

Resolution Agreement

Yonkers Public Schools OCR Case No. 02-16-1243

In order to resolve Case No. 02-16-1243, the Yonkers Public Schools (the District) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the following actions pursuant to the applicable requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106.

The entering into of this Agreement is in lieu of continued investigation into this matter and the District denies the allegations at issue herein. This agreement does not constitute an admission of liability on the part of the District that it has violated any regulations enforced by OCR. Additionally, the District expressly denies that the Complainant was discriminated against by reason of his sex, or that it retaliated against Complainant by reason of his having filed a sexual harassment complaint with the District.

Action Item 1: Title IX Coordinator

By October 28, 2016, the District will ensure that a Title IX Coordinator is designated with the responsibility of overseeing all aspects of the District's compliance with Title IX, including Title IX complaints involving students in the District. The District will also take steps to ensure that all students, parents or guardians, and employees are notified of the name and/or title, office address, telephone number, and electronic mail (email) address of the designated Title IX Coordinator. Notification may occur by the methods usually employed by the District for distributing District policies and procedures, including posting on the District's website.

Reporting Requirement: By November 10, 2016, the District will provide documentation to OCR demonstrating compliance with Action Item 1, including copies of any printed versions of publications disseminated to students, parents/guardians and employees containing the required notification, and a link to all on-line publications containing the required notification. Inserts may be used pending reprinting of these publications.

Action Item 2: Notice of Nondiscrimination

By October 28, 2016, the District will revise its existing notice of nondiscrimination to ensure that it states that inquiries concerning the application of regulations prohibiting discrimination may be referred to the applicable District coordinator(s) *or* to OCR. The District will post the notice of nondiscrimination on the District's website and include the notice in each bulletin, catalog, vacancy or admissions announcement, or application form which the District makes available to students or employees, applicants for employment, and as applicable, to any unions and professional organizations holding collective bargaining or professional agreements with the District.

Reporting Requirements:

- (a) By October 28, 2016, the District will provide a copy of its proposed notice of nondiscrimination to OCR for review and approval. OCR will respond within 15 calendar days.
- (b) By November 10, 2016, the District will provide documentation to OCR demonstrating that the approved notice has been provided consistent with Action Item 2 above, such as a copy of revised materials and publications containing the notice of nondiscrimination, and/or a link to the on-line version of the materials and publications. Inserts may be used pending reprinting of the materials and publications.

Action Item 3: Grievance Procedures

By December 30, 2016, the District will revise its existing grievance procedures¹ or create new grievance procedures to ensure that these provide for the prompt and equitable resolution of complaints by students and their parents/guardians, employees, and third parties alleging discrimination (including harassment) on the basis of sex. The procedures will apply to written or verbal complaints (of which the District is on notice as is required by Title IX), and will continue to include and/or add the following provisions such as:

1. Notice that the procedures apply to complaints alleging all forms of sex discrimination (including sexual harassment, sexual assault, and sexual violence) by employees, students, or third parties;
2. A clear and easily understood explanation of how and where to file a complaint pursuant to the procedures;
3. The name and/or title, office address, email address, and telephone number of the individual(s) with whom to file a complaint;
4. Provisions providing for the adequate, reliable, and impartial investigation of all complaints, including affording both/all parties equivalent rights during the process, like the opportunity to present witnesses and other evidence at a hearing;
5. Designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution, and appeal processes, if any;
6. A provision requiring concurrent written notification to both/all parties of the outcome of the investigation and any appeal;

¹ Entitled, “Grievance Procedures for Resolution of Complaints Alleging Discrimination Based on Race, Color, Religion, National Origin, Sex (including Sexual Harassment), Sexual Orientation or Disability”.

7. An assurance the District will respond to complaints or reports (including verbal reports of which the District is on notice in accordance with the provisions of Title IX) or information about incidents of sexual harassment to stop prohibited harassment, eliminate any hostile environment by reason of sexual harassment, take steps to prevent the recurrence of sexual harassment, and address any effects on campus from such conduct;
8. A provision indicating that the District will implement appropriate interim measures during its and any law enforcement agency's investigation period to provide for the safety of the complainant(s) and the campus community and the avoidance of retaliation;
9. A statement of the available interim measures, how they can be obtained (such as counseling, academic adjustment or other academic assistance, no contact orders, etc.), that such interim measures will not disproportionately impact the complainant, and that interim measures are available even if the complainant does not file or continue to pursue a complaint;
10. A statement that the preponderance of the evidence standard will be used for investigating all forms of sex discrimination (including sexual harassment, sexual assault, and sexual violence);
11. A statement that retaliation is prohibited against any individual who files a discrimination complaint, participates in a complaint investigation in any way, or opposes in a reasonable manner an act or policy believed to constitute discrimination;
12. A requirement that a report be completed during the course of each and every investigation, including investigations that are suspended or otherwise closed before making findings or reaching a conclusion (in which case the report should explain why an investigation has been suspended or closed before completion), and that both the report and documentation sufficiently support the actions taken or finding(s) reflected in the report, which is to be maintained by the District consistent with its document-retention policies and practices for other student records. If applicable, the District will include documentation of the date on which the District temporarily suspended fact-finding at the request of law enforcement agencies to allow such agencies to gather evidence, and the date on which the District was advised by the agencies that it could resume its investigative process;
13. An assurance that the investigation will be conducted in an impartial manner by the Title IX coordinator and/or his/her designee, so long as said designee is a trained and impartial decision-maker(s);
14. Notice of the opportunity for both/all parties to appeal the findings, if the procedures allow appeals, and for both/all parties to participate equally in the appeal process;
15. Examples of the range of possible disciplinary sanctions, and the types of remedies available to the complainant and others; and

