

Resolution Agreement

Pueblo School District 60 OCR Case Number 08-17-1103

In order to resolve the issues in Case Number 08-17-1103, filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Pueblo School District 60 (District), pursuant to Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 et seq., and its implementing regulations, at 34 C.F.R. § 106, the District agrees to take the actions outlined in this Resolution Agreement (Agreement).

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 potential compliance issues relating to Title IX that arose during the investigation of the complaint. Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), a complaint allegation and issue may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint and OCR believes that doing so is appropriate.

The Agreement requirements are aligned with the identified issues and are consistent with the Title IX regulatory requirements. The District's decision to enter into this Agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

1. **Notice of Nondiscrimination.** The District will submit a revised notice of nondiscrimination on the basis of sex for OCR's review and approval. Consistent with the requirements of Title IX, at 34 C.F.R. § 106.9, this notice shall state that: (a) individuals or groups may direct inquiries concerning the application of Title IX to the District's Title IX Coordinator(s) or to OCR; and (b) the District is required by Title IX not to discriminate on the basis of sex.

REPORTING REQUIREMENT 1(A): By September 20, 2018, the District will submit, for OCR review and approval, the revised notice of nondiscrimination. The District will fully and promptly address any feedback from OCR until it receives final OCR approval in writing.

REPORTING REQUIREMENT 1(B): Within 30 calendar days of hosting the Title IX training for administrators required by Term 3 of this Agreement, the District will disseminate the notice to all District students, parents and guardians, and staff. Within 45 calendar days of hosting the Title IX training for administrators required by Term 3 of this Agreement, the District will provide OCR documentation of its efforts to disseminate the notice. The District will send an email to parents, guardians and staff; post the appropriate webpage(s) on the District's website; and make hard copies of the notice available in the District's administration building and school buildings.

2. **Title IX Coordinator(s).** Within 30 calendar days of OCR's approval of the Title IX Coordinator(s), or at the next regularly convened meeting of the Board of Education of the District, the District will, consistent with the requirements of Title IX, at 34 C.F.R. §

106.8(a): (a) ensure that it has designated at least one qualified employee to coordinate the District's efforts to comply with Title IX; and (b) publish this individual's or these individuals' name(s), title(s) (*i.e.*, "Title IX Coordinator"), office address(es), email address(es), and telephone number(s). If the District chooses to designate more than one employee to coordinate the District's efforts to comply with Title IX, its publications will make clear the scope of each person's responsibilities (*e.g.*, who will handle complaints by, or on behalf of, students, parents, guardians, and employees).

The District will ensure that the Title IX Coordinator(s) have appropriate training to carry out the responsibilities of the position.

The District will also ensure that its webpages, Board Policies or Regulations, and publications (including, but not limited to, student, parent and guardian, and staff handbooks) contain complete, consistent, and accurate information regarding the name(s), title(s), office address(es), email address(es), and telephone number(s) of the Title IX Coordinator(s).

REPORTING REQUIREMENT 2(A): By September 20, 2018, the District will provide OCR with the name(s) and qualifications of its Title IX Coordinator(s). The District will promptly consider and respond to OCR's feedback, if any, with respect to the designated Title IX Coordinator(s), until OCR notifies the District, in writing, that the individual(s) meet(s) the requirement of Term 2 of this Agreement and the statutory and regulatory requirements of Title IX.

REPORTING REQUIREMENT 2(B): Within 30 calendar days of hosting the Title IX training for administrators required by Term 3 of this Agreement, the District will provide OCR with evidence showing that the Title IX Coordinator(s)'s name(s), title(s), and contact information has/have been disseminated as required by Term 2 of this Agreement.

