

RESOLUTION AGREEMENT

Pemberton Township School District OCR Case No. 02-15-1358

In order to resolve Case No. 02-15-1358, the Pemberton Township School District (District) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104; Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35; and, Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106.

Action Item 1: Title IX and Section 504/ADA Coordinator(s)

By April 30, 2016, the District will designate at least one person to coordinate its efforts to comply with the requirements of Title IX, Section 504, the ADA and their implementing regulations; and, take steps to ensure that all students, parents or guardians, and employees are notified of the name and/or title, office address, telephone number, and electronic mail (email) address of the person(s) so designated. Notification may occur by the methods usually employed by the District for distributing District/School policies and procedures, including posting on the District/School's website.

Reporting Requirements:

- (a) The District has informed OCR that the Board of Education, at their meeting of February 25, 2016 appointed xxxx as the District's Title IX coordinator. By April 30, 2016, the District will provide to OCR the name and title of the person(s) designated as the District's Section 504 and ADA coordinator(s). The School District will prominently announce the appointment of the Title IX coordinator on the School District's website.
- (b) By April 30, 2016, the District will provide documentation to OCR demonstrating that the District has taken steps to ensure that all parents or guardians, and employees are notified of the name and or/title, office address, telephone number, and email address of the person(s) so designated; such as copies of the printed versions of publications disseminated to student, parent/guardians and employees containing the required information, and printouts or a link to all on line publications containing the required notification. Inserts may be used pending reprinting of publications. The District may also publish notification of the persons designated prominently on its website.

Action Item 2: Notice of Nondiscrimination

By April 30, 2016, the District will adopt and publish a notice of nondiscrimination to state that the District does not discriminate on the basis of race, color, national origin, disability, sex, or age, or under the Boy Scouts of America Equal Access Act (the notice may include other bases) in its programs and activities; and, that this requirement not to discriminate extends to employment and admission as applicable. Additionally, the notice will identify the District's designated coordinator(s) and state that inquiries concerning the application of regulations prohibiting discrimination may be referred to the District's designated to coordinate(s) or to OCR. The District will ensure that the notice of nondiscrimination is included in each announcement, bulletin, catalog, or application form which the District makes available to students, parents, employees, applicants for employment, unions, and professional organizations holding collective bargaining or professional agreements with the District.

Reporting Requirements:

- (a) The District has submitted to OCR for its review and approval a Policy Against Discrimination and Harassment & Affirmative Action Policy (Policy 8000) that the District represents is an appropriate and complete anti-discrimination policy that it has adopted at its February 25, 2016 Meeting. While OCR has not yet reviewed Policy 8000, the District represents that Policy 8000 sets forth a non-discrimination notice that includes at a minimum, the following: that the District does not discriminate on the basis of race, color, national origin, disability, sex, or age, or under the Boy Scouts of America Equal Access Act (the notice may include other bases) in its programs and activities; and, that this requirement not to discriminate extends to employment and admission as applicable. Additionally, that the notice will identify the District's designated coordinator(s) and state that inquiries concerning the application of regulations prohibiting discrimination may be referred to the District's designated coordinator(s) or to OCR.
- (b) The District additionally may submit a proposed draft non-discrimination/non-harassment notice to OCR on or before April 30, 2016.
- (c) Within 30 days of OCR's approval of the District's notice of non-discrimination, the District will provide documentation to OCR demonstrating that the approved notice has been adopted and published on the District's website. By Sept. 1, 2016, the District will provide OCR documentation demonstrating that the approved notice has been adopted and published; including a list of the titles and of the publications in which the notice of nondiscrimination appears (e.g. Student Handbook, Employee Handbook) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice. The final approved non-discrimination/non-harassment notice will be placed on the School District's web-site and incorporated into all student handbooks for the 2016-2017 school year.

