



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

RECEIVED
JUN 24 2013
BY: *jk*

Dr. Heath E. Morrison
Superintendent
Charlotte-Mecklenburg Schools
P.O. Box 30035
Charlotte, NC 28230

JUN 17 2013

RECEIVED
JUN 24 2013
OFFICE OF GENERAL COUNSEL

(In reply, please refer to case number 11-13-5002)

Dear Dr. Morrison:

The Office for Civil Rights (OCR), the civil rights enforcement arm of the U.S. Department of Education (Department), implements Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age by educational institutions that receive Federal financial assistance. OCR is responsible for investigating individual complaints of discrimination and is also required to conduct periodic proactive compliance reviews of recipient practices to determine whether they comply with the laws that OCR enforces.

Compliance reviews are designed to address systemic issues and ensure that violations are readily identified and promptly eliminated. Compliance review sites are selected based on various sources of information, including statistical data and information from parents, advocacy groups, the media, and community organizations.

I write to advise you that OCR has selected Charlotte-Mecklenburg Schools for a compliance review under Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving federal financial assistance from the Department. The District receives Federal financial assistance from the Department and is therefore subject to the provisions of Title IX.

This compliance review will examine the District's handling of complaints of sexual harassment, including sexual violence, and will also examine whether the District has adopted, published and implemented grievance procedures that provide for the prompt and equitable resolution of complaints alleging sexual harassment and sexual violence.

It should be emphasized that at this time OCR has reached no conclusions as to whether a violation of any federal law exists.

U.S. Secretary of Education Arne Duncan is committed to ensuring that all students are afforded equal educational opportunities. We believe the information and any results of this compliance review will have a direct and positive impact on students enrolled throughout the District. We look forward to working with you in this review.

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

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

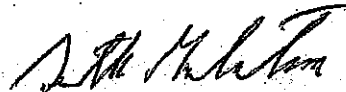
Superintendent Heath E. Morrison
Page 2

The OCR District of Columbia enforcement office will conduct this compliance review. Alice B. Wender, OCR Director in the District of Columbia, will contact you within a week of the date of this letter to make arrangements for the next steps in the compliance review process, including requesting access to data and personnel.

Should you have any questions or concerns, please do not hesitate to contact me at (202) 453-5900. If your staff has any questions regarding the investigation, please do not hesitate to contact Ms. Wender at (202) 453-6020.

Thank you for all you have done—and continue to do—to improve our nation's schools.

Sincerely,



Seth Galanter
Acting Assistant Secretary for Civil Rights

cc: Alice B. Wender, Director, Office for Civil Rights - District of Columbia



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

November 19, 2015

Ann Blakeney Clark
Interim Superintendent
Charlotte-Mecklenburg Schools
P.O. Box 30035
Charlotte, NC 28230

RE: OCR Review No. 11-13-5002
Letter of Finding

Dear Interim Superintendent Clark:

This letter advises you of the outcome of the above-referenced compliance review of the Charlotte-Mecklenburg Schools that was initiated by the District of Columbia Office of the Office for Civil Rights (OCR), U.S. Department of Education (the Department). The review assessed whether the District is in compliance with the requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. Specifically, the review examined the District's handling of complaints of sexual violence and sexual harassment to determine if the District has responded promptly and equitably. The review also included an examination of the District's policies and grievance procedures related to Title IX.

OCR conducted this review under the authority of Title IX. Title IX and its implementing regulations, 34 C.F.R. §106, prohibit discrimination on the basis of sex in education programs and activities operated by recipients of federal financial assistance from the U.S. Department of Education. The District receives federal funds from the Department and, therefore, is subject to the requirements of Title IX.

Summary of Findings

OCR finds that the District is in violation of Title IX because the District's current grievance procedures through which the District addressed complaints of sexual harassment of students by students and by employees, which were implemented in January 2014, do not provide for the equitable resolution of complaints. The current grievance procedures do not afford the accused student or employee the same opportunity to present witnesses and evidence as the complainant,¹

¹ As used herein, "complainant" refers to the alleged victim of harassment or to the individual who files a complaint on behalf of the alleged victim.

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

and they do not provide the accused student or employee with appeal rights equal to those provided to the complainant. In addition, although the District's current grievance procedures are published on the Parents page of the District's website, they are not published in hard copy, including in the Parent Student Handbook and the Code of Conduct, and are thus unavailable to members of the community who do not have access to a computer.

OCR also finds that the grievance procedures through which the District addressed complaints of sexual harassment of students by students and students by employees from 2008 to January 2014 (pre-2014 grievance procedures) did not provide for the prompt and equitable resolution of complaints because they did not provide for an adequate, reliable, and impartial investigation, including an opportunity for the complainant and the accused student or employee to present witnesses and relevant evidence, they lacked designated and reasonably prompt timeframes for major stages of the grievance process, and did not require written notice to the complainant and the accused student or employee of the outcome of the complaint.

Based on its review of complaint files from the 2010-2011 school year through the fall semester of the 2013-2014 school year, OCR determined that the District responded promptly to complaints of sexual harassment and sexual violence. However, the evidence does not establish that the District's response to complaints of sexual harassment and sexual violence was equitable because there was no record in the complaint files that the District provided interim measures as appropriate to complainants and that the District assessed whether a hostile environment existed and, if so, remedied its effects as appropriate for complainants (including for the broader school community). OCR did not review any files of complaints of sexual harassment and sexual assault that were handled pursuant to the District's current grievance procedures.

Although the District publishes statements that prohibit discrimination, including in student and parent handbooks and on its website, none complies with the Title IX regulation that requires that the notice of nondiscrimination state that inquiries about the application of Title IX may be referred to the recipient's Title IX Coordinator or to the Assistant Secretary of the Office for Civil Rights, U.S. Department of Education.

Legal Authority

The regulation implementing Title IX, 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 education program or activity operated by a recipient. Sexual harassment that creates a hostile environment is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature. 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. Sexual harassment of a student creates a hostile environment if the conduct is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the recipient's program.

In determining whether this denial or limitation has occurred, OCR examines all of the relevant circumstances from an objective and subjective perspective, including: the type of harassment (e.g., whether it was verbal or physical); the frequency and severity of the conduct; the age, sex,

and relationship of the individuals involved (e.g., teacher-student or student-student); the setting and context in which the harassment occurred; whether other incidents have occurred at the school district; and other relevant factors. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. For example, a single instance of rape is sufficiently severe to create a hostile environment. Title IX also protects all students at recipient institutions from sexual harassment, including male and female students.

If a recipient knows or reasonably should have known about sexual harassment that creates a hostile environment, a recipient must take immediate and appropriate action to investigate or otherwise determine what occurred. If an investigation reveals that discriminatory harassment has occurred, a recipient must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. These duties are a recipient's responsibility regardless of whether a student has complained, asked the recipient to take action, or identified the harassment as a form of discrimination. A recipient has notice of peer sexual or third party harassment if a responsible employee actually knew or, in the exercise of reasonable care, should have known about the harassment. If a recipient delays responding to allegations of sexual harassment or responds inappropriately, the recipient's own action may subject students to a hostile environment. If it does, the recipient will be required to remedy the effects of both the initial sexual harassment and the effects of the recipient's failure to respond promptly and appropriately.² A recipient's obligation to respond appropriately to sexual harassment complaints is the same regardless of the sex or sexes of the parties involved.

Even if the sexual harassment did not occur in the context of an education program or activity, a recipient must consider the effects of the off-campus sexual harassment when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual harassment while at school or in an off-campus education program or activity.

A recipient should notify a complainant of the right to file a criminal complaint, and should not dissuade a complainant from doing so. Recipients should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the complainant in the educational setting. A law enforcement investigation does not relieve the recipient of its independent Title IX obligation to investigate the conduct.

