

Settlement Agreement (#05-16-1068) Northeast School Corporation

The U.S. Department of Education, Office for Civil Rights (OCR) and Northeast School Corporation (Corporation) enter into this agreement to resolve disputed allegations in the above-referenced complaint. This agreement (including actions taken as a result of this agreement) shall not constitute any admission in the civil cause of action filed by Student A or the other Plaintiffs under Cause 2:18-cv-68-WTL-MJD, or an admission of liability, acceptance of factual allegations, non-compliance, or wrongdoing by the Corporation with regard to the issues or any of the matters in this agreement on which OCR is not making a finding. The Corporation assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§1681-1688, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination based upon sex in any education program or activity receiving Federal financial assistance.

Effective immediately, the Corporation agrees to take all steps necessary to ensure that students enrolled in the Corporation are not subjected to a hostile environment on the basis of sex. To this end, the Corporation will promptly investigate all allegations of sexual harassment¹ of which it has notice after the date below and will take appropriate disciplinary action against students, faculty, administrators or staff who violate Corporation policies and procedures addressing sexual harassment. The Corporation will take prompt and effective responsive action to end sexual harassment, prevent its recurrence, and where appropriate, take steps to remedy the effects of sexual harassment on the affected students.

ANTI-HARASSMENT STATEMENT

1. By May 15, 2018, the Corporation will submit to OCR for review and approval a statement to be issued to the Corporation community, including students, faculty, administrators and staff, stating the Corporation's policy that it does not tolerate sexual harassment. The statement will acknowledge that the prohibited sexual harassment includes sexual assault and any other harassment based on sex. The statement will encourage any student who believes he or she has been subjected to sexual harassment to report the incident(s) to the Corporation and note the Corporation's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member(s) to whom students may report allegations of sexual harassment. The statement will warn that students or employees found to have engaged in acts of sexual harassment and employees who fail to report suspected harassment to designated staff members will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion of a student and suspension or termination of an employee. The statement will further warn that students or employees who retaliate against individuals who report sexual harassment will be promptly disciplined. Within 15 days of OCR's approval of the statement, it will be widely published, including in the Corporation's student handbook,

¹ For purposes of this Agreement, the term sexual harassment is defined to include sex discrimination and sexual assault.

posting on the Corporation's website, and posting in all of the Corporation's school buildings.

REPORTING REQUIREMENT: By May 15, 2018, the Corporation will provide OCR the statement referenced in this item that it proposes to publish. Within 30 days of OCR's approval of the statement, the Corporation will provide OCR documentation that the statement referenced in this item has been widely published, including copies of the Corporation's handbook and relevant pages of its website and documentation of the postings in the Corporation Department Offices, Athletic Locker Rooms and Athletic Practice Facilities.

CODE OF CONDUCT

2. By May 15, 2018, the Corporation will examine the Corporation's code of conduct and disciplinary procedures for employees and students to determine whether the current rules of behavior and offense categories appropriately and adequately address violations of the Corporation's sexual harassment policies and procedures and will revise the codes of conduct and disciplinary procedures to the extent necessary to ensure it contains such rules of behavior and offense categories.

REPORTING REQUIREMENT: By May 15, 2018, the Corporation will submit to OCR its revised code and procedures referenced in this item.

3. Within 30 calendar days of receipt of notice of OCR's approval of the code and procedures referenced in item #2, the Corporation will adopt, implement and publish the revised code and procedures.

REPORTING REQUIREMENT: Within 30 calendar days after the completion of Item this item, the Corporation will provide OCR with documentation that it has completed this item.

TITLE IX COORDINATOR

4. By August 1, 2018, the Corporation will ensure that it has in place a Title IX Coordinator who has received sufficient training to fulfill his or her responsibilities. Specifically, the Corporation will ensure that the Title IX Coordinator has knowledge of the substantive requirements of Title IX, of the Corporation's Title IX grievance procedure(s), and how to investigate reports under Title IX; and oversees the Corporation's prompt and equitable response to Title IX disclosures, verbal reports, and written complaints made directly to the Title IX Coordinator and from any individual, including but not limited to students, employees, third parties and those delegated the responsibility for receiving reports of sex discrimination, including sexual harassment and sexual violence. The Corporation will, as necessary, update its non-discrimination statement, anti-harassment policy, and student handbooks to ensure that they are consistent in providing the identity of this individual.

REPORTING REQUIREMENTS: By August 1, 2018, the Corporation will submit to OCR the name and credentials of the Title IX Coordinator and a description of the training that individual has received to carry out his or her duties and responsibilities under Title IX and this item and will provide documentation to OCR that it has updated its policies, as necessary.

IMPLEMENTATION OF SEXUAL MISCONDUCT AND SEXUAL ASSAULT POLICIES AND PROCEDURES

5. By May 15, 2018, the Corporation will take the following actions to ensure that its written policies and procedures relating to sexual harassment and sexual misconduct are implemented in any future situations in a manner that is prompt and effective:
 - a. The Corporation, upon receiving notice, will promptly interview the complainant and the accused, except in extraordinary circumstances or unless the investigator determines that the accused does not pose an immediate threat to the complainant or other students and the investigator determines that it is necessary to gather additional information prior to the interview.
 - b. Upon receipt of a complaint or report of sexual harassment that may constitute criminal conduct, including sexual assault, the Corporation will provide to the complainant notice describing the options of; (i) pursuing a criminal complaint with a law enforcement agency, (ii) pursuing the Corporation's investigation and disciplinary process, or (iii) pursuing both options at the same time. When a complainant elects to pursue a criminal complaint exclusively, the Corporation will still take immediate steps to protect the complainant and allow continued access to the Corporation's programs and activities. If a complainant has elected to pursue a criminal complaint exclusively, but the law enforcement agency and/or prosecutor's office declines prosecution, the Corporation will resume its investigation and disciplinary process as appropriate.

REPORTING REQUIREMENT: By December 1, 2018, the Corporation will provide OCR with documentation that it has implemented the provisions of this item, including copies of all final reports in sexual harassment investigations since May 2018, and all notices provided to law enforcement officials of possible criminal sexual conduct in the most recently completed school year.

TRAINING OF CORPORATION PERSONNEL AND STUDENTS

6. By September 1, 2018, the Corporation will provide all administrators, faculty, and staff with effective training on the Corporation's sexual harassment policies and procedures. The training will include the following components at a minimum:

- a. The Corporation will remind all staff of its commitment to having a school environment free from sexual harassment and explain what they should do if they believe students have been subjected to sexual harassment, including their duty to immediately report possible sexual harassment of which they have knowledge and possible discipline for failure to report.
- b. The program will include a review of the Corporation's Title IX policies and procedures, including an explanation of what constitutes sexual harassment as well as disciplinary sanctions related to findings of violations of its sexual harassment policies and procedures and/or the policy prohibiting retaliation and intimidation.
- c. The training will provide a general overview of Title IX, including how the law's nondiscrimination provisions apply to students, the names and contact information for the designated staff member(s) to whom students or others may report allegations of sexual harassment, where to locate the Corporation's sexual harassment policies and procedures on the Corporation's website, and the existence of OCR and its authority to enforce Title IX.
- d. The Corporation will distribute written materials (during the program) that contain the information discussed.

REPORTING REQUIREMENT: By September 1, 2018, the Corporation will provide OCR with documentation that it has provided appropriate Corporation staff with the training referenced in this item, including the dates of the training, the names, credentials and titles of the trainer(s), a copy of any materials used or distributed during the training, and a sign-in sheet with the names and titles of the Corporation staff who attended the training.

7. By September 1, 2018, and each school year thereafter by September 1 for new staff, the Corporation will provide training to all School staff who are directly involved in processing, investigating and/or resolving complaints or other reports of sexual harassment complaints and to any counselors or other Corporation personnel who are likely to receive confidential reports of sexual harassment. The training will review the revised Corporation policies and procedures and include instruction on how to conduct and document adequate, reliable, and impartial sexual harassment investigations, including the appropriate legal standards to apply in such investigations. The training will provide instruction on how to create and provide appropriate interim measures as well as the issuance of no-contact orders and disciplinary action and the proper method for investigating retaliation allegations. The training will also provide attendees with instruction on recognizing and appropriately addressing allegations of sexual assault and complaints pursuant to Title IX.

