



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

March 31, 2014

John J. Macero  
Superintendent  
Winthrop Public Schools  
1 Metcalf Square  
Winthrop, Massachusetts 02152

Re: Complaint No. 01-13-1276  
Winthrop Public Schools

Dear Superintendent Macero:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation the above-referenced complaint filed against the Winthrop Public Schools (District). The Complaint alleged that the District failed to respond to several complaints that a student (Student) at the XXXXXXXX School (School) was being sexually harassed by peers. Following our investigation, OCR identified the compliance concerns that are described in more detail below. The District has agreed to take the steps outlined in the enclosed Voluntary Resolution Agreement (Agreement) to address these concerns.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106 (together, "Title IX), which prohibits discrimination on the basis of sex in programs and activities that receive financial assistance from the Department. The District is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

Based on the allegation, OCR investigated the following legal issue:

- Whether the District, upon notice of possible sexual harassment of the Student, failed to determine whether a sexually hostile environment existed and, if such an environment did exist, failed to take steps designed to eliminate such an environment, prevent its recurrence, and remedy its effects, in violation of 34 C.F.R. Section 106.31(a) and (b).

During the course of investigating that issue, OCR also identified concerns regarding the District's compliance with the procedural requirements of Title IX's implementing regulation, as explained in more detail below.

OCR requested and reviewed information from the District, including documentation relating to all reported acts of bullying and/or sexual harassment, including investigations conducted by the

District, for the 2012-2013 school year, as well as the District's policies and procedures for addressing sexual harassment allegations. Additionally, OCR interviewed the Complainant and Student and reviewed information that they provided. Finally, OCR conducted an onsite on November 13, 2013, to interview District staff including one of the Student's teachers (Teacher), Adjustment Counselor, Principal and the new Assistant Principal who joined the School at the beginning of the 2013-2014 school year. While onsite, OCR also conducted a tour of the School, including each of the bathrooms within the school. Finally, OCR interviewed the former Assistant Principal (Former Assistant Principal), who was at the School during the 2012-2013 school year but has since retired from the District.

### Legal Standards

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 such as the District. Harassment on the basis of sex is a form of prohibited discrimination.

Sexual harassment is defined as unwelcome conduct of a sexual nature. Sexually harassing conduct may take many forms, 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. Incidents of sexual harassment may give rise to a hostile environment based on sex, particularly if left unaddressed. A hostile environment based on sex exists if there was sex-based 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.

A school is responsible for addressing all possible incidents of sexual harassment about which it knows or reasonably should have known, regardless of whether the student who was allegedly harassed (or his/her parents) decides to file a formal complaint or otherwise requests action. It is important to note that some misconduct that may fall under a school's anti-bullying policy could also trigger responsibilities under Title IX. Accordingly, a school must consider Title IX's requirements when responding to such conduct, even if the misconduct also is covered by an anti-bullying policy.

When responding to alleged harassment on the basis of sex, a recipient must take immediate and appropriate action to investigate or otherwise determine what occurred, and respond appropriately. What constitutes a reasonable response to harassment will differ depending on the circumstance. However, in all cases, if a recipient school district knows or reasonably should have known about sex-based harassment, Title IX requires the school district to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment created by the harassment 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.

Title IX requires that a school take interim steps, as necessary, to protect the complainant before the final outcome of the investigation. The school should undertake these steps promptly once it

has notice of a sexual harassment allegation, such as by notifying the complainant of his/her options to avoid contact with the alleged perpetrator and by allowing students to change academic situations as appropriate. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services.

Remedies to end the harassment may include disciplining the harasser, as well as training that person about sexual harassment. Such steps may assist in preventing recurrence of the harassment; in some circumstances, training staff who are involved in processing, investigating, or resolving complaints of sexual harassment might also be necessary, including providing training on how to conduct Title IX investigations.

Remedies to address the effects of sexual harassment will depend on the specific nature of the problem. Such remedies could include, but are not limited to: ensuring that affected students and the alleged perpetrator are no longer in the same classes (with minimal burden on the affected student); providing counseling services; and providing tutoring or other academic support as needed. Additionally, although federal privacy laws limit disclosure of certain information, so that schools should make every effort to prevent disclosure of the names of all parties involved (including witnesses), Title IX requires that both the complainant and accused be notified, in writing, about the outcome of a sexual harassment complaint and any appeal, *i.e.*, whether harassment was found to have occurred, and the complainant should also be informed of any sanctions imposed on the accused that directly relate to the complainant.

Finally, the Title IX regulations establish procedural requirements that are important for the prevention and correction of sex discrimination, including sexual harassment and retaliation for assertion of Title IX rights. At 34 C.F.R. Section 106.9, the regulations require that recipients issue a policy against sex discrimination, which notifies individuals including students, parents, employees, professional organizations and other third parties, that the recipient does not discriminate on the basis of sex. At 34 C.F.R. Section 106.8(a), the regulation requires that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging non-compliance. Specifically, the regulation requires that recipients notify students, parents, employees and third parties of the name(s), office address (es) and telephone number(s) at which the designee(s) can be contacted. Finally, recipients must adopt and publish grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination, including retaliation, as provided at 34 C.F.R. Section 106.8(b).

### Findings of Fact

During the 2012-2013 school year, the operative year for much of this complaint, the Student attended the XXXX School. The Complainant asserted that the harassment of the Student began outside of school, then flowed into the school environment and was directed at the Student through repeated writings on the walls and/or stalls in the girls bathroom near the Student's classroom, which included sexual language.

The District does not dispute that that these writings occurred; that they were directed at the Student and contained, at minimum, phrases such as "[Student] is a slut," "[Student] is a whore," "[Student] is a slut and a whore;" and that the Student or her friends reported the incidents to

the Teacher, who then observed the writings by going into the bathroom. When interviewed by OCR, the Teacher described the Student as visibly upset by the writing, noting that on some occasions, the Student was crying after seeing the writing.

The Complainant and District disagree on the number of incidents, however. The Complainant and Student told OCR that there were 16 different occasions of such writings in April/ May of 2013. The Teacher told OCR that there were 5-6 incidents around the time that MCAS testing was occurring. The Former Assistant Principal said that there had been two or three writing incidents, but “never that many.”

The Teacher told OCR that when the Student or one of her friends would report an incident of graffiti targeting the Student, the Teacher would call down to the School’s front office (Office) to report it. She would then send the Student to the Office to speak with the Former Assistant Principal, whom she identified as responsible for responding to “discipline for these kinds of things.” The Teacher acknowledged to OCR, however, that since the incidents occurred during lunch period, when the Former Assistant Principal was on lunch duty, he likely was not in the Office. She stated that if he was not there, the Student could have waited to speak with him; could have spoken to the Principal; or could have gone to the cafeteria to speak with the Former Assistant Principal. She could not confirm that the Student had been able to connect with either administrator, however, nor was she aware of what steps, if any, were taken by the Former Assistant Principal in response to the incidents.

The Principal confirmed that she saw the Student in the Office on one or two occasions during the 2012-2013 school year and that she was aware that there had been some writing in bathroom about the Student. The Principal stated, however, that she was not involved in responding to any of the graffiti incidents regarding the Student and was not aware of the substance of the writings until the fall of 2013, when the Complainant raised concerns to the District that the Student had been bullied and harassed. The Student and the Complainant disputed this assertion, describing at least one occasion where the Teacher sent the Student to the Office after an incident of writing in the bathroom. According to them, at that time, the Principal described to the Student a situation where she herself had been bullied in her youth.

The Former Assistant Principal confirmed that he was the administrator primarily responsible for addressing disciplinary incidents, including matters of bullying. He was also identified by the School’s Handbook as the Complaint Manager responsible for investigating and resolving any complaints of harassment, including sexual harassment (the current Assistant Principal is similarly designated in the 2013-2014 Handbook). He described the School’s process for addressing incidents of alleged bullying. If they became aware of an incident of possible bullying, Teachers would fill out a bullying form and provide it to the Former Assistant Principal, who would then investigate.

He described the process for harassment as “similar...teachers would bring it to my attention and I would do an investigation.” He stated that there were no incidents of sexual harassment at the School during the 2012-2013 school year, however. Other staff interviewed by OCR similarly reported that there had been no such incidents at the School during that time.

The Former Assistant Principal reported to OCR that he was aware of one or two incidents in April/May 2013 of writing on the bathroom wall about the Student that included the terms “slut” and “whore.” He further recalled someone mentioning that one of the writings stated, “[the Student] should kill herself and no one would miss her.” He described his investigation to OCR, which he began by asking the Student if she knew if anyone was upset with her; she said no. He told OCR that he never entered the bathroom to witness any of the writing himself, but he did check bathroom passes to see if anyone was in the bathroom beforehand. Other staff had told OCR that students would not need passes to be in the bathroom at the times the writings likely occurred, however, because they seemed to happen during the changing of classes for lunch and/or the lunch period itself. The Former Assistant Principal told OCR that he also asked one male student, whom he described as a “kid who never gets in trouble,” if that student had seen anything; the student said he had not.

There were no bullying forms filled out for any of the bathroom graffiti incidents targeting the Student. The Former Assistant Principal told OCR that he did not address any of the incidents of the writing in the bathroom as either bullying or harassment, because the School was never able to identify a perpetrator, so that a bullying form was never completed.

Staff reported that the writing in the bathroom stopped after a two-week period. They also acknowledged, however, that there is “regular graffiti” in the bathroom, including sexualized language, some of which identifies specific students.

The Complainant told OCR that the Student experienced additional harassment over the summer, including over the social media site “Ask.FM,” XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. According to the Complainant, it was through that intervention that she learned, for the first time, about the harassment at the School. The District disputes this, stating that staff attempted to contact the Complainant multiple times when the bathroom graffiti incidents occurred, but were unable to reach her.

By all accounts, in September 2013, the Complainant contacted the District’s Special Education Director, the Principal and the Adjustment Counselor regarding the harassment, including what had happened over the summer, as well as the Student’s condition. In response, the District arranged a meeting to address the Complainant’s concerns. The meeting took place on September 13, 2013 and included the Complainant and Student, the Principal, the (new) Assistant Principal, a staff member from the Guidance Department, and outside service providers familiar with the Student.

The meeting began with the Student reading a written account of the all of the incidents she had experienced, including the bathroom graffiti incidents. She also included more graphic descriptions of the writing, along with the names of the perpetrators. The Complainant also questioned the District about its bullying policies and why such policies were not applied to the Student’s situation. District staff shared that they were shocked and troubled by the Student’s list of incidents and they congratulated her for being brave enough to share them. According to District staff, the discussion then turned to how to support the Student. The Complainant told OCR, and District staff confirmed, that there was discussion at the meeting, regarding the past instances of harassment, that they could not “go back” and instead needed to focus on how to move forward and help the Student.

Although staff reported to OCR that there had been no allegations of sexual harassment at the School during the 2012-2013 school year, a review of the District's bullying reports revealed that there were several incidents that were sexual in nature. From interviewing staff, OCR learned that these incidents were addressed solely under the District's bullying policies/procedures.

During OCR's onsite tour of the XXXXXX School, OCR entered each of the girls' bathrooms in the School. While OCR did not see writing directed at individual students, OCR did witness writing of a sexual nature carved on the bathroom walls/doors, including the terms "slut" and "whore." OCR brought these matters to the attention of the District.

As part of its investigation, OCR also reviewed the District's policies and procedures for addressing discrimination based on sex, including sexual harassment. On the District's Website, its notice of "Nondiscrimination" (File: AC, "District Notice") states that the District will not discriminate on the basis of sex in "admission" to school, nor in obtaining the advantages, privileges and course of study" of the school. The District's website also includes an "Equal Educational Opportunities" statement (File: JB), which is similar to the District Notice but appears to apply only to children. The School Handbook (Handbook)'s "Anti-Discrimination" statement (Handbook Notice), states that the School will not discriminate on the basis of sex in its entire program, including extracurricular opportunities. It cites to Massachusetts state law, but does not mention Title IX.

Regarding the District's designation of an employee(s) to coordinate its Title IX compliance efforts, the District Notice instructs persons who feel they have been discriminated against to the "Title IX Compliance Officer." The District Notice does not identify who the officer is, however, nor does any other policy or procedure which OCR reviewed. The District's Harassment Policy (File ACAA, "Harassment Policy,"), which is on the District's website and replicated in the Handbook, designates the "Complaint Manager" as responsible for investigating allegations of harassment, including sexual harassment. The Harassment Policy also lists the designated Complaint Managers for each school; some of the individuals designated no longer work for the District, however.

The District did not provide, and OCR was not able to find on the District's website, any procedure by which individuals could seek redress for allegations of discrimination based on sex, except for allegations of sexual harassment. Regarding sexual harassment, the Harassment Policy appropriately defines sexual harassment as "unwelcome sexual advances, requests for sexual favors and other inappropriate verbal, written or physical conduct of a sexual nature that...has the effect of creating an intimidating, hostile, humiliating or sexually offensive work or learning environment" (it also includes "quid-pro-quo" types of sexual harassment which were not alleged here). It further goes on to include that the "legal definition of sexual harassment is broad," and provides appropriate examples of sexual harassment such as "sexual epithets, jokes, written or oral references to sexual conduct...comment on an individual's body [and/or] sexual activity, deficiencies or prowess...[and] written or oral references to sexual conduct."

Regarding the process for addressing such incidents, the Harassment Policy states that complaints of harassment will receive prompt and appropriate handling; that all reasonable efforts will be made to protect confidentiality; and that retaliation for filing such a complaint is

prohibited. It provides that individuals found to have engaged in sexual harassment shall be subject to penalties including discussion/ mediation, reprimand, suspension and/or expulsion/dismissal; it does not explicitly state that efforts will be made to stop the harassment and prevent its recurrence, nor that actions will be taken to address the effects of the harassment on any victims, however.

The Harassment Policy directs any employee or student who believes he or she has been subjected to sexual harassment to file a complaint which can be brought to: the Complaint Manager (identified in the Handbook as the Assistant Principal or Guidance Counselor), the principal or a teacher, any of whom will ask that the complaint be put into writing. The investigation of such complaints must be completed within 10 days of a complaint being filed, according to the Harassment Policy. Such investigation is conducted by the Complaint Manager, who will consider “all circumstances of the situation” when preparing a report that summarizes the factual investigation, including the names of all potential witnesses and a summary of all witnesses statements, with the statements attached.

Following the “Investigation,” the Harassment Policy lists “Complaint Review” as the next stage of the process. Confusingly, the first step listed is for the Superintendent to designate a Complaint Manager- it is not clear if this is a different person than the Complaint Manager designated by the Policy as handling the investigation, however. The next step provided is that, “if the matter is not resolved within 30 days, the Complaint Manager will set a hearing date.” A Hearing process is provided, as is an indication that mediation could be used; it is not clear from the Policy whether the Complaint Manager determines whether sexual harassment occurred, whether this is determined through a hearing, or if the matter is considered resolved if mediated.

Finally, OCR asked staff about the District’s policies and procedures regarding discrimination based on sex, including sexual harassment. None of the staff/administrators were able to confidently articulate to OCR staff either the location of the District’s sexual harassment policies/procedures, nor the contents of any such policies or procedures. Furthermore, while staff/administrators pointed to the Former Assistant Principal as responsible for responding to incidents of sexual harassment, the Former Assistant Principal was also unable to articulate the District’s sexual harassment policies/procedures and/or the difference between sexual harassment and bullying, nor was he able to identify the District’s Title IX Coordinator.

### Analysis

OCR found a number of concerns with the District’s specific response to the Student’s reports of sexual harassment, as well as systemic concerns regarding staff understanding of sexual harassment and the District’s policies and procedures for addressing such harassment.

#### *Response to Student’s 2012-2013 and 2013-2014 Reports of Sexual Harassment*

OCR found that, when responding to the bathroom graffiti incidents targeting the Student, the District failed to comply with its obligations under Title IX. Although members of the School staff acknowledged that they were aware of multiple incidents of sexually explicit bathroom graffiti addressed at the Student, the District did not take steps reasonably calculated to fully determine what happened, including discovering who had done the writing. Although the Teacher initiated

the process of responding to the harassment by directing the Student to the Former Assistant Principal, the designated Complaint Manager, the steps that he then took were inadequate to investigate the incidents and determine whether a hostile environment existed for the Student. Specifically, he interviewed only the Student about the incidents and does not appear to have spoken with any of the other students who reported the writings, i.e., other witnesses to the writings. The District further did not interview potential witnesses (i.e., students who are assigned to the bathroom in the area at issue). The Former Assistant Principal only asked one student if that student had seen anything; as a male student, that individual would not likely have had access to the girls' bathroom to see anything, however. Additionally, although the Former Assistant Principal looked at bathroom passes to determine who could have been in there, by other staff accounts, these incidents occurred during a time when passes were not required, so that such information would have limited investigatory value. These steps were not reasonably calculated to help determine what occurred and who was responsible.

After these two inadequate steps did not provide any indication of who had done the writing, the District appears to have made no further efforts to investigate, even though the incidents continued to occur. The District failed to take steps to eliminate the harassment or prevent its recurrence, such as by monitoring the bathrooms, monitoring student behavior, or putting a safety plan in place for the Student.

