

RESOLUTION AGREEMENT

South Valley Prep and Arts Academy Case Numbers 08-15-1083 and 08-15-1189

In order to resolve the harassment/bullying on the bases of race and sex and retaliation allegations in Case Number 08-15-1083 and Case Number 08-15-1189 filed against South Valley Prep and Arts Academy (School), the School agrees to implement the following Resolution Agreement. These complaint allegations were opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100 and Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of race and sex in education programs and activities that receive Federal financial assistance from the Department.

During the course of OCR's investigation, before OCR had made any findings with regard to these allegations, the School indicated its willingness to take steps necessary to ensure compliance with Title VI and Title IX. Pursuant to Section 302 of OCR's *Case Processing Manual*, allegations may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the allegations, OCR believes that doing so is appropriate, and the remedies align with the allegations. The School's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

The School agrees to take the following actions:

1. In accordance with Title VI, the School will review, revise, as appropriate, and submit to OCR for approval, the School's anti-discrimination policies and procedures including provisions that address:
 - a) The prohibition by Title VI which states that educational institutions under OCR's jurisdiction may not discriminate or retaliate against any person on the basis of race, color or national origin, and the School's responsibility to comply with Title VI;
 - b) The School's responsibility to promptly and equitably resolve racial discrimination, harassment and retaliation, and the School's required steps to do so; and
 - c) A statement by the School that it does not tolerate racial discrimination, harassment and retaliation that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken.

REPORTING REQUIREMENT 1: The School will submit to OCR for approval the above-mentioned policies and procedures by **January 16, 2018**.

2. The School will consider and respond to any feedback from OCR with respect to the revised Title VI policies and procedures. Within 60 days of the date of OCR's approval, the School will take action to officially adopt, publish and disseminate the procedures, using its standard

methods for disseminating new information that is important to students, employees and members of the public.

REPORTING REQUIREMENT 2: By **May 31, 2018**, the School will provide written verification to OCR that it has adopted and implemented its revised Title VI policies and procedures and has included them in the Policies and Procedures Manual that is available on the School's website.

3. The School will review and revise, as appropriate, its Title IX grievance procedures to address complaints of sex discrimination, as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). The School will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging sex discrimination and will include, at a minimum, the following:
 - a) a statement of the School's jurisdiction over Title IX complaints;
 - b) notice to students and employees of the grievance procedures, including where complaints may be filed;
 - c) application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination or sexual harassment (including sexual violence) carried out by employees, other students, or third parties;
 - d) provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to identify witnesses and evidence;
 - e) a statement that these procedures will be administered in a manner that eliminates any conflicts of interest (real or perceived) by individuals handling the procedures;
 - f) designated and reasonably prompt time frames for the major stages of the complaint process;
 - g) provisions stating that both parties will be informed of the status of the investigation at regular intervals;
 - h) assurance that alleged victims of sex discrimination will not be required to work out the problem directly with alleged perpetrators without appropriate involvement by the School;
 - i) assurance that any informal process can be ended by an alleged victim at any time in order to begin a formal stage of the complaint process;
 - j) notice to the complainant and alleged perpetrator of the outcome of the complaint;
 - k) provisions that the School must maintain all documentation of the complaint investigation and any corrective actions taken in a system that allows the Title IX Coordinator or others to track incidents by school site and perpetrator;
 - l) assurance that the School will take steps to prevent recurrence of any sexual harassment and remedy discriminatory effects on the complainant and others, if appropriate;

- m) adequate definitions of sexual harassment (which includes sexual violence) and sexual bullying and an explanation as to when such conduct creates a hostile environment;
- n) reporting policies and protocols provide that, in the event of a sexual assault (including alleged sexual contact between staff and students), the School's Title IX Coordinator will immediately be notified of the incident, so that the School may (i) ensure that it provides an appropriate response to the incident, consistent with the policies and procedures, and (ii) inform law enforcement or the Arizona Department of Education as appropriate;
- o) reporting policies and protocols, including provisions for confidential reporting, applicable to every School employee;
- p) notice that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation;
- q) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- r) notice that School employees may notify law enforcement of jurisdiction of any incident that is suspected to warrant a criminal investigation, and that School employees may notify the Arizona Department of Education of any incident that is suspected to implicate a staff member's professional certificate;
- s) notice of available interim measures that may be taken to protect students in the educational setting, pending the outcome of any School's investigation;
- t) a statement that the preponderance of the evidence (i.e., more likely than not that sex discrimination occurred) will be the standard used in investigating a complaint;
- u) notice of potential remedies for students and potential sanctions against perpetrators; and
- v) provisions stating that training will be provided for all individuals implementing the grievance procedures.

REPORTING REQUIREMENT 3: By **January 16, 2018** the School will provide to OCR, for OCR's approval, its draft Title IX grievance procedures demonstrating completion of Term 3.