Sexual harassment of a student by a teacher or other school employee also violates Title IX. If an employee who is acting (or who reasonably appears to be acting) in the context of carrying out the employee's day-to-day responsibilities (such as teaching, counselling, supervising and advising) engages in sexual harassment, the recipient is responsible for remedying any effects of the harassment on the complainant, as well as for ending the harassment and preventing its recurrence. This is true whether or not the recipient has notice of the harassment.

² See OCR's Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, at <http://www.ed.gov/about/offices/list/ocr/docs/shguide.html> (January 19, 2001) (p. 17).

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX, including sex discrimination, sexual harassment, and sexual assault/violence. Title IX does not require a school district to provide separate grievance procedures for sexual harassment complaints, including sexual assault/violence complaints.

A district may use student disciplinary or other separate procedures for these complaints; however, a district's grievance procedures for handling discrimination complaints must comply with the prompt and equitable requirements of Title IX. In evaluating whether a recipient's grievance procedures are prompt and equitable, OCR reviews all aspects of a recipient's policies and practices, including the following elements that are critical to achieve compliance with Title IX:

1. notice to students and employees of the procedures, including where complaints may be filed;
2. application of the procedures to complaints alleging discrimination or harassment carried out by employees, students, and third parties;
3. provision for adequate, reliable, and impartial investigation of complaints, including an opportunity for both the complainant and respondent to present witnesses and other evidence;
4. designated and reasonably prompt timeframes for major stages of the complaint process;
5. written notice to parties of the outcome of the complaint and any appeal; and
6. an assurance that the institution will take steps to prevent recurrence of any sex discrimination or harassment found to have occurred, and to correct its discriminatory effects on the complainant and others if appropriate.

To ensure that students and employees have a clear understanding of what constitutes sexual violence, the potential consequences for such conduct, and how the recipient processes complaints, the recipient's Title IX grievance procedures should also include the following in writing:

1. a statement of the recipient's jurisdiction over Title IX complaints;
2. adequate definitions of sexual harassment (which includes sexual assault) and an explanation as to when such conduct creates a hostile environment;
3. reporting policies and protocols, including provisions for confidential reporting;
4. identification of the employee or employees responsible for evaluating requests for confidentiality;
5. notice that Title IX prohibits retaliation;
6. notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
7. notice of available interim measures that may be taken to protect the student in the educational setting;
8. the evidentiary standard that must be used (preponderance of the evidence) in resolving a complaint;
9. notice of potential remedies for students;

10. notice of potential sanctions against perpetrators; and
11. sources of counseling, advocacy and support.

The procedures for addressing and resolving complaints of sexual harassment should be written in language that is easily understood, should be easily located, and should be widely distributed.

For Title IX purposes, a recipient must inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the recipient has taken to eliminate the hostile environment, if the recipient finds one to exist, and prevent recurrence. Sanctions that directly relate to the complainant (but that may also relate to eliminating the hostile environment and preventing recurrence) include, but are not limited to, requiring that the perpetrator stay away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time, or transferring the perpetrator to other classes or another school. Additional steps the recipient may take to remedy the effects of the hostile environment include counseling and academic support services for the complainant and other affected students.

To ensure individuals can invoke these grievance procedures without fear of reprisal, Title IX also prohibits the school district and other actors, including students, from retaliating against any individual "for the purpose of interfering with any right or privilege secured by [Title IX]," or because that individual "has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing" under Title IX. Prohibited retaliatory acts include intimidation, threats, coercion, or discrimination against any such individual. Districts therefore must take steps to prevent any retaliation against a student who makes a complaint or any student who provides information regarding the complaint and take strong responsive action if retaliation occurs. At a minimum, under Title IX, the school district must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems; and should follow up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

