

Resolution Agreement #05-16-1233 Litchfield Public School District #465

The Litchfield Public School District #465 (District) submits the following Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR) to resolve OCR Docket #05-16-1233. The District submits this Agreement to ensure its compliance with 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 prohibits discrimination based upon sex in any education program or activity receiving Federal financial assistance. Nothing contained in this Agreement is to be construed as an admission of liability or wrongdoing by the District.

ANTI-HARASSMENT/VIOLENCE STATEMENT

- 1) **Within 15 days** of the District's execution of the Agreement, the District will revise a statement applicable to all District students and employees that the District does not tolerate harassment on the basis of sex. The revised statement will make clear that the District's Human Rights Officer/Title IX Coordinator is responsible for investigating complaints of sexual violence and other forms of sexual harassment. The statement will also warn students or employees who retaliate against individuals who exercise their rights under Title IX will be promptly disciplined. The statement will further state that inquiries concerning the application of Title IX and its implementing regulation may be referred to the District's Human Rights Officer/Title IX Coordinator or to OCR. Within 15 days of OCR's approval of the statement, the District will widely publish the statement, including by posting it on the District's website, publishing it in the student handbook, and posting it in all District buildings and by any other means of notification the District deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT: By **October 6, 2017**, the District will submit to OCR for its review and approval the statement it proposes to publish. Within 30 days of OCR's approval of the statement, the District will provide OCR with documentation that the statement referenced in this item has been published, including copies of emails, relevant pages of the District's website, student handbooks and documentation of the postings in the buildings.

TITLE IX COORDINATOR

- 2) By **October 1, 2017**, the District will provide adequate training to its Human Rights Officer/Title IX Coordinator to ensure the District's compliance with its legal obligations under Title IX, including the prompt and equitable resolution of complaints alleging a violation of Title IX, including complaints of sexual harassment and sexual violence. The District will ensure that the Title IX Coordinator is knowledgeable in all aspects of Title IX's application to elementary and secondary schools.

REPORTING REQUIREMENT: By **October 6, 2017**, the District will submit to OCR a description of the training the Human Rights Officer/Title IX Coordinator has received to carry out his duties and responsibilities under Title IX.

REVIEW OF POLICIES AND PROCEDURES AND RULES OF BEHAVIOR

- 3) By **October 1, 2017**, the District will conduct a comprehensive review of all policies and procedures relating to sexual violence and other forms of sexual harassment to ensure that they adequately address any incident of sexual violence or another form of sexual harassment and provide for the prompt and equitable resolution of complaints alleging any form of sex discrimination. The District will revise or eliminate the policies and procedures as appropriate, including revising or adding cross references and links between the various documents to ensure the policies and procedures, guidelines and other documents are internally consistent and do not contain conflicting/contradictory information and include the following:
- a) A general notice of nondiscrimination consistent with the requirements of the Title IX regulation at 34 C.F.R. § 106.9 regarding notices of nondiscrimination;
 - b) an assurance that the Human Rights Officer/Title IX Coordinator or other specifically designated District employee will coordinate the provision of interim measures, and that complainants will not be required to arrange such measures by themselves through multiple District administrators and/or offices;
 - c) a requirement that both parties will be given equal opportunity to present evidence and an assurance an appeal process for both parties is conducted in an impartial manner by an impartial decision-maker with written appeal determinations issued to both parties;
 - d) an assurance that the District will not require a student who complains of sexual violence and other forms of sexual harassment to work out the problem directly with the alleged harasser, including through mediation and a statement that sexual violence complaints will not be mediated even on a voluntary basis;
 - e) identification of the District's standards for determining whether a hostile environment exists.
 - f) an assurance that the District uses in its investigation of complaints a preponderance of the evidence standard of review (*i.e.*, it is more likely than not that sexual violence or another form of sexual harassment occurred);
 - g) an assurance that, in determining whether sexual violence or another form of sexual harassment against a student resulted in a sexually hostile environment, the District will also consider the conduct in question from both a subjective and objective perspective; and;
 - h) a statement that the District will, where sexual violence or another form of sexual harassment is found to have occurred, take appropriate steps to remedy the discriminatory effects of the harassment on the complainant and others, as appropriate. The statement

shall also provide examples of the types of remedies available, the provision of academic support, including recalculating any course grades if necessary.

REPORTING REQUIREMENT: By **October 6, 2017**, the District will submit to OCR for its review and approval its revised policies and procedures referenced in this item.