3. **Title IX Training for Administrators.** The District will conduct in-person training of its Title IX Coordinator(s) and all other District employees who will be directly involved in processing, investigating, or resolving complaints of sex-based discrimination, or who will otherwise assist with coordination of the District's compliance with Title IX, including school administrators. The training will, at a minimum, address:
 - The District's Title IX policies and procedures;
 - The District's prohibition on sex-based discrimination, including sexual harassment and sexual violence;
 - The definition of sex-based discrimination, including the definition of sexual harassment and hostile environment, as well as an explanation that even if a particular behavior is identified as bullying, it may also rise to the level of harassment for purposes of Title IX;
 - The District's responsibilities under Title IX to address sex-based harassment, regardless of whether the actions are potentially criminal in nature or reported to a school resource officer or other law enforcement;

- The roles of the District's Title IX Coordinator(s);
- When and how schools shall notify the District of Title IX complaints or concerns; and
- Recognizing and appropriately responding to allegations of sex-based discrimination, including:
 - Notifying complainants of the right to file a concurrent criminal complaint;
 - Conducting and documenting prompt, reliable, thorough, effective, and impartial investigations, including the appropriate legal standards to apply in a Title IX investigation and how the standards differ from that of a criminal investigation;
 - Putting interim measures in place to protect students who have experienced sex-based discrimination, and that are designed to cause the least disruption to the targeted student;¹
 - Respecting the privacy of complainants, respondents, and witnesses; and
 - If sexual harassment is found, implementing a reasonable, timely, age-appropriate, and effective response that is tailored to: stop the harassment, eliminate the hostile environment, remedy the effects of the harassment on the student who was harassed, prevent the harassment from recurring, and, if necessary, repair the educational environment.

REPORTING REQUIREMENT 3(A): Within 30 calendar days of receipt of OCR's approval of the notice of nondiscrimination and Title IX Coordinator(s) and related Board policies and regulations required by Term 2 of this Agreement, the District will submit to OCR for review and approval:

- Draft training materials, including an agenda, and presentation;
- A list of individuals to be trained, including, for each person, name and title/position;
- The name(s), title(s), and qualifications of one or more proposed trainers;² and
- A proposed format and date(s) for the training.

The District will promptly consider and respond to OCR's feedback, if any, until OCR notifies the District, in writing, that the training materials, trainer(s), and attendee list are approved.

REPORTING REQUIREMENT 3(B): Within 30 calendar days of OCR's approval of the training materials and trainer(s), or as soon after as reasonably practicable in consideration of the District's pre-determined administrator in-service dates, the District will conduct the training required by Term 3 of this Agreement. Within 30 calendar days of conducting the training, the District will submit to OCR documentation showing that it

¹ For example, typically, if schedule changes are necessary to prevent a target from attending class with a perpetrator, the perpetrator's schedule will be modified and the target's schedule will remain unchanged, unless the target requests a schedule change.

² The trainer may be a qualified District employee or a private training provider.

fully complied with Term 3 of this Agreement. The documentation will include: (a) the training materials; (b) the location(s), date(s), and time(s) of the training session(s); (c) a list of attendees, including names and titles/positions; (d) a list of required attendees who did not attend, if any, including for each, name, title/position, and plan for making up training; and (e) a report demonstrating each trainee's participation in the training.

4. **Title IX Training for School Staff.** The District will conduct in-person Title IX training of all Roncalli STEM Academy (Roncalli) and Pueblo Academy of Arts (PAA) staff who interact with students on a regular basis and who are not otherwise required to receive training pursuant to Term 3 of this Agreement. The initial training will be administered in person. The District will provide OCR with written assurances that staff at the schools will receive similar Title IX training from qualified trainers on an annual basis. The training will address, at a minimum, the following topics:

- Preventing, recognizing, and responding to allegations of sex discrimination;
- The definition and examples of sex-based discrimination, including sexual harassment and sexual violence;
- The District's and schools' responsibilities under Title IX to address sex-based discrimination, regardless of whether both parties are alleged to have engaged in bullying or name-calling;
- The District's Title IX policies, procedures, and forms, including their content and where they can be found; and
- The name(s) and contact information for the District's Title IX Coordinator(s), and if applicable, the name(s) and contact information of the schools' Title IX Coordinator(s).

REPORTING REQUIREMENT 4(A): Within 30 calendar days of hosting the Title IX training for administrators as required by Term 3 of this Agreement, the District will submit to OCR for review and approval:

- Draft training materials, including an agenda and presentation;
- A list of individuals to be trained, including, for each person, name and title/position;
- The name(s), title(s), and qualifications of one or more proposed trainers; and
- A proposed format and date for the training.

