

Resolution Agreement
Clarkesville-Montgomery County School District
OCR Docket Number #04-13-1247

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against the Clarkesville-Montgomery County School District (District), pursuant to Title IX of the Education Amendments of 1972 (Title IX) and the Department's implementing regulations at 34 C.F.R. Part 106, which prohibit sex discrimination in education programs and activities operated by educational institutions that receive Federal financial assistance. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to the provisions of Title IX. The District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR Case Processing Manual. Accordingly, to ensure compliance with the above-referenced law and regulation and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

The District agrees to take all steps reasonably designed to ensure that students enrolled in the District are not subject to a hostile environment, on the basis of sex, and to respond to allegations of sexual harassment. To this end, the District will promptly investigate all incidents and complaints of sexual harassment of students the District knows of or reasonably should know of and the District will take appropriate action to respond to complaints, which may include disciplinary action against students and staff found to have violated its anti-harassment policies and procedures. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones, tablets or the internet; or other conduct that may be physically threatening, harmful or humiliating. The District will take prompt and effective responsive action reasonably designed to end the hostile environment, if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected student(s). Accordingly, the District agrees to the following:

Anti-Harassment Statement and Sexual Harassment Policies & Procedures

1. By **July 15, 2014**, the District will submit a copy of the proposed Statement to OCR for its review and approval (Statement) which, after approval by OCR, will be printed in the District's student handbook, posted in prominent locations at the District, and published on the District's website stating that the District does not tolerate sexual harassment, including sexual violence. The Statement will encourage any student who believes he or she has been subjected to sexual harassment to report it to the District and will describe the District's commitment to conducting a prompt investigation. The Statement will include the appropriate contact information for the designated staff member to whom students may report allegations of harassment. The Statement will warn that students found to have engaged in sexual harassment will be promptly disciplined and it will make clear that such discipline could include suspension or expulsion, as appropriate. The Statement also will make clear that District staff found to have engaged in sexual harassment will be promptly disciplined and that such discipline could include termination of employment, as appropriate. The Statement will encourage students, staff and administrators to work together to prevent sexual harassment and sexual violence.

REPORTING REQUIREMENT: Within 30 days of receiving OCR's approval, the District will present the Statement to its Board of Education (Board) for approval, as required by State law. The District will provide written notice via email to OCR of the Statement's submission to the Board. Once the Statement is approved by its Board, the District will provide written notice to OCR of that approval and post the Statement electronically and in the printed 2015-2016 Student Code of Conduct. The District will provide OCR with copies of the written documents containing the statement and the date issued.

2. By **September 15, 2014**, the District will revise, and submit to OCR for review and approval, all policies applicable to sexual harassment complaints and investigations, including the Student Code of Conduct (hereinafter Policies), to make clear the definition of sexual harassment and sexual violence (with examples) and that sexual harassment, including sexual violence, which is a form of sex discrimination, is a violation of Title IX of the Education Amendments of 1972 (the current policy only mentions Title VII of the Civil Rights Act of 1964).

The amended Policies will incorporate the following elements that OCR considers necessary in order for the procedures to meet appropriate due process standards and be prompt and equitable, as required by the regulations:

- a) Notice to students and employees of the procedure, including where complaints may be filed;
- b) Corrected definitions and examples of the types of actions that may constitute sexual harassment, including sexual violence;
- c) Application of the preponderance of the evidence standard to the investigation conducted;
- d) Application of the procedure to complaints alleging discrimination or harassment carried out by employees, other students, or third parties;
- e) Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence.
- f) Provision of interim measures to ensure the safety of the alleged victim during the investigation of a complaint. Such interim measures should not disproportionately affect the alleged victim (the policy should be revised to show that protection of the alleged victim is *required* and not done *at the discretion* of the District);
- g) Designated and reasonably prompt timeframes for the major stages of the complaint process;
- h) Notice to the Complainant of the right to proceed with a criminal investigation and a Title IX complaint simultaneously;
- i) Disallow conflicts of interest (real or perceived) by those handling the procedures;
- j) Include range of potential remedies and sanctions;
- k) Address confidentiality for the complaint/victim;
- l) Disallow evidence of past relationships;
- m) Notice to the parties of the outcome of the complaint;

- n) Assurance that the District will take steps to prevent recurrence of any discrimination and to correct the discriminatory effects on the complainant and others, if appropriate; and
- o) A prohibition of retaliation against persons who make complaints of sexual harassment or sexual violence.

