

August 2, 2013

Office for Civil Rights – Dallas Office  
U.S. Department of Education 1999 Bryan Street, Suite 1620  
Dallas, Texas 75201-6810

U.S. Department of Justice – Civil Rights Division  
Educational Opportunities Section – PHB 4300  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

**Re: Discrimination Against National Origin Minority Students and Parents Who  
are Limited English Proficient (LEP) in Orleans Parish School Board  
(OPSB) and Recovery School District (RSD) Schools**

To Whom It May Concern:

The Asian American Legal Defense and Education Fund (“AALDEF”) and the Vietnamese American Young Leaders Association (“VAYLA”) file this Complaint on behalf of English-language learner (“ELL”) students and their limited English proficient (“LEP”) families against the Orleans Parish School Board (“OPSB”), the Recovery Schools District (“RSD”), and charter operators Collegiate Academies, Einstein Group, Inc., and Advocates for Academic Excellence in Education (“AAEE”). OPSB oversees charter operator Einstein Group, Inc. (“Einstein”), which now runs Einstein Charter School (“Einstein Charter”) and the Einstein Charter Extension (“Einstein Extension” – formerly Intercultural Charter School (“ICS”)), and charter operator AAEE, which runs Benjamin Franklin High School (“Ben Franklin”). RSD oversees Sci Academy and George Washington Carver Preparatory Academy (“Carver Prep”), which are run by charter operator Collegiate Academies. Complainants are Vietnamese- and Spanish-speaking LEP parents of students attending the aforementioned OPSB and RSD schools, and allege that OPSB, RSD, and the named charter operators have discriminated against them on the basis of national origin, and are engaged in discriminatory practices, in violation of their obligations under Title VI of the Civil Rights Act of 1964 (“Title VI”) and its implementing regulations, at 42 U.S.C. § 2000d, 34 C.F.R. pt. 100, and 28 C.F.R. § 42.104(b)(2). Complainants file this Complaint in their individual capacities and on behalf of all other similarly situated OPSB and RSD parents whose children attend OPSB direct-run and charter schools.

As set forth below, Complainants allege that OPSB, RSD, and their respective charter-school operators have failed to provide adequate translation and interpretation services to LEP parents residing in New Orleans East. Specifically, OPSB’s Ben Franklin, Einstein and Einstein Extension, and RSD’s Sci Academy and Carver Prep do not routinely provide written translation services relating to important notices about the education and safety of Complainants’ children. This includes, among other matters, documents concerning: school enrollment, academic standing and report cards, the provision of and eligibility for LEP services, major school events and parent-teacher conferences, school closures, harassment and bullying, disciplinary infractions and removals, injuries to students that occur on school property, and the provision of and eligibility for special education services. Furthermore, telephonic interpretation services and in-person access to qualified language interpreters during school events, teacher conferences, and at school front offices remains limited, inconsistent, or non-existent for LEP parents. Yet communication regarding all essential school-related matters—in both written and oral forms—is routinely provided by the named OPSB and RSD schools to English-speaking parents in English.

As charter operators under contract with OPSB and RSD, Einstein, AAEE, and Collegiate Academies have significant operational autonomy. However, they share responsibility for compliance with federal mandates for the provision of language access with their respective school districts, which provide oversight authority and distribute federal monies to the charters themselves.<sup>1</sup> Given the critical nature of robust language access practices to ensure the success of a student’s educational program, the failures of OPSB, RSD, and the charter operators with regards to the availability of translated documents and qualified language interpreters to LEP families constitutes discrimination against Complainants in violation of Title VI.

## **STATEMENT OF JURISDICTION**

School districts OPSB and RSD, and charter operators Einstein, AAEE, and Collegiate Academies are all recipients of federal financial assistance and therefore are subject to the anti-discrimination prohibitions of Title VI.

OPSB’s reported revenues in 2012-2013 included at least \$31,616,642 in federal funding.<sup>2</sup> Einstein receives part of this allocation; for example, in 2012-2013, Einstein Charter

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<sup>1</sup> For example, the 2011 Operating Agreement between Einstein Charter Schools and OPSB specified that OPSB “shall have oversight authority. . . and may take all reasonable steps necessary to confirm that Charter School is and remains in materials compliance with this Operating Agreement and applicable law.”

<sup>2</sup> Adopted FY 2012-2013 Budget, Orleans Parish School Board, available at <http://www.opsb.us/wp-content/uploads/2012/10/2013-BUDGET-BOOK-NEW-1.pdf>

received at least \$383,675 in federal Title I funding alone. AAEE also receives federal monies, with at least \$40,000 of its budgeted revenues for 2012-13 coming from federal Title II funding.

According to the Louisiana Department of Education's website, federal funding comprises approximately 15% of RSD's total education budget.<sup>3</sup> Collegiate Academies' Sci Academy received \$599,831 of this federal funding for 2012-2013, and Carver Prep received \$184,229.<sup>4</sup> The former Intercultural Charter School received \$565,276 in total federal funding from RSD in 2012-2013, but has since been taken over by Einstein Charter Schools, which was awarded at least \$1,000,000 in federal grant funding to "turn-around" the now defunct ICS as part of the RSD's i3 grant program.<sup>5</sup>

Complainants allege that the discriminatory acts complained of herein occurred within 180 days of the filing of this complaint and/or are of an ongoing and continuing nature. Complainants have not filed a lawsuit raising these claims in state or federal court. This Complaint has not been investigated by another federal, state, or local civil rights agency or through the internal grievance procedures of OPSB, RSD, or the name charter operators.

#### **INDIVIDUAL COMPLAINANTS' STATEMENTS OF FACT**

Complainants T.V., T.N, H.N., K.C.N., and L.A.N., are all Vietnamese parents of students enrolled in OPSB, RSD, and the named charter schools. Complainants M.B., M.F., N.M., M.A.F., N.C., and M.A.C. are all Latino parents of students enrolled in the same. All Complainants are native Vietnamese- or Spanish-speakers who understand little to no English and require interpretation or translation services to understand English-only communications. During the 2011-12 school year, all Complainants were denied meaningful opportunities to participate in and receive adequate notice of events, opportunities, and critical decision-making surrounding their students' academic progress, involvement in special education or English as a Second Language ("ESL") programs, enrollment in and graduation from school, disciplinary actions, and parental involvement activities at school.

1. M.N., V.N., and P.N., by and through T.V.

T.V. is the mother of M.N., V.N., and P.N. M.N. is a special education student at Carver Prep. V.N. and P.N. attended ICS together during the 2012-2013 school year. V.N. will be

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<sup>3</sup> The RSD website does not appear to provide the actual dollar amount for federal funding on its webpage or in its data center. <http://www.louisianabelieves.com/funding/revenue>

<sup>4</sup> RSD Charter budgets are available for download at <http://www.louisianabelieves.com/resources/library/budgets-plans>.

<sup>5</sup> Press Release, Recovery School District, Feb. 5, 2013, <http://www.newschooldistrictforneworleans.org/wp/wp-content/uploads/2013/02/February-2013-i3-Press-Release.pdf>.

attending Sci Academy for the upcoming school year, while P.N. will remain at ICS, now Einstein Extension. T.V. is a native Vietnamese speaker, and does not understand English. Neither Carver Prep nor the former ICS has made an effort to communicate with T.V. in Vietnamese.

