



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

July 1, 2020

VIA E-MAIL ONLY: kristen.howard@detroitk12.org

Kristen M. Howard, Esq.
Special Assistant to the Superintendent
Detroit Public Schools Community District
Office of Equity, Advocacy & Civil Rights
3011 W. Grand Blvd., 14th Floor
Detroit, Michigan 48202

Re: OCR Docket No. 15-16-1117

Dear Ms. Howard:

This letter is to notify you of the disposition of the above-referenced complaint filed on December 21, 2015, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Detroit Public Schools Community District (the District) alleging that the District discriminated against a student based on sex. Specifically, the complaint alleged that the District:

1. subjected XXXXX the Student XXXXX to harassment based on sex XXXXX.
2. failed to respond to the Student's parent's complaints of sex-based harassment.

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 from the Department. As a recipient of federal financial assistance from the Department and as a public entity the District is subject to Title IX.

During its investigation to date, OCR reviewed information provided by the Student's parent (the Parent) and the District. OCR also interviewed the Parent, the Parent's advocate, and District administrators. Prior to the conclusion of OCR's investigation, the District expressed an interest in voluntarily resolving this complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM) and OCR determined it was appropriate to do so.

Applicable Legal Standards

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), states as follows: “Except as provided elsewhere in this part, 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 is a form of sex discrimination prohibited by Title IX. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

Sex-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, is a form of sex discrimination to which a school must respond if it rises to a level that denies or limits a student’s ability to participate in or benefit from the educational program. In cases of such harassment, a school has an obligation to respond promptly and equitably.

It may be appropriate for a school to take interim measures prior to or during the investigation of a complaint for sexual harassment or other forms of sex discrimination. Interim measures are individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual harassment or another form of sex discrimination. Interim measures include counseling, modifications of class schedules, and other similar accommodations.

OCR enforces the requirements of Title IX consistent with the requirements of the First Amendment of the U.S. Constitution. The laws that OCR enforces protect students from discrimination but are not intended to restrict the exercise of protected speech in violation of the First Amendment. Thus, for example, in addressing harassment allegations, OCR has recognized that the fact that a particular expression is offensive, standing alone, is not a legally sufficient basis to establish sex discrimination under the statutes enforced by OCR.

Allegations

XXXXX paragraph removed XXXXX

XXXXX. The records and information provided by the District do not indicate that it responded to or addressed the alleged sex-based harassment of the Student.

Voluntary Resolution and Conclusion

Based on the foregoing, OCR has concerns that the District did not respond appropriately to allegations of sex-based harassment. Prior to the conclusion of OCR’s investigation, the District expressed an interest in resolving the allegations and OCR determined that it was appropriate to resolve the allegations with an agreement.

On April 17, 2020, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address all of the allegations in the complaint. OCR will monitor the implementation of the Resolution 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.

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 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, OCR 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.

The complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR looks forward to receiving the District's first monitoring report by June 30, 2020. For questions about implementation of the Agreement, please contact XXXXX. He will be overseeing the monitoring and can be reached by telephone at XXXXX or by e-mail at XXXXX. If you have questions about this letter, please contact me by telephone XXXXX.

Sincerely,

XXXXX
Acting Team Leader

Enclosure