

**Resolution Agreement  
Berkeley County Schools  
OCR Docket Number 03-16-1179**

OCR and Berkeley County Schools (the District) enter into this agreement to resolve the allegation in the above-referenced complaint. This agreement does not constitute an admission of liability or non-compliance by the District. The District assures the U. S. Department of Education, Office for Civil Rights, (OCR), that it will take the following actions to comply with the requirements of 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, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance.

Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

**ACTION STEPS and REPORTING REQUIREMENTS**

**Title IX Grievance Procedures**

1. By October 1, 2018, the District will submit to OCR for its review and approval revised Title IX grievance procedures to address complaints of sex discrimination (including sexual assault and sexual violence), as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). The District will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging sex discrimination and will include, at a minimum, the following:
  - a. notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
  - b. permitting complaints to be filed up to 180 days after an incident of sex discrimination;
  - c. application of the grievance procedures to complaints alleging discrimination or sexual harassment (including sexual violence) carried out by employees, other students, or third parties;
  - d. provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and responding party to present witnesses and evidence;
  - e. designated and reasonably prompt time frames for the major stages of the complaint process;
  - f. notice to the complainant and responding party of the outcome of the complaint; and
  - g. assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Recognizing that Title IX does not require a separate sexual harassment complaint procedure, the District assures OCR that if it chooses to maintain a separate sexual harassment complaint procedure, it will comply with the requirements outlined above.

**Reporting Requirement:** By October 1, 2018, the District will submit to OCR a copy of the District's revised Title IX grievance procedures for OCR's review and approval.

2. By February 1, 2019, following written notification from OCR that the revised Title IX grievance procedures developed in accordance with Action Step 1 are consistent with Title IX requirements, the District will adopt and implement the procedures and will provide all students, parents/guardians and employees with written notice regarding the new grievance procedures for resolving Title IX complaints together with information on how to obtain a copy of the grievance procedures. The District, at a minimum, will make this notification through the District's website, electronic mail messages to employees and students, and any regularly issued newsletters (in print or online), as well as by any other additional means of notification the District deems effective to ensure that the information is widely disseminated.

**Reporting Requirement:** By March 1, 2019, following written approval from OCR that the revised Title IX procedures referenced in Action Step #1 are consistent with Title IX, the District will provide OCR with documentation that it has implemented Action Step #2 above, including copies of the written notices issued to students and employees regarding the new Title IX procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised Title IX procedures are located.

#### **Notice of Nondiscrimination**

3. By October 1, 2018, the District will submit to OCR for its review and approval a draft notice of nondiscrimination pursuant to 34 C.F.R. § 106.9, which will notify students, parents/guardians, employees and other relevant persons that it does not discriminate on the basis of sex in the education programs or activities that it operates and that it is required by Title IX not to discriminate in such a manner. The notice will state that inquiries concerning the application of Title IX should be referred to the Title IX Coordinator, and it shall include the name or title and office address and telephone number and e-mail address for the District's Title IX Coordinator. The District will publish this notice consistent with the requirements of Title IX at 34 C.F.R. § 106.9.

**Reporting Requirement:** By October 1, 2018, the District will submit to OCR a copy of the District's revised notice of nondiscrimination for OCR's review and approval.

4. By February 1, 2019, following written notification from OCR that the revised notice of nondiscrimination developed in accordance with Action Step #3 is consistent with Title IX requirements, the District will adopt and implement the notice of nondiscrimination and will provide all students, parents/guardians and employees with written notice regarding the new notice of nondiscrimination. The District, at a minimum, will make

this notification through District’s website, electronic mail messages to employees and students, and any regularly issued newsletters (in print or online), as well as by any other additional means of notification the District deems effective to ensure that the information is widely disseminated.

**Reporting Requirement:** By March 1, 2019, following written approval from OCR that the revised notice of nondiscrimination referenced in Action Step #3 is consistent with Title IX, the District will provide OCR with documentation that it has implemented Action Step #3 above, including copies of the written notices issued to students and employees regarding the new notice of nondiscrimination and a description of how the notice was distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised notice of nondiscrimination is located.

**Training for Title IX Coordinator and District Personnel**

5. Within 90 days of approval of draft Title IX grievance procedures by OCR, the District will develop and provide Title IX training to its Title IX Coordinator and any other District employees who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination (including sexual harassment) or who will otherwise assist in the coordination of the District’s compliance with Title IX. This training will be in person and will address:
  - a. the District’s new policies and grievance procedures for Title IX complaints;
  - b. sex discrimination and the District’s responsibilities under Title IX to address allegations of sexual harassment, whether or not the actions are potentially criminal in nature;
  - c. recognizing and appropriately responding to allegations and complaints pursuant to Title IX, including conducting interviews of victims and communicating in a fair, non-biased, and objective manner that does not discourage victims from reporting or continuing with their complaints; and
  - d. how to conduct and document adequate, prompt, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation and how they differ from those in a criminal investigation.

The District may request OCR Philadelphia staff to assist in providing the training.

6. By April 1, 2019, the District will provide Title IX training to all District staff who interacts with students on a regular basis. The training will provide attendees with essential guidance and instruction on preventing, recognizing and appropriately responding to allegations and complaints of sex discrimination, including the differences between sex discrimination, sexual harassment, sexual assault and sexual violence, and an understanding of the District’s responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature. This training will be provided separately to staff who work with particular grade levels (i.e., elementary, middle and high school) and will specifically target staff responsibilities by employment designation (e.g., site supervisors, school counselors,

teachers, etc.). The District may request OCR Philadelphia staff to assist in providing the training. In addition, the District will provide supplemental training regarding its new Title IX grievance procedures once those procedures have been approved by OCR.

**Reporting Requirement:** By April 1, 2019, the District will provide documentation to OCR that the training sessions required by Action Steps #5 and #6 took place, including copies of sign-in sheets, agendas, and identification of any presenters or trainers. The District will also provide verification that any materials used during these training sessions were disseminated to any individuals covered by Action Step 6 who were unable to attend the training session(s), including the names and titles of the individuals who received the information.

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, 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 complied with the terms of this Agreement and the regulations implementing Title IX at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this complaint. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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.

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

/s/

\_\_\_\_\_  
Superintendent or Designee

8.13.18

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Date