

Resolution Agreement #05-18-1199 Fort Wayne Community Schools

The U.S. Department of Education, Office for Civil Rights (OCR) and Fort Wayne Community Schools (Corporation) enter into this Resolution Agreement (Agreement) to resolve the allegations in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the Corporation. 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 prohibits discrimination based upon sex in any education program or activity receiving Federal financial assistance, Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 - 12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability in any education program or activity receiving Federal financial assistance.

ANTI-HARASSMENT/VIOLENCE STATEMENT

- 1) By November 15, 2018, the Corporation will issue a statement to all students, parents and employees at Kekionga Middle School (Kekionga) that the Corporation does not tolerate harassment on the basis of sex. The statement will:
 - a) define harassment on the basis of sex;
 - b) encourage any student who believes he or she has been subjected to sexual harassment and any parent who believes a child has been subjected to sexual harassment to report the incident(s) to the Corporation;
 - c) note the Corporation's commitment to conducting a prompt investigation, including the procedures under which students or parents may file a complaint of harassment;
 - d) identify the individual(s) responsible for investigating complaints of sexual harassment;
 - e) contain time frames for completion of such investigations and notice to complainants;
 - f) provide for appropriate disciplinary sanctions of individuals who engage in sexual harassment;
 - g) make clear that such discipline may include, if circumstances warrant, suspension or expulsion of a student;
 - h) warn that students who retaliate against individuals who report sexual harassment will be promptly disciplined;
 - i) include identification of, and the office address, email address, and telephone number of, the Corporation's Title IX Coordinator; and
 - j) state that inquiries concerning application of Title IX and its implementing regulations may be referred to the Title IX Coordinator or to OCR.

The Corporation will publish the statement by posting it on the Kekionga website and by emailing it to employees and mailing it to students and parents.

REPORTING REQUIREMENTS: By October 1, 2018, the Corporation 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 Corporation will provide OCR with documentation that the statement has been published, including relevant pages of the Kekionga website and documentation of mailing and emailing.

REVIEW AND REVISE POLICIES AND PROCEDURES

- 2) By December 1, 2018, the Corporation will examine the Corporation’s policies prohibiting sexual harassment and its procedures for providing a prompt and equitable response to complaints. The Corporation will revise the policies and procedures to the extent necessary to ensure they adequately address incidents of harassment based on sex, including same-sex harassment, and provide for the prompt and equitable resolution of complaints alleging such harassment in accordance with the regulations implementing Title IX.

REPORTING REQUIREMENTS: By December 1, 2018, the Corporation will submit to OCR for its review and approval its policies and procedures. Within 30 days of OCR’s approval of any revisions, the Corporation will provide OCR with documentation that the revisions have been published on the Corporation’s internal and external websites. By August 1, 2019, the Corporation will provide OCR with documentation that the revisions have been published in the FWCS Student-Parent Handbook.

- 3) By December 1, 2018, the Corporation will examine the Corporation’s Student Code of Conduct to determine whether the current rules of behavior and offense categories appropriately and adequately address violations of the Corporation’s policies and procedures prohibiting sexual harassment and will revise the Code to the extent necessary to ensure it contains such rules of behavior and offense categories. The Corporation will ensure that sexual harassment are included as conduct violations under the Code. Following OCR’s approval of the revisions to the Code, by August 1, 2019, the Corporation will adopt, implement and publish the revised Code. Publication will occur through the Corporation’s website, and revised Code of Conduct, a physical copy of which is mailed to all students, parents and families before each school year.

REPORTING REQUIREMENTS: By December 1, 2018, the Corporation will submit to OCR for its review and approval its revised Code referenced in this item. By August 1, 2019, the Corporation will provide OCR with documentation that it has published the revised Code as described above.

TRAINING OF KEKIONGA PERSONNEL

- 4) By January 18, 2019, the Corporation will provide effective training to all Kekionga staff. The training will cover, at a minimum:
 - a) the Corporation’s revised policies;
 - b) grievance procedures;
 - c) the Code of Conduct;

- d) the obligation of employees to report sexual harassment;
- e) how to recognize and identify sexual harassment;
- f) the Corporation’s responsibilities under Title IX to investigate and otherwise address such allegations; and
- g) the relevant resources available.

During the training, the Corporation will provide copies of its Title IX policies, grievance procedures, and the Code of Conduct to all attendees, or refer them to their location within the publications they already possess.

REPORTING REQUIRMENTS: By March 1, 2019, the Corporation 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 Kekionga employees who successfully completed the training.

