



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2ND AVE., SUITE 3310
SEATTLE, WA 98174-1099

November 21, 2018

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Mr. Tim Bronk
Superintendent
Chester-Joplin-Inverness School District 48J
P.O. Box 550
Chester, Montana 59522

Re: Chester-Joplin-Inverness School District 48J
OCR Reference No. 10151297

Dear Superintendent Bronk:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) has resolved the referenced complaint against Chester-Joplin-Inverness School District 48J (the district). OCR investigated whether the district discriminated against a student, when a district employee subjected her and other female students to sexual harassment during the 2014-2015 school year and continuing through August 2015 in violation of Title IX of the Education Amendments of 1972 (Title IX).

As explained below, prior to completion of OCR's investigation, the district expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegation.

OCR enforces Title IX, which prohibits discrimination on the basis of sex in education programs and activities that receive Federal financial assistance. The district receives Federal financial assistance from the Department and is subject to Title IX.

The regulation implementing Title IX, at 34 C.F.R. § 106.31, provides generally that, except as provided elsewhere in the regulation, "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, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance." Sexual harassment that creates a hostile environment is a form of sex discrimination prohibited by Title IX. Sexual harassment of a student by a teacher or other school employee can be discrimination in violation of Title IX. The extent of a recipient's responsibilities if an employee sexually harasses a student is determined by whether or not

the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

In its investigation to date, OCR found a concern that the district failed to respond appropriately to reports of sexual harassment of female students by a district employee. The evidence gathered thus far demonstrates that the employee in question was acting in the context of the employee's provision of aid, benefits, or services to students. The evidence also suggests that the students were subjected to a hostile educational environment as a result of the employee's sexual harassment. OCR also determined that the employee in question is no longer employed by or works in any capacity within the district.

Additionally, during the course of its investigation, OCR identified concerns with regard to whether the district was in compliance with the Title IX regulatory requirements that it: (1) designate a Title IX coordinator and notify students and employees of the responsible employee; (2) adopt and prominently disseminate a notice of nondiscrimination; and (3) adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints. 34 C.F.R. § 106.

Specifically with regard to the grievance procedures, OCR identified deficiencies with respect to whether, among other things, the district's procedures: (1) provided notice of where complaints may be filed that was easily understood; (2) applied to district employees; (3) ensured both parties had the opportunity to present witnesses and evidence; (4) established designated and reasonably prompt timeframes for the major stages of the complaint process; and (5) provided notice to the parties of the outcome of a grievance.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, prior to the point OCR issues a final determination, the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with such an agreement. As noted above, prior to OCR making a final determination regarding the issues investigated in the referenced complaint, the district expressed an interest in voluntarily resolving the complaint. In light of the district's willingness to resolve the complaint allegation and the concerns identified in OCR's review of the district's Title IX's policies, procedures, and practices comprehensively, OCR determined that entering into an agreement was appropriate. Subsequent discussions with the district resulted in you signing the enclosed agreement, which when fully, implemented will address the issues raised in this complaint.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by December 14, 2018.

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. The complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

Please be advised that the district may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

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.

If you have any questions regarding this matter, please contact Steve Riley, the OCR staff member assigned to this complaint. You can reach Mr. Riley at (206) 607-1635 or at steven.m.riley@ed.gov.

Sincerely,

Kelli Lydon Medak
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Honorable Elsie Arntzen
Superintendent of Public Instruction