



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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March 15, 2012

Mr. Dennis Carlson
Superintendent
Anoka-Hennepin School District
11299 Hanson Blvd N.W.
Coon Rapids, MN 55333

Re: OCR Case Number 05-11-5901

Dear Mr. Carlson:

On November 2, 2010, the U.S. Department of Justice (DOJ) received a complaint alleging that a District student was being harassed by peers because the student did not act and dress in ways that conformed to traditional gender stereotypes. Upon receiving the complaint, DOJ opened an investigation of sex-based harassment in the District pursuant to its authority under Title IV of the Civil Rights Act of 1964 (Title IV), 42 U.S.C. §§ 2000c–2000c-9, which prohibits discrimination against public school students on the basis of, among other things, sex.

In January 2011, the U.S. Department of Education, Office for Civil Rights (OCR) joined the investigation pursuant to its authority under Title IX of the Education Amendments of 1972 (Title IX), 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.¹

OCR opened its investigation under OCR case number 05-11-5901. The regulation implementing Title IX, at 34 C.F.R. § 106.71, incorporates by reference the procedural provisions applicable to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, including 34 C.F.R. § 100.7(c). The Title VI regulation, at 34 C.F.R. § 100.7(c), provides that OCR will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with the laws enforced by OCR.

The purpose of this letter is to advise you of the resolution of the above-referenced investigation conducted by OCR in Anoka-Hennepin School District #11 (District).

The investigation addressed the issue of harassment of District students on the basis of sex, including peer-on-peer harassment based on not conforming to gender stereotypes, and focused on the District's middle and high schools and the District's harassment policies and procedures.

¹ The District receives Federal financial assistance and is, therefore, subject to Title IX and its implementing regulation.

DOJ and OCR visited the District multiple times and interviewed over 60 individuals, including current and former students, parents, teachers, and District staff and administrators. DOJ and OCR also requested and reviewed over 7,000 pages of documents from the District.

The Title IX implementing regulation, 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 education program or activity operated by a recipient.

Harassment on the basis of sex is a form of prohibited discrimination. Title IX prohibits harassment of both male and female students regardless of the sex of the harasser -- *i.e.*, even if the harasser and target are members of the same sex. It also prohibits gender-based harassment, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. It can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity. Title IX also prohibits sexual harassment and gender-based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.²

To determine whether a hostile environment based on sex exists, OCR considers whether there was harassing conduct that was sufficiently serious so as to deny or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a school. If a recipient school district knows or reasonably should have known about sex-based harassment that creates a hostile environment, Title IX requires the school district to take immediate action to eliminate the harassment, prevent its recurrence and address its effects. When responding to alleged harassment, a school district must take immediate and appropriate action to investigate or otherwise determine what occurred. If an investigation reveals that harassment has occurred, a school district must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. These duties are a recipient's responsibility, regardless of whether a student has complained, asked the school district to take action, or identified the harassment as a form of discrimination.

The District is the largest school district in the state of Minnesota, enrolling approximately 40,000 students in twenty-four elementary schools, six middle schools, five high schools, and nine alternative, transitional, or special needs programs.

Information obtained during the investigation revealed that multiple students were harassed on the basis of sex in District middle and high schools and that the harassment included both verbal and physical harassment. District students told OCR and DOJ investigators that they were constantly harassed (some almost every day for years) because of their failure to conform to

² See OCR's 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

gender stereotypes. Female students reported being called “manly,” “guy,” or “he-she”; male students reported being called “girl,” and “gay boy,” and being told, “you’re a guy, act like it.” A female student reported being told to “go kill herself” and students said they were threatened and subjected to physical assaults because of their nonconformity to gender stereotypes. Some of these students suffered from physical and mental health problems. Some students stopped attending school for periods of time, left the District, or dropped out of school entirely.

On June 2, 2011, prior to the completion of the DOJ/OCR investigation, DOJ and OCR met with the District to discuss options for resolving the investigation. On July 21, 2011, the Southern Poverty Law Center (SPLC) and the National Center for Lesbian Rights (NCLR) filed federal lawsuits (later consolidated) in the United States District Court, District of Minnesota, on behalf of six students alleging that each student suffered severe and pervasive gender-based harassment and/or harassment on the basis of their actual or perceived sexual orientation in District schools (*see* Case Nos. 11-cv-01999-JNE-SER and 11-cv-02282-JNE-SER). In August 2011, at the request of U.S. District Federal Magistrate Judge Steven E. Rau, DOJ and OCR joined settlement discussions with the District, SPLC and NCLR designed to resolve both the DOJ/OCR investigation and the SPLC and NCLR lawsuit.

After extensive negotiations, the parties entered into a Consent Decree (enclosed with this letter) on March 5, 2012, which, when fully implemented, will resolve the issues identified in the DOJ/OCR investigation. On March 5, 2012, DOJ and OCR filed a Complaint-in-Intervention against the District alleging discrimination on the basis of sex in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Title IV, and Title IX (*see* Case No. 11-cv-01999-JNE-SER). The complaint alleges that the District students experienced harassment on the basis of sex that was sufficiently serious to deny or limit their ability to participate in or benefit from the educational program in the middle and high schools in the District and thereby created a hostile environment for these students in the District. The complaint further alleges that the District knew about the harassment, yet failed to take effective action to stop the harassment and that, as a result, the harassment continued and in certain instances escalated. U.S. District Court Judge Joan N. Ericksen granted the motion to approve the consent decree on March 6, 2012.

Pursuant to the Consent Decree, the District has agreed to take all reasonable steps to prevent and eliminate sex-based harassment, and to respond promptly and appropriately to all reports of harassment. To that end, the District has agreed, among other things, to: (1) review and improve its policies and procedures concerning harassment to address sex-based harassment, including harassment based on gender stereotypes by working with an Equity Consultant; (2) hire or appoint a Title IX and Equity Coordinator to ensure proper implementation of the District’s policies and procedures; (3) conduct training of all District faculty, staff and students on the issue of harassment, and clarify District policies for reporting and responding to harassment; (4) hire a Mental Health Consultant to assist students who are subjected to harassment; (5) create an Anti-Bullying/Anti-Harassment Task Force; (6) administer an Anti-Bullying Survey once per year; (7) identify harassment “hot spots” and assign personnel to monitor these trouble areas; (8) ensure that all of its middle and high schools have a peer leadership program addressing harassment;

(9) convene annual meetings between the Superintendent and students at every middle and high school in the District; and (10) provide compliance reports to DOJ and OCR each trimester.

The Consent Decree will remain in force for five years from the date it was entered by the Court. During this period, DOJ and OCR will carefully monitor the District's progress to ensure that the District complies with the terms of the Consent Decree, and will offer technical assistance as needed. We look forward to receiving the District's continued cooperation during the implementation of the Consent Decree.

We wish to thank you and your staff for the cooperation extended to OCR during our investigation and settlement negotiations. If you have any questions regarding this letter, you may contact Adele Rapport, Chief Attorney, (312) 730-1495/ Adele.Rapport@ed.gov or Leticia Soto, Senior Attorney, (312) 730-1740/ Leticia.Soto@ed.gov.

Sincerely,

/s/

Debbie Osgood
Director

Enclosure

cc: Ms. Jeanette M. Bazis, Esq.
District Counsel

Ms. Torey B. Cummings
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U.S. Department of Justice

Ms. Tamica Daniel
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