



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 30, 2016

Mr. Shay Mikalson
Superintendent
Bend-La Pine School District 1
520 NW Wall Street
Bend, Oregon 97703

Re: Bend-La Pine School District 1
OCR Reference No. 10151044

Dear Superintendent Mikalson:

The Office for Civil Rights (OCR) of the U.S. Department of Education has completed its investigation of the above-referenced complaint that was filed against the Bend-La Pine School District 1 (the district) on November 6, 2014. The complaint alleged that the district discriminated against a XXXXX XXXXX XXXXXX student, when the district:

1. discriminated against the student based on race and national origin, by allowing her to repeatedly assist a school custodian to clean the school during May and June 2014 while her non-minority classmates were at recess and lunch;
2. discriminated against the student based on sex, by failing to promptly and equitably respond between May and September 2014 to reports of potential sexual harassment of her by the school custodian; and
3. discriminated against the student based on sex, by failing to provide a prompt and equitable grievance procedure for reports of potential sexual harassment of her by the school custodian.

OCR conducted an investigation of the allegations pursuant to its authority to enforce title VI of the Civil Rights Act of 1964 (Title VI) and title IX of the Education Amendments of 1972 (Title IX). Title VI and its implementing regulations at 34 CFR Part 100 prohibit discrimination on the bases of race, color, and national origin. Title IX and its implementing regulations at 34 CFR Part 106 prohibit discrimination on the basis of sex. Each statute applies to recipients of federal financial assistance from this Department. Because the district receives federal financial assistance from this Department, it is required to comply with Title VI and Title IX.

OCR investigated the following four issues:

- Issue No. 1 (race and national origin discrimination): Whether the district discriminated against the student, on the bases of race and national origin, in violation of the Title VI implementing regulation at 34 CFR 100.3 by treating her differently than her nonminority peers when she repeatedly assisted a district employee in cleaning the school while her classmates were at lunch and recess.
- Issue No. 2 (sex discrimination including sexual harassment): Whether the student was subjected to sex discrimination, including sexual harassment, by the district employee in violation of the Title IX implementing regulation at 34 CFR 106.31.
- Issue No. 3 (Title IX policies and procedures): Whether the district’s policies and procedures for addressing complaints of sex discrimination, including sexual harassment, comply with the requirements of Title IX and the Title IX implementing regulations at 34 CFR 106.8 and 106.9.
- Issue No. 4 (district response to parents’ complaints): Whether the district failed to respond promptly and equitably to complaints, reports, or incidents of sex discrimination, including sexual harassment, of the student by the district employee in violation of the Title IX implementing regulation at 34 CFR 106.8(b).

Based on the evidence obtained through our investigation and the findings as set forth below, OCR determined that the weight of the evidence does not support a conclusion that the district failed to comply with Title VI and Title IX and their implementing regulations with regard to Issue Nos. 1 and 2 listed above, but that the evidence supports a conclusion that the district failed to comply with the Title IX implementing regulations with regard to Issue Nos. 3 and 4. In reaching its conclusions, OCR considered the documents provided by the complainant and the district, and information obtained through interviews of the student’s mother and district administrators and other district employees. To address the compliance concerns identified by OCR, the district agreed to take the remedial actions provided for by the enclosed agreement.

Findings of Fact

1. The student attended XXXX at the district’s XXXXXXXXXXXX during the 2013–2014 school year. The student, who is female, was born in Vietnam and is Asian.
2. The student was one of two racial or ethnic minority students in the XXXX classroom, the other student being a Hispanic student. The remaining 21 students who were in the class are white.
3. The student’s mother told OCR that the student’s parents met with the XXXXXXXXXXXX principal twice during May 2014 after they learned from the student that she had been helping the school custodian clean the school during lunch and recess periods and sometimes in unsupervised areas. The mother asserted that during those meetings, the parents told the principal that they did not want the student to assist the custodian as the student was not playing with her classmates or socializing with her friends at school because she was assisting the custodian, which they understood was occurring 3 or 4 days-a-week. The mother said that the parents told the principal that the student was being stigmatized because some students were saying that she was the

“cleaning girl” and saying that she was different. The mother said that the principal told them during the meetings in May that it was school policy to encourage students to be responsible and keep the environment clean and to encourage students to be janitorial assistants and help around the school picking up trash.

4. The student’s mother told OCR that the parents were concerned because the student knew personal information about the custodian which he had told her while she was helping carry cleaning buckets, mops, and brooms to the “cleaning room.” The student was reported to know that the custodian has XXXXXXXXXXXXX. The mother said that the student told her that the custodian had not touched her.
5. The principal told OCR that she had not met with the student’s parents at any time during May 2014. The principal said that the first time she spoke with the parents about the student assisting the custodian was on June 9, 2014.
6. The student’s mother told OCR that, during the second meeting between the parents and principal that occurred in May 2014, the principal told the parents that the student was volunteering to assist the custodian more than other students because the student is different than other students due to her culture and because she is Asian. The student’s mother said the parents responded that the student has lived in the United States since she was 5 months old. The principal denied to OCR that she made race or national origin-based comments to the parents at any time.
7. OCR requested from the district the XXXXXXXXXXXXX visitor and parent sign-in records sheets for the period of April 1, through June 12, 2014, but the school had not retained sign-in sheets from the previous school year.
8. The principal and other school personnel told OCR that it is not school policy that students assist the custodian in cleaning the school. School personnel stated that, during the 2013–2014 school year, certain 5th grade students were the only students who routinely helped the custodian during the lunch period and that those students were selected by the assistant principal. There was also a student recycling team comprised of an entire class that picked up recycling throughout the building.
9. The student’s mother told OCR that on Wednesday, June 4, 2014, the student told her parents that she helped the custodian that day to pick up trash in the playground area where students were eating lunch outside due to the nice weather. The student told her parents that the custodian had brought her into the school building and his office that day. According to the student’s mother, the student described the custodian’s office to her parents, including that it had a computer and webcam. The parents then asked to meet with the principal to make a formal complaint and she agreed to meet with them the following Monday, June 9, 2014.
10. The student’s mother told OCR that during the meeting on June 9, 2014, between the parents and the principal, the parents provided the principal with a General Accountability Office report from 2014 about sexual abuse and sexual grooming in schools and articles about a different custodian

employed by the district being convicted in the early 1990's for sexually grooming and raping students at another district elementary school.

