

Settlement Agreement

Between

the United States

and

the Martin Luther King, Jr.

Charter School of Excellence,

Springfield, MA

PURPOSE

The Martin Luther King, Jr. Charter School of Excellence (“the School”) agrees to the terms of this Settlement Agreement (“Agreement”) and to comply fully with its provisions to address and resolve the noncompliance issues raised by the United States Department of Justice (“United States”) regarding the School’s legal obligations under the Equal Educational Opportunities Act of 1974, 20 U.S.C. §§ 1701 *et seq.* (“EEOA”).

Consistent with requirements of the Massachusetts Department of Elementary and Secondary Education (“DESE”), the School has chosen to educate its English Learner students (“ELs”) through an EL program consisting of two core elements: (1) a minimum of 45 minutes of English as a Second Language (“ESL”) instruction per day as the primary method for acquiring English; and (2) Sheltered English Immersion (“SEI”) instruction in core content classes, as the primary method for rendering this content accessible to EL students.

After conducting a thorough review of the School’s EL program, the United States identified conditions that violate Section 1703(f) of the EEOA. The conditions identified by the United States pertain to the School’s failures to: (1) provide ELs with sufficient language services; (2) staff its EL program with sufficiently qualified teachers; (3) take appropriate action to overcome language barriers when evaluating EL students for participation in the special education program; (4) provide sufficient translation and interpretation services for Limited English Proficient (“LEP”) parents/guardians; (5) adequately monitor current and former ELs; and (6) properly evaluate its EL program.

The parties undertake this Agreement as a means of alternative dispute resolution to avoid litigation and for the purposes of judicial and governmental economy. The School agrees to implement the remedial measures enumerated in this Agreement but admits to no violations of the EEOA by entering into this Agreement. To the extent the School has already started undertaking measures to address some of the issues raised by the United States, this Agreement memorializes those measures. The effective date of this Agreement will be the date when both parties have signed the Agreement. The Agreement will remain in effect for two full school years following that date subject to the terms of Paragraphs 27-29 below.

The School representative, by signing this document, gives assurances that he has the authority to bind the School, including successor School Executive Directors, successor

administrators, and successor members of the School's Board of Trustees, for the Agreement's duration.

DEFINITIONS

- **English Learners or ELs** are students who require assistance to overcome language barriers that impede their equal participation in the School's instructional programs.
- **English Language Proficiency or ELP** refers to a student's ability to read, write, speak, and understand the English language as determined by the student's scores on a valid and reliable English language proficiency assessment of each of the four language domains of speaking, listening, reading, and writing.
- **English as a Second Language or ESL** is direct, explicit instruction about the English language that provides a systematic and developmentally appropriate approach to teaching language. ESL instruction addresses the listening, speaking, reading, and writing standards in the World-Class Design and Assessment ("WIDA") English Language Development Standards adopted by DESE.
- **ESL-Certified Teacher** refers to a teacher who is certified to teach ESL from DESE.
- **Former EL** refers to a student who was formerly an EL but subsequently met valid and reliable criteria for exiting the EL program, including demonstrating proficiency on a valid and reliable assessment of English Language Proficiency in all four language domains.
- **Newcomer** refers to ELs who have little to no English proficiency and arrived to the United States within the last two years.
- **Opt-Out EL** refers to an EL whose parent/guardian opted out of instructional services for ELs by signing a voluntary and informed waiver of such services in a language they understand.
- **Sheltered English Immersion or SEI** refers to the School's method for teaching ELs grade-level core content (i.e., English Language Arts ("ELA"), math, science, and social studies) in English by integrating English language and literacy development into content area instruction. SEI systematically incorporates an array of teaching strategies that make core content classes more comprehensible and accessible to ELs while promoting their English language development, such as teaching to language objectives, building background knowledge and vocabulary, scaffolding, differentiating instruction for ELs, grouping ELs by ELP level, using adapted materials, texts, and visual displays, cooperative learning and group work, offering primary language support, providing clarification, promoting academic discussions, and offering proficiency-level appropriate feedback on ELs' language use and demonstration of content knowledge.
- **SEI-endorsed** refers to core academic teachers of ELs (and vocational and technical education teachers of ELs) who have earned the SEI Teacher Endorsement required by DESE by: 1)

earning an ESL certification; 2) successfully completing an SEI Teacher Endorsement course approved by DESE; and 3) successfully passing DESE’s SEI Teacher Endorsement exam.

- **SEI Administrator Endorsement** refers to the endorsement DESE requires of administrators who supervise core academic teachers and vocational and technical education teachers of ELs.