- 4) By **October 1, 2017**, the District will determine whether its current rules of behavior and offense categories appropriately and adequately address violations of the District's policies and procedures prohibiting sexual violence and other forms of sexual harassment and will revise its disciplinary procedures to the extent necessary to ensure they contain such rules of behavior and offense categories. The District will ensure that sexual violence and other forms of sexual harassment are included as conduct violations in its disciplinary procedures.

REPORTING REQUIREMENT: By **October 6, 2017**, the District will submit to OCR for its review and approval its revised policies and procedures referenced in Item 5.

- 5) Within 60 calendar days of receipt of notice of OCR's approval of the policies and procedures referenced in items #4 and #5, the District will adopt, implement and publish the revised policies and procedures. Publication will include written notice of the anti-harassment policy, including its formal and informal complaint procedures, to the District community, including students, parents, administrators and staff. The District will make this notification available through the District's website, revised student handbooks, and any other additional means of notification the District deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT: Within 30 days after the completion of Item #6, the District will provide OCR with documentation that it has completed this item, including copies of the written notices to students, parents/guardians, administrators and staff regarding the revised policies and procedures and a description of how the notices were distributed, copies of its revised student handbooks, a link to its webpage where the revised policies and procedures are located, and documentation of any other additional means of notification used by the District.

TRAINING OF DISTRICT PERSONNEL

- 6) Within 30 days of the first instruction day of the 2017 – 2018 school year, and **within 30 days** of the first instruction day of each subsequent school year this Agreement remains in effect, the District will require all District administrators, teachers and relevant staff to complete effective training relating to the revised policies and procedures adopted pursuant to Items #4 and #5. The training will encompass the following:
 - a) The District will remind all personnel of its commitment to having a District environment free from sexual violence and other forms of sexual harassment and explain what they should do if they believe students have been subjected to sexual harassment, including their duty to immediately report all allegations of possible sexual harassment and of the potential for discipline of employees who fail to report sexual violence and other forms of sexual harassment.

- b) The District will provide a general overview of Title IX, including how the nondiscrimination provisions apply to students, the names and contact information for the Human Rights Officer/Title IX Coordinator and any other designated employee(s) to whom students or others may report allegations of harassment, where to locate the District's harassment policies and procedures on the District's website, and the existence of OCR and its authority to enforce Title IX.
- c) The District will explain its Title IX policies and procedures, including an explanation of what constitutes sexual violence and other forms of sexual harassment, the role of the Human Rights Officer/Title IX Coordinator, and disciplinary sanctions related to findings of violations of the District's harassment policies and procedures, including the District's policy prohibiting retaliation and intimidation.

REPORTING REQUIREMENT: By **September 1, 2017**, the District will submit training materials to OCR for its review and OCR will review and approve the training materials to ensure that they cover the items outlined in Item #7 a-c above. By **November 1, 2017**, and by **November 1** of each subsequent school year this Agreement remains in effect, the District will provide OCR with documentation that it has provided the training referenced in this item, including the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, and a list of District employees who successfully completed the training.

- 7) Within 30 days of the first instruction day of the 2017 school year, and within 30 days of the first instruction day of each subsequent school year this Agreement remains in effect, the District will provide effective training to all employees who are directly involved in receiving, processing, investigating and/or resolving complaints or other reports of sexual violence and other forms of sexual harassment, any counselors or other District personnel who are likely to receive confidential or private reports of sexual violence and other forms of sexual harassment. The training will review the District policies and procedures referenced in Items #4 and #5 of this Agreement and include instructions on how to conduct and document adequate, reliable, and impartial investigations of sexual violence and other forms of sexual harassment, including the appropriate legal standards to apply in such investigations, confidentiality requirements, record retention requirements, the District's proactive efforts to prevent sexual violence and other forms of sexual harassment, and available resources for the complainant and respondent.

REPORTING REQUIREMENT: By **September 1, 2017**, the District will submit training materials to OCR for its review and OCR will review and approve the training materials. By **November 1, 2017**, and by **November 1** of each subsequent school year this Agreement remains in effect, the District will provide OCR with documentation that it has provided appropriate District personnel with the training referenced in this item, including the dates of the training, the names 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 District personnel who attended the training.