Without access to a Vietnamese interpreter, T.V. has been unable to understand what special education services are being provided to M.N. at Carver Prep. Last year, T.V. was asked to attend only one meeting to discuss M.N.'s special education program. While Carver Prep did bring an interpreter to the meeting, the interpreter's Vietnamese proficiency was very poor, and T.V.'s other child was forced to provide interpretation assistance. Additionally, T.V. is unable to understand M.N.'s progress in the special education program because M.N.'s report card is not translated into Vietnamese. T.V.'s concerns for M.N. also extend to her physical safety at school and in transit to and from home. Once, M.N. did not get home until 6 or 7 pm and was unable to leave a message with her mother that she needed to stay late at school. T.V. was in a state of fear when her child did not come home, but was unable to communicate with Carver Prep. due to the unavailability of interpreters. T.V. remains troubled by this experience, and "scared" for M.N.'s well-being.

M.N., V.N., and P.N. have each experienced extensive, repeated bullying from other students at their respective schools, resulting in significant emotional and physical harm. On at least one occasion, P.N. was hit by another student while on the school bus. T.V. received no notification of the incident from ICS, but was instead informed by her other child, V.N, who was also on the bus. T.V. was unable to communicate her concerns about her P.N.'s well-being to ICS. Another time, a student struck P.N. to the point where he had a black eye. ICS again did not notify T.V. about this incident. P.N.'s teacher simply told the student who hit him to give P.N. an apology. T.V. only learned about this incident once P.N. came home with a black eye. All T.V. could do was to put ointment on his eye as she was again unable to communicate her alarm to ICS.

Due to the language obstacles, T.V. has been unable to get involved in her children's education. She has stopped attending parent-teacher conferences because interpreters are not made available. She was not informed that she has the right request an interpreter. T.V. wants to know about her children's progress in school but is unable to without language assistance.

T.V. would also like to voice complaints about how both Carver Prep and ICS have handled bullying. However, she fears that the schools will retaliate against her children if she speaks up. After P.N. was hit on his school bus, T.V. wanted to discuss the problem of bullying on buses with ICS, but the school informed her that if they could not resolve the issue with the other parents, they would just take the buses away. This left T.V. feeling helpless, and she

decided against saying anything. T.V. also feels too intimidated to speak with the school principals and administrators because she does not speak English.

Carver Prep and the Intercultural Charter School have substantially hindered T.V.'s participation in her children's education by failing to grant her access to school representatives. She is unable to understand M.N., V.N., and P.N.'s academic progress and the problems they are facing in the same way that English-speaking parents are able to. From failing to provide her with translated report cards to bringing unqualified interpreters to special education meetings and parent-teacher conferences, the schools have discriminated against T.V., M.N., V.N., and P.N. on the basis of their national origin.

## 2. P.N., by and through T.N.

T.N. is the mother of three children she has enrolled in schools throughout OPSB and RSD, P.N., K.N., and M.N. M.N. graduated from Sarah T. Reed High School and is now attending college. K.N. just finished attending ICS and will be a freshman at KIPP Renaissance High School. P.N. has attended Sci Academy the last two years and is a 9<sup>th</sup> grade student. T.N. is a native Vietnamese speaker who cannot communicate with English-speakers without the assistance of an interpreter.

T.N. has a long history of managing difficulties with language access in New Orleans schools. She has never received reports cards or regular correspondence in Vietnamese. Even when M.N. was in high school, T.N. was often forced to rely on her oldest child to provide interpretation support for all school communications regarding her three children. Unfortunately, that reliance has only increased over time, and has been increasingly demanding on M.N. (and K.N. as well) when T.N. has had to deal with issues that P.N. is facing in school.

P.N. was identified as a special education student when he was 5-years-old. When T.N. enrolled P.N. at Sci Academy, the application materials were all provided in English and T.N. required M.N.'s assistance to complete the forms. Since arriving at Sci Academy, T.N. has had considerable difficulties in monitoring his academic progress and ensuring that he is in a suitable special education program. At both initial IEP meetings for P.N. at Sci Academy, no interpretation was provided and T.N. was forced to ask M.N. to take off from college to assist her. M.N. was unfamiliar with the terminology used at the meeting and had difficulty explaining what the IEP program entailed. The IEP document was not translated. As a result, M.N. believes she was unable to ask questions, identify deficiencies, or request changes to P.N.'s IEP plan.

The IEP plan did not work for P.N., and M.N. discovered later that Sci Academy was not providing him with even the minimal additional supports the faulty plan included. P.N. began

struggling in his classes and receiving failing grades, and P.N. was unable to communicate with Sci Academy teachers to address the problem immediately. Additionally, P.N. was subject to bullying from students at Sci Academy, who taunted him because of his learning disabilities and were physically abusive to him. As a result, P.N. expressed suicidal thoughts to his mother, and, as a result of his special needs, had difficulty controlling his emotions.

T.N. has tried her best to address both P.N.'s academic and social issues at Sci Academy, but without interpretation assistance from the school. In order to resolve the issues regarding P.N.'s IEP, T.N. sought the assistance of P.N.'s former teacher from another school, who eventually intervened and attended an IEP meeting to correct mistakes on the IEP program. P.N.'s grades improved, but T.N. experienced tremendous stress as a result of the situation. At the most recent IEP meeting for P.N. in July 2013, the school again did not provide an interpreter, and P.N. was only able to understand the technical content of the IEP meeting with the assistance of a volunteer whom she met at her Church and requested to attend the meeting.

For P.N.'s issues with bullying and in the absence of an interpreter, T.N. again requested the assistance of her daughter, who accompanied her several times to the school building to get explanations from school staff about what was happening. The school neither took accountability for the harassment, nor did it offer to take measures to abate it, even though the most recent incident occurred shortly before the end of the school term in May 2013. M.N.'s daughter expressed her frustration to Sci Academy staff that measures needed to be taken to address the situation, since she could not continue to take time off from school to interpret for her mother. (M.N. was compelled to ask a professor for an exemption from a testing period to interpret that day). P.N.'s mother remains unresolved about the issue and worried for her son's safety. She feels that she will have to remove her son from the school after the first quarter if things do not improve.

Finally, T.N. believes that Sci Academy has taken a deliberately hostile tone with LEP parents. As evidence of the school's disregard for LEP needs, T.N. related an incident in which she observed another Vietnamese LEP parent requesting interpretation assistance to discuss an issue with the front office. The front office staff member asked T.N., with her already significantly limited English, to relate to the other LEP parent that he should go home and call the front office staff back about the issue he wanted to discuss. When the other LEP parent replied that he would still have the same issue with interpretation when he called her back, the staff member told him that he should then find his own interpreter and come back to the school later. T.N. believes that this exemplifies the attitude of Sci Academy staff towards LEP parents.

Sci Academy has failed to grant T.N. consistent and equal access to information and a full ability to participate in her children's education, as is afforded to English-speaking families.

As a result, the school has discriminated against P.N. and T.N. on the basis of their national origin.

