

Resolution Agreement

Murray School District OCR Case Number 08-15-1070

In order to resolve the complainant's allegation of failure to respond to a complaint of peer sexual harassment¹ in OCR Case Number 08-15-1070 filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Murray School District (District) pursuant to Title IX of the Education Amendments of 1972 and its implementing regulation at 34 Code of Federal Regulations Part 106; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, and their respective implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, the District agrees to take the actions outlined in this Resolution Agreement. The complainant and the District resolved all other complaint allegations via OCR's Early Complaint Resolution process on May 5, 2015.

Prior to OCR's completion of its investigation and before OCR had made any findings, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegation and related issues to ensure compliance with Title IX and Section 504² and Title II as they apply to the affected students. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint allegation may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the agreement's remedies align with the allegations.

REMEDIAL ACTIONS

The District voluntarily agrees to take the following actions:

1. By August 1, 2015, the District will review and revise its Sexual Harassment Policy and Procedures to ensure that the procedures provide for the prompt and equitable resolution of complaints alleging sex discrimination and will include, at a minimum, the following:
 - a. notice that the procedures apply to complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence) by employees, students, or third parties;
 - b. a statement of the District's jurisdiction over Title IX complaints;
 - c. a statement that the preponderance of the evidence will be the evidentiary standard used to investigate all Title IX complaints;
 - d. an explanation of how to file a complaint pursuant to the procedure;
 - e. an explanation of the District's informal complaint procedure, if applicable, and that such procedure is optional;

¹ The District and Complainant entered into an Early Complaint Resolution (ECR) agreement on May 5, 2015 and resolved the other allegations raised by the Complainant in OCR Case Numbers 08-15-1070 and 08-15-1213.

² Because Section 504 has specific requirements regarding FAPE and Title II provides for no lesser protection than that provided by Section 504, this Agreement refers to Section 504 in addressing FAPE requirements.

- f. the name or title, office address, and telephone number of the individual with whom to file a complaint;
- g. definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault, and sexual violence);
- h. a statement that responsible employees are expected to promptly report sexual harassment that they observe or learn about;
- i. provide for the adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence;
- j. designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution and appeal processes, if any;
- k. a provision indicating that the District will comply with law enforcement requests for cooperation and such cooperation may require the District to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence and that the District will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the District's investigation may be longer in certain instances;
- l. the District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community and the avoidance of retaliation;
- m. a provision indicating that the District will take interim measures to protect the victim and the school community during the investigation of possible sexual harassment, and will ensure that students, parents/guardians and District staff are aware of the availability of interim measures and any available resources, such as counseling, academic support, increased monitoring, supervision or security, and what interim measures can be taken to separate the students, and that such interim measures will not disproportionately impact the complainant;
- n. written notification to the parties of the outcome of the investigation;
- o. an assurance that the District will keep the complaint and investigation confidential to the extent possible;
- p. notice of the opportunity for both parties to appeal the findings;
- q. an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker;

- r. an assurance that steps will be taken to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy the discriminatory effects on the victim(s) and others, if appropriate;
- s. examples of the range of possible disciplinary sanctions for employees or students who are found to have engaged in sex discrimination, and the types of remedies available to victims and others;
- t. maintenance of all documentation of the complaint investigation and any corrective action in a system by school site and throughout the District;
- u. an assurance that the District will maintain on-going contact with the victim(s) throughout the investigation; and
- v. a statement that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.

Recognizing that Title IX does not require a separate sexual harassment complaint procedure, the District assures OCR all of its grievance procedures concerning complaints of sex discrimination, including any disciplinary procedures, if applicable, will comply with the requirements outlined above.

2. The District will provide any proposed revisions to the District's Sexual Harassment Policies and Procedures to OCR for our consideration and approval by August 15, 2015.

Reporting Requirement Agreement Terms 1 through 2: The District will provide documentation to OCR of completion of Terms 1-2 in its initial monitoring report due to OCR August 15, 2015.

3. Within 45 days of OCR's approval of the District's revised policies and procedures, the District will develop guidance and provide training for all District administrators and staff addressing the responsibility of the District to ensure a prompt, equitable, and otherwise appropriate response to sexual harassment complaints that involve student with disabilities, including:
 - a. The application of the District's revised and approved Sexual Harassment Policy and Procedures to students with disabilities.
 - b. Steps taken to ensure that the District meets its obligation to student with disabilities under Title IX and Section 504 when a student with a disability reports or is accused of sexual harassment, including which staff member(s) will respond to such complaints, and who to contact for further information.
 - c. Whether remedial action taken in response to a complaint of sexual harassment of or by a student with a disability results in a significant change in placement for the student.
 - d. Appropriate special education, regular education, and other relevant staff are apprised of their responsibilities relating to remedial action taken for the harassed student, or against the student harasser.

4. Prior to conducting the required staff training, the District will submit to OCR for approval the name of the trainer, and his or her qualifications, a copy of the training materials and a list or roster of staff and administrators expected to participate in the training.
5. The District will maintain documentation demonstrating that all identified staff received the training required in term 4 above. Documentation to be provided to OCR shall include a copy of the training agenda, materials, and sign-in sheet or other similar record documenting staff attendance and participation.

Reporting Requirement Agreement Terms 3-5: The District will provide documentation demonstrating completion of Terms 3 through 5 to OCR in its monitoring report due to OCR by December 13, 2015.

6. Within ten days of OCR's approval of any revision to the District's Sexual Harassment Policy and Procedures, the District will provide individual written notice to the complainant of the revisions to the District's Sexual Harassment Policies and Procedures.
7. The District will maintain documentation demonstrating notification to the complainant of revisions made pursuant to Agreement Terms 1-2.

Reporting Requirement Agreement Terms 6-7: The District will provide documentation demonstrating completion of Terms 6 and 7 by December 13, 2015.

8. Within ten days of the date of this Agreement, the District will contact the complainant and the student³ in writing and offer to provide the student 30 hours of individual counseling and mental health services for emotional support relating to the alleged sexual harassment.
9. In its communication to the complainant, the District will request that the complainant notify the District of the student's intent to accept or reject the offered counseling services within ten calendar days of receipt of the letter. The letter will include the name and contact information of the identified District administrator the complaint is to contact regarding acceptance and scheduling of the counseling services for the student.

Reporting Requirement Agreement Terms 8-9: The District will provide documentation demonstrating completion of Terms 8 and 9 by August 14, 2015.

MONITORING AND REPORTING

10. By August 15, 2015, the District shall provide to OCR an initial monitoring report addressing Agreement terms 1 to 2 above, including supporting documentation and describing the steps the District has taken to ensure implementation of this Agreement.
11. The District shall comply with any additional OCR requests for monitoring reports as necessary until the District demonstrates full compliance with all terms of this Agreement.

³ The student graduated from the District in May 2015.

ADDITIONAL ACKNOWLEDGEMENTS

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 a minimum of sixty (60) calendar days to cure the alleged breach.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX of the Education Amendments, Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act of 1990 their implementing regulations at 34 C.F.R. Part 104, and 28 C.F.R. Part 35 which were at issue in this case.

The District understands that by signing this agreement, it agrees to provide data and other 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 the regulation implementing Title IX of the Education Amendments, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 and their implementing regulations at 34 C.F.R. Part 104, and 28 C.F.R. Part 35, which were at issue in this case.

/s/

Dr. Steven K. Hirase, Superintendent
Murray School District

Effective Date