

August 22, 2012

**VIA FACSIMILE (214) 661-9587,
U.S. MAIL, AND ELECTRONIC MAIL**

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: *M.V., by and through J.V.; I.A., Y.A., and J.C.A., by and through E.A.; A.V., by and through M.T.; C.K., by and through C.K., Sr.; E.H., M.H., J.H., and O.H., by and through N.H.; B.G., N.G., and E.G., by and through V.G.; B.T. and L.T., by and through N.A.; and L.M., on her own behalf, on behalf of themselves and all others similarly situated vs. Jefferson Parish Public School System*

To Whom It May Concern:

Please consider this letter a Complaint filed on behalf of English language learner (“ELL”) students and their limited English proficient (“LEP”) families against the Jefferson Parish Public School System (“JPPSS” or “the District”).¹ Complainants file this complaint jointly before the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section. Complainants allege that JPPSS has discriminated against them on the basis of national origin and has engaged in discriminatory practices, in violation of its 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 JPPSS students and families.² The Complainant

¹ The contact information for the District is as follows: 501 Manhattan Blvd., Harvey, LA 70058-4495; Phone: (504) 349-7600

² See Exhibit 1 for name, contact information and consent for use of individual information for each Complainant.

class consists of Latino students enrolled in JPPSS whose parents speak Spanish as their primary language and understand little to no English.

As set forth below, Complainants allege that JPPSS fails to provide adequate translation and interpretation services to Latino students and their LEP parents. Complainants further allege that JPPSS employees routinely question Latino students and their families on their citizenship status, and condition enrollment in and graduation from JPPSS on proof of U.S. citizenship or immigration status, by requiring copies of their social security cards. JPPSS's actions and omissions towards its Latino students have resulted in a denial of the Complainants' rights to equal access to educational benefits and activities in violation of federal law.

Complainants' allegations are bolstered by system-wide data, obtained as a result of Spanish language access testing performed by the Equal Rights Center ("ERC") in Washington, D.C.³ Using expert methodologies and trained language access testers, the ERC performed language access testing in JPPSS schools via 28 in-person, 65 phone, 24 written letter, and 32 email tests, from July 23, 2012 to August 16, 2012. Testing results of the availability of Spanish language supports throughout JPPSS schools document that written translation and spoken interpretation assistance is inconsistently available at best, to non-existent at worst. Furthermore, the ERC data reveals a school system in which attempts to communicate in Spanish are met with outright hostility and frustration, demonstrating a system that is unwelcoming of national origin minorities. Lastly, ERC's language access testing categorically documents JPPSS's illegal policies and practices with regards to school enrollment.

Specifically, JPPSS does not routinely provide written translation services relating to important notices about the provision of and eligibility for LEP services, major school events and parent-teacher conferences, school closures, disciplinary infractions and removals, and the provision of and eligibility for special education services. Yet, these documents are routinely provided to English-speaking parents in English.

Furthermore, telephonic interpretation services and in-person access to qualified language interpreters during school events, teacher conferences, and at the front office is similarly limited for non-English speaking families, sometimes to the point of being non-existent. For example, Complainant V.G. reports an inability to find any Spanish-speakers with whom he can communicate at his three daughters' schools. Given the critical nature of robust language access practices to ensure the success of a student's educational program, JPPSS's failures with regards to the availability of translated documents and qualified language interpreters to LEP families constitutes discrimination against Complainants in violation of Title VI.

³ The Equal Rights Center is a non-profit organization dedicated to advancing civil rights for all individuals through education, research, testing, counseling, advocacy, and enforcement. The ERC's extensive civil rights testing expertise is integral to its investigative efforts and distinguishes the ERC from other civil rights organizations. Testing allows the ERC to quantitatively document rates of discrimination, which can be used to create real and positive change. See <http://www.equalrightscenter.org>.

Lastly, JPPSS engages in discriminatory practices of questioning Latino students on their citizenship status as a condition of enrollment in and graduation from JPPSS. JPPSS's practice of interrogating students for their social security numbers has terrified Latino students, made them feel unwelcome at school, and discouraged them and their parents from being active participants in their school communities. The practice of questioning Latino students about their citizenship status and trying to condition enrollment in and graduation from public school on their immigration status directly violates their rights pursuant to the U.S. Supreme Court's decision in *Plyler v. Doe*, 457 U.S. 202 (1982), and constitutes national origin discrimination pursuant to Title VI.⁴ Recently, a JPPSS staff member utilized ethnically derogatory language towards complainant C.K. without repercussion, which demonstrates the ugliest reaches of the unwelcoming climate cultivated within JPPSS schools towards its national origin minority students. From tolerating the use of racially charged language; maintaining a discriminatory policy and practice of requiring proof of citizenship for enrollment and graduation; to generally making Spanish-speaking families feel unwelcome and unwanted in their schools, JPPSS has created and perpetuated a hostile environment for LEP families in its schools.

STATEMENT OF JURISDICTION

JPPSS is a recipient of federal financial assistance and is therefore subject to the anti-discrimination prohibitions of Title VI. JPPSS's reported operating budget for the 2011-12 school year included \$24,580,995 in federal funding.⁵ 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 JPPSS internal grievance procedures, including due process proceedings.

INDIVIDUAL COMPLAINANTS' STATEMENTS OF FACT

Complainants M.V., I.A., Y.A., J.C.A., A.V., C.K., E.H., M.H, J.H., O.H., B.G., N.G., E.G., B.T., L.T., and L.M. are all Latino students enrolled in JPPSS. Complainants and their parents are native Spanish-speakers, and their parents understand little to no English. During the 2011-12 school year, all Complainants and their parents were denied meaningful opportunities to participate in and receive adequate notice of events, opportunities, and critical decision-making surrounding the 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.

⁴ See also U.S. Dep't. of Educ., Office for Civil Rights, "Dear Colleague" Letter of May 6, 2011, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html> (describing public schools' obligations pursuant to *Plyler v. Doe*, as enforced by the Office for Civil Rights and the U.S. Dep't of Justice).

⁵ Annual Operation Budget, Form "A" Fiscal Year 2011-12, Jefferson Parish Public School System, available as a zip file at http://www.louisianaschools.net/divisions/edfn/general_fund_budgets.html.

1. M.V., by and through J.V.

J.V. is the mother of rising second grader, M.V., who attended the recently-closed Joseph S. Maggiore, Sr. Elementary School. M.V. is an ELL student and enrolled in JPPSS's ESL program, and J.V., a native Spanish-speaker, understands no English. M.V.'s school has made no effort to communicate with J.V. in Spanish, despite its notice of the family's language assistance needs, determined by the JPPSS Home Language Survey form. Throughout the 2011-2012 school year, J.V. did not receive any written translated documentation from JPPSS—including, but not limited to, M.V.'s report cards and progress reports, notice of M.V.'s enrollment in the LEP program, annual Spring 2012 English Language Development Assessment ("ELDA") results, and of recent concern, formal written notice of Maggiore Elementary School's closure and M.V.'s school reassignment for the 2012-2013 school year. (*see* Exhibit 2). Because JPPSS elementary schools utilize a "S/U" grading system (for Satisfactory/Unsatisfactory) instead of "A, B, C, D" grading system, J.V. was bewildered by M.V.'s progress reports and had no idea whether he was making academic progress on the basis of written report cards alone.

