OCR's findings of non-compliance and the necessitation of a new agreement with OCR, the District undertook an internal investigation with the following mission:

"Determine why the district failed to comply with the 1994 OCR agreement triggering the OCR 1999 compliance site visits and findings of noncompliance. Identify whether the actions (or inactions) of specific staff members led to this result."

As a result of the interviews and document reviews conducted during the data collection phase of the investigation, the investigator identified the following five factors that contributed to the district's failure to comply with the provisions of the 1994 Settlement Agreement with OCR:

- Key individuals within the district administration and the E/B (ESL/Bilingual) Program failed to take the district's responsibilities under Title VI of the Civil Rights Act of 1964 seriously, and some took a defiant stance rather than a collaborative stance in regards to OCR.
- The E/B Program operated in isolation from other district programs, and as a result, key requirements of the district's Lau Plan are not effectively communicated to or understood by the rest of the district.
- Decisions about services to limited English proficient students were often driven by considerations of funding pursuant to Oregon's weighted funding for students in ESL programs and how to pay for services rather than by Title VI considerations of equity.
- Poor leadership within the E/B Program caused delays in carrying out important actions or failure to carry them out at all.
- The district lacked a clear vision of its services to limited English proficient students, to the extent that its adopted Lau Plan provided little guidance regarding those services; to the extent that the Plan contained any guidance, it was often ignored.

Following the 1999 Agreement to Resolve, the district devised a Comprehensive Action Plan that systematically addressed OCR's concerns, and collaborative evaluation reports between an external evaluator and district staff were submitted to OCR in 2002, 2003 and 2004. In November 2004, Superintendent Vicki Phillips received a letter from Gary Jackson at OCR, which stated:

"Based on a review of the district's [September 2004] report, we have determined that the district has taken sufficient steps to implement the provision in the agreement with our office. The district regularly conducts evaluations of its ELL program and district staff are using the results of the evaluations to improve the program. The district will implement a 5-year strategic plan by mid-January 2005 that will address identified areas for improvement. Also, the district's latest evaluation of student achievement reflects that students in its ELL program are learning English and are making progress in core academic classes. Based on the above, we are closing our monitoring of the agreement, and no further monitoring reports are required."

After 10 years, it appeared that Portland Public Schools had corrected its deficiencies in its obligations to English language learners.

However, less than a year after that letter was received, the Oregon Department of Education conducted a consolidated review of the district's implementation of the federal education law, the No Child Left Behind Act (NCLB), including Title III, Language

Instruction for Limited English Proficient and Immigrant Students, and the state's provisions regarding ESL/bilingual programs. That review occurred in October 2005. It made a series of findings regarding requirements of various sections of NCLB, especially Title IA. Findings of particular interest to the Portland Schools Alliance and of special relevance to this report included:

- Information provided to parents by the district and schools did not meet the NCLB requirement for providing information "in a format, and to the extent practicable, in a language that parents could understand."
- Specially designed instruction for the acquisition of English is not provided to identified Limited English Proficient (LEP) students across the district schools.
- English learners at proficiency levels eight and above, on monitoring status, enrolled in regular education programs and not receiving specially designed instruction for LEP students or any other support from the District's language assistance program are retained in the district's language assistance program as Limited English Proficient students.
- Parent notification letter does not meet NCLB requirements regarding the program and services that each English learner is to receive, and the placement related to specific English proficiency levels based on the language assessment's results.
- The data reported to the Oregon Department of Education regarding program models do not reflect the practices that are in place for LEPs across the district's schools nor do they reflect the implementation of the district's approved ELL plan.

One finding appeared to reflect inadequate record keeping regarding students on monitoring status. However, other findings indicated that the district still was not communicating appropriately with language minority parents, that not all ELL students were receiving instruction in English language development, and actual program practices did not match the district's adopted models.

Then, three years later, in July 2008, Superintendent Carole Smith received a letter from Vicki Hoffman, an Equal Opportunity Specialist from the Office for Civil Rights, Western Division, informing her of a complaint of discrimination against Portland School District. The letter from Ms. Hoffman listed two allegations regarding services for English learners at three of the district's high schools, Marshall, Roosevelt

and Madison. According to the letter, the district was discriminating against the students by:

- Failing to provide LEP students the services necessary to ensure an equal opportunity to participate effectively in the district's education program, and
- Failing to provide information in an effective manner to the parents of LEP students concerning their children and school programs and activities.

These allegations reflected concerns about the same kinds of situations the Oregon Department of Education had identified as problems in 2005.

The letter from OCR listed several items of information needed from the district in order to proceed with its investigation of the complaint. OCR subsequently learned that the Oregon Department of Education was planning a review or "audit" of the district's ELL program and determined that the scope of the ODE review would address the complaint's allegations, as explained in a letter from Chief Attorney Joan Rubin in a letter to Superintendent Smith dated October 30, 2008.

