

Resolution Agreement
Downey Unified School District
OCR Case No. 09-12-1095

In order to resolve the issues raised in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Title IX of the Education Amendments of 1972 (Title IX), the Downey Unified School District (District), without admitting any violation of federal law, and without a compliance determination by OCR, agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Consultant

- a. No later than thirty (30) calendar days after execution of this Agreement, the District will engage one or more third-party consultants (Consultant) with expertise in child and adolescent gender identity, including discrimination against transgender and gender nonconforming youth, to support and assist the District in implementing this Agreement.¹
- b. Reporting Requirements:
 - i. By October 31, 2014, the District will provide the name and description of the areas of the Consultant(s) the District wishes to retain for OCR approval.
 - ii. Within five (5) days of receiving OCR approval, the District will provide verification to OCR that it has retained the Consultant(s).

II. Individual Student

- a. For the duration of the Student's enrollment in the District, with respect to District-controlled facilities, the District will continue to treat the Student the same as other female students in all respects in the education programs and activities offered by the District, including access to sex-designated facilities for female students at school, and at all District-sponsored activities, including overnight events, try-outs and participation in extracurricular activities on and off campus, consistent with her gender identity.² However, the Student may request access to private facilities based on privacy, safety, or other concerns.

¹ The District may utilize a consultant it has previously engaged, provided the individual or agency has the appropriate expertise.

² With respect to District-sponsored or organized programs that take place in third party facilities outside of the District's control, if the District learns that the Student has been denied access to sex-designated facilities for female students, the District will notify the third party or appropriate agency and cease contracting with or providing significant assistance to the third-party until appropriate policy changes are made.

- b. The District will ensure that the Student is not disciplined for acting or appearing in a manner that does not conform to stereotypical notions of masculinity or femininity. This Agreement does not preclude the District from applying its disciplinary procedures to any student, including the Student, in a nondiscriminatory manner.
- c. The District will notify the Student and the Complainant that they may, at any point during the Student's enrollment in the District, request that the District develop a Student Success Plan (SSP) to ensure the Student has equal access and equal opportunity to participate in all programs and activities, and is otherwise protected from gender-based discrimination at school. If the District receives such a request, it will:
 - i. offer the Student and Complainant an opportunity to involve relevant individuals in the formation of the SSP including, an advocate or representative of the Complainant's choice (if any), a medical professional of the Complainant's choice (if any), and District personnel familiar with the Student;³
 - ii. develop a SSP to provide the Student with safe and equitable access to all school and District facilities and activities, addressing any particular issues raised by the Student or Complainant;
 - iii. document its meetings, recommendations, and decisions, including, but not limited to, the date and location of each meeting, the names and positions of all participants, the basis for its recommendations and decisions, and supporting or relevant documentation submitted by the Complainant or other meeting participant; and
 - iv. when the need arises or at any time upon the request of the Student or the Complainant, review the Student's particularized circumstances to determine whether the existing SSP is meeting her educational needs and ensure that the Student has equal access to and equal opportunity to participate in the District's education programs and activities. Once constituted, the SSP will be in place for the remainder of the Student's enrollment in the District or until the Complainant requests in writing that it be terminated.
- d. The District will remove all discipline imposed on the Student during the 2011-2012 school year, and all related documentation, from the Student's records.

³ The District will not bear the costs of the student's medical professional or advocate, if any.

e. Reporting Requirements:

- i. By October 30, 2014 the District will provide OCR with verification that the Student and Complainant have been notified in writing of the availability of the SSP in accordance with Section II.c above.
- ii. If a SSP is formed for the Student, the District will provide OCR with a report of any meetings held regarding the SSP, including the documentation described in Section II.c.iii above, within five (5) days of the end of each semester for the term of this Agreement.
- iii. By October 30, 2014, the District will provide OCR with verification that it has revised the Student's records in accordance with Section II.d above, including a copy of the Student's records from the 2011-2012 school year.

III. District Policies and Procedures

- a. The District will continue to review its policies, procedures, and regulations applicable to or governing student participation in all programs and activities offered by the District, and make any necessary revisions or modifications to ensure that all students, including students who do not conform to sex stereotypes, are provided an equal opportunity to participate in all such programs and activities in a manner that does not discriminate based on sex, gender identity or gender expression.
- b. The District will develop a Student Success Plan implementation guide for site administrators, faculty, and staff addressing how the Student Success Plan process and the District's gender-based discrimination policies, including those revised or modified under Section III.a above, applies to transgender and gender nonconforming students.
- c. The District will revise any complaint procedures that apply to sexual and gender-based harassment complaints, and related documents and materials, to reflect Title IX legal and investigatory standards, including the appropriate legal standards, interim measures, investigative steps, and potential remedies.
- d. The District will include a description of the SSP process in its annual Parent Student Guide and on its website, including information on the purpose of an SSP, how to request an SSP and an explanation that individuals who are familiar with the student's needs and the student may participate in the SSP process. The description will also include examples of when an SSP might be appropriate, including examples related to gender identity and gender transitions.