Action Item 3: Grievance Procedures

By April 30, 2016, the District will adopt and publish a grievance procedure that provides for the prompt and equitable resolution of complaints alleging all forms of discrimination (including harassment) on the basis of sex and/or disability (and may include other bases). The procedures will include the following provisions at a minimum:

- Notice that the procedures apply to complaints alleging all forms of discrimination (including harassment) on the basis of sex and/or disability (and may include other bases) by employees, students, or third parties;
- An explanation as to how to file a complaint pursuant to the procedures;
- the name, title, office address, email address, and telephone number of the individual(s) with whom to file a complaint;
- definitions and examples of what types of actions may constitute discrimination (including harassment);
- designated and reasonably prompt timeframes for major stages of the grievance process;
- the right of the parties to provide witnesses and other evidence;
- written notice to parties of the outcome;
- an assurance that the District will take steps to prevent the recurrence of discrimination and harassment, and to correct its discriminatory effects if appropriate;
- examples of the range of possible disciplinary sanctions and the types of remedies available;
- a statement that the District prohibits retaliation against any individual who files a complaint or participates in a complaint investigation;
- a statement that responsible employees are expected to promptly report harassment that they observe or learn about;
- provisions indicating the availability of interim measures during the District's investigation of possible 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 classes with the complainant), and that such interim measures will not disproportionately impact the complainant;
- notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals; and
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker.

Reporting Requirements:

- (a) The District has submitted to OCR for its review and approval a Policy Against Discrimination and Harassment & Affirmative Action Policy (Policy 8000) which the District represents is an appropriate and complete anti-discrimination policy that it has adopted at its February 25, 2016 Meeting. While OCR has not yet reviewed Policy 8000, the District represents that Policy 8000 sets forth grievance procedures which includes at a minimum, the following:

- Notice that the procedures apply to complaints alleging all forms of discrimination (including harassment) on the basis of sex and/or disability (and may include other bases) by employees, students, or third parties;
 - An explanation as to how to file a complaint pursuant to the procedures;
 - the name, title, office address, email address, and telephone number of the individual(s) with whom to file a complaint;
 - definitions and examples of what types of actions may constitute discrimination (including harassment);
 - designated and reasonably prompt timeframes for major stages of the grievance process;
 - the right of the parties to provide witnesses and other evidence;
 - written notice to parties of the outcome;
 - an assurance that the District will take steps to prevent the recurrence of discrimination and harassment, and to correct its discriminatory effects if appropriate;
 - examples of the range of possible disciplinary sanctions and the types of remedies available;
 - a statement that the District prohibits retaliation against any individual who files a complaint or participates in a complaint investigation;
 - a statement that responsible employees are expected to promptly report harassment that they observe or learn about;
 - provisions indicating the availability of interim measures during the District's investigation of possible 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 classes with the complainant), and that such interim measures will not disproportionately impact the complainant;
 - notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals; and
 - an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker.
- (b) The District additionally may submit proposed draft non-discrimination/non-harassment grievance procedures to OCR by April 30, 2016. The final approved non-discrimination/non-harassment grievance procedures will be placed on the School District's web-site and incorporated into all student handbooks for the 2016-2017 school year.
- (c) Within thirty (30) calendar days after the District's receipt of OCR's approval of the grievance procedures, the District will provide documentation to OCR to substantiate that it has adopted the OCR-approved procedures and updated its printed publications and on-line publications with the procedures (inserts may be used pending reprinting of these publications). This documentation will include at a minimum, (i) printouts or a link to all on-line publications containing the grievance procedures; and (ii) if not yet finalized, copies of inserts for printed publications. If inserts were used for any publications, then by September 15,

2016, the District will provide to OCR copies of the printed versions of all publications disseminated to students and employees containing the grievance procedures. Dissemination may occur by the methods usually employed by the District for distributing District/School policies and procedures, including posting on the District/School's website.

Action Item 4: Supplemental Investigation

The District represents to OCR that the prior investigations of the incidents of xxx and xxxxx were complete and thorough. In the interest of resolving this matter and without admitting any liability by or on the part of the District, by April 30, 2016, the District will complete a supplemental investigation of the allegations raised by the complainant on xxx, and xxxxx, and ensure that the investigation complies with regulations implementing Title IX and Section 504. Specifically, the investigation of the complainant's allegations will involve a limited, review by the District of all information previously provided to School staff; review of all physical evidence and police and/or medical reports available to District staff; and the interviewing or re-interviewing of student and staff witnesses, as appropriate; and a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports a finding of a hostile environment based on sex and/or disability. The outcome of the supplemental investigation will be communicated to the complainant and the parents/guardians of the accused students, in writing. The District will ensure that it responds to any additional alleged incidents of harassment involving the Student of which it has notice, in a prompt and effective manner; with action that is reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

