



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515  
100 PENN SQUARE EAST  
PHILADELPHIA, PA 19107-3323

REGION III  
DELAWARE  
KENTUCKY  
MARYLAND  
PENNSYLVANIA  
WEST VIRGINIA

**February 27, 2015**

**IN RESPONSE, PLEASE REFER TO: 03131100**

Dr. Linda Lane, Superintendent  
Pittsburgh Public Schools  
341 S. Bellefield Avenue  
Pittsburgh, PA 15213

Dear Dr. Lane:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against the Pittsburgh Public Schools (the District). The Complainant alleges that the District discriminated against her XXXXXX, the Student, on the basis of sex. Specifically, the Complainant alleges that the District XXXXXX by failing to provide prompt, equitable responses to her XXXXXX complaints that the Student was XXXXXX.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, which prohibits 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, the District is subject to this law.

During the investigation, OCR reviewed documentation provided by the Complainant and the District and interviewed the Complainant and District staff. Based on this information, OCR determined that there is insufficient evidence to establish that the District discriminated against the Student XXXXXX. OCR did identify compliance concerns regarding the District's response to the February 4, 2013 complaint and with the District's applicable Title IX procedures, which the District has agreed to resolve. The basis for OCR's determination is set forth below.

**Legal Standard**

The Title IX implementing regulation, at 34 C.F.R. §106.31 (a), provides that 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. Specific obligations are set forth at 34 C.F.R. §106.31 (b), including a recipient's obligation to ensure that its students are not denied or limited in their ability to participate in or benefit from the recipient's programs or activities on the basis of sex.

Harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or receive benefits, services, or opportunities in the school's program. Title IX prohibits discrimination resulting from harassment that is sexual in nature and/or gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature and 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. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression intimidation, or hostility based on sex or sex stereotyping. Thus, harassment of student for failing to conform to stereotypical notions of masculinity and femininity constitutes sex discrimination.

A recipient may be found in noncompliance with Title IX and its implementing regulation as a result of such harassment if the recipient knew, or had reason to know, of the harassment and failed to respond adequately. The recipient will be considered to have responded adequately to knowledge of harassment if it has conducted a thorough and objective investigation and has taken immediate effective action to fully remedy any harm that may have occurred and to prevent sexual harassment from occurring in the future.

In addition to the nondiscrimination provisions, the Title IX regulation, at 34 C.F.R. §106.8(b), requires recipients to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex. Further, the regulation, at 34 C.F.R. §106.8(a), requires that recipients designate at least one employee to coordinate compliance with the regulation, including coordination of investigations of complaints alleging noncompliance, and to notify all students and employees of the name or title, office address, and telephone number of the designated employee or employees. Under 34 C.F.R. §106.9, a recipient must maintain a notice of nondiscrimination.

To comply with Title IX's regulatory requirements, a recipient's sex discrimination grievance procedures must apply to complaints of sex discrimination in the recipient's education programs and activities filed by students against employees, other students, or third parties. While Title IX does not require a recipient to provide separate grievance procedures for sexual harassment complaints, a recipient's grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment.

In evaluating whether grievance procedures are prompt and equitable, OCR considers whether the procedures provide for:

- notice of the procedure, including where complaints may be filed;
- application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;
- adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- designated and reasonably prompt timeframes for the major stages of the complaint process;
- notice to the parties of the outcome of the complaint; and
- an assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

## **Facts**

**November 2, 2012 Incident**

The Student attended the XXXXXX (the School) during the 2012–2013 school year. On November 2, 2012, the Student was XXXXXX. XXXXXX. XXXXXX.

XXXXXX indicated XXXXXX was the XXXXXX of the Student. The XXXXXX, and the Complainant XXXXXX. District witnesses and documentation from the District, including the XXXXXX and the XXXXXX, do not support the assertion XXXXXX. Information from the District suggests that the XXXXXX. School officials did meet with the Student’s parents following this incident, and the School counselor conducted mediation between the two students in order to resolve this matter.

**XXXXXX**

XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX.

XXXXXX. XXXXXX. XXXXXX. XXXXXX.

XXXXXX. XXXXXX. XXXXXX. XXXXXX.

The District’s counsel investigated the complaint. Witnesses acknowledged that the investigation into the complaint in this matter took slightly longer than usual due to the involvement of counsel in scheduling interviews and follow up investigative work that was needed after the District’s counsel interviewed the family in April of 2013. The District’s investigation consisted of interviews with the District’s Compliance Officer for Bullying and Harassment, the School Principal, the guidance counselor, and a special education teacher; interviews with the family, including both parents and the Student; a review of relevant discipline files; and written statements previously offered by School staff and administrators.

