



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

XXXX XXXX, XXXX

Dr. Susan Hull, Superintendent
Grand Prairie Independent School District
2602 S. Belt Line Road
Grand Prairie, TX 75052

RE: OCR Case No. 06151723
Grand Prairie Independent School District

Dear Dr. Hull:

The U.S. Department of Education (Department) Office for Civil Rights (OCR) has reached a resolution for the above-referenced complaint filed against the Grand Prairie Independent School District (District) in Grand Prairie, Texas. The complainant alleged that the District discriminated against XXXX XXXX (Student) by failing to appropriately respond to the Student's (XXXX XXXX XXXX student) report that XXXX was sexually assaulted by XXXX XXXX schoolmate (XXXX XXXX XXXX student) while walking home from school during the end of the 2013-2014 school year (sometime between April and June 2014). The complainant also alleged that during the 2016 fall semester, the XXXX schoolmate made a sexual gesture toward the Student (i.e., "looked right at XXXX and licked XXXX lips") while they were in the school cafeteria.

OCR has the authority to enforce Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 and its implementing regulation at 34 C.F.R. Part 106, which prohibit sex discrimination in education programs and activities receiving federal financial assistance. The District receives federal financial assistance from the Department and is therefore subject to Title IX.

OCR investigated whether the District discriminated against the Student on the basis of sex by failing to respond promptly and equitably to sexual harassment, which was sufficient to constitute a hostile environment, and of which it had notice (knew or should have known), in violation of Title IX, at 34 C.F.R. §§ 106.8 and 106.31.

Legal Standard

The regulation implementing Title IX, at 34 C.F.R. § 106.31, provides generally that, except as provided elsewhere in the regulation, ". . . no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any . . . education program or activity" operated by recipients of Federal financial assistance. The Title IX implementing regulation, at 34 C.F.R. §§ 106.8 and 106.9, also requires a recipient to

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

designate a Title IX Coordinator, adopt grievance procedures, and implement specific and continuing steps to provide notice that it does not discriminate on the basis of sex in its education programs or activities.

Sexual harassment that creates a hostile environment is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature, which may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature. Sexual harassment creates a hostile environment if the conduct by an employee, another student, or a third party is so severe, persistent or pervasive that it denies or limits a student's ability to participate in or benefit from the recipient's program. To investigate or otherwise resolve issues of sexual harassment, OCR considers whether: (1) the recipient has disseminated a policy prohibiting sex discrimination under Title IX and effective grievance procedures; (2) the recipient appropriately investigated or otherwise responded to allegations of sexual harassment; and (3) the recipient has taken immediate and effective corrective action responsive to any harassment that the investigation determined took place, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. Title IX prohibits discrimination on the basis of sex "under any education program or activity" receiving federal financial assistance. Accordingly, a recipient does not have a duty under Title IX to address an incident of alleged harassment where the incident occurs off-campus and does not involve a program or activity of the recipient. However, recipients are responsible for redressing a hostile environment that occurs on campus even if it relates to off-campus activities.

The Title IX regulation, at 34 C.F.R. § 106.8(a), specifically requires that each recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under Title IX, including any investigation of any complaint communicated to such recipient alleging its noncompliance with Title IX. This provision further requires that the recipient notify all of its students and employees of the name (or title), and office address and telephone number of the employee(s) so designated. The recipient must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sex discrimination (including gender-based harassment) and that they understand how the recipient's grievance procedures operate.

Additionally, the Title IX regulation, at 34 C.F.R. Section 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX. In evaluating whether a recipient's grievance procedures are prompt and equitable, OCR considers whether the procedures provide for:

1. notice to students and employees of the procedures, including where complaints may be filed;
2. application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
3. adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
4. designated and reasonably prompt timeframes for the major stages of the complaint process;
5. notice to the parties of the outcome of the complaint and any appeal; and

6. an assurance that the recipient will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Further, the Title IX regulation, at 34 C.F.R. 106.9, requires recipients to notify applicants for admission and employment, students, parents, employees and other interested parties that it does not discriminate on the basis of sex in the educational program or activity which it operates and that inquiries concerning the application of Title IX to such recipient may be referred to the employee designated pursuant to § 106.8. Recipients are required to include the name, address, and telephone number of the designated coordinator in their notifications.

Findings of Fact and Analyses

As a preliminary matter, OCR verified that the District has an employee designated to coordinate its responsibilities to comply with and carry out its responsibilities under Title IX (Title IX Coordinator), and that the Title IX Coordinator's contact information is printed in the Student Handbooks and in the Board Policy FFH (Exhibit), which may be accessed on the District's website. Additionally, OCR verified that the District has grievance procedures for addressing allegations of discrimination based on sex (including sexual harassment). OCR confirmed that the grievance procedures, which are located online in Board Policy FFH (local) and referenced in the Student Handbooks, meet the regulatory requirements for providing a prompt and equitable resolution of complaints alleging discrimination under Title IX. OCR noted that the District's grievance procedures do not specifically state that the parties are provided an equal opportunity to present witnesses and evidence, but the District informed OCR that, in practice, its Title IX investigations include this opportunity for the parties. OCR provided technical assistance to the District to include a statement about this in the written grievance procedures.

With regard to the alleged sexual assault, during the course of OCR's investigation, the Student informed OCR that the alleged sexual assault occurred off-campus and not during a program or activity of the District. Therefore, OCR concluded that the District did not have a duty under Title IX to address the alleged sexual assault.

With regard to the alleged sexual gesture in fall 2016, the complainant informed OCR that XXXX notified two District employees about the alleged gesture and mentioned that the XXXX schoolmate, who made the alleged sexual gesture, also allegedly sexually assaulted the Student off-campus in spring 2014. Prior to determining whether the District provided a prompt and effective response to the Student's fall 2016 allegation, the District expressed a desire to voluntarily resolve the complaint. Consistent with Section 302 of OCR's Complaint Processing Manual, the District submitted the attached Resolution Agreement (Agreement), signed on August 27, 2018. OCR has determined that, when fully implemented, the Agreement will address the allegation. OCR will monitor the implementation of the Agreement.

Based on the commitments the District has made in the Agreement described above, OCR has determined that it is appropriate to close the investigative phase of this complaint. The District has agreed to provide data and other information demonstrating implementation of the Agreement in accordance with the reporting requirements of the Agreement. OCR may conduct visits and request additional information as necessary to determine whether the District has

fulfilled the terms of the Agreement. Upon completion of the obligations under this Agreement, OCR shall close this complaint.

This letter 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 an individual OCR case. 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 have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that District may not harass, coerce, intimidate, or discriminate against any individual because he or she participated in this complaint. If this should occur, the individual may file a complaint alleging such harassment or intimidation.

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, it 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.

If you have any questions or concerns regarding this matter, you may contact the attorney investigator assigned to this case, Tiffany Gray, by telephone at (214) 661-9611 or by e-mail at Tiffany.Gray@ed.gov, or you may contact me at (214) 661-9678 or by email at Adriane.Martin@ed.gov.

Sincerely,



Adriane P. Martin
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office