

**RESOLUTION AGREEMENT**  
**Falls Church County Public Schools**  
*OCR Case No. 11-16-1122*

Falls Church County Public Schools (the Division) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-16-1122. This Agreement does not constitute an admission by the Division of a violation of Title IX of the Education Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

**TITLE IX PROVISIONS**

**STUDENT AND COMPLAINANT-SPECIFIC PROVISIONS**

1. Within 10 school days of the date of this agreement, the Division will notify the Complainant in writing that:
  - a. It is reviewing its determination regarding whether a sexually hostile environment occurred while the Student was enrolled at XXXX (the “School”) during the 2014-2015 SY and investigating any new reports of sexual harassment made by the Student or Complainant during the 2015-2016 SY.
  - b. The Division will offer to provide interim measures while it is reinvestigating the alleged sexual harassment, such as separating the Student from the alleged harassers and designating a Division employee to whom she can report any concerns of harassment.
  - c. The Division’s Title IX Coordinator will ensure, with the Complainant and Student’s input, that a plan for the 2016-2017 school year is put in place and implemented for the Student to prevent any harassment. This plan will include such measures as:
    - i. Assigning the Student and the alleged harassers to different classes, alerting staff that the Student and alleged harassers should not sit together in the school cafeteria, and monitoring the Student and alleged harassers in other Division-controlled settings, such as field trips or school assemblies;
    - ii. Division staff will monitor the school environment throughout the school day, including in the classroom, cafeteria, hallways, and other locations in order to prevent the occurrence of sexual harassment and/or retaliation against the Student. Division staff will intervene in situations where the Division staff observe or are made aware of reports the Student being subjected to peer sexual or retaliatory harassment (for example, name-calling, sex-based conduct, sexualized behavior, retaliatory behavior, etc.) and will report any known situations in writing to the Student’s parent promptly as well as the Principal and the Division’s Title IX Coordinator; and

- iii. Offering regularly scheduled check-in sessions for the Student with the School's guidance counselor. The guidance counselor will inquire about whether the Student has experienced any peer sexual or retaliatory harassment (for example, name-calling, sex-based conduct, sexualized behavior, retaliatory behavior, etc.). If the Student reports harassment, the guidance counselor will report it in writing to the Student's parent promptly as well as the Principal and the Division's Title IX Coordinator.

**REPORTING REQUIREMENT:** Within 15 school days of the date of this Agreement, the Division will provide OCR with documentation of the notice to the Complainant required in this provision.

2. Within 60 school days of the date of this agreement, the Division will complete a prompt and equitable investigation of the alleged sexually hostile environment during the 2014-2015 SY, as well as any new incidents of alleged sexual harassment reported by the Student or Complainant during the 2015-2016 SY. The Division's investigation will include a review of alleged retaliatory harassment in addition to alleged incidents of sexual harassment, the opportunity for the Student and her parent to present witnesses and other evidence, a review of the disciplinary file for each accused student to determine whether other students (including the Student's sister) have made allegations of unwelcome conduct of a sexual nature against the accused, and an interview of each of the accused students still at the School. Interviews of all witnesses will be documented and will be maintained in a central database or location within the Division (see item 3.g. of the Policies and Procedures section below). The review will take into account all allegations of unwanted conduct of a sexual nature, such as the alleged incidents which occurred in the Student's sixth grade Science and Spanish classrooms and alleged sexual comments made to the Student's sister, and will include a determination as to whether the alleged retaliatory harassment, if founded, contributed to an allegedly sexually hostile environment at the School.

**REPORTING REQUIREMENT:** Within 15 school days of the conclusion of its investigation, the Division will provide OCR for its review and approval documentation of its investigation including interview notes, investigative reports, written findings, and proposed steps it will take to prevent the recurrence of any discrimination and, if allegations of harassment are founded, correct any hostile environment created at the School (such as counseling or discipline for the accused harasser(s) or counseling or compensatory education for the Student). OCR will approve the Division's investigation if it determines that the investigation process complies with the regulatory requirements of Title IX.

3. Within 15 school days after OCR determines that the Division's investigation was conducted in compliance with Title IX, the Division will provide written notice to the parties of the outcome of the investigation and, if appropriate, of any steps it will take to prevent the recurrence of discrimination and to correct the hostile environment created at the School.

**REPORTING REQUIREMENT:** Within 15 school days of the notice provided to the Complainant, the Division will provide OCR a copy of the written notice.

## ANTI-HARASSMENT STATEMENT

1. The Superintendent will issue a statement, to all Division students, parents, and staff via e-mail that will be posted in prominent locations at the School, and published on schools' and the Division's website, stating that the Division does not tolerate acts of sexual or gender-based harassment. The statement will encourage any student who believes he or she has been subjected to sexual or gender-based harassment to report the harassment to the Division and note the Division's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member to whom students and parents may report allegations of harassment. The statement will indicate that remedial measures and educational resources will be available, as circumstances warrant, to both students who are harassed and students found to have engaged in acts of sexual or gender-based harassment; it will also warn that harassers may be disciplined including, if circumstances warrant, suspension or expulsion. The statement will encourage students, parents, and Division staff to work together to prevent sexual and gender-based harassment. The Division will distribute this statement in languages other than English, as necessary.

**REPORTING REQUIREMENT:** By **November 14, 2016**, the Division will provide a draft of the anti-harassment statement to OCR for review and approval. Within 30 school days of OCR's approval of the anti-harassment statement, the Division will issue the statement as required in the immediately preceding provision, and provide OCR with links to the statement posted on school and Division web sites.

## TITLE IX POLICIES AND PROCEDURES

1. The Division will review sex discrimination-related policies and procedures, including the following: Policies 1.B 1, IB.4, 8.36, 9.1, 9.34 and Regulations 1B.4R, 8.36 RA, 8.36 RB ("General Provisions," "Freedom From Sexual Harassment and Other Forms of Unlawful Harassment," "Grievance Procedures for FCCPS Personnel," "Equal Educational Opportunities," "Falls Church Education Community: Rights and Responsibilities and Student Code of Conduct," "Harassment and Discrimination – Resolution of Complaints," "Grievance Procedures for Professional Personnel," "Grievance Procedures for Support Personnel") to ensure that these policies and procedures provide for prompt and equitable resolution of allegations of sex discrimination, including sexual harassment and gender-based harassment, as required by Title IX. If multiple resolution processes are enumerated in regards to addressing allegations of sexual and gender harassment, the Division will provide a description of which procedure is applicable in which situations or cross-reference to the relevant resolution process. The Division will revise its existing policies and procedures as necessary, or develop new policies and procedures to, at a minimum, provide for:
  - a. The definition of sexual and gender-based harassment;
  - b. Notice and scope of the procedures, including who may file and who is subject to the procedures;
  - c. To whom an allegation of sexual or gender-based harassment should be addressed, including name, title, and contact information;
  - d. Mandatory reporting by teachers, administrators, and staff of alleged sex discrimination of which they become aware, including sexual harassment;

- e. Reasonably prompt timeframes for all major steps in the procedure, including, the investigation;
- f. Adequate, reliable, impartial investigation;
- g. Interim measures pending the outcome of an investigation;
- h. Protection against retaliation;
- i. Confidentiality;
- j. An assurance that the Division will take steps to prevent the recurrence of any sexual and gender-based harassment and correct its discriminatory effects on the complainant, and others if appropriate, and eliminate any hostile environment;
- h. Written notice to the parties of the outcome of the investigation;
- i. If the process includes an appeal, equitable appeal rights for the parties;
- j. The name, title, and contact information at each school in the Division for the individual designated to answer questions related to the Division's Title IX policy and procedures. In the event that only a title, not a name, is provided in the Division's revised procedure, the policy and/or procedure will identify where an individual may find who is currently appointed to this position.
- k. The name, title and contact information, to include office address and telephone number, for the Division's Title IX Coordinator to be included at a minimum on the Division's website and in each school's Student Handbook. In the event that the revised procedure or policy does not identify by the name the Division's Title IX Coordinator, the revised policy and/or procedure will identify where an individual may find who is currently appointed to this position.

**REPORTING REQUIREMENT:** No later than **December 15, 2016**, the Division will provide OCR with its proposed procedure for review and approval.

2. Within 30 school days of OCR's approval of the revised policies and procedures as provided in the previous section (TITLE IX POLICIES AND PROCEDURES, Item 1), the Division will widely publicize the policies and procedures by sending written notification to students, parents, and employees through normal communication channels and posting a link to the policies and procedures in an easily accessible location on the Division's web site.

**REPORTING REQUIREMENT:** Within 15 school days of publicizing the policies and procedures pursuant to the preceding paragraph, the Division will submit to OCR documentation that it has publicized these policies and procedures, including an email link to its website evidencing publication of the policies and procedures and a copy of the written notice to students, parents and employees.

**REPORTING REQUIREMENT:** By **September 15, 2017**, the Division will certify to OCR that the contact information for the Title IX Coordinator as provided in the previous section (TITLE IX POLICIES AND PROCEDURES, Item 1(k)), was included in each school's Student Handbook in the Division.

3. By no later than **January 30, 2017**, the Division will develop a written procedure for the Title IX Coordinator and other designated school and Division administrators on how to

investigate and respond to complaints of sexual and gender-based harassment. The procedure will include:

- a. The definition of sexual and gender-based harassment;
- b. A clarification that mediation is not an appropriate approach for resolving complaints of sexual and gender-based harassment unless it is mutually agreeable and the allegations do not involve complaints of assaults and other sexual violence;
- c. A statement that the Division’s obligation to respond to complaints of sexual and gender-based harassment does not change when the alleged student victim withdraws or graduates from the Division;
- d. A process for investigating and documenting sexual and gender-based harassment allegations, including how to conduct interviews with the alleged harasser, victim, and other witnesses; the responsibility to keep the parties informed about the status of the investigation; the implementation of any interim measures; applying a preponderance of the evidence standard for determining whether harassment occurred; and notifying the parties of the outcome;
- e. A direction to follow the investigative procedure regardless of whether the alleged harassment is also being investigated by a law enforcement agency, unless the fact-finding process would impede the law enforcement investigation; in such cases the Division will implement appropriate interim steps to provide for the safety of the victim and the school community and the avoidance of retaliation; the Division will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering portion of its proceeding;
- f. A plan, outlining steps and associated time frames, for the creation of a centralized data collection system in the Division in which documentation of Division investigations and outcomes of sexual and gender-based harassment allegations are compiled and maintained (referred to as “the Plan”);
- g. Pending the implementation of the plan required in provision 3. f., the Division will provide a description of the interim system of centralized data collection that documents Division investigations and outcomes of sexual and gender-based harassment allegations. The Division will implement this interim system until the plan required in provision 3.f. of the Policies and Procedures section is fully implemented and the centralized database operational;
- h. The steps necessary to ensure that the school environment is free from harassment, including disciplinary measures for the harasser, remedies for the victim (such as counseling, expunging disciplinary records, tutoring services, and separating the students), and environmental measures for the student body; and
- i. The Division personnel (by name and title), including that of the Title IX Coordinator, responsible for coordinating schools’ responses to complaints of sexual and gender-based harassment.

**REPORTING REQUIREMENT:** By **December 15, 2016**, the Division will provide OCR with its proposed written procedure and its proposed Plan, referenced in Provision 3.f of the Policies and Procedures section.

**REPORTING REQUIREMENT:** By November 1, 2016, the Division will provide OCR with a description of its interim system, referenced in Provision 3.g of the Policies and Procedures section, for OCR’s review and approval.

4. Within 15 school days of OCR’s approval of the procedure described in provision 3 of the Policies and Procedures section, the Division will distribute this procedure to the Title IX Coordinator and any individuals responsible for investigating and/or responding to sexual and gender-based harassment complaints.
5. By November 1, 2016, the Division will create an interim system of centralized data collection that documents Division investigations and outcomes of sexual and gender-based harassment allegations. The Division will implement this interim system until the plan required in provision 3.f. of the Policies and Procedures section is fully implemented and the centralized database operational.
6. Upon OCR’s approval of the interim system referenced in Provision 5 of the Policies and Procedures section, the Division will promptly begin implementing the interim system and then implement the Plan once it is approved by OCR and the centralized database is operational.

**REPORTING REQUIREMENT:** Within 30 school days of OCR’s approval of the interim system, the Division will provide documentation to OCR that it informed the Title IX Coordinator, all administrators, and any individuals responsible for investigating and/or responding to sexual and gender-based harassment complaints about how to utilize the interim system.