11. During her meeting with the student's parents on June 9, 2014, the principal told them that she had observed the student at lunch or recess running up behind the custodian that same day and putting her arms around his waist, that he had moved her around to his side, and that the principal had seen the student at another time that day run by the custodian and hit him, like she was playing tag. The principal said she told the student at that time to go play with other students.
12. During her meeting with the student's parents on June 9, 2014, the principal told them that she would investigate their concerns. The principal told OCR that she did not view the parents' concerns as being about sex discrimination or sexual grooming, that she did not investigate the parents' concerns as a sex discrimination complaint, and that she only investigated whether the custodian's interactions with the student on June 4 were appropriate.
13. The principal told OCR that, when she met with the student's parents on June 9, 2014, they raised a concern about the student assisting the custodian on June 4 and about the student's knowledge of the custodian's personal life but did not raise concerns about any other times the student had assisted the custodian and did not raise a concern about the custodian's possible sexual grooming of the student. The principal said that she met with the parents again the next day on June 10 and at that time, they provided her with information about sexual grooming in schools and raised their concern about the custodian possibly engaging in sexual grooming of the student.
14. According to the principal, she did not view that her role was to conduct the entire investigation but rather to do a preliminary investigation and, if she found valid concerns, she would turn it over to the district's Human Resources Department (HR) to conduct a full investigation.
15. The principal did not know which district policy governs an investigation of a sex discrimination complaint. The principal told OCR that the district had not trained her about its Title IX grievance procedure or how to conduct investigations, and that the procedure was not included in the school's student-parent handbook for the 2013–2014 school year.
16. The student's mother told OCR that, on June 9, 2014, the principal said the parents should keep the student at home the next day while the principal conducted her investigation until the district placed the custodian on paid administrative leave, as the student would be endangered because the custodian has an unpredictable temper. The principal told OCR that she had advised the student's parents on June 9 that it was their prerogative whether the student came to school the next day. The principal denied telling the parents that the custodian had a temper and denied knowing whether he had a temper.
17. The principal investigated a single incident on June 4, 2014, in which the student assisted the custodian in cleaning up lunch-related trash outside, by interviewing the student, two other students who had been present on June 4, three educational assistants who served as playground monitors, and the assistant principal. The principal did not interview the rest of the student's classmates, the student's XXXX teacher, or the custodian. One of the three playground monitors

the principal reportedly interviewed denied to OCR that the principal had interviewed her. On June 10, 2014, the principal asked the subject student to take her to the custodian's office but found the student was unable to show her where his office was located. The principal concluded that there was no evidence that the custodian had acted inappropriately with the student.

18. The principal's notes of her interviews on June 10, 2014, of two other students who reportedly assisted the custodian in picking up trash during lunch on June 4 state that those students only helped the custodian with trash that day outside and did not go into the school building with him. According to the principal's notes, one of the students stated that the subject student "helps a lot." When OCR asked the principal how she interpreted the student-witness' statement about the subject student "helping a lot," which seemed to contradict the custodian's statement that June 4 was the only time the XXXXXXXX students had assisted him, the principal said that to a 5-year-old, "a lot" could mean that, because the student stayed and helped the custodian more than the other students on June 4, that meant she helped "a lot."
19. The principal contacted the district's assistant HR director on June 10, 2014, as part of the principal's standard process for investigating complaints, even though the principal had not found evidence substantiating the parents' concerns. The assistant HR director advised her to refer the matter to local law enforcement through a school resource officer (SRO), who served as the district's liaison with the police department. The assistant HR director told OCR that she advised the principal to make the referral to the SRO as a possible complaint of criminal child abuse. The principal contacted the SRO and at that point considered her investigation into the parents' concerns concluded.
20. The student's mother told OCR that the principal informed the parents that a district HR officer had met with the custodian and his union representative the morning of June 10, 2014, about the parents' concerns. However, the two administrators of the HR department interviewed by OCR denied having met with the custodian on June 10 or any other time in June 2014. The custodian told OCR that he did not meet with anyone from the district's HR department in June 2014.
21. SROs are not employees of the district. A memorandum of understanding between the district and the City of Bend Police Department, dated October 5, 2013, provided for the deployment of SROs by the police department in the district's schools. Among other things, the memorandum authorized SROs to act as agents of the district and to serve and assist district staff with the enforcement of district and school policies.
22. The superintendent told OCR that SROs are not trained by the district about district policies or sex discrimination complaints.
23. A City of Bend Police Department case supplement report, dated July 14, 2014, states that the SRO told another police officer that he had interviewed all witnesses, completed the investigation, and deemed the parents' concerns unfounded.
24. A City of Bend Police Department memorandum, dated September 10 and signed on September 11, 2014, states that a lieutenant reviewed an internal affairs complaint filed by the

student's parents alleging that the SRO did not complete a thorough investigation involving the student being subjected to sexual harassment, stalking, and inappropriate contact by the custodian. The memorandum states that he did not find a report completed by the SRO and that the SRO had failed to complete a report immediately after his interview with the custodian. After the lieutenant spoke with the SRO on August 27, 2014, the SRO wrote a supplemental report about his actions related to his investigation. The lieutenant's memorandum states that the parents told him that the SRO had not interviewed them.

25. The SRO's supplemental report, dated August 28 and September 4, 2014, states that, on June 11, 2014, the custodian told the SRO that he had student helpers and that they were 5th graders who help him mostly during the lunch period. The SRO's report states that the custodian said that he never asked the student, who he believed was in a particular XXXXX class, or any other XXXXX students, to help him, and that he had not had the student in his office. The SRO's report states that the principal said to the custodian that she had seen the student hugging him from behind the previous day. The SRO's report states that the SRO spoke with the student's father by telephone on June 13, 2014. However, the student's mother told OCR that the SRO did not speak with either of the student's parents on June 13 or any other day.
26. The SRO did not interview the student.
27. The custodian told OCR that the SRO did not interview him.
28. The custodian told OCR that the principal and SRO met with him in June 2014 and told him about the allegations the student's parents had asserted against him, and told him during that meeting that the investigation was already concluded and they had not found anything to support the allegations. The custodian said that no one from the district interviewed him about the allegations during June 2014.
29. The SRO's report was written on August 28, 2014, 79 days after his meeting with the principal and custodian on June 11, 2014.
30. The custodian told OCR that he has never had a student in his office, that no students other than 5th grade students during the last lunch period of the day had assisted him with his cleaning duties during the 2013–2014 school year, that he did not really know the student, and that she only assisted him, along with other students, once for 2 minutes when lunch was being eaten by students outside.
31. The student's mother told OCR that, according to the student, the custodian would stand outside the student's XXXXXXXX classroom to find volunteers to assist him with his cleaning duties. The student's XXXXXXXX teacher told OCR that the custodian never stood outside her classroom looking for volunteers. The custodian denied to OCR waiting outside classrooms looking for volunteers and denied asking students in any way to assist him with his cleaning duties.

