



CRLA



June 2, 2021

**Via U.S. Mail and email to [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)**

Office for Civil Rights  
U.S. Department of Education  
50 United Nations Plaza  
Mail Box 1200, Room 1545  
San Francisco, CA 94102

**Re: Complaint Concerning Discriminatory Treatment of Latinx & Limited English Proficient Parents and Community Members**

Dear Sir or Madam:

California Rural Legal Assistance, Inc. (“CRLA”) and Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (“LCCRSF”) submit this formal complaint against the Paso Robles Joint Unified School District (“District”) on behalf of the following complainant: Paso People’s Action. This complaint concerns the process by which the District is determining which of its school sites will be subject to closure. The District’s process has excluded both Latino and Limited English Proficient (“LEP”) parents and other community stakeholders from any meaningful participation and we believe these communities will continue to be excluded.

The District has discriminated against Latino parents and community members on the basis of their national origin-language minority status in violation of Title VI of the Civil Rights Act of 1964 (“Title VI”) 42 U.S.C. 2000(d) *et seq.*, and its implementing regulations, 34 C.F.R. Part 100. Specifically, the District denied these parents and community member a meaningful opportunity to participate on an advisory committee established to advise the District and its Board regarding the selection of a school for closure.

**I. Statement of Facts**

**A. The District Has a Significant Latino and English Learner Student Population.**

The District is located in San Luis Obispo County and has a total student population of 6,661. Latinx students comprise 56.1% of total enrollment.<sup>1</sup> There are 1,157 English Learner (“EL”) students enrolled in the District and of those students 94.1% are Spanish-speakers.<sup>2</sup> An additional 1,283 students enrolled in the District are identified as Fluent English Proficient (“FEP”) and come from homes where English is not the primary language. Approximately, 35% of all students enrolled in the District come from homes where Spanish is the primary language.<sup>3</sup>

**B. Latinx and LEP Parents and Community Members Were Denied the Opportunity to Meaningfully Participate in the District’s Advisory Committee Concerning School Closure.**

In June of 2020, the District formed a committee to “make a formal recommendation to the Board of Trustees around school closures/consolidations and possible uses for the property if any schools are closed.”<sup>4</sup> The District indicated that this advisory committee was formed pursuant to California Education Code § 17389, which states that such a committee must have at least seven (7) members and no more than eleven (11) members. These committees are generally referred to as “7-11 Committees”. When such a committee is formed, the Education Code lists a number of factors which school district must consider with respect to membership. Specifically, the Education Code states, in relevant part, that such a committee shall be representative of, “[t]he ethnic, age group, and socioeconomic composition of the district.” Invoking California’s Proposition 209 as the excuse, the District made no effort to ensure that its 7-11 Committee was representative of the ethnic composition of the district. The race or national origin of committee members was not considered in the selection process.<sup>5</sup>

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<sup>1</sup> See, California Department of Education (“CDE”) Data Quest report entitled, “2020-21 Enrollment by Ethnicity - Paso Robles Joint Unified Report (40-75457)” found at: [Enrollment by Ethnicity - Paso Robles Joint Unified \(CA Dept of Education\)](#).

<sup>2</sup> See, CDE Data Quest report entitled “English Learner Students by Language by Grade 4075457 Paso Robles Joint Unified - 2020-21” found at: [English Learner Students by Language by Grade - DataQuest \(CA Dept of Education\)](#).

<sup>3</sup> See, CDE Data Quest report entitled “Paso Robles Joint Unified District Language Group Data – Districtwide for 2020 – 21” found at: [Paso Robles Joint Unified District - Language Group Data to Determine '15 Percent and Above' Translations Needs \(ca.gov\)](#).

<sup>4</sup> Pursuant to a Public Records Act request directed to the District, we requested “Any notice sent out to the public regarding the formation of the PRJUSD 7-11 Surplus Property Advisory Committee in English and in any other language made available to the public during the period January 1, 2018 to April 2, 2021.” We were provided the notice only in English. See, Exhibit A, the 7-11 Committee Formation Notice.

<sup>5</sup> In a memo drafted by the District’s lawyer, the following statement was made concerning the lack of diversity issue, “It is important to remember that California law generally prohibits public agencies from making decisions on the basis of racial or ethnic identity, or other inherent characteristics. Proposition

Although Latinx students comprise 56.1% of total enrollment, only one of the District's 7-11 Committee members has a Spanish-surname.<sup>6</sup>

### **1. The Entire Process Concerning the District's 7-11 Committee was Conducted Solely in English.**

The failure by the District to address the ethnic diversity of the Committee's members is also reflected by the fact that the entire process was conducted only in English. As noted previously, the notice to the public concerning the Committee's formation was provided only in English.<sup>7</sup> The Committee application was made available only in English.<sup>8</sup> Although 35% of all students enrolled in the District come from homes where Spanish is the primary language, no effort was made to include Spanish-speaking parents or the Spanish-speaking community at large in this process.

Indeed, one school board member made disparaging comments about persons speaking a language other than English at Trustee meetings. At the Jan. 12, 2021, Board meeting, when members of the public who spoke English but made comments to the Board initially in Spanish, they were admonished by the Board President, who made the following comment:

Under the California Constitution, the official language of the State of California is English and we conduct our business in English. We try to accommodate speakers who do not have sufficient command of English but I want to remind everybody out there if you have sufficient command of English please speak in a language that we understand, that is also under the Constitution the official language of the State of California.<sup>9</sup>

When the Superintendent stated that certified translation would be provided for future meetings, the Board President made the following comment, "I wish to point out what the law is on that."

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209, codified as article I, section 31 of the California Constitution, prohibits certain public agencies, including school districts, from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin. Selection of members of the Committee solely, or even partly, on the basis of their ethnic identity, could result in claims of discrimination under Proposition 209." See, Exhibit B, Lozano Smith memo, dated Feb. 2, 2021. However, this advice was given, and presumably taken in the face of the plain language of California Education Code § 17389.

<sup>6</sup> The names of the Committee members can be found on the 7-11 Surplus Property Advisory Committee webpage, found at: <https://www.pasoschools.org/Page/1876>.

<sup>7</sup> See, Exhibit A, the 7-11 Committee Formation Notice.

<sup>8</sup> Pursuant to a Public Records Act request directed to the District, we requested "The membership application form for the PRJUSD 7-11 Surplus Property Advisory Committee in English and in any other language made available to the public during the period January 1, 2018 to April 2, 2021." We were provided the application only in English. See, Exhibit C, 7-11 Committee Application.

<sup>9</sup> A video of the Board meeting can be found on YouTube at <https://www.youtube.com/watch?v=2HAYIwenffQ>. The Board President's "English is the Official Language" comments begin at: 1:12:53.

The persons who were chastised for speaking in Spanish by the Board President, did so because there was no translation of the Board meeting for the Spanish-speaking public. There were also comments by members of the public concerning the fact that the 7-11 Committee process was not fair because the Spanish-speaking community was not represented. They noted that the agendas and minutes of the 7-11 Committee were only made available in English and the committee meetings were conducted only in English with no translation made available to the public. Instead of acknowledging those concerns and/or how they should be addressed, the Board President chose to lecture the public and remind them that English is the official language of California. No other Board member challenged his comments. The message to the Spanish-speaking community was very clear, you are not welcome on our advisory committees nor at our Board meetings.<sup>10</sup>

The Board continued to promote an environment that excluded Spanish speakers during subsequent Board of Trustees meetings in which the public discussed the 7-11 Committee. During the public comment period of its April 27, 2021 regular meeting, community members expressed their concerns about the closure of Georgia Brown Elementary school and the lack of community representation in the 7-11 advisory committee.<sup>11</sup> One community member wrote she opposed the closure of Georgia Brown and asserted “The way [the] board president has continuously spoken to Spanish speakers during public comment is despicable and should be addressed.” Another community member wrote to the board and requested it reassess its decision to close Georgia Brown Elementary. She also wrote “some members of the board of directors have behaved rudely towards our community who have spoken Spanish in past meetings.”<sup>12</sup> At this same meeting, Board members additionally chastised Paso People’s Action member Yesenia Echevarria for speaking Spanish and shortened the time she could speak. Ms. Echevarria spent the first two minutes asking for an interpreter and clarifying whether she would have 6 minutes total to speak; 3 minutes to speak in Spanish and 3 minutes to have her statements interpreted into English. The Board’s response was that she “had used already used two of her seven minutes.” Ms. Echevarria then gave her comment and noted different inaccuracies in the interpretation. After she gave her comments, the Board President opined on her comments. He stated, “This was idiocy, this woman speaks fluent English and she has wasted roughly now another five minutes of our time to grandstand.”<sup>13</sup> The rest of the meeting also had sparse and inaccurate interpretive summaries. The District did not provide live interpretation of the meeting.

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<sup>10</sup> Contrary to the Board President’s statement, there is nothing in California Constitution mandating that all official business has to be conducted in English.

<sup>11</sup> See, Exhibit E, Public Comments Submitted for 4.27.2021 PRJUSD Board Meeting, pg. 1

<sup>12</sup> See, Exhibit E, Public Comments Submitted for 4.27.2021 PRJUSD Board Meeting, pg. 6

<sup>13</sup> A video of the Board meeting can be found on YouTube at <https://www.youtube.com/watch?v=24Uz1cAFJP0> Ms. Echevarria’s comments begin at 1:21. The Board President’s comments can be found at 1:28.

## **2. Members of the 7-11 Committee Acknowledged the Lack of Diversity and Exclusion of the Spanish-Speaking Community.**

The failure of the 7-11 Committee to reflect the ethnic diversity of the District was also acknowledged by members of the Committee itself. The Committee report was submitted to the Board at its January 26, 2021 meeting. Again, the report was made available to the public only in English and there was no simultaneous translation of the meeting.<sup>14</sup> Member Koski made the following comment, “No future committee should hold a single meeting without representation of our district’s English Learner families.”<sup>15</sup> Member McNellis commented that, “Many of the students who would be drastically affected by this decision attend the two West side schools . . . and both campuses have a significant Spanish Speaking population. There was no representation of these individuals, their thoughts, and their direct concerns within this committee. The information was not sent to those families in their native language nor was there a way for those families to understand the content being discussed unless they sought out their own interpreter. . .”<sup>16</sup> Despite these Board expressed concerns, the District moved forward and accepted the report without revising the process to give weight to comments from the Spanish-speaking community, or re-constituting the 7-11 Committee.

## **3. The Recommendations of the 7-11 Committee Disproportionately and Adversely Impact Latinx and LEP families.**

The District’s 7-11 Committee’s final recommendation to the Board was to close Georgia Brown Elementary School. The Committee Report demonstrates that during the evaluation process none of the criteria and none of the information given to Committee members addressed the topic of race or ethnicity of student enrollment or the potential impact of a school closures on students of different racial/ethnic groups.

It is clear from the data that the Latinx and language minority students and their families would be disproportionately and adversely impacted should this recommendation be finalized by the District’s Board of Trustees. When compared to all other school sites in the District, this school has the largest percentage of Latinx at

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<sup>14</sup> Pursuant to a Public Records Act request directed to the District, we requested “The PRJUSD 7-11 Surplus Property Advisory Committee Report received by the Board of Trustees on January 26, 2021 in English and in any other language made available to the public.” We were provided the report only in English. See, Exhibit D, 7-11 Surplus Property Advisory Committee Report to the Board of Trustees Jan 26 2021

<sup>15</sup> Exhibit D, p. 15.

<sup>16</sup> Exhibit D, p. 24.

74.2%.<sup>17</sup> Georgia Brown also has the largest percentage of EL students at 42.6%<sup>18</sup> and 96.42% of its EL students are Spanish-speaking.<sup>19</sup> 47.33% of all students enrolled at Georgia Brown come from homes where Spanish is the primary language. This is the second highest percentage in the District.<sup>20</sup> Finally, it must be stressed that Georgia Brown has the only Dual Immersion program in the District. In fact, there are no other bilingual programs at any other site in the District.

In making its recommendation, the Committee, summarized its decision as being based on “age, size, condition, and cost to renovate Georgia Brown Elementary School...”<sup>21</sup> It is clear that neither enrollment data nor the impact on Latinx or the Spanish-speaking community were taken into account in determining this recommendation.

