



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

January 11, 2018

**VIA ELECTRONIC MAIL**

Dr. Steven E. Keller  
Superintendent  
Redondo Beach Unified School District  
1401 Inglewood Avenue  
Redondo Beach, California 90278

(In reply, please refer to # 09-17-1578)

Dear Superintendent Keller:

On June 8, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Redondo Beach Unified School District (District). The Complainant, on behalf of the Student, alleged discrimination on the basis of sex.<sup>1</sup> Specifically, OCR investigated whether the Student was subjected to harassment by another student based on sex, and the District failed to respond promptly and equitably to notice of the harassment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The District is a recipient of financial assistance from the Department. Therefore, OCR had jurisdiction to investigate this matter under Title IX.

OCR gathered evidence by interviewing the Student and reviewing documents and other information provided by the Complainant and the District. Prior to OCR completing its investigation, the District voluntarily agreed to enter into a Resolution Agreement (Agreement), which when fully implemented is intended to resolve the areas of concern identified by OCR with respect to the issue investigated. This letter summarizes the applicable legal standards, the relevant information gathered during the investigation, and the terms of the resolution reached with the District.

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<sup>1</sup> OCR informed the District of the identities of the Complainant and Student in our letter notifying it of the complaint. We are withholding their names here to protect their privacy.

## **Legal Standard**

The regulations implementing Title IX, at 34 C.F.R. §106.31, prohibit discrimination based on sex by recipients of Federal financial assistance. School districts are responsible under Title IX and the regulation for providing students with a nondiscriminatory educational environment. 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.

Under the Title IX and the regulations, once a school district has notice of possible sexual harassment between students, it is responsible for determining what occurred and responding appropriately. The district is not responsible for the actions of a harassing student, but rather for its own discrimination if it fails to respond adequately. A school district may violate Title IX and the regulations if: (1) the harassing conduct is sufficiently serious --- severe, persistent, or pervasive --- to deny or limit the student's ability to participate in or benefit from the educational program; (2) the district knew or reasonably should have known about the harassment; and (3) the school fails to take appropriate responsive action. These steps are the district's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the district to take action.

OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the district must conduct a prompt, adequate, and impartial inquiry designed to reliably determine what occurred. If harassment is found, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation. The response must be designed to stop the harassment, eliminate the hostile environment, prevent the recurrence of harassment, and remedy the effects of the harassment on the student who was harassed. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.

Other actions may be necessary to repair the educational environment. These may include special training or other interventions, the dissemination of information, new policies, and/or other steps that are designed to clearly communicate the message that the district does not tolerate harassment and will be responsive to any student reports of harassment. The district also should take steps to prevent any retaliation against the student who made the complaint or those who provided information.

In addition, the Title IX regulations establish procedural requirements that are important for the prevention and correction of sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination (34 C.F.R. § 106.9) and adoption and publication of grievance procedures providing for the prompt and equitable resolution of complaints of sex discrimination (34 C.F.R. § 106.8[b]). The regulations also require that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance (34 C.F.R. § 106.8[a]).

## Facts Gathered to Date

At the time the incidents at issue in this OCR complaint occurred, the Student was in XXX grade at a District middle school (School).<sup>2</sup> The Student and Complainant told OCR that the Student was sexually harassed by another student (Student A). According to the Complainant and the Student, the harassment began in December of 2016 and continued until the Student XXXXXXXXXX XXXX XXXXXXX XXXXXXX in June of 2017.<sup>3</sup>

The District became aware of the harassment when the Student reported it to the Vice Principal (VP) on May XX, 2017. The VP stated that during a XXXXX XXXXX in May 2017, the Student approached her with two other XXX grade male students and reported Student A was saying inappropriate things to them. The VP requested that the Student (and his two witnesses) write a statement of what occurred, which OCR reviewed. In the statement, the Student wrote that Student A was repeatedly mocking him, making sexually explicit gestures toward him, and repeatedly cat-calling him in the hallways. He wrote that he has asked Student A to stop, but the behavior continued, and had been happening for six to eight weeks prior.

According to the District's narrative response dated August 28, 2017, the instant OCR complaint is the first time the principal and Vice Principal became aware that the Student was subjected to sexual harassment by another student and that the District failed to respond promptly and equitably to the harassment. The District stated that the Complainant had not communicated any complaints or concerns to the District regarding harassment.

After the Student reported Student A's behavior to the VP, the VP conducted a brief interview of all of the students, allowing them to describe what happened and asking clarifying questions. She told them to let her know immediately if the mistreatment or harassment continued.

