

## **RESOLUTION AGREEMENT**

### **City School District of Albany Case No. 02-17-1048**

In order to resolve Case No. 02-17-1048, the City School District of Albany (the District) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106.

#### **Action Item 1: Redress for Complainant and Student 2**

By June 8, 2017, the District will attempt to ascertain the identity of Student A, one of the alleged perpetrators in the complainant's report of sexual harassment made on XXXXXXXX XX, XXXX (report 2); and, interview Student A about the alleged incident of sexual harassment, if identified. In addition, the District will interview Student F, one of the alleged perpetrators in the complainant's report of sexual harassment made on XXXXXXXX X, XXXX (report 4); and, attempt to identify and interview the other alleged perpetrators. The additional investigation of reports 2 and 4 will involve a detailed review by the District of all information previously provided to District staff; interviewing additional witnesses or re-interviewing 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 the allegations of sexual harassment contained in the complainant's complaints. The outcome of the supplemental investigation regarding reports 2 and 4 will be communicated to all parties. The District will also provide all parties with notice of the outcome of the complainant's report of sexual harassment made on XXXXXXXX XX, XXXX (report 3), and provide the parties an opportunity to appeal these determinations consistent with the District's procedures. Finally, the District will assess what effects, if any, Student 2 experienced due to the alleged sexual harassment. The District must redress the effects, if any, taking into account the interim relief and remedial measures already provided to Student 2.

**Reporting Requirement:** By June 15, 2017, the District will submit to OCR a report of the District's supplemental investigation regarding reports 2 and 4; the District's determinations; and, the proposed actions to be taken, if any, as well as a timeline for implementation of the proposed actions, if necessary. The District will also provide documentation to OCR demonstrating that all parties were notified of the outcome regarding reports 2, 3 and 4.

#### **Action Item 2: Title IX Coordinator**

By June 8, 2017, the District will 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) designated to coordinate the District's efforts to comply with the requirements of Title IX. Notification may occur by the methods usually employed by

the District for distributing District policies and procedures, including posting on the District's website.

**Reporting Requirement:** By June 15, 2017, the District will provide documentation to OCR demonstrating its compliance with Action Item 2, including copies of the relevant pages of the printed versions of all publications disseminated to students, parents/guardians and employees containing the required information, and printouts or a link to all online publications containing the required notification. Inserts may be used pending reprinting of publications.

### **Action Item 3: Notice of Non-discrimination**

By June 30, 2017, the District will revise its notice of nondiscrimination to include a statement that inquiries concerning the application of the regulation implementing Title IX may be referred to Title IX coordinator or to OCR. The District will ensure that the notice of nondiscrimination is included in the Code of Conduct, Parent Handbook, Student Handbook, Employee Handbooks, registration materials, Publications webpage and application forms 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) By June 1, 2017, the District will provide a copy of its proposed notice of non-discrimination to OCR for review and approval.
- b) By July 15, 2017, the District will provide documentation to OCR demonstrating that the approved notice has been adopted and published; including a list of the titles of the publications in which the notice of nondiscrimination appears (e.g. the Code of Conduct, Employee Handbook) and a copy of at least one publication disseminated to the District community, or printouts or a link to an on-line publication containing the notice. Inserts may be used pending reprinting of the materials and publications.

### **Action Item 4: Grievance Procedures**

By July 31, 2017, if the District chooses to retain both the Student Harassment and Bullying Prevention and Intervention policy, and its Dignity for All Students Act (DASA) policy, the District will ensure that each of these policies and/or accompanying regulations includes the following, at a minimum:

- Notice that the procedures apply to complaints alleging all forms of discrimination on the basis of sex (including sexual harassment and sexual assault and may include other bases) by employees, students, or third parties;
- an explanation as to how and with whom to file a complaint pursuant to the procedures;
- the title, office address, and telephone number of the individual(s) designated to handle inquiries regarding these policies and handle any complaints on the District-level,

including the District website link and/or reference to where the name, office address, email address and telephone number of the individual(s) is published;