32. The XXXXXXXX teacher told OCR that she did not know whether the student assisted the custodian during lunch or recess and said that the student did not miss any class time to assist the custodian. She said that the student's parents did not speak with her about their concerns.
33. Neither the principal nor the SRO provided a written report of their investigations in June 2014 to the student's parents or custodian.
34. On August 7, 2014, the student's parents, through their attorney, sent a letter to the district superintendent. The letter alleged that the custodian took the student into a custodial closet and inappropriately touched her. The letter said the parents were concerned about sexual grooming of the student by the custodian. The letter requested the complaint be handled at the superintendent's level and raised several concerns, including that:
 - a. the SRO did not interview the parents or the student;
 - b. the student was punished by being excluded from school;
 - c. the parents did not receive written information about the results of the principal's or SRO's investigation and were not notified of the outcome of the investigation; and
 - d. the custodian did not maintain appropriate boundaries by sharing personal information with the student and spending time alone with her.
35. On August 19, 2014, the district responded in a letter to the parents' letter of August 7. The district stated that its policies about reporting requirements regarding sexual conduct with students, maintaining appropriate staff-student boundaries, and sexual harassment did not govern the parents' complaint about the custodian. The district stated that when the parents initiated their complaint with the district in June 2014, they did not allege conduct by the custodian that would constitute sexual harassment under the district's sexual harassment policy. The district stated that the district's public complaint procedure (Administrative Regulation KL-AR) applied to the parents' complaint. The district stated that the parents did not submit a written complaint form to the custodian's supervisor or principal, but the parents did make a verbal complaint to the principal on June 9 and the principal did not find any evidence that the custodian had acted inappropriately toward the student. The district stated that it would treat the parents' letter of August 7 as an appeal under the district's public complaint procedure to the superintendent who designated the assistant superintendent for elementary programs to respond to the appeal.
36. On August 19, 2014, the parents responded by letter to the district that they rejected the district's characterization of their complaint as not invoking the district's policies about reporting requirements regarding sexual conduct with students, maintaining appropriate staff-student boundaries, and sexual harassment. The parents stated that they had raised concerns that the custodian was sexually grooming the student with the principal on numerous occasions and that such conduct would fall under those policies. The parents stated that they were never informed by the district that they needed to file a written complaint with the custodian's supervisor or principal despite the fact that they had complained numerous times to the principal.
37. On August 20, 2014, the parents sent a letter to the district appealing the district's actions or lack of actions in the handling of the parents' complaint to the principal on June 9, 2014. The parents

stated that they had expressed concerns to the principal during May 2014 about the student assisting the custodian during lunch and recess. The parents stated that the principal had last communicated with them on June 11, 2014, and they had not heard from her or any other school administrator since. The parents stated that the district was taking the position that no criminal conduct had occurred, but that was not the standard that applied, and cited district policies regarding sexual conduct with students.

38. The assistant superintendent for elementary programs told OCR that she investigated the parents' complaint that the custodian had acted inappropriately toward the student and their accusation that he was sexually grooming the student, but limited her investigation to the student's interaction with the custodian on a single day, June 4, 2014. The assistant superintendent said she investigated the parents' complaint under the district's public complaint procedure (Administrative Regulation KL-AR).
39. The assistant superintendent for elementary programs told OCR that she did not lead the district's investigation of the parents' complaint dated August 7, 2014, which she said was led by the district's attorneys. However, the assistant superintendent stated that she reviewed the parents' letters; spoke with the principal; reviewed the documents provided by the parents; and met collectively with the principal, SRO, assistant HR director, and district's attorney on August 21, 2014.
40. On August 29, 2014, the principal and assistant HR director interviewed the custodian. The custodian said during the interview that he had had very little interaction with the student and had never been alone with her. The custodian said that he did have exchanges with students in the lunchroom, as they were required to ask him for permission to get drinks.
41. The assistant superintendent for elementary programs told OCR that once the SRO became involved on behalf of the police department with the parents' complaint of June 2014, the district deferred to his investigation. The assistant superintendent told OCR that she does not know who the SRO interviewed or how he conducted his investigation.
42. The assistant superintendent for elementary programs told OCR that she does not know what the district's Title IX grievance procedure is.
43. On September 3, 2014, the assistant superintendent for elementary programs sent the parents a response to their complaint pursuant to the district's public complaint procedure (Administrative Regulation KL-AR). The assistant superintendent made factual findings, including that she adopted the principal's recollection of events, as the assistant superintendent found the principal more credible than the parents due to their inconsistencies. Among other things, the assistant superintendent found that:
 - a. the parents raised concerns to the principal about the custodian for the first time on June 9, 2014;
 - b. the parents expressed their concern to the principal on June 9 that the student was being sexually groomed by the custodian;