On May XX, 2017, the day after the Student made his incident report, the VP spoke with Student A and his father. According to the District, Student A denied the allegations, however the father was supportive and said he would deal with and talk to his son at home. The VP explained that several students shared the same story and reminded Student A that his XXX grade privileges could be taken away. She told Student A that if she heard of any further incidents, he would be suspended and would not be allowed to XX XX X XXXX XXXX XXX XXX XXXXX XXXXX XX XX XXX XXX XXXXX XXXXXX XXX XXXXX XXXXXXXXXX XXXX XXX XXXXXXXX XX XXXXXXXXXX XX XXX XXX XXXXX XXXXXXXXXX. Without affirming the allegations were true, Student A told the VP that he would stay away from the other boys.

The VP was a XXXXXXXXXX XXXXXXXXXX during the Student's XXXXX XXXXXX, so she reported that she saw him frequently during that time. According to the District, she continued to do a quick check in when she saw him, asking if everything was okay. The VP stated that the Student

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<sup>2</sup> Currently, he is in the XXX grade at a XXXXXXXXXX XXXX school. In an interview with OCR, he said that has not experienced any harassment at his XXXXXXXXXX XXXX school.

<sup>3</sup> In an interview with OCR, the Student stated that District staff members did not witness the harassing conduct.

would respond by smiling and putting his thumb up. To her, this was an indication that there were no further incidents. The VP stated that she did not notice a change in the Student's behavior, attendance, or grades.

The Student told OCR that Student A's behavior continued after he made his report. He stated that Student A continued to harass him in the XX XXXXX period they shared, and he would sometimes harass him at lunch and in the halls during passing period. OCR asked whether the VP checked in with him and whether he reported this behavior to her. He stated that to his recollection the VP checked in with him once. When he spoke with her, he did not report that the behavior was continuing because it had been a week since he filed his statement and he didn't think anything was going to change. The Student told OCR that when he spoke to the VP he told her that it was a little better but still happening.

The Student told OCR that the impact of the harassment on him was substantial. He said that it got to the point where even hearing Student A's voice made him flinch. The Student failed his XXXXXXX final project, and he thinks that this was significantly due to the harassing conduct because he found he was unable to concentrate on anything. The Student ended up skipping the last two days of school, because he didn't want to be near Student A. He told OCR that he had planned to XXXX XXXXXXXXXXXX until one of his teachers talked him into going.

When OCR asked the Student what the school could have done better in his situation, he said that he wished they had done more to investigate his claim, changed his classes, or otherwise found a way for him to not interact with Student A. The Student said that because of this experience, he chose to go to a different XXXX school than the rest of his friends. He did not want to attend the same XXXX school as Student A. At this point, he wishes that he could attend that school, and would be open to doing so if the school District would agree to meet with him and develop a safety plan to ensure that future harassment from Student A did not occur.

## **Analysis**

Under Section 302 of OCR's Complaint Processing Manual (CPM), OCR complaints may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest and OCR determines that it is appropriate to resolve the complaint with an agreement reached during the course of the investigation.

Prior to the conclusion of this investigation, the District indicated an interest in resolving this matter under Section 302 of the CPM. OCR determined that this complaint was appropriate for resolution under Section 302 because the facts gathered by OCR thus far raised compliance concerns, but OCR needed additional evidence to conclude the investigation and reach a finding. Based on the facts gathered thus far, OCR has concerns that the District's response to the alleged sexual harassment was not prompt or equitable because the District may have failed to conduct adequate follow-up with the Student after the conclusion of its initial investigation to ensure that the harassment did not recur, prevent further harassment, and remedy the effects. However, to complete the investigation, OCR would need to obtain further

documentation/information regarding the District's response to the investigation, including (but not limited to) conducting interviews with District staff and other witnesses. Accordingly, this matter remains unresolved.

### **Summary of Resolution and Conclusion**

Prior to the conclusion of OCR's investigation, the District, without admitting to any violation of law, entered into the enclosed Agreement. The Agreement is aligned with the complaint allegations and the information obtained by OCR during its investigation, and it addresses the concerns identified by OCR during the investigation to date.

Under the Agreement, the District will conduct a meeting with Complainant and Student to determine whether it would be feasible for the Student to attend the District's XXXXXX XXXX school and to establish a procedure by which the District can ensure that the Student feels safe and any future safety incidents are appropriately handled. The District will also provide written guidance and training to school site staff.

Based on the commitments made in the Agreement, OCR is closing the investigation of this complaint as of the date of this letter. When fully implemented, the Agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of Agreement until the District is in compliance with Title IX, and its respective implementing regulations, which were at issue in the case.

This concludes OCR's investigation of the 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. OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Complainant concurrently.

This letter sets forth OCR's determination in an 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, retaliate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Abony Alexander, Civil Rights Attorney, at [Abony.Alexander@ed.gov](mailto:Abony.Alexander@ed.gov).

Sincerely,

/s/

Zachary Pelchat  
Team Leader

Enclosures

cc: Dr. Nikki Wesley, Director of Student Services for the District (by e-mail only)