Finally, the District failed to address the effects of the harassment on the Student, despite the fact that it is undisputed that the Student was impacted by the harassment (i.e., all reports state that the Student was crying and shaking in response to the harassment). Despite repeated reports of harassment, from the Student and from her classmates, none of the District staff/administrators spoke with the Student and/or the Complainant about whether the harassment continued and further failed to speak with them about what supports could be put in place for the Student, or what they should do if the harassment continue. As a result of the District's failure to investigate the Student's concerns, the harassment continued into social media and into the Student's summer program XXX.

Additionally, the District did not inform the Student or the Complainant of the District's Title IX harassment procedure, nor did the District initiate an investigation into the Student's allegations under the Policy, or under any other of the District's procedures (e.g., bullying policy).

While the District reported that it was not aware of the extent of the harassment until September 2013, even then, after receiving a list of names of the alleged harassers, the District still failed to initiate an investigation into the Complainant's concerns. As a result of failing to fully investigate, the District did not fully determine the causes or extent of the hostile environment, or whether any other students had been affected.

The District also failed to provide the Student and Complainant with timely notice of the outcome of the investigation, as required by Title IX –in large part due to the fact that minimal investigation was conducted. As discussed in the legal standards, notifying the victim of harassment of the outcome of a sexual harassment investigation, and of the actions taken toward the accused that affect the victim, is part of helping to eradicate any hostile environment.

*Notice of Nondiscrimination, Designation of Coordinator and Grievance Procedures*

OCR also identified concerns regarding the District's Title IX-required notices, policies and procedures, as well as the lack of understanding by key staff of Title IX's obligations.

*Notice.* The District Notice does not clearly provide notice that the District does not discriminate on the basis of sex in the entirety of its educational programs or activities, as required by the Title IX implementing regulation at 34 C.F.R. Section 106.9. Rather, the District's Notice is limited to nondiscrimination in "admission" to schools and in the "course of study," which appears to exclude extracurricular activities, parental involvement, and other services that are part of the District's programs and activities.

The "Equal Educational Opportunities" notice on the District's website also appears to address nondiscrimination, but applies only to children. Title IX requires that a recipient's notice of nondiscrimination clearly apply to applicants for admission and employment, students, parents, employees and professional organizations. While the Handbook Notice appropriately provides that the School will not discriminate on the basis of sex in its *entire* program, including extracurricular opportunities, it does not cite Title IX. This could prevent readers from understanding that they have all the protections that Title IX may afford which might not be included in Massachusetts state law. Finally, the discrepancies among these three notices could result in confusion.

*Designation of a Responsible Employee.* As noted in the legal standards above, Title IX requires that the District designate an employee(s) who is responsible for coordinating all of the District's efforts to comply with Title IX's requirements. At 34 C.F.R. Section 108(a), the regulation requires that the designation include the name(s), office address(es) and telephone number(s) for the person(s) so designated. The District's current policies do not meet this requirements. Although the District's Notice directs individuals to the "Title IX Compliance Officer," no individual is identified by name, nor is contact information provided.

While the Harassment Policy (and its replication in the Handbook), discusses a Complaint Manager and includes the designated managers who can address harassment at each school, Title IX requires that an employee or employees be designated to coordinate *all* efforts to comply with Title IX, including allegations that do not involve harassment. Additionally, some of the Complaint Managers no longer work for the District. Thus, this designation is not sufficient for the requirements of Title IX.

*Grievance Procedure- Harassment Policy.* Although the Harassment Policy provides that the Superintendent, Principals and Supervisors will ensure that staff and students are aware of the policy, OCR found that key individuals responsible for responding to complaints under Title IX lacked knowledge about the District's Title IX grievance procedure.

