



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

July 31, 2015

Dr. Thomas Johnson, Ph.D.
Superintendent
School District of Beloit
1633 Keeler Avenue
Beloit, Wisconsin 53511

OCR Case No. 05-13-1219

Dear Dr. Johnson:

The U.S. Department of Education, Office for Civil Rights (OCR), is closing its investigation of the above-referenced complaint filed against the School District of Beloit (District) on March 28, 2013. The complaint alleged that the District discriminates against female students on the basis of sex by operating a single-sex education program at two elementary schools (Robinson and McLenegan).

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any program or activity that receives Federal financial assistance from the Department.

OCR determined it had jurisdiction over the complaint and proceeded to investigate to determine whether the District was in compliance with the Title IX implementing regulation at 34 C.F.R. § 106.34 (a)–(b) provides, in pertinent part:

Except as provided for in this section or otherwise in this part, a recipient shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation therein by any of its students on the basis of sex... [A] recipient that operates a nonvocational coeducational elementary or secondary school may provide nonvocational single-sex classes if each single-sex class is based on the recipient's important objective.

The regulation establishes two important objectives upon which a recipient may base a single-sex class or extracurricular activity either “[t]o improve educational achievement of its students, through a recipient's overall established policy to provide diverse educational opportunities,” or “[t]o meet the particular, identified educational needs of its students, provided that the single-sex nature of the class is substantially related to achieving that objective.” Further a recipient is required to implement its objective in an “evenhanded manner”; to ensure that student enrollment in a single-sex class is completely voluntary; and to provide to all other students, including students of the excluded sex, a substantially equal

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

coeducational class in the same subject or activity. In addition, a recipient that provides a single-sex class may be required to provide a substantially equal single-sex class for students of the excluded sex. Finally, the recipient must conduct periodic self-evaluations, at least every two years, to ensure that there is a substantial relationship between the single-sex nature of the class or activity and achievement of the important objective, that single-sex classes are based upon genuine justifications and do not rely on overly broad generalizations about the different talents, capacities, or preferences of either sex.¹

The District instituted same-sex classes in two of its six elementary schools, Robinson and McLenegan, in the fall of 2007. At the time, Robinson was a K–5 school serving approximately 430 students; McLenegan served grades 4–5 and had approximately 225 students.

According to the complaint and the investigation to date, the District offered same-sex classes in the third, fourth, and/or fifth grades at Robinson from 2007–2013, and at McLenegan from 2011–2015. Students were segregated by sex in entire grade-levels and all subject areas. However, school assemblies, lunch periods, recesses, and extra-curricular activities remained co-educational at both schools.

Prior to the conclusion of OCR’s investigation of this complaint, and before OCR could obtain sufficient information to make a compliance determination, the District notified OCR that it was voluntarily terminating all single-sex classes at the end of the 2014–2015 school year. In a May 5, 2015, letter, the District’s then co-interim superintendents informed OCR that the District had ceased offering single-sex classes at Robinson Elementary School at the end of the 2013–2014 school year, and that it would not offer single-sex classes at McLenegan after the 2014–2015 school year, which ended on June 9, 2015. (McLanegan closed permanently at the end of the 2014–2015 school year.) The District also reported that it had no plans to continue offering single-sex classes in any District school.

Agreement

In accordance with Section 302 of OCR’s *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. Prior to the conclusion of OCR’s investigation, the District asked to resolve this complaint in accordance with OCR’s *Case Processing Manual*. The District signed the enclosed agreement (Agreement) which, when fully implemented, will resolve the issues in the complaint. The provisions of the Agreement are aligned with the complaint allegation and the information obtained during OCR’s investigation. Specifically, the District agreed that it will no longer offer single-sex classes and agreed to provide OCR with documentation and access to data demonstrating it no longer offers single-sex classes.

¹ See OCR Dear Colleague Letter on Single-Sex Education (January 31, 2007), <http://www2.ed.gov/print/about/offices/list/ocr/letters/single-sex-20070131.html> and OCR’s “Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities” (December 1, 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>

Page 3

OCR will monitor the District's implementation of the Agreement. We look forward to receiving a report from the District by September 15, 2015, confirming its implementation of the Agreement.

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.

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

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 Complainant 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 privacy.

OCR would like to thank the District, especially Ms. Lori Lubinsky, for its cooperation. If you have questions, please contact Amy Truelove at 312-730-1610 or by e-mail at amy.truelove@ed.gov.

Sincerely,

Dawn R. Matthias
Team Leader

Enclosure

Cc: Ms. Lori Lubinsky