Pending the outcome of an investigation, Title IX requires a recipient to take steps to ensure equal access to its education programs and activities and to protect the complainant from further harassment as necessary, including taking interim steps before the final outcome of the investigation. The recipient should undertake these steps promptly once it has notice of a sexual harassment allegation and should provide the complainant with periodic updates on the status of the investigation. It should notify the complainant of his or her options to avoid contact with the alleged perpetrator, and allow students to change academic or living, transportation, dining and working situations as appropriate. For instance, the recipient may prohibit the alleged perpetrator from having contact with the complainant pending the results of the investigation. The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. When taking steps to separate the complainant and the alleged perpetrator, a recipient should minimize the burden on the complainant and thus should not, as a matter of course, remove the complainant from classes while allowing the alleged perpetrator to remain. If an accused student is found responsible and a recipient determines that he/she must be separated from the complainant, it must do so in a manner that

minimizes the burden on the complainant. Recipients should also check with complainants to ensure that the interim measures are effective and, if ineffective, identify alternatives. In addition, recipients should ensure that complainants or their parents/guardians are aware of their Title IX rights and any available resources, such as advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to the school resource officer (SRO) or local law enforcement.

If the complainant requests confidentiality or asks that the complaint not be pursued, a district should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If the complainant or, if the complainant is a student, his/her parent/guardian, insists that the student's name or other identifiable information not be disclosed to the alleged perpetrator, the recipient should inform the student and his or her parent/guardian that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the accused. The recipient should notify students, including the students' legal guardians, of the information that will be disclosed, to whom it will be disclosed, and why. The recipient should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. If the student still requests that his or her name not be disclosed to the accused or that the recipient not investigate or seek action against the accused, the recipient will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the harassment.

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints; however, it is improper for a complainant to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the recipient (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a faculty member or administrator). The complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault/violence, mediation is not appropriate even on a voluntary basis.

Throughout the recipient's investigation and in any hearing, both parties must have equal opportunity to present relevant witnesses and other evidence and to otherwise participate in the process. Also, in order for a recipient's grievance procedures to be consistent with the Title IX evidentiary standard, the recipient must use a preponderance of the evidence standard for investigating allegations of sexual harassment, including sexual assault/violence. If a recipient provides for appeal of the findings or remedy, it must do so for both parties. The recipient must maintain documentation of all proceedings.

In addition, a district must ensure that responsible employees with the authority to address sexual assault/violence know how to respond appropriately to reports of sexual assault/violence; that other responsible employees know that they are obligated to report sexual assault/violence to appropriate school officials; and that all other employees understand how to respond to reports of sexual assault/violence. A district should provide training to all employees likely to witness or receive reports of sexual assault/violence, including teachers, district law enforcement unit

employees, district and school administrators, school counselors, general counsel, athletic coaches, and health personnel. Training for employees should include practical information about how to prevent and identify sexual assault/violence, including same-sex sexual assault/violence; the behaviors that may lead to and result in sexual assault/violence; the attitudes of bystanders that may allow conduct to continue; the potential for re-victimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual assault/violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training also should explain responsible employees' reporting obligation, including what should be included in a report and any consequences for the failure to report and the procedure for responding to students' requests for confidentiality, as well as provide the contact information for the District's Title IX coordinator. A district also should train responsible employees to inform students and their parents/guardians of: the reporting obligations of responsible employees; the option to request confidentiality, available confidential advocacy, counseling, or other support services; and students' rights to file a Title IX complaint with the school and to report a crime to campus or local law enforcement.

The Title IX implementing regulation, at 34 C.F.R. § 106.8(a), requires that a recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under that law. The recipient is further required, by the Title IX implementing regulation at 34 C.F.R. § 106.8(a), to notify all students and employees of the name (or title), office address, and telephone number of the designated employee(s). In addition, OCR's 2011 Dear Colleague Letter on Sexual Violence states that recipients should notify all students and employees of the electronic mail (email) address of the Title IX Coordinator. The coordinator's responsibilities include overseeing the recipient's response to Title IX reports and complaints of sexual harassment, including sexual assault/violence, and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. The coordinator or designee should be available to meet with students, as needed. The Title IX coordinator should not have other job responsibilities that may create a conflict of interest. Also, as noted above, recipients must ensure that employees designated to serve as Title IX coordinators have training or experience in handling sexual harassment, including sexual assault/violence complaints, and in the operation of the recipient's grievance procedures.