ODE conducted its review of Portland Public Schools' ELL program in January 2009. ODE's findings were listed at the beginning of this report but are repeated here to emphasize the persistence of the problems following the preceding account of the district's recent history.

1. Not every English language learner identified as limited English proficient is provided specifically designed instruction for the acquisition of English across the district schools.
2. Academic development and on-grade level core subject instruction, using instructional methodologies that are research-based 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 (Guided Language Acquisition Design) trained teachers. At other schools, ELLs are not offered meaningful participation in all core content classes offered by the schools.
3. 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.

4. 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.
5. Information in languages and formats that national origin parents require is not readily available at all the district schools.

The first four findings show a reversion to the conditions found by OCR during the time they were monitoring the district's ELL program, and three of them—findings 1, 4 and 5—paralleled ODE's 2005 findings. We had hoped, in 2004, that the district would indeed ensure that all ELL students had access to the same educational opportunities as other students and be afforded instruction appropriate to their language needs. Unfortunately, based on ODE's findings, that appears not to be the case.

Regarding the fifth ODE finding on parent communication, the 2002 evaluation report addressed the question, "Are all parents provided the same information about school activities regardless of the language they speak?" That report described in detail the steps the district was taking to ensure that parents who themselves speak little or no English have school-related information available to them in a form and language they can understand. The Portland Schools Alliance claims as members many parents whose children are enrolled in Portland Public Schools but do not have full English fluency. Parents of ELLs care deeply about their children's education and support their children's education in any way they can. But they need information from the school, information in a language they can understand, to do so.

Parents who speak little or no English...need information in a language they can understand.

In addition to the formal reviews by the Office for Civil Rights and the Oregon Department of Education, the Portland Schools Alliance takes note of the fact that the *Oregonian* newspaper reported on May 10 that four of the district's high schools—Marshall, Roosevelt, Madison, and Jefferson—have issued modified diplomas at rates far higher than other high schools. We take note that three of those high schools—Marshall, Madison, and Roosevelt—were the three schools named in the OCR letter of July 2008. They issued modified diplomas at the rates of 16%, 12% and 11%. (The fourth high school was Jefferson.) The *Oregonian* noted that the schools issuing high rates of

modified diplomas have higher percentages of economically disadvantaged students and higher dropout rates than other high schools. We would add that according to data published by the district based on fall 2008 enrollment data, those schools also enroll larger percentages of students from ethnic minorities--Marshall with 50.5%, Roosevelt with 70.6%, and Madison with 61.2%. Jefferson High School, not named in the complaint to OCR, enrolls 81.1% minority students. (Benson High School also has a high enrollment of ethnic minority students at 74.6% but appears not to exhibit the same patterns of problems.)

The information on the modified diplomas issued at those schools forces the Portland Schools Alliance to wonder whether ELL and other disadvantaged students who graduated from them really received the education that a diploma should represent. The district has reported that its Hispanic students only have a 45% graduation rate, compared to 69% overall. We do not know how many Hispanic or ELL students have received modified diplomas, but this information on modified diplomas, together with the complaint to OCR and the findings by ODE that some ELL students do not have access to grade-level content, increases our concerns as to whether Portland Public Schools is exercising due diligence in ensuring a good-quality education for ELL and other disadvantaged students.

The findings renew our interest in the fact that ELL students are enrolled in the district's high school level grades in much smaller numbers than at elementary grades. We want to know how those numbers can be explained, whether they are a demographic artifact or whether they represent students leaving school. We could hope the smaller numbers signify that many former ELL students attained proficiency in English and are no longer counted as ELL. We would like to know the explanation behind these numbers, and we would like such information to be readily accessible on the ESL/Immersion web site.

Moving Forward

The district appears to have quickly lost sight of the promises it made over the past 15 years. Our own knowledge of the district's history tells us that a focused commitment to ELLs has not been integrated into the district's vision or its operations. Since 2004, we have seen much staff turnover in both central administration and in the

personnel of the district's ESL/Immersion (formerly ESL/Bilingual) Department. We do not wish to fault any individuals, as the 2000 investigation did, but we believe the turnover results in a loss of institutional memory and understanding of the district's earlier commitments and the amount of work and effort on the part of many people that led to those commitments and our optimism of five years ago.

We take particular note of one of the findings from the 2000 investigation:

"The E/B Program operated in isolation from other district programs, and as a result, key requirements of the district's Lau Plan are not effectively communicated to or understood by the rest of the district."