- the District website link and/or reference to where the names, email addresses and telephone numbers of the individuals designated to handle inquiries regarding these policies and handle any complaints on the building-level (i.e.: the Dignity Act Coordinators) is published;
- designated and reasonably prompt timeframes for major stages of the grievance process, including at both the School level and the District level;
- the right of the parties to provide witnesses and other evidence, including at both the School level and the District level;
- notice to the 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, and what interim measures can be taken if the alleged perpetrator attends classes with the alleged victim), and that such interim measures will not disproportionately impact the alleged victim;
- 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) By June 1, 2017, the District will provide to OCR a draft of the revised grievance procedures for OCR's review and approval.
- b) By August 31, 2017, the District will provide documentation to OCR to substantiate that it has adopted the OCR-approved procedures and updated relevant printed publications and on-line publications to include the revised grievance 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) copies of relevant pages, or if not yet finalized, copies of inserts, for printed publications. If inserts were used for any publications, then by September 30, 2017, the District will provide to OCR copies of the relevant pages of 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 policies and procedures, including posting on the District's website.

- c) By July 1, 2018, and 2019, the District will submit to OCR complete copies of its files (defined as documentation maintained by the District regarding the investigation, including the report or complaint; witness interview statements; emails, notes or memorandum maintained by the investigator; and the written outcome of the investigation) for academic years 2017-2018 and 2018-2019, respectively, documenting the District's responses to complaints of sexual harassment of students, including sexual assault/violence. Along with such files, the District will submit a tracking report, which may be provided in an Excel spreadsheet or similar format, that will include, at a minimum: the names of alleged victims, complainants and respondents; the conduct alleged; the name and position of the individual(s) who received and processed the initial complaints; the status of the case (e.g., investigation is ongoing, the investigation is suspended due to a request from law enforcement, the District is assessing discipline to be imposed, etc.); the outcome of all completed investigations; and the outcome of any disciplinary matters related to the investigation. If the District submits any files before the case is complete, the District will flag those files as incomplete, and upon request, re-submit those files once the case is completed.

#### **Action Item 5: Training**

By September 30, 2017, the District will provide training to all District administrators and staff members who are responsible employees for recognizing and reporting incidents of sexual harassment. The training will cover, at a minimum: the District's revised grievance procedures; the obligation of responsible employees to report sexual harassment; how to recognize and identify sexual harassment, including sexual assault/violence and behaviors that may lead to and result in sexual violence; the District's responsibilities under Title IX to address such allegations; and the relevant resources available. During the trainings, the District will provide copies of its revised Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess.

By September 30, 2017, the District will provide training to its Title IX coordinator, DASA coordinators, and any other District employees or third parties directly involved in receiving, processing, investigating, adjudicating and/or resolving complaints of sexual harassment, including sexual assault/violence. The training will include instruction on the District's revised Title IX grievance procedures; the District's obligation regarding investigation of complaints; and, how to conduct adequate, reliable and impartial Title IX investigations for those charged with investigative duties. The training will also include information regarding the provision of interim measures and the need for remedial actions for the perpetrator, complainant, and District/school community. Finally, the training will stress fully documenting all steps of an investigation and resolution, such as testimony collected from witnesses, the start and stop dates of any investigation suspension, the offer and acceptance/decline of interim relief, and the issuance of notice of outcomes to the parties.

**Reporting Requirement:** By October 15, 2017, the District will provide documentation to OCR demonstrating that training was provided in accordance with Action Item 5 above. The documentation will include, at a minimum: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, and the names and titles of the individuals who attended the training.

**No Admission of Wrongdoing:**

The District does not admit, and specifically denies, any wrongdoing or violation of any law, statute, regulation or policy, and is entering into this Agreement solely for purposes of amicably resolving this complaint and avoiding the attorneys' fees, administrative time and other expenses that will result from the continued response to and/or involvement in this complaint investigation.

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 regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9 and 106.31, 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 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 regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9 and 106.31. In addition, the District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9 and 100.10), or judicial proceedings, including 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.

\_\_\_\_\_ 6.5.17 \_\_\_\_\_  
Date

\_\_\_\_\_/s/\_\_\_\_\_  
Kimberly Young Wilkins, Ed.D  
Interim Superintendent  
City School District of Albany