Furthermore, J.V. reports that she receives no spoken interpretation assistance from JPPSS including, but not limited to, a lack of Spanish language interpretation at parent-teacher conferences and school open houses, and no spoken interpretation when JPPSS employees have called their home during the 2011-2012 school year. For instance, during a Fall 2011 parent-teacher conference, M.V.'s teacher relied upon seven-year-old M.V. to translate information about his academic progress to J.V. in Spanish—cementing J.V.'s utter confusion about M.V.'s academic progress in school.

JPPSS has substantially hindered J.V.'s participation in every aspect of M.V.'s education, by not affording her and M.V. the same, if any, access to information about JPPSS educational programs and activities as is afforded to English-speaking families. From failing to provide translated copies of progress reports and access to interpreters at parent-teacher conferences to not informing her that M.V.'s school was closing, JPPSS has discriminated against both J.V. and M.V. on the basis of their national origin.

2. I.A., Y.A., J.C.A. by and through E.A.

E.A. is the mother of rising seventh grader I.A., rising eleventh grader Y.A., and twelfth grade special education student J.C.A. I.A. is a student at Livaudais Middle School, and Y.A. and J.C.A. are students at West Jefferson High School. E.A. is a native Spanish-speaker who understands very little English, and yet does not receive any meaningful language assistance from JPPSS when trying to navigate the school system on behalf of her three children. As more fully detailed below for each child, JPPSS has routinely failed to provide E.A. with language assistance at open houses, parent-teacher conferences, and at meetings and telephonic conversations concerning adverse disciplinary action towards her children. Nor does JPPSS provide E.A. access to translated written documents such as progress reports, parental notices of ESL placements, annual academic assessments, notices of disciplinary infractions, and applications for participation in the free and reduced lunch program.

With regards to I.A., a rising seventh grader enrolled in ESL classes, E.A. has received no translated documents or language assistance at Livaudais Middle School. I.A.'s progress reports, Louisiana Educational Assessment Program ("LEAP") results, ELDA results, and "Accommodation and Correlation for ELLs" ("ACE") Forms⁶ are routinely not translated for E.A., and thus E.A. is unable to fully participate in I.A.'s education or help redress his academic failures. (*see* Exhibits 3, 4, 5, and 6 respectively). E.A.'s full participation in I.A.'s education was similarly limited when information regarding I.A.'s need to complete summer school this past summer was communicated to E.A. in English only. (*see* Exhibit 7). Furthermore, I.A.'s school has sent home JPPSS "child find" notices detailing how E.A. can request evaluations for I.A.'s special education eligibility—but the significance and meaning of this English-only form did not register with E.A. (*see* Exhibit 8). Written and verbal language assistance has similarly been absent when I.A. has been disciplined. During disciplinary incidents in September and December of 2011 for which I.A. received in-school suspensions, E.A. was forced to sign an "ISS agreement" provided in English only, and to have a conference with the Dean of Students, at which no interpreter was provided. E.A. reports little to no understanding of what transpired at the meeting or what was detailed in the ISS Agreement.

With regards to West Jefferson High students Y.A. and J.C.A., E.A. is routinely denied sufficient language access to translated written documents and verbal interpretation assistance. During the 2011-2012 school year, Y.A. received several disciplinary infractions, for which records reflect that West Jefferson employees called the family home. (*see* Exhibit 9). E.A. reports that the calls were made by someone unable to communicate with her in Spanish. Furthermore, E.A. has struggled to fully participate in either Y.A. or J.C.A.'s education, as E.A. has not received translated progress reports and LEAP results for either student, nor been offered access to interpreters at school meetings.

The language barriers have taken a costly toll, as both Y.A. and J.C.A. received failing grades during the 2011-2012 school year. Y.A. failed the tenth grade and has routinely scored in the at-risk categories on her LEAP exams. J.C.A. failed the mandatory Graduation Exit Exam ("GEE") and is currently unable to graduate with a diploma from West Jefferson High School. During a May 24, 2012 meeting with West Jefferson counselors to discuss the academic failures of both students, E.A. was instructed beforehand to bring her own interpreter to the meeting. While at the meeting, E.A. submitted a written request that future communication regarding Y.A.'s academic issues come through a qualified language interpreter; the English-only speaking West Jefferson counselor with whom she was meeting expressed bewilderment that she was required to secure an interpreter when engaging in future communication with E.A. (*see* Exhibit 10).

JPPSS has discriminated against E.A., I.A., Y.A., and J.C.A. on the basis of their national origin, by failing to afford E.A. access to information about and a full ability to participate in her children's education, as is afforded to English-speaking parents and students.

⁶ The ACE Form is JPPSS's single-page form for documenting the various accommodations and interventions that will be utilized during the school year to facilitate and support the English language instruction of each LEP student receiving ESL services.

3. A.V., by and through M.T.

M.T. is the mother of sixth-grade special education student A.V., who attends Roosevelt Middle School. A.V. is enrolled in both ESL and special education classes. M.T., a native Spanish-speaker, understands very little English. JPPSS has not provided M.T. with the language access necessary to fully participate in A.V.'s education, particularly his special education needs, as is afforded to English-speaking parents.

M.T. has received virtually no translated materials nor interpreter assistance to facilitate her full participation in A.V.'s special education program. Despite documented parental requests, A.V.'s Individualized Education Program ("IEP") has never been translated into Spanish. (*see* Exhibit 11). Furthermore, JPPSS has never provided M.T. with a translated parental consent form for special education evaluation or provision of services. Upon request of legal counsel, JPPSS produced a Spanish version of the evaluation consent form although this document had never before been provided to the parent.

Over the course of the past six years, M.T. has had the assistance of a Spanish language interpreter on only two occasions and only due to the insistence of legal counsel. Prior to January 2012, M.T. was not afforded nor informed that she could request an interpreter to assist her at A.V.'s IEP meetings. During an April 2012 psychological re-evaluation of A.V.'s special education needs, JPPSS staff did not bother to complete the parent interview component of A.V.'s psychological evaluation with M.T., because the school psychologist designated to complete the evaluation did not speak Spanish. (*see* Exhibits 12 and 13).

A.V. has been frequently disciplined as a result of behaviors stemming from his severe emotional issues and yet M.T. has been provided with either no or wholly inadequate translated documentation of A.V.'s disciplinary infractions. For example, on September 22, 2011, A.V. was arrested and taken away from the school in police custody when he emotionally decompensated and became physical while staff members attempted to restrain him. Roosevelt Middle School staff did not initially⁷ contact M.T. in Spanish to report A.V.'s arrest, nor did Roosevelt staff ever provide written documentation of A.V.'s arrest in Spanish.