3. D.N., by and through H.N.

H.N. is the mother of D.N., a 16-year-old student at Ben Franklin High School. H.N. is fluent in Vietnamese, and does not speak English. Every communication she has received from Ben Franklin—phone calls, letters, or report cards—has been exclusively in English. Only D.N. is available to provide a translation of the documents, if at all. This has led H.N. to be confused about D.N.'s experience at Ben Franklin and unsure of his academic progress. She is unable to assist him with any problems he is going through at school, and also feels helpless with his college application process. H.N. would like to speak with D.N.'s teachers about which subject areas he needs to improve upon and how she can help, but she is unable to do so.

Whenever H.N. has attempted to speak with a representative at Ben Franklin, she is put on hold until another Vietnamese speaker can be put on the line. Often, the ad hoc interpretation she receives is of bad quality, so much so that H.N. is compelled to try to speak English to the interpreter so that she will be understood. H.N. used to attend parent-teacher conferences with D.N.'s teacher when he was in 9th grade, but she did not attend the conferences when he was in 10th and 11th grade, solely due to the language barrier. H.N. knew that she would not understand D.N.'s teachers, so she did not see a point in attending the conferences. She indicated that she would attend the meetings if she had someone to translate for her besides D.N., who only translates the most important parts for her. H.N. does not feel effective in the conferences when she cannot understand what is going on.

H.N. also has not received information about PTA meetings, but she has received forms requesting PTA dues. She has paid the dues every year on behalf of D.N., but she was unaware that these fees were optional. H.N. was under the impression that if she neglected to pay the PTA dues, D.N. would not be able to attend Ben Franklin. H.N. thought the fees went toward purchasing textbooks and school supplies for her child. She has stated that the fees increase every year.

Whenever D.N. has gotten sick, he has been the one to call home to let his mother know, not a school nurse or official. In the event that D.N. is incapacitated, the school would be unable to communicate her son's illness to H.N.

By denying H.N. the opportunities afforded to English-speaking parents around participation in D.N.'s education, Ben Franklin Secondary School has discriminated against H.N. and D.N. on the basis of their national origin.

4. K.N., by and through K.C.N.

K.C.N. is the mother of K.N., a 14-year-old student who has just completed 8th grade at Einstein Charter School and will be starting high school at the International Charter School this fall. K.C.N. is a native Vietnamese speaker, and she does not speak English. K.C.N. has been unable to keep abreast of her child's educational progress and help him achieve his goals. K.N. actually did not want to attend International, and his first choice charter school was Ben Franklin. K.N. appeared at the enrollment office to take the admissions exam, but his name did not appear in the system. The administrators allowed him to take the exam anyway. However, K.N. never received the letter stating he was not admitted to Ben Franklin, and by the time he noticed that something was amiss and returned to the enrollment office, he learned it was also too late for him to apply to any school besides International. K.C.N. was not comfortable with this outcome, but she had no means of voicing her concerns. The only way K.C.N. was able to learn about the different charter schools and what options K.N. had available was from her older children. Had she not had older children, the language barrier may have prevented her from learning the differences between the charter schools.

K.C.N. reported that Einstein did not have any enrollment packets available in Vietnamese. Report cards and other documents from Einstein were also unavailable in Vietnamese.

K.C.N. has had trouble communicating with K.N.'s teachers. She has not attended many meetings with school representatives because the language barrier makes her feel embarrassed, and she cannot communicate her thoughts. K.C.N. has only gone to her children's schools when a very important issue has arisen. She has attended a few parent-teacher conferences, but was unaware that she could request that an interpreter be present. Instead, K.C.N. has been bringing her older children and other relatives to help interpret. Sometimes she sends her older children to speak with teachers on their own because she feels there is no point in her being present. K.C.N.'s oldest child, A.N., graduated from McMinn Elementary, where there are no Vietnamese interpreters at all.

The language barrier has prevented K.C.N. from speaking up and giving her input on different issues she sees at the school. She is discouraged from commenting on changes she feels are necessary and voicing solutions she feels would be effective. Einstein has denied K.C.N. the necessary language access that would allow her to access the same information about K.N.'s education and rights as is afforded to English-speaking families. As a result, Einstein has discriminated against K.C.N. and K.N. on the basis of their national origin.

5. M.N., A.N., and T.N., by and through K.A.N.

K.A.N. is the mother of M.N., a rising senior at Sci Academy. K.A.N.'s other children, A.N. and T.N., will respectively be entering 6th grade and 9th grade at Einstein Charter School.

A.N. is a native Vietnamese speaker and does not speak English. She does not have access to professional interpreters or translated information at either Sci Academy or at Einstein Charter School.

At Sci Academy, K.A.N. has no means of communicating with school representatives, aside from one Vietnamese-speaking staff person who is very difficult to access. This person's job is not to interpret, and even when she does interpret for K.A.N., her Vietnamese proficiency is quite low. K.A.N. has found it to be quicker to pick up her older children from school and take them to Sci Academy to interpret for her. M.N., who attends Sci Academy and usually takes the bus to school, is sometimes the only person available to interpret for K.A.N. In these instances, K.A.N. changes her schedule at work to drive M.N. to school where he can interpret for her. M.N. has been forced not only to interpret for his mother, but for numerous Vietnamese parents and students at Sci Academy. Sci Academy staff pulls M.N. out of class to interpret for Vietnamese-speakers and to help them fill out paperwork. He has interpreted so many times that Sci Academy gave him an award for his involuntary service.

At Einstein, K.A.N. is sometimes able to access a person at the front office who speaks Vietnamese. This person is not a professional interpreter, and her job is not to interpret for parents. When the Vietnamese speaker is on holiday or vacation, K.A.N. receives calls from English-speaking staff at Einstein whom she cannot understand. If she needs to call the school when the Vietnamese speaker is unavailable, she cannot communicate what she needs to, and is forced to call back later regardless of how urgent her query is.

K.A.N. has not received any translated report cards or school documents from either Sci Academy or Einstein, and has felt "uncomfortable" as a result. She has no option but to ask her children to translate the documents, which leaves her with many unanswered questions. Her children do not explain their report cards to K.A.N., especially if they are performing poorly in certain classes. K.A.N. relies on their letter grades to have a general understanding of their progress. With her first child, A.N. could not read subject names in English to understand which grades corresponded with which classes. While she has since learned words like "math," "reading," and "English," she still cannot read the comments next to each grade. The best she can do is to identify the word "need," which she takes to mean "needs improvement." However, upon understanding that a certain subject needs improvement, K.A.N. cannot take action to help her children due to language barriers at their schools. K.A.N. has a particularly busy schedule and feels it would make a big difference in her ability to become more involved in her children's education if the report cards and documents they bring home are translated into Vietnamese.

In addition, the enrollment packets for both schools are not available in Vietnamese, and no one was available to help K.A.N. and her children fill out enrollment forms when she first brought them to Sci and Einstein.

Both Sci Academy and Einstein Charter School have failed to grant K.A.N. consistent and equal access to information and a full ability to participate in her children's education, as is afforded to English-speaking families. As a result, both charter schools have discriminated against K.A.N., M.N., A.N., and T.N. on the basis of their national origin.

6. O.B., by and through M.B.

M.B. is the mother of fifteen-year-old O.B., a student at ICS, now Einstein Extension. She is a native Spanish-speaker and understands very little English. O.B. is enrolled in the ESL program, but M.B. has received no translated documentation about his language program and has been left in the dark about O.B.'s progress. Likewise, M.B. understands that O.B. is experiencing difficulties in mathematics, but has no understanding about the nature of the problems O.B. faces.

