



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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March 21, 2018

Dr. Diana Asseier
Superintendent
Lake Havasu Unified School District
2200 Havasupai Blvd.
Lake Havasu City, AZ 86403

Sent via email to: dasseier@havasu.k12.az.us

RE: Lake Havasu Unified School District
Case Number: 08-18-1090

Dear Superintendent Asseier:

This letter is to inform you of the disposition of the above-referenced complaint, filed on November 27, 2017, against the Lake Havasu Unified School District (District) alleging discrimination on the basis of sex. Specifically, the Complainant alleged that the District failed to provide a prompt and equitable response to a complaint that a xxxx teacher engaged in sexual harassment in the classroom in Fall 2017; that the District does not have appropriate notice of a Title IX Coordinator; and does not have appropriate Title IX grievance procedures for making complaints of sexual harassment.

OCR enforces Title IX and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the U.S. Department of Education. As a recipient of Federal financial assistance from the Department, the District is subject to this law and regulation.

In the course of the investigation, OCR reviewed documents provided by the District and interviewed the Complainant. OCR also held discussions with the Superintendent, Principal of Lake Havasu High School, and District Human Resources Director. Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation relevant to the Title IX Coordinator and Sexual Harassment policies and procedures, pursuant to Section 302 of OCR's *Case Processing Manual*. Additionally, during the course of the investigation, we received information that the District took actions that resolved the allegation regarding the provision of a prompt and equitable response to the complaint that a xxxx teacher engaged in sexual harassment in his classroom.

Legal Standard

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires that a recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under that law. The recipient is further required, by the Title IX implementing regulation at 34 C.F.R. § 106.9(a), to notify all students and employees of the name (or title), office address, and telephone number of the designated employee(s).

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX, including sexual harassment and sexual assault. Title IX does not require a recipient to provide separate grievance procedures for sexual harassment complaints, including sexual assault complaints. A recipient may use student disciplinary or other separate procedures for these complaints; however, any procedures used to adjudicate complaints of sexual harassment or sexual assault, including disciplinary proceedings, must afford the complainant a prompt and equitable resolution.

In evaluating whether a recipient's grievance procedures are prompt and equitable, OCR reviews all aspects of a recipient's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

- 1) notice to students and employees of the procedures, including where complaints may be filed;
- 2) application of the procedure to complaints alleging discrimination and harassment carried out by employees, other students, or third parties;
- 3) provision for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence;
- 4) designated and reasonably prompt timeframes for the major stages of the complaint process;
- 5) notice to both parties of the outcome of the complaint and any appeal; and
- 6) assurance that the recipient will take steps to prevent recurrence of any sex discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others, if appropriate.

Resolution

During the processing of this complaint, OCR reviewed information provided by the Complainant and the District. We confirmed that on November 27, 2017, after filing the OCR complaint, the Complainant notified the school principal that a xxxx teacher was engaging in inappropriate behavior in xxxx classroom, and she wanted her daughter removed from the classroom. The behavior she described could be construed as sexual harassment. We confirmed that the principal changed her daughter's schedule so that she no longer was in that classroom that same day. The next day, the principal conducted an investigation by interviewing students from the classroom which confirmed the behavior. On November 29, 2017, the principal met with the teacher who also confirmed the behavior. On December 7, 2017, we confirmed the principal took prompt, effective action against the teacher; and the teacher's behavior stopped.

Although, the District did not initially do so, we confirmed that, during the course of the OCR investigation, the District sent an email to the Complainant on February 28, 2018, providing her with appropriate notice of the outcome of her complaint.

Pursuant to *CPM* Section 108(i), OCR will dismiss complaint allegations when it obtains credible information indicating that the allegations raised by the complainant are currently resolved. Because we have confirmed that the District provided a prompt and equitable response, including notice of the outcome, to the Complainant's complaint, we consider this matter resolved. Therefore, this allegation is dismissed effective the date of this letter.

Additionally, prior to the conclusion of the OCR investigation, the District indicated its interest in resolving the remaining allegations through a 302 Agreement. We determined that a voluntary resolution agreement was appropriate. Therefore, prior to OCR making any findings, the District signed an Agreement which, when fully implemented, will address the remaining allegations raised in the complaint.

In accordance with Section 302 of OCR's *CPM*, the provisions of the Agreement signed by the District on February 20, 2018 are aligned with the remaining complaint allegations and the information obtained during OCR's processing of this case, and consistent with the applicable regulations. Therefore, OCR is closing the complaint investigation for 08-18-1090 effective the date of this letter. OCR, however, will actively monitor the District's implementation of the Agreement until the District fulfills the terms of the Agreement and is in compliance with the statutes and regulations at issue in this case. If the District fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations. A copy of the Agreement is enclosed.

Conclusion

This concludes OCR's investigation of this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in this 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.

Please be advised that 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, the Complainant may file another complaint alleging such treatment. In addition, the Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 protect personal information to the extent provided by law.

We thank you for your cooperation in this matter. If you have any questions, you may contact xxxx, the Attorney assigned to this case, at xxxx or by email at xxx.

Sincerely,

/s/

Thomas M. Rock
Supervisory General Attorney

Enclosures – signed Resolution Agreement

cc (w/o enclosures): Dr. Diane Douglas, Arizona Superintendent of Public Instruction