

Resolution Agreement
Carmel Unified School District
Case No. 09-16-1019

Without admitting to any violation of law, Carmel Unified School District (District) agrees to implement this Resolution Agreement (Agreement) in order to resolve the issues investigated and violations identified by the U.S. Department of Education, Office for Civil Rights (OCR) under Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106 in the above referenced case.

I. Individual Remedy for the Student:

A. Counseling and Academic Support Fund

1. The District will notify the Complainant and Student that it has established a fund of \$XXXX for the Student to obtain psychological/mental health counseling and academic supports (Fund).
2. Said Fund may only be used for the cost associated with the provision of psychological/mental health counseling or academic support, such as tutoring, for Student.
3. Said Fund will be available to the Student until the total of \$XXXX has been depleted, or until 18 calendar months have elapsed since the date the District notifies Student of said Fund, whichever comes earlier.
4. The District will designate a District employee to manage said Fund, who will be responsible for communicating with the Complainant and/or Student regarding said Fund, and for ensuring that the District's obligations under this Agreement are met.
5. In order to access said Fund for the services specified herein, the Complainant may either: 1) choose an appropriate service provider and notify the District of the contact information and qualifications of such provider through provision of a resume or curriculum vitae, or 2) request a list of appropriate services providers from the District regarding said Fund.
6. The Complainant and/or Student may either be reimbursed for payments made out of pocket for the aforementioned services, or request that the providers invoice the District directly for direct District payment. If Student/Complainant elect said reimbursement option, they shall submit proof of payment and proof of attendance to the District for timely reimbursement. Because the Student is XXXXXXXX (XX) years old, the Student and/or the Complainant may determine the best method for funding the services specified herein.

Reporting Requirements

Within 60 days of the execution of this Agreement, the District will provide documentation showing that the Fund has been established and will provide confirmation that the District has notified the Complainant and Student about the options

for accessing said Fund. Within 30 school days of the expiration of the 18 month calendar period or of the Funds depletion, whichever comes earlier, the District will provide documentation to OCR of the funds expended and reimbursement receipts submitted, if any.

II. Revise Student Discrimination Complaint Policy and Procedures

The District will revise its policy and procedures (policy) related to sexual harassment of students to ensure that it complies with Title IX requirements. The revised policy will include the following provisions:

- A. A statement that the prohibition on sexual harassment applies to sexual harassment of students during off campus activities that have a nexus to campus activities.
- B. A statement that the Respondent in a sexual harassment complaint must have an equitable opportunity to present witnesses and relevant evidence.

Reporting Requirement

By 90 school days from the date of execution of this Agreement, the District will provide OCR with a draft of the revised policy and will adopt it within 30 school days after approval from OCR.

III. Revise Notice of Non-Discrimination and Clarify Title IX Coordinator

The District will revise its notice of nondiscrimination to comply with Title IX requirements, and include the following additions:

- A. Clarify who is serving as the Title IX Coordinator for the District by listing the name or title of the person(s) who the District is designating as the Title IX Coordinator and making sure each notice consistently identifies the same person(s) as Title IX Coordinator. If there is more than one Title IX Coordinator, the District will describe each Coordinator's responsibilities, and designate one Coordinator as having ultimate responsibility for coordination and oversight of Title IX compliance activities.
- B. Include the name or title, address, and phone number for the Title IX Coordinator in every notice provision.
- C. Ensure that the notice of nondiscrimination is included in each announcement, bulletin, catalog, or application form that it makes available to the persons described above, or which is otherwise used in the recruitment of students or employees.

Reporting Requirement

By 90 school days from the date of execution of this Agreement, the District will provide OCR with a draft of the revised notice of nondiscrimination for OCR review and will adopt the revised notice of nondiscrimination procedures within 30 school days after approval from OCR.

IV. Notice of Policy and Title IX Coordinator

Within 30 school days of the Board's adoption of the policy and notice of nondiscrimination provisions, the District will notify all members of the school community, including students, parents, administrators, staff and faculty, of the policy and the identity and contact information of the Title IX Coordinator. The District will provide this notice by: (i) posting the Title IX Coordinator's name and contact information and a link to the policy on the District's web site; (ii) making the policy and the Title IX Coordinator's information available at appropriate locations throughout the District; and (iii) including the policy and the Title IX Coordinator's information in the District's major publications, such as the student, staff and parent handbooks.

Reporting Requirement

By 90 school days from the date of execution of this Agreement, the District will provide OCR with evidence that it has provided the requisite notice.