Generally, M.T. has struggled to communicate with JPPSS staff. Other than A.V.'s ESL teacher, there is no one at Roosevelt Middle School to communicate with M.T. in Spanish—particularly in the front office—which makes M.T. feel completely isolated and unwelcome at the school. JPPSS personnel frequently assume that A.V. can translate for M.T., but it is difficult and upsetting for A.V., who suffers from significant psychological issues and who easily decompensates. Alternatively, M.T. reports that particular school staff will simply speak and gesture at her in English, and say things that she thinks mean, "we know you understand us."

⁷ M.T. explained that the first call home to report A.V.'s arrest was in English – M.T. could not understand what was being said but could tell something was wrong. She became very upset. Roosevelt staff ultimately arranged for A.V.'s ESL teacher, allegedly the only staff member at Roosevelt who can speak Spanish, to call M.T. and explain that A.V. had been arrested.

By denying M.T. the opportunities afforded to English-speaking parents around participation in A.V.'s special education decision-making processes, JPPSS has discriminated against M.T. and A.V. on the basis of their national origin.

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

C.K., Sr. is the father of C.K., a student who attended West Jefferson High School during the 2011-2012 school year, and who is attempting to transfer to Helen Cox High School for the upcoming school year. C.K., Sr. is a native Spanish-speaker, with some conversational spoken English skills but extremely limited English reading comprehension skills.

C.K. can attest to the extremely unwelcoming environment that pervades JPPSS schools for Latino students and other national origin minority students. In Fall 2011, C.K.'s physical education teacher called C.K. a "wetback" during gym class, after she became irritated that his student identification card had a hole in it. C.K.'s classmates overheard, C.K. became extremely upset, and formally reported the incident to an Assistant Principal, himself a Latino man. The Assistant Principal initially seemed to share C.K.'s outrage, but nothing was ever done to the West Jefferson staff member in question and C.K. was not removed from her class—where unsurprisingly, after he filed a complaint, the teacher wrote him up for misbehavior and submitted a litany of negative comments about him on his progress report.

C.K., Sr. has not been afforded sufficient language access in order to fully participate in C.K.'s education. C.K.'s Spring 2012 third and fourth quarter report cards were sent home entirely in English, and included comments such as "Student is in danger of failing for the year" and "Student's behavior presents school problem"—and yet no effort was made to communicate this information home in Spanish. (*see* Exhibit 14).

On April 12, 2012, C.K. was written up for disrespect and given a "Rest of School Year" ("ROSY") expulsion, meaning he was not permitted to return to West Jefferson High School for the remainder of the school year. When C.K., Sr. arrived at the school, he was not provided with translated paperwork associated with the disciplinary removal, and was expected to sign off on C.K.'s removal without being provided any Spanish-language documentation of C.K.'s significant removal nor C.K.'s rights to appeal. (*see* Exhibit 15).

Given his experiences at West Jefferson High School, C.K. is currently seeking enrollment at Helen Cox High School. Yet, in two separate visits to Cox High School to fill out enrollment paperwork, Cox High School has demanded proof of C.K.'s social security card and displays flyers in the front office explaining that a social security card is a required component of a student's registration materials. Furthermore, while completing his enrollment on August 9, 2012, a JPPSS district-level administrator informed C.K. and C.K., Sr. that Cox High School employed no Spanish-speaking personnel to assist LEP families in the main office; had no translated JPPSS forms available; and in fact had been pulling Spanish-speaking students from class to help administrators communicate with Spanish-speaking families in the main office.

JPPSS denied the necessary language access to C.K., Sr. such that would allow him access to the same information about C.K.'s education and rights during the disciplinary process

as is afforded to English-speaking families. Furthermore, JPPSS has subjected C.K. to a hostile learning environment on the basis of his national origin minority status. As a result JPPSS has discriminated against C.K. and C.K., Sr. on the basis of their national origin.

5. E.H., M.H., J.H., O.H., by and through N.H.

N.H. is the mother of ninth grader E.H., eighth grader M.H., first grader J.H., and kindergartner O.H. E.H. and M.H. attend Fisher Middle High School. J.H. and O.H. attend Leo E. Kerner Jr. Elementary School. N.H. is a native Spanish-speaker, and is unable to communicate in English.

At Fisher Middle High School, N.H. has received no Spanish language assistance. N.H. reports that all documents are sent home in English, and that there is no opportunity to communicate with Spanish-speaking staff members at the school site. N.H. has never received a report card for either child translated into Spanish, nor has N.H. witnessed a Spanish language interpreter present at a Fisher Middle High open house. Lastly, N.H. has never encountered a Spanish language interpreter at Fisher Middle High, nor been informed of how she could obtain an interpreter at important school events and meetings. As a result of her inability to communicate with Fisher Middle High staff, N.H. feels disconnected and unwelcome at the school.

Prior to E.H. and M.H.'s attendance at Fisher Middle High School, both E.H. and M.H. attended Estelle Elementary School for the fourth and fifth grades. At Estelle Elementary, N.H. received no Spanish language assistance, and reports that all documents were routinely provided in English only. N.H. feels that the environment at Estelle Elementary was hostile to Spanish language speakers, as staff was rude, unhelpful, and disinterested in assisting her because of her limited English language skills.

At Kerner Elementary, N.H. has received some language access services, but access to Spanish-speakers and Spanish-translated documents has been inconsistent. While the school has undertaken some efforts to translate report cards into Spanish (indicating a district-wide ability to do so), translation of report cards has not been consistent; indeed, the last report card of the 2011-2012 school year was not translated.

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

6. B.G., N.G., E.G., by and through V.G.

V.G. is the father of high school student B.G, seventh grader N.G., and elementary school student E.G. B.G. attends Jefferson Chamber Foundation Academy, N.G. attends Livaudais Middle School, and E.G. attends Terrytown Elementary. V.G. is a native Spanish-speaker, and is unable to communicate in English.

Between the several schools attended by his daughters, V.G. has never received any communication translated into Spanish; he reports that newsletters, pre-recorded telephonic invites to open houses, and report cards are uniformly in English. V.G. has been unable to verbally communicate with any of the schools in Spanish, as the schools expect B.G., N.G., and E.G. to translate for their parents. At the beginning of the 2011-2012 school year, E.G. felt uncomfortable attending Terrytown Elementary and a parent-teacher conference was scheduled; yet, Terrytown staff did not provide a translator, and E.G.'s oldest sister B.G. had to come along to translate on behalf of V.G. V.G. has requested that his daughters' schools use a translator service or separate number for Spanish-speakers to utilize in order to obtain essential school information in Spanish, but his requests have been ignored. As a result of JPPSS staff's disinterest and unwillingness to communicate with V.G. in Spanish, V.G. is deterred from participating at his daughters' schools and does not feel welcome.

