



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

ONE PETTICOAT LANE  
1010 WALNUT STREET, SUITE 320  
KANSAS CITY, MO 64106

REGION VII  
ARKANSAS  
KANSAS  
MISSOURI  
NEBRASKA  
OKLAHOMA  
SOUTH DAKOTA

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**SENT VIA EMAIL ONLY**

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XXXXXX, XXXXXX XXXXXX  
XXXXXX@XXXXXX.XXX

Re: Harrah Public Schools  
OCR Complaint No. 07221133

Dear XXXXXX XXXXXX:

On XXXXXX, the U.S. Department of Education, Office for Civil Rights (OCR), opened the above-referenced complaint filed against the Harrah Public Schools, located in Harrah, Oklahoma, (the District) to investigate whether the District treats students differently on the basis of sex in approving or denying student requests to use the restroom during class. The Complainant filed the complaint on behalf of XXXXXX, a student (Student) at XXXXXX XXXXXX XXXXXX (School). This letter is to confirm the District has voluntarily accepted a Resolution Agreement (Agreement) with OCR to resolve the complaint.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving federal financial assistance. OCR has Title IX enforcement jurisdiction over recipients of federal financial assistance from the Department of Education.

Because Harrah Public Schools receives federal financial assistance from the Department of Education, the District is subject to Title IX and to OCR's jurisdiction. Additional information about the laws OCR enforces is available on its website at <http://www.ed.gov/ocr>.

During the investigation to date, OCR reviewed documentation provided by the Complainant, including correspondence between the Complainant and the District; interviewed the District's Superintendent; and interviewed the Complainant. Before OCR completed its investigation, the District expressed a willingness to resolve the allegation pursuant to Section 302 of OCR's *Case Processing Manual*,<sup>1</sup> which states that allegations under investigation may be resolved at any

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<sup>1</sup> OCR utilized its Rapid Resolution Process, an expedited case processing approach that can be used to resolve cases. The outcomes in all Rapid Resolution Process cases must meet OCR's standards for legal sufficiency and be consistent with applicable statutory and regulatory authority. Under subsection 203 of the *Case Processing Manual*, where a recipient has indicated that it is willing to take action in the future to resolve the complaint allegations, upon the recipient's request and OCR's agreement, the complaint may be resolved pursuant to *Case Processing Manual* Section 302(b). The *Case Processing Manual* is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegation and OCR determines that it is appropriate to resolve the allegation because OCR's investigation has identified concerns that can be addressed through a resolution agreement.

## **Legal Standard**

The Title IX regulation, at 34 C.F.R. § 106.31(a), provides that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a school's education programs or activities on the basis of sex. When investigating an allegation of different treatment, OCR first determines whether there is sufficient evidence to establish an initial, or prima facie, case of discrimination. Specifically, OCR determines whether a school treated an individual less favorably than similarly situated individuals of a different sex. If so, OCR then determines whether the school had a legitimate, nondiscriminatory reason for the different treatment. Finally, OCR determines whether the reason given by the school is a pretext, or excuse, for unlawful discrimination.

## **Preliminary Investigative Findings**

The following is a summary of the evidence obtained by OCR during the investigation to date. To protect individuals' privacy, the names of the Complainant, District staff and administrators, witnesses, and other parties are not used in this letter.

The Complainant alleged that on January 24, 2022, and at other times during the 2021-2022 school year, XXXXX told the Student and other female students that they could not use the restroom during class. However, when a male student asked, he was allowed to use the restroom during class. The Student was unable to recall what XXXXX treated her and other female students differently than male students. The Complainant stated that XXXXX monitored student bathroom usage by standing in the vicinity of the restrooms (outside the facilities), and the Student had received seven tardies after restroom use between classes.

The Complainant emailed the XXXXX and XXXXX of the School requesting that XXXXX be allowed to use the restroom as necessary, due to menstruation and other medical issues. On XXXXX, the Complainant submitted a doctor's note to the school outlining the Student's medical needs. On XXXXX, the District emailed the Complainant to assemble a 504 plan. The District asked the Complainant to sign paperwork, with the intention of placing the Student on a Section 504 plan, but the Complainant declined. The Complainant told OCR he did not want to be involved in the Section 504 process.

OCR interviewed the XXXXX XXXXX, who stated that he was not aware of any concerns the Complainant had about the Student's access to the restrooms being denied by XXXXX inequitably. The XXXXX further advised OCR that no other students have complained about different treatment with respect to restroom access. According to the XXXXX, XXXXX exercise discretion as to when a student's restroom usage becomes excessive and disruptive.

Before OCR finished its investigation, the District expressed interest in voluntarily resolving this complaint pursuant to Section 302 of OCR's *Case Processing Manual*.

## **Resolution**

On July 26, 2022, the District signed the attached Resolution Agreement which, when fully implemented, will address the allegation investigated. The provisions of the agreement are aligned with the allegation and requires the District to conduct training for administrators, counselors, and teachers regarding its obligations under Title IX. Please consult the Agreement for further details. OCR will monitor the District's implementation of the agreement until the District has fulfilled the terms of the agreement.

OCR considers the allegation of this complaint resolved and will monitor the District's implementation of the Agreement. When OCR determines the District has fully implemented the terms of the Agreement, OCR will close this complaint. If the District fails to carry out the Agreement, OCR may resume investigating the complaint. OCR will not close the monitoring of the Agreement until OCR determines that the District has demonstrated compliance with all the terms of the Agreement and is in compliance with Title IX and its implementing regulations, which were at issue in this complaint.

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 OCR policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. Individuals who file complaints with OCR may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. Complaints alleging such retaliation may be filed with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have questions concerning this letter, please contact, XXXXX XXXXX, Attorney, at (XXX) XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by e-mail at XXXXX.XXXXX@XX.XXX.

Sincerely,

J. Earlene Gordon  
Supervisory Attorney

Attachment (Resolution Agreement)