V. Training and Qualifications of Title IX Investigators

The District will ensure that administrators who investigate sex discrimination complaints receive adequate training and/or are adequately qualified to investigate complaints under Title IX. Any outside contractor identified by the District to conduct investigations under Title IX must be qualified based on training covering the following subject areas:

- A. A review of the revised District complaint policy.
- B. Explanation of the appropriate analysis to determine whether a hostile environment has been created, including the following:
 - 1. Sexual harassment of a student can result in the denial or limitation, on the basis of sex, of the student's ability to participate in or receive education benefits, services, or opportunities. The District provides program benefits, services, and opportunities to students through the responsibilities given to employees. If an employee who is acting, or reasonably appears to be acting, in the context of carrying out these responsibilities either (1) conditions an educational decision or benefit on a student's submission to unwelcome sexual conduct, or (2) engages in sexual harassment that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program, the District is responsible for the discriminatory conduct whether or not it has notice.
 - 2. Unlawful discrimination may result from a single act of sexual harassment if that act is sufficiently serious; that unlawful discrimination may result not only from sexual advances or requests for sexual favors, but can be the product of harassing conduct that results in a hostile educational environment for a student.
 - 3. In determining whether a hostile environment based on sex has been created, the District evaluates whether or not the conduct was sufficiently serious to deny or limit the student's ability to participate in or benefit from the District's

program. The District examines all the circumstances, including: the type of harassment (e.g. whether it was verbal or physical); the frequency and severity of the conduct; the age, sex and relationship of the parties; the setting and context in which the harassment occurred; whether other incidents have occurred at the school; and other relevant factors.

Reporting Requirements

By 30 calendar days prior to said training, the District will provide OCR, for review and approval, the materials that will be used during the administrators training, including copies of any slide presentation and materials that will be distributed, a link to the online training, and the name, title, and qualifications of the trainer(s).

The District will provide the training required in Section V.A. and B. prior to the end of the 2017-2018 school year. Within 15 school days of providing the training required in Section V.A. and B. the District will provide OCR with the following documentation: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.

VI. Staff Training

All staff at XXXXXX XXXX School (School) will participate in training on the requirements of Title IX regarding the prohibition against, prevention of, and response to possible sexual harassment. The District also commits to annual training for all staff on sexual harassment. The District training will include, at a minimum:

- A. In-depth instruction on what types of conduct constitute sexual harassment or harassment on the basis of sex, the root causes of harassment on the basis of sex and/or sexual harassment and the negative impact that such harassment has on students and the educational environment;
- B. A focused review of the Title IX policy and procedure, including specific guidance on what constitutes sexual harassment, the District's responsibility for promptly and equitably responding to harassment on the basis of sex and sexual harassment, and how to respond to harassment on the basis of sex and sexual harassment; and
- C. Instruction as to which employees are responsible for reporting harassment on the basis of sex and sexual harassment and that failure to respond appropriately to notice of harassment on the basis of sex and sexual harassment violates District policy and may result in the imposition of disciplinary sanctions.

Reporting Requirements

By 30 calendar days prior to said training, the District will provide OCR, for review and approval, the materials that will be used during the staff training, including copies of any slide presentation and materials that will be distributed, a link to the online training, and the name, title, and qualifications of the trainer(s).

The District will provide the training required in Section VI.A., B., and C. prior to the end of the 2017-2018 school year. Within 15 school days of providing the training required in Section VI.A., B., and C. the District will provide OCR with the following documentation: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.

VII. Teaching Students about Sexual Harassment

Before the end of the 2017-18 school year, the District will provide training to students at the School regarding what constitutes sexual harassment and reporting processes. It will include the following:

- A. A description of what conduct constitutes sexual harassment and harassment on the basis of sex and how students can report staff-on-student harassment and student-on-student harassment; and
- B. A discussion of the District's Title IX policy and procedure, including the District's responsibility for responding to harassment on the basis of sex and sexual harassment, and how such claims will be investigated and responded to.
- C. Scenarios will be used to teach this material.

Reporting Requirement

By 30 calendar days prior to said training, the District will provide OCR, for review and approval, the materials that will be used during the student training, including copies of any slide presentation and materials that will be distributed, a link to the online training, and the name, title, and qualifications of the trainer(s).

The District will provide the training required in Section VII.A., B., and C. prior to the end of the 2017-2018 school year. Within 15 school days of providing the training required in Section VII.A., B., and C. the District will provide OCR with the following documentation: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training.

VIII. Monitoring

- A. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of this Agreement, 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 Title IX and its implementing regulations, which were at issue in this case.
- B. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

- C. 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 sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Barb Dill-Varga, Superintendent

_____11/17/2017_____