## **II. The Exclusion of Latinx & Limited English Proficient Parents and Community Members from the 7-11 Committee Violates Title VI**

Title VI regulations prohibit school districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. *See* 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2). The regulation states at 34 C.F.R. § 100.3(a) that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance. Section 100.3(b)(1)(i)-(vi) further states that a recipient may not, on the grounds of race, color or national origin, deny an individual any service or benefit of its programs; provide any service or benefit to an individual which is different or provided in a different manner; subject an individual to segregation or separate treatment in any matter related to receipt of any service or other benefit under the programs; restrict an individual in the enjoyment of any benefits of its programs; treat an individual differently in determining whether he or she satisfies any admission, enrollment, eligibility, or other requirement or condition to be provided any

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<sup>17</sup> See, CDE Data Quest report entitled “2020-21 Enrollment by Ethnicity Paso Robles Joint Unified Report (40-75457)” found at: [Enrollment by Ethnicity - Paso Robles Joint Unified \(CA Dept of Education\)](#).

<sup>18</sup> See, CDE Data Quest report entitled “2020-21 Enrollment by English Language Acquisition Status (ELAS)” found at: [Enrollment by English Language Acquisition Status \(ELAS\) - Paso Robles Joint Unified \(CA Dept of Education\)](#).

<sup>19</sup> See, CDE Data Quest report entitled “English Learner Students by Language by Grade Georgia Brown Dual Immersion Magnet Elementary (4075457-6043137) 2020-21” found at: [English Learner Students by Language by Grade - DataQuest \(CA Dept of Education\)](#).

<sup>20</sup> See, CDE Data Quest report entitled “Language Groups that Meet the '15 Percent and Above' Translation Needs For Paso Robles Joint Unified (2020-21)” found at [Paso Robles Joint Unified District - Language Group Data to Determine '15 Percent and Above' Translations Needs \(ca.gov\)](#).

<sup>21</sup> See, Exhibit D, p. 29.

service or other benefit in its programs; or deny an individual an opportunity to participate in a program through the provision of services or otherwise or afford an individual an opportunity to do so which is different from that afforded others under the program.

34 C.F.R § 100.3(b)(1) (vii) states that a school district may not, directly or through contractual or other arrangements, on the basis of race, color or national origin, deny a person the opportunity to participate *as a member of a planning or advisory body* which is an integral part of the program.

On May 25, 1970, pursuant to its authority under Title VI, the Department of Education issued a memorandum entitled “Identification of Discrimination and Denial of Services on the Basis of National Origin” (35 Fed. Reg. 11,595). The memorandum clarified issues concerning the responsibility of school agencies to provide equal educational opportunity to LEP national origin minority students under Title VI. The May 25th memorandum states that school districts must adequately notify national origin minority group parents of information that is called to the attention of other parents, and that such notice may have to be provided in a language other than English in order to be adequate.

The District’s systematic exclusion of the Latinx community from the process – in the face of objections of its own members – demonstrates that that process not only disparately excluded the Latinx, Spanish-speaking community from this critical review and recommendation process, but did so with deliberate indifference to that effect.

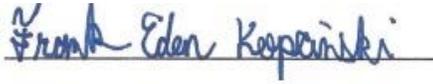
### **III. Conclusion**

For the above stated reasons, we respectfully request an investigation of the Paso Robles Joint Unified School District by the Office for Civil Rights.

Although the current recommendation is to close down Georgia Brown, if adopted it is not to take effect until the 2022-23 school year. To the extent that the District believes that a school closure is necessary, there is time to properly constitute an advisory committee, provide language accessible notice to the community; and engage in a decision making process that includes the Spanish-speaking parents of students enrolled in the District. In order to remedy what we perceive as a blatant violation of federal law, we request that your office conduct an expeditious investigation, and based on a finding that the District’s actions intentionally and disparately impacted Latinx and LEP Parents, students and community members by excluding them from the decision making process, order the District not to implement any steps to close Georgia Brown Elementary School.

If you have any questions or concerns regarding this complaint, please contact Mr. Kopcinski at the email address or phone number listed below.

Respectfully submitted,



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