The letters and documents that M.B. receives from ICS are exclusively in English and she requires translation to understand them. Moreover, the majority of the school's verbal communications with M.B. have been in English, and M.B. only occasionally has had access to interpretation, solely through the school's ESL teacher. Even then, the ESL teacher would struggle with interpretation, and often needed to resort to a Spanish translation program on her phone to communicate with M.B.

Because of the lack of language resources at ICS, M.B. has relied on O.B. to translate and interpret school communications for her. M.B. is uncomfortable with this because O.B. will tend to interpret and translate only those pieces of information that are convenient for him and will fail to translate information to M.B. that is unfavorable to him. Although M.B. would go to parent teacher meetings to pick up O.B.'s report card, she would not understand anything and would rely completely on O.B. to translate information from his teachers for her.

This undesirable situation has had troubling consequences. When O.B.'s academic performance began to decline and he began failing classes, there was no communication to help M.B. understand her child's problems. She felt that this inability to understand contributed further to O.B.'s poor grades. M.B. has expressed that, had there been a translator and interpreter, she could have been more active in turning around her child's performance. Instead, she felt powerless and unable to participate in her son's education due to the language barrier.

Another troubling consequence of the lack of adequate interpretation involved an episode of vandalism at ICS in which O.B. had been accused of participating. The situation escalated to the point where school officials involved the local police department, who called M.B. and informed her that they were investigating and would potentially arrest O.B. It was not until the

last moment that ICS and the police realized that O.B. was not involved in the vandalism. Throughout this entire nerve-racking ordeal, M.B. only had communication with the ESL teacher and was forced to rely on the teacher's inadequate Spanish speaking skills.

Finally, the lack of language access at ICS has made it nearly impossible for M.B. to resolve the bullying situation that O.B. endures at the school. O.B. has been subjected to racial and physical bullying at ICS. Whenever O.B. reported these bullying incidents to the staff, the reports and requests for intervention would be dismissed. In addition, ICS failed to call and communicate to M.B. about the bullying problem because of its lack of interpreters. The sole ESL teacher who is able to speak Spanish to M.B., albeit poorly, has not contacted M.B. about each incident, but only when she "feels like it." This utter lack of correspondence and engagement has left M.B. completely helpless to intervene and stop the bullying that O.B. continues to suffer.

ICS has not afforded M.B. consistent and equal access to information, nor a full ability to participate in her child's education and school well-being, as is afforded to English-speaking families. Because of ICS's lack of language resources, M.B. has been left powerless in crucial situations of crisis that O.B. has experienced. As a result, ICS has discriminated against M.B. and O.B. on the basis of their national origin.

7. K.F. and J.F. by and through M.F.

M.F. is the mother of K.F. and J.F., students who attended Ben Franklin. M.F. never received any letters, report cards, or documents from Ben Franklin that were translated into Spanish. She also never received any phone calls from Ben Franklin in Spanish. M.F. relied on her children to translate the English phone calls to her, but could not trust them to translate their own report cards. The calls from Ben Franklin related to important issues, such as missing assignments and insufficient compliance with other school requirements. In fact, M.F. relied on K.F. to translate a letter and interpret a phone call about K.F. herself and the fact that she was in danger of failing out of the school.

K.F. was enrolled in a gifted class, but because of the lack of language resources at Ben Franklin, M.F. was unaware that K.F. was receiving failing grades. The school did not arrange an accommodation meeting for K.F. and did not reach out to M.F. to discuss the problem. By the time M.F. was made fully aware of K.F.'s academic situation, it was already too late and K.F. had failed out of the school. Ben Franklin did not provide M.F. with the opportunity to have parent-teacher meetings at the school where M.F. could comfortably talk to a teacher about K.F.'s issues with the assistance of an interpreter.

With regards to J.F., Ben Franklin did arrange an accommodation meeting for J.F. when his grades declined, but it imposed an unwelcoming tone that discouraged and intimidated J.F. and M.F. during the meeting. M.F. also felt that the school had discriminated against J.F. when they misinformed her that a certain budget fee had to be paid when in reality it was optional. When M.F. refused to pay, she detected that the school held a grudge against J.F. and made efforts to push him out of the school. M.F. experienced an unwelcoming attitude from the school and felt that Latino parents and students were treated unfavorably.

Ben Franklin has not afforded M.F. consistent and equal access to information or a full ability to participate in her children's education, as is afforded to English-speaking families. Because of Ben Franklin's lack of language resources, M.F. was unable to address K.F.'s grades until it was too late and she had failed out of the school. As a result, Ben Franklin has discriminated against M.F., K.F., and J.F. on the basis of their national origin.

8. E.M., N.M., A.M., S.M., by and through N.M.

N.M. is the mother of eleven-year-old E.M., an 11<sup>th</sup> grade student at International School of Louisiana; fourteen-year-old N.J.M., an 8<sup>th</sup> grade student at Einstein Charter; eight-year-old A.M., a 3<sup>rd</sup> grade student at Einstein Charter; and six-year-old S.M., a 1<sup>st</sup> grade student at Einstein Charter.

When N.M. contacts Einstein, she depends on her children to translate and interpret for her. The situation is inconvenient for N.M. because she cannot contact the school when the students are in class and unavailable. N.M. feels desperate and powerless about her situation because she wants to be able to resolve issues by herself and not depend on her children. Sometimes N.M. needs one of her children to translate for her, but the child is not sufficiently capable of translating or interpreting the English into Spanish. This creates even more frustration for both N.M. and her children.

At Einstein, N.M.'s sole access to interpretation is the ESL teacher on staff. Even then, it is difficult for N.M. to get a hold of the teacher for help. In addition, key school documents such as report cards and enrollment packets are in English and have no Spanish translations. No one is available to explain her children's grades to N.M., nor would anyone assist her with the enrollment and transfer process. Furthermore, N.M. has been shut out from attending parent teacher meetings at Einstein because there are no Spanish interpreters present.

In addition to the language problem at Einstein, N.M. feels that she is racially discriminated against by staff members at the school and has experienced many incidents of being treated rudely or with an unwelcoming and hostile attitude. One example of this occurred when N.M. tried to manage A.M.'s asthma issues at school. Because of the lack of Spanish

interpretation at the school, N.M. is unable to communicate and explain the special needs of A.M. and the medical routine that he requires. N.M. has no choice but to work with the school nurse, who does not speak Spanish and, on one occasion, snatched N.M.'s medicine bag and snapped at her when N.M. attempted to explain A.M.'s need for medication. N.M. has also witnessed that staff member use foul language and complain about N.M. and other Latino parents sending their children to her.

N.M. experienced other incidents where she was treated differently because of her race or language. When N.M. visited the enrollment officer to update her contact information and attempted to speak with her limited English, the officer would look over at another staff member and they would both laugh at her. Other staff and office employees have also talked to N.M. in a condescending and unwelcoming manner and have said offensive things to her. N.M. believes at least one teacher at the school has received several complaints from Latino families for discriminating against Latino children. N.M. has shared stories with her fellow friends in the Latino community to corroborate Einstein's discriminatory treatment against Latinos.

Einstein has not afforded N.M. consistent and equal access to information nor a full ability to participate in her children's education and well-being school, as is afforded to English-speaking families. As a result, Einstein has discriminated against N.J.M., A.M., S.M., and N.M. on the basis of their national origin.