As a result of the investigation in this matter, the District found that the XXXXXX. XXXXXX, the District’s final report of its investigation was sent to the Complainant’s attorney. The following corrective actions were put in place to address climate issues in the School and to support the Student in his new school environment:

- The School will conduct additional professional development for staff related to harassment and sexual harassment;
- The School will conduct student awareness programs related to harassment and sexual harassment;
- The School will be prohibited from requesting assistance from students not involved in an incident when investigating student discipline matters;
- Clarification of how the School handles bus discipline incidents;
- A safety plan for the Student at his new school; and
- Additional supports for the Student.

XXXXXX.

OCR obtained information from the District to determine whether the above noted professional development and student awareness programs were conducted at the School during the 2013–2014 school year. The information the District submitted demonstrates that the School engaged in several activities to raise awareness about bullying directed at students, staff, and parents. It is unclear, however, that these activities were focused specifically XXXXXX.

### **District Policies and Procedures**

The District has several relevant policies and procedures, which OCR reviewed to determine compliance with Title IX’s requirement that recipients of federal funding adopt and publish grievance procedures that provide a prompt and equitable resolution to complaints of sex discrimination. Although Title IX does not require recipients to maintain separate grievance procedures to address complaints of sexual harassment, any such procedures must comply with Title IX if a recipient chooses to utilize such a procedure. Here, the District does use a separate policy and set of procedures for bullying and harassment complaints, which includes sexual harassment complaints.

The District’s policies include its “Non-Discrimination in School and Classroom Practices and Equity in Learning” policy with an accompanying administrative regulation and a “Prohibition Against Bullying/Harassment” policy with an accompanying regulation. In reviewing these policies and regulations, OCR noted several compliance concerns with the complaint resolution procedures, including lack of a clear statement that the procedures apply to complaints alleging discrimination carried out by employees, other students, or third parties; lack of a clear statement that parties to a complaint may present witnesses and other evidence; and lack of an appeal that is provided to both parties (rather than only the complainant, as stated in the regulation reviewed by OCR).

OCR also noted that although the District’s non-discrimination statement identifies an assistant superintendent as its Title IX compliance officer, other information provided by witnesses indicated a belief that the District’s bullying/harassment compliance officer is the Title IX Coordinator. Title IX requires that the District identify one Title IX Coordinator, although it may identify other deputy coordinators who are given specific duties that are clearly identified to students, parents, and third parties.

The District has agreed to address these procedural compliance concerns by entering into the enclosed agreement with OCR. These compliance concerns did not impact the outcome of the internal complaints forming the basis of this matter.

### **Analysis and Conclusion**

To determine whether a recipient provided a prompt and equitable resolution to a complaint of sex discrimination, including sexual harassment, OCR considers several factors, such as: the length of time taken to reach a resolution, including whether the recipient met any established time frames; whether both parties were able to present evidence and witnesses; whether the outcome was communicated to both parties; and whether the recipient will take steps to prevent recurrence and correct discriminatory effects on the victim.

XXXXXX. XXXXXX. XXXXXX.

XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX. XXXXXX. Therefore, the District did not provide a prompt and equitable XXXXXX, as required by Title IX. As a result, the District has agreed to address the deficiency by entering into the enclosed agreement with OCR. Thus, OCR considers these issues to be fully resolved and the District is in compliance with Title IX and its implementing regulation, based upon the agreement that, when fully implemented, remedy the identified compliance concerns. Consistent with our usual practice, OCR will monitor the implementation of the agreement until the District is in compliance with the regulations implementing Title IX at 34 C.F.R. §§ 106.8 and 106.9, which were at issue in this complaint.

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. 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 personal privacy.

Page 6 – Dr. Linda Lane

OCR is committed to a high-quality resolution of every case. If you have questions or concerns about OCR's finding, you may contact Andrea DelMonte at 215-656-8554 or [andrea.delmonte@ed.gov](mailto:andrea.delmonte@ed.gov).

Thank you for your cooperation with this matter.

Sincerely,

/s/  
Melissa M. Corbin  
Team Leader

Enclosure  
cc: Jocelyn Kramer, Esquire