GENERAL REQUIREMENTS

1. The School will take “appropriate action to overcome language barriers that impede equal participation” by its students in its instructional programs. 20 U.S.C. § 1703(f).

SPECIFIC REQUIREMENTS

PROVISION OF EL SERVICES AND ACCESS TO THE CORE CURRICULUM

2. The School will provide all ELs, including ELs with disabilities, with at least a daily period¹ of ESL instruction taught by an ESL-Certified Teacher and a second daily period of ESL to newcomers and other ELs with ELP levels 1 and 2, unless the EL’s parents/guardians make a voluntary and informed decision in writing to opt out² of such services.
3. The School agrees that ESL is a core subject for ELs and will provide ESL in addition to other core subjects, except that the School may provide ESL instruction to ELP 4 and 5 students through the grade-level ELA block if the course is (a) taught by an ESL-Certified Teacher who is also certified to teach the ELA course or (b) co-taught by an ESL-Certified Teacher and a teacher certified in ELA who have co-planning time together, and the ESL-Certified Teacher provides the ELs explicit ESL instruction.
4. The School may group ELs for ESL by (a) their ELP level within a single grade or vertically across grades (limited to two consecutive grades) or (b) two comparable, consecutive ELP levels within a single grade.
5. To ensure meaningful access to grade-level core content instruction, all ELs will receive SEI instruction in ELA, math, science, and social studies where instruction is primarily in English and teachers use effective sheltering strategies (including but not limited to those in the

¹ A “period” is the equivalent time allocated for core content subjects.

² Opt-out ELs remain entitled to all appropriate EL accommodations on classroom and standardized assessments and may not opt out of the annual English Language Proficiency assessment.

definition of SEI above) to make lessons comprehensible to ELs while promoting their English language development.

6. The School will monitor the academic progress of each opt-out EL to assess his/her ability to participate meaningfully in the regular education program without EL services by having the core content teachers complete a monitoring form each quarter. When an opt-out EL is not progressing as expected, the School will inform the EL's parents/guardians and recommend ESL and/or other EL services in a language the parents/guardians understand, including providing a translated version of the opt-out monitoring form in Spanish and a qualified interpreter when needed.

INSTRUCTIONAL STAFF

7. The School will actively recruit qualified, ESL-Certified and SEI-endorsed staff for ESL, core content area, and special education teaching positions. The School's notices regarding vacancies will express a preference for candidates with an ESL certification or SEI endorsement. School employees responsible for the recruitment and hiring of teachers for the EL program and special education personnel will meet annually to discuss ways to improve the recruitment, hiring, and assignment of ESL-certified and SEI-endorsed applicants.
8. The School will ensure that all core academic teachers of ELs are SEI-endorsed by the 2020-2021 school year, unless (a) they have been granted a hardship waiver by DESE, in which case they must obtain the SEI endorsement within a year of the hardship waiver's expiration; (b) they have been newly assigned to teach core content to ELs in SY 2019-20 or later, in which case they must earn the SEI endorsement within one year of the assignment; or (c) they are on track to successfully complete an ESL certification program in the 2019-20 school year.
9. The School will require all newly hired core content teachers of ELs to obtain an SEI endorsement or ESL certification within a year of their hire as a condition of their contract renewal. Within 30 days of the effective date of this Agreement, the School will provide written notice to all core content teachers of ELs who lack an SEI endorsement that the teacher needs to develop a plan to obtain his/her SEI endorsement no later than the start of SY 2020-2021. The School shall submit to the United States a copy of the notice to teachers by March 31, 2020, and a copy of each teacher's plan by April 30, 2020.
10. The School will ensure that administrators who evaluate teachers of ELs have the SEI Administrator endorsement. The School will further ensure, through SEI-endorsed

administrators' regular observations of EL teachers' instructional practices, that SEI strategies are incorporated into classroom instruction using the SEI Smart Card, the RETELL SEI Classroom Observation Tool, or other evidence-based and state-endorsed SEI observation tools, which the School will submit to the United States for review.

