



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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CHICAGO, IL 60604

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September 12, 2019

Dr. Janice K. Jackson  
Chief Executive Officer  
Chicago Public Schools District #299  
42 West Madison Street  
Chicago, IL 60602

Re: OCR Docket #05-15-1178  
XXXX XXXX Academy

OCR Docket #05-17-1062  
XXXX High School

Dear Dr. Jackson:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaints respectively filed with OCR on March 16, 2015 and November 14, 2016, against the Chicago Public Schools District #299 (District), alleging discrimination on the basis of sex.

The XXXX Academy complainant alleges that the District discriminated against Student A, a student who attended XXXX, on the basis of sex. Specifically, the complaint alleges that the District failed to promptly and equitably respond to Student A's mother's XXXX 2013 complaints that Student A was sexually harassed throughout the 2012-13 school year by a XXXX teacher (Teacher A) and sexually assaulted by Teacher A in XXX.

The XXXX School complainant alleges that the District discriminated against Student B, a student who attended XXXX and XXX Schools, on the basis of sex. Specifically, the complaint alleges that the District failed to promptly and equitably respond to Student B's mother's XXX complaint that Student B was sexually assaulted by XXX individuals, XXX of whom she identified as XXXX students.

In addition to investigating the aforementioned complaints, OCR conducted a systemic, district-wide investigation concerning whether the District failed to promptly and equitably respond to complaints of sexual harassment, including sexual assault,<sup>1</sup> of which it had notice, regarding other District students, thereby allowing the students to be subjected to a sexually hostile

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<sup>1</sup> Hereinafter the term "sexual harassment" shall also refer to incidents of sexual assault.

environment that denied or limited their ability to participate in or benefit from the District's program.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program and activity operated by a recipient of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to the requirements of Title IX.

### **Summary of Findings**

For years, the District's management, handling, and oversight of complaints of student on student and adult on student sexual harassment have been in a state of disarray, to the great detriment of the students the District is responsible for educating. The District's investigations were poorly managed and were often conducted by staff who were not properly trained in effective investigative techniques or the specific requirements that Title IX imposes on recipients in addressing instances of sexual harassment. Investigations were conducted by a patchwork of both school-level personnel and District personnel without any District-wide coordination of efforts and results. This patchwork structure compromised the ability of students to learn in a safe educational environment. Finally, the District's lack of organizational strategies to ensure adequate and reliable investigations and coordinated efforts to address and prevent sexual harassment was exacerbated by poor record-keeping. Documentation concerning complaint investigations was very often incomplete, and much of it was maintained in schools, rather than in a centralized location where it could be easily reviewed by high-level administrators.

Based on its findings below, OCR determines that the District violated Title IX regulations at 34 C.F.R. §§ 106.8(a), 106.8(b), 106.9(a) and 106.31, because the District failed to respond promptly and equitably to complaints alleging sexual harassment.

Specifically, OCR determined that:

- The District failed to respond promptly and equitably to the complaints of sexual harassment filed on behalf of Student A in August 2013 and Student B in May 2016.
- Since the 2012-13 school year, on a District-wide basis, the District has failed to respond promptly and equitably to other complaints of adult on student and student on student sexual harassment.
- From 1999 to December 2018, the District did not have a Title IX Coordinator.
- The District's Interim Title IX Coordinator, who served from December 2018 to March 2019, did not have, and the District's current Title IX Coordinator-- who was appointed on March 27, 2019-- does not have the full authority to coordinate the District's efforts to comply with and carry out the District's responsibilities under Title IX.
- The District's current grievance procedures, adopted in April 2012, do not provide for the prompt and equitable resolution of Title IX complaints.
- Since May 2013, the District has failed to provide adequate notice to students and parents of elementary and secondary school students of the District's Title IX grievance procedures.

- Since May 2013, the District has failed to notify applicants for admission and employment, students and parents, and employees that the District does not discriminate on the basis of sex and is required by Title IX not to discriminate on that basis in the educational programs or activities it operates, and further failed to state that inquiries concerning sex discrimination may be referred to the District’s Title IX Coordinator or OCR.
- The District failed to maintain records sufficient to enable OCR to ascertain its compliance with Title IX.

In addition to the aforementioned violations, OCR has the following concerns.

- Conflicts of interest may have existed when the Deputy General Counsel served as the Interim Title IX Coordinator in 2018-2019 because he provided both legal advice to the District regarding possible liabilities from student on student sexual harassment complaints and supervised and directed staff investigating and resolving student on student sexual harassment complaints.

On September 11, 2019, the District voluntarily entered into a resolution agreement (Agreement), which commits the District to take specific steps to begin to address the identified Title IX violations and areas of concern.

This letter presents the applicable legal standards, the information gathered during the investigation, the reasons for OCR’s determination, and the steps the District has agreed to take to resolve the violations.

## **Methodology**

In addition to its investigation of the XXXX and XXXX complaints, OCR’s systemic investigation included a review of data provided by the District. The data included documentation related to the District’s response to student sexual harassment complaints for four school years (2012-13, 2013-14, 2014-15, and 2017-18), which pertained to 2,800 student on student sexual harassment complaints, and 280 adult on student complaints. OCR reviewed narrative summaries of each complaint from the District’s incident reporting system, entitled “Verify.” The complaints involved students at over 400 District schools.

Additionally, OCR received and reviewed over 9,000 pages of documentation that the District provided in response to OCR’s data requests in 2018, including training materials, documents related to the District’s data collection system, posters, and communications issued to the broader CPS community. The 2018 documentation included all of the information that the District obtained from schools in a representative sample of student on student complaints and the completed adult on student complaints that the District received during the 2017-18 school year. This documentation was the only information that the District was able to provide to OCR regarding over 1,000 student on student and adult on student sexual harassment and misconduct complaints that it received during the 2017-18 school year.

Additionally, OCR interviewed current and former District staff and administrators whom the District informed OCR were responsible for responding to and investigating Title IX complaints. OCR also reviewed the District's Title IX policies in effect from May 25, 2016, until May 22, 2019 (the time relevant to the XXXX and XXXX complaints), and the policy adopted on May 22, 2019. OCR also reviewed data provided by the complainants, and interviewed Student A's mother, Student B and her mother, and school administrators and staff at XXXX, XXXX, XXXX and XXXX Schools.

## **I. Chicago Public Schools**

The District is the nation's third largest public school district, with over 370,000 students enrolled in 644 schools, including 513 District-run schools, 121 charter schools, nine contract schools, and one SAFE school. The District has over 36,000 permanent employees and over 4,000 active vendors. The District's CEO and Central Office manage the District and report to the Chicago Board of Education (Board).

## **II. The District's Response to Student Sexual Harassment Complaints**

### **A. XXXX Complaint**

Student A was a XXX, student in the XXX during the 2012-13 school year. That school year, she earned marks of "A" in each of her courses. In her complaint to OCR, Student A states that over the course of the 2012-13 school year, Teacher A-- a XXX teacher-- frequently commented on her body and appearance, excused her from other classes so she could spend time with him in his classroom, bought her food and gifts, and communicated with her via text and a private email account in which he sent her pictures of himself and professed his love for her.

Student A also states that on XXX, Teacher A asked Student A to join him on a private, paid XXX job after school, in order to build her skills. After they left XXXX, Teacher A told Student A that the XXX job had been cancelled, and instead drove her to a restaurant where he purchased alcohol for Student A and kissed her. Student A became upset and asked Teacher A to take her home. Student A alleges that while driving her home, Teacher A parked his car, kissed and fondled her neck, legs and breasts, removed her pants, and performed non-consensual oral sex and digitally penetrated her while she cried and begged him to stop. After the sexual assault, Student A continued to attend XXXX for the remaining two weeks of school and completed the school year. She avoided Teacher A but claims he repeatedly attempted to contact her by text message, phone and email, sent her pictures and gifts, invited her to social events, professed his love, asked her to meet him, and begged her for forgiveness. Teacher A also asked that Student A remain silent about his actions. In XXX, she informed her mother that Teacher A had sexually assaulted her.

On XXX, Student A's mother reported to the XXXX Guidance Counselor that Teacher A had sexually assaulted Student A. On XXX, the Guidance Counselor contacted Student A's mother to obtain additional information about her complaint. The report created by the Guidance Counselor in Verify indicates that Student A's mother described Teacher A's treatment of Student A, including his use of a personal email account to communicate with Student A and

servicing Student A alcohol at a restaurant. The report does not reference sexual assault but notes that Student A's mother agreed to provide copies of the emails and other correspondence that Teacher A sent her daughter. The Counselor reported the allegations to the Illinois Department of Children and Family Services (DCFS) that day and informed the Assistant Principal, who submitted the Guidance Counselor's Verify report to the Law Department Investigations Unit.

On XXX, Student A's mother met with the Guidance Counselor and Assistant Principal and reported that Teacher A sexually assaulted Student A. She provided copies of text messages and emails that Teacher A sent to Student A as well as an email that Student A's mother sent to Teacher A on XXX, directing him to stop contacting Student A and threatening to report him to the police and the District. She also provided an envelope containing gifts that Teacher A mailed to Student A's home address.

On XXX, an investigator from the Law Department's Investigations Unit visited XXXX, and interviewed the Guidance Counselor, the Assistant Principal, and Student A's friend in whom Student A had confided about Teacher A. The Assistant Principal and the investigator informed Teacher A by letter dated XXX, that he was temporarily assigned to a District Network Office and barred from attending XXXX events. The Investigator interviewed Student A on XXX, and interviewed Teacher A on XXX, and XXX. Teacher A denied inappropriate conduct with Student A. Between XXX and XXX, the investigator interviewed other witnesses, including Student A's mother and stepfather, Student A's neighbor (whom Teacher A visited regarding Student A's complaint), the manager of the restaurant where Teacher A provided alcohol to Student A on XXX, and other XXXX staff and students, including students who visited Student A's home to show their support for Teacher A. The investigator also reviewed handwritten notes, emails and text messages from Teacher A to Student A.

The Investigator prepared an Investigation Report, dated XXX, that summarized his investigation and findings, in which he found that Teacher A transported Student A in his car without authorization in XXX, sent her text messages and mailed her gifts in XXX, and throughout the XXX sent Student A personal email messages.

Upon obtaining more information concerning the alleged incident, the investigator found that Teacher A provided an alcoholic beverage to Student A, kissed her, and sexually assaulted her. This finding was incorporated into the investigator's Investigation Report, dated XXX.

The District acknowledges that its staff did not provide Student A or her mother notice of the outcome of the investigation. On XXX, the Investigator forwarded his Investigation Reports to the Deputy General Counsel of the Law Department's Labor Division to make a final determination and consider disciplinary sanctions. After the Law Department received the XXX Investigation Report, the District initiated termination proceedings against Teacher A. Student A's mother informed OCR that the Law Department Investigator told her that Teacher A was removed from the School at some point in the XXX

Although the District asserted to OCR that Student A left the District XXX, documentation submitted to OCR by the District established that Student A enrolled in the District's XXX on XXX, and attended school XXX, during which she reported to the District that she suffered from

panic attacks, flashbacks, depression, and anxiety. On XXX, Student A’s mother submitted a District “Home and Hospital Instruction” referral form for Student A, which Student A’s psychologist signed. In a note dated XXX, Student A’s psychologist wrote that she had completed an initial assessment of Student A XXX, and determined that Student A presented symptoms consistent with XXX.” The psychologist recommended that Student A receive “home study services so she does not fall behind at school,” and indicated that Student A’s treatment would consist of XXX.”

On XXX, Student A and her mother participated in an educational planning conference with the XXX Homebound Coordinator, who completed an “Education Planning Conference for Students Receiving Home/Hospital Services” form dated XXX. The Coordinator provided Student A’s mother a copy of a planning document that describes Student A’s class schedule and how the School intended to deliver her curriculum through Homebound instruction. The Coordinator also provided Student A’s mother a document, also dated XXX, that the Coordinator signed, and which approved Student A for Home/Hospital Services. Notwithstanding this approval, the Complainant reported to OCR, and the District confirmed, that the District did not provide Student A any homebound services.