- c. the principal told the parents on June 9 that she would conduct a preliminary investigation of their concerns the next day, and if the preliminary investigation yielded any findings, she would turn the matter over to the district’s HR department to conduct an official investigation;
 - d. the student did not cry or show any signs of distress during her interview with the principal and the parents did not ask to discontinue the interview;
 - e. the parents told the principal that they were not comfortable sending the student to school if the custodian was in the building;
 - f. the student was not excluded from school by the principal; and
 - g. the SRO told the principal that he would take over the investigation moving forward.
44. In her memorandum of September 3, 2014, the assistant superintendent for elementary programs concluded that the district does not have any credible evidence of sexual grooming, predatory, or inappropriate behavior by the custodian toward the student or any other student.
45. The district did not investigate whether the custodian had been in contact with the student other than on June 4, 2014.
46. As of the time OCR interviewed her in March 2015, the district had not provided the assistant superintendent for elementary programs training about how to conduct civil rights investigations.
47. During her interviews with OCR in February 2015, the principal could not identify the district’s Title IX coordinator for the 2013–2014 school year or the role of the Title IX coordinator. The principal said that the district does not inform parents of who the Title IX coordinator is unless they request that information.
48. The student’s mother said that she requested information about the district’s Title IX procedure from the district but was not provided that information. The student’s mother said that the parents specifically asked the district about a Title IX coordinator and they were told that the district did not have one.
49. District employees interviewed by OCR could only speculate about who was designated as the district’s Title IX coordinator during the 2013–2014 school year.
50. The district superintendent appoints the district’s Title IX coordinator; signs assurances that in receiving funding from the U.S. Department of Education, the district agrees to comply with federal civil rights laws; and is responsible for the district’s compliance with civil rights laws. On March 30, 2015, the superintendent told OCR that the district’s Title IX coordinator for the 2013–2014 school year was the district’s director of secondary education, but the director of secondary education told OCR, on February 9, 2015, that he had only been the Title IX coordinator for a month or less. The superintendent told OCR that he does not know how parents are notified about the availability of the district’s Title IX coordinator.
51. As of the time OCR interviewed the Title IX coordinator in February 2015, the district had not trained him about the district’s Title IX policies and procedures. The coordinator had not yet

read the district's Title IX policies and grievance procedure and could not identify the district's Title IX grievance procedure. The coordinator also was unclear about his role in the grievance process. When interviewed by OCR, the Title IX coordinator said that he was also the district's athletics director and that he had only 2 or 3 weeks of experience in the broader area of Title IX and sex discrimination. Furthermore, he said that, until this OCR complaint, his Title IX responsibilities were primarily about equal access based on sex in athletics and activities. He said that his experience in dealing with Title IX and sex equity was 20 years of coaching and athletic directing, and interaction with the state athletics association. He said that complaints to the district about sex discrimination would probably go to the school and then the HR department unless it was about athletics, in which case the complaint would come to him.

52. The Title IX coordinator and other district employees interviewed by OCR described the annual training they received about sexual harassment as a mandatory on-line training, which the Title IX coordinator said constituted about half an hour to an hour of training videos on various subjects, covering several topics including sexual harassment, dating violence, homeless students, blood-borne pathogens, child abuse and identification, sexual conduct, and bullying. The Title IX coordinator told OCR that district employees receive a total of eight hours of annual training. The mandatory on-line training did not cover district-specific policies or procedures.
53. The superintendent told OCR that, for a complaint of potential sexual grooming of a student by a district employee, the district's public complaint procedure (Administrative Regulation KL-AR) applies. The general complaint procedure, however, states that complaints alleging discrimination are processed consistent with the district's discrimination complaint procedure (Administrative Regulation AC-AR) and that complaints of sexual harassment are processed consistent with the district's sexual harassment procedure (Administrative Regulation GBAA/GBNA-AR).
54. In response to OCR's request for the district's policies related to race, national origin, and sex discrimination, the district provided the following policies and procedures:
 - Reporting Requirements Regarding Sexual Conduct with Students (Board Policy JHFF);
 - Maintaining Appropriate Staff/Student Boundaries (Administrative Regulation JHFF-AR);
 - Reporting of Suspected Child Abuse (Board Policy JHFE);
 - Reporting of Suspected Child Abuse (Administrative Regulation JHFE-AR);
 - Sexual Harassment (Board Policy JBAA-GBNA);
 - Sexual Harassment Complaints (Administrative Regulation JBAA-GBNA-AR);
 - Harassment/Intimidation/Bullying/Cyberbullying (Board Policy JBA/GBN);
 - Harassment/Intimidation/Bullying/Cyberbullying (Administrative Regulation JBA/GBN-AR);
 - Equal Educational Opportunity (Board Policy JB);
 - Non-Discrimination (Board Policy AC);
 - Discrimination Complaint/Grievance Procedures (Administrative Regulation AC-AR);
 - Public Complaints (Board Policy KL);
 - Public Complaints Form (Administrative Regulation KL-AR);
 - Public Complaints Against District Personnel (Board Policy KLD); and

- Public Complaints and Form (Spanish) (Administrative Regulation KLD-AR).

55. The district's public complaint policy (Board Policy KL), dated May 10, 2005, stated that complaints would be referred through the proper administrative channels for resolution before investigation or action by the board. The policy encouraged the public to resolve complaints involving site-specific school issues concerning instruction, discipline, after-school activities, or learning materials by first addressing them at the school building level. Should the complaint not be resolved at the building level, the matter would then be addressed by the appropriate district-level administrator, with the board being the final arbiter. The policy did not explicate the type of complaints to which it applied, but did state that any complaint about school personnel would be investigated by the appropriate administrator before consideration by the board. The policy did not cross-reference, or notify individuals about, the district's public complaint procedure (Administrative Regulation KL-AR).
56. The district's public complaint procedure (Administrative Regulation KL-AR), dated December 17, 2012, required that, when possible, the complainant attempt to informally resolve the issue with the person responsible for the act. If the complaint was not informally resolved between the parties, the formal complaint process required the complaint to be made to the employee's supervisor or principal, and for the supervisor or principal to have conducted an investigation and have provided a response to the complainant. The procedure stated that alleged criminal acts be filed directly with the superintendent or his or her designee or with other appropriate administrators. The procedure stated that certain issues had a prescribed method of processing because of confidentiality and/or requirements of federal or state law, including that allegations of discrimination be processed consistent with the district's discrimination complaint-grievance procedure (Administrative Regulation AC-AR) and that "alleged sexual harassment claims" be processed consistent with the district's sexual harassment complaint procedure (Administrative Regulation JBAA/GBNA-AR). Among other things, the public complaint procedure did not:
- a. state that discrimination based on sex is prohibited;
 - b. state that the procedure applied to complaints alleging discrimination carried out by employees, other students, or third parties;
 - c. state that parties will be given the opportunity to present witnesses and other evidence;
 - d. ensure that the investigation will be impartial or otherwise disallow conflicts of interest;
 - e. give an assurance that the district would take steps if appropriate to prevent recurrence of any harassment or other discrimination and correct its discriminatory effects;
 - f. state that the district would take steps to protect the student as necessary, including taking interim steps before the final outcome of the district's investigation; and
 - g. require a written decision be provided to the accused when it did so for the complainant.
57. The district's nondiscrimination policy (Board Policy AC), dated February 22, 2011, prohibited discrimination based on race, color, national origin, sex, and other protected characteristics. The policy required the superintendent to appoint and "make known" the individuals to contact about issues concerning Title VI, Title IX, and other civil rights areas. The policy referred to the

retaliation prohibition of federal laws. The policy did not cross-reference, or notify individuals about, the district's discrimination complaint grievance procedure (Administrative Regulation AC-AR).

58. The district's discrimination complaint grievance procedure (Administrative Regulation AC-AR), dated December 17, 2012, and reviewed and approved May 5 and 6, 2014, stated that principals and the administrators in charge were responsible for conducting investigations of discrimination complaints. Among other things, the discrimination complaint grievance procedure did not:
 - a. state that discrimination based on sex is prohibited;
 - b. state that the procedure applied to complaints alleging discrimination carried out by employees, other students, or third parties;
 - c. provide time frames for the major stages of the complaint process;
 - d. give an assurance that the district will take steps if appropriate to prevent recurrence of any harassment or other discrimination and correct its discriminatory effects;
 - e. state that the district would take steps to protect the student as necessary, including taking interim steps before the final outcome of the district's investigation; and
 - f. require a written decision be provided to the accused while it did for the complainant.

59. The district's sexual harassment policy (Board Policy JBAA-GBNA), dated January 25, 2011, stated that the board was committed to the elimination of sexual harassment in district schools, on any district property or vehicle, and at any district-sponsored activity. The policy stated that sexual harassment of students or staff by other students, staff, board members or third parties would not be tolerated. The policy defined sexual harassment and provided examples of sexual harassment. The policy required that complaints about behavior that may violate the policy be promptly investigated, and the student or staff member who initiated the complaint be notified of the findings and, if appropriate, that remedial action had been taken. The policy prohibited retaliation by the district against any person who, in good faith, reported, filed a complaint, or otherwise participated in an investigation. The policy stated that it was the board's intent that the district would take appropriate corrective action to stop the sexual harassment, prevent its recurrence, and address negative consequences, and described a range of sanctions, though not remedies. The policy required the superintendent to ensure, annually, that periodic sexual harassment awareness training or information be provided to supervisors, staff, and students; and that the name and position title of district officials responsible for accepting and managing sexual harassment complaints, and those officials' telephone numbers, addresses, or other necessary contact information be readily available. The policy required it be posted in all schools and prescribed the size of the posting. The policy did not cross-reference, or notify individuals about, the district's sexual harassment complaint procedure (Administrative Regulation JBAA GBNA-AR).

60. The district's sexual harassment complaint procedure (Administrative Regulation JBAA GBNA-AR), dated November 8, 2010, required that a copy of the district's sexual harassment policy (Board Policy JBAA-GBNA) be given to the complainant at the time the school or work site first discovered that he or she may have experienced an act of sexual harassment. The procedure stated that principals and the superintendent were responsible for investigations of sexual harassment complaints. The sexual harassment complaint procedure did not:

- a. state that sexual harassment or other sex discrimination is prohibited;
 - b. state that the procedure applied to complaints alleging harassment carried out by employees, other students, or third parties;
 - c. provide timeframes for the major stages of the complaint process;
 - d. give an assurance that the district would take steps if appropriate to prevent recurrence of any harassment and correct its discriminatory effects;
 - e. state that the district would take steps to protect the student as necessary, including taking interim steps before the final outcome of the district's investigation; and
 - f. require a written decision be provided to the accused when it did so for the complainant.
61. District personnel interviewed by OCR did not view a complaint of sexual grooming as a sex discrimination or Title IX complaint. The assistant superintendent for elementary programs told OCR that sexual grooming is not about a student's sex and thus is not a sex discrimination complaint. The assistant superintendent for elementary programs further said that, because the student's parents did not specify that they were alleging that the potential sexual grooming of the student by the custodian was because the student is a girl, they were not alleging sex discrimination.
62. The superintendent, assistant superintendent for elementary programs, and principal each told OCR that the complaints of the student's parents evolved over time and that what they complained about in June 2014 was not the same as what they complained about in August 2014. However, the principal and assistant superintendent for elementary programs each told OCR that the parents complained to the principal in June 2014 about potential sexual grooming of the student by the custodian, which is also complained about in the parents' complaint to the district dated August 7, 2014.
63. When OCR asked about where parents and students were notified during the 2013–2014 school year about the district's Title IX grievance procedure, the superintendent and the director of elementary education referred OCR to the district's 2013–2014 handbook-calendar. The two sections of the handbook-calendar that appear relevant were the sections regarding harassment and discrimination which included not just notices of where to find the district's grievance procedures, but a description of the grievance procedures. The discrimination section of the handbook-calendar stated that the district did not discriminate on the basis of race, national origin, sex, or other characteristics protected by civil rights laws. The handbook-calendar directed students to report harassment or discrimination to the student's guidance counselor, teacher, assistant principal, principal, or to one of two compliance officers identified as the assistant superintendent of HR and the director of special education. The handbook-calendar did not mention the district's Title IX coordinator. The handbook-calendar stated that when a report of harassment or discrimination is made to the principal, superintendent, or compliance officers, he or she must take immediate steps to conduct an investigation or appoint an investigator. The handbook-calendar stated that investigations would normally be completed within 10 working days, and "The complainant shall be notified in writing of the results of the investigation."