EL ACCESS TO SPECIAL EDUCATION SERVICES

11. All provisions of this Agreement apply equally to ELs with disabilities. No EL with a disability will be denied ESL solely due to the nature or severity of the student's disability; nor will that student be denied special education services due to his/her EL status.³ The School will notify parents and guardians of ELs with disabilities in writing in a language they understand that their child is entitled to both EL and special education services.
12. The School will employ reasonable measures to train its special education and ESL-Certified Teachers who work with EL students with disabilities on how to provide services to ELs with disabilities, particularly disabilities affecting language acquisition and written and oral language processing and expression. This training will include at least one annual joint planning meeting with special education and ESL-Certified Teachers to discuss ESL and procedures for timely identifying and serving ELs with disabilities.
13. The School will ensure that all IEP teams and Section 504 teams consider the language needs of all EL students with a disability as such needs relate to their IEPs and Section 504 plans. The School will inform all special education staff that IEP and Section 504 team meetings involving eligibility determinations, determining or changing services, and reevaluations for each EL student with a disability must include an ESL-Certified Teacher who (a) is knowledgeable about EL needs and services and relevant considerations related to ELs' language and cultural background; (b) has received the training required by Paragraph 12; and (c) whenever possible, is familiar with the EL student's needs. For all other IEP and Section 504 team meetings, the School will secure at least the input of this ESL-Certified Teacher if s/he cannot attend the meeting. If, prior to any IEP or Section 504 team meeting, the included ESL-Certified Teacher is not already knowledgeable about the student, the School will inform

³ The School will provide ESL unless it receives a valid waiver from parents/guardians or in rare cases, a student's IEP team determines and documents in the student's IEP that the student's disability is so severe that it would be unreasonable to expect that the student will ever be capable of using or understanding language. The student's parent(s)/guardian(s) must be informed in writing and in person in a language they understand, using qualified interpreters and translations.

the teacher where the student's files are located and when/how they can be accessed for his/her review.

ENSURING ACCESS TO INFORMATION FOR LEP PARENTS/GUARDIANS

14. The School will provide LEP parents/guardians with meaningful access to information provided to non-LEP parents. To identify LEP parents/guardians, the School will ask the parent/guardian registering the child, in a language they understand, whether they need oral and/or written communications in a language other than English.
15. The School will make information regarding LEP parent/guardian needs for interpreters and translations readily accessible to administrators and teachers through the student information system. The School will train its employees to review this information before scheduling meetings with parents/guardians and sending out notices to parents/guardians. During this training, the School will explain how to obtain qualified interpreters and translations of essential information. The School also will add a statement (translated into Spanish) to its registration packet, its online registration form, and the homepage of the School website about the availability of interpretation and how to request an interpreter or a translation.
16. The School agrees to give LEP parents/guardians access to school-related information provided to other parents as follows:
 - A. Notices or documents containing essential information⁴ will be translated into Spanish and distributed to Spanish-speaking parents/guardians; and speakers of languages other than Spanish will be provided, in a timely manner, written translations or interpretation of the

⁴ "Essential information" includes, but is not limited to: (a) report cards and other academic progress reports; (b) documents concerning academic options and planning; (c) documents concerning enrollment or registration; (d) documents concerning screening procedures requesting a student's language background, a parent's/guardian's preferred language of communication, and the process for refusing all or only specific EL services; (e) requests for parent/guardian permission for student participation in School-sponsored programs and activities; (f) materials and announcements distributed to students that contain information about School activities for which notice is needed to participate (e.g., testing, co-curriculars activities requiring an application, parent-teacher conferences, open houses); (g) information about special education matters arising under the IDEA or Section 504 (e.g., Individual Education Plans ("IEPs") or Section 504 meetings), (h) information about student discipline; (i) parent handbooks; (j) information related to public health and safety unless there is an immediate health or safety emergency, at which time information may be initially distributed in English with interpretation and/or translation to follow as soon as practicable; and (k) any other written information describing rights/responsibilities of parents/guardians or students and benefits/services available to parents/guardians and students.

documents in a language they understand either upon request or if the need for such translation becomes apparent to the School.⁵

B. Oral communications of essential information will be provided in a language the parent/guardian understands by means of an interpreter without undue delay. The School will provide oral interpretation or written translation of other school-related information upon receiving reasonable, specific advance requests for such information from LEP parents/guardians.