- 5) By January 18, 2019, the Corporation will provide effective training to its Title IX Coordinator and all Kekionga employees directly involved in receiving, processing, investigating, adjudicating and/or resolving reports and complaints of sexual harassment. At a minimum, the training will include instruction on how to identify possible harassment on prohibited bases, the Corporation’s Title IX grievance procedures; the Corporation’s obligation regarding investigation of complaints; how to conduct adequate, reliable and impartial Title IX investigations for those charged with investigative duties; and how to assess hostile environments. The training will also address how to document all steps of an investigation and resolution including the issuance of notice to both parties.

REPORTING REQUIRMENTS: By March 1, 2019, the Corporation 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 Corporation employees who successfully completed the training.

STUDENT TRAINING

- 6) By February 1, 2019, the Corporation will provide age-appropriate training for all students at the School to ensure that students are aware of:
 - a) Title IX and what it prohibits and the rights it confers on students;
 - b) the Corporation’s prohibition against sex discrimination, including harassment;
 - c) how to recognize sexual harassment when it occurs; and
 - d) how and with whom to report any incidents of sex discrimination, including sexual harassment.

REPORTING REQUIREMENTS: By March 1, 2019, the Corporation 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.

TITLE IX AND SECTION 504 INVESTIGATION REGARDING STUDENT A

- 7) By December 1, 2018, the Corporation will complete an impartial investigation of all the reported incidents of possible harassment of Student A during the XXXXXX school year to determine whether Student A was subjected to harassment based on sex. This investigation may be done by Corporation employees. If the Corporation determines that a Student A was subjected to sexual harassment that created a hostile environment for him it will provide his parent written notice of its determination(s) including a summary of the evidence and the basis for the finding and provide the parent the opportunity to appeal the determination(s). If the Corporation determines that Student A was subjected to sexual harassment that created a hostile environment for him the Corporation will provide a written determination to his parent and will meet with Student A and his parent to assess whether Student A requires any remedial actions. The Corporation will provide Student A's parent notice of its determination of whether remedial actions are necessary and of the timeframe for providing such actions and will implement the remedial actions as specified in the timeframe. As part of the investigative process completed pursuant to this item, if Student A's parent asserts that harassment of Student A based on a perceived disability occurred during XXXXXX, the Corporation will complete an investigation of whether Student A was subjected to harassment based on a perceived disability that created a hostile environment for him and, if it determines that such harassment occurred, will take appropriate action to address the hostile environment.

REPORTING REQUIREMENTS: By December 15, 2018, the Corporation will provide documentation to OCR that it has completed the investigation required by this item and will submit to OCR documents supporting its decision as to whether sexual harassment (and, if so alleged by the parent, harassment based on a perceived disability) that created a hostile environment for Student A occurred. The documentation submitted shall include identification of the individual(s) who made the determination, an explanation for why the decision was made and how the preponderance of the evidence supports this decision, a description of the information considered, and a description of and schedule for providing any remedial measures to Student A. By July 1, 2019, the Corporation will provide documentation to OCR of the dates, times and locations that remedial measures were provided, a description of what was provided, and the name(s) of the service provider(s).

RECORD KEEPING AND DATA MAINTENANCE

- 8) By December 1, 2018, the Corporation will establish record-keeping and data retention practices that ensure the preservation of documentation of its responses to and investigations of sexual harassment and prohibits destruction of records of such reports and complaints, to ensure that the Corporation's practices are consistent with Title IX. At a minimum, the Corporation's record-keeping and data retention practices shall commit the Corporation to maintaining the following documents related to specific complaints or reports of sexual and/or disability harassment of students:

- a) a copy of all written reports, and a narrative description of all verbal reports, of incidents involving allegations of sexual harassment;
- b) a narrative description of all actions taken by Corporation personnel in response to the reports, including any written documentation;
- c) a copy of all disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting sexual harassment;
- d) a copy of all written determinations or a description of all verbal notifications of determinations provided to the parties, with the date of each notification; and
- e) documentation fully detailing any interim services offered and afforded to complainants pending the completion of an investigation and, where sexual harassment is found to have occurred, documentation fully detailing all steps the Corporation took to stop the sexual harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects on the complainant and any others as appropriate.

REPORTING REQUIREMENTS: By December 31, 2018, the Corporation will provide OCR with a communication plan to educate Corporation personnel about data retention practices for reported sexual harassment. Within 30 days of OCR's approval, the Corporation will provide documentation to OCR that it has implemented the data retention practices by communicating them to all relevant personnel. By August 1, 2019, the Corporation will provide to OCR copies of the documentation retained at Kekionga pursuant to the policy for the 2018-2019 school year.

The Corporation 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 Corporation understands that, during the monitoring of this Agreement, OCR may visit the Corporation, interview staff and students, and request such additional reports or data as are necessary for 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, and Section 504 of the Rehabilitation Act of 1973, at 34 C.F.R. § 104.4, which were at issue in this complaint. 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