The District will promptly consider and respond to OCR's feedback until OCR notifies the District, in writing, that the training materials and trainer(s) are approved.

REPORTING REQUIREMENT 4(B): Within 30 calendar days of OCR's approval of the training materials and trainer(s) or as soon after as is reasonably practicable in consideration of the District's previously negotiated staff in-service dates, the District will conduct the training. Within 30 calendar days of the training, the District will submit to OCR documentation demonstrating that it has fully complied with Term 4 of this Agreement. The documentation will include: (a) the training agenda and materials; (b) the location(s), date(s), and time(s) of the training session(s); (c) a list of attendees,

including for each, name and title/position; (d) a list of required attendees who did not attend, if any, including for each, name, title/position, and a plan for making up training..

5. **Title IX Training for Students.** The District will conduct in-person, age-appropriate, Title IX training of Roncalli and PAA students. The training will address, at a minimum:
 - Definitions and examples of sex-based discrimination, including sexual harassment and sexual violence;
 - The District's prohibition on sex-based discrimination;
 - The District's responsibility to respond to reports of on-campus and off-campus sexual harassment and sexual assault against students if there is a possibility that a hostile environment exists on-campus;
 - How the District must respond to reports of sex-based discrimination;
 - The importance of reporting sex-based discrimination;
 - How to report incidents of sex-based discrimination; and
 - Protections from retaliation under Title IX.

REPORTING REQUIREMENT 5(A): Within 30 calendar days of hosting the Title IX training for school staff as required by Term 4 of this Agreement, the District will submit to OCR for review and approval:

- Draft training materials, including an agenda;³
- The name(s), title(s), and qualifications of one or more proposed trainers; and
- A proposed format and schedule for the training.

The District will promptly consider and respond to OCR's feedback until OCR notifies the District, in writing, that the training materials and trainer(s) are approved.

REPORTING REQUIREMENT 5(B): Within 30 calendar days of OCR's approval of the training materials and trainer, the District will conduct the training. Within 30 calendar days of the training, the District will submit to OCR documentation demonstrating that the training required by Term 5 of this Agreement was provided. The documentation will include: (a) the training agenda(s) and materials; (b) the location(s), date(s), and time(s) of the training session(s); and (c) a list of attendees, including name and grade level.

6. **Individual Relief – XXX (Student 1).** By October 1, 2018, the District will invite, in writing, the Complainant to meet with at least one administrator and one counselor XXXX to discuss: (a) Student 1's experiences during the 2016-2017 school year (SY); and (b) appropriate steps to redress sex-based hostile experiences, if any, that Student 1 experienced during the 2016-2017 SY. By way of example only, possible appropriate steps may include such things as: making a District-employed counselor available to meet with Student 1; District employees conducting mediations or restorative sessions with Student 1 and any perpetrators of sex-based harassment; academic tutoring for

³ The training materials may need to be differentiated by grade level.

Student 1, if, for example, his academic performance suffered as a result of any sex-based harassment; revising attendance records, if Student 1 had any harassment-related absences; revising discipline records, if, for example, Student 1 was disciplined for self-defense; and establishing a safe space and designated person who Student 1 can go to if any harassment occurs in the future, to the extent such action has not already been taken.⁴ If the Complainant accepts the invitation, the District will convene a meeting. The District will ensure that detailed notes reflecting the discussion are taken at the meeting and that the outcome(s) of the meeting (*i.e.*, what steps, if any, will be taken for Student 1, and a plan for taking the steps, if any) are reduced to writing and shared with the Complainant within four school days of the meeting.⁵

REPORTING REQUIREMENT 6(A): By October 18, 2018, the District will provide to OCR a copy of the letter inviting the Complainant to meet and a copy of the Complainant's response, if any.

REPORTING REQUIREMENT 6(B): By December 1, 2018, the District will provide to OCR a copy of the Complainant's response, if any, or notification that the Complainant did not request a meeting. If the Complainant does not request a meeting by November 1, 2018, the District is not required to hold a meeting.