Reporting Requirements:

- (a) As stated above, the District represents to OCR that the prior investigations were complete and thorough, however, in order to resolve this matter the District will conduct the supplemental investigation in Action Item 4 above.
- (b) By May 15, 2016 the District will submit to OCR, for review and approval, a report documenting the procedures used to conduct its supplemental investigation as outlined in Action Item (4) above, as well as the outcome of the supplemental investigation; any corrective actions deemed necessary; and a timeline for implementation of the corrective actions, if necessary. The School will also provide documentation supporting the supplemental investigation.
- (c) By June 30, 2016, the District will report to OCR any incidents of alleged sex and/or disability discrimination and/or harassment that occurred during school year 2015-2016 involving the Student and any other student, of which it had notice. The report to OCR will include, at a minimum, (a) a copy of the complaint or a description of any orally reported alleged incident(s) of sex and/or disability discrimination or harassment; (b) the date(s) of receipt of the written complaint or oral report; (c) a description of the District's findings and response to the incident(s); and, (d) the date(s) that the District provided notice of the outcome of its investigation in writing to the parties.

Action Item 5: Training for Staff By December 31, 2016, and periodically thereafter, the District will provide training to the Title IX and 504/ADA coordinator(s), and any other coordinators, and any Pemberton Township High School (School) officials and administrators who will be directly involved in processing, investigating, and/or resolving complaints of discrimination (including harassment) based on sex and/or disability. The training will cover the District's grievance procedures, and provide attendees with instruction on recognizing and appropriately addressing allegations and complaints of discrimination on the basis of sex and/or disability. At a minimum, the training will be provided to School Principals, Assistant Principals, Anti-Bullying Coordinators, Anti-Bullying Specialists, School Safety Team members, teachers, guidance counselors, school social workers, special education directors, and special education case managers. The training will, at a minimum, cover the following: (1) the requirements of Title IX, Section 504, and the ADA, including that discrimination and/or harassment based on sex and/or disability is prohibited and will not be tolerated; (2) the range of behaviors that constitute discrimination and/or harassment based on sex and disability; (3) the disciplinary sanctions applicable to anyone who engages in discrimination and/or harassment based on sex and/or disability; (4) the responsibility of staff to report incidents of possible discrimination and/or harassment and the procedures for doing so; and, (5) where, how and to whom instances of discrimination and/or harassment are to be reported. Additionally, the training for the Coordinator(s) will include instruction on how to conduct and document adequate, reliable, and impartial investigations; including utilizing the appropriate legal standard of a preponderance of the evidence to apply in an investigation. The District will distribute copies of its grievance procedures to all attendees.

Reporting Requirement:

By December 31, 2016 the District will provide documentation to OCR demonstrating that it provided the training in accordance with Action Item 5 above. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and a list of the individuals who attended the training and their positions.

Action Item 6: Training for Students

By December 31, 2016, and periodically thereafter, the District will provide training to all students at the School, appropriate to the students' ages and disabilities, regarding discrimination and harassment on the basis of sex and/or disability (other bases may be included). The training will include (a) the requirements of Title IX, Section 504 and the ADA, including that discrimination and/or harassment is prohibited and will not be tolerated; (b) the range of behaviors that constitute discrimination and/or harassment on the basis of sex and/or disability (other bases may be included); (c) the disciplinary sanctions applicable to anyone who engages in discrimination and/or harassment; and (d) where, how, and to whom instances of discrimination and/or harassment are to be reported.

Reporting Requirement:

By December 31, 2016 the District will provide documentation to OCR demonstrating that it provided the training in accordance with Action Item 5 above. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and a list of the individuals who attended the training and their positions.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.7 and 104.8; the ADA, at 28 C.F.R. §§ 35.106 and 35.107; and, Title IX, at 34 C.F.R. §§ 106.8 and 106.9, which were at issue in this case. The District also understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, 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 regulations implementing Section 504, at 34 C.F.R. §§ 104.7 and 104.8; the ADA, at 28 C.F.R. §§ 35.106 and 35.107; and, Title IX, at 34 C.F.R. §§ 106.8 and 106.9, which were at issue in this case. 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 sixty (60) calendar days to cure the alleged breach.

/s/

Date

Tony Trongone
Superintendent of Schools
Pemberton Township School District