

VOLUNTARY RESOLUTION AGREEMENT
Holmdel Township Schools
OCR Case Nos. 02-18-1163 & 02-18-1296

In order to resolve Case Nos. 02-18-1163 and 02-18-1296, the Holmdel Township Schools (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.

This resolution agreement has been entered into voluntarily and does not constitute an admission by the District that it committed any wrongdoing, including, but not limited to, a violation of Title IX and/or its implementing regulation.

Action Item 1: Title IX Coordinator

By August 31, 2018, 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:

- a) By August 31, 2018, the District will provide documentation to OCR demonstrating its compliance with Action Item 1, including copies of the relevant pages of the printed versions of all publications disseminated to students, parents or 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 2: Notice of Nondiscrimination

Within thirty (30) calendar days of the District's execution of the Resolution Agreement, the District will revise its notice of nondiscrimination to state that the District does not discriminate on the basis of sex (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. The notice will also state that inquiries concerning the application of the regulation implementing Title IX may be referred to the District's Title IX Coordinator or to OCR's Assistant Secretary. The District will ensure that the notice of nondiscrimination is included in each announcement, bulletin, catalog, or application form that 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) Within thirty (30) calendar days of the District's execution of the Resolution Agreement, the District will provide to OCR a copy of its proposed notice of nondiscrimination for review and approval.
- b) Within thirty (30) calendar days of OCR's approval of the revised nondiscrimination notice, the District will provide documentation to OCR demonstrating that the approved notice has been adopted and published; including a list of the locations where the notice of nondiscrimination has been published (e.g., the online repository of the District's policies); titles of the publications in which the notice of nondiscrimination appears (e.g., the Student 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 online publication containing the notice. Inserts may be used pending reprinting of the materials and publications.

Action Item 3: Grievance Procedures

By October 31, 2018, the District will adopt and publish revised grievance procedures that provide for the prompt and equitable resolution of complaints alleging all forms of discrimination (including harassment) on the basis of sex (and may include other bases). The District will ensure that the revised procedures contain the following provisions, to the extent not already included:

- notice that the procedures apply to complaints alleging all forms of discrimination on the basis of sex (including sexual harassment and sexual assault) by employees, students, and third parties;¹
- an explanation of 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 sex discrimination (including sexual harassment and sexual assault);
- designated and reasonably prompt timeframes for major stages of the grievance process;
- an equal opportunity for the parties to provide witnesses and other evidence;
- 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;

¹ The District may have separate procedures for students, employees, and third parties; however, taken as a whole, the procedures must cover students, employees, and third parties.

- 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 alleged victim), and that such interim measures will not disproportionately impact the alleged victim;
- notice of the opportunity to appeal the findings by the responding party, or both parties; and,
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker.

Reporting Requirements:

- a) By August 31, 2018, the District will provide to OCR a draft of the revised grievance procedures for OCR's review and approval.
- b) Within sixty (60) calendar days of the District receipt of OCR's approval of the revised grievance procedures, the District will provide documentation to OCR to demonstrate that it has adopted the OCR-approved procedures and updated its printed publications and online 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 online 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 November 30, 2018, 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.

Action Item 4: Investigations of Complaints

By October 31, 2018, the District will investigate the complaints of sexual harassment/assault made by the Student's parents, alleging that a XXXX student sexually harassed and assaulted the Student in XXXXXXXXXX 2017 (Complaint 1), and XXXXXXXX 2017 (Complaint 2); and that another XXXX student sexually harassed the Student in her XXX class, on or about XXXXX XXX XXXX (Complaint 3). The District will ensure that its investigations comply with the regulations implementing Title IX, reviewing all information previously provided by the Student and the Student's parents; in the event the District determines that the prior interviews were not sufficient to comply with the Title IX regulations, then interviewing and/or re-interviewing the Student, the students and staff identified by the Student and the Student's parents, and student and/or staff witnesses; reviewing additional information, as appropriate; preparing a report outlining the steps taken in the investigations of the complaints, summarizing all interviews completed; and making a determination of whether the evidence supports the allegations of sexual harassment/assault and retaliation regarding Complaints 1 through 3.

If the District's investigations of Complaints 1 through 3 substantiate the allegations of sexual harassment/assault, the District will take all remedial actions deemed necessary, including taking corrective action against all students and staff involved; offering the Student counseling; and assessing whether the Student requires other services (e.g., safety plan, tutoring) to remedy the effects of such harassment/assault and/or retaliation; and if so, the District's plan for providing such services. The outcome of the investigations will be communicated to the Student's parents in writing.