The regulation implementing Title IX, at 34 C.F.R. § 106.9, requires that recipients notify applicants for employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of sex in its education programs or activities, and that it is required by Title IX not to discriminate in such a manner. The notice must also state that questions regarding Title IX may be referred to the recipient's Title IX coordinator or to OCR.

Background

Charlotte-Mecklenburg Schools (the District) is located in the Charlotte, North Carolina region and enrolls students in kindergarten through 12th grade in 164 schools throughout the cities and towns of Mecklenburg County. In the 2013-2014 school year, 142,991 students were enrolled in the District. Female students composed 49.2% of the student population (70,386 students) male

students composed 50.8 % of the student population (72,605 students). There are 43 middle schools and 32 high schools in the District.

OCR reviewed the District's current grievance procedures that were implemented in January 2014 as well as the pre-2014 grievance procedures. In addition, OCR requested that the District provide copies of all written complaints and a detailed description of any verbal complaints that were filed with the Title IX coordinator or any other District personnel regarding sexual harassment and sexual assault of students during the 2010-2011, 2011-2012, and 2012-2013 school years, as well as during the fall semester of 2013. For each such complaint, OCR also requested a copy of all documentation regarding the investigation, all communications between the District/school and the complainant and between the District/school and the accused regarding the complaint, a copy of the District's findings regarding the complaint and a description of all remedial actions taken in response to the complaint. In response to OCR's request, the District provided copies of 96 files for complaints that were filed with the District during the 2010-2011, 2011-2012, 2012-2013 school years and the fall semester of the 2013-2014 school year.

OCR conducted an on-site investigation during which it interviewed administrators and conducted student focus groups at four middle schools and seven high schools in the District. OCR selected these eleven schools for on-site investigation either because they had the highest number of complaints of sexual harassment and sexual violence or because of the severity of the complaints. OCR also interviewed the District's Title IX Coordinator and other District level administrators responsible for Title IX compliance.

Grievance Procedures

The District's Pre-2014 Grievance Procedures

The District's pre-2014 grievance procedures set forth a process for reporting complaints of sexual harassment of students by students, which was defined in the District's Student Code of Conduct as follows: "A student shall not engage in unwanted verbal or physical (e.g., gesturing) conduct of a sexual nature which may reasonably be regarded as intimidating, hostile or offensive. This includes the communication of (by digital or other means) or the intentional display of sexually explicit material." The grievance procedures directed students to report harassment by completing and submitting the "Intimidation, Bullying and/or Threats Administrative Report Form" to their school principal or to the Zone Superintendent. The form stated that a response would be provided within three days if the form was not submitted anonymously. The District did not have written procedures for how complaints of student-on-student harassment would be investigated. If the investigator, in coordination with the school administration, determined that the investigative report warranted a Discipline Team Meeting (DTM), the disciplinary documents were submitted to the Learning Committee office. A DTM consisted of the principal/or designee, the Superintendent for the appropriate Learning Community,³ and the parent/guardian. The purpose of the meeting was for the team to review the investigative report and the administrator's disciplinary recommendations, determine whether

³ The District's schools are divided into eight learning communities. Each learning community is administered by a Community Superintendent.

due process was afforded to the students, and review any additional information provided by the parent/guardian. The Community Superintendent or another designated administrator serves as the hearing officer. However, only the Community Superintendent was authorized to impose discipline.

The pre-2014 grievance procedures for addressing complaints of harassment of students by employees stated that reports should be made to the principal or assistant principal of the student's school, a staff member in Employee Relations, or the Assistant Superintendent of the Human Resources Department. The provisions relating to investigation of these complaints stated only that all reports would be "reviewed and/or investigated as deemed appropriate by the administration, and appropriate action taken to address the matter." The procedures contained no further provisions or guidance concerning how the complaints of harassment of students by employees were to be addressed and resolved.