Furthermore, when attempting to complete enrollment at William Hart Elementary, JPPSS officials conditioned enrollment upon V.G. providing a Louisiana state ID card, even though V.G. established local residency at a Jefferson Parish address.⁸ V.G. attempted to provide a valid Texas state ID card, but this was initially deemed insufficient by JPPSS staff. Although V.G. was ultimately allowed to enroll his daughters, the experience of having his documentation challenged was very intimidating, and set the tone for the unwelcoming environment that V.G. has continued to experience as a non-English speaking Latino parent. V.G. is concerned about the chilling effect such practices would have on more timid families.

JPPSS has not afforded V.G. consistent and equal access to information nor a full ability to participate in his children's educations, as is afforded to English-speaking families. As a result, JPPSS has discriminated against V.G., B.G., N.G., and E.G. on the basis of their national origin.

7. B.T. and L.T., by and through N.A.

N.A. is the mother of rising eighth grader B.T., who attends Gretna Middle School, and rising third grader L.T., who attends William Hart Elementary School. N.A. is a native Spanish-speaker who is largely unable to communicate in English.

N.A. has received largely no communication from JPPSS schools translated into Spanish, although she does report that Hart Elementary is beginning to translate some limited communications and does employ a Spanish-speaker in the front office. However, Gretna Middle School does not appear to employ any Spanish-speakers in the main office, as N.A. has never received a phone call home in Spanish, nor has she encountered a Spanish-speaker when trying to communicate with staff in the main office.

At Gretna Middle School, N.A. has particularly struggled to get critical information concerning B.T.'s behavior. For more than five months, from October 2011 until February 2012,

⁸ Upon information and belief, JPPSS does not maintain a formal written policy requiring parents to provide a Louisiana state identification card at the time of student enrollment. It appears that the District's informal, unwritten policy is applied selectively on the basis of national origin.

N.A. has attempted to engage in regular dialogue with the school to monitor B.T.'s behavior, but could not find a Spanish-speaking staff member to communicate with her. In February 2012, B.T. was given an in-school suspension for a school uniform violation, but notice of the disciplinary infraction was sent home in English only. Upon receiving notice of the write-up, N.A. visited the school to get more information, only to learn that the school administrator expected the student to translate the events surrounding his own disciplinary write-up. N.A. remains uncertain of the school's side of story, because she felt she could not rely on B.T.'s translation in light of his "conflict of interest" in the matter.

While Hart Elementary has been moderately more accommodating of Spanish-speakers like N.A., the school does not provide interpreters at open houses, and as a result, N.A. has stopped attending such functions because she cannot understand anything.

Lastly, when attempting to enroll her children in JPPSS schools, JPPSS employees tried to condition B.T. and L.T.'s enrollment upon N.A.'s providing a Louisiana state ID, despite N.A. having proof of residency within Jefferson Parish. JPPSS employees questioned N.A.'s passport and consular identification, but begrudgingly accepted it.

N.A. is extremely frustrated at being cut off from B.T. and L.T.'s teachers and school events, and is so fed up with the lack of language access that she has contemplated moving the family to a more accessible school district. Despite her best efforts to be an active and involved parent, N.A. has not received equal access to information nor equal opportunity to participate in her children's education as is afforded to English-speaking families, and thus, JPPSS has discriminated against N.A., B.T., and L.T. on the basis of their national origin.

8. L.M., on her own behalf

L.M. is a nineteen-year-old recent graduate of West Jefferson High School, and a native Spanish-speaker by birth. L.M. was discriminated against on the basis of her national origin when West Jefferson officials tried to condition L.M.'s receipt of her diploma on L.M. providing proof of U.S. citizenship.

In late May 2012, L.M. was summoned out of class and called before the office administrator in charge of school attendance. This office administrator asked L.M. whether she had a social security number and began to lecture L.M., informing her that without a social security card, life for L.M. after graduation would be "very difficult." The office administrator then informed L.M. that West Jefferson High School required proof of social security numbers from all graduates, so that their paperwork could be sent to the federal government in order to finalize their graduation from West Jefferson. As L.M. stood before the office administrator, a line of other Hispanic West Jefferson seniors formed behind her, all summoned to the office for a similar line of questioning about proof of their social security numbers.

This was not the first time that L.M. had been interrogated by a West Jefferson employee for her social security number. While taking a Fall 2011 West Jefferson General Technology course that culminated in vocational certification, her teacher asked L.M. multiple times for her

social security number, stating that it was necessary in order to complete enrollment in the certificate program.

Multiple incidents of JPPSS employees targeting L.M. and other Latino students to demand their social security numbers left L.M. feeling humiliated and unwelcome at West Jefferson High School, and created a hostile environment for Latino students like L.M. at JPPSS.

CLAIMS

I. JPPSS Does 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.⁹ The protections provided by Title VI and its implementing regulations have been interpreted to extend to students with limited English proficiency.¹⁰ School districts are thus required to provide national origin minority LEP students with educational benefits and opportunities equal to those provided to other students.¹¹ This includes the duty to provide LEP parents with the same information about school activities and functions as that given to English-speaking parents.¹² “Notification must be sufficient so that parents can make well-informed

⁹ 42 U.S.C. § 2000d-1; 34 C.F.R. § 100.3(b)(2).

¹⁰ *Lau v. Nichols*, 414 U.S. 563 (1974); *Castaneda v. Pickard*, 648 F.2d 989 (5th Cir. 1981); *see also* Office for Civil Rights, U.S. Dep’t of Educ., Policy Update on Schools’ Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP students) (Sept. 27, 1991) (hereinafter “Sept. 1991 Policy Memo”), *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/lau1991.html>; Office for Civil Rights, U.S. Dep’t of Educ., 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; 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>.

¹¹ *See* Sept. 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).

¹² 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>.

decisions about the participation of their children in a district's programs and services."¹³ The Office for Civil Rights ("OCR") has found that "Title VI is violated if . . . parents whose English is limited do not receive school notices and other information in a language they can understand."¹⁴

As of 2011-2012, JPPSS employed 54 bilingual paraprofessionals¹⁵ who share the responsibility for serving an LEP population comprising 8.29% of JPPSS's 45,704 total student body.¹⁶ This roughly calculates to 54 bilingual paraprofessionals serving approximately 3,789 LEP students—one paraprofessional for every 70 children—in an LEA of at least 89 schools where at least 50¹⁷ provide some degree of designated ESL classes or clustering. According to JPPSS's 2011-2012 NCLB Application, these 54 individuals are tasked with not only giving support to LEP students in the classroom, but also to provide "translations of school newsletters, annual translations of Parent Policy Manuals, [and] interpreters . . . for parent teacher conferences" for these 3,789 LEP students.

Furthermore, JPPSS employs only two¹⁸ bilingual parent liaisons—one for the West Bank and East Bank each—to serve a community of 7,740 Hispanic students¹⁹ (16.9% of the total student population) and 3,789 LEP students and their families. According to JPPSS's 2011-2012 NCLB Application, these two individuals are tasked with ensuring that all non-English speaking parents have support at "parent meetings, interpreters between school and home, access to educational programs and support for parental access to community resources."

As a result of tremendous demand for services from this very small pool of JPPSS staff, Spanish-speaking parents are largely unable to communicate with their children's schools in any

¹³ 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>.

¹⁴ *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>.

¹⁵ Jefferson Parish Public School System, "2011-2012 NCLB/IDEA Program Plan," *attached as* Exhibit 16. It is unclear whether these individuals meet the appropriate standards to be considered qualified interpreters.

¹⁶ Louisiana Department of Education, "Public School Student Enrollment Data" (Oct. 1, 2011), *available for download as a spreadsheet from* http://www.doe.state.la.us/offices/infomanagement/student_enrollment_data.html.

¹⁷ Jefferson Parish Public School System, "JPPSS ESL Staffing 2011-2012," *attached as* Exhibit 17 (provided to SPLC pursuant to Jan. 18, 2012 public records request and naming at least 50 schools by count that were to provide some measure of ESL instruction and staffing).

¹⁸ *See* Exhibit 16, 2011-2012 NCLB/IDEA Program Plan.

¹⁹ *See supra* fn. 16, Louisiana Department of Education, "Public School Student Enrollment Data" spreadsheet.

meaningful way. Many of the Complainants' parents independently report that there are neither teachers nor central office personnel with whom they can communicate in Spanish to help them understand or learn more about their children's academic progress.²⁰

The Complainants' personal experiences are supported by the statistical findings of the Equal Rights Center ("ERC"), through its language access testing. Across 28 in-person visits to JPPSS schools and the West and East Bank English Language Acquisition Department centers ("ELAD centers"), the ERC determined the following:

- In just 21.4% of visits did testers immediately encounter a bilingual staff member at a JPPSS school or ELAD Center.
- After clearly requesting and waiting for Spanish language assistance, ultimately 53.6% of testers were not provided any Spanish-language assistance at the school.²¹
- In just four visits, or 14.3%, where a bilingual employee could not be located at the school did JPPSS staff think to call an ELAD Center to provide translation assistance, which should be a known resource of language assistance for non-English speaking parents.
- In these four instances where an ELAD Center employee was contacted, two of the four times the ELAD employee was ultimately unable or unwilling to provide assistance to the Spanish-speaking tester.²²
- Lastly, in 5 visits (17.3%)²³ where no bilingual JPPSS employee was available, JPPSS staff resorted to calling upon other parents in line or pulling students out of classes to translate for the tester—and JPPSS personnel expected these unrelated adults and minors to relay federally-protected private information²⁴ to non-JPPSS staff to get basic information about how to enroll a student in school.

²⁰ See, e.g. J.V., mother of Maggiore Elementary student M.V.; N.A., mother of Gretna Middle student B.T.; N.H., mother of former Estelle Elementary students E.H. and M.H.; V.G., father of Terrytown Elementary student E.G.; E.A., mother of Livaudais Middle student I.A.; and M.T., mother of Roosevelt Middle student A.V.

²¹ See, e.g., Tests No. SPLC-12-LAN-IP-LA-03 (Adams Middle); LA-05 (Bonnabel High); LA-12 (Cox High); LA-20 (Livaudais Middle); LA-23 (C.T. Janet Elementary); and LA-24 (Pittman Elementary).

²² On July 27, 2012 (Test No. SPLC-12-LAN-IP-LA-14), an ELAD employee contacted by Stella Worley Middle School refused to act as an interpreter so that the tester could communicate with Worley staff regarding enrollment. On July 25, 2012 (Test No. SPLC-12-LAN-IP-LA-11), Riverdale Middle School staff reached an ELAD employee on the phone, but the tester reported that no help was given at all.

²³ See Tests No. SPLC-12-LAN-IP-LA-01 (J.C. Ellis Elementary – another visitor intervened); LA-02 (Jefferson Elementary – reported that non-staff provided interpretation); LA-22 (Myrtle C. Thibodeaux Elementary – child was pulled out of class to interpret); LA-03 (A.C. Alexander Elementary – parent volunteered to assist) and LA-23 (C.T. Janet Elementary – neighbor or parent was called to interpret).

²⁴ The Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, creates strict privacy protections for students and their parents concerning their educational records and information provided to public school districts.

ERC’s phone, email, and postal tests of JPPSS’s language access testing further demonstrate the lack of Spanish-language assistance across the district. Across 65 phone tests, ERC data demonstrates:

- In just 15.6% of phone call tests in 46 schools and the East and West Bank ELAD Centers was a Spanish-speaking tester able to reach a Spanish-speaking JPPSS employee.
- In 70.3% of phone call tests, no Spanish language assistance was available.
- In instances where the tester reached a school voicemail, in no instances did the tester report that the school had either a Spanish language voicemail message or automated system utilizing a Spanish language option.²⁵
- In 50.8% of calls, the call was disconnected and in 15.4% of calls, JPPSS employees actually hung up on Spanish-speaking testers because they were attempting to communicate in Spanish.²⁶
- Via email testing of 32 JPPSS schools, only 8 schools replied to a Spanish-language email—of which 2 replied in English, including one reply stating “I do not speak Spanish. Please submit in English.”²⁷
- Via postal tests of 24 JPPSS schools, only 3 schools responded to a written Spanish-language letter—of which 2 schools replied in English.²⁸

The experiences of individual Complainants corroborate the system-wide data obtained by ERC language access testing. For example, Maggiore Elementary has resorted to using M.V., a seven-year-old English language learner child, to translate for J.V. at his Fall 2011 parent-teacher conference. Understandably, M.V. had a difficult time translating the teacher’s messages and resorted to telling his mother that the “teacher said he was doing fine.” Similarly, A.V., a

²⁵ See, e.g., Tests No. SPLC-12-LAN-PH-LA-01 (Birney Elementary); LA-02 (J.C. Ellis Elementary); LA-13-A (Riverdale Middle); LA-22 (Ehret High); LA-34 (Worley Middle); and LA-35B (Truman Middle).

²⁶ See, e.g., Tests No. SPLC-12-LAN-PH-LA-03 (Green Park Elementary); LA-09 (Phoebe Hearst Elementary); LA-11 (J.D. Meisler Middle); LA-10 and 10-B (T.H. Harris Middle); LA-13-B (Riverdale Middle); LA-14 (Ellender Middle); LA-16-A and 16-B (Gretna Middle); LA-18 (East Jefferson High); LA-19-A and 19-B (Grace King High); LA-20 (Riverdale High); LA-23-A and 23-B (L.W. Higgins High); LA-24 (Keller Elementary); LA-26 (Schneckenburger Elementary); LA-27 (Butler Elementary); LA-30 (G.T. Woods Elementary); LA-32 (Livaudais Middle); LA-39 (Cherbonnier Elementary); LA-33 and 33-B (Marrero Middle); LA-35 (Truman Middle); LA-38 and 38B (Bridge City Elementary/Harris Elementary); LA-43 (McDonogh #26 Elementary); LA-40 (West Jefferson High); LA-47 (Solis Elementary); LA-49 and 49B (Pitre Elementary); LA-50B (Woodmere Elementary); and LA-06 (Dolhonde Elementary).

²⁷ See Test No. SPLC-12-LAN-EM-06, where Greenlawn Terrace Elementary asked the tester to write back in English; see also Test No. EM-11, where Clancy Elementary replied in English with a message not clearly indicated for the tester, but for a different JPPSS administrator.

²⁸ See Tests No. SPLC-12-LAN-PO-03 and PO-13, where Thibodeaux Elementary and Terrytown Elementary wrote back to a tester in English.

special education student with significant emotional problems and limited English proficiency, was tasked with the challenging task of relaying messages between his mother, M.T., and Roosevelt Middle School staff when trying to explain his absences from school due to illness—a task that quickly became an additional source of anxiety for the emotionally unstable child. Or, if A.V. isn't with her, school staff talks to M.T. in English anyway, and suggest that they believe M.T. can probably understand English.

E.A., the mother of I.A., Y.A., and J.C.A., has experienced similar difficulties communicating with West Jefferson High School and Livaudais Middle School. In fact, E.A. has given up on attending parent-teacher conferences or school open houses because of the inability to either receive or convey any meaningful information about her children's educational programs—a decision echoed by other parents like V.G. and N.A. after their experiences at Livaudais Middle School, Terrytown Elementary School, and Gretna Middle School, respectively.

Spanish-speaking parents are not only unable to communicate with their children's schools about daily school activities, but also are largely excluded from participation in important school events. For example, in April 2012, J.V. learned from other parents that there was an open house at M.V.'s school, Maggiore Elementary. She attended with several other Spanish-speaking mothers, but soon discovered that the school offered no translation assistance at the meeting. J.V. and the other Spanish-speaking parents with whom she attended had no idea what information was communicated at the meeting, and sat through the meeting completely confused. Upon information and belief, school administrators communicated at this meeting that JPPSS was closing Maggiore Elementary. Eventually on July 2, 2012, Maggiore Elementary sent home a letter in English informing J.V. of the closure. JPPSS and Maggiore Elementary staff made no written or verbal attempt to communicate the closure to J.V. in Spanish.

Since that time, J.V. has tried to obtain information regarding the school closure without success. Rumors circulated throughout the parent community to the effect that every Maggiore student was dis-enrolled from JPPSS with no school to attend. With no access to official information or Spanish-language communication from JPPSS, J.V. spent the summer in fear about whether and where M.V. would attend school this fall, and unsure of whom at JPPSS she could contact for assistance in Spanish.

II. JPPSS Has Failed to Develop and Implement a System that Ensures that Important School Documents Are Translated into the Parent's Native Language.

Despite the presence of a significant and growing monolingual Spanish-speaking community, JPPSS has failed to develop and implement a system by which written documents are routinely translated and provided to LEP parents. JPPSS has failed to provide the Complainants' parents with the following important documentation in Spanish:

- 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 and 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 JPPSS’s ESL programs, in the form of Parental Notice of Placement 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 but not limited to written Parental Consent for Evaluation for suspected disabilities; “child find” notices for parents to request referral of their children for suspected disabilities; copies of 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 out-of-school suspensions and interpretation assistance at mandatory parent-principal conferences to discuss student behavior and students’ return to school after out-of-school suspensions.

The ERC’s language access testing confirms the unavailability of translated written information. As a result of 28 in-person language access tests at JPPSS schools and the East and West Bank ELAD Centers, the ERC found that:

- In just 3 locations (10.7%)²⁹ was there any Spanish language informational material displayed in the front office, and in just 2 locations (7.1%)³⁰ was there any Spanish language assistance signage displayed.
- JPPSS staff was able to provide fully translated written materials to answer a tester’s questions at just one of 28 sites (3.6%).³¹
- At an additional 6 sites (21.4%), JPPSS schools provided a mix of translated and English language materials.³²
- Five schools only provided English-language materials.³³

²⁹ See Tests No. SPLC-12-LAN-IP-LA-08, where Audubon Elementary had parent volunteer registration forms available; LA-13, where the West Bank ELAD Center had brochures for children of migrant workers, hurricane evacuation information, and Catholic Charities health services; and LA-26, where the East Bank ELAD Center had a “Quick Tips for Parents” brochure.

³⁰ See Test No. SPLC-12-LAN-IP-LA-02, where Jefferson Elementary displayed a Special Education “Child Find” poster; and LA-05, where Bonnabel High displayed a poster for how to find the on-site ELAD Center.

³¹ See Test No. SPLC-12-LAN-IP-LA-07 (Birney Elementary).

³² See Tests No. SPLC-12-LAN-IP-LA-08 (Audubon Elementary); LA-13 (West Bank ELAD Center); LA-21 (William Hart Elementary); LA-25 (Boudreaux Elementary); LA-26 (East Bank ELAD Center); and LA-27 (Ehret High).

³³ See Tests No. SPLC-12-LAN-IP-LA-03 (Adams Middle); LA-02 (Jefferson Elementary); LA-09 (A.C. Alexander Elementary); LA-19 (West Jefferson High); LA-28 (Terrytown Elementary).

- The remaining 16 schools (57.1%) were unable to provide any written materials at all.³⁴
- Each tester requested the same registration information, but identical or similar registration paperwork was either inconsistently translated between schools, or an inability to communicate resulted in the tester getting no written information at all.
- Specifically, at Audubon Elementary School, a tester was provided a mix of Spanish and English language documents. The tester reported that the most important registration documents were English only. When the tester asked a bilingual employee for help, the employee explained the documents' content but also stated that the tester should ask her nine-year-old daughter to help, because it was "easy."³⁵

Nearly all Complainants report that they do not receive translated documents conveying even the most basic information. While JPPSS has produced sample translated consent forms for participation in ESL classes and parental consent for special education evaluations via public records request, none of the individual Complainants have ever received them. For example, M.V.'s report cards are never translated, and because the school utilizes an "S/U" grading system instead of an "A, B, C, D" grading system, J.V. was bewildered by M.V.'s report card and has been unable to understand whether M.V. is making academic progress. Furthermore, as previously described, J.V. did not receive notice in Spanish that M.V.'s school closed in May 2012 and that M.V. has been reassigned to a new school for the 2012-2013 school year.

I.A.'s school records contain no copies of any translated forms and his mother E.A. received all forms in English, including notices of placement in the LEP program, ACE forms, report cards, ELDA reports, and disciplinary referrals. E.A.'s third term report card for the 2011-12 year includes a written comment for the parent to contact the school, a directive she was unable to read and thus could not follow. Y.A.'s records contain no copies whatsoever of critical notices, translated or otherwise. E.A. has not received any information, translated or otherwise, about Y.A.'s ELDA results or notifications of placement into LEP programs prior to tenth grade. Neither has E.A. received notice in Spanish that J.C.A. failed his GEE and would not be able to graduate from West Jefferson High School.

Of particular concern, LEP families report inadequate or absent translation and interpretation in two of the most critical situations involving a child's education: school discipline and the provision of special education services. M.T. essentially has been shut out of A.V.'s special education services due to language barriers. She has not received consistent, if any, interpretative services at A.V.'s IEP meetings nor received any translated documents or

³⁴ See Tests No. SPLC-12-LAN-IP-LA-01 (J.C. Ellis Elementary); LA-04 (Roosevelt Middle); LA-05 (Bonnabel High); LA-06 (Grace King High); LA-10 (Clancy Elementary); LA-11 (Riverdale Middle); LA-12 (Cox High); LA-14 (Worley Middle); LA-15 (Greenlawn Terrace Elementary); LA-16 (Hazel Park/Knoff Elementary); LA-17 (Matas Elementary); LA-18 (Ford Middle); LA-20 (Livaudais Middle); LA-22 (Thibodeaux Elementary); LA-23 (C.T. Janet Elementary); and LA-24 (Pittman Elementary).

³⁵ See Test No. SPLC-12-LAN-IP-LA-08.

notices relating to A.V.'s special education program and eligibility. Prior to involvement of counsel, District personnel made no effort to provide M.T. with translated forms for Parental Consent for special education evaluation, and even after SPLC's involvement, a JPPSS school psychologist's lack of Spanish language skills resulted in him choosing to completely forego the requisite parent interviews and conferrals with M.T. during A.V.'s psychological re-evaluation for suspected disabilities. Furthermore, JPPSS administrators were unable to schedule an IEP meeting where both an interpreter and A.V.'s ESL teacher could be present, due to the constraints in the interpreter's availability. Lastly, A.V.'s records show no trace of parental notifications for LEP services, translated or otherwise, nor any record of past translated ELDA and LEAP assessments.

Furthermore, I.A.'s school sent home a "child find" notice to E.A., instructing her on JPPSS's obligation to find children with suspected disabilities and E.A.'s rights to request an evaluation for I.A. Since the form was entirely in English, it was of little significance to E.A.

Disturbingly, parents are not provided interpretation at disciplinary conferences or translated documents even when their children face disciplinary suspension, referral to alternative school, or arrest. For example, C.K., B.T., I.A., and A.V. have all been disciplined by their schools, whose administrators have not provided any translated information in Spanish about their infractions to their parents. Specifically, West Jefferson High School, who suspended C.K. for the remainder of the 2011-2012 school year, did not provide any translated documentation to C.K., Sr. despite the seriousness of C.K.'s punishment and the school's notice that C.K., Sr. was a native Spanish-speaker. Instead, West Jefferson officials pressured C.K., Sr. into signing English language forms that had the effect of removing C.K. from school for the remainder of the year, without providing the family Spanish language notice of C.K.'s rights to an appeal and rights to an alternative educational placement. As a result, C.K. sat out of school for the remainder of the 2011-2012 year and subsequently failed his freshman year due to not being afforded an opportunity to complete his classes.

For Spanish-speaking families, notice of disciplinary infractions are routinely provided in English only, and LEP parents' proactive attempts to get additional information in Spanish are entirely thwarted by JPPSS staff. For example, for I.A.'s two 2011-2012 disciplinary referrals, E.A. was forced to sign a notice of in-school suspension that was written solely in English and to attend a conference before the Dean of Students without the assistance of an interpreter, making it impossible for her to communicate with the administrator or ask questions about the suspension. Similarly, N.A. suspected that B.T. was having behavioral problems at Gretna Middle School and tried to communicate with school staff regarding her concerns for months, but no one would communicate with her; when B.T. was eventually disciplined with an in-school suspension, N.A. received notice in English only and was forced to rely on her own son to translate at his disciplinary conference with Gretna Middle administrators.

To constitute sufficient process, District disciplinary procedures must meet the basic requirements of notice and hearing. 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). The District's system of incomplete and inconsistent written notice in the native language of students and their families does not meet this standard and

discriminates against those national origin minority individuals who do not speak or understand English.

III. JPPSS Has Created and Tolerated a Hostile Environment for Latino Students, Violating their Right to Obtain a Safe and Nondiscriminatory Education.

School districts have a general duty under Title VI to provide students with a nondiscriminatory educational environment.³⁶ “A recipient violates Title VI if one of its agents or employees, acting within the scope of his or her official duties, has treated a student differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the student to participate in or benefit from the services, activities or privileges provided by the recipient.”³⁷ A school district is also deemed to have violated Title VI if it creates, encourages, accepts, tolerates, or leaves uncorrected a hostile environment based on race, color, or national origin.³⁸

Latino students and their parents in JPPSS have reported being harassed by school staff and faculty on the basis of their national origin and/or limited English proficiency status. Furthermore, JPPSS’s disinterest in providing any language access services, even upon request, has bred a hostile environment that discourages Latino children and their parents from fully participating in the educational programs offered at JPPSS.

For instance, C.K.’s gym teacher called him a “wetback” in the presence of his classmates, and JPPSS officials took no action to respond to C.K.’s subsequent formal complaint. The teacher’s use of this extremely offensive derogatory slang towards a Latino student is unqualifiedly inappropriate, and JPPSS’s failure to respond to C.K.’s complaint cemented the hostile environment that C.K. felt existed for him at West Jefferson High School, as a Latino student. The fact that JPPSS administrators failed to remove C.K. from this teacher’s class exposed him to retaliation, as this teacher filled C.K.’s report card with negative comments about C.K. and wrote him up for misconduct after the incident. As a result of JPPSS conduct towards C.K., all trust and good faith in C.K. towards JPPSS has been destroyed, as C.K. firmly believes that the school officials have no good intentions in their interactions with him or other Latino students—truly illustrating a toxic and hostile learning environment for Latino students in JPPSS schools.

Lastly, E.A., V.G., and N.H. complain of the generally hostile environment maintained in JPPSS schools towards its LEP families. Their efforts to advocate on behalf of their children and to seek out employees able to communicate with them in their native language have been met with indifference at best and outright hostility at worst. Between her interactions with Livaudais Middle School and West Jefferson High School, E.A. has given up on attending school events,

³⁶ *Notice of Investigative Guidance*, 59 Fed. Reg. 11,448, 11,449 (Mar. 10, 1994).

³⁷ *Id.* at 11,448.

