



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

September 14, 2018

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Dr. Christina Kishimoto
Superintendent of Education
Hawaii State Department of Education
P.O. Box 2360
Honolulu, Hawaii 96804

Re: Hawaii Department of Education
OCR Reference No. 10171046

This letter is to inform you of the disposition of the above-referenced complaint filed against Hawaii Department of Education (HDOE) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that HDOE discriminated against a student on the basis of sex by failing to provide a prompt and equitable response to incidents of sexual harassment, including sexual violence; and that HDOE discriminated against the student and the student's parents who have limited-English proficiency (LEP) on the basis of national origin by denying them language access during the school's processing of the student's complaint of sexual assault by other students.

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

OCR investigated this case under the authority of Title IX of the Education Amendments of 1972 (Title IX) and Title VI of the Civil Rights Act of 1964 (Title VI). The regulations implementing Title IX at 34 C.F.R. Part 106 and Title VI at 34 C.F.R. Part 100 prohibit discrimination on the basis of sex, and race, color and national origin, respectively, in programs and activities that receive federal financial assistance. HDOE is a recipient of federal financial assistance from the Department. Therefore, it is required to comply with these laws.

OCR's investigation to date indicates that officials at the student's school investigated whether the student was subjected to sexual harassment and/or sexual assault. In the course of conducting the investigation, school officials interviewed the student without

the benefit of an interpreter. Records reviewed by OCR indicate that at the time the school conducted its interview, the student may have required an interpreter to meaningfully participate in the school’s investigation. OCR’s investigation to date also indicates that the school did not utilize interpreters to communicate about the investigation with the student’s parents, who were of limited English proficiency, and instead relied on third parties, including other family members of the student.

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 allegations and OCR determines that it is appropriate to resolve them with an agreement. In light of HDOE’s willingness to resolve the allegations comprehensively, OCR determined that entering into a voluntary resolution agreement was appropriate. Subsequent discussions with HDOE resulted in HDOE signing the enclosed Agreement, which, when fully implemented, will resolve the allegations in the 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 October 1, 2018.

This concludes OCR’s investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR’s determination.

Please be advised that HDOE 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 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.

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Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact David Kauffman, attorney, by telephone at (206) 607-1603 or by e-mail at david.kauffman@ed.gov. You may also contact Tim Sell, attorney, by telephone at (206) 607-1639 or by e-mail at timothy.sell@ed.gov.

Sincerely,

Kelli Lydon Medak
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement