



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

April 7, 2022

By email only to [taylorbr@hickoryschools.net](mailto:taylorbr@hickoryschools.net)

Dr. Bryan Taylor  
Superintendent  
Hickory City Schools  
432 4<sup>th</sup> Ave. S.W.  
Hickory, NC 28602

Re: Case No. 11-21-1356  
Hickory City Schools

Dear Dr. Taylor:

This letter is to advise you of the outcome of the complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Hickory City Schools, which we will refer to as the District. The Complainant alleged that the District discriminated against female students at Northview Middle School on the basis of sex with respect to enforcement of the School's dress code.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department of Education, the District is subject to Title IX.

During its investigation to date, OCR reviewed information provided by the Complainant and the District and interviewed the School Principal. OCR contacted the District prior to completing its investigation to determine the District's interest in resolving the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

### **Facts**

The current version of the District's dress code was enacted by the School Board in July 2020. The dress code, which is facially sex-neutral, states, among other things, that hoods may not be worn; dresses must not be sleeveless or have spaghetti straps; jeans may be worn if they do not

contain holes above the knee; jeggings and leggings cannot be worn as the “primary bottom”;<sup>1</sup> shorts, dresses, and skirts must be no shorter than two inches above the knee; and all shirts must cover the back and torso and “have necklines and arm cuts that are not disruptive or distracting.” The dress code also states that “each school shall require full and consistent compliance of the standardized dress code with the least amount of disciplinary action.” The District’s dress code is included in the School’s student handbook.

On September 9, 2021, School staff held three assemblies for female students, by grade-level, to discuss the dress code and the discarding of hygienic products. During the first ten minutes of each assembly, a School nurse discussed hygiene issues. During the remaining ten minutes, female counselors explained the dress code and used PowerPoint slides to discuss examples of, and consequences for wearing, inappropriate clothing. One of the slides, labeled “final warning,” stated that going forward anyone violating the dress code would receive an office referral and either an in-school or out-of-school suspension. The School Principal told OCR that suspensions were only intended to be used in a situation where a student was defiant about changing clothes in response to a dress code violation.

Four parents complained to the School administration about girls being singled out for these assemblies and enforcement of the dress code. The Superintendent met with the parents, who expressed concern to the Superintendent that the dress code was being enforced against female students more than male students. Several of the parents also expressed concern that during the 8<sup>th</sup> grade assembly, a school employee made a remark about girls “saving leggings for marriage.” The School Principal told OCR that the comment was taken out of context and was responsive to a student’s “crude sexual remark.” One of the counselors said that the subject would be better discussed in a marriage talk, according to the School Principal. In response to the parent complaints, the Superintendent instructed the School Principal not to hold any more dress code assemblies, including assemblies the School had planned to hold for male students the following week.

Due to Covid-19 restrictions, school locker rooms were not in use at the beginning of the school year. Parents complained that students did not have anywhere to change clothes to participate in physical education. Parents also complained to the School about female students not being able to wear comfortable clothes for gym without violating the dress code. The Complainant raised this issue to OCR as well. According to the Complainant and the parents, female students ended up wearing pants in gym class because appropriate athletic wear options for girls, such as shorts or leggings, were restricted by the dress code. The Superintendent and School administration addressed this concern by allowing students to change clothing for gym. This policy change was communicated to staff via email and at staff meetings.

During a School Board meeting on September 27, 2021, two parents spoke about their concerns regarding the dress code. During the meeting, the School Board expressed openness to revisiting the District’s dress code. Additionally, on September 29, 2021, in response to the parent complaints, the Superintendent and the District’s Director of Federal Programs asked an Equity Assistance Center (EAC) to review the District’s dress code for possible gender bias. The District

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<sup>1</sup> Other information provided by the District indicated that leggings could be worn as the “primary bottom” with a long top.

received a report with generalized feedback prior to receipt of the OCR complaint. Once the OCR complaint was received, the District took no further action pending the resolution of this Complaint.

The District provided OCR with records of all disciplinary referrals (“office referrals” and “minor incidents”) for dress code violations during the 2020-21 and 2021-22 school years. During the 2020-21 school year, there were no office referrals for dress code violations and only two referrals for minor incidents.<sup>2</sup> During the 2021-22 school year, there were no office referrals for dress code violations and one referral for a minor incident at the School, and 5 office referrals and 12 referrals for minor incidents in other District schools. These referrals were issued to both male and female students and resulted in either a warning or brief conference with the student. Despite the low number of disciplinary referrals for dress code violations, School records suggested that School staff repeatedly warned students about the dress code, and that the assemblies were prompted, in part, because the School office routinely “filled up” in the mornings with dress code issues.

### **Legal Standards**

Title IX and its implementing regulation, at 34 C.F.R. § 106.31(a)-(b), prohibit a school from excluding, denying benefits to, or otherwise treating any person differently on the basis of sex in its education programs or activities, unless expressly authorized to do so under Title IX.

### **Analysis**

Based on information obtained to date, OCR has concerns that the District separated students based on sex without justification by holding assemblies only for female students to discuss hygiene issues and dress code enforcement. OCR also has concerns that the School may be treating female students differently than male students in its enforcement of the dress code, based on the School’s separation of students by sex for the assemblies and prioritization of assemblies for girls; a school employee’s comment during the 8<sup>th</sup> grade assembly about girls “saving leggings for marriage” and the School Principal’s effort to justify the employee’s inappropriate comment; and warnings during the girls-only assemblies that students would be suspended for dress code violations, which appears to conflict with the dress code’s statement that schools should require compliance with the code “with the least amount of disciplinary action.” Although the District planned assemblies for male students that it then cancelled due to parent concerns raised about the assemblies, OCR to date did not see evidence that the School ever advised male students that dress code violations might result in suspension.

Before OCR completed its investigation of the complaint, the District expressed interest in resolving the complaint pursuant to Section 302 of OCR’s *Case Processing Manual*. On April 6, 2022, the District agreed to implement the enclosed Resolution Agreement, which, when fully implemented, will address the complaint allegation. The provisions of the agreement are aligned with the allegation and the information obtained during OCR’s investigation and are consistent with the applicable law and regulation. OCR will monitor the District’s implementation of the agreement until the District has fulfilled the terms of the agreement.

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<sup>2</sup> Students participated in remote instruction during school year 2020-2021, which may have accounted for the low number of referrals.

## **Conclusion**

This concludes OCR's investigation of the complaint. This letter 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. OCR would like to make you aware that individuals who file complaints with OCR 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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the District with OCR.

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

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact Sharon Gooft Nissim, the OCR attorney assigned to this complaint, at 202-245-7261 or [sharon.nissim@ed.gov](mailto:sharon.nissim@ed.gov).

Sincerely,

Dan Greenspahn  
Team Leader, Team 1  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: XXXXX