When we study the district's ESL/Immersion Plan, we find considerable detail on the provision of English language development, which appears to be instruction in English as a second language, with guidelines as to where it should be delivered and for how long according to students' grade levels and English proficiency. We also find that sheltered instruction is listed as the means for access to the curriculum in the majority of schools, and in a few cases transitional bilingual education or dual immersion. The Plan contains the statement that the "ESL/Bilingual Department ensures that ELLs have access to the core curriculum while at the same time receiving the language support that they need" (Sec. 4, p. 2). However, the Plan does not say how the ESL/Bilingual Department can ensure that access nor who is responsible for ensuring that such approaches as sheltered instruction in the content areas is appropriately delivered or that ELL students are placed in such sheltered classes. In fact, we have seen nothing in the district's documents to verify that sheltered instruction is in fact being implemented throughout the district or that teachers have been systematically trained in its implementation.

The district appears to have quickly lost sight of the promises it made over the past 15 years. Our own knowledge of the district's history tells us that a focused commitment to ELLs has not been integrated into the district's vision or its operations.

The Portland Schools Alliance wishes to give credit for those areas in which the school district has made progress and remedied previously identified weaknesses. For example, it appears that the process of identifying eligible English language learners has

been substantially improved. Evaluation reports submitted to the Office for Civil Rights in 2002 and 2003 described those advances. In addition, the district consistently makes available information on the academic performance of English learners and reclassified English learners in relation to state achievement standards and the performance of non-ELL students. That information appears on the ESL/Immersion Department Web site. We understand that students who have limited proficiency in English struggle with tests administered in English and therefore will not perform as well as non-ELL students. We are pleased to see that 75% of monitored students, who exited ELL services within the past two years, met or exceeded the state benchmarks in Reading in grades 3-8, and 79% of the monitored students in those grades met or exceeded benchmark in Mathematics. On the other hand, the state report on Annual Measurable Achievement Objectives for 2007-08 showed that only 24% of the district's students who "should" have exited into monitoring status did so. Thus we can infer that the pool of monitored students experiencing academic success should have been larger.

The November 2004 OCR letter said that the district evaluates its ELL program and uses that information for program improvement. If those evaluations are being done, and steps for improvement being taken, we are unaware of it. In fact, if such evaluations were being done, we fail to see why ODE would have found that program descriptions submitted to ODE did not match what was occurring in the schools or why there are ELL students in the district who are not receiving appropriate academic instruction and assistance in becoming proficient in English.

The Portland Schools Alliance calls upon the Portland Public Schools administration to determine why, after all the reviews and work during the 10 years from 1994 to 2004, the district once again has found to be deficient in ensuring equal educational access to its English language learners and in fully informing those students' parents of important school activities in a manner they can understand.

The Alliance more specifically calls upon Portland Public Schools to use its evaluation resources and internal review process to answer such questions as:

- Why the district has not met targets for reclassifying ELL students as proficient in English.

- How many ELL students are not placed in classes that allow them meaningful access to the curriculum.
- Where responsibility actually lies for ensuring that meaningful access is in fact accorded to ELL students.
- The extent to which teachers have actually been trained to implement the educational programs the district has selected for its ELL students.
- Whether academic programs for ELL students, including those intended to nurture their native languages, such as two-way immersion programs, are adequately supported in terms of curriculum development and instructional materials using state and federal funds intended to support ELL programs as well as basic district funds.
- The extent to which programs for ELL students are implemented with fidelity.
- Whether immersion programs intended to promote proficiency in non-English languages and cultural understanding for English-speaking students are adequately supported in terms of curriculum development and instructional materials.
- To what extent minority and ELL students have been given modified diplomas, suggesting that they did not truly benefit from the educational experience a diploma should represent.
- Who is responsible for ensuring that schools communicate with ELLs' parents in ways they can understand, and how future effective communication can be accomplished.
- Who will be responsible for remedying the problems identified by ODE, and what kinds of accountability mechanisms will be put in place not only to ensure the problems are resolved, but that they will not recur again.

The Portland Schools Alliance considers itself an advocate for Portland Public Schools and the many parent and student communities that comprise it. We submit this review of the district's recent history of non-compliance with its obligations to English learners and our requests for action not in an adversarial spirit, but rather in a wish to play the role of partner for progress. This report and our request for action come at an opportune time. The recent ODE review has drawn new attention to historical problems. At the same time, the district has received some \$15 million in American Recovery and Reinvestment Act funds for Title I. We hope that ELL students will be equitably served

in the distribution of those funds with attention to their unique educational needs. We know that not all the problems we have discussed require a financial solution; some merely require closer attention and commitment on the district's part. However, to the extent that the problems our ELL students face can be addressed by financial resources, this opportunity has presented itself. The district merely needs to take advantage of those resources, and, we hope, the opportunity to work in partnership with the Portland Schools Alliance.

Report submitted by:

Portland Schools Alliance Board of Directors