- 4. The School will consider and respond to any feedback from OCR with respect to the revised Title IX grievance procedures. Within 60 days of the date of OCR's approval of the School's Title IX grievance procedures, the School will adopt and implement the grievance procedures and will include them in the Policies and Procedures Manual that is available on the School's website. **REPORTING REQUIREMENT 4:** By **May 31, 2018**, the School will provide written verification to OCR that it has adopted and implemented its revised Title IX grievance procedures and has provided notice to students and employees.
- 5. The School will develop a Policy regarding any communication or access restrictions for parents violating School policy to ensure that future restrictions are not implemented in retaliation for activities protected by Title VI and Title IX. The procedures will:

- a) Provide criteria for determining whether a communication or access restriction is necessary and require written notification to the parent describing the reason for the restriction(s);
- b) Set a time period for the application of the restriction;
- c) Provide standards for reviewing and determining whether a parental restriction should be extended; and
- d) Include a recordkeeping system on parental communication or access restrictions, including the names of parents, reason for the restrictions, and duration of the restrictions.

REPORTING REQUIREMENT 5: By **January 16, 2018**, the School will provide OCR with a copy of the proposed Policy for communication or access restrictions for OCR's review and approval.

6. The School will consider and respond to any feedback from OCR with respect to the draft procedure for communication or access restrictions. Within 60 days of the date of OCR's approval, the School will adopt the procedure and will provide notice of the procedure to students, parents and School staff including website links demonstrating the procedure is available on the School's website.

REPORTING REQUIREMENT 6: By **May 31, 2018**, the School will provide documentation supporting that the OCR-approved Policy has been adopted and shall include notice of the Policy in the Policies and Procedures Manual that is available on the School's website.

7. The School will draft for OCR's approval in-service training materials and identify one or more persons knowledgeable about Title VI and Title IX who will provide the training. The training information will include, at minimum:
 - a) A review of the School's responsibility to comply with Title VI and Title IX, which state that educational institutions under OCR's jurisdiction may not discriminate against any person on the basis of race, color, national origin and sex;
 - b) A review of the prohibition against race, color, national origin and sexual harassment by Title VI and Title IX and an explanation of what constitutes race, color, national origin and sexual harassment;
 - c) A review of the prohibition against retaliation by Title VI and Title IX and an explanation of what constitutes retaliation under those statutes including: (a) what constitutes a protected activity, (b) the prohibition on adverse actions in response to those protected activities, and (c) recognizing the warning signs of retaliation and intimidation and how their actions might be perceived by individuals engaging in protected activities;
 - d) A review of the School's current policies prohibiting race, color, national origin and sex discrimination, harassment, and retaliation and the potential consequences to beneficiaries and staff for failure to abide by the policies;

- e) Identification of the District's Title IX Coordinator and an explanation of how the District's Title IX Coordinator can assist administrators, teachers, and staff with questions or concerns related to Title IX;
- f) A statement by the School that it does not tolerate race, color, national origin or sex discrimination or retaliation, that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken;
- g) A review of the procedures approved by OCR in Terms 1 and 3 of this Agreement, including the School's responsibility to promptly investigate and to appropriately respond when School personnel have a reasonable belief of or are put on actual notice of alleged race, color, national origin or sex discrimination (including harassment and retaliation), even if a formal complaint is not filed, and information about each employee's responsibility to respond promptly and appropriately when they believe or are notified that race, color, national origin or sex discrimination might have occurred, and applicable procedures; and
- h) Information about the School's OCR-approved Policy regarding communication or access restrictions for parents violating School policy including: (a) the criteria for determining whether a communication and/or access restriction is necessary; (b) written notification to the parent describing the reason for the restriction(s); (c) establishing a time period for the application of the restriction; (d) the standards for reviewing and determining whether a parental restriction should be extended; and (e) the School's recordkeeping system for communication or access restrictions.

REPORTING REQUIREMENT 7: Within 30 calendar days of receiving OCR's approval of the draft policies and procedures in Term 1, the draft grievance procedures in Term 3 and the draft procedure in Term 5, the School will submit documentation to OCR demonstrating that it has fully complied with Item 7. Such documentation will include:

- The draft training materials for OCR's review and approval and
 - Identification of the intended trainer(s) and information about the trainer's qualifications.
8. The School will consider and respond to any feedback from OCR with respect to the draft training package and identification of the trainer(s). Assuming that OCR has approved both prior to June 2018, the School shall provide training to the entire staff at the School prior to or within the first 30 days of the 2018-2019 School year.

REPORTING REQUIREMENT 8: Within ten (10) calendar days after the conclusion of the training, the School will submit to OCR proof that the training was provided. Such documentation will include:

- The agenda and handouts for the training;
- The date(s) and time(s) the training was held; and

- A copy of the attendance sheet(s) from the training, including the name and title of each participant, along with a written assurance from the School that all required attendees were present during the training or were provided an alternative means to receive the information if absent on the day of the training.

The School 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 School understands that during the monitoring of the Agreement, if necessary, OCR may visit the School, interview School employees and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. §§ 100.3 and 100.7(e) and Title IX at 34 C.F.R. §§ 106.31 and 106.71, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The School 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 School written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

For South Valley Prep and Arts Academy:

/S/
KJ Weihing 11/14/2017
VP of Finance