The District’s records establish that Student A formally withdrew from the District XXX, while the District’s investigation of Teacher A was pending. After withdrawing from the District, Student A XXX returned to the District XXX when she enrolled in XXX to complete her high school education. XXX.

The District acknowledged that no interim measures were provided to Student A during the Law Department’s investigation.

#### Prior Complaints of Sexual Harassment by Teacher A

Teacher A worked at XXXX. Before Teacher A sexually assaulted Student A during the XXX, the District had received three complaints of sexual harassment against Teacher A.

- In XXX, the District notified the DCFS and the Chicago Police Department (CPD) that a XXX (Student C) complained that Teacher A touched her inappropriately during an extracurricular XXX, gave her Valentine’s Day gifts, and asked her to serve as his partner at an off-campus XXX” XXXX staff reported Teacher A to DCFS, CPD, and the Law Department; the Law Department Investigations Unit did not substantiate Student C’s allegations. The District did not provide documentation that XXXX staff offered Student C services while her complaint was investigated or documentation that the parties were notified of the outcome of the investigation. Although Teacher A was arrested in connection with this report, his arrest was expunged by the time Student A filed a police report against him.
- In XXX, the District investigated a complaint from Student D XXX who alleged that Teacher A touched her and other female students inappropriately in class and made sexually suggestive comments during the XXX school years. The District notified DCFS, which conducted an investigation. Several female students confirmed that Teacher A

inappropriately touched them in class and made sexually suggestive comments. The Investigations Unit substantiated the allegations and found that Teacher A’s conduct violated the District’s Title IX Policy. The District admonished Teacher A to maintain appropriate boundaries with his students and refrain from making comments that could be construed as sexual in nature, or inappropriately touching students in the future. There is no evidence that the District informed Student D or her parents of the outcome of its investigation or offered her or any of the students counseling or other interim or remedial services.

- In XXX, a female XXXX teacher alleged that Teacher A touched her inappropriately in XXX during an extracurricular activity XXX, and again in XXX at school. There is no evidence that the District took any action to address the teacher’s allegations.

### Student A’s Complaint of Sexual Harassment

Pursuant to its Employee Discipline and Due Process Policy, the Labor Department held a pre-suspension hearing for Teacher A in XXX on dismissal charges for “violating the warning that you not engage in physical contact with female students after an investigation found that, in XXX, you touched female students on the waists and shoulders, while moving about the classroom,” and for violations of the District’s Title IX Policy among others. Teacher A requested a hearing with the Illinois State Board of Education (ISBE). The hearing officer suspended Teacher A without pay effective XXX, pending the outcome of the proceedings.

In XXX, a District lawyer met with Student A and informed her of the dismissal proceedings against Teacher A and the ISBE hearing. Student A testified for the District on XXX. In XXX, before the ISBE hearing was completed, the District and Teacher A entered into a settlement agreement in which the District permitted Teacher A to resign with a “do not hire” (DNH) designation in his personnel file, which rendered Teacher A ineligible for further employment at a District school. The District did not notify Student A or her mother of the conclusion of Teacher A’s disciplinary proceedings or of its determination concerning her sexual assault complaint.<sup>2</sup>

### **B. XXXX Complaint**

On XXX, Student B, who was XXXX at the time, was on her way home from XXXX with a classmate when, according to her complaint, she was surrounded in a park by XXX boys, XXX of whom she recognized as XXXX students.<sup>3</sup> According to the District’s documentation, Student B asserted that the boys forced her into a vacant building where they repeatedly sexually assaulted her. Student B did not return home that evening but went to school the following

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<sup>2</sup> XXX

<sup>3</sup> The District’s Student Code of Conduct in effect in May 2016 stated that the Code “applies to students at all times during the school day, while on school property, while traveling to and from school, at any school-related event, on any vehicle funded by CPS (such as a school bus), and while using the [District] network. The [Code] also applies to student behavior outside of school if: (a) a student engaged in a Group 5 or 6 behavior, and (2) the behavior disrupts or may disrupt the educational process or orderly operation of the school.” Group 5 or 6 behavior includes sexual harassment and sex acts involving the use of force.

morning. When Student B's mother found her at the school the next morning, Student B told her mother and the Dean that she had been sexually assaulted the day before by XXXX students.

According to the District, on the day of Student B's complaint, the Dean and a CPD officer spoke with all but one of the accused male students who were enrolled at XXXX at the time. According to the Dean's notes, Student B told the Dean and the police officer that she was raped by XXX current and XXX former XXXX student. She provided the Dean and the Police Officer the address of the building where the assault allegedly occurred. The notes indicate that he and the police officer asked Student B a series of questions and suggested to her mother that she take Student B to the hospital for observation. The Dean collected Student B's assignments from her teachers and gave her the work she would miss that day. In his interview with OCR, the Dean acknowledged that the only interim measures the School provided Student B were the assignments that she would miss when she went to the hospital. The Dean also documented the statements that he and the police officer obtained when they jointly interviewed XXX of the alleged perpetrators. The Dean's notes state that before leaving for the hospital, Student B's mother asked the Dean to transfer the male students out of XXXX so Student B could return to school. According to the Dean's notes, he told her it would be easier for Student B to transfer schools than to transfer the male students who had ties to the school community.

The Assistant Principal documented that around XXX, he checked in with the Dean who confirmed that he had created a Verify report for Student B's complaint. According to the Assistant Principal, the Dean also told him that he and the CPD officer had determined that the encounter was consensual. The Assistant Principal reported that he had no further communications with XXXX staff about Student B's complaint after approximately XXX.

In his interview with OCR, the Dean contradicted the Assistant Principal's assertion that the Dean and the CPD completed their investigations and determined that the encounter was consensual. The Dean stated that he was unable to complete his investigation after speaking with the accused students because he could not reach Student B, XXX at that time, to obtain her response to the boys' assertions that the encounter was consensual. Student B and her mother also stated that neither the Dean nor anyone else from XXXX attempted to interview Student B about the incident after the day of her report.

In addition, the narrative statement that the District provided to OCR and the information communicated to Student B's attorney by the CPD contradict the Assistant Principal's assertion regarding the conclusion of the investigations. In its narrative statement, the District described the School's handling of Student B's complaint, reporting that "[b]ecause the police were actively involved in gathering evidence, the school suspended their investigation." The District was not aware of when (or whether) the CPD concluded its investigation and informed OCR that "the police were still gathering evidence as of XXX." According to the attorney for Student B, the CPD detective who handled the case informed them in XXX that the rape kit results lacked DNA, and thus could not be used to bring criminal charges against the accused male students. However, the detective reportedly had concerns about the male students because they had been the subjects of a similar complaint. He stated he would suspend Student B's complaint investigation yet keep it "open" in the event that the male students were accused of future criminal activity.



According to Student B’s mother, she called the Dean while Student B was XXX to ask how Student B could safely return to XXXX, and how the school was dealing with the male students enrolled at the School. The Dean reportedly told her he could not transfer the male students because of their right to an education. According to Student B’s mother, the Dean did not offer any services to enable Student B to safely return to XXXX. Furthermore, although seven of the students accused of raping Student B remained enrolled in XXXX, the school neither assessed the risk of their continued attendance nor took any actions designed to ensure that the school environment was safe for all the other students who attended XXXX.

In XXX, Student B’s attorney requested that for Student B’s safety she be permitted to transfer to the District’s XXX, which the District granted. Student B attended the school for approximately XXX during which she missed more than XXX days of school because she was afraid of taking public transportation to school alone.

In XXX, Student B’s family moved to a different neighborhood within the District and requested a transfer to the District’s XXX School. After meeting with Student B, her mother, and their lawyer, XXX staff developed a safety plan for Student B effective XXX. Although the safety plan included an assigned staff escort for Student B between classes, Student B and her mother reported, which the District denied, that the person who was assigned to escort Student B between classes failed to show up at times or picked Student B up late and the School did not have a back-up escort. On XXX, Student B informed a clerk in the attendance office that her escort failed to pick her up and the clerk allegedly laughed at Student B, told her that she was not going to walk her to class, and stated “I hope you don’t have an anxiety attack.” On XXX, Student B’s lawyer wrote a letter to the Assistant General Counsel complaining about the Philips staff conduct and stated that Student B needed XXX from XXX. Student B’s lawyer requested that the District provide Student B homebound educational services, but informed OCR that the District did not provide the requested services.

### **C. District-wide Responses to Student Sexual Harassment Complaints**

OCR investigated the District’s implementation of its Title IX policies and grievance procedures (including the Title IX Policy and Code of Conduct) for the 2012-13, 2013-14, 2014-15 and 2017-18 school years. The District provided OCR incomplete information related to approximately 357 incidents of adult on student sexual harassment and approximately 2,800 incidents of student on student sexual harassment. The information included only the narrative descriptions of student sexual harassment complaints that the District school employees recorded in the District’s Verify incident reporting system. The District did not provide OCR supporting documentation related to the investigations that occurred at 411 District schools. OCR reviewed the District’s documentation and assessed the District’s systemic practices by interviewing key witnesses involved in the District’s response to all student sexual harassment complaints.

*The District’s Response to Student Sexual Harassment Complaints Prior to June 2018*

*Title IX Coordinator*

In October 2015, the District informed OCR that the Equal Opportunity Compliance Office (EOCO) Administrator is the District designated Title IX Coordinator. It reported that the EOCO Administrator had the qualifications and training to serve as the Title IX Coordinator. Specifically, she “has served as the District’s Equal Opportunity Compliance Office Administrator since 1997. As such, she has eighteen years of experience supervising the implementation of CPS’ Policies and Agreements and supervising investigations of sexual harassment, discrimination and retaliation complaints.” However, when OCR interviewed the EOCO Administrator in July 2017, she stated that she was not the District’s Title IX Coordinator. According to the EOCO Administrator, the District changed her title from “Title IX Coordinator” to EOCO Administrator in 1999, and she has not had the authority to coordinate the District’s response to student on student sexual harassment complaints since that time. She explained that she learns of a limited number of student sexual harassment complaints if a parent or student appeals the District’s determination in a particular case. The EOCO Administrator also stated that she does not coordinate the District’s response to adult on student sexual harassment complaints; she was not aware of the process for how the District addresses such complaints nor did she know who investigates them. She further explained that the District never provided her training on her duties as Title IX Coordinator. The EOCO Administrator informed OCR that she was not involved in the District’s response to the XXXX or XXXX complaints and had not been informed of the complaints.

In August 2018, in response to OCR’s interrogatories, the District stated that “[t]here is not one District employee responsible for tracking and monitoring all student reports or complaints of sexual harassment (including sexual misconduct and sexual assault) against a District employee. The District currently has a decentralized system wherein each school is responsible for tracking student reports.”

#### *Law Department Investigations Unit*

The Law Department Investigations Unit investigated complaints of sexual harassment of students by adults at all times relevant to the XXXX and XXXX complaints. Although the Title IX Policy states that all student complaints of sexual harassment against a District affiliated adult “shall” be “refer[red] to the Law Department for investigation, the Investigations Unit Manager informed OCR that in practice, his Unit reviewed the allegations to determine whether they could be handled at the school level. The Unit ceased investigating adult on student sexual harassment complaints at the start of the 2018-19 school year.

The Title IX Policy does not set forth procedures governing Law Department investigations and the District did not provide OCR procedures for the Investigations Unit’s work. According to the Investigation’s Unit Manager, the only standard used to determine whether the Unit would investigate an allegation was whether Investigations Unit staff “collectively feel it calls for an investigation.”

The Investigation’s Unit Manager stated that his Unit did not inform the EOCO Administrator when it opened an investigation and had no timeframe within which to complete its investigations (he reported that they typically took 2-3 months). He was unaware of any District guidance regarding whether the District informed students of the outcome of investigations.

