

RESOLUTION AGREEMENT
Argosy Collegiate Charter School
OCR Complaint No. 01-20-1238

The Argosy Collegiate Charter School (School) has voluntarily entered into this agreement to resolve the allegations in the above-referenced complaint. The School agreed to resolve this complaint prior to the completion of OCR's investigation, pursuant to Section 302 of OCR's *Case Processing Manual*. The School assures that it will take the following actions.

Action Item 1

By **October 25, 2021**, the School will develop a written plan to provide oral and written language assistance services to limited English Proficient (LEP) parents/guardians of students at the School in a language they understand. The plan will include the following:

- i. A process for notifying LEP parents/guardians, in a language that the parents understand, of the availability of free language assistance with respect to School programs and activities. The notice will, at a minimum, be published on the School's website, in student-parent handbooks, and in the School's newsletters.
- ii. A process for identifying LEP parents/guardians who may need language assistance, including, at a minimum, through home language surveys, asking parents in a language they understand (in writing and/or orally as appropriate) if they need written translations or oral interpretation of communications and if so to specify the language(s) needed. The School will also identify LEP parents needing interpreter or translation services through interaction between parents and staff, and by taking into account that English learner students, whom the School has an obligation to identify, may have LEP parents/guardians.
- iii. A statement that a parent/guardian does not have to be of limited English proficiency in speaking, reading, writing, and comprehending English in order to be considered LEP but, rather, that a parent/guardian be limited in at least one of these areas in order to be eligible to receive language assistance as needed.
- iv. A statement that, generally, the School will accept a parent's/guardian's assertion that they need language assistance without requiring additional corroboration.
- v. A process that ensures that the School has a centralized list of LEP parents/guardians identified as needing language assistance services, the type of language assistance services that they need, and a log of the language assistance services provided to them by date of service, type of service (e.g., translation or interpreter services for special education, disciplinary proceedings), and service provider (including name, position, and qualifications). The process will ensure that the list is provided to all School staff that may interact with LEP parents/guardians. Staff for purposes of this Agreement will include all relevant

School administrators, teachers, counselors, and support staff.

- vi. A process by which School staff that are likely to interact with an identified LEP parent/guardian are advised of their potential need for language assistance, the circumstances under which they may need assistance (e.g., parent-teacher conferences, documents related to disciplinary actions, disciplinary hearings, documents related to Individualized Education Programs (IEPs) or Section 504 of the Rehabilitation Act of 1973 (Section 504) Plans, and IEP or Section 504 team meetings), the type of language assistance that they may need, and the means by which they may timely obtain such assistance for the parent/guardian.
- vii. A process by which School staff may obtain in a timely manner, adequately trained and qualified translators or interpreters as needed.
- viii. A process by which the School ensures that its interpreters and translators are trained on the role of an interpreter and translator, the ethics of interpreting and translating, and the need to maintain confidentiality.
- ix. A process to ensure that interpreters have knowledge, in English and the parent's/guardian's native language, of any specialized terms or concepts peculiar to the School program or activity for which they are providing services, including, but not limited to, interpreters of IEP meetings having knowledge of special education terminology.
- x. A process for notifying relevant School staff, on an annual basis, that the use of family members and friends for the provision of language assistance is generally not acceptable. The notice shall state that the use of such individuals may raise issues of confidentiality, privacy, or conflict of interest, and that, in many circumstances, such persons are not competent to provide quality, accurate interpretations. The process will also include notification to relevant School staff that they should not rely on such individuals to provide LEP parents/guardians meaningful access to important programs and activities and a caution that, even when LEP parents/guardians have voluntarily chosen to provide their own interpreter or translator, the School may still need, depending upon the circumstances of the encounter, to provide its own interpreter or translator to ensure accurate interpretation or translation of critical information, especially if, but not limited to, situations where the competency of the LEP parent's/guardian's chosen interpreter is not established. Additionally, the notice shall state that the use of minor children raises particular concerns about competency, quality, and accuracy of interpretations and that it is never advisable to use such children to convey information about their own education and/or complex information.
- xi. A process for identifying and translating essential written documents into the language of each frequently-encountered LEP parent group eligible to be served and/or likely to be affected by the School's program or activities. In determining

which written documents are essential, the School will consider the importance of the program, information, encounter, or service involved, and the consequence to the LEP parent/guardian if the information in question is not provided accurately or in a timely manner. At a minimum, the following essential documents will be translated into the language of each frequently-encountered LEP parent/guardian group:

1. Notice of procedural safeguards in the context of providing children with disabilities with a free appropriate public education under Section 504 and the Individuals with Disabilities Education Act (IDEA);
2. Documentation related to eligibility and placement decisions under Section 504 and IDEA;
3. Disciplinary notices and procedures;
4. Registration/enrollment forms, emergency notification forms and other forms most commonly used by the School to communicate with parents/guardians;
5. Report cards and student progress reports;
6. Student-parent handbooks and fact sheets;
7. Requests for parent/guardian permission for student participation in School-sponsored programs and activities;
8. Promotional materials and announcements distributed to students that contain information about School activities for which notice is needed to participate in such activities (e.g., testing, activities requiring an application, parent-teacher conferences, open houses);
9. Documentation regarding the availability of academic options and planning, including gifted and talented programs, EL programs, and counseling and guidance services; and
10. Screening procedures that request information from parents/guardians about the student's language background and the parents'/guardians' preferred language for communication with the school.
11. Information related to public health and safety; and
12. Any other written information describing the rights and responsibilities of parents/guardians or students and the benefits

and services available to parents/guardians and students.