16. An explanation of how disciplinary actions, if any, relating to the complaint (e.g., underage drinking before a sexual assault) will be handled in the complaint procedure.

Reporting Requirements:

- (a) By November 14, 2016, the District will provide to OCR a **draft** of its revised grievance procedures and policies for OCR’s review and approval. OCR will respond within 30 calendar days.
- (b) Within thirty calendar days after the District’s receipt of OCR’s approval of the revised grievance procedures and policies, the District will provide documentation to OCR to demonstrate that it has adopted the OCR-approved revised grievance procedures and policies and updated its printed publications and on-line publications with the revised grievance procedures and policies (inserts may be used pending reprinting of these publications). This documentation will include, at a minimum, (i) printouts or a link to all on-line publications containing the revised grievance procedures; and, (ii) if not yet finalized, copies of inserts for printed publications. If inserts were used for any publications, then by September 1, 2017, the District will provide to OCR copies of the printed versions of all publications disseminated to students and employees containing the revised grievance procedures. Dissemination may occur by the methods usually employed by the District for distributing District policies and procedures, including posting on the District’s website.

Action Item 4: Training for Staff

By November 18, 2016, and periodically thereafter, the District will provide and/or ensure the provision of training to the Title IX Coordinator, any other coordinators, and any District officials and administrators who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination, including sexual harassment/assault. The training will cover the District’s revised grievance procedures, and provide attendees with instruction on recognizing and appropriately addressing allegations and complaints of discrimination on the basis of sex. The training will include information on what constitutes sex discrimination and sexual harassment/assault, and the District’s and the attendees’ responsibilities to address such allegations. Additionally, the training for the Title IX Coordinator(s) will include instruction on how to conduct and document adequate, reliable, and impartial investigations, including the appropriate legal standard of a preponderance of the evidence to apply in an investigation. The District will distribute copies of its revised grievance procedures and policies to all attendees.

Reporting Requirement: By December 9, 2016, the District will provide documentation to OCR demonstrating that it provided the training in accordance with Action Item 4 above. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and, a list of the individuals who attended the training and their positions.

Action Item 5: Training for Students

By December 30, 2016, and periodically thereafter, the District will provide an information session to students, appropriate to the students' ages, regarding discrimination and harassment on the basis of sex. The training will include instruction regarding: (a) the requirements of Title IX, including that discrimination and/or harassment on the basis of sex is prohibited and will not be tolerated; (b) the range of behaviors that constitute discrimination and/or harassment on the basis of sex; (c) the disciplinary sanctions applicable to anyone who engages in discrimination and/or harassment on the basis of sex; and (d) where, how, and to whom instances of discrimination and/or harassment on the basis of sex are to be reported. The District may provide this information to students in conjunction with student orientation or a similar activity.

Reporting Requirement: By January 13, 2017, the District will provide documentation to OCR demonstrating that it provided the information to students in accordance with Action Item 5 above. This documentation will include, but will not be limited to, the date(s) of the session; the name of the individual who conducted the session; and copies of any materials disseminated, if any, during the session. ;

Action Item 6:

By December 30, 2016, the District will complete an investigation of the allegation of sexual harassment made by the complainant on or about January 10, 2016 that a student subjected the student at issue in this complaint to harassment based on sex by removing his pants and exposing his underpants in a classroom, and ensure that the investigation complies with the OCR approved Title IX grievance procedure. The investigation of this allegation will involve a detailed review by the District of all information previously provided to District staff; interviewing or re-interviewing witnesses, as appropriate; an opportunity for the complainant and Student to provide any additional information or witnesses to the District relevant to the complaints; a review of such additional information and/or, as appropriate, interviews of such additional witnesses; and a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports a finding of a sexually hostile environment. The outcome of the supplemental investigation will be communicated to the complainant and the accused in writing.

Reporting Requirement:

By January 18, 2017, the District will submit to OCR a report documenting the procedures used to conduct its supplemental investigation as outlined in Action Item 6 above, as well as the outcome of the supplemental investigation; any corrective actions deemed necessary; and a timeline for implementation of the corrective actions, if necessary. The District will also provide documentation supporting the supplemental investigation to OCR.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX, at 34 C.F.R. §§106.8, 106.9, and 106.31, which were at issue in this case. The

District also understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX, at 34 C.F.R. §§106.8, 106.9 and 106.31, which were at issue in this case. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceeding to enforce this agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

9/27/2016

/s/

Date

Authorized Representative
Yonkers Public Districts