



UNITED STATES DEPARTMENT OF EDUCATION
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November 18, 2016

IN RESPONSE, PLEASE REFER TO: 03161114

Dr. Nancy Hacker
Superintendent
Springfield Township School District
1901 East Paper Mill Road
Oreland, PA 19075

Dear Dr. Hacker:

This is to notify you of the resolution of the complaint filed against the Springfield Township School District (District) alleging discrimination on the basis of sex. The Complainant, XXXXXX, alleges that the District discriminated XXXXXX.

OCR enforces Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the College is subject to Title IX and its implementing regulation.

LEGAL STANDARD:

The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other program or activity operated by a recipient which receives financial assistance from the Department.

The regulation implementing Title IX, at 34 C.F.R. § 106.9, requires a recipient to implement specific and continuing steps to provide notice that it does not discriminate on the basis of sex in its education programs or activities, and that it is required by Title IX not to discriminate in such a manner. The Notice of Non-Discrimination must also state that questions regarding Title IX may be referred to the recipient's Title IX coordinator or to OCR. In addition, the regulation implementing Title IX, as 34 C.F.R. § 106.8(a), requires that a recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under that law. Section 106.8(a) further requires the recipient to notify all students and employees of the name (or title), office address, and telephone number of the designated employee(s).

The regulation implementing Title IX, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging action that would be prohibited by Title IX, including but not limited to different treatment on the basis of sex. OCR has identified a number of elements in the determining if grievance procedures are prompt and equitable for both parties, including whether the procedures provide for: (a) notice to students and employees of the procedures, including where complaints may be filed, that is easily understood, easily located, and widely distributed; (b) application of the procedures regarding complaints alleging discrimination and harassment carried out by employees, students, and third parties; (c) adequate, reliable, and impartial investigation, including an opportunity to present witnesses and evidence; (d) designated and reasonably prompt timeframes for major stages of the grievance process; (e) written notice to the parties of the outcome and any appeal; and (f) an assurance that the institution will take steps to further prevent harassment and to correct its discriminatory effects, if appropriate.

In order to determine whether an individual was treated differently on the basis of sex, it is first necessary to determine whether there is sufficient evidence to establish an initial or prima facie case of discrimination, that is, whether the recipient treated the alleged victim less favorably than similarly situated individuals of a different sex. If so, it is next necessary to determine whether the recipient had a legitimate, nondiscriminatory reason for the different treatment and whether the reason given by the recipient is a pretext or excuse for unlawful discrimination against the alleged victim.

FACTUAL SUMMARY:

Title IX Coordinator, Notice of Non-Discrimination, and Title IX Policies and Procedures

The District's Director of Special Education and Student Support Services is designated as the District's Compliance Officer and functions as the Title IX Coordinator for matters involving students, and the District's Director of Human Resources is designated as the Compliance Officer and functions as its Title IX Coordinator for matters involving employees and third parties. Thus, the District had adequately designated individuals to serve as its Title IX Coordinator(s).

District Policy 103 (Non-Discrimination in School and Classroom Practices) and District Policy 104 (Non-Discrimination in Employment and Contract Practices) both address complaints that allege discrimination on the basis of sex by students (Policy 103), as well as employees and third parties (Policy 104). Policy 103 and Policy 104 are contained on the District's website and Policy 103 is contained in the agenda book that is distributed to students annually.

Policy 103 and Policy 104 both contain a Notice of Non-Discrimination that states that the District does not discriminate on the basis of sex, among a variety of other bases, in its programs and activities (Policy 103) and employment (Policy 104). The Notice does not, however, state that the District is required by Title IX to not discriminate on the basis of sex. In addition, although it identifies the Compliance Officers who serve the functions of a Title IX Coordinator, it does not indicate that the Compliance Officer is the District's Title IX Coordinator or provide the office address, telephone number, or email address of the Compliance Officer. Thus, the District's Notice of Non-Discrimination does not comply with the requirements of Title IX.

Policy 103 and Policy 104 both contain Title IX policies and procedures to be employed by the District in addressing a complaint alleging discrimination on the basis of sex. OCR evaluated Policy 103 and Policy 104 for compliance with the requirements of Title IX grievance procedures

and found that they contain some, but not all, of the required elements. Specifically, Policy 103 and Policy 104 do not contain the following required elements of a Title IX grievance procedure: application of the grievance procedures to complaints filed by students or on their behalf alleging sex discrimination carried out by employees, other students, or third parties; and provisions providing for the adequate, reliable, and impartial investigation of all complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence.

The enclosed Resolution Agreement addresses the areas of non-compliance identified with respect to the District's Notices of Non-Discrimination and Title IX policies and procedures and, when fully implemented, will resolve the District's noncompliance with Title IX.

The Complainant's Sex Discrimination Complaint

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The District signed a voluntary resolution agreement XXXXXX:

XXX – paragraphs redacted – XXX

In order to complete its investigation, OCR would require the following supplemental information: additional documentation from the District, if any, and interviews with District personnel. The District requested to enter into a voluntary resolution agreement before OCR completed its investigation.

RESOLUTION:

OCR concludes, by a preponderance of evidence, that the District's Notice of Non-Discrimination and Title IX grievance procedures do not comply with the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. On December 2, 2016, the District provided OCR with the enclosed signed Resolution Agreement (the Agreement). When fully implemented, the Agreement will address all areas of non-compliance.

In addition, under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The provisions of the agreement must be aligned with the complaint allegations; the issues investigated, and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations. Consistent with OCR's procedures, the District requested to resolve the issue of whether the District XXXXXX.

Accordingly, OCR is concluding its investigation of this complaint. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the District's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the District's compliance with Title IX and its implementing regulation that may exist and are not discussed herein.

Page 4 – Dr. Nancy Hacker, Superintendent

Under the Freedom of Information Act it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact Amy Niedzalkoski, Team Attorney, at (215) 656-8571 or by email at amy.niedzalkoski@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader

Enclosure

cc: Mark Fitzgerald, Esq.