**REPORTING REQUIREMENT:** Within 30 school days of OCR’s approval of the Plan, and within 15 school days of the end of each semester of the 2016-2017 school year, the Division will provide OCR with a status update on implementation of the Plan.

7. By **November 30, 2016**, the Division will ensure that its description of the Title IX Coordinator’s responsibilities and training requirements, if it already has one, include, at minimum, the coordination of investigations of all Title IX complaints, and regularly developing and participating in activities designed to raise awareness in the Division’s community about student-to-student sexual and gender-based discrimination and harassment. If the Division does not already have such a description, the Division will develop one. If the Division decides to designate these responsibilities to another employee, it will make clear the scope of each designated individual’s duties and will ensure that the Title IX Coordinator has ultimate oversight responsibility over such issues.

**REPORTING REQUIREMENT:** By **November 14, 2016**, the Division will provide OCR for its review and approval documentation that it has implemented this item, including the name and title of the Title IX Coordinator or designee(s) and a copy of the job descriptions and training requirements for the position(s).

**REPORTING REQUIREMENT:** Within 15 school days of OCR’s approval of the Title IX Coordinator’s description, the School will provide OCR with documentation that the Division’s Title IX Coordinator description has been adopted by the Division.

#### TITLE IX EDUCATION AND TRAINING

1. Within 60 school days of the signing of this Agreement , the Division will provide mandatory Title IX training (including training on sexual and gender-based harassment, how to conduct and document a sexual harassment investigation, the appropriate standards to determine whether a sexually hostile environment exists and how to formulate any corrective actions) to its Title IX Coordinator and principal and assistant principals at the School, and any other School staff members who will coordinate the Division’s compliance with Title IX.
2. Within 90 school days of the signing of this Agreement, the Division will provide Title IX training to all School instructional, paraprofessional, and counseling staff. At a minimum, the training will include:
  - a. Guidance to increase awareness of what constitutes sexual harassment and gender-based harassment among students or involving a student victim including what constitutes a hostile environment under Title IX;
  - b. A review of the Division’s responsibility under its own policy and Title IX to address allegations of harassment, including specific guidance on the School’s grievance procedures, the Division’s responsibility for responding to sexual harassment whether or not a grievance is filed and regardless of whether the actions are potentially criminal in nature, how to report possible harassment, and how to respond to harassment; and
  - c. Notice that failure to respond appropriately to sexual harassment violates the Division’s policy and federal law.

**REPORTING REQUIREMENT:** At least 30 calendar days prior to the scheduled trainings, the Division will provide OCR with the name and qualifications of the trainer and an outline of the training content for OCR approval.

**REPORTING REQUIREMENT:** Within 30 calendar days of the completion of each training, the Division will provide copies of sign-in sheets or other documentation of participation from each training session.

#### SEXUAL HARASSMENT COMPLAINTS

1. Within 30 school days of the end of each semester of the 2016-2017 school year, the Division will provide to OCR the information maintained in the Division’s centralized data collection system regarding the reporting, investigation and disposition of each incident of alleged sexual and gender-based harassment, if any, that occurred in the Division’s middle and high schools during the immediately preceding semester. In addition, specific information concerning individual complaints, including the complaint itself, incident report, correspondence (including

e-mail) or other written description of the allegations; and a copy of any documentation of the Division's response, including interview notes, investigative reports, written findings, and records of any corrective action taken, including any disciplinary action, will be available upon request by OCR.

**REPORTING REQUIREMENT:** Within 30 school days of the end of each semester of the 2016-2017 SY, the Division will provide OCR with the information described above.

### **SECTION 504 PROVISIONS**

1. The Division will review and revise its procedures for conducting an evaluation under Section 504 when the parent and/or guardian requests an evaluation and/or the Division has sufficient information that a student may need special education or related aids and services because of a disability to ensure that students are promptly evaluated and related aids and services are provided in a timely manner

**REPORTING REQUIREMENT:** The Division will submit draft procedures to OCR by **November 30, 2016**, for OCR's review and approval. Within 15 school days after OCR approves the procedures, the Division will disseminate the procedures to all administrators and instructional staff. The Division will provide documentation of the completion of this provision to OCR.

