

**UNITED STATES DEPARTMENT OF JUSTICE SETTLEMENT HIGHLIGHTS
IMPORTANCE OF ENSURING EQUAL PARTICIPATION BY ENGLISH LEARNERS**

On September 15, 2022 the United States Department of Justice (“DOJ”) and New Bedford Public Schools (“the District”) entered into a three-year settlement agreement (“Agreement”) concerning the District’s programs and supports for English Learner (“EL”) students and their parents. The full Agreement is available at this [link](#). The Agreement addresses the District’s obligations under the federal Equal Opportunities Act of 1974¹ (the “Act”) which requires, among other obligations, that public schools take appropriate action to overcome language barriers that impede equal participation by students in instructional programs.

Under the Agreement, the District must:

1. Identify the language access needs of students and parents in a timely manner, upon registration and enrollment;
2. Provide qualified interpreters and qualified translators for communication of essential information;
3. Develop classroom observation processes and a professional development plan to improve EL instructor training; and
4. Implement a program monitoring and evaluation system to ensure compliance with the Agreement.

DOJ’s investigation and the Agreement are good reminders that Charter Schools, like all public schools, are required to address barriers EL students face in accessing school programs and activities, pursuant to federal and state law. To ensure compliance with the Act, Charter Schools should implement adequate and appropriate instruction and supports for EL students and their parents, including, but not limited to:

- Home Language Survey: Using a comprehensive home language survey, such as DESE’s home language survey, or equivalent means to identify ELs in a timely, valid and reliable manner;

¹ 20 U.S.C. 1701 *et seq.*

- Student Progress: Developing written policies and procedures to monitor EL students' progress and provide support as needed to ensure they make adequate progress in academics and English proficiency;
- Qualified Staff: Ensuring the availability of adequate qualified staff who can assist parents with Limited English Proficiency ("LEP") with the enrollment process including qualified interpreters and qualified translators to interpret or translate essential information as needed;
- Translations: Maintaining an inventory and posting appropriate online translations of all essential documents for every language for which fifty or more LEP households have made a request for translations in a language;
- Tracking System: Implementing an effective tracking system for requests for interpreters and translation of documents, including all relevant deadlines (such as translations of special education evaluation reports or interpreters for IEP/504 Team meetings);
- DESE Requirements: Being familiar with Department of Elementary and Secondary Education ("DESE") requirements relating to English Learner Education ("ELE") programs and services including assessments of English proficiency and ELE program design and monitoring; special education considerations and parent engagement; and
- Professional Development: Providing appropriate and adequate training and professional development for teachers and other staff.

Failure to ensure equal access to educational instruction and supports for EL students may leave a Charter School vulnerable to a complaint and investigation by, DOJ, the United States Department of Education's Office for Civil Rights and/or DESE's Problem Resolution System.

If you have any questions about Charter Schools' obligations to serve and support EL students and their families, please contact Attorneys Elka Sachs, esachs@kb-law.com, or Bettina Toner, btoner@kb-law.com.