According to the Investigations Unit Manager, Law Department attorneys in the Labor Unit determined sanctions for adults whom the Investigations Unit found responsible for sexual harassment in violation of the Title IX Policy and school administrators provided interim measures and remedial services to students. Although the Investigations Unit Manager asserted that the investigators in his unit kept records of their investigations and looked for Title IX trends, the documents produced by the District did not support this assertion.

### *School-based Investigations*

The District lacked written guidelines or procedures for school-based Title IX investigations, and District witnesses did not describe a consistent practice or approach. The District's General Counsel acknowledged that no entity in the District's central office, including the Law Department, supervised investigations into sexual harassment allegations that were handled at the school level. As discussed below, OCR observed significant variations in school-based responses to student on student sexual harassment.

### *Student on student incidents*

OCR selected 223 incidents from the 2017-18 school year as a representative sample of complaints and requested that the District provide all documentation concerning its investigations of these cases, including interview notes, services provided, and relevant sanctions. The District located and provided OCR information related to an additional 26 student on student complaints during the 2017-18 school year, which OCR reviewed as well.

OCR reviewed the documentation that the District provided concerning the 249 student on student sexual harassment and misconduct complaints reported to District operated schools during the 2017-18 school year. OCR reviewed files involving elementary, middle, and high school students, and observed widespread, documented reports of sexual harassment among students at all grades, including complaints involving serious allegations of rape and attempted rape, as well as other forms of sexual assault of students. Students reported sexual assaults by their peers while traveling to and from school, at school during the school day.

Many complaints alleged on-going physical sexual harassment of District students, including that students were repeatedly groped, grabbed, or fondled by their peers, who were often repeat offenders with a history of sexually harassing other students. These complaints documented reports of unwelcome touching over and under clothing, on the breasts, buttocks, and groin throughout the school day and at all locations in school buildings, including in school bathrooms, on the staircase and in hallways, while lining up at the water fountain, during recess on the playground in front of their peers, in the school parking lot, on school buses while traveling for school-sponsored field trips, to extra-curricular activities, and to/from their homes to school.

OCR observed that many of the complaints described students exposing their genitals at school to and in front of peers – in the classroom, on the playground, in the school bathroom – and during field trips and extra-curricular activities. Schools reported a significant number of complaints of verbal threats and harassment, with students disclosing that their classmates and peers made comments such as “I’m going to rape you in the bathroom;” ordered them to “suck

my d—k”; spoke extensively about graphic sex acts they would perform at school on their peers; and claimed “It isn’t rape if you enjoy it.” Some students threatened more violence if their peers reported the conduct. Finally, the complaints included numerous reports of widespread social media distribution of sexually explicit images and videos that were shared with classmates and peers both during the school day and after school. The complaints suggested that some students were coaxed and pressured by their peers to send sexually explicit images and videos of themselves, which classmates then distributed widely in the school without the student’s consent. In other cases, students who engaged in consensual activities were filmed by their peers engaging in the conduct without their knowledge and consent, and fellow students then widely shared the images among the student’s peers who discussed, viewed, and shared the images during the school day. In many of these cases, students reported suicidal ideation or threatened self-harm.

The District represented to OCR that the information it had provided in connection with these files constituted all of the information available that the District obtained from each involved school in response to these sexual harassment and misconduct complaints.<sup>4</sup> For each of the 249 complaints, at a minimum, the District provided OCR a copy of the Verify report the School created for the incident. In a number of the complaints, the District provided OCR a narrative statement to supplement the contemporaneous Verify report. The narrative describes information that the District obtained from each school (for example, lists of witnesses who school staff interviewed, services or remedies staff offered students, and sanctions and disciplinary actions staff took) but did not provide any independent, supporting documentation, such as notes from meetings in which services were offered to parents and/or complainant and respondent students, related service provider records showing counseling and social work services that were provided to student complainants and respondents, or email or other communications corroborating the District’s assertions. One school administrator in a case reviewed by OCR explained to the parent of a complainant who asked for a safety plan for her child that the school’s general practice is to develop such plans for offending students, to ensure the school environment is safe, but that there was not a practice to develop such plans for complainants to ensure their safety.

Of the cases of substantiated sexual harassment or misconduct where School staff disciplined a student for violating Code provisions, including 5-07 (Inappropriate sexual conduct, including unwelcome sexual contact), 5-09 (persistent or severe acts of sexual harassment), and/or 6-07 (sex acts involving use of force), the District provided no information in 100 cases to show how it provided remedial measures to the students who experienced the sexual harassment and misconduct. In some of the substantiated cases, the District indicated that it provided or offered counseling to students who experienced sexual harassment and/or sexual assault by their peers at school. However, the District provided counseling records in only two cases to document the support that school staff provided to the complainant and respondent students.

Finally, several of the cases that OCR reviewed involved incidents among students who attended different District schools. In those cases, the information the District provided OCR indicates that it did not coordinate with the involved schools either with respect to investigations of allegations or in connection with ensuring future student safety.

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<sup>4</sup> To gather this information in response to OCR’s investigation, the District asked each school to provide the Law Department an explanation and supporting documentation to show how the school responded to the report.

*Selected Incidents: Student on Student*

- OCR reviewed two complaints from a District XXX school that involved the same male student. In the first complaint, the male student lured a female classmate out of class by taking some of her possessions and leaving the room. When the female student followed him to retrieve her belongings, the male student ran down a corridor where he then grabbed the female student and pulled her into an empty corridor, grabbed her breasts, and attempted to kiss and sexually assault the female student. She was able to get away from the male student, leave and report the misconduct to a peer and teacher. The male student received a two-day out of school suspension. The District notified his parents and the police of the incident. According to the School, it developed a safety plan for the female student and offered her counseling; however, she transferred out of the school after the incident and did not avail herself of the school-offered services. No counseling or safety plan was developed for the male student who continued to attend the School. Two months after the first incident the male student engaged in similar sexual misconduct with another female student. He lured the female student to the library by taking her belongings from her. Once she was in the library, the male student grabbed her breasts, attempted to kiss her, exposed his penis, and tried to sexually assault her while prying open her legs. After the female student reported the attempted assault, the School contacted the parents of both students and local police. The District's narrative indicates that the male student's mother withdrew her son from the School before disciplinary action could be taken and did not re-enroll him in the school thereafter. XXX
- At another District school, a XXX male XXX student choked a female student (age unknown) in the hallway as she was walking by him. The male student turned her around and tried to grab her buttocks and breasts, and after she slipped on to the floor, he pinned her down in the hallway with his body while he touched one of her breasts and grabbed her buttocks, notwithstanding her protests. Another female student ended the assault by hitting the male student on the head. The female student reported that this was the third time the male student had assaulted her. She also said that he had done "inappropriate things to other girls in the in XXX grade but no one says anything because they're afraid..." The Verify report indicates that the school provided counseling services to the male student, but did not discipline the male student, and the Verify report contains no information indicating that the District provided services to the female student, that it implemented a safety plan for either student, or that it investigated the male student's alleged sexual misconduct towards other students.
- Another incident involved a XXX female District high school student who was sexually assaulted in her hotel room on a school-sponsored extracurricular trip to visit colleges by a sixteen-year-old male student who attended a different District high school. The male student entered the female student's room when her roommates were present and remained after the roommates left. Thereafter, the male student groped her legs, thighs and breasts despite her protests; he grabbed the female student around the neck and asked her if she liked "the aggressive type;" she clung to a dresser to avoid being pulled onto the bed and when she was able to break free, he chased her down, and continued the

assault. The female student wrote a lengthy description of the event describing it as “A Traumatic Experience” in which she “was almost a rape victim.” District staff interviewed the male student, who denied engaging in the alleged sexual misconduct, and the roommates who said that the female student told them as soon as they returned to the room that the male student tried to force himself on her and would not take no for answer. About a week after preparing the Verify report, the Principal of the female student’s school wrote to District staff<sup>5</sup> “...is anybody on the same page with how to support this student and complete an investigation on this student’s situation? [The Principal of the accused student’s school] has also sent you a string of emails related to this matter. The way that this situation is being handled is unacceptable.” The male student was not disciplined (and no finding was made as to the allegation of attempted sexual assault), because he transferred to another school. Although school staff provided escort services to the female student’s home-- as she feared retribution from students who attended the male student’s school-- the investigative file contains no documentation indicating that the District offered the female student counseling services or any other supportive measures.

- In another XXX school complaint, a male student was arrested and placed on home confinement for engaging in sexual misconduct in XXX. School staff investigated the allegation, and found that the male student engaged in nonconsensual sexual misconduct when he attempted to remove the female student’s shorts and skirt at school, but only after the State’s Attorney became involved and reviewed evidence available to the District that it failed to consider during its first investigation. When the complaint was first filed, school staff did not review available video footage or offer services to the female student or discipline the male student. That summer, the male student was arrested and the State’s Attorney subpoenaed the school’s video. The District’s narrative states that the male student was suspended for the rest of the school year but does not indicate when this occurred (XXX). It was not until the beginning of the 2018-2019 school year that the District required the School to develop a safety plan for the female student, connected her with social work services, and modified her schedule so that she would not need to take tests near the area where the assault allegedly occurred.
- In an elementary school complaint, a male XXX student announced to his peers that he was going to rape one of his female classmates. He then chased this XXX female classmate around the playground during recess, threatening her with anal rape. Six students tried to restrain the male student, but they were unable to hold him back. When he could not catch the targeted female student, the male student attacked another female student, grabbing her wrist and pulling her toward him; she yanked her arm away and slapped the male student. The female student cried as she reported to school staff that previously, the male student had walked behind her, moaned and said: “I can finally stick my dick in you”, “so you’re clean?” She also reported that the male student constantly touches her and “pokes her all over her body” and chases her around during recess. She reported that she told him several times to leave her alone. The female student said she was frightened of the male student. Other students corroborated her testimony. While the

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<sup>5</sup> The District has assigned an investigator from the Law Department Investigation’s Unit to investigate the chaperone’s role in the incident (i.e., why was the accused student in a female student’s room).

District issued the male student a five-day out-of-school suspension and referred him to counseling and an evaluation, the documentation does not include a safety plan for the female student or that the school offered her counseling services or other resources.

- Another complaint involved a male XXX student who was accused of “touching the nuts” of a male classmate. The school contacted both parents and held a parent conference with the parent of the accused student. The complainant male student’s parent kept him home from school because she was not confident that the school had adequately addressed the male student’s misconduct or taken steps to ensure her son’s safety at school. The male student again inappropriately touched other students in school and exposed his penis to another student in class. It was only after the second incident that the District took action to address the student’s harassing behavior by developing a “sexualized behaviors safety plan” for him.
- An XXX male student admitted in front of the entire class that he had told several female classmates “Give me a lap dance and give me head.” He was also accused of rubbing girls’ thighs and throwing coins between their legs that he would then attempt to retrieve despite their protests. The Verify report states that the male student stated he was “just playing.” School staff informed the male student that his conduct was “indicative of sexual harassment” and warned him “not to touch females in this manner again or authorities will be contacted.” Despite the fact that the principal acknowledged that the conduct raised serious allegations and involved multiple student complainants and witnesses, the school did not address the alleged harassment, and instead responded by referring the male student for counseling and mediation. No services or remedies were offered to the harassed female students.
- An XXX male student inappropriately touched a female student on the breasts and buttocks and attempted to simulate intercourse with her in front of a group of students at the water fountain. During the school’s investigation, staff learned that this male student had taken another student’s chap stick and coerced her to touch his genitals to get it back. The school suspended the student for two days and developed a “sexualized behaviors safety plan,” but offered no services or remedies for the female students despite determining that the male students’ behavior amounted to sexual harassment.
- OCR reviewed numerous reports of unwanted sexualized touching by students during school hours, which in many cases left students fearful and reluctant to return to school. For example, during a computer class a XXX male student asked a female student if he could touch her “tit,” she said no but he did it anyway. He then asked her for a “hand job” and pulled her hand toward his private area. She pulled her hand away and he grabbed her breast. He then sat on her lap even though she told him not to do so and asked her to massage his leg. According to the Verify report the male student admitted that he sat on the female student’s lap and “touched her inappropriately, not following directions.” He further admitted that he touched the female student’s breast, she asked him not to do that again and he pulled her hand towards his private area. The school notified both parents of the incident, the female student’s parent took her daughter home and filed a police report. According to the Verify report “...and now the young lady does not want to come to

school as a result of this. She is afraid to see him and afraid of what he will do.” The male student received a XXX. The investigative file includes an unsigned reintegration plan for the male student, but no evidence of any services given to the female student.