### **TRAINING**

2. Within 60 school days of the signing of this Agreement, the Division will provide school personnel at the School involved in student evaluations, including counselors, principals, Section 504 Coordinators, special education administrators and staff, training on the free appropriate public education (FAPE) requirements of Section 504 by an independent trainer with expertise in Section 504's FAPE requirements. An independent trainer may constitute the Division's internal or external legal counsel, or OCR staff, so long as this individual has the appropriate qualifications and demonstrated expertise in Section 504. The training will also be provided to Division administrators of Section 504 such as the Division's Section 504 coordinators. The training will emphasize the Division's obligations under Section 504 to timely identify and evaluate students who need or are believed to need special education and/or related aids and services. As part of this training, the Division will also provide information on the procedures developed under Section 1 above.

**REPORTING REQUIREMENT:** At least 30 calendar days prior to the training, the Division will provide OCR with the title and qualifications of the trainer, copies of the agenda, and copies of any training materials, for OCR's review and approval. Within 20 calendar days after the training, the Division will provide OCR with documentation confirming completion of the required training, including: (a) the date of each training session(s); and, (b) copies of sign-in sheets listing the Division and/or School personnel who participated in each training session, including names and titles.

## STUDENT-SPECIFIC PROVISIONS

1. By **November 1, 2016**, the Division will reevaluate the Student, in compliance with the evaluation procedures required by 34 C.F.R. 104.35, to determine whether the Student continues to be eligible for special education and/or additional related aids and services under Section 504. If the Student continues to be eligible under Section 504, the Student's Section 504 team will, determine the appropriate accommodations for the Student. This reevaluation should take into consideration any impact that bullying and/or harassment had on the Student's ability to access her education, such as whether the Student should be separated from the alleged harassers and whether a school employee should be designated to provide daily check-ins with the Student to ensure that she feels comfortable and to whom she can report any concerns of bullying and/or harassment.

**REPORTING REQUIREMENT:** Within 10 school days of completion of the reevaluation, the Division shall submit to OCR records of all information it considered in the evaluation, meeting notes or similar documentation, and any Section 504 Plan or Individualized Education Program it developed or revised. OCR will notify the Division of any compliance concerns regarding the evaluation and any steps necessary to remedy such compliance concerns.

2. Within 10 school days of completion of the reevaluation, and after providing appropriate written notice to the Student's parent/guardian, the Division will convene a group of persons knowledgeable about the Student, making all reasonable efforts to include the parent/guardian, with the purpose of determining whether the Student is eligible to receive compensatory and/or remedial services for the time period the Student was not evaluated for eligibility under Section 504 from the Spring 2015 semester until the date of the reevaluation in fall of 2015. The group will consider any significant, to include aggregated, amounts of instructional time missed by the Student, and any impact to the Student because of the Student's disability, during this period. If it is determined that compensatory and/or remedial services are needed, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **January 15, 2017**. The Division will provide the Student's parent/guardian with notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

**REPORTING REQUIREMENT:** Within 10 school days of the meeting, the Division will submit to OCR a copy of the meeting minutes or similar documentation from the meeting, including an explanation for decisions made, a description of and schedule for providing compensatory and/or remedial services (if any) to the Student, the notice of procedural safeguards, the written invitation to the Student's parent/guardian, and a list of meeting attendees. OCR will review the documentation submitted to ensure that the Division met the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations. By **January 30<sup>th</sup>, 2017**, the Division will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services, if any, were provided, a description of what was provided, and the name(s) of the service provider(s).

The Division understands that OCR will not close the monitoring of this Agreement until OCR determines that the Division has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX, Section 504, Title II, at 34 C.F.R. Part 106, 34 C.F.R. Part 104, 28 C.F.R. Part 35.

The Division understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the Division understands that during the monitoring of this Agreement, OCR may visit the Division interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX, Section 504, Title II, at 34 C.F.R. Part 106, 34 C.F.R. Part 104, 28 C.F.R. Part 35, which was at issue in this case.

The Division understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the Division written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

By: \_\_\_\_\_/S/\_\_\_\_\_ Date: \_\_\_\_\_10/14/16\_\_\_\_\_

Dr. Toni Jones, Superintendent or Designee,  
Falls Church City Schools