Reporting Requirements:

- a) By November 15, 2018, the District will provide to OCR for review, a copy of its report documenting all actions taken with respect to its investigations of Complaints 1 through 3, the District's findings; all corrective actions deemed necessary; and a timeline for implementation of the corrective actions, if necessary; and the name(s) and title(s) of the individuals involved in the investigations and the District's determinations. If the District determines that no action is necessary, the District will include the factors it relied upon for its determinations. The District will also provide supporting documentation relating to its investigations.
- b) Within fifteen (15) calendar days of written notification from OCR of its approval of the District's investigations and findings, the District will issue a letter to the Student's parents informing them of its determinations.
- c) Should the District find that the complaints were substantiated, within fifteen (15) days of issuing the letter to the Student's parents notifying them of the District's determinations, the District will provide to OCR documentation showing all remedial actions taken by the District to address the discriminatory conduct.

Action Item 5: Student's Disciplinary Record

The District represents to OCR that it does not maintain a record of any student discipline in grades K through 3. By August 31, 2018, the District will expunge all records, including administrative, District and/or School records with respect to any District/School sanctions, measures, and/or interventions for the Student relating to incidents that occurred on or about April 24, 2018; and on May 2, 2018.

Reporting Requirements:

By September 30, 2018, the District will provide documentation of the expungement to the complainant and OCR.

Action Item 6: Training

By November 30, 2018, and thereafter during its annual training for District staff, the District will provide training to its Title IX Coordinator(s), any other coordinators, and any District officials and administrators who will be directly involved in processing, investigating and/or

resolving complaints of sex discrimination (including sexual harassment/assault and retaliation), or who will otherwise coordinate the District's compliance with Title IX. The District's training will specifically cover the District's revised grievance procedures for Title IX complaints, and will include instruction on the requirements of Title IX, including (a) that discrimination/harassment based on sex and retaliation is prohibited and will not be tolerated; (b) how to conduct and document adequate, reliable, and impartial Title IX investigations; (c) the District's responsibilities under Title IX to address allegations of sex discrimination (including to take interim measures); (d) the range of behaviors that constitute discrimination/harassment based on sex; (e) the disciplinary sanctions applicable to anyone who engages in discrimination/harassment based on sex; (f) the prohibition of retaliation against individuals for engaging in a protected activity under the laws that OCR enforces; recognizing acts of retaliation and intimidation and their effects on individuals who engaged in protected activities; and that effective action, including disciplinary action where appropriate, will be taken against individuals (e.g. staff and students) found to have engaged in retaliatory conduct; and (g) where, how and to whom instances of discrimination/harassment and/or retaliation are to be reported.

By November 30, 2018, and thereafter during its annual training for District staff, the District will also provide training to all employees likely to witness or receive reports of sex discrimination (including sexual harassment/assault and retaliation), including teachers, administrators, District law enforcement or security personnel, counselors, athletic coaches, and health personnel, and the staff identified in the District's investigations of Complaints 1 through 3, including but not limited to the Village School principal, assistant principal, and teaching staff. The District's training will specifically cover the District's revised grievance procedures for Title IX complaints, and will include instruction on the requirements of Title IX, including (a) that discrimination/harassment based on sex and retaliation is prohibited and will not be tolerated; (b) the District's responsibilities under Title IX to address allegations of sex discrimination (including to take interim measures); (c) the range of behaviors that constitute discrimination/harassment based on sex; (d) the disciplinary sanctions applicable to anyone who engages in discrimination/harassment based on sex; (e) the prohibition of retaliation against individuals for engaging in a protected activity under the laws that OCR enforces; recognizing acts of retaliation and intimidation and their effects on individuals who engaged in protected activities; and that effective action, including disciplinary action where appropriate, will be taken against individuals (e.g. staff and students) found to have engaged in retaliatory conduct; and (f) where, how and to whom instances of discrimination/harassment based on sex and retaliation are to be reported. The training must explain responsible employees' reporting obligations, including what should be included in a report and any consequences for the failure to report; as well as provide the contact information for the District's Title IX coordinator.

Reporting Requirements:

- a) By November 30, 2018, the District will provide documentation to OCR demonstrating that it provided training in accordance with Action Item 6 above. The documentation will include, at a minimum, the name(s) and credentials of the trainer(s), the date(s) and time(s) of the training(s), the names and positions/titles of staff in attendance, confirmation of whether all relevant employees have been trained (and if not, how many remain), and copies of any training materials distributed.

The District 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. Upon the District's satisfaction of the commitments made under this Agreement, OCR will close these cases.

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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District's representative below.

____ July 27, 2018 _____
Date

/s/ _____
Authorized Representative
Holmdel Township Schools