Further, OCR found that the District does not have a grievance procedure that meets the requirements of Title IX, at 34 C.F.R. Section 106.8(b) of its implementing regulation. Specifically, OCR found that the District's Policy lacks the following critical elements:

- Notice that the procedures apply to complaints alleging all forms of sex discrimination prohibited by Title IX, including different treatment on the basis of sex, sexual

harassment, sexual assault, and sexual violence, against employees, students, or third parties;

- Definitions and examples of what types of actions may constitute sex discrimination (including sexual assault and sexual violence);
- An assurance that District staff will be available to assist the complainant in reducing the complaint to writing;
- Provisions for the investigation of complaints when the complainant does not choose to proceed with an informal or formal resolution or a hearing;
- Provisions to indicate that the District has an obligation to make reasonable efforts to investigate and address instances of sex discrimination when it knows or should have known about such instances, regardless of complainant cooperation and involvement;
- Provisions ensuring that the parties are afforded similar and timely access to any information used at the hearing;
- Clarification that any informal resolution mechanism set forth in the procedures will only be used if the parties voluntarily agree to do so, that the complainant should not be required to resolve the problem directly with the respondent and that there will be instances when the informal resolution mechanism may be inappropriate (e.g., mediation is prohibited in cases of sexual assault, and those involving a student complaining of sexual harassment against an employee in a position of authority over the student); and that the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process;
- A statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination and sexual harassment;
- Designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution, and appeal processes, if any;
- An assurance that victims will be made aware of their Title IX rights and available resources, such as counseling, the local rape crisis center, and their right to file a complaint with a local law enforcement agency;
- A provision indicating that the District will comply with law enforcement requests for cooperation and such cooperation may require the District to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence, and that the District will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process;
- Provisions indicating the availability of interim measures during the District's investigation of possible sexual harassment (such as how to obtain counseling and academic assistance in the event of a sexual assault, and what interim measures can be taken if the alleged perpetrator attends the same school and/or attends classes with the victim), and that such interim measures will not disproportionately impact the complainant;
- An assurance that the complaint and investigation will be kept confidential to the extent possible;
- Notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals;
- An assurance that any initial or appeal decision will be conducted in an impartial manner by an impartial decision maker;

- An assurance that steps will be taken to end discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy the discriminatory effects on the victim(s) and others, if appropriate;
- Examples of the types of remedies available to victims and others; and
- Written notice to both parties of the outcome, including a determination of whether discrimination or harassment has occurred.

### Conclusion

Based on the above facts and analysis, OCR concludes that while the District was on notice of sex-based harassment of the Student, the District failed to take sufficient steps to stop the harassment, to prevent its recurrence, or to eliminate any hostile environment that may have resulted due to the District's inaction. Furthermore, as discussed in detail above, OCR determined that the District's notice of nondiscrimination, Title IX complaint procedure, and designation of responsible employee do not meet the requirements of Title IX.

To address the above compliance concerns, the District agreed to implement the enclosed Voluntary Resolution Agreement (Agreement). It includes a commitment to hire an Equity Consultant who will help the District determine what additional measures it 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 also revise for OCR's approval, and then disseminate, its Notice, Designation and Grievance procedures, including its Harassment Policy. Additionally, it will host training for staff and students on sexual harassment and the District's obligation to respond to notice of discrimination of possible discrimination under Title IX, including training on the District's revised Grievance Procedures. To demonstrate its ability to address and track complaints of sexual harassment, the District also committed to provide OCR with documentation regarding all written and oral complaints and reports of alleged sex discrimination at the School during the 2014-15 school year. Such documentation will include the allegations of each complaint, as well as the District's efforts to investigate and address each complaint.

Finally, the District agreed to continue to support the Student, including having the Equity Consultant consider whether any further investigation or remedies are needed for the Student or for other students affected by the circumstances of this case.

OCR determinations are made on a case-by-case basis and are not formal statements of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and are made available to the public. The information in this letter is not intended, and should not be construed, to cover any other issues regarding compliance with Title IX that may exist but are not discussed herein. Please also be advised that complainants may have the right to file a private suit in Federal court on these issues, whether or not OCR found a violation.

Under the Freedom of Information Act, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, we 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 privacy.

Pursuant to OCR procedure, the District is reminded that no recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or participated in any manner in connection with a complaint.

We would like to thank the District, and its attorney Colby Brunt, for its cooperation throughout OCR's investigation. We look forward to working with you throughout OCR's monitoring of the Agreement. If you have any questions, please contact Nicole Merhill, Senior Civil Rights Attorney, at (617) 289-0040, or [Nicole.Merhill@ed.gov](mailto:Nicole.Merhill@ed.gov); or Meighan McCrea, Civil Rights Attorney, at (617) 289-0052, or [Meighan.McCrea@ed.gov](mailto:Meighan.McCrea@ed.gov). You may also contact me directly at (617) 289-0111.

Sincerely,

Thomas J. Hibino  
Regional Director

Cc: Attorney Colby Brunt