9. L.F. and C.F., by and through M.A.F.

M.A.F. is the mother of sixteen-year-old L.F., a 10<sup>th</sup> grade student at Rowley Alternative School in Chalmette, and fourteen-year-old C.F., a 9<sup>th</sup> grade student at Andrew Jackson School in Sheldon. Prior to attending their respective schools, L.F. and C.F. both attended ICS. Both L.F. and C.F. are ESL students, but M.A.F. has not been informed of their English language level or progress.

At ICS, the enrollment package and other school documents M.A.F. received were entirely in English. In addition, the school failed to inform M.A.F. of important incidents. For example, L.F. was once subjected to in-school detention and suspension, and forced to clean the school facilities as punishment. M.A.F. was completely unaware of the nature of this discipline, and was not able to protest the measures until talking with her son much later. After M.A.F. intervened and complained, M.A.F. believes ICS retaliated against her by punishing L.F. more, and eventually suspending and expelling him. M.F. relied on L.F. to translate and interpret for her throughout these circumstances because there were no language resources available at ICS.

Part of L.F.'s difficulties at ICS involved bullying and violence. On one occasion, L.F. was punched in the nose by another student and began bleeding heavily. ICS called M.A.F. and

informed her of the situation in English. M.A.F. was able to understand enough to go to the school and pick her son up, but when she arrived she found his nose was swollen and his clothes covered in blood. With no interpreter present to assist her, L.F. had to interpret for his mother during the entire ordeal while his nose continued to bleed. M.A.F. met with the principal after the incident and relied on L.F. to interpret for her. Through her son, she requested a meeting with the bullying student's mother. The school and principal denied M.A.F.'s request and assured her that the situation would be resolved. However, the bullying resumed, with the same student and other students also participating. L.F. was physically pushed and bullied on the bus while the ICS staff who witnessed these incidents did nothing. L.F. eventually had to stop going on the school bus because he could no longer endure the harassment. ICS never called M.A.F. to notify her about the bullying and harassment and M.A.F. only discovered that the behavior had continued when L.F. informed her himself. The bullying persisted until L.F. left ICS and it also affected C.F. L.F. still feels pain in his nose from the punching incident.

L.F. was also involved with other ICS students in an instance of bathroom vandalism. M.A.F. was called by the ESL teacher and informed in poor Spanish of the situation and the need for her to go to the school because police had arrived to investigate. M.A.F. was only able to communicate with the ESL teacher by speaking very slowly and was unable to speak at the normal pace that she is comfortable with. During this emergency situation, M.A.F. was unable to communicate her questions and concerns at the pace she needed.

Most troubling, ICS's lack of language resources resulted in an improper suspension charge against L.F. ICS contacted M.A.F. to inform her that a cigarette lighter had been found on L.F. at school. When M.A.F. went to the suspension hearing office to resolve the issue, she believed the charge to be about possession of a lighter. She was unaware that the paperwork she was handed and that she would subsequently sign stated that L.F. had been cited for possession of a firearm instead. M.A.F. did not understand the English that was on the paperwork and, although there was a Spanish interpreter present, the interpreter made no effort to recite or translate the documents or charges. As a result of the inadequate interpretation and the serious gun charge, L.F. was expelled from ICS and pushed into an alternative school. It would not be until later, and with the help of staff at VAYLA, that M.A.F. would discover that the suspension papers listed the grossly incorrect charge of possession of a firearm.

ICS has not afforded M.A.F. consistent and equal access to information, nor a full ability to participate in her children's education and well-being, as is afforded to English-speaking families. Because of ICS's lack of language resources, M.A.F. has been rendered unable to participate in her sons' education and to intervene during crucial incidents involving discipline and bullying that eventually led to the expulsion of L.F. that she could have prevented. As a result, ICS has discriminated against L.F., C.F., and M.A.F. on the basis of their national origin.

10. C.C., J.C., and O.C., by and through N.C.

N.C. is a mother of 12-year-old C.C. who attends Esperanza Charter School; 10-year-old J.C. who attends Einstein Charter; and 8-year-old O.C. who attends Einstein Charter. Since arriving to New Orleans, M.C. has had several difficulties finding suitable enrollments for her two older children, C.C. and J.C., who both require ESL programming. Consequently, both children have attended several schools before their current enrollments. However, N.C. was able to immediately enroll her youngest child, O.C.—who does not have the need for ESL programming—at Einstein Charter in 2<sup>nd</sup> grade.

N.C. has experienced a range of neglect and hostility to her requests for assistance from Einstein due to her limited English ability. She can recall two particular instances that have made her and her family feel unwelcome and unaided at Einstein.

The first occurred subsequent to O.C.'s enrollment. Hoping to enroll all three of her children in the same school, N.C. wanted to make a request that Einstein staff place her two other children on a waiting list if possible. With no interpreter present, N.C. attempted to make the request in English. Staff at Einstein Charter rudely responded to N.C.'s request and ripped up the applications she had tried to complete for her two oldest children in front of her. N.C. felt embarrassed and could not further the discussion since she had no language assistance.

The second instance occurred when N.C. was finally able to move J.C. from his previous schools, Sarah T. Reed Elementary and ICS, into the Einstein Charter. At Einstein, J.C. was bullied due to his Latino background regularly. One day, he was pushed to the ground off a series of high steps near the school by another student and came home limping. When N.C. called the school, she was told in English that the Principal was not present and that she could report the incident the following day. N.C. requested the assistance of a Spanish-speaking VAYLA staff member, who contacted the principal and requested permission to attend a meeting between the principal and N.C. the following day as an interpreter. The VAYLA staff member was assured that an ESL teacher would be present to interpret. Despite this assurance and the critical nature of the violence experienced by M.C.'s child, N.C. was not afforded an opportunity to meet with any Einstein staff the next day after waiting at the school for three hours unattended. When N.C. returned the following day to again attempt to communicate with school officials, she was asked to relate her concerns to Einstein officials without the assistance of a translator. Her concerns were swiftly dismissed by officials who emphasized that what happened to J.C. was an accident. N.C. felt desperately frustrated, and remained worried about J.C.'s well-being.

Einstein has not provided N.C. with any translated materials to keep her updated on the progress of her children who attend the school. Because of Einstein's failure to provide both

regular translation and interpretation assistance during crucial incidents involving the healthy and safety of N.C.'s children, Einstein has discriminated against O.C., J.C., and N.C. on the basis of their national origin.

11. E.C., A.D.C. and A.L.C. by and through M.A.C.

M.A.C. is the mother of 19-year-old E.C. who recently graduated from Sarah T. Reed High School; and 12-year-old A.D.C. and 8-year-old A.L.C. who attend Einstein Charter. Both students are ESL students and also gifted students.

M.A.C. relies on an ESL teacher at Einstein for her interpretation, but indicated that this staff member is not easy to locate at times, and seems "hidden." The front office and her children's teacher have tried calling her, but often resort to utilizing the ESL teacher when she is available.

The limitations on this arrangement are evident to M.A.C. In one instance, M.A.C. identified that A.L.C. had received a progress report with lower grades that concerned M.A.C. It was not translated and included notes in the comments section. M.A.C. required A.D.C.'s assistance to translate the notes. It indicated that her son was missing some quiz grades. After talking with A.D.C. about it, M.A.C. decided to approach A.D.C.'s teacher to fully understand the issue.