Reporting Requirements

By **October 25, 2021**, the School will:

- a. Provide OCR with the School's plan for review and approval.
- b. Within 60 calendar days of receiving OCR's approval, the School will finalize and implement the plan and submit documentation to OCR demonstrating this implementation. This documentation may include, but not be limited to, proof that the School has (a) posted the plan on the School's website, and (b) distributed the plan to all parents/guardians and School employees.

Action Item 2

By **September 13, 2021**, the School will develop plans for initial and ongoing training for all staff that provide oral interpretation and/or written translation services for parents/guardians at the School. This training may be conducted virtually. This training will include instruction in the following areas:

- i. The plan for oral and written language assistance described in Item 1;
- ii. The role of an interpreter in communications with LEP parents/guardians and the protocol and ethics of interpretation, including the need to maintain confidentiality;
- iii. The specialized terms or concepts that may be used in the activities in which the employee will be providing interpretation or translation services, specifically including terms used in the special education or student discipline processes;
- iv. That generally, it is not appropriate to use family members and friends, including students or other minor children, for the provision of interpretation except in emergency situations, that the use of such individuals may raise issues of confidentiality or other concerns, and that even though LEP parents/guardians may voluntarily bring their own interpreter, the School may still need to provide an interpreter to ensure accurate interpretation of important information; and
- v. That generally, the School will accept a parent's/guardian's assertion that he or she needs language assistance without requiring additional corroboration.

Reporting Requirements

- a. By **September 13, 2021**, the School will submit to OCR its plans for staff training as described in Item 2. This plan should include copies of training materials and the names and qualifications of the selected trainer(s). The School will consider and respond to any feedback from OCR with respect to the plan until OCR is able to approve it.
- b. Within 60 calendar days of OCR's approval of the staff training plan, the School will provide OCR with documentation that demonstrates that the training has been completed. This documentation will include, but is not limited to, the date(s) of the training and a list of staff participants and their titles or positions.

Action Item 3

By **October 25, 2021**, the School will conduct a review of its special education and English Language Learner (ELL) policies and procedures and modify them as necessary to ensure that students who speak English as a second language and have disabilities are properly evaluated for ELL services so that their Section 504 or IEP teams can appropriately place them. Specifically, the School will create policies and procedures that:

- i. Ensure that current objective assessments of proficiency in English and the primary or home language are available prior to or upon referral of students with a primary or home language other than English for testing, evaluation, or placement in special education or related services. The procedures will ensure that consideration of language proficiency is documented in the students' IEPs or Section 504 plans;
- ii. Require testing or evaluation using only the language modalities in which the student is objectively known to be proficient, if feasible, and develop criteria for determining when a bilingual diagnostician will conduct the evaluation of ELL students with potential disabilities;
- iii. Provide for testing or evaluation by staff persons or contractors who are qualified to administer special education tests in the languages required whenever appropriate;
- iv. Establish objective criteria by which the School will determine which staff members are qualified to administer special education testing and evaluations in Spanish, as required by the Section 504 implementing regulations;
- v. Require that any group of persons making diagnostic or placement decisions for ELL students includes at least one person who is knowledgeable about each ELL students' culture and language, discusses and understands the effects of language and culture on the evaluation, and considers the validity and reliability determinations noted in the diagnostic report;

- vi. Require that placement decisions be based on a variety of information, such as a review of existing records, the results of pre-referral interventions, and curricular adaptations, work samples, formal and informal assessments, and observations;
- vii. Ensure appropriate placement of all ELL students with disabilities with qualified teachers who deliver English language development instruction as determined by the ELL student's IEP or Section 504 team;
- viii. Ensure that all ELL students with disabilities receive appropriate English language acquisition services as determined by the ELL student's IEP or Section 504 team;
- ix. Ensure that all ELL students with disabilities receive appropriate special education services, if required by a student's IEP or Section 504 Plan as determined by the ELL student's IEP or Section 504 team; and
- x. Include in all ELL students with disabilities' files the School's documentation of placement decisions as determined by the ELL student's IEP or Section 504 team.

Reporting Requirements:

- a. By **October 25, 2021**, the School will provide OCR with its draft policies and procedures for review and approval. The School will consider and respond to any feedback from OCR with respect to the draft policies and procedures until OCR is able to approve them.
- b. Within 60 calendar days of OCR's approval of the modified policies and procedures, the School will adopt and implement the modified policies and procedures and incorporate them into the School's handbooks, website, other relevant locations.
- c. The School will train its personnel on the policies and procedures required by Action Item 3. The training will be conducted within 60 calendar days of OCR's approval of the policies and procedures. Within 10 calendar days of the completion of the training, the School will provide OCR with the qualifications of its trainer, training materials used, a sign-in list of School personnel who participated in the training, and confirmation that all personnel the School required to receive the training received it. This training may be conducted virtually.