e. Reporting Requirements:

- i. By December 15, 2014 the District will provide OCR with a draft of the policies, procedures and regulations revised or modified in accordance with Sections III.a and Section III.c above for approval.
- ii. Within thirty (30) days of OCR approval, the District will provide verification that it has adopted the revised policies, procedures and regulations.
- iii. By January 30, 2015, the District will provide OCR with a draft of the implementation guide developed in accordance with Section III.b above for approval.
- iv. Within ten (10) days of OCR approval, the District will provide verification that it has adopted the implementation guide.

IV. Professional Development

- a. By March 31, 2015, the District, in consultation with the Consultant(s), will conduct mandatory training on issues related to gender nonconformance and gender-based harassment for District and school-site administrators with responsibility for investigating or supervising the investigation of gender-based harassment complaints and implementing other relevant anti-discrimination policies and procedures regarding transgender and gender nonconforming students. The training will be tailored to ensure that employees understand their obligations, in the context of their particular position, for identifying and responding to gender-based harassment and providing transgender and gender nonconforming students with equal access to and equal opportunity to participate in the District's programs and activities. The training will include, at a minimum:
 - i. comprehensive information on gender identity and nonconformance, gender stereotypes and gender-based harassment, and the negative impact that such harassment has on the educational environment; and
 - ii. a review of the policies, complaint procedures and regulations adopted, modified or revised under this Agreement.
- b. Starting with the 2014-2015 school year, and through the term of this Agreement, the District will ensure that information regarding the District's obligations to prevent and address gender-based discrimination; an overview of the District's complaint procedures that apply to sexual and gender based harassment complaint; and best practices for creating a nondiscriminatory school environment

for gender nonconforming and transgender students is incorporated into its mandatory sexual harassment and other relevant trainings for all faculty, certified staff, and other staff who interact with students at any grade level.

c. Reporting Requirements:

- i. By January 30, 2015, the District will submit a draft plan for implementation of the training in developed in accordance with Section IV.a-b above, for OCR approval, including the training date(s), the name and description of relevant expertise of each presenter and a description of the training content.
- ii. For the term of this Agreement, the District will provide OCR with documentation of the implementation of the staff training within thirty (30) days of the end of each semester. The documentation will include, at a minimum, the date of the training(s), a copy of the materials provided to staff and a list of training participants.

V. School Climate

- a. Starting with the 2014-2015 school year, and annually for the term of this Agreement, the District, in consultation with the Consultant(s), will incorporate age-appropriate instruction into its curriculum and activities for all students on gender identity, gender-based discrimination and examples of prohibited conduct, including harassment, in all school-related contexts.
- b. The District, in consultation with the Consultant(s), will conduct a school climate assessment at the Student's school, including a student and parent survey, during the 2014-2015 school year to evaluate the effectiveness of its bullying and harassment prevention efforts and the extent to which all students, including gender nonconforming and transgender students, are subjected to or witness sexual and gender-based harassment. The student survey shall require parental notification and consent prior to its administration.
- c. Beginning with the 2015-2016 school year, and through the term of this Agreement, the District will conduct the assessment described in Section V.b above at all District middle and high schools. The District may utilize the California Healthy Kids Survey (CHKS), provided that it addresses the topics outlined in Section Vb above. If OCR determines that CHKS does not adequately address the topics outlined in

Section V.b above, the District will work in good faith with OCR to develop, identify or modify an appropriate school climate survey.

d. Reporting Requirements:

- i. By December 15, 2014, the District will submit a draft plan for implementation of the student instruction developed in accordance with Section V.a above, for OCR approval, including a timeline for the delivery of the instruction and a description of the content for each grade level.
- ii. By December 15, 2014 the District will submit a draft plan for school climate assessments developed in accordance with Sections V.b-c above, for OCR approval, including an assessment timeline, the student and parent survey instrument and a description of how the assessment will be conducted.
- iii. For the term of this Agreement, the District will provide OCR with documentation of the implementation of the student instruction and school climate assessment within thirty (30) days of the end of each semester. The documentation will include, at a minimum, the date(s) the instruction was provided, a description of the instructional content provided to each grade level, a copy of the student and parent survey instrument, the survey results, the District's analysis and any relevant recommendations or responsive actions.

VI. Monitoring

- a. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled its terms and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §106.31, which was at issue in this case.
- b. The District further understands that during the monitoring of this agreement, if necessary, OCR may visit the District interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §106.31, which was at issue in this case. By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.

- c. The District 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 District written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

/s/

Dr. John A. Garcia, Jr., Superintendent

10/8/14

Date