

**Resolution Agreement**  
**Bret Harte Union High School District**  
**U.S. Department of Education, Office for Civil Rights**  
**Docket Number 09-15-1102**

The U.S. Department of Education (Department), Office for Civil Rights (OCR) initiated an investigation of a complaint alleging that a district employee, a XXXXXXXXXXXX coach, subjected students to sexual harassment and that the district had failed to provide a prompt and equitable response to notice of the harassment. The investigation was conducted under Title IX of the Education Amendments of 1972, and its implementing regulations at 34 C.F.R. part 106, which provide, in relevant part, that no program or activity receiving Federal financial assistance from the Department may discriminate on the basis of sex.

Pursuant to OCR's Case Processing Manual, OCR has the authority to resolve an investigation by means of a resolution agreement (Agreement) before the conclusion of the investigation when the recipient expresses an interest in such a resolution. Prior to the completion of OCR's investigation, the district expressed its desire to voluntarily resolve the issues in the investigation.

Without admitting to any violation of law, the District voluntarily agrees to the terms of this Agreement and agrees to comply fully with its provisions. This commitment does not relieve the District from fulfilling its other obligations under Title IX or resolve any other individual or class complaint against the District under Title IX.

Under this agreement, the District has voluntarily agreed to take action in the following areas:

I. Revision of the Sexual Harassment Investigation

By July 1, 2015, the District will re-examine its investigation in accord with Title IX standards concerning the alleged comment of sexual harassment by the XXXXXXXXXXXX coach from Fall 2014 and reconsider whether the comment made by this District employee subjected students to a comment that was sexual in nature, was unwelcomed by the female student named in the complaint and denied or limited her ability to participate in or receive the benefits of a school program or activity. The District will also reconsider its finding of whether the comment created a hostile environment on the basis of sex for other students, including, but not limited to the female student's boyfriend. The District will determine whether additional remedial or disciplinary actions concerning the coach or students are appropriate.

The District will submit its revised investigative report to OCR for review and approval by July 1, 2015.

II. Notice of Revised Finding

A. Within 7 days of receiving OCR's approval of the revised investigative report, the District will send the two named complainants a copy of its revised investigative report regarding the underlying incident.

- B. By the same date, the District will inform both complainants about any additional remedial or disciplinary actions anticipated to be taken against the XXXXXXXXXXXX coach that are directly related to either complainant. The District will take whatever remedial or disciplinary action may be recommended in the approved investigative report no later than the current (2014-15) school year.
- C. In its cover letter, the District will offer to meet with both students and their parents to discuss follow-up resources, such as counseling, and to respond to any ongoing concerns of harassment.

Within 14 days of receiving OCR's approval of the revised investigative report, the District will provide OCR with documentation of completion of all actions pursuant to II A-C. No later than August 1, 2015, the District will provide evidence of any remedial or disciplinary action taken.

III. Title IX Coordinator

The District will designate and train an individual (the Title IX Coordinator) to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including the equitable resolution of complaints of sex discrimination filed by or on behalf of students. The District will provide OCR with evidence of the identity, training and qualifications of the Title IX Coordinator by September 1, 2015.

IV. Revise Student Discrimination Complaint Policy and Procedures

The District will draft a revision to its policy and procedures (Policy) related to sexual harassment of students to comply with Title IX requirements, and include the following additions:

- A. A statement that the prohibition on sexual harassment applies to conduct by employees, students, and third parties;
- B. A requirement that staff who become aware of possible sexual harassment report the incident to the Title IX Coordinator, and an explanation that such reports shall be treated as complaints under the policy;
- C. A statement that appropriate educational resources and counselling for the individual harassed be considered, including steps to address any impact on the individual harassed, witnesses and the broader student body, and any other necessary steps to protect the individual subject to the harassment and witnesses from retaliation, as well as other steps reasonably calculated to prevent future occurrences of harassment, including discipline of the harasser.
- D. A statement that the District will respond to reports of sexual harassment by providing an adequate, reliable and impartial investigation. At the conclusion of the investigation, the District will describe how the complainant and/or student will be informed about the findings of the

investigation and any resulting sanctions on the perpetrator.

- E. A prohibition of retaliation against any person who complains of sexual harassment and/or participates in the complaint process.

By June 1, 2015, the District will provide OCR with a draft of the revised procedures and will adopt the revised procedures within 30 days after approval from OCR.