- A XX student XXX reported that a XXX classmate stroked his penis during recess, touched his penis in the restroom and told him he would stab him with a knife if he said anything. According to the mother of the complaining student the accused student “...physically pulled out my son’s penis from his pants and rubbed his genitals, pulled on his penis in a jerking motion on the school playground.” The accused student told her son “... that this behavior is okay because he was being gentle and he wasn’t ‘doing it hard’ and as a result he (my son) shouldn’t worry about it.” The mother complained in an email that two days after the incident her son was still in the same classroom as the accused student who continued to harass him by “...making gestures with his fingers at his own eyes, then towards my son’s penis, and continued by making a fist at him.” In response to an inquiry about how the school intended to keep her son safe, a school staff member expressed surprise that the parent had returned her son to school, noting “... I thought you were keeping him home.”
- A XXX female student was with XXX male students in a classroom working on an extracurricular holiday program. She fell on the floor and males converged on her, one saying that they were going to run a threesome on her. One of the male students grabbed her ponytail and pulled her head towards his crotch. Another male student pulled her up while a third blocked her path and the fourth male student acted as a bystander. The female student managed to escape and reported the incident to her teacher. The male students are given a XXX OSS for inappropriate sexual conduct and all of the students participated in a restorative conversation. One of the male students was given a safety plan with check in services and two of the students had their suspension reduced to a one-day OSS and ISS. The School offered the complainant counseling services which she declined but she accepted the school’s offer to transfer to a different class.
- In another case, a XXX male student grabbed 7 students by their heads and pushed their heads into his crotch, calling this “game” “taking them to the dark side.” The District file includes only a Verify report noting that the male student received a XXX OSS for inappropriate sexual conduct and that a safety plan would be developed for him. The file does not include a safety plan, contemporaneous documentation of any services provided to the male student or any mention of a safety plan or services for the 7 students. OCR reviewed several other cases that involved students who were grabbed by the head or neck and shoved towards the crotch of a classmate during school hours.
- A XXX female student was walking with a friend after school to a nearby XXX (the District noted she was “traveling from school” in the Verify report). A group of 4 male students approached the female student, made what she described as aggressive sexualized remarks and the accused male student grabbed her private area. Female students interviewed in the investigation identified male students (including the accused student) who yelled sexualized terms and slapped female students’ butts. One female student said that male students yell sexual terms like (d--k, ass and f--k). Another female



student said that male students yell inappropriate things “all day.” She said they call girls “stupid bitch” and “dumbas whose (sic).” The female student also reported that the male students touch and slap female students butts despite their protests; she mentioned “slap butt Fridays” where boys would “smack girls butts without their consent.” Another female student said she had been aware of slap butt Friday since XXX grade (she said the game stopped when a teacher talked about sex harassment). Another female student said that the accused male student asked her in the hallway if he could “put my d--k up your p---y.” She also mentioned that the accused student would slap a female student’s butt while she was passing papers in class despite her protest and slapped another female student’s butt in the library despite her protest. Another female student reported that the accused student slapped her butt in gym class. Although the witness statements from the female students identified male perpetrators and female targets including the statements’ authors, it does not appear that the school investigated the conduct of the other male students identified or provided services to these female reporters (only the reporting student listed on Verify was offered counseling services). The school gave the accused student a XXX OSS, a very restrictive safety plan and recommended him for expulsion; he was ultimately referred to the SMART program in lieu of expulsion. A month prior to the Verify report incident, a female teacher reported in an email that the accused student had been making sexually inappropriate remarks to her outside of her classroom despite her instruction that he stop making such remarks. The documented remarks included: “Ms. [ ] with your fine ass” “Ms. [ ] your ass is fat as fu—k” “Ms. [ ] you’re thick as f—k”. “Ms. [ ] let me get your number.” The teacher indicated that she felt “no amount of discipline or parent involvement would cease his inappropriate comments” so she filed a police report, which she attached to the email. It does not appear in the file that the District took any action towards the accused student in response to this report.

- A XXX male special education student mentioned at lunch that two male XXX students were having sex with each other. The Principal interviewed the students who all three admitted that they were all involved in a “dirty dare” game; one of the male students reported that the other two male students forced him to engage in oral sex off campus and the instigator threatened violence if he did not perform the sexual acts. The other student confirmed the instigator’s threats of violence. One of the students also reported that the instigator cornered him in a school bathroom and forced him to touch the instigator’s penis; the instigator admitted this conduct. The school called DCFS and the police, created safety plans for the two students who remained in school including bathroom protocols and transferred the instigator to an alternative school for the remainder of the school year. The instigator received a XXX OSS for sexual act which include use of force and an expulsion recommendation. Per the law department narrative one of the remaining students was later reevaluated and transferred to another school. The law department reported but did not document increased social services and check ins for the student who remained at the school.
- A XXX male student touched XXX female student in her private area during class. He also took a condom out of the package and rubbed it on himself. Three other students saw the male student rubbing himself with the condom. The female student asked the male student what it was and he told her it was something you put on your d—k. The male

student received a XXX OSS and parent conference for inappropriate sexual conduct. The file only included the Verify report, no documentation or reference to counseling for either student or notice to the parents of the female student.

- A XXX male student (repeat offender) grabbed a XXX female student's butt "and other inappropriate places on her body" repeatedly in the hallway despite her protest. He did not stop until other students and staff came into the hallway. The male student admitted his conduct but did not show any remorse or acknowledge wrongdoing. School staff notified the police and the male student was arrested. The school contacted the students' parents, changed schedules and put a safety plan in place to reduce contact between the students. The male student received a XXX OSS and referral to counseling and the Behavior Health Team. The file includes an e-mail referencing efforts to check in and provide counseling to the female student. One month after the hallway incident, the same male student put his hand around his former girlfriend's neck, pushed her against the lockers, rubbed her between her legs saying he "could have this anytime." The female student also reported that the repeat offender had threatened to share compromising photos of her to get her current boyfriend to break up with her. She also reported that the repeat offender had hit her butt multiple times after they stopped dating including on the day of the locker incident. The file does not include any indication that the school offered services to the female student. The school gave the repeat offender a XXX OSS for inappropriate sexual conduct and referred him to intervention. The misconduct report states that staff need to develop a safety plan including to ensure that he does not endanger the safety of students and staff. The School created a safety plan for the male student in connection with an unrelated third incident, which indicated that he had already served XXX out of school suspension and XXX in school suspension, yet found the "student lacks impulse control, has a difficult time respecting boundaries of personal space with his peers..." The safety plan for bullying behaviors states: "Student has repeatedly engaged in inappropriate physical actions with other female students, lacks impulse control, has a difficult time respecting boundaries of personal space with his peers."
- A female student reported that a male student had been sexually harassing her in class for 5 months. More specifically he would sit next to her and put his hand between her legs and forcefully put her hand on his private part. He also put his hand around her shoulder and then groped her breast. He also asked her for a nude photo on snapchat, so she blocked him. The female student said she did not report the incidents earlier because she hoped he would leave her alone. The school gave the male student a 5-day OSS and referred him to a District intervention program. The female student's parent reported the misconduct to the police. The file included a signed safety plan for the male student which included a no contact order. An email in the file indicates that the school changed the male student's schedule and noted that staff referred the female student to her counselor who met with her. The school also offered the female student a safety plan.
- A male student walked into the girl's bathroom and grabbed a XXX female's student who was in the bathroom after lacrosse practice, he left the bathroom went into the hallway and grabbed a sixteen-year-old female student's butt. The male student was given a

XXX OSS for inappropriate sexual conduct. The District notified the police of the incident and the unsigned reintegration plans says the male student will be offered counseling services upon his return. The file did not include documentation of services (or notice of outcome) for the female students.

*Selected Incidents: Adult on Student*

The District identified 112 incidents of adult on student sexual harassment during the 2017-18 school year and provided OCR with documentation related to 73 of those incidents. The Law Department Investigations Unit investigated 31 of the incidents. The Law Department completed 21 of the 31 investigations in three months or less. Other cases took longer to investigate, including one that remained under investigation by the Law Department for 470 days. The remaining cases were handled either at the school level or by other District departments, including the Talent Department, EOCO, Transportation Department, and Labor Unit. When cases were not investigated by the Law Department, the documentation that the District provided to OCR did not include an investigation report, did not summarize witness testimony, and did not include other information to support the District's conclusion. Additionally, the documentation provided to OCR did not indicate that other District departments reported the results of their investigation to the Law Department or the EOCO Administrator, unless discipline was issued, in which case the Law Department was notified as part of the disciplinary process. The files do not include documentation as to whether services were provided to the students.

The documentation in connection with 34 of those complaints and other complaints included investigation reports summarizing the Law Department Investigations Unit's findings. The District terminated the employment of 18 adults whom it found engaged in sexual harassment or misconduct in connection with these complaints. The District designated the personnel files of 15 of the terminated individuals as "DNH," rendering them ineligible for future District employment. OCR could not discern the current employment status of 62 of the adults.

The conduct in adult on student files from the 2017-18 school year that OCR reviewed included several instances in which District employees engaged in nonconsensual or what the parties sometimes described as "consensual" sexual relationships with District students. In several cases, OCR observed that adults groomed students for sexual relationships by giving them money, buying them gifts and food, giving them rides, and showing them favor in school-related activities. OCR also reviewed several complaints where the District substantiated an allegation or report that a teacher or security guard shared or solicited and received sexually explicit images and text messages with underaged students. OCR reviewed numerous complaints involving sexual harassment and a lack of appropriate boundaries between teachers and students.

*Selected Incidents*

- In a case at one of the District's XXX schools, a teacher resigned after she admitted to engaging in a sexual relationship with a student whom she supervised in extra-curricular activities, including as the student manager of the XXX team and while traveling abroad for a school-sponsored trip XXX. OCR reviewed several additional complaints alleging an inappropriate sexual relationship between District teachers and their students. Several

of the complaints could not be substantiated, but in one case, school staff reported an inappropriate texting relationship between a female teacher and a male XXX school student. The District provided OCR only the Verify report documenting the school-level complaint, as well as documentation that the teacher was terminated three months after the complaint. In its narrative statement, the District asserted that the teacher was removed from her position the day the complaint was received, but provided no information related to a complaint investigation or remedies for the affected male student. In another case, the Law Department Investigation's Unit was unable to substantiate allegations that an elementary school teacher at a District XXX school frequently favored mature XXX and XXX female students, one of whom he allegedly gave a bra and underwear as a gift. The Investigation Report indicates that the Law Department could not substantiate the allegation after the female student did not consent to an interview and the teacher denied the allegations.