Action Item 4

By **September 30, 2021**, after providing proper written notice to the Complainant, including in XXXXXXXX, the School will convene a team to evaluate the Student's English Language Proficiency (ELP). The School will use a valid and reliable ELP assessment in making any determination regarding the Student's need for appropriate language assistance services and

programs. The ELP assessment used by the School must assess the proficiency of the Student in all four language domains (i.e., speaking, listening, reading, and writing). The School will provide the results of any ELP assessments conducted to the Complainant, including in XXXXXXXX.

Reporting Requirements

By **October 7, 2021**, the School shall provide OCR with:

- a. Any team meeting or other notes, including the names/titles of attendees, minutes of the meeting and, if applicable, an explanation of the School's method for determining the Student's ELL needs;
- b. Copies of any ELP assessments used by the School to determine the Student's ELL needs; and
- c. Documentation showing the Student was evaluated and the results of any such evaluation.

Action Item 5

By **October 25, 2021**, after providing proper written notice to the Complainant, including in XXXXXXXX, the School will convene appropriate team(s) to undertake the below inquires:

- i. Whether the School should evaluate the Student in her home language for eligibility for services under Section 504 or other federal law. If indicated by the evaluation, the School shall promptly convene a team meeting to determine if the student is eligible for services, and whether compensatory services are appropriate for the Student in consideration of previous evaluations not conducted in XXXXXXXX;
- ii. Whether the School should conduct evaluations as necessary to distinguish between the Student's speech and/or language disabilities and any needs for ELL assistance. In particular, the team will consider whether any evaluations regarding disabilities need to be conducted in XXXXXXXX in order to accurately measure any disability rather than any English language deficit.
- iii. A manifestation determination meeting to determine whether the Student's behavior during the XXXX XXXX school year was a manifestation of her disability, and if so, whether the Student's misconduct was related to the School's failure to provide the Student with special education and/or related services and aids to meet her individual needs. The School will ensure that the team includes a group of persons who are knowledgeable about the Student and her disability, the meaning of the Student's evaluation data, and the placement options. The team will consider whether any proposed evaluations should be conducted in a manner to accommodate the Student's

XXXXXX language needs, if any. The School will make reasonable documented efforts to include the Complainant, and will provide a qualified XXXXXXXX language interpreter if the Complainant attends. The School will also provide the Complainant with notice of the procedural safeguards in XXXXXXXX, including the right to challenge the team's determinations through an impartial due process hearing.

Reporting Requirements

By **November 11, 2021**, the School shall provide OCR with:

- a. Any team meeting or other notes, including the names/titles of attendees, minutes of the meeting and, if applicable, an explanation of the School's method for determining the types of evaluations deemed appropriate for the Student; and
- b. Documentation showing the Student was evaluated, and the results of any such evaluation.

Action Item 6

By **October 25, 2021**, after providing proper written notice to the Complainant, including in XXXXXXXX, the School will also convene a team meeting to determine whether the Student's placement is appropriate based on any updated evaluations and whether compensatory services are appropriate for the Student in consideration of:

- i. the requirements of the Student's XXXX XXXX IEP;
- ii. any failure to evaluate prior to a significant change in placement (such as the absence of the behavioral interventionist and/or removal from school); and
- iii. any failure to provide regular and special education and related aids and services until the Student began the out of School placement.

In particular, the School will consider any missed behavioral supports, special education instruction, speech language services, and/or occupational therapy services missed from XXXXXXXX XX, XXXX and XXXXXXXX XX, XXXX, relating to the Student's suspensions from school; removal or absences from classrooms due to behavioral incidents or other events; removal from school pending the manifestation determination meeting; and appropriate compensatory services already provided, if any.

The School will ensure that the team includes a group of persons who are knowledgeable about the Student and her disability, the meaning of the Student's evaluation data, and the placement options. The School will make reasonable documented efforts to include the Complainant and if the Complainant attends, will ensure that a qualified interpreter also attends. The School will provide the Complainant with notice of the procedural safeguards in XXXXXXXX, including the right to challenge the team's determination through an impartial due process hearing.

Reporting Requirements

By **November 11, 2021**, the School shall provide OCR with:

- a. Any team meeting or other notes, including the names/titles of attendees, minutes of the meeting and, if applicable, an explanation of the School's method for determining the type and amount of compensatory services deemed appropriate for the Student; and
- b. Documentation showing the Student received any compensatory services deemed appropriate by the team and/or a schedule for providing the Student with any remaining services.

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 the Agreement. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School to interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms and obligations of this Agreement. Upon the School's satisfaction of the terms and obligations of this Agreement, OCR shall close this case.

The School understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement. Before initiating such proceedings, OCR shall give the School written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the School's representative below.

By: _____ Date: _____
Executive Director
Argosy Collegiate Charter School