M.A.C. arranged to visit the teacher at one of the dates and times indicated for teacher availability on the progress report. When M.A.C. arrived at the school office, she could not communicate with office staff and the ESL teacher was brought in to interpret. Even though M.A.C. arrived during a designated teacher availability period, the ESL teacher arranged for M.A.C. to return at another date and time to conference with the teacher on the issue. M.A.C. left, but when she returned later in the day to pick up her son, the teacher approached her in English and indicated that she would not be able to meet at that date and time. Instead, she wanted to have the conference then and there, and spoke in English to M.A.C. while using A.L.C. as an interpreter. Through her son's translation, M.A.C. was able to understand that he was missing a work packet over a holiday period that he did not turn in. However, she felt uncomfortable with the situation because her son A.L.C. indicated that he lost the paper, but he was also the one that was interpreting for her.

Einstein has not provided M.A.C. with appropriate interpretation services to keep her updated on the progress of her children and to help her resolve academic issues that arise in school. Because of Einstein's failure to provide both regular translation and interpretation assistance, the school has discriminated against A.D.C, A.L.C. and M.A.C. on the basis of their national origin.

## CLAIMS

### I. OPSB, RSD, Einstein Charter Schools, and Collegiate Academies Do Not Provide Non-English Speaking Parents with Sufficient Access to Information in Violation of Title VI.

Under Title VI, school districts that receive federal financial assistance are prohibited from discriminating against or otherwise excluding students from participating in activities or receiving educational benefits on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Nor may recipients engage in practices that have the effect of subjecting individuals to discrimination.<sup>6</sup> The protections provided by Title VI and its implementing regulations have been interpreted to extend to students with limited English proficiency.<sup>7</sup> School districts are thus required to provide national origin minority LEP students with educational benefits and opportunities equal to those provided to other students.<sup>8</sup> This includes the duty to provide LEP parents with the same information about school activities and functions as that given to English-speaking parents.<sup>9</sup> “Notification must be sufficient so that parents can make well-informed decisions about the participation of their children in a district’s programs and services.”<sup>10</sup> The Office for Civil Rights (“OCR”) has found that “Title VI is violated if . . . parents whose English

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<sup>6</sup> 42 U.S.C. § 2000d-1; 34 C.F.R. § 100.3(b)(2).

<sup>7</sup> *Lau v. Nichols*, 414 U.S. 563 (1974); *Castaneda v. Pickard*, 648 F.2d 989 (5<sup>th</sup> Cir. 1981); *see also* Office for Civil Rights, U.S. Dep’t of Educ., Policy Update on Schools’ Obligations Toward Origin Minority Students with Limited-English Proficiency (LEP students) (Sept. 27, 199) (hereinafter “Set. 1991 Policy Memo”), available at <http://www2.ed.gov/about/offices/list/ocr/docs/lau1991.html>; Office for Civil Rights Policy Regarding the Treatment of National Origin Minority Students Who are Limited English Proficient (Apr. 6, 1990) (reissuing OCR’s Dec. 3, 1985 Title VI Language Minority Compliance Procedures) (hereinafter “Apr. 1990 Policy Memo”), available at [http://www2.ed.gov/about/offices/list/ocr/docs/lau1990\\_and\\_1985.html](http://www2.ed.gov/about/offices/list/ocr/docs/lau1990_and_1985.html); Dep’t of Health, Educ., and Welfare, Identification of Discrimination and Denial of Services on the Basis of National Origin (May 25, 1970) (hereinafter “May 1970 Policy Memo”), available at <http://www2.ed.gov/about/offices/list/ocr/docs/lau1970.html>.

<sup>8</sup> *See* Set. 1991 Policy Memo (affirming OCR’s policy of applying the standards of the Equal Educational Opportunities Act of 1974; 20 U.S.C. § 1703(f) to determine whether a recipient has complied with the implementing regulations of Title VI).

<sup>9</sup> Identification of Discrimination and Denial of Services on the Basis of National Origin, 35 Fed. Reg. 11,595 (May 25, 1970) (former Department of Health, Education, and Welfare Memorandum clarifying that Title VI and the regulations require school districts to “adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.”), available at <http://www2.ed.gov/about/offices/list/ocr/docs/lau1970.html>.

<sup>10</sup> The Provision of an Equal Education Opportunity to Limited-English Proficient Students, U.S. Dep’t of Educ. Office for Civil Rights (Revised Aug. 2000) available at <http://www2.ed.gov/about/offices/list/ocr/eeolep/index.html>

is limited do not receive school notices and other information in a language they can understand.”<sup>11</sup>

Given the unique structure of OPSB, wherein the majority of schools in the district are run by charter operators,<sup>12</sup> it remains unclear, as of 2012-13, how many bilingual staff and dedicated, certified interpreters were employed by OPSB to serve parents and students district-wide. The same holds true for RSD, which also operates schools in parishes outside of New Orleans. Similarly, information is not readily available to determine what resources individual charter operators provide for LEP families. Consequently, on July 15, 2013, VAYLA Executive Director, Minh Nguyen, submitted open records requests pursuant to the Louisiana Sunshine Act to several OPSB and RSD schools, including those named in this Complaint, to determine whether the various schools employed qualified staff to provide interpretation and translation for LEP families.<sup>13</sup> As of the date of this filing, only two of these institutions—Einstein and Ben Franklin—have responded to VAYLA’s requests for this basic information, while the remaining schools have failed to do so, in violation of Louisiana state law.<sup>14</sup>

Assessing the coverage of services for LEP families in New Orleans East is further complicated by the paucity of available information on English language learners in New Orleans schools generally. Currently, there is no centralized, comprehensive data collection that includes the multiple school districts and independent charter school operators that run schools in New Orleans. During the 2011-2012 academic year, according to the National Center for Education Statistics (“NCES”), there were 492 ELLs in New Orleans: 383 ELLs in Orleans Parish<sup>15</sup> and 109 in the Recovery School District.<sup>16</sup> However, these numbers are low and likely undercount the overall ELL population.

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<sup>11</sup> *Id.*; see also Policy Update on Schools’ Obligations Toward National Origin Minority Students with Limited-English Proficiency, U.S. Dep’t of Educ., Office for Civil Rights (Sept. 27, 1991), available at <http://www2.ed.gov/about/offices/list/ocr/docs/lau1991.html>.

<sup>12</sup> All charter- and district-run schools are listed on OPSB’s website: <http://www.opsb.us/about/our-schools/>.

<sup>13</sup> The schools to which the records requests were submitted are as follows: Benjamin Franklin High School, Eleanor McMain Elementary School, Einstein Charter Schools, Sarah T. Reed Elementary School, Esperanza School, and Sci Academy.

<sup>14</sup> See R.S. 44:35 (A).

