



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VII  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

DATE, 2017

XXXXX XXXXX, Esq.  
XXXXX XXXXX, XXXXX  
XXX XXXXX XXXXX XXXXX  
XXXXX, XXXXX XXXXX

Re: Southern Reynolds County R-II District  
OCR Case Number: 07-17-1028

Dear XXXXX XXXXX:

On November 10, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Southern Reynolds County R-II District (District), Ellington, Missouri, alleging discrimination on the basis of sex. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the Complainant's allegations.

Specifically, the Complainant alleged that the District discriminated against the Complainant's daughter (Student) by allowing an ongoing sexually hostile environment to exist at school in violation of 34 Code of Federal Regulation (C.F.R.) § 106.31.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code (U.S.C.) §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination based upon sex in any educational program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the District is subject to the provisions of Title IX.

To protect individuals' privacy, names of employees and other parties were not used in the letter.

### **Legal Standards**

#### *Sexually Hostile Environment and Duty to Respond Promptly and Equitably*

The regulation implementing Title IX, at 34 C.F.R. § 106.31, provides that ". . . 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. 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. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, including acts of sexual violence.

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

When a student sexually harasses another student, the harassing conduct creates a hostile environment if it 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 or activities. If a recipient knows or reasonably should know about student-on-student harassment, Title IX requires the recipient to respond in a prompt and equitable manner by taking immediate action to eliminate the harassment, prevent its recurrence, and address its effects.

When responding to alleged sexual harassment, a recipient must take immediate and appropriate action to investigate or otherwise determine what occurred. The inquiry must be prompt, reliable, and impartial. Pending the outcome of a response to a report or an investigation of a complaint, Title IX requires a recipient to take steps to protect the complainant from further harassment as necessary, including taking interim measures. The recipient also should take steps to prevent any retaliation against the student who made the complaint and/or those who provided information.

A recipient must consider the effects of off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity. This includes a review of misconduct that did not occur in the context of an education program or activity but may have had such an impact.

#### *Grievance Procedures and Notice of Nondiscrimination*

The Title IX implementing regulation at 34 C.F.R. § 106.8(a) requires each recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulation implementing Title IX, including investigation of any complaint communicated to the recipient alleging any actions which would be prohibited by Title IX. The Title IX implementing regulation at 34 C.F.R. § 106.8(b) requires that a recipient adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX.

The Title IX implementing regulation at 34 C.F.R. § 106.9 requires each recipient to implement specific and continuing steps to notify applicants for admission and employment, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in any educational program or activity which it operates, and that it is required by Title IX and its implementing regulation not to discriminate in such a manner. The notice of nondiscrimination must include a statement that inquiries concerning Title IX may be referred to the Title IX Coordinator or to OCR (34 C.F.R. § 106.9(b)) and, the recipient must provide adequate notification of the contact information, including the name (or title), address, and phone number for the Title IX Coordinator (34 C.F.R. § 106.8).

## **Preliminary Investigative Findings**

The Complainant alleged the District discriminated against the Student on the basis of sex by allowing an ongoing sexually hostile environment to exist at school during the 2016-17 school year when the Student was in XXXXX XXXXX.

OCR requested copies of District policies and procedures regarding sexual harassment, the District's notice of nondiscrimination, and contact information for the District's Title IX Coordinator. On March 29, 2017, OCR interviewed the Student. On April 3, 2017, OCR interviewed the Superintendent/Title IX Coordinator, the High School Principal, and the High School Counselor. Sentence Redacted. OCR also requested documentation detailing the actions taken to investigate complaints made by the Student, including complaints of sexual harassment as well as complaints of "harassment, bullying, and name-calling." Specifically, OCR received information and supporting documentation indicating that the Student either verbally or in writing (using the District's "Bullying Incident Report Form") reported several altercations between herself and other students to the District.

Paragraph redacted. Paragraph redacted. Paragraph redacted

On July 6, 2017, the Student submitted a statement to OCR via email. The Student stated she is concerned she will be subjected to bullying in the 2017-18 school year. The Student expressed an interest in meeting with District administration to discuss how any future concerns of bullying will be addressed during the upcoming school year. The Student stated that training for District staff and administrators on processing student complaints of bullying would be beneficial. In her interview, the Student told OCR about additional incidents of sexually derogatory name-calling and comments from peers during the 2016-17 school year that were not reported to the District. Sentence redacted.

The District's policy "Prohibition against Discrimination, Harassment, and Retaliation," designates the District's Superintendent as its Compliance Officer for Title IX and provides a comprehensive list of the Compliance Officer's responsibilities regarding the receipt and investigation of all grievances alleging discrimination and harassment on the basis of sex. Several of the Compliance Officer's enumerated responsibilities include responsibilities in which the Compliance Officer must report to the Superintendent.<sup>1</sup> The policy outlines the prompt and equitable response the District will use when responding to complaints of discrimination and harassment and includes examples of harassment and detailed information regarding the process and timeframes for filing complaints.

## **Resolution**

On July 25, 2017, the District expressed to OCR an interest in engaging in resolution

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<sup>1</sup> Specifically, the District's Policy AC "Prohibition Against Discrimination, Harassment, and Retaliation" states, "The compliance officer or acting compliance officer will... (8) Oversee discrimination, harassment or retaliation grievances, including identifying and addressing any patterns or systemic problems and reporting such problems and patterns to the superintendent or the Board." Similarly, the District's Policy states, "The compliance officer or acting compliance officer will... (10) Report to the superintendent and the Board aggregate information regarding the number and frequency of grievances and compliance with this policy."

negotiations pursuant to Section 302 of OCR’s *Case Processing Manual (CPM)*.<sup>2</sup>

Prior to the completion of OCR’s investigation into the complaint, the District submitted a signed Agreement (copy enclosed) on November 30, 2017, that, when fully implemented, will address the complaint allegations. The Agreement requires the District to provide an assurance regarding the roles and responsibilities of the Title IX Coordinator. The Agreement requires the District to provide training to all District personnel on an annual basis on the responsibility to report incidents of possible harassment based on sex to the Title IX Coordinator, and the procedures for doing so. The training will provide instruction on how to recognize, prevent, and respond appropriately to such harassment, including but not limited to complaints filed using the District’s “Bullying Incident Report Forms.” The District will develop and provide training for high school students regarding bullying and harassment based on sex. The District will conduct a climate survey of its high school students, designed to assess students’ attitudes and knowledge about harassment on the basis of sex and to determine whether students know when and how to report sexual harassment. Under the Agreement, if the Student re-enrolls in the District during the 2017-18 school year, the District will provide written notice to the Complainant stating that the District will take any steps necessary to ensure that Student is not subjected to harassment, including sex-based harassment, or a hostile environment on the basis of sex on District grounds, in District-sponsored activities, and by District students. Please consult the Agreement for further details.

OCR considers the complaint allegations resolved effective the date of this letter and will monitor the District’s implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume its investigation.

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, please be advised that 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.

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 the right to file a private suit in Federal court whether or not OCR finds a violation.

If you have any questions, please contact XXXXX X XXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at

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<sup>2</sup> The *Case Processing Manual* is available on OCR’s website at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

XXXXX.XXXXX@ed.gov.

Sincerely,

Kelli Douglas  
Supervisory Attorney

Enclosure