17. All School-provided interpreters, whether paid School employees, contractors, or volunteers, will be: bilingual and demonstrably qualified and competent to interpret; trained in providing the interpretation they are asked to provide or sufficiently knowledgeable in both languages of any specialized terminology needed to provide the requested interpretation accurately; and trained in the ethics of interpretation (e.g., the need for accuracy and confidentiality in interpretation). Except in an emergency, the School will not use students, family or friends of LEP parents/guardians, or Google Translate for oral translations of School-generated documents or for any other translation or interpreter services. If there is an emergency and no School interpreter is available, the School will follow up with the parent/guardians in a timely manner to communicate, through a qualified interpreter or translation, the essential information that the family or friends orally translated. If instructional staff are asked to provide translation or interpreter services, the School will ensure that such duties do not interfere with the staff member's instructional and monitoring duties with respect to ELs and former ELs.
18. The School will provide employees with electronic access to an accurate and current inventory of translated documents, as well as instructions for requesting translations of additional documents. The School will continue to expand the inventory to include translations of all essential information into Spanish. To assist in communicating with LEP parents/guardians, the School will maintain a list of the names, languages, and contact information for all School employees, contractors, and others who provide translation and interpretation services. The

⁵ The School agrees to extend this translation obligation to essential information on the School's website.

policies and procedures regarding access to translation and interpretation services will be included in the School's annual training for administrators and teachers.

PROGRAM MONITORING AND EVALUATION

19. The School will monitor the EL services and ELP progress of current ELs and the academic performance of current and former ELs through its electronic student information system(s). To facilitate its monitoring of current and former ELs, the School will maintain electronically in each student's permanent educational record his/her home language survey and initial and annual ELP assessment scores in all domains. To permit evaluations of its EL programs over time, the School will maintain the following data in separate fields: all ELP assessment scores, including the initial screener and annual assessment scores; standardized test scores; retention data; whether the student is a long-term EL (i.e., has been identified as an EL for six or more years), an opt-out EL, or a former EL; and the year that the student was designated as an EL.
20. The School will review tracking data for each EL on a quarterly basis to ensure that all students identified as eligible for EL services are receiving appropriate services, unless the ELs have opted out of or exited the School's EL programs. The data will include the following: ELP levels in all four language domains, EL services (e.g., ESL, Sheltered English Immersion), the amount of EL services (e.g., 2 periods of ESL and SEI in 4 core content classes), and whether the EL has a disability (or has been referred for a special education evaluation, if applicable).
21. The School will monitor the academic performance of former EL students twice a year for at least two years by reviewing their standardized test scores, composite and domain scores on the ELP test at the time of exit, report cards, and attendance to determine if the student needs any academic support services (e.g., tutoring) or needs to be retested for possible reentry into the EL program. If a former EL student fails to make academic progress and if an ESL-Certified Teacher, an administrator, and core-content teachers determine that this failure may be due to a persistent language barrier, the School will notify the student's parents/guardians, offer EL services, and provide the student with the services that the parent/guardian accepts.
22. The School will evaluate the effectiveness of its EL program to determine whether it is overcoming language barriers within a reasonable period of time and enabling students to participate meaningfully and equally in its educational programs. To that end, the School agrees to conduct a three-year longitudinal cohort analysis of its program by disaggregating and monitoring the following data by current, former, and never ELs: standardized test scores,

exit rates, retention-in-grade rates, ELP assessments, and receipt of special education services. In conducting the analysis, the School will track a cohort of ELs who were enrolled in kindergarten, first grade, and second grade in SY 2019-20 and who remain enrolled in the School over the term of this Agreement. The School will use the results of its longitudinal analysis to inform EL program decisions and ensure its EL program is effective.

REPORTING

23. The School will provide to the United States annual reports in electronic format describing the status of its compliance with this Agreement. An initial report of the information in sections A and B below will be provided by March 16, 2020, and annually thereafter on October 15. A full report will be provided by July 1 including information for the school year that just ended. If any of the information required for the annual reports in a particular school year is available in a document that the School already has prepared to comply with federal or state laws or regulations, the School may include the document in its reports and indicate the section of the report to which the document applies.

A. Identification and Placement of EL Students

The number of students by grade level and language background (i.e., primary or home language indicated on the home language survey): (a) whose home language survey indicated a language other than English is spoken at home or by the student; (b) whose parents/guardians requested translation; (c) whose parents/guardians requested interpretation; (d) whose ELP level was tested; (e) who were identified as EL based on the ELP test; and (f) whose parents/guardians opted out of EL services.

B. Provision of EL Services and Access to the Core Curriculum

1. For each individual EL student: local student ID number; grade level; WIDA ELP level; language background; opt out (Y or N); amount of ESL instruction per day; name of ESL Teacher(s); whether ESL Teacher(s) has the ESL certification (Y or N); the subject of each Sheltered English Immersion class; name of the teacher of each Sheltered English Immersion class, and whether the sheltered core content teacher is SEI

endorsed; number of years identified as EL; long-term EL (Y or N); special education (Y or N); primary disability; secondary disability; and gifted and talented (Y or N).