OCR concluded that the pre-2014 grievance procedures for addressing complaints of harassment of students by students and students by employees did not comply with 34 C.F.R. § 106.8(b) because they did not provide for an adequate, reliable, and impartial investigation, including an opportunity for the parties to present witnesses and relevant evidence, they lacked designated and reasonably prompt timeframes for major stages of the grievance process, and did not require written notice to the parties of the outcome of the complaint.

The District's Current Grievance Procedures

Under the current grievance procedures, students or employees must initiate a complaint within forty-five days of the alleged incident by notifying the building principal or his/her supervisor. Complaints must be submitted in writing (email suffices), and complainants also are encouraged to discuss their complaint orally. Complainants are given an opportunity to identify witnesses and evidence. The principal or other administrator then has fifteen days to attempt to resolve the complaint by speaking with persons with knowledge. The complainant and the accused student or employee are notified in writing at the end of the fifteen-day period whether the issue has been resolved or whether further action is necessary to resolve the complaint. If the complainant is dissatisfied with the outcome, he or she may file an appeal with the Title IX coordinator within ten days. The Title IX coordinator will then schedule a meeting with the complainant within fifteen days, and subsequently conduct any further investigation necessary before rendering a final written decision.

The current grievance procedures provide notice to students and parents as to where complaints may be filed and state that they apply to harassment of students by employees, other students, and third parties. They include designated and reasonably prompt timeframes for the major stages of the process, including the process for extending timelines, and also include an assurance that the District will take steps to prevent recurrence of harassment and correct its discriminatory effects and notice that Title IX prohibits retaliation.

However, the current grievance procedures do not provide the accused student the same opportunity to present witnesses and evidence as the complainant nor do they provide the accused student with appeal rights equal to those provided to the complainant. In addition, although the current grievance procedures are published on the Parents page of the District's

website, they are not published in hard copy, including in the Parent Student Handbook and the Code of Conduct, and are thus unavailable to members of the community who do not have access to a computer. Accordingly, OCR concluded that they do not comply with 34 C.F.R. § 106.8(b).

Prompt and Equitable Resolution of Complaints

In response to OCR's data requests, the District provided files from 96 student complaints of sexual harassment and sexual violence by students and employees from the 2010-2011, 2011-2012, 2012-2013 school years, and the fall of the 2013-2014 school year. Cases were investigated by an Employee Relations officer or a school administrator, in some cases with involvement from the local law enforcement authorities. There were no cases in which the District deferred the investigation of a complaint solely to law enforcement authorities.

OCR noted the following:

- The District imposed some form of disciplinary sanction against the accused in 75 complaints. In 72 of those complaints the sole remedy reflected in the files was disciplinary sanction against the accused; there was no record of any remedial measures (e.g., academic support, counselling, safety escort, ensuring the complainant and accused student do not share classes or extracurricular activities) having been provided to the complainant.
- Sixty-three complaints alleged unwelcome touching of a sexual nature:
 - 36 complaints alleged unwelcome touching of a sexual nature of students by other students; all were substantiated.
 - 27 complaints alleged unwelcome touching of a sexual nature of students by employees; 13 were substantiated.
 - Of the 63 complaints that alleged unwelcome touching, 17 complaints alleged sexual assault:
 - 14 complaints alleged sexual assault of students by other students;
 - 3 complaints alleged sexual assault of students by employees.
 - 46 complaints alleged incidents such as hugging, touching a student's hair and neck, pulling a student's bra strap, stroking a student's arm or brushing up against him or her.
 - 49 of the 63 complaints of unwelcome touching of a sexual nature (student-on-student and employee-on-student) were substantiated.
 - 14 of the 63 complaints of unwelcome touching of a sexual nature (student-on-student and employee-on-student) were not substantiated.
- Thirty-three complaints alleged conduct other than unwelcome touching of a sexual nature, including sexual gesturing, sexual graffiti, staring, and sharing sexually explicit pictures.
- In 