³⁸ *Id.* at 11,448 - 11,450.

because no one is willing to communicate with her in Spanish—even Y.A.’s West Jefferson academic counselor was completely flustered by the thought of having to find a translator to discuss Y.A.’s academic failure with E.A. As for N.H., her experience with Estelle Elementary while E.H. and M.H were enrolled there was extremely negative, as she found that the JPPSS employees there were outright rude and unhelpful towards N.H., as a Spanish-speaking Latino, when N.H. would approach the main office seeking assistance while speaking Spanish. As for V.G., his attempts to communicate and interact with B.G., N.G., and E.G.’s schools has been so frustrating, he now feels discouraged from engaging in future communication with JPPSS schools. For example, V.G. tried suggesting to JPPSS employees that a telephonic translator service be utilized to improve communication with LEP families, but his requests were flatly ignored and V.G. does not feel that there is a welcoming environment at any of his daughters’ schools.

Data collected by language access testers with the ERC corroborates Complainants’ allegations of a hostile environment within JPPSS schools towards non-English speaking families. The ERC language access testers who approached 28 sites in person and made 65 phone-call inquiries to 50 sites reported the following information:

- Each test included an overall impression of the staff, as “good, average, or poor.” Of the in-person tests, 53.6% were rated as poor. Of the phone tests, 75.4% were rated as poor in the first round of calls, and 93.3% were rated as poor in the second round of calls (of which there were 15).
- During the August 9, 2012 phone test to Cherbonnier Elementary, a JPPSS employee “growled” and hung up on the tester upon hearing the tester speak Spanish. (Test No. SPLC-12-LAN-PH-39).
- During the August 10, 2012 phone test to Strehle Elementary, a JPPSS employee ignored the Spanish-speaking tester, and while still on the phone with the tester, loudly complained to another employee about having a Spanish speaker on the line. Specifically, the tester reported that the employee stated, “They are speaking in Spanish, like I know Spanish? Who do they think I am? I’m hanging up. I don’t want to deal with this today.” (Test No. SPLC-12-LAN-PH-42).
- During the August 6, 2012 phone test to J.D. Meisler Middle, the tester reported that the English-speaking employee responded to the tester’s Spanish language questions by stating, “You can speak Spanish slowly, but I still don’t understand you,” and then “laughed out loud for a while” before hanging up on the tester. (Test No. SPLC-12-LAN-PH-11).
- During the August 16, 2012 phone test to Dolhonde Elementary, an English-speaking employee stated “No Spanish” about six times and then hung up on the tester. (Test No. SPLC-12-LAN-PH-06).
- During the August 7, 2012 phone test to Higgins High, the English-speaking employee heard the tester speaking Spanish, and without saying anything, hung up on the tester. (Test No. SPLC-12-LAN-PH-23-A).

A hostile learning environment denies ELL and Latino students the opportunity to fully participate in their educational programs. Students cannot focus on their education if they feel unsafe, unwelcome, and unsupported—and their likelihood of academic success is further

compromised if their Spanish-speaking parents are actively shut out of communication and collaboration with their schools. The existence of a hostile environment is illegal and blatantly violates JPPSS's obligation to provide a public education for all, regardless of national origin and English proficiency.

Furthermore, JPPSS engages in a well-documented policy and practice of demanding that enrolling students provide proof of their social security numbers as a condition of enrollment in JPPSS schools.³⁹ According to several anonymous community stakeholders who have challenged these practices within their schools, their concerns have been largely ignored.⁴⁰ The ERC's language access testing documented JPPSS' wide-spread practice of conditioning enrollment in its schools upon proof of a social security card:

- During 6 phone tests when the tester was able to discuss enrollment with a bilingual JPPSS employee, 6 different schools instructed testers that proof of social security numbers was a required component of the enrollment paperwork.⁴¹
- During the August 10, 2012 phone test with Grand Isle High, the tester heard an English-speaking employee on the background of the call instructing the Spanish-speaking employee to ask the tester "if she has a visa, if she's legal. She needs legal papers." The Spanish-speaking employee went on to ask the tester if her son was born in the United States. (Test No. SPLC-12-LAN-PH-41).

Complainant L.M. has experienced similar problems with JPPSS officials, surrounding graduation from a JPPSS school—L.M. was harassed for proof of her social security number by West Jefferson employees on two separate occasions throughout the 2011-2012 school year. Specifically in May 2012, a West Jefferson employee demanded proof of her social security card and informed L.M. that she would not be able to get a diploma without such a number and that she probably would not be able to enroll in college, either. These actions towards L.M. were not isolated—L.M. witnessed many of her West Jefferson Latino classmates get similarly called out of class to line up outside the main office and be subjected to the same social security card interrogation that same day.

³⁹ See Exhibit 18, entitled "Registration Requirements" necessary for enrollment at Helen Cox High School, available as a downloadable word document at <http://helencox.jppss.k12.la.us/helencox-requirements/>, and Exhibit 19, a flyer circulated around West Jefferson High School, stating the required documents for freshman enrollment—both of which include and make explicit referral to presentation of a valid Social Security card.

⁴⁰ Even if students and parents have not raised these issues with school staff, JPPSS is still responsible for providing a nondiscriminatory education environment. According to the investigative guidance provided to the Office for Civil Rights, a school district will be deemed to have constructive notice of the discriminatory conduct "[i]f the alleged harasser is an agent or employee of a recipient, acting within the scope of his or her official duties (i.e., such that the individual has actual or apparent authority over the students involved)." 59 Fed. Reg. at 11,450.

⁴¹ The six schools were: Chateau Estates Elementary (SPLC-12-LAN-PH-31); Grand Isle High (LA-41); Miller Wall Elementary (LA-44); the West Bank ELAD Center at West Jefferson High, on two separate visits (LA-51 & 52); Cox High (LA-23); and the East Bank ELAD Center at Bonnabel High (LA-46).

As the United States Supreme Court has long held, entitlement to public education is not dependent upon immigration status. *Plyler v. Doe*, 457 U.S. 202 (1982). As the U.S. Department of Education’s Office for Civil Rights interprets and enforces the *Plyler* ruling, “a district may not deny enrollment to a student if he or she (or his parent or guardian) chooses not to provide a social security number ... and it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.”⁴² JPPSS staff at West Jefferson High School had no lawful reason to make such inquiries of L.M. and other Latino students, particularly given that similar requests were not made of non-Latino West Jefferson students. Furthermore, JPPSS high schools cannot condition enrollment on proof of social security number, as there is simply no legally justifiable reason for this policy, which discourages Latino students from enrolling and perpetuates a hostile environment for specific Latino families at JPPSS.

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 into the allegations contained herein.

Respectfully,

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⁴² U.S. Dep’t. of Educ., Office for Civil Rights, “Dear Colleague” Letter of May 6, 2011, *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html> (describing public schools’ obligations pursuant to *Plyler v. Doe*, as enforced by the Office for Civil Rights and the U.S. Dep’t. of Justice).