2. The number of ELs in total who:
 - a. are not receiving any ESL and have not opted out of ESL;
 - b. are not receiving a daily period or instructional block of ESL;
 - c. are not receiving ESL instruction from an ESL-Certified Teacher.
 - d. are not receiving SEI in one or more core content periods (language arts, math, social studies, or science) from an SEI-endorsed teacher.

C. Instructional Staff

A report that includes: the number of ELs by ELP level and disability status (e.g., 100 ELs, 25 L1, 25 L2, 25 L3, and 25 L4, including 20 with a disability); the number of ESL teachers; the number of ESL teachers with an ESL certification; the number of core content teachers; the number of SEI-endorsed core content teachers; and the number of special education teachers with an ESL certification or an SEI endorsement.

D. Access to Special Education

1. The number of ELs by grade and native language who (i) were referred to a student support team; (ii) the date of the referral; (iii) were referred for a special education evaluation; (iv) were evaluated in the native language, identifying the language; (v) were identified as having a disability, including each disability identified; and (vi) received special education services.
2. A list of the special education and ESL teachers who received the training required by Paragraph 12.
3. A list of qualified bilingual special education evaluators by name, language(s), and specialty area whom the School uses to evaluate ELs suspected of having disabilities.

E. LEP Parent/Guardian Communications

A list of translated School documents by title of the document and the languages in which it was translated, and, annually thereafter, an updated list of such documents pursuant to Paragraph 18.

F. Monitoring & Program Evaluation

1. A list of all former EL students who have exited the School's EL Program and are being monitored pursuant to Paragraph 21. For each student: student ID number; exit date;

number of years in the EL Program prior to exit; ELP assessment scores (composite and domain scores); grades; standardized test scores; whether monitoring determined that the student has a persistent language barrier; and whether the student was reentered into EL services or was offered such services and the parent/guardian opted out.

2. The School will complete the longitudinal study described in Paragraph 22 by the end of the 2021-22 school year and provide the results of that study to the United States by August 1, 2022.

24. The School will notify the United States of all proposed substantive changes or additions to its EL program as they relate to this agreement, including those based on the results of the longitudinal study. If the United States objects, the United States will notify the School in writing within 60 days.

ENFORCEMENT

25. The School will, for the duration of this Agreement, preserve and maintain all records and documents, including all electronically stored information, used to compile the above-referenced reports, and all other documents pertinent to its compliance with the Agreement, and will provide such information to the United States upon request.

26. The School understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the School understands that for purposes of monitoring this Agreement, the United States, through its representatives and any consultant or expert it may retain, has the right, with at least 30 days advance notice, to conduct site visits, interview staff and students, and request such additional reports, information, or data as are necessary for the United States to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the EEOA. The School will honor any such requests by making the requested reports, information, or data available to the United States for its review within 30 days. The United States also may speak directly, without School counsel, with School employees who are not administrators and have questions, concerns, or other information to raise with the United States regarding the School's obligations under the EEOA and this

Agreement, provided, however, that each School employee who is not an administrator will be informed of the right to have the School's counsel present upon the employee's request.

27. The School understands and acknowledges that, in the event of a breach by the School of this Agreement, the United States may initiate judicial proceedings to enforce the EEOA and the specific commitments and obligations of the School under this Agreement, provided, however, that the parties agree first to negotiate in a good faith effort to resolve the breach for 30 days or until an impasse is reached. If any part of this Agreement is for any reason held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, such decision will not affect the validity of any other part of the Agreement. The School and United States will meet within 15 days after a court's decision to determine whether the Agreement should be revised or supplemented in response to the court's decision.
28. The School understands and acknowledges that this Agreement does not relieve the School from its other obligations under the EEOA or other federal laws. The United States, consistent with its responsibility to enforce the EEOA, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning any future alleged violations of the EEOA by the School.
29. The Settlement Agreement will remain in effect until 60 days after the School submits its complete report due on July 1, 2022, required by Paragraph 23, and its longitudinal study due on August 1, 2022. The parties may, upon mutual written agreement, amend this Settlement

Agreement for reasons including changed circumstances and/or to improve the delivery of services to ELs.


The following signatures indicate the consent of the parties to the terms of this Agreement, which is effective upon its mutual execution.

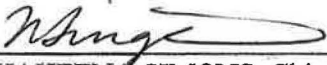
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For the Martin Luther King, Jr. Charter School of Excellence:


KENDRA SALVADOR
Interim Executive Director

3/5/2020
Date