- Information related to a complaint against a teacher at a District XXX school shows that he resigned from his long-time position as the XX school's XXX teacher in XXX, six weeks after the Law Department Investigation's Unit launched an investigation into extensive allegations against the teacher. The teacher was permitted to resign, despite the ongoing investigation, in which the Law Department ultimately found credible evidence that the teacher "had a practice between 1993 – 2012 of establishing relationships with his students at school and after school for the purpose of enticing them into sexual relationships." The investigation considered whether the teacher had watched pornography with his students, engaged in sexual intercourse with several of them, and had a long history of discussing "raunchy" topics in class (pornography, masturbation, preferences for receiving "head" rather than engaging in intercourse, etc.). The District had investigated the same teacher for making sexual advances toward a student in XX, but did not substantiate the allegation at that time, and continued to employ the teacher at the school. The District acknowledged in documentation provided to OCR that it never notified the school community of the misconduct it determined that the teacher had committed, and stated that it will "develop and distribute notification guidelines for the 2018-19 school year" to address future situations where allegations of sexual misconduct against an adult are substantiated.
- Another teacher at the same XXXX school acknowledged that he solicited nude photos from a then-current student by text during the 2012-13 school year. The teacher was the sponsor of an extra-curricular activity in which the female student participated, and also taught her in a class. The "sexting" relationship was reported to the District in XXX by a friend of the student, who stated that she knew of the relationship when it had occurred, but only recently understood that it was a "big deal" about which the school should be told. The Law Department confirmed with the former female student that she had engaged in a sexting relationship with the teacher. She stated that she sent the teacher a nude picture of herself after he "dared" her to send him the picture. The complaint also noted that the teacher had solicited nude photos from another female student around the same time, but she rebuffed his request. During its investigation, the District learned of a second student who reported that the teacher "had made inappropriate comments about her body and had contacted her excessively." That student described the teacher as

“flirtatious” and found his behavior “gross.” She believed that other students had similarly negative feelings about the teacher and told the Law Department that she did not believe he should be around kids. The teacher acknowledged to the Law Department that he had engaged in the sexting relationship with a student, and further acknowledged that he asked the student to send him nude pictures to him via cell phone while she was a student and he was a teacher at the school. He further admitted to receiving topless photographs of the female student. The District reassigned the teacher to a position in the Network Office on XXX, but has not reported to OCR whether it has moved to terminate his employment or provided services to the female students or determined the scope of the misconduct i.e., investigated the extent to which he had engaged in similar conduct with other students.

- In another complaint, a paraprofessional who also worked as the XXX school Assistant XXX Coach was accused of sending a nude video of himself to a female student who was XX during the 2017-18 school year. The female student knew the coach because she was on XX, which worked out after school in the same facilities as the XXX team. The student was also in a XXX class that the Assistant Coach staffed as a paraprofessional. The Assistant Coach acknowledged that he initiated communication with the student, and further disclosed that he had communicated with at least three other female students at the school. The Assistant Coach provided the Law Department with a copy of a nude video he had taken of himself but denied sharing the video with the student or knowing how she might have received it. According to the Assistant Coach, if he had shared the video with the student, he had done so accidentally. The District suspended the Assistant Coach within a week of receiving the complaint and terminated him two months later with a DNH designation. The Law Department Investigations Unit Investigative Report included testimony from the XXX Coach who explained that the Assistant Coach was a graduate of the school and a former member of the XXX team who was “like a son” to the Coach even after he graduated. The Head Coach admitted that he had allowed the Assistant Coach to volunteer as the Assistant Coach for the football team before he was hired to work as a paraprofessional at the school and without submitting any of the required paperwork for the Assistant Coach to be approved to work with the team.
- In one particularly egregious sexual harassment case, XXX school XXX instructor at a XX school was accused of sexually harassing students over the course of a twenty-year career. The teacher was reported to DCFS, temporarily reassigned to a Network Officer during the pendency of one investigation and ordered to undergo mandatory sexual harassment training. However, the teacher’s behavior continued and over the years, students reported that he made them extremely uncomfortable.

The teacher’s documented history of sexual harassment at the District began during his first year as a District employee when a student complained about his inappropriate classroom behavior, including that he touched her on the thigh, stomach and shoulder. This report resulted in an oral reprimand following a hearing in XXX. At the end of that school year, the teacher transferred to the District selective enrollment high school where he remained employed for 20 years and continued to work as of XXX, when the District provided information about him to OCR. In XXX, the selective enrollment high school’s

then-principal documented a meeting he had with the teacher in which he counseled the teacher that he was “possibly dancing with appropriate boundaries in terms of physical contact with selected female students,” and suggesting that the teacher “remove the blinds from his office window and ensure that he not close the door fully when meeting with students.” In XXX, a female student reported anonymously that the teacher grabbed her thigh to take hold of a temporary student ID that she had taped to her pants, stating: “You girls wear your I.D.’s down there so that us old men get in trouble for looking.” The incident was reported to DCFS and the District temporarily reassigned the teacher to a network office during the DCFS investigation. The teacher was returned to the classroom several weeks later; however, as a result of that investigation, the Principal directed the teacher “to attend an in-depth workshop on sexual harassment issues.”

Over the course of the next decade, multiple students complained about the teacher’s inappropriate conduct, although few of the complaints were entered into the Verify system and none resulted in formal discipline of the teacher. During the spring semester of the 2017-18 school year, a group of students with one parent complained to the school principal that the teacher was checking students out in class and staring at their breasts, caressing their legs and thighs, and stomachs, touching their buttocks and stroking them inappropriately “starting from the top of their backs to the small of their backs.” Students reported the teacher regularly commented on student attire (allegedly discussing girls who wear thongs) and compared students’ bodies to those of teachers and staff at the school, suggesting that female musicians would get higher ratings from judges during competitions based on their physical appearance. The students also alleged that the teacher frequently told sexual jokes and made sexual innuendos in class, including, on one occasion, telling a male and female student who sat in the back of his classroom that he hoped their hands “were not sticky” insinuating they had engaged in sexual activity during class. The students reported that the teacher’s conduct and comments were “creepy” and unprofessional. They reported that he made them extremely uncomfortable. Some students disclosed that they were afraid to go to school, while others asked to drop orchestra despite wishing to continue to play a musical instrument, because of the teacher. Several students complained that their reports, which they felt went unheeded by school administrators in the past, caused the teacher to retaliate against them in the classroom by singling them out for criticism, chiding them for telling on him to their parents or making comments like “I’m always getting into trouble with faculty because of you kids,” and giving them cold stares when he encountered them at school.

In response to the group complaint that the District received in the spring of 2017, the Principal stated that he consulted with the Law Department and was advised not to create a Verify report and instead directed to prepare a formal memorandum detailing concerns regarding the teacher’s conduct and consequences if it persisted. The Principal prepared a formal memo and met with the teacher. The memo directed the teacher to “[i]mmediately cease any and all inappropriate behavior and language in interactions with students, such as those ... that make students uncomfortable and may constitute sexual harassment.” However, in the fall of 2017, when a parent of one of the complaining students discovered that the teacher continued to work at the school and was again the orchestra instructor, she sent an email to the Local School Council detailing allegations of

widespread sexual harassment of students in orchestra by the teacher. She ended her email by chiding the principal, stating: “Shame on [principal] for his lack of leadership especially with respect to explicit sexual situations in class.” In response to this email, the District’s Chief Talent Officer pressed the Law Department to open a formal investigation, writing in an email: I don’t know why this is a thing we’re willing to wait to “see improvement in these areas of concern.” This [sic] are super creepy allegations and being sexual in nature, they are combustible....I think we need to do an investigation and interview the students.

As a result, the Law Department Investigation’s Unit was instructed by Deputy General Counsel in XXX to investigate the teacher’s conduct towards students. During the course of the investigation, another student sent an email to the principal in which she stated that the teacher “ruined playing the flute, and ruined high school for me.” She relayed to him that after complaining about the teacher’s sexual harassment to another School staff member and an administrator the prior school year, the administrator told her that she was making “‘very serious accusations’ and that [she] would need more evidence,” to go forward with a complaint against the teacher. As a result, the student wrote “I remember feeling alone because no one would help me or stand up to him.”

The Investigation’s Unit completed its investigation on XXX, finding credible evidence that: the principal allowed the teacher to continue to teach “despite being presented with sexual harassment complaints” against him and did not enter the reports into Verify; the teacher looked at girls’ bodies in class; compared students’ bodies in class to other students; touched multiple female students on the small of the back “outside of musical instruction;” and made sexually based comments and has engaged in sexually based conversations with students. The District did not provide OCR with information about the disciplinary consequences for the teacher or whether it provided any remedial services for the students. He is no longer listed on the school website as its orchestra director.<sup>6</sup>

- One District XXX teacher who was disciplined several years earlier for failing to maintain appropriate boundaries with students was the subject of an additional student complaint in the 2017-18 school year. In the new complaint, several students reported that the male teacher made inappropriate comments of a sexual nature (for example he told one student in front of the entire class that the student’s self-portrait looked like he had “a mouthful of cum” and told a female student that her self-portrait looked “sexy”), regularly told sexually inappropriate jokes in class, swore, and invaded female students’ personal space, often touching them in class. The Law Department Investigations Unit spent 8 months investigating the complaint and substantiated many of the allegations. The District reassigned the teacher to an administrative position more than two months after the complaint was filed and did not provide OCR with information on the teacher’s current employment status.

OCR reviewed numerous complaints against District security officers. The allegations against the security officers ranged from inappropriate touching and sexual banter to grooming and

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<sup>6</sup> [https://www.jonescollegeprep.org/apps/pages/index.jsp?uREC\\_ID=1465113&type=d&pREC\\_ID=staff](https://www.jonescollegeprep.org/apps/pages/index.jsp?uREC_ID=1465113&type=d&pREC_ID=staff) (last visited August 7, 2019).

inappropriate communications to security officers who acknowledged engaging in sexual relationships with students at the schools where they had been hired to ensure a safe environment.

- In one District school, a security guard was initially disciplined but not dismissed after the District substantiated that he repeatedly hugged and touched female XXX school students inappropriately. The District did not terminate the security guard XXX, when it received an additional complaint. The documentation that the District provided OCR does not indicate that the School offered to provide the affected students appropriate remedies. Instead, the District reported that the students' counselor spoke with them following a visit to the School by DCFS, which was also investigating the teacher's conduct. According to the District, it lacked records of the Principal's internal review of this complaint. The District further acknowledged a need to do "more" to ensure that students receive appropriate assistance after substantiated abuse reports and committed to developing an appropriate framework to provide such assistance in future cases where abuse is substantiated.
- At a different XXX school, the District terminated a security officer after the CPD reported that they had arrested the security officer who admitted to having a sexual relationship with a student at the school where he worked. The District learned through its investigation that the security officer also used the female student to sell drugs at the school on his behalf, and that their sexual relationship had lasted a period of several months. Although the Principal offered counseling to the female student, her parent elected to transfer her to a different school district.
- In another case, the Law Department Investigations Unit substantiated a complaint against a XXX school security guard who served as the coach XXX, in which it found that the security guard/coach repeatedly hugged female students, including one player on the team who reported that he lay his head between her breasts while he was seated and asked for a hug. The District also substantiated that the coach had caressed the student's stomach and lower back, inappropriately. During the investigation, the Law Department learned of a School employee who had witnessed the uncomfortable and inappropriate hugs and reported that the security guard called female students "baby." The Law Department also learned of other female athletes who "dismissed" the coach's unsolicited and unwelcome hugs because they worried the girls' softball team would be cancelled if they complained about the coach. The District suspended the security guard/coach but did not provide OCR with information about his current employment status, including whether he was terminated and received a DNH.
- At one District XXX school two different security officers were terminated following substantiated allegations of inappropriate contact with students. In the first case, the District terminated a security guard who gave gifts (food, jewelry and perfume) to a female student who he occasionally also drove home from school. In the second case, the District fired a different security officer at the XXX school, placing a DNH in his personnel file, after he repeatedly offered to buy a female student things, offered her money, and failed to maintain appropriate boundaries with the student.



In some cases, the District provided scant documentation and OCR was unable to ascertain how reports of sexual harassment and misconduct against school staff were addressed.

- There was a XXX teacher accused by female students of asking to go to the bathroom with them and taking unauthorized videos of the students, but the District provided OCR no documentation or information about how the report against this teacher was resolved.
- Another case investigated by building staff rather than the Law Department Investigations Unit involved allegations that a male security officer made inappropriate comments to female students, calling them “baby girl” and “sexy ass,” and commenting on their physical appearance. The documentation provided to OCR indicates only that the security officer was reassigned to work only at the main entrance to the school to minimize contact with students during the investigation. The District did not report whether it substantiated the allegations or terminated the security officer.

OCR’s review of the investigative files of the above-described cases revealed that the District did not consistently offer interim services or remedies to affected students, did not complete investigations, did not attempt to determine whether the harassing conduct impacted other students, including students involved in extracurricular activities at the school, and did not notify parents of affected students of the adult’s conduct. Some students in cases reviewed by OCR reported feeling unsafe and afraid as a result of these employees’ conduct. Some informed the District that they wished to withdraw from classes and extra-curricular activities to avoid further contacts with these adults. In several of these cases, the District significantly delayed removing an accused adult from the school and classroom environment or provided no information to establish that the adult was ever removed as a result of the complaint. In numerous complaints the Law Department’s Investigation’s Unit concluded that School staff and administrators were either unaware of their obligation to document in Verify and report to DCFS allegations of student sexual harassment and misconduct by District employees or knew of their duty to report yet failed to do so.

*Chicago Tribune’s “Betrayed” Series on Sexual Abuse and Misconduct in the District and the District’s Response*

OCR’s review of the District’s response to student sexual harassment complaints is consistent with reporting by the *Chicago Tribune (Tribune)* during the summer of 2018 in a series entitled *Betrayed*, which reported on the District’s alleged persistent failure to respond appropriately to reports of sexual abuse and misconduct. According to the *Tribune*, much of the factual information to support the series was obtained from the CPD and court records. The *Tribune* reported that the CPD disclosed to the *Tribune* that it had investigated 523 reports of sexual assault or abuse of District students at its school over a ten-year period. The *Tribune* further reported that since 2011, the District’s Law Department investigated 430 reports of employee sexual harassment or sexual misconduct involving District students. According to the *Tribune*, the Law Department substantiated the misconduct in 230 of these cases.

The *Tribune* reported several cases that were consistent with OCR’s investigation in the systemic review. Regarding peer sexual harassment, the *Tribune* reported that a disabled student with a history of sexual aggression who was required to have one-on-one supervision at all times allegedly raped another disabled student. After the assault was reported to the School, the *Tribune* detailed how the Principal asked the student to describe how he was raped, and whether it hurt; the parents reported that the principal was eating her breakfast while the student described the bathroom rape. The *Tribune* noted that the Principal is still employed at the school. The *Tribune* also reported that a disabled student attending a vocational high school was allegedly sexually assaulted by another disabled student. The *Tribune* stated that the parent reported that in response to her complaint the principal (who reportedly is still employed at the school) implied that the incident was her son’s fault, commenting that the targeted student is bigger than his assailant.

With regard to adult on student sexual assault, the *Tribune* obtained records to show that a District volunteer track coach with four pre-hire felony convictions raped a 16 year old high school athlete repeatedly, a dance teacher and coach solicited nude photos of male students, groped, and stalked them in the showers, and a high school janitor sexually assaulted two special needs students.

In the *Betrayed* series, the *Tribune* described cases in which the District failed to provide educational and emotional support services for students who were assaulted by District staff like the cases reviewed by OCR. Additionally, the series described how the District’s Law Department was still charged with investigating reports of staff on student sexual misconduct, even when the law department could not remain impartial in such investigations as its lawyers (sometimes simultaneously) also defended the District in private court actions in addition to handling employee disciplinary proceedings related to employee sexual misconduct. The series disclosed the District’s practice of allowing employees to resign with a “do not hire” designation in their personnel file rather than face termination for sexual misconduct— a practice that failed to prevent District charter schools and other school districts from hiring the same employees.

In response to the *Betrayed* series, the District retained outside counsel to conduct a review of its responses to sexual violence (Audit). The Audit’s assessment of the District’s response to sexual harassment complaints is also consistent with OCR’s findings in its systemic review.

Throughout this report, [the auditor identified] systemic deficiencies in [the District’s] efforts to prevent and respond to incidents of sexual misconduct. [The] review showed systemic deficiencies in training, reporting, aggregating data, tracking trends, and comprehending the extent of the sexual misconduct facing [District] children. These deficiencies occurred at all levels; in the schools, the networks, the Central Office, and the Chicago Board of Education (Board). [The District] did not collect overall data to see trends in certain schools or across geographies or demographics. Thus, [the District] failed to recognize the extent of the problem.

The Audit further noted that “[the District] has not been effective in preventing and responding to sexual misconduct.” Consistent with OCR’s observations in its more extensive data review, the Audit report stated that the District does not consistently provide students (complainants and respondents alike) with interim measures or services during an investigation of a report of sexual

harassment, including sexual misconduct. The Audit report also noted that “...the Investigations Unit and [the District] as a whole, failed to appropriately review and consider the causes of specific sexual-misconduct incidents and take corrective action to prevent future incidents.”

*The District’s Response to Student Sexual Harassment Complaints After June 2018*

*Title IX Coordinator(s)*

On December 18, 2018, the District designated its First Deputy General Counsel as its Interim Title IX Coordinator. The Office of Student Protections (OSP) webpage at that time was updated to include the Interim Title IX Coordinator’s name, address and the main telephone number for the OSP.

The Interim Title IX Coordinator oversaw the District’s handling of student on student sexual harassment complaints, but did not oversee the work of the OIG Sexual Allegations Team, which had assumed responsibility for investigating adult on student sexual harassment complaints in October 2018.

The Interim Title IX Coordinator also informed OCR that in his role as Deputy General Counsel, his responsibilities included oversight of the District’s response to private lawsuits and external complaints filed by students against the District with respect to alleged sexual harassment. The Interim Title IX Coordinator did not recuse himself from working on such cases, nor did he perceive a conflict between his work as Interim Chief of the OSP and his Law Department duties. According to the Interim Title IX Coordinator, “litigators who defend the Board’s interest in those cases do not have any influence over what happens in OSP.” Likewise, he asserted that OSP does not act with the interests of the Law Department in mind. The Interim Title IX Coordinator asserted to OCR that if a situation arose where he felt conflicted or compromised in either of his roles, he would have recused himself from the case.

On March 27, 2019, the District designated a permanent Title IX Coordinator. She reports directly to the District’s Chief Executive Officer (CEO). As the Title IX Coordinator, she oversees District employees handling student on student sexual harassment complaints but does not oversee or otherwise coordinate the work of the OIG Sexual Allegations Team, which investigates adult on student sexual harassment complaints.

*Office of Student Protections*

At the start of the 2018-19 school year, the District launched the OSP to investigate student on student sexual harassment complaints and train staff regarding Title IX compliance.<sup>7</sup> The District reported that OSP also coordinates internally and externally available student resources, including advocacy and counseling, trains the District community on recognizing and responding to sexual harassment, develops District policies and practices, and collects and disseminates information on sexual harassment.

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<sup>7</sup> The District reports that it is has implemented comprehensive changes as a result of the outside consultant’s report.

According to the District, the OSP comprises three teams: Training and Compliance, Title IX Coordination, and Title IX Investigations. The Training and Compliance Team is responsible for training all District staff, students, and parents on sex discrimination, including harassment and violence. However, since the start of the 2018-19 school year, the only training that the District has provided to all staff is on the obligation to report suspected student sexual abuse to protective services. That training made no mention of Title IX, OSP, or the Title IX Coordinator. Additionally, each District school was required to designate a “Title IX School Representative” to serve as a point of contact for OSP. In spring of 2019 the District reported that the Training and Compliance Team trained over 500 Title IX School Representatives on District policies and procedures and newly developed “Guidelines for School Based Investigations” (the Guidelines), which describe how to conduct and document school-based Title IX investigations.

The Training and Compliance Team is also responsible for compiling reports and monitoring District-wide data on sex discrimination complaints to manage Title IX compliance.<sup>8</sup> The Title IX Coordination Team is responsible for coordinating how the District handles all student sexual harassment complaints. Although OSP does not investigate adult on student sexual harassment, it is responsible for coordinating services for the students and for-tracking OIG investigations. The District developed a new system, LawTrac, which is designed to capture data including relevant dates, store documentation of investigations, including witness statements, interview notes, and outcome letters, and provide detailed information about the outcome and any services offered and provided.

According to the District, the OSP Title IX Investigations Team investigates complaints alleging “serious” student on student sexual harassment incidents. According to the District, the OSP investigators investigate all reports of sexual harassment as well as complaints of dating violence. School-based personnel typically investigate complaints involving touching, inappropriate comments and verbal harassment. The District advised OCR that it has trained OSP investigators several times since October 2018 on Title IX and how to conduct sexual harassment investigations.

The Title IX Coordinator informed OCR that the District strives to complete all investigations as quickly as possible, and within a week when possible. If OSP is conducting an investigation, the OSP investigator is supposed to initiate the investigation within 24 hours of receiving the report. According to the Interim Title IX Coordinator, an investigative report including a summary of inculpatory and exculpatory evidence and witness statements is created in every investigation handled by school administrators or by the OSP Title IX Investigations team.

The OSP has a dedicated website, which does not include an email address or an online complaint form.<sup>9</sup> On April 29, 2019, the District updated the OSP website to include the name, address, and telephone number for the Title IX Coordinator.<sup>10</sup> The Interim Title IX Coordinator informed OCR that the District intends to more fully develop the OSP website so that it is a repository for all information related to Title IX.

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<sup>8</sup> On April 29, 2019, the District provided OCR a report developed by the OSP Training and Compliance Team on District-wide sex discrimination incidents.

<sup>9</sup> <https://cps.edu/Pages/illinoismandatedreporter.aspx> (Last visited June 4, 2019).

<sup>10</sup> <https://cps.edu/Pages/officeofstudentprotections.aspx> (Last visited June 19, 2019).

*Office of the Inspector General (OIG) Sexual Allegations Team*

On June 27, 2018, the Board of Education delegated to the OIG the District’s responsibility to investigate all reports of adult on student sexual harassment. OCR interviewed the IG and two Assistant Inspectors General (AIGs), who oversee the OIG Sexual Allegations Team.

The OIG Sexual Allegations Team coordinates with OSP in each case, sharing information, including documents, evidence, interview notes, and a final investigation report and recommendations with OSP. However, because of OIG’s independent function, the District’s Title IX Coordinator does not oversee or otherwise coordinate the OIG Sexual Allegations Team’s work or supervise its members. The IG confirmed that OSP manages interim measures for students involved in cases investigated by the Sexual Allegations Team, as well as remedial measures that may be necessary after the Team concludes its investigation.

In addition to investigating all adult on student sexual harassment complaints, the Board tasked the OIG with reviewing all reports of sexual harassment against District staff going back to 2000. Two private law firms are conducting this review for the OIG. According to the IG, the Title IX Coordinator is not being involved in this review but will be briefed on the results when each firm concludes its work.

### **III. District Policies and Procedures**

#### **A. Non-Discrimination Statement**

The District’s main webpage includes a link to a Non-Discrimination Statement that prohibits “unlawful discrimination, harassment and retaliation” on the basis of sex.<sup>11</sup> The District has not updated the statement on its website since February 2018, and it incorrectly directs inquiries related to Title IX and sex discrimination to the EOCO Administrator, who does not have full authority to coordinate the District’s efforts to comply with Title IX. As of August 28, 2019, the Non-Discrimination Statement was also inconsistent with other information disseminated by the District stating that effective fall 2018, Title IX compliance is being handled by the new Office of Student Protections and Title IX (OSP) and the Office of the Inspector General (OIG). The District provided OCR with a revised Non-Discrimination Statement that it intends to disseminate at the start of the 2019-20 school year. The revised Non-Discrimination Statement, which includes contact information for OSP, the Title IX Coordinator, and OCR, has not been widely disseminated.

#### **B. Non-Discrimination, Title IX, and Sexual Harassment Policy**

The District’s Comprehensive Non-Discrimination, Title IX, and Sexual Harassment Policy (Title IX Policy) previously applied to student on student and adult on adult sexual harassment complaints.<sup>12</sup> The Title IX Policy was in effect from May 25, 2016 until May 22, 2019, when the

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<sup>11</sup> See <https://www.cps.edu/Pages/home.aspx> with a link to <http://www.cps.edu/Pages/NonDiscrimination.aspx> (last visited June 18, 2019).

<sup>12</sup> <https://policy.cps.edu/download.aspx?ID=36> (Last visited June 4, 2019).

Board adopted a revised version of the policy (Revised Title IX Policy),<sup>13</sup> which will go into effect in September 2019.

Under the prior policy, student complaints of discrimination made against an employee, vendor, or volunteer-- including prohibited “romantic or sexual conduct” and “physical conduct of a sexual nature or use of sexually suggestive, offensive or inappropriate remarks”-- had to be referred to the District’s Law Department for investigation. Individuals with knowledge of such conduct were required to report it to child protective services and to law enforcement. The Title IX Policy did not describe procedures or a timeframe applicable to Law Department investigations, nor did it require the Law Department or the District to provide services and resources to students during or following an investigation.

Additionally, under the prior policy, student complaints of discrimination against another student had to be filed either with the principal of the school where the discrimination allegedly occurred, or with the EOCO. The Title IX Policy did not outline procedural guidelines or requirements with respect to school-based investigations of Title IX complaints; it provided only that schools discipline offending students in substantiated complaints consistent with the District’s Student Code of Conduct, and that complainants could appeal school-based investigation outcomes and sanctions to the EOCO Administrator within 15 calendar days if the school’s response was considered inadequate. Where the EOCO Administrator determined that a school-based outcome or sanction was insufficient, the EOCO was required to submit a report of its findings to the Law Department. The Title IX Policy did not describe procedures for how the Law Department proceeded after the EOCO Administrator submitted her findings.

The Title IX Policy contained a detailed description of the procedures the EOCO had to follow to investigate sex discrimination complaints; however, the EOCO Administrator informed OCR that she did not use or follow those procedures in the context of student sexual harassment complaints because she referred all such reports to the Law Department. The Title IX Policy did not specify any timeframe for the completion of Title IX investigations. As appropriate, the EOCO was directed to take interim steps to reduce contact between the parties. The Title IX Policy did not mention any other interim measures that the EOCO could implement in response to a report of discrimination. At the end of the investigation, the EOCO was directed to prepare a written report of the evidence and its findings, and to provide both parties with notice of the investigation outcome and the EOCO’s determination.

#### *Revised Title IX Policy*

On May 22, 2019, the Board voted to rescind the District’s Title IX Policy and replace the policy with a new Comprehensive Non-Discrimination, Harassment and Retaliation Policy (Revised Title IX Policy) that will become effective September 3, 2019. The District informed OCR on June 17, 2019, that it had posted the Revised Title IX Policy to its website. The Revised Title IX Policy covers all students, employees, and District affiliated adults such as vendors, volunteers, contractors, and Board and Local School Council (LSC) members. It applies to all employment,

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<sup>13</sup> <https://policy.cps.edu/download.aspx?ID=1280> (Last visited June 17, 2019). This letter analyzes only the Title IX Policy in effect through May 2019, which applied to the XXXX and XXXXX cases in addition to the cases the District reported to OCR for the 2012-13, 2013-14, 2014-15 and 2017-18 school years.

educational, and extracurricular programs and activities of the District, and defines and prohibits discrimination, harassment, retaliation and sexual misconduct. It does not designate an individual(s) or entity to receive all Title IX-related complaints or outline specific procedures for the investigation of complaints related to any conduct prohibited by the Revised Title IX Policy. Instead, the District has delegated to multiple entities the responsibilities to investigate Title IX related complaints, and it did not delegate to its Title IX Coordinator appropriate authority to effectively coordinate the District's compliance with Title IX, including oversight of all of the District's Title IX investigations. Specifically, the Revised Title IX Policy refers individuals to the OSP Procedure Manual "for inquiries or complaints related to student-to-student Sexual Misconduct, Harassment and/or retaliation," and to the OIG "for inquiries or complaints related to adult-to-student Sexual Misconduct, Harassment and/or retaliation." The District informed OCR that it has not yet adopted the OSP Procedure Manual, which will include Title IX grievance procedures. On July 3, 2019, the District provided OCR a draft of the OSP Procedure Manual for review.

Students who violate the Revised Title IX Policy are subject to discipline pursuant to the District's Code of Conduct. The District asserts that a copy of the Revised Title IX Policy will be provided to all new employees within 30 days of hire, and annually to all adults. The Revised Title IX Policy is also posted on the Board's website and will be posted in a prominent location at all District schools, network offices, and central office locations. Additionally, the District informed OCR that annual training on the Revised Title IX Policy will be provided by the CEO or her designee. The Revised Title IX Policy includes contact information for OSP and OCR and provides the name, title and contact information of the District's Title IX Coordinator.

The Revised Title IX Policy includes a non-discrimination statement that the District will include in its Code of Conduct and post to its human resources webpage and main District website. The non-discrimination statement included in the Revised Title IX Policy does not reference the District's designated Title IX Coordinator or state that inquiries regarding Title IX may be made to the Title IX Coordinator or OCR and provide contact information for both.

#### **IV. Legal Standards**

The Title IX regulation contains a number of procedural requirements, including a requirement that recipients designate at least one employee to coordinate the recipient's efforts to comply with Title IX, including the investigation of any complaint communicated to such recipient alleging its noncompliance with Title IX, or alleging any actions which would be prohibited by Title IX, 34 C.F.R. 106.8(a). In addition, the Title IX regulation requires recipients to publish a notice of nondiscrimination covering Title IX, and to adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any actions prohibited by Title IX and its implementing regulation. *See* 34 C.F.R. § 106.9(a); *see also* 34 C.F.R. § 106.8(b).

Sexual harassment is a form of sex discrimination prohibited by Title IX. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

In determining whether sexual harassment based on sex exists, OCR looks at the totality of the circumstances, and considers a variety of factors, including the degree to which the conduct affected one or more students' education; the type, frequency, and duration of the conduct; the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; the number of individuals involved; the age and sex of the alleged harasser and the subject of the harassment; the size of the school, location of the incidents, and the context in which they occurred; other incidents at the school; and whether there were also incidents of gender-based but non-sexual harassment. OCR examines the conduct from an objective perspective and a subjective perspective.

The type of sexual harassment traditionally referred to as “quid pro quo” harassment occurs if a teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct. Whether the student resists and suffers the threatened harm or submits and avoids the threatened harm, the student has been treated differently on the basis of sex.

Under Title IX, this includes taking appropriate steps to investigate or otherwise determine what occurred, and it may be appropriate for a school to take interim measures prior to or during the investigation of a complaint. Interim measures are individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct. Interim measures include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate.

The following factors are considered in determining whether an employee has engaged in harassment in the context of the employee's provision of aid, benefits or services to students: 1) the type and degree of responsibility given to the employee, including both formal and informal authority, to provide aid, benefits, or services to students, to direct and control student conduct, or to discipline students generally; 2) the degree of influence the employee has over the particular student involved, including the circumstances in which the harassment took place; 3) where and when the harassment occurred; 4) the age and educational level of the student involved; and 5) as applicable, whether, in light of the student's age and educational level and the way the school is run, it would be reasonable to believe that the employee was in a position of responsibility over the student, even if the employee was not. The school is therefore also responsible for remedying any effects of the harassment on the students, as well as for ending the harassment and preventing its recurrence.

Once charged with notice of a sexually hostile environment, a school should take steps to prevent any retaliation against the person who made the complaint (or was the subject of harassment) or against those who provided information as witnesses. At a minimum, the school's



responsibilities include making sure that the harassed students know how to report any subsequent problems, conducting follow-up inquiries to see if there have been any new incidents or any instances of retaliation, and responding promptly and appropriately to address continuing or new problems. In cases where the harassment is widespread, the school may need to provide training for the larger school community to ensure that individuals can recognize harassment if it recurs and know how to respond.

## V. Analysis

### **XXXX Complaint**

The evidence establishes that the District violated Title IX when it denied Student A and her mother a prompt and equitable response to her mother's August and September 2013 complaints that Teacher A sexually harassed and assaulted Student A, in violation of the Title IX regulation at 34 C.F.R. § 106.8(b). OCR also determined that the District, which previously determined that Teacher A sexually harassed other female students, failed to take effective action to address and prevent the recurrence of sexual harassment, this time against Student A.

OCR determined that the District's investigation was not prompt. The District completed its investigation of Student A's mother's sexual harassment complaint on XXX, which was 232 days (7 months and 20 days) after the XXX meeting between Student A's mother and the XXXX Guidance Counselor. During that meeting Student A's mother provided detailed information about and evidence of Teacher A's sexual harassment and assault of Student A. Although the Law Department interviewed numerous witnesses, including those identified by Student A's mother, the complexity of the case and available witnesses do not justify the duration of the District's investigation.

Further, it took the District an additional 11 months (until XXX) to resolve the case. At that time the District negotiated a settlement with Teacher A that permitted him to resign rather than face termination. The District attributes delays in the disciplinary process to the timeframe set by ISBE for Teacher A's termination proceeding. While Teacher A may have had certain contractual and state law rights, OCR finds the District did nothing during this period to apprise Student A and her mother of the process or the fact that a settlement was negotiated that allowed Teacher A to resign.

OCR further determined that the District's response to Student A's mother's sexual harassment complaint was not equitable. The District did not provide Student A interim measures, even though she requested assistance, and did not notify Student A or her mother of the outcome of the District's investigation into the complaint against Teacher A. Student A briefly enrolled in a different District high school, where she sought services, including homebound education. The District did not provide Student A with homebound services or any other services, such as counseling or social work, even though her mother submitted medical documentation showing that Student A was experiencing depression and post-traumatic stress disorder because she was sexually assaulted by a District teacher. The District first provided services to Student A when she enrolled in XXX School in 2016, nearly two and a half years after Student A's mother complained to the District about the sexual assault.

Although District employees contacted Student A about testifying at Teacher A's pre-suspension hearing, the District acknowledges that it did not inform Student A or her mother that the District completed its investigation and permitted Teacher A to resign. The District did not communicate this information despite finding that Teacher A had sexually assaulted Student A after serving her alcohol, in violation of the District's Title IX Policy, and despite knowing that DCFS substantiated the allegations against him and that he faced criminal sexual misconduct charges.

OCR further determined that the District failed to fulfill its responsibility to prevent and address sexual harassment by Teacher A that it previously substantiated. Specifically, the District did not take effective action to address and prevent the recurrence of sexual harassment by Teacher A as required by Title IX. Despite notice of Teacher A's prior sexual harassment of other female students, and notwithstanding a contemporaneous complaint alleging that he was sexually harassing a female teacher at XXXX, the District did not take corrective action to prevent the recurrence of Teacher A's sexual harassment. Therefore, OCR determined that the District's own failure permitted Student A to be subjected to sex discrimination that could reasonably have been prevented had the District responded promptly and equitably.

#### **A. XXXX Complaint**

The evidence establishes that the District violated Title IX when it failed to conclude the investigation of the complaint that Student B had been raped by XXX male XXXX students, assess the potential danger to the XXXX community raised by Student B's complaint and take action as necessary to ensure the community's safety, and provide appropriate support services to Student B as she struggled to continue her education.

Schools have the responsibility to provide a safe and nondiscriminatory environment for all students. In failing to complete the investigation of the complaint alleging that Student B had been raped by a group of XXX current XXXX students, the District potentially placed the entire XXXX school community at risk because it did not determine whether the students, who remained enrolled in XXXX, were a danger to the community and it did not take any steps to ensure the community's safety. The failures of the District in this regard constitute an abdication of its responsibility to ensure the all XXXX students had access to a safe learning environment.

Further, the District failed to offer or provide Student B interim measures to ensure Student B had access to her education. Although the District permitted Student B to transfer to another high school in XX, it provided no support services to her during her brief period of enrollment there. When Student B transferred to yet another high school in XXX, the District provided some support services to her, although implementation of those services was not consistent. In addition, an administrator at the high school harassed Student B, which resulted in her hospitalization XXX. XXX.

Accordingly, OCR determined that the District violated the Title IX regulation at 34 C.F.R. § 106.8(b).

#### **B. District Title IX Structure**

The evidence establishes that since 1999 the current and previous Title IX Coordinators lacked authority to coordinate the District's efforts to comply with the requirements of the Title IX regulation at 34 C.F.R. § 106.8(a). The evidence showed that the District did not have at least one District employee responsible for tracking and monitoring all student reports or complaints of sexual harassment and that it had a decentralized system wherein each school is responsible for tracking student reports. This lack of oversight prevented the District from identifying patterns, trends, and Title IX compliance deficiencies, as corroborated by its own Title IX auditor and OCR's findings. The District acknowledged that the Law Department Investigations Unit investigated complaints of sexual harassment of students by adults and did not share the results of its handling of complaints of adult on student sexual harassment with the Title IX Coordinator. The evidence also showed that many adult on student cases were handled either at the school level or by other District departments, including the Talent Department, EOCO, Transportation Department, and Labor Unit, and did not include an investigation report, did not summarize witness testimony, and did not include other information to support the District's conclusion. School administrators did not share the results of sexual harassment investigations with the Title IX Coordinator.

Compounding the Title IX Coordinator's lack of appropriate authority to effectively coordinate the District's compliance with Title IX, including oversight of all the District's Title IX investigations, the District acknowledged that prior to creating the OSP, it lacked a data maintenance system outside of Verify to maintain records of its response to such complaints.

### **C. Districtwide Response to Complaints of Sexual Harassment**

In response to OCR's interrogatories, the District acknowledged systemic failures to ensure a prompt and equitable response to student sexual harassment complaints. This is consistent with OCR's findings regarding the District's handling of the XXXX and XXXX complaints, and its review of the information produced in connection with 2,800 student on student complaints and 357 adult on student complaints, as well as OCR's more in-depth review of a representative sample of the District's responses to student sexual harassment complaints.

As set forth more fully below, the evidence obtained during OCR's investigation establishes that the District violated Title IX by failing to respond promptly and equitably to complaints of student on student and adult on student sexual harassment. For example, in XXXX and several other high school cases OCR reviewed, the evidence reflects that the District had notice of substantiated and documented prior incidents of sexual harassment and it did not take appropriate action to address the harassment. Additionally, students were not consistently provided interim measures and remedies to ensure their continued participation in the District's programs and were not consistently notified of the outcome of the District's investigation of their complaints. Complaints of sexual harassment were not handled by adequately trained individuals and not overseen by the District's Title IX Coordinator. Finally, OCR finds that the District failed to maintain such records of its responses to complaints of sexual harassment as are necessary to enable OCR to ascertain whether the District has complied with Title IX.

Additionally, OCR is concerned that Law Department Investigations Unit investigations may have been handled by employees whose simultaneous investigation of the allegations and role in defending the District against related private litigation could have created a conflict of interest such that their investigations were not impartial.

The District reported that with respect to student complaints, school “administration should be working with counselors, social workers, psychologists, and/or teachers on determining whether medical (physical or emotional) services need to be provided and whether a safety plan needs to be prepared for the student.” It further asserted that school staff are responsible for ensuring that students receive interim measures as appropriate, and concerns about whether services are adequate can be addressed directly with school administration. Despite providing OCR with this information, General Counsel for the District acknowledged that prior to the creation of the OSP at the start of the 2018-19 school year, no entity in the District’s Central Office-- including the individual the District designated as its Title IX Coordinator-- supervised the District’s efforts to comply with Title IX requirements to ensure an appropriate response in every case.

In reviewing the complaint documentation that the District provided regarding student on student and adult on student sexual harassment complaints, OCR found that while the District processed the complaints, it failed to ensure that students who were subjected to sexual harassment were consistently provided with appropriate interim measures and remedial services, and that the District also failed to ensure that staff took effective actions designed to stop the harassment and prevent its recurrence. OCR noted inconsistent responses by school and District staff. Some school administrators documented that students were offered information about counseling and other resources, other administrators indicated that a safety plan was developed. However, many of the school administrators did not document offering or providing students services and support so that they could continue to participate in the District’s educational programs and activities. These failures by the District effectively denied students who had experienced sexual harassment-- including egregious sexual misconduct-- the opportunity to participate in the District’s educational programs and activities free from sex discrimination by District adults and students.

The District further acknowledged that neither school administrators nor the Law Department Investigations Unit provided “formal notice” to students and parents when an investigation was completed. OCR observed that notice was provided to a respondent (employee or student) as part of the discipline process, when discipline was pursued. In other cases, OCR observed that District staff would indicate that they had contacted the affected students’ parents, but did not indicate that staff informed them whether the District substantiated the complaint and found harassment occurred. OCR’s review of summaries of the District’s response to complaints of adult on student sexual harassment and misconduct complaints during the 2017-18 school year establishes that the District did not document providing notice of outcome in the majority of cases.

#### **D. The District’s Grievance Procedures**

OCR determined that during the time period covered by OCR’s investigation, the District did not adopt grievance procedures that provide for a prompt and equitable response to student sexual

harassment and misconduct complaints, in violation of the Title IX regulation at 34 C.F.R. § 106.8(b).<sup>14</sup> Moreover, and as explained below, the District’s systemic response to Title IX complaints was not consistent with its written grievance procedures, and also failed to comply with the minimum requirements of Title IX.

Under the Title IX Policy, the District did not ensure that students who reported sexual harassment received interim services and appropriate remedies in substantiated cases, nor did the District have an obligation to prepare an investigation report summarizing the results of the investigation, or notify the parties of the outcome of an investigation, including whether the investigation substantiated the allegations and determined that harassment occurred. Additionally, the District was not constrained by reasonably prompt timeframes in the Title IX Policy for completing its investigations. Under the Title IX Policy, the EOCO could take up to five months to complete its investigations, and other investigations (those conducted at District schools or by the Law Department Investigations Unit) were not subject to any timeframes.

The District’s Revised Title IX Policy does not contain grievance procedures and instead refers to “the OSP Procedure Manual,” which the District has not yet adopted or published, and several other District offices that handle different types of discrimination complaints. OCR is concerned that the Revised Title IX Policy is confusing and does not clearly convey to District parents and students where to report sexual harassment complaints nor does it specify that the Title IX Coordinator has full authority to address all Title IX complaints and inquiries.

The Revised Title IX Policy includes a statement that the District will use in any new publication of the District Code of Conduct and will post on the District’s main website and human resources webpage beginning September 3, 2019. However, the statement-- which conveys the District’s commitment not to discriminate on the basis of sex-- does not state that the District is required by Title IX not to discriminate on that basis, nor does it state that inquiries regarding Title IX may be made to the Title IX Coordinator or to OCR. Instead, the Revised Title IX Policy includes a separate page that provides contact information for the Title IX Coordinator and for OCR, without stating that Title IX inquiries may be referred to either entity as required by the Title IX regulation at 34 C.F.R. § 106.9.

### **E. Training**

Prior to the fall of 2018, the District provided limited Title IX training to its staff, including those staff directly responsible for responding to student sexual harassment and misconduct complaints. In response to OCR’s request for training materials, the District produced documents that did not address sexual harassment and misconduct under Title IX. The EOCO Administrator and other District employees acknowledged that its training of staff was not systemic, and was often in response to a particular complaint.

Even after the OSP was created with a Training and Compliance Team dedicated to staff and student training, the only training that the District has provided to all of its employees did not mention Title IX, the OSP or the Title IX Coordinator, or address school-based investigations.

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<sup>14</sup> The District is in the process of revising its grievance procedures but has not yet finalized or adopted the proposed changes.

Instead, the District has invested in comprehensive training for one Title IX School representative at each District school, an effort that OCR hopes will yield greater consistency and adherence to District policy and practices by those individuals and the schools where they work. The training, however, does not substitute for mandatory, District-wide training for all District-affiliated adults on Title IX, its prohibition against sex discrimination, and the District's policies and procedures.

Additionally, and notwithstanding the public statement that the Training and Compliance Team will train District students on these same Title IX topics, the District did not provide OCR with any information regarding its plans to roll out such training or the content it intends to deliver through the curriculum.

OCR determined that the District's failure to adequately train staff and students on Title IX, the Title IX Policy, and available resources, contributed to the District's systemic failure to provide a prompt and equitable response to student sexual harassment and misconduct complaints District-wide.

## **Conclusion**

Over the course of OCR's investigation, the District took some steps to address its systemic failures to ensure a prompt and equitable response to student sexual harassment complaints. The District revised its Non-Discrimination Statement, hired a Title IX Coordinator, launched the OSP, and has begun to train school-based staff on how to respond to student sexual harassment complaints. Nevertheless, OCR determined that the District violated the Title IX regulation at §§ 106.8 (a), 106.8(b), 106.9(a) and 106.31. Specifically, the District denied Student A and Student B a prompt and equitable response to complaints of sexual harassment filed on their behalf. The District also failed to respond promptly and equitably to other complaints of adult on student and student on student sexual harassment, including by failing to offer and provide students appropriate interim measures during the pendency of an investigation, failing to provide notice of outcome of the investigation to all parties, and failing to ensure that properly trained investigators conducted adequate, reliable and impartial investigations into sexual harassment complaints within reasonable timeframes.

Additionally, OCR determined that the District failed to designate an employee to effectively coordinate its efforts to comply with and carry out Title IX responsibilities. OCR further determined that the District failed to adopt and publish grievance procedures that provided for the prompt and equitable resolution of Title IX complaints, including failing to provide designated timeframes for major stages of complaint processing or requiring that a notice of an outcome is provided to the parties of a sexual harassment complaint. OCR determined that the District failed to provide adequate notice to students and parents of its Title IX grievance procedures, and its obligations not to discriminate on the basis of sex in the educational programs or activities it operates.

Finally, the District failed to maintain records sufficient to enable OCR to ascertain its compliance with Title IX.

To resolve these Title IX compliance violations, the District agreed to take the following steps:

- (1) The District will revise its Title IX structure to ensure that the Title IX Coordinator has the appropriate authority to effectively coordinate all of the District's efforts to comply with Title IX, and will separate functions and responsibilities of District employees in order to discharge its Title IX responsibilities with appropriate and sufficient independent authority.
- (2) The District will ensure that it has a comprehensive process for responding to all complaints of sex discrimination and that it fully documents responsive actions taken.
- (3) The District will review and revise its Title IX Policy and Grievance Procedures subject to OCR's approval, and ensure that its Notice of Nondiscrimination is compliant with Title IX and widely distributed.
- (4) The District will develop District-wide Title IX training for designated individuals responsible for resolving complaints of sexual harassment to ensure they are addressed promptly and equitably, and age-appropriate training for District students and parents.
- (5) The District will develop and implement a record-keeping system that captures all required documentation in connection with all complaints of possible sexual harassment and sex discrimination.
- (6) The District implements its pre-existing commitment to providing equitable individual remedies for Student A and Student B.
- (7) The District will post a notice to its website and include information in the 2019-2020 back-to-school communications sent by each District school inviting recent complainants (since 2016) who have continuing concerns to refile their complaint with the Title IX Coordinator.
- (8) The District will review the actions of all current and former employees who had notice or were reported to have notice of complaints of sexual harassment, and will take appropriate action to address any failure to provide a prompt and equitable response to such complaints of student sexual harassment, including appropriate responsive actions.

The attached Resolution Agreement is aligned with the complaint allegations and, when fully implemented, will resolve the Title IX violations described above.

OCR will monitor the District's implementation of the Agreement until the District is in compliance with all of its terms. We look forward to receiving the District's next monitoring report.

This concludes OCR's investigation of this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR's determination in individual OCR cases. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may file a private suit in federal court, whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

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

OCR thanks the District, especially Joe Moriarty, Ruchi Verma, Susan Best, and Dalila Bentley for their responsiveness and cooperation throughout the investigation of this complaint and during the negotiations of the Agreement. If you have any questions regarding this matter, please do not hesitate to contact me at 312-730-1495 or by email at Adele.Rapport@ed.gov.

Sincerely,

/s/

Adele Rapport  
Regional Director

Enclosure

cc: Joseph Moriarty, General Counsel  
Ruchi Verma, Deputy General Counsel  
Susan Best, Senior Associate General Counsel  
Dalila Bentley, EOCO Administrator