



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

March 9, 2015

Steven D. Herrington, Ph.D.
County Superintendent
Sonoma County Office of Education
5340 Skylane Boulevard
Santa Rosa, California 95403

(In reply, please refer to # 09-12-1467.)

Dear County Superintendent Herrington:

On September 5, 2012, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against Sonoma County Office of Education (SCOE) that alleged discrimination on the basis of sex. OCR investigated whether certain female juvenile offenders enrolled in one of SCOE's education programs were not provided opportunities for vocational education that were comparable to the opportunities provided to similarly situated male juvenile offenders.

OCR investigated the complaint under the authority of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §1681 et seq., and its implementing regulations at 34 C.F.R. Part 106. Title IX and the regulations prohibit discrimination on the basis of sex in programs and activities operated by recipients of Federal financial assistance.

OCR gathered evidence through interviews with SCOE administrators. OCR also reviewed documents and information provided by SCOE and the complainant. OCR found sufficient evidence to show non-compliance with Title IX with respect to the issue raised in the complaint. However, SCOE has voluntarily signed a resolution agreement which, when implemented will resolve the identified area of noncompliance. The applicable legal standard, the relevant facts gathered, the basis for OCR's determination, and the case resolution are summarized below.

Under the Title IX regulations at 34 C.F.R. §106.31(a) and (b), except as provided in the regulations, a school district or agency may not treat individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities it provides. Under §106.31(b) the district or agency may not, on the basis of sex, provide different aid, benefits, or services or provide aid, benefits, or services in a different manner [(b)(2)], or otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity [(b)(7)].

The Title IX regulations, at 34 C.F.R. §106.31(b)(6), also provide that a recipient may not aid or perpetuate discrimination against any person by providing significant assistance to an agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit or

service to students. Under this section, if a recipient provides significant assistance to an outside entity and the entity is shown to have discriminated against students in the recipient's programs on the basis of sex, the recipient must take steps to obtain compliance from the entity or terminate its assistance.

OCR's investigation showed the following:

Background

- Under California Education Code section 48645.2 and Welfare and Institutions Code section 889, each county board of education and county superintendent of schools must provide for the administration and operation of juvenile court schools. By statute, the term juvenile court schools includes classes in juvenile halls, juvenile homes, day centers, juvenile ranches, and regional youth education facilities.
- Under Education Code section 48646, a county superintendent of schools may enter into memoranda of understanding (MOU) with the county chief probation officer to develop a collaborative model to support the educational needs of incarcerated youth attending juvenile court schools. The section allows one party to cede to the other party responsibility or authority under state statute through an MOU.
- The complaint in this case alleged SCOE did not provide female juvenile offenders placed by the courts at the Sierra Youth Center (Sierra) with vocational education opportunities that were comparable to those provided at the County Probation Camp (Camp), a similar placement for male juvenile offenders.¹
- OCR found that, in 2012 SCOE offered females placed at Sierra one vocational course, administrative and business services; they were granted work ready certificates upon completion of the course. In addition, a rotary club provided the girls with a culinary course and the County Probation Department offered them a dog training course. In 2012, Sierra had a total of 24 youth in its program, with a daily average of eight girls.
- From 2012 to the present, male offenders at the Probation Camp have been offered courses providing pre-vocational competency skills in welding, woodworking, culinary, and forklift license. In 2012, Probation Camp served a total of 54 boys, and a daily average of 19 boys.
- Sierra closed on January 31, 2013 and the female wards were transferred to Crossroads Treatment Center where SCOE provided a culinary course. The Probation Department continued to provide the females with a dog training course.

¹ OCR's investigation in this case was limited to the programs at these two facilities. OCR did not review the education program at other Sonoma County juvenile court schools.

- SCOE informed OCR, because of an MOU between SCOE and the Probation Department, the Probation had sole authority to determine the vocational programs at both Sierra and the Camp. SCOE stated that while it provided the instruction for the vocational courses at Sierra, and later Crossroads, Probation directed the overall program and provided the funding for it. According to SCOE, it did not have control over what type or how many vocational courses were offered for either female or male juvenile offenders. SCOE provided OCR with the MOU's showing that it had delegated to the Probation Department its responsibility for the vocational program for female juvenile offenders at Sierra (and subsequently at Crossroads).
- OCR does not have jurisdiction over the Probation Department.

Based upon the foregoing, at the conclusion of its investigation OCR determined state law makes SCOE responsible for the education programs in juvenile court schools in the county. OCR further determined that the vocational education opportunities for female offenders placed at Sierra and then at Crossroads were not comparable to those offered to male offenders in the education program at the Probation Camp.

SCOE's position in response was that it had delegated its responsibility for provision of the vocational courses to the County Probation Department through the MOU, which is permitted by state law, and therefore SCOE did not have the authority or the ability to change them. The allocation of responsibilities under state law, state regulations and the MOU is quite complex. However, OCR determined that, at minimum, even assuming the Probation Department was solely responsible for the course offerings, through the provision of instructors and other services, SCOE was providing significant assistance to the County Probation Department through the MOU. Since the evidence showed that the male and female offenders at Sierra/Crossroads and the Camp did not receive equal benefits and opportunities with respect to vocational courses, SCOE was not in compliance with the Title IX regulations at §106.31(b)(6).

After OCR notified SCOE of its determinations in this case SCOE informed OCR that, as of January 2015, the Probation Department had placed female offenders at Crossroads in a public high school for their education program. At the high school, female offenders can enroll in the following vocational courses: Automotive 1, 2 and 3; Culinary Arts 1 and 2; Event Planning; Sports Medicine, and Athletic Training. At the Probation Camp, the male offenders continue to be offered courses in welding, woodworking, culinary and forklift.

To resolve OCR's findings of noncompliance in this case, SCOE agreed to take the actions described in the enclosed Resolution Agreement. Under the Resolution Agreement, SCOE will ensure that students within its jurisdiction are not, on the basis of sex, excluded from participation in, denied the benefits of, or subjected to discrimination in any vocational or occupational training program; adopt a policy stating that it will not give significant assistance to any agency, organization or person that discriminates against students enrolled in SCOE

court and community schools, and issue notice of the policy to all entities currently providing vocational programs to students in SCOE court and community schools and to SCOE personnel. It also provides that, if SCOE learns that an entity covered by the policy is discriminating on the basis of sex, SCOE will take all reasonable steps to eliminate the discrimination and, if the program operator will not comply, SCOE will terminate all significant assistance. Further, SCOE will review the vocational education courses currently available to male and female juvenile offenders residing at the County Probation Camp and at the Crossroads Treatment Center, determine whether the opportunities are substantially equal, and take all reasonable steps to eliminate the inequities. SCOE will provide a report to OCR demonstrating that the opportunities are or have been made comparable, or that SCOE has terminated significant assistance to the entity providing the vocational program. OCR will monitor SCOE's implementation of the Resolution Agreement.

OCR is informing the Complainant of its findings and the agreement by concurrent letter. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

This concludes OCR's investigation of the complaint and should not be interpreted to address SCOE's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter is a letter of finding issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that SCOE may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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

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Thank you for your cooperation in resolving this case. If you have any questions about this letter, please contact OCR attorney Gemini McCasland at (415) 486-5536, gemini.mccasland@ed.gov.

Sincerely,

/s/

Arthur Zeidman
San Francisco Regional Director

Enclosure

cc: Loren W. Soukup
Associate General Counsel
School and College Legal Services of California