64. On October 22, 2015, the human resources, staff, and teaching and learning web pages of the district website stated, “The Bend-La Pine Schools does not discriminate on the basis of sex, race, color, creed, religion, national origin, age, disability, marital status, sexual orientation, gender identity and expression, veteran or military status, or the use of a service animal by a person with a disability, and provides equal access to all designated youth groups. For questions or complaints, please contact your school’s principal, the district’s Title IX Coordinator at 541-355-1100, or ODE’s [Oregon Department of Education’s] Equity and Civil Rights Office.” The text was followed by a link to the district’s discrimination complaint procedure.
65. The superintendent, principal, and most district personnel interviewed by OCR said that the district’s HR department investigates complaints of sex discrimination and that the calendar distributed to parents during the 2013–2014 school year stated that the HR department has responsibility for discrimination complaints. However, the two administrators of the HR department interviewed by OCR, including the assistant superintendent for HR, said that the HR department does not investigate discrimination complaints.
66. The superintendent, assistant superintendent for elementary programs, and other district personnel told OCR that if a complaint involves potential violations of criminal law, the district generally stays out of the way when the police are conducting an investigation into the complaint.
67. At the time OCR interviewed them, district employees received annual on-line training that consisted of about an hour and a half of videos on various subjects, including sexual harassment. The training did not cover district-specific policies and procedures and did not include information about the district’s Title IX grievance procedure.
68. District personnel interviewed by OCR gave inconsistent answers when OCR asked which district policy and procedure applied to Title IX complaints.
69. OCR’s search of the district’s website for “Title IX,” on June 9, 2015, resulted in 526 search results that, at least the first ten of which did not appear to provide information about Title IX rights or the district’s Title IX coordinator. A sampling of publications on the website did not identify the district’s Title IX coordinator.
70. No district employee interviewed by OCR was aware of any other sex discrimination or sexual harassment complaints filed with the district in the past 3 years or of any other complaints made about the custodian.
71. During OCR’s investigation, the district informed OCR that no other complaint of sexual harassment, grooming, violence, or other sex discrimination about the custodian had been filed with the district.
72. OCR received from the district records related to complaints raised to the district about any district employees or contractors who may have engaged in sexual harassment, grooming, violence, or other sex discrimination against students between 2009 and fall 2015 (other than those alleged in

this case). In response to OCR's request, the district provided documents detailing eight employee conduct issues indicating possible sexual harassment. The records demonstrate that the district took some action against the employees involved in each instance, but they do not demonstrate that the district took action against any of those employees under the district's sexual harassment policy. Additionally, the records do not indicate whether the district took any action to determine if these incidents created or were the result of a sexually hostile environment for students. The records do not indicate that any action was taken to provide remedies to any student or group of students.

Analysis and Conclusions

Because the district receives federal financial assistance from this Department, it is required to comply with the regulations implementing Title VI at 34 CFR Part 100 and Title IX at 34 CFR Part 106.

Analysis and Conclusion for Issue No. 1 (race and national origin discrimination)

The regulation implementing Title VI at 34 CFR 100.3(b)(1) prohibits, in part, a recipient of federal financial assistance from this Department, on the grounds of race, color, or national origin, from:

- providing any service or other benefit to an individual which is different, or is provided in a different manner, from that provided to others;
- subjecting an individual to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit; and
- restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or other benefit.

OCR found through its investigation that during the 2013–2014 school year, the student was one of two racial or ethnic minorities in her XXXXXXXXXX class. The complaint alleged that the student, either voluntarily or otherwise, repeatedly assisted the school custodian in cleaning the school while her classmates were at lunch and recess.

The custodian denied using, or asking for, student volunteers except for the 5th grade students assigned to help him during the last lunch period of each school day. School administrators and staff members denied that it was a school policy or practice to ask or require XXXXXX students to participate in school cleaning activities outside their own classrooms. School playground monitors uniformly stated that students were required to remain in the lunchroom or on the playground during lunch and recess. The student's teacher denied the assertion that the custodian stood outside the classroom door seeking XXXXXX student-volunteers to assist him in his cleaning duties. The custodian did recall some XXXXXXXXXXXX students, including the subject student, participating in picking up trash during lunch held outside one day but did not recall the student helping him clean the school at any other time.

The student's mother told OCR that the parents met with the principal twice during May 2014, expressed their wish that the student not assist the school custodian in his cleaning duties, and expressed their concerns that the student was being stigmatized by and segregated from her classmates due to the assistance she was providing to the custodian. The mother said that during

the second meeting the parents had with the principal in May 2014, the principal said that the student was volunteering more than other students to assist the custodian because of where she is from (originally Vietnam). The principal denied meeting with the parents at all in May 2014, denied meeting with the parents until June 9, 2014, and denied telling them that the student was volunteering more than others because of her race or national origin. OCR was unable to establish that the two meetings that were alleged to have occurred between the parents and the principal in May 2014 actually occurred. OCR was also unable to establish that the principal made the race and national origin-based comments she purportedly made to the parents during a second meeting in May 2014. OCR found insufficient evidence to contradict district and school personnel statements.

Accordingly, OCR found insufficient evidence to establish that the district treated the student differently than other similarly situated students or otherwise denied her any benefit based on her race or national origin. Therefore, OCR concluded that the district did not violate Title VI or its implementing regulations with respect to Issue No. 1.

Analysis and Conclusion for Issue No. 2 (sex discrimination including sexual harassment)

The Title IX regulation at 34 CFR 106.31(a) provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, or other education program or activity operated by a recipient of federal financial assistance from this Department. OCR's Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, dated January 19, 2001, published at 66 Federal Register 5512, emphasizes that sexual harassment is a form of sex discrimination prohibited by Title IX and 34 CFR 106.31(a). Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature. Sexual harassment of a student creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the recipient's program or activity. Sexual harassment of a student by a teacher or other school employee can be discrimination in violation of Title IX. A recipient of federal financial assistance is responsible under the Title IX regulations for the non-discriminatory provision of aids, benefits, and services to students. A recipient typically provides aids, benefits, and services to students through the responsibilities they give to employees. If an employee who is acting (or who reasonably appears to be acting) in the context of carrying out these responsibilities engages in sexual harassment, and the harassment denies or limits a student's ability to participate in or benefit from a recipient program or activity on the basis of sex, the recipient is responsible for the discriminatory conduct. Even if a recipient reports possible criminal conduct to the police, that does not relieve the recipient of its responsibilities under Title IX and the Title IX implementing regulations.

OCR investigated whether the student was subjected to sex discrimination, including sexual harassment, by a district employee. OCR found that the student's parents made a complaint to the principal, on June 9, 2014, about the custodian potentially engaging in sexual grooming of the student.