V. Notice of Policy and Title IX Coordinator

Within 30 days of the Board's adoption of the Policy, the District will notify all members of the school community, including students, parents, administrators, staff and faculty, of the Policy and the identity and contact information of the Title IX Coordinator. The District will provide this notice by: (i) posting the Title IX Coordinator's name and contact information and a link to the Policy on the District's web site; (ii) making the Policy and the Title IX Coordinator's information available at appropriate locations throughout the District; and (iii) including the Policy and the Title IX Coordinator's information in the District's major publications, such as the student, staff and parent handbooks. By July 1, 2015, the District will provide OCR with evidence that it has provided the requisite notice.

VI. Training and Qualifications of Title IX Investigators

The District will ensure that administrators who investigate sex discrimination complaints receive adequate training and/or are adequately qualified to investigate complaints under Title IX. Any outside contractor identified by the District to conduct investigations under Title IX must be qualified based on training covering the following subject areas:

- A. A review of the revised District complaint procedures.
- B. Explanation of the appropriate analysis to determine whether a hostile environment has been created, including the following:
  - 1. Sexual harassment of a student can result in the denial or limitation, on the basis of sex, of the student's ability to participate in or receive education benefits, services, or opportunities. The District provides program benefits, services, and opportunities to students through the responsibilities given to employees. If an employee who is acting, or reasonably appears to be acting, in the context of carrying out these responsibilities either (1) conditions an educational decision or benefit on a student's submission to unwelcome sexual conduct, or (2) engages in sexual harassment that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program, the District is responsible for the discriminatory conduct whether or not it has notice.
  - 2. Unlawful discrimination may result from a single act of sexual harassment if that act is sufficiently serious; that unlawful discrimination may result not

only from sexual advances or requests for sexual favors, but can be the product of harassing conduct that results in a hostile educational environment for a student.

3. In determining whether a hostile environment based on sex has been created, the District evaluates whether or not the conduct was sufficiently serious to deny or limit the student's ability to participate in or benefit from the District's program. The District examines all the circumstances, including: the type of harassment (e.g. whether it was verbal or physical); the frequency and severity of the conduct; the age, sex and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors.
4. By September 1, 2015, the District will provide training to District and schools administrators who are responsible for investigating sex discrimination complaints and provide OCR with a report describing and documenting the training.
5. By September 1, 2015 the District will provide OCR with a list of outside investigators, and their qualifications for conducting Title IX investigations.

VII. Staff Training

All staff at XXXXXXXXXXX High School will participate in training on the requirements of Title IX regarding the prohibition against, prevention of, and response to possible sexual harassment. The District also commits to annual training for all coaches (provided by the athletic director and with the oversight of the Title IX coordinator) on sexual harassment. The District training will include, at a minimum

- A. In-depth instruction on what types of conduct constitute sexual harassment, the root causes of sexual harassment and the negative impact that sexual harassment has on students and the educational environment;
- B. A focused review of the Title IX Policy and Procedure, including specific guidance on what constitutes sexual harassment, the District's responsibility for responding to sexual harassment, and how to respond to sexual harassment; and
- C. Instruction as to which employees are responsible for reporting sexual harassment and that failure to respond appropriately to notice of sexual harassment violates District policy and may result in the imposition of disciplinary sanctions.

By June 1, 2015, the District will provide documentation to show who attended the training.

By August 1, 2015, the District will provide OCR with a copy of the training materials to be provided by the athletic director and Title IX coordinator,

including a description of the content covered. Within 30 days of OCR review and approval, the athletic director and Title IX coordinator will commence training of coaches, based on the season of sport.

VIII. Teaching Students about Sexual Harassment

Before the end of the 2014-15 school year, the District will teach all students at XXXXXXXXXXXX High School what constitutes sexual harassment and reporting processes. The lessons will be provided during the student advisory period. It will include the following:

- A. A description of what conduct constitutes sexual harassment and how students can report staff-on-student harassment and student-on-student harassment; and
- B. A discussion of the District's Sexual Harassment policy and procedure, including the District's responsibility for responding to sexual harassment, and how such claims will be investigated and responded to.
- C. Scenarios will be used to teach this material.

By June 1, 2015, the District will provide OCR with evidence that the training occurred and was completed.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled its terms and is in compliance with the laws enforced by OCR at issue in this case. The District further understands that during the monitoring of this agreement, if necessary, OCR may visit the District to conduct interviews, 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 laws enforced by OCR at issue in this case. By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement.

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 proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

\_\_\_\_\_/s/\_\_\_\_\_  
Michael Chimente, Superintendent

\_\_\_\_\_  
05/18/2015  
Date