<sup>15</sup> National Center for Education Statistics, 2011-12 Common Core of Data for Orleans Parish Schools, [http://nces.ed.gov/ccd/districtsearch/district\\_detail.asp?Search=1&details=1&InstName=Orleans+Parish&State=22&DistrictType=1&DistrictType=2&DistrictType=3&DistrictType=4&DistrictType=5&DistrictType=6&DistrictType=7&NumOfStudentsRange=more&NumOfSchoolsRange=more&ID2=2201170](http://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=1&details=1&InstName=Orleans+Parish&State=22&DistrictType=1&DistrictType=2&DistrictType=3&DistrictType=4&DistrictType=5&DistrictType=6&DistrictType=7&NumOfStudentsRange=more&NumOfSchoolsRange=more&ID2=2201170)

<sup>16</sup> National Center for Education Statistics, 2011-12 Common Core of Data for Recovery Schools District Schools in Orleans Parish, [http://nces.ed.gov/ccd/districtsearch/district\\_detail.asp?Search=1&details=1&InstName=Recovery+School+District](http://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=1&details=1&InstName=Recovery+School+District)

Nonetheless, the limited enrollment data available confirms the need for basic interpretation and translation services at most of the OPSB and RSD schools run by the named charter operators: Einstein Charter Schools, AAEE, and Collegiate Academies. The most recent reporting from February 2013 indicated significant LEP student populations at Einstein Charter School (28.13%), the former Intercultural Charter School (17.97%), Sci Academy (6.98%), and Carver Prep (7.00%).<sup>17</sup> This enrollment data, coupled with the personal experiences of Complainants, helps illustrate the inconsistency and/or absence of interpretation and translation services across schools in the OPSB and RSD systems.

Broadly, the practices of the named schools across OPSB and RSD have left LEP parents with tremendous uncertainty about when and what channels of communication with school staff are available to them. For example, in its response to VAYLA's information request, Einstein Charter demonstrated that it retained a significant number of bilingual staff members, whom the school asserts are "on call throughout the day when not teaching."<sup>18</sup> In addition, Einstein's Spanish teacher is assigned a "30 minute schedule block to provide services as needed,"<sup>19</sup> and its Vietnamese-bilingual front office secretary is available during office hours. Yet the efficacy of these practices is not reinforced by the experiences of Complainant parents of Einstein students. First, a closer look at the roster provided by Einstein indicates that the list includes a combination of custodial staff, teachers, and aides. Among these, Complainant LEP parents remain unable to identify a dedicated and certified interpreter for their language groups. Thus, even though Vietnamese LEP parent L.A.N. has utilized Einstein's Vietnamese-bilingual front office secretary, L.A.N. is aware that this staff member is not a designated interpreter, and thus has limitations on her availability and capacity for interpretative assistance. For instance, L.A.N. and Vietnamese parent K.C.N. cannot rely on the front office for interpretation assistance at essential parent-teacher conferences, and are often forced to utilize friends or family members to assist in translating English phone calls and other key communications from the school. By contrast, Spanish-speakers like parent N.M. have even more limited options for interpretative assistance. N.M. indicates that she has access to interpretation at Einstein solely through an ESL teacher whom she often has difficulty getting a hold of. Spanish-speaking parent M.C.'s account

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[+&State=22&DistrictType=1&DistrictType=2&DistrictType=3&DistrictType=4&DistrictType=5&DistrictType=6&DistrictType=7&NumOfStudentsRange=more&NumOfSchoolsRange=more&ID2=2200054](#)

<sup>17</sup> The Louisiana Department of Education includes reports on enrollment numbers on its website, *available at* [http://www.louisianabelieves.com/docs/data-management/feb-2013-multi-stats-\(total-by-site\)--public.xlsx?sfvrsn=2](http://www.louisianabelieves.com/docs/data-management/feb-2013-multi-stats-(total-by-site)--public.xlsx?sfvrsn=2). Specific percentages or raw numbers for LEP students at Ben Franklin are not available in this chart.

<sup>18</sup> Einstein's response to VAYLA's public records request included a list of personnel who are available each day when not teaching for interpretation assistance. This document can be provided on request.

<sup>19</sup> *Id.*

corroborates the lack of Spanish-language access at Einstein, even when interpretation was urgently needed to clarify how her son was injured at school. As the stories of Complainant LEP parents illustrate, similar failures to make interpreters available occur regularly at Ben Franklin, Sci Academy, Carver Prep, and the former ICS. Regardless of the level of resources available to these various schools, OPSB, RSD, and the various charter operators have failed to cooperate and provide the same clear communication to LEP parents afforded English-speaking parents in the New Orleans East community.

Yet even when interpretation support is provided to LEP parents, it is often of poor quality, or worse, exploitative of LEP students. At ICS, Spanish-speaking parent M.B. has been unable to rely on the interpretation assistance made available to her. The lone ESL teacher who provides her with interpretation struggled so much in that task that she relied on a computer translation program on her mobile phone to communicate with M.B. Likewise, when Vietnamese-speaking parent T.V. attended a special education IEP meeting for one of her children, Carver Prep provided an interpreter whose proficiency was so poor that T.V. was forced to rely on the interpretation assistance provided by another of her children during the meeting. In fact, nearly every Complainant described situations in which they were forced to utilize their children as interpreters for communication with school staff. This occurred regularly during parent-teacher meetings and other meetings addressing students' academic performance, discipline or health and well-being—and even while a student was still bloodied by recent injuries he suffered from violent, in-school harassment (as with L.F., the child of M.A.F., at ICS). Perhaps most egregiously, Sci Academy not only forced L.A.N.'s child to interpret for his mother, but for other Vietnamese students and parents. The school even went so far as to commemorate their own improper practices by granting L.A.N.'s son an award. LEP students should not be required to interpret for their parents or serve as on-call interpreters at the convenience of school administration. Such disparate treatment is patently discriminatory, but appears to be common practice in OPSB and RSD schools.

The lack of clear communication channels has a severe impact on the ability of LEP parents to engage in and monitor their children's academic performance. Nearly every Complainant reported feeling hesitant to solicit information on their children's academic progress, health, or social well-being because interpretation support was inconsistent, inadequate, or nonexistent. Most LEP parents ceased attending parent-teacher conferences and other school meetings because, time and again, interpreters were not made available. As Spanish-speaking parents M.B. and M.A.C. noted, having their children interpret during these meetings is unacceptable since children tend only to interpret information that makes for a favorable impression on their performance. Without unfiltered and open lines of interpreted communication, LEP parents remain unaware of issues their children are facing in class until it is too late to rectify the problems in the students' academic records. For Spanish-speaking parent K.F., this meant that even though both of her children were admitted to the highly-selective

Benjamin Franklin High School,<sup>20</sup> she was unable to appropriately and timely intervene when both struggled to maintain the grades necessary to stay there. Without interpretation assistance, K.F. could not reach out to Ben Franklin officials to discuss the discrete problems her children were encountering in classes as soon as they occurred. Neither could she ask teachers questions about what strategies she might employ to help her children improve their grades.

The impact of poor interpretations services is amplified for students in ESL or with special education needs. Without interpretation assistance, Vietnamese-speaking parent T.V. has been unable to fully understand the IEP for her daughter's special education program, and whether the accommodations at Carver Prep are truly helping her daughter to improve. Similarly, Vietnamese-speaking parent T.N. was unable to understand her son's IEP, which resulted in a highly-stressful and potentially dangerous situation for her son's mental health. For Spanish-speaker M.B., there have been no opportunities to discuss whether her son is mastering the requisite English language skills in his ESL program. In all these circumstances, basic information about their students' performance in school remains obscured from LEP parents, severely limiting their ability to provide the necessary support and guidance at home that successful students need.

