

**Voluntary Resolution Agreement**  
OCR Complaint No. 01-13-1159  
Portsmouth School Department

Portsmouth School Department (District) agrees to implement the following steps of this Voluntary Resolution Agreement (Agreement) to address the compliance concerns that the U.S. Department of Education, Office for Civil Rights (OCR) identified from its investigation into the above complaint. The District submits this agreement to ensure its compliance with Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which was at issue in this case.

**A. Equity Consultant**

- 1) No later than **September 2, 2014**, the District shall retain a qualified third-party consultant (“Equity Consultant”) mutually agreed upon by the District and OCR, to consult with the District to study and determine what additional measures the District needs to take to effectively address, prevent, and respond to harassment based on sex at District schools and comply with the terms of this Agreement. The District will be responsible for any costs associated with the retention of the Equity Consultant. The District shall give the Equity Consultant access to any and all data, documents, or information the Consultant deems necessary to fulfill his or her duties under this Agreement (*The Equity Consultant’s access to personally identifiable information shall be in accordance with the regulations of the Federal Educational Rights and Privacy Act, 34 C.F.R. § 99.31(a)(1)*). The entity or individual retained shall be called the Equity Consultant throughout this Agreement.
- 2) The Equity Consultant shall consider whether any further investigation or remedies are needed for the Student or for other students in affected by the conduct of the teacher in this case and any continuing effects on the school community. Additionally, the Equity Consultant shall assist the District in developing tools to assess school climate on an ongoing basis, including but not limited to climate surveys. Finally, the Equity Consultant, or a consultant acceptable to OCR, will provide the training required by Section D of this Agreement.

**B. Title IX Coordinator**

- 1) The District will ensure that the District and building Title IX Coordinators have adequate training on what constitutes sex discrimination, which includes sexual harassment and sexual violence, and that they understand how the District’s Title IX grievance procedures operate, including the need to inform complainants of the outcome of their complaints, by having them participate in the trainings required at Section D of this Agreement; and
- 2) The District has revised, and will provide to OCR for review and approval, the designation of its District Title IX Coordinator, and its building Title IX Coordinators (Designation), so that the Designation incorporates information about the role of the District Title IX Coordinator, including that he/she is:
  - a. Available to meet with students, parents and/or guardians regarding any sex discrimination concerns;
  - b. Oversees all Title IX harassment complaints, including tracking such complaints to be aware of, and respond to, any trends, as well as being able and available to investigate certain complaints should the need arise; and that

- c. The District is committed to taking any steps necessary to respond to and prevent sexual harassment discrimination
- 3) The District has already incorporated its Revised Designation in its handbooks and other materials for the 2014-15 school year. If OCR requires further revisions to the Designation to comply with this Agreement and Title IX, the District will make such revisions within 60 days of OCR notifying the District of the required change.
- 4) **Within 60 days** of OCR notifying the District that the Designation meet the terms of this Agreement, the District will provide broad notice to students, parents and staff of the further-revised Designation via email, and by posting the further-revised Designation on the District and District schools' websites. . The District will also provide OCR with documentation of such broad notice **within this 60 day period.**

**C. Harassment Policies/Procedures**

- 1) The District has revised, and will provide to OCR for review and approval, its grievance procedures applying to student complaints of sex discrimination (which includes sexual harassment and sexual violence). The District represents that the revised grievance procedures include:
  - a. The right of the complainant and accused to present witnesses and other evidence during an investigation;
  - b. An assurance that alleged victims of harassment will not be required to work out the problem directly with alleged perpetrators without appropriate involvement by the District and, further, an assurance that any informal process can be ended by an alleged victim at any time in order to begin a formal stage of the complaint process;
  - c. The right of complainants and accused individuals to be notified of the outcome of any District investigation; and
  - d. The District's obligation, following substantiated instances of harassment, to take reasonable steps to address the effects of any harassment, including supporting victims' access to the District's programs, services and activities.
- 2) The District has already incorporated its revised grievance procedures in its handbooks and other materials for the 2014-15 school year. If OCR requires further revisions to the grievance procedures to comply with this Agreement and Title IX, the District will make such revisions within 60 days of OCR notifying the District of the required change.
- 3) **Within 60 days** of OCR notifying the District that the revised grievance procedures meet the terms of this Agreement, the District will broadly disseminate to students, parents and staff of the further-revised grievance procedures via email, and by posting the further-revised grievance procedures on the District and District schools' websites. The District will also provide OCR with documentation of such broad dissemination within this time period.