OCR found no evidence to establish that the custodian engaged in verbal or physical behavior with the student that would violate Title IX. OCR did not obtain information to indicate that the custodian could have interacted with the student at times other than recess or the lunch period. The playground monitors interviewed by OCR had not observed the custodian spending time with the student at recess. No one interviewed by OCR observed the student being absent from lunch.

Accordingly, OCR found insufficient evidence to establish that the custodian engaged in sex discrimination, including sexual harassment, against the student. Therefore, OCR concluded that the district did not violate Title IX or the Title IX implementing regulations with respect to Issue No. 2.

Analysis and Conclusions for Issue No. 3 (Title IX policies and procedures)

The Title IX regulation at 34 CFR 106.9 requires the district to implement specific and continuing steps to notify students, parents of elementary and secondary students, employees, and other specified individuals and entities that the district does not discriminate on the basis of sex in its educational programs and activities. The notice of non-discrimination must:

- state that the district does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner;
- state that questions regarding Title IX may be referred to the district's Title IX coordinator or to OCR;
- identify the district's Title IX coordinator by name or title and provide contact information for the Title IX coordinator that, at a minimum, provides the coordinator's office address, telephone number, and e-mail address; and
- be available at various locations throughout the district, school, or campus and published in electronic and printed publications of general distribution that provide information to students, parents, and employees about district services and policies. The notice should be available and easily accessible on an ongoing basis.

The Title IX regulation at 34 CFR 106.8 requires the district to:

- adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints; and
- designate at least one employee to coordinate the district's efforts to comply with and carry out its responsibilities under Title IX (the district must ensure that any employee designated to serve as its Title IX coordinator has adequate training to fulfill the coordinator position).

Through its investigation, OCR found the district failed to comply with the requirements of the Title IX regulations. In summary, OCR found that the district did not:

1. provide notice to students, parents, and employees consistent with the Title IX regulatory requirements;
2. meet the Title IX regulatory requirements of adopting a prompt and equitable grievance procedure; or

3. effectively designate, or did not designate, the Title IX coordinator in accordance with the Title IX regulatory requirements during the 2013–2014 school year; did not provide adequate or effective training to the Title IX coordinator appointed after the district was notified about this complaint having been filed with OCR; and did not provide adequate or effective training to other district employees responsible for responding to complaints of sex discrimination, including sexual harassment.

Notice

In October 2015, OCR found on three different web pages on the district’s website a statement of non-discrimination based on sex and a referral to the district’s Title IX coordinator’s telephone number but no other contact information.

No district employee interviewed by OCR, including the superintendent and those involved in responding to the parents’ complaint of possible sexual grooming of the student, could identify the district’s Title IX grievance procedure. XXXXX administrators and staff members thought a notice about sexual harassment might have been posted in the staff room during the 2013–2014 school year but were not sure. The handbook for XXXXXXXX for the 2013–2014 school year did not include a notice about the district’s Title IX grievance procedure or Title IX coordinator.

Most district employees interviewed by OCR did not know how parents and students were notified by the district about its policy prohibiting discrimination based on sex and the Title IX coordinator. Only the superintendent and director of elementary education could point OCR to the legal notices provided in the handbook-calendar distributed to parents during the 2013–2014 school year. The handbook-calendar did not identify the district’s Title IX coordinator and instead referred to “compliance officers” as being the district’s special education director and assistant superintendent for HR, who, when interviewed by OCR, could not identify the district’s Title IX grievance procedure.

The district’s website and OCR’s sampling of publications on the website did not identify the district’s Title IX coordinator. OCR’s search of the district’s website for “Title IX” resulted in 526 search results that, in the first 10 search results at least, did not appear relevant to, or provide information about, the district’s obligations under Title IX or provide contact information for the district’s Title IX coordinator. None of the district policies and procedures reviewed by OCR contained information about the district’s Title IX coordinator or the coordinator’s contact information.

Prompt and Equitable Grievance Procedure

The district is required by the Title IX regulations to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex. Accordingly, regardless of whether harassment occurred, the district violates this requirement of the Title IX regulations if it does not have those procedures in place.

The district’s sex discrimination grievance procedures must apply to complaints of sex discrimination in the district’s education programs and activities filed by students against school employees,

other students, or third parties. Title IX does not require the district to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, employees, parents, and students are unaware of the kind of conduct constitutes sexual harassment or that such conduct is prohibited sex discrimination, the district's general policies and procedures relating to sex discrimination complaints would not be considered effective.

OCR has identified a number of elements in evaluating whether a district's grievance procedures are prompt and equitable, including whether the procedures provide for:

- notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;
- application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;
- adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- designated and reasonably prompt timeframes for the major stages of the complaint process;
- notice to the parties of the outcome of the complaint; and
- an assurance that the district will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

In addition to these six elements, the district must provide for three additional elements, although the Title IX regulations do not require them to be explicitly stated in the grievance procedures. The three additional elements are: protecting individuals from retaliation; providing interim measures to protect parties in the educational setting; and using preponderance of the evidence as the standard when resolving a complaint of sexual harassment.

OCR identified three grievance procedures that the district could apply to a Title IX complaint: (1) the public complaint procedure (Administrative Regulation KL-AR); (2) the discrimination complaint procedure (Administrative Regulation AC-AR); and (3) the sexual harassment complaint procedure (Administrative Regulation JBAA GBNA-AR).

OCR determined that none of the district's grievance procedures complied with the Title IX requirements for a prompt and equitable grievance procedure. Specifically, the grievance procedures failed to provide for: (1) effective notice to students and employees of the grievance procedures; (2) the application of the grievance procedures to complaints alleging sex discrimination, sexual harassment, or assault/violence carried out by employees, other students, or third parties; (3) designated and reasonably prompt timeframes for the major stages of the complaint process; and (4) an assurance that the district would take steps to prevent recurrence of any sexual assault/violence and remedy discriminatory effects on the victim and others, if appropriate. Further, while the grievance procedures provided for written notice of the outcome to the complainant, it did not provide for similar notice for the accused. Additionally, while Administrative Regulations AC-AR and JBAA

GBNA-AR provided for parties to present witnesses and other evidence, Administrative Regulation KL-AR did not.