The failure to provide consistent interpretation also presents acute dangers to the health and safety of students of LEP parents when compared to the students of their English-speaking counterparts. Several of Complainants identified circumstances in which they were unable to convey or obtain key information about their children when the child was sick, injured, or suffering from harassment at school. The children of T.V., M.A.F., T.N., and N.C. all suffered physical injuries from violence at school for which their parents were unable to receive explanations or recourse due to the unavailability of interpreters. (As mentioned previously, M.A.F.'s son was even forced to interpret for his mother while freshly wounded from an incident at school.) N.M., H.N., and T.V. all had serious concerns about the physical well-being of their children at school (asthma, sickness, and a child's whereabouts, respectively) that they could not communicate to staff quickly and effectively. In the case of Spanish-speaking parent M.A.F., a mother was even prevented from effectively intervening for her son when he was subject to a police investigation for an incident at school. To make matters worse, the resulting disciplinary record was incorrect—indicating that M.A.F.'s son had brought a firearm to ICS, when, in fact he was in possession of a cigarette lighter. Only when VAYLA staff later reviewed the suspension paperwork was this egregious mistake identified. The experiences of M.A.F. and Complainants exemplify a larger problem impacting LEP families in schools throughout OPSB and RSD, including the schools now operated by the named charter-operators. Without adequate interpretation services, LEP families cannot provide reasonable parental care when their students are in distress. Moreover, schools in OPSB and RSD appear to assume that LEP parents will

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<sup>20</sup> Ben Franklin utilizes its own admissions test in addition to other criteria for admission.  
<http://www.benfranklinhighschool.org/admissions/admispacket.pdf>

provide their own interpretation assistance, and have shirked responsibility for ensuring that interpreted communication is provided, even in emergency circumstances.

II. OPSB, RSD, Einstein Charter Schools, and Collegiate Academies Have Failed to Develop and Implement a System that Ensures that Important Documents are Translated into the Parent's Native Language.

OPSB and RSD, in conjunction with their charter operators, have failed to develop and implement a system by which written documents are routinely translated and provided to LEP parents. As reported by Complainants, LEP parents are frequently denied access to the following translated documentation:

- Enrollment packets and information, including additional enrollment materials required at specific charter schools;
- Essential notices about major school events, including but not limited to written or verbal notice about school closures pursuant to Academic Yearly Progress (“AYP”) requirements; written notice of an interpretation at Open Houses; and interpretation assistance at Parent-Teacher conferences
- Essential documents describing students’ academic progress, in the form of report cards and performance on Louisiana standardized assessments (LEAP, iLEAP, and GEE exams), which often govern whether students may advance from grade to grade.
- Essential documents requesting parental consent for and describing students’ enrollment and participation in ESL programs; performance on annual administrations of the ELDA, tracking student progress in becoming proficient in English; and the provision of ESL instruction and supports as detailed on ACE forms.
- Documents concerning the provision of Special Education services, including IEPs and interpretation assistance provided at IEP team meetings.
- Documents surrounding adverse disciplinary actions taken against students, including but not limited to written notice of school suspensions and interpretation assistance at mandatory parent-principal conferences to discuss student behavior and students’ return to school after school suspensions.
- Documents and other correspondence notifying parents of students who are victims of harassment, bullying and other violence at school, including but not limited to documents describing injuries suffered by parents’ children, measures taken to address student behavior adverse to student-victims, and measures taken to prevent further instances of harassment or injury.

Nearly all Complainants report that they do not receive translated documents conveying even the most basic information. Only Ben Franklin and Einstein provided translated forms in

their public records productions to VAYLA, but the range of documents was limited.<sup>21</sup> Complainants assert that the regular correspondence they receive from schools comes in English only. By example, many Complainants described making attempts to understand report cards, but to no avail, particularly when teachers left remarks or comments concerning a student's work in a specific class. The effect of parental disengagement from academic progress monitoring is significant for gifted, mainstream or special needs students. Vietnamese parent L.A.N., for instance, indicated that her English language ability only sufficed to help her identify the word "need," but not the specific description of what her children were lacking in the classes. For Spanish-speaking parent M.F., the lack of translated report cards and other notices concerning her children's coursework cost both of them enrollment in one of the most selective schools in New Orleans. For T.V. and T.N., the parents of special education students, the inability to understand the content of reports cards and IEP meetings is even more troubling. T.V. expressed concern that without better communication between her and Carver Prep, she will remain unable to accurately assess whether M.N. is in a program that meets her needs and helps develop M.N.'s self-control and awareness—skills that M.N. has struggled with in the past.<sup>22</sup> Meanwhile, T.N. struggles to understand IEP documents that contain technical language that even her daughter has trouble translating for her. For all LEP parents, the failure to provide translated notices of a student's progress in an mainstream, special education, or ESL program precludes them from core parental involvement, jeopardizes their students' educations, and, for those with students who have behavioral needs, may endanger the student's health and safety.

OPSB, RSD, and the named charter-operators have also failed to translate critical non-academic notices. Complainants all described filling out enrollment materials that were by and large in English only. Complainants also reported receiving phone calls and automated messages from schools that were in English only. M.F. received automated messages that describe her child's absence from school or incomplete work assignments in English, but has been forced to rely on VAYLA staff to monitor and interpret them. The practice of English-only automation distinctly disadvantages LEP families, who can neither understand the messages they receive, nor contact schools that lack interpretation resources for clarification.

Finally, as the situation for M.A.F. and her son L.F. at ICS illustrates, the failure to provide translated notice of disciplinary infractions constitutes a violation of the due process

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<sup>21</sup> Ben Franklin's production was very minimal and included a few translated letters notifying parents of ESL programs at the school. Notably, Ben Franklin could not provide a list of bilingual interpreters, and instead asserted that it relies on "Congressman Cao, his staff, and [the school's] world languages faculty" to provide interpretation assistance. Einstein's production, on the other hand, was far more considerable. Einstein included translated student enrollment packets and forms, Title I parental involvement materials, and school closure/take-over notices to parents of new Einstein Extension (former ICS). Nonetheless, Complainants assert that they do not receive regular translated materials from Einstein, including report cards and other documents describing their children's educational programs.

<sup>22</sup> T.V. also related a past instance in which M.N. was given money to bring to school for certain fees. Unable to understand the purpose of the money, M.N. inadvertently dispensed large portions of it to her classmates.

rights of LEP families and students. Due process demands that students and parents be given written notice containing a statement of the charges and an opportunity to be heard. *Goss v. Lopez*, 419 U.S. 565 (1975). M.A.F. was denied this opportunity and force to sign a notice of in-school suspension that improperly asserted a major disciplinary violation against her son. Though an interpreter was provided at the suspension hearing, the quality of interpretation was so negligent that no effort was made to translate the content of the documents M.A.F. was presented to sign or to clarify what the exact charges against her son were. For M.A.F. and other similarly-situated LEP families, this system of incomplete and inconsistent written and verbal notice in the native language of LEP students and families does not meet the requisite due process standard and discriminates against those national origin minority individuals who do not speak or understand English.

### CONCLUSION

Based on the above, Complainants respectfully request that the Department of Education, Office for Civil Rights or the Department of Justice, Educational Opportunities Section accept jurisdiction over their claims and initiate an investigation in to the allegations contained herein.

Sincerely,

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