If a meeting is held, the District will submit to OCR, within 15 calendar days of the meeting: (a) a copy of notes from the meeting; (b) a copy of the written notice to the Complainant of the outcome(s) of the meeting; and (c) a plan for the implementation of appropriate steps, if any, to redress any sex-based hostile environment that Student 1 may have experienced during the 2016-2017 SY.

REPORTING REQUIREMENT 6(C): If a plan is developed, and unless the plan provides for an alternative timeline, the District will, by February 20, 2019, provide to OCR documentation demonstrating that it has fully implemented the plan it created pursuant to Term 6.

If the plan provides for an alternative timeline, the District will, by February 20, 2019, notify OCR of the date it anticipates fully implementing the plan. Then, within five school days of fully implementing the plan created pursuant to Term 6, the District will provide to OCR documentation demonstrating that implementation is complete.⁶

7. **Individual Relief –XXX (Student 2).** By October 1, 2018, the District will invite, in writing, the Complainant to meet with at least one administrator and one counselor

⁴ The District expressly denies the Complainant's allegations that Student 1 suffered any harm and that such alleged harm requires redress.

⁵ Regardless of whether Student 1 experienced any sex-based harassment or whether the District fully complied with any corresponding Title IX obligations, the District may nevertheless take any of these or other steps after meeting with Student 1, to enhance his education experience. Accordingly, any action taken by the District resulting from its meeting with Student 1 shall not be construed as an admission of liability.

⁶ OCR understands that certain action steps, such as identifying a safe space or support person, may be ongoing and not have a designated end date.

XXXX to discuss: (a) Student 2's experiences during the 2016-2017 SY; and (b) appropriate steps to redress sex-based hostile experiences, if any, that Student 2 experienced during the 2016-2017 SY. Examples of possible appropriate steps are listed in Term 6 of this Agreement.⁷ If the Complainant accepts the invitation, the District will convene a meeting. The District will ensure that detailed notes reflecting the discussion are taken at the meeting and that the outcome(s) of the meeting (*i.e.*, what steps, if any, will be taken for Student 2, and a plan for taking the steps, if any) are reduced to writing and shared with the Complainant within four school days of the meeting.⁸

REPORTING REQUIREMENT 7(A): By October 18, 2018, the District will provide to OCR a copy of a letter inviting the Complainant to meet and a copy of the Complainant's response, if any.

REPORTING REQUIREMENT 7(B): By December 1, 2018, the District will provide to OCR a copy of the Complainant's response, if any, or notification that the Complainant did not request a meeting. If the Complainant does not request a meeting by November 1, 2018, the District is not required to hold a meeting.

If a meeting is held, the District will submit to OCR, within 15 calendar days of the meeting: (a) a copy of notes from the meeting; (b) a copy of the written notice to the Complainant of the outcome(s) of the meeting; and (c) a plan for the implementation of appropriate steps, if any, to redress any sex-based hostile environment that Student 2 may have experienced during the 2016-2017 SY.

REPORTING REQUIREMENT 7(C): If a plan is developed, and unless the plan provides for an alternative timeline, the District will provide to OCR, by February 20, 2019, documentation demonstrating that it has fully implemented the plan it created pursuant to Term 7.

If the plan provides for an alternative timeline, the District will, by February 20, 2019, notify OCR of the date it anticipates fully implementing the plan. Then, within five school days of fully implementing the plan created pursuant to Term 6, the District will provide to OCR documentation demonstrating that implementation is complete⁹

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

⁷ The District expressly denies the Complainant's allegations that Student 2 suffered any harm and that such alleged harm requires redress.

⁸ Regardless of whether Student 2 experienced any sex-based harassment or whether the District fully complied with any corresponding Title IX obligations, the District may nevertheless take any of these or other steps after meeting with Student 2, to enhance her education experience. Accordingly, any action taken by the District resulting from its meeting with Student 2 shall not be construed as an admission of liability.

⁹ OCR understands that certain action steps, such as identifying a safe space or support person, may be ongoing and not have a designated end date.