Therefore, the district violated Title IX by not adopting or publishing a prompt and effective written grievance procedure.

Title IX Coordinator

The district must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX. The Title IX coordinator plays an essential role in helping ensure that every person affected by the operations of the district—including students, their parents, employees, and applicants for admission and employment—is aware of the legal rights Title IX affords and that the recipient comply with its legal obligations under Title IX. To be effective, a Title IX coordinator must have the full support of the district, and it is critical, therefore, that the recipient provide its Title IX coordinator with the appropriate authority and support necessary to carry out the coordinator’s duties and use his or her expertise to help the recipient comply with Title IX.

The Title IX coordinator’s primary responsibility is to coordinate the district’s compliance with Title IX, including the district’s grievance procedures for resolving Title IX complaints. The district must inform the Title IX coordinator of all reports and complaints raising Title IX issues, even if the complaint was initially filed with another individual or office, or the investigation will be conducted by another individual or office. The Title IX coordinator is responsible for coordinating the district’s responses to all complaints involving possible sex discrimination. In order to effectively carry out the responsibilities of a Title IX coordinator, the district must ensure that its Title IX coordinator is appropriately trained and possesses comprehensive knowledge in all areas over which the coordinator has responsibility, including the district’s policies and procedures governing sex discrimination and all complaints raising Title IX issues throughout the district.

The Title IX coordinator position may not be left vacant. The district must have at least one person designated and actually serving as the Title IX coordinator at all times. Title IX does not categorically exclude particular employees from serving as a Title IX coordinator. In designating a Title IX coordinator, the district should be careful to avoid designating an employee whose other job responsibilities may create a conflict of interest. For example, designating a disciplinary board member, general counsel, dean of students, superintendent, principal, or athletics director as the Title IX coordinator may pose a conflict of interest.

In this case, each district employee interviewed by OCR could only speculate about who the district’s Title IX coordinator was during the 2013–2014 school year. The student’s mother said that the parents specifically asked the district about a Title IX coordinator and was told the district did not have one.

The district’s Title IX coordinator during the 2014–2015 school year was also its athletics director and was appointed by the superintendent shortly after the district received notice of this complaint. It appears that his appointment to the Title IX coordinator position is because of his knowledge of athletics in the Title IX context. At the time OCR interviewed him, he had no knowledge about the

other areas covered by Title IX and had not received any training about his Title IX responsibilities for the district and could not identify for OCR the district's Title IX grievance procedure. The Title IX coordinator referred OCR to the district's HR department for information about Title IX complaints, and the administrators of the HR department disavowed having civil rights enforcement responsibilities and were not able to direct OCR to the district's Title IX grievance procedure. At the time OCR interviewed them, the only training the district had provided to its Title IX coordinator and all other employees of the district interviewed by OCR, including those with responsibility for investigating complaints of sex discrimination, including sexual harassment, was mandatory training taken on-line each year. The on-line training included no information about the district's Title IX grievance procedure.

In addition, the district must widely disseminate the Title IX coordinator's contact information and it should be easily found on the district's website and in various publications. In this case, OCR found no such information in the district's publications or on its website.

Accordingly, OCR found sufficient evidence to establish that the district failed to comply with the notice, grievance procedure, and Title IX coordinator requirements of the Title IX implementing regulations. Therefore, OCR concluded that the district violated Title IX and its implementing regulations with respect to Issue No. 3.

Analysis and Conclusion for Issue No. 4 (district response to parents' complaints)

OCR investigated whether the district failed to respond promptly and equitably to complaints, reports, or incidents of sexual grooming of the student by a district employee. Through its investigation, OCR determined that the district failed to provide the student's parents with a prompt and equitable grievance procedure required by the Title IX regulation at 34 CFR 106.8. The district's response to the parents' complaint was deficient in several ways. Among other things, the district:

- did not investigate the complaint as one of sex discrimination of the student, including sexual harassment, by the custodian;
- limited the investigation to an alleged single incident that occurred on June 4, 2014, rather than an alleged pattern of sexual grooming by the custodian;
- did not interview key witnesses during its investigation of the parents' complaint of June 2014 (including the custodian);
- deferred to the SRO's investigation for the police department, but the SRO was not trained about districts' Title IX policies and procedures;
- although deferring to what the district viewed as a police investigation, did not receive a report from the SRO until two and-a-half-months after deciding that the custodian had not acted inappropriately; and
- provided no response or notice of final determination regarding the parents' complaint to either the parents or the custodian.

OCR concluded that the district's investigation did not meet the requirements for an investigation conducted consistent with the district's responsibilities under Title IX and the Title IX implementing regulations. The investigation applied an incorrect legal standard because the district did not view

it as a sex discrimination complaint. The district's response to what it characterized as the parents' "appeal" was also not consistent with the requirements of Title IX and the Title IX regulations, as the response also applied an incorrect legal standard. The employees involved with responding to the parents' complaint did not view sexual grooming as a sex discrimination or sexual harassment complaint. Moreover, OCR found that the district did not effectively notify persons about its grievance procedures and which procedure applies to specific types of complaints.

Accordingly, OCR found sufficient evidence to establish that the district failed to respond to complaints of sex discrimination, including sexual harassment, of a student in contravention of the requirements of the Title IX regulations. Therefore, OCR concluded that the district violated Title IX and its implementing regulations with respect to Issue No. 4.

The district has agreed to resolve OCR's Title IX compliance concerns by implementing the enclosed resolution agreement. OCR will monitor the district's implementation of the agreement and will not close the complaint until the district has fully implemented the agreement.

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.

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. This letter serves as OCR's final agency determination in this matter, and there is no right of appeal. The complainant may have the right to file a private suit in court regardless of OCR's determination.

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 investigative or resolution process. If this happens, the complainant 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 the assistance extended to OCR by the district and its counsel during the investigation of the complaint. We look forward to receiving the district's first reports about its implementation of the agreement by October 5, 2016. If you have any questions, please contact Noel Nightingale, Lead Attorney, by telephone at (206) 607-1632, or by e-mail at noel.nightingale@ed.gov.

Sincerely,

Page 23 –

Paul Goodwin
Team Leader

Enclosure: Resolution Agreement

cc: Honorable Dr. Salam Noor, Deputy Superintendent of Public Instruction
District Counsel Attorneys