These procedures shall make clear that the District is responsible for conducting an investigation of all complaints of sexual harassment independent of any investigation conducted by any criminal law enforcement authority or other agency and that the District's investigation will not be delayed by any investigation by a criminal law enforcement authority unless expressly required by the authority. The procedures also will make clear that upon notice that the criminal law enforcement authority has completed its fact finding, the District will immediately resume its investigation under Title IX.

REPORTING REQUIREMENT: Within 60 days after receiving OCR's approval of the Policies, the District will present any language that is to be in the Student Code of Conduct to the Board of Education to be approved in accordance with State law. Once approved by the Board of Education, the revised language will be published in all written and online student and parent handbooks or other publications. It is understood that any language to be included in the Student Code of Conduct will not be published in print format until the 2015-2016 school year. The District will provide OCR with a copy of the publications and/or references to online links which include the amended Policies.

Staff Training

3. By **December 15, 2014, or within 90 days of approval of the Policies by OCR**, the District will initiate annual training for all staff on the District's revised Policies and how to recognize and appropriately address possible sexual harassment or sexual violence under Title IX. In addition to the foregoing topics, the Title IX Coordinator and any staff involved in receiving or investigating complaints of sexual harassment, including sexual violence, will be provided annual training on the District's Title IX responsibilities to address allegations of sexual harassment or sexual violence and how to conduct Title IX investigations. The training also will cover confidentiality requirements.

REPORTING REQUIREMENT: By **January 15, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training pursuant to the Action Item above. The documentation shall include: (1) the date of the training session(s); (2) a list of names and titles of District employees who participated in the training session; (3) a description of the presenter's background and qualifications with respect to Title IX and the District's policies and procedures; (4) a copy of the agenda and the training materials disseminated; and (5) certification that the materials were provided to any staff unable to attend the training due to an emergency or other excused absence.

System for Tracking and Review of Sexual Harassment Complaints

4. By **January 15, 2015**, the District will develop, and submit to OCR for review and approval, a procedure of monitoring and tracking formal and informal complaints of sexual harassment or sexual violence against students. The procedure will track the following components:
 - a) The date of the complaint;
 - b) Summary of the complaint allegation;
 - c) Documentation related to the investigation: investigator notes, witness interviews, evidence submitted by the parties, investigative reports and summaries, any final disposition letters to the parties including the date of the letters, disciplinary records, and documentation regarding any appeals.

REPORTING REQUIREMENT: Within **30 days of notice of approval** of the procedure by OCR, the District will implement the procedure District-wide. The District will provide written notice and documentation to OCR of their implementation of the procedure.

By **June 30, 2015**, the District will compile and provide to OCR a report of all complaints of sexual harassment and sexual violence received from the School during the 2014-2015 school year, including a notation of the District's investigation with findings and actions taken in accordance with Item #4 above

Educational Climate

5. By **February 15, 2015**, the District will submit to OCR for review and approval, a climate (Survey) survey to be utilized annually to assess student and staff perceptions concerning the environment at the School as it relates to sex-based harassment concerns. The survey will include one or more surveys for all students and staff to assess the presence and effect of harassment, including sex-based harassment, at the School.

REPORTING REQUIREMENT: Within **30 days of notice of approval** of the procedure by OCR, the District will administer the Survey to all students and staff at the School, to be performed annually thereafter, and will encourage participation.

6. **Within sixty (60) days of the implementation of the Survey** the District will submit an analysis of the results of the survey(s) to OCR. Based on the results of the climate survey(s) and any recommendations of OCR, the District will work together in good faith with OCR to implement appropriate corrective actions to address all climate issues identified through the Survey. The District will implement the agreed upon actions and notify OCR of its actions as detailed below.

REPORTING REQUIREMENT: By **May 30, 2015** or within 30 days of completion of all elements of this Item, whichever is later, the District will provide to OCR a summary report of the substance of the responses, the response rate by students and teachers/staff for the first annual administration of the survey(s), the District's analysis of the survey results, and the actions agreed upon and implemented by the District to address any found sex-based harassment or hostile environment.

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 and is in compliance with the Title IX implementing regulation at 34 C.F.R. §106.31 (a) and (b)(1).

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 Title IX implementing regulation at 34 C.F.R. §106.31 (a) and (b)(1).

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 a minimum of sixty (60) calendar days to cure the alleged breach.

This Resolution Agreement will become effective immediately upon the signature of the Superintendent or his/her designee below.

Superintendent or Designee

Date