**D. Training**

- 1) By **October 1, 2014**, the District will provide training by the Equity Consultant, or a consultant acceptable to OCR, to the High School staff, including teachers, paraprofessionals and guidance counselors, on:

- a. What constitutes sexual harassment discrimination under Title IX, with particular focus on the fact that harassment need not be intended, nor be targeted at an individual, to create a hostile environment;
  - b. The differences and similarities between harassment and bullying;
  - c. The responsibility of staff to report potential discrimination of which they have knowledge;
  - d. The District's obligation to respond to notice of discrimination or possible discrimination under Title IX; and
  - e. The District's OCR-approved grievance procedures per provision A.
- 2) By **September 2, 2014**, the District will provide training by the Equity Consultant, or a consultant acceptable to OCR, to its designated building and District Title IX Coordinator(s) and investigators, as well as any staff responsible for conducting complaint investigations under the District's OCR-approved grievance procedures, on how to conduct thorough, reliable, and impartial investigations of complaints of sexual harassment allegations pursuant to Title IX. Such training will include:
- a. The definition and scope of a hostile environment, including that the hostile environment may affect more than the individual who brings a complaint;
  - b. The differences and similarities between harassment and bullying;
  - c. Appropriate remedies to address the effects of sexual harassment;
  - d. The District's obligation to inform both the complainant and the accused of the outcome of the complaint, not merely that the investigation is complete; and
  - e. Best practices for tracking patterns, systemic problems, climate and trends.
- 3) By **October 2, 2014**, the District will provide training to all students in grades 9-12 regarding what constitutes harassment under Title IX; the District's obligations for addressing harassment, and the importance of reporting harassment to the appropriate District staff. The training for students will also include a review of the District's revised grievance procedures per provision A.
- 4) The District will provide the training materials for the training sessions referenced in this section to OCR no later than 15 days prior to the training for OCR's review and approval. The District will provide OCR with sign-in sheets from the staff trainings, including staff names and titles, no later than 30 days after the trainings take place.
- 5) The District will track absences for participants in the staff trainings listed above and will provide makeup staff training (e.g., by showing a video of the training) for those staff who were absent. The District will provide documentation to OCR on these makeup trainings within 30 days of when the trainings take place.
- 6) Within 60 days after the last staff training per provisions D2, the District will report to OCR on how the District will ensure that:
- a. Current staff will maintain an understanding of the responsibilities addressed in these trainings; and
  - b. New staff hired by the District will have sufficient knowledge regarding the District's obligations under Title IX.

#### **E. Tracking Harassment**

By **December 31, 2014 and June 30, 2015**, the District will provide OCR with any written documentation maintained regarding all written and oral complaints and reports of alleged sexual harassment involving the High School. The reports will include:

- 1) Documentation of all written and oral complaints and reports of alleged sexual harassment (e.g., reporting forms, incident reports, etc.), including who filed the complaint and/or made the report;
- 2) A description of the District's actions taken in response to the complaints and reports, including investigative documentation (e.g., witness statements, interview notes, etc.); as well as documentation related to the District's findings, including whether sexual harassment was found;
- 3) Documentation related to the District's response, when sexual harassment was found, including any disciplinary and/or corrective actions taken, as well as efforts to prevent recurrence;
- 4) A description of any remedies secured for the victim(s), if applicable; and
- 5) A description of any patterns and/or systemic problems identified by the District's Coordinator during his/her review of the complaints and reports, and what was done to address such patterns/problems.

#### **F. Student Remedies**

- 1) The District has designated the Assistant Superintendent of Schools as the member of the District's staff for overall responsibility for the Student's remedies. In addition, the Student's guidance counselor and the School Resource Officer are identified as adults who can assist the Student in reporting any alleged harassment or any other concerns.
- 2) Upon any such reports, in each instance, the Assistant Superintendent of Schools person will immediately coordinate an investigation and resolution of any allegations, by working with the building Title IX Coordinator, the District Title IX Coordinator and School Administrators and staff who are responsible for discipline and support services, to:
  - a. Determine whether any appropriate interim steps are needed during an investigation in order address the Student's ability to access her education, which may include changing other students' classes, lunches, study halls or other school zones of interactions;
  - b. Investigate promptly (i.e., not more than 5 school days following any report) and thoroughly to determine what occurred, including documenting exactly what was *alleged* to have been said and done, as well as what was *found* to have been said and done;
  - c. Determine whether the incident(s), if found to have occurred, constituted sexual harassment and/or retaliation for the Student's reporting of incident(s);
  - d. Notify the Student and the person who is alleged to have engaged in harassment, of the outcome of the investigation; and
  - e. Determine what additional steps are needed to address the effects of the incident(s) on the Student, e.g., meeting with a guidance counselor or other emotional health providers; providing academic support such as tutoring and/or receiving extensions or other accommodations on homework, projects, exams, etc.; allowing for late arrival or absences that might ordinarily be prohibited by School policy.
- 3) The staff person identified will document each of the above steps and provide such documentation to the District Title IX Coordinator within 2 days of completing the investigation. The District will

