



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
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July 2, 2019

IN RESPONSE, PLEASE REFER TO: 03161882

Mrs. Lisa Brown
Superintendent
Palmyra Area School District
1125 Park Drive
Palmyra, PA 17078

Dear Superintendent Brown:

The U.S. Department of Education (the Department) Office for Civil Rights (OCR) has completed its investigation of this complaint filed against the Palmyra Area School District (the District) alleging discrimination on the basis of sex. Specifically, the Complainant alleged that the District discriminates on the basis of sex by:

1. Failing to provide sufficient notice to the District community of the identity of the Title IX Coordinator;

XX – Paragraphs Redacted – XX

OCR enforces Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex by recipients of Federal financial assistance. Because the District receives Federal financial assistance from the Department, the District is subject to Title IX and its implementing regulations.

OCR applies a preponderance of the evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports the conclusion or whether the evidence is insufficient to support the conclusion.

In reaching a determination, OCR reviewed documents provided by the Complainant and the District and interviewed the Complainant and District employees. OCR also went onsite in December 2018 to inspect the District's locker rooms, practice and competitive facilities for boys' and girls' teams in its interscholastic athletic program. After carefully considering all of the information obtained, OCR determined that there is sufficient evidence to support the allegation of discrimination in Allegation 1 and insufficient evidence to support the allegations of discrimination in Allegations 2-4. OCR's findings and conclusions are discussed below.

Legal Standards

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires that a recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under that law. The recipient is further required, by the Title IX implementing regulation at 34 C.F.R. § 106.9(a), to notify all students and employees of the name or title, office address, and telephone number of the designated employee(s).

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX, including sexual harassment and sexual assault. Title IX does not require a recipient to provide separate grievance procedures for sexual harassment complaints, including sexual assault complaints.

In evaluating whether a recipient's grievance procedures are prompt and equitable, OCR reviews all aspects of a recipient's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

1. notice to students and employees of the procedures, including where complaints may be filed;
2. application of the procedures to complaints alleging discrimination and harassment carried out by employees, other students, or third parties;
3. provision for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence;
4. designated and reasonably prompt timeframes for the major stages of the complaint process;
5. notice to both parties of the outcome of the complaint and any appeal; and
6. assurance that the recipient will take steps to prevent recurrence of any sex discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others, if appropriate.

Throughout the recipient's investigation and in any hearing, both parties must have equal opportunity to present relevant witnesses and other evidence and to otherwise participate in the grievance process.

XX – Paragraphs Redacted – XX

Allegation 1: Factual Background

The Complainant alleged the information that the District provides to the school community about its Title IX Coordinator is insufficient. Specifically, he alleged that information regarding the District's Title IX Coordinator is not easily found on the District's website and that there is no Title IX information in the student handbook. The Complainant further alleged that there are inconsistencies in the individual who is identified as the District's contact for Title IX issues; he alleged that in some District publications and postings on its website, the name of the District's Compliance Officer is provided as the contact, as opposed to the individual who it has identified as its Title IX Coordinator.

The District informed OCR that the Assistant Superintendent has served as its Title IX Coordinator since July 2013. The District’s website does not state that the Assistant Superintendent is the Title IX Coordinator; moreover, the District’s website does not identify any individual as its Title IX Coordinator.

The District’s website contains the District’s Harassment and Discrimination policies, which are policies 248, 348, 448 and 548 (collectively, the policies). The policies specifically address harassment and discrimination for pupils, administrative employees, professional employees and classified employees in that order and these policies are identical in content. The policies indicate that the District’s Compliance Officer is the point of contact. The Compliance Officer’s name, mailing address, telephone number and email address is also provided therein.

A Harassment Complaint Form is posted on the District’s website, which is used to report complaints of harassment to the District. There is no mention of Title IX or the Title IX Coordinator on the Form. The Form states that it should be submitted to the individual who was identified as the District’s Compliance Officer and provides the name of this individual, mailing address and telephone number, but does not specifically identify this individual as the Compliance Officer.

The District provided OCR with a list of its points of contact for commonly asked questions/concerns, which the District provides as a reference for parents and is also posted on its website. For Title IX concerns and questions, the individual who was identified as the Title IX Coordinator is listed as the first point of contact and the individual who was identified as the District’s Compliance Officer is listed as the second point of contact; however, it does not provide the title or contact information for either of these individuals.

The 2018-19 High School Student Handbook, which is posted on the District’s website, does not provide any name as a contact to handle inquiries regarding the nondiscrimination policies. The Handbook discusses sexual harassment and encourages individuals to make reports to “an adult that they trust.” There is no mention of a Title IX Coordinator and no name or contact information or other identifying information regarding a Title IX Coordinator provided in the 2018-2019 Handbook.

OCR interviewed the individuals who the District identified as the District’s Title IX Coordinator and the District’s Compliance Officer. Regarding their respective roles and relationships with respect to Title IX, the Title IX Coordinator advised OCR that if the District receives a Title IX complaint involving students, he handles it; if the complaint involves employee-based harassment, the Compliance Officer handles it. For a complaint involving a student and an employee, the Title IX Coordinator stated that the two of them would have a dialogue as to how to handle it. If a complaint involves a third party, the Title IX Coordinator said they would discuss whether it falls under Title IX.

Allegation 1: Analysis and Conclusion

OCR’s investigation found that the District provides inconsistent information to students and the school community regarding the individual who is designated to handle Title IX issues in the District; this information is also incomplete as the necessary contact information regarding the notification for the Title IX Coordinator is missing either in part or entirely from the various District publications and online postings where information about Title IX is provided to the

recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

Federal regulations prohibit recipients of Federal financial assistance from taking actions which intimidate, threaten, coerce, or discriminate against individuals who exercise their rights under the statutes which OCR enforces, or because they have filed a complaint with OCR or taken part in the complaint resolution process.

We thank the District and its counsel for the cooperation provided to OCR throughout the investigation of this complaint. If you have any questions, please contact me at 215-656-8522 or vicki.piel@ed.gov.

Sincerely,

/s/

Vicki Piel
Supervisory Attorney/Team Leader

Cc: Robert Frankhouser, District Counsel (via email only: RFrankhouser@barley.com)