STUDENT ORIENTATION & TRAINING

- 8) Beginning with the 2017 – 2018 school year, the District will provide effective age-appropriate training at the beginning of the school year that includes the following components:
- a) The District will remind students of its commitment to having a District environment free from all harassment and explain to students what they should do if they believe they or other students have been subjected to sexual harassment, including sexual violence.
 - b) The programs will include an age-appropriate review of the District’s existing sexual harassment policies and procedures, including an explanation of what constitutes sexual harassment and sexual violence, as well as disciplinary sanctions related to findings of violations of the District’s harassment policies and procedures and/or the District’s policy prohibiting retaliation and intimidation.

The training will provide an introduction of the Human Rights Officer/Title IX Coordinator, an explanation of his role, and provide the names and contact information for any other designated staff member(s) and alternate staff and/or counselors to whom students may report allegations of sexual harassment, including sexual violence, and will encourage students to report harassment they have experienced or observed.

REPORTING REQUIREMENT: By **November 1, 2017** and by **November 1** of each subsequent school year this Agreement remains in effect, the District will provide OCR with documentation that it has implemented this item, including copies of the orientation schedule, the names and titles of employees who presented on the required topics, and copies of any materials that were used or distributed regarding the required topics.

TITLE IX INVESTIGATION REGARDING STUDENT A

- 9) By **October 1, 2017**, the District will complete its investigation, as revised under this Agreement, of the Complainant’s allegations of sexual harassment contained in the XXXXX XX, 201X complaint. As of the date of the execution of this Agreement, Student A was not XXXXX XXXXX XXXXX XXXXX school. As part of its investigation, the District will send a letter to the Complainant seeking permission to interview Student A regarding the sexual harassment alleged in the XXXXX XX, 201X complaint.
- a) If the District concludes that Student A was subjected to sexual harassment, the District will determine whether and which remedies are appropriate for Student A. The remedial actions may include, but are not limited to, payment for future counseling, reimbursement for documented out-of-pocket costs for previously received private counseling, if any, related to the sexual harassment and/or the District’s response to Student A’s reports of sexual harassment, or other appropriate remedial actions. The District will provide Student A’s parent written notice of its determination as to whether sexual harassment occurred and if so, whether other appropriate remedial actions are necessary. Within one (1) week of its determination, the District will develop a plan for providing timely

remedial action, if any, and will implement the remedial actions with a completion date not to extend beyond **January 1, 2018**.

REPORTING REQUIREMENT: By **October 6, 2017**, the District will provide OCR a copy of the letter to the Complainant requesting an interview with Student A, and a copy of the Human Rights Officer/Title IX Coordinator's completed investigative report and the written determination provided to the Complainant. Also by **October 6, 2017**, the District will provide OCR, for its review and approval, the steps the District proposes to take in response, including any remedies. By **January 1, 2018**, the District will provide OCR with documentation that it has provided the remedial action referenced in this item.

10) In the event Student A XXXXX in a District school at any time during 2017-2018 or 2018-2019 school year, the District will take any appropriate steps necessary to ensure that Student A is not subjected to a hostile environment on the basis of sex in any District program or activity or subjected to retaliation. These steps will include a safety plan, which shall include but not be limited to, identifying a specific contact person to whom Student A should report incidents of harassment if they occur, and checking in with Student A, either in person or in writing, on a periodic basis (at least monthly) to ascertain whether any instances of sexual harassment or retaliation have occurred and taking prompt and effective action in accordance with this Agreement if any such harassment has been substantiated.

REPORTING REQUIREMENT:

- a) In the event Student A re-enrolls in a District school during the 2017-2018 or 2018-2019 school year, the District will, **within 30 days** of her re-enrollment, provide OCR a statement that Student A has re-enrolled and a copy of the safety plan.
- b) In the event Student A does not re-enroll in a District School during the 2017-2018 or 2018-2019 school year, the District will provide OCR a statement to that effect no later than **May 31, 2019**.

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Consistent with Article V of OCR's *Case Processing Manual*, OCR will promptly acknowledge receipt of interim and final monitoring reports from the District. OCR will promptly evaluate the report and issue an appropriate response. OCR must obtain sufficient information to determine whether the District has implemented the terms of the Agreement. The District may request an extension of time to submit a report or to complete a required action. The request must be submitted in writing to OCR. Approved modifications will be appended to the original agreement.

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this

Agreement and is in compliance with Title IX of the Education Amendments of 1972 and its implementing regulations at 34 C.F.R. §§ 106.8, 106.9 and 106.31. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

Approved and agreed to on behalf of the District.

Beckie Simenson
Superintendent
Litchfield Public School District #465

Date