REPORTING REQUIREMENT: By September 1, 2018, the Corporation will provide OCR with documentation that it has provided appropriate Corporation staff with the

training referenced in this item, including the dates of the training, the names, credentials and titles of the trainer(s), a copy of any materials used or distributed during the training, and a sign-in sheet with the names and titles of the Corporation staff who attended the training.

8. By September 1, 2018, and each school year thereafter by September 1, the Corporation will provide an age appropriate orientation program for all middle school and high school students, which will address harassment, including, but not limited to, sexual harassment and retaliation, in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on sex for students enrolled in the Corporation, including an on-campus hostile environment that results from off-campus conduct. The Corporation will remind students of its commitment to having a school environment free from all harassment and explain to students what they should do if they believe they or other students are being harassed or subjected to retaliation. The program will include a review of the Corporation's harassment and non-retaliation policies and procedures, including an explanation of what sexual harassment is, available interim measures and remedies, as well as disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation. The Corporation will remind students of the availability of counseling services. The Corporation will distribute written materials during the program that contain the information discussed. The training will provide attendees with instruction on recognizing and appropriately addressing allegations of sexual assault and complaints pursuant to Title IX.

REPORTING REQUIREMENT: By September 1, 2018, the Corporation will provide OCR with documentation of the implementation of this item, including the dates of the orientation, lists and biographies of the presenters, topics covered during the program and the amount of time spent on each topic, and copies of the materials used in the orientation.

STUDENT-FOCUSED REMEDIES

9. By May 1, 2018, the Corporation will send a letter via certified mail informing the student who was the subject of this complaint (Student A) and her parent or guardian of the identity of the Corporation's Title IX Coordinator and offer to provide Student A any additional remedies the Corporation deems appropriate, such as counseling services at the Corporation's expense.

REPORTING REQUIREMENT: By June 15, 2018, the Corporation will provide documentation to OCR that it sent the letter to Student A as referenced by this item. If Student A accepts any of the remedies referenced in the letter, the documentation submitted shall include a schedule for providing those remedies to Student A, which shall be completed within one year of the date Student A accepts the Corporation's offer for additional remedies.

10. By June 15, 2018, the Corporation will send a letter via certified mail informing the other student who reported being assaulted by the same male student as allegedly assaulted Student A (Student B) and her parent of the identity of the Corporation's Title IX Coordinator and offer to provide Student B any additional remedies the Corporation deems appropriate, such as counseling services at the Corporation's expense.

REPORTING REQUIREMENT: By June 15, 2018, the Corporation will provide documentation to OCR that it sent the letter to Student B as referenced by this item. If Student B accepts any of the remedies referenced in the letter, the documentation submitted shall include a schedule for providing those remedies to Student B, which shall be completed within one year of the date Student B accepts the Corporation's offer for additional remedies.

MAINTENANCE OF OTHER DATA

11. Effective immediately, the Corporation agrees to maintain documents relating to specific complaints or other reports of sexual harassment of students, including the following:
 - a. a copy of all written reports for complaints or any other reports of incidents involving allegations of sexual harassment of any kind;
 - b. a narrative of all actions taken in response to the reports by Corporation personnel, including any written documentation;
 - c. a copy of any and all disciplinary sanctions issued to students or employees for violations of the sexual harassment policies and procedures;
 - d. documentation demonstrating any interim and/or remedial efforts offered and provided to the complainant, the accused and/or witnesses of the incident(s), such as counseling or other appropriate services; and,
 - e. a narrative of all action taken to prevent recurrence of any harassing incident(s) and/or retaliatory harassment by other students, including any written documentation.

REPORTING REQUIREMENT: By December 29, 2018, the Corporation will provide to OCR copies of the documentation referenced in this item.

The Corporation understands that by signing this agreement, it agrees to provide the foregoing information in a timely manner. Further, the Corporation understands that, during the monitoring of this agreement, the OCR may visit the Corporation, interview staff and students, and request such additional reports or data as are necessary for the OCR to determine whether the Corporation has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX, at 34 C.F.R. §§106.8 and 106.31. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The Corporation understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement, OCR shall give the Corporation written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This agreement will become effective immediately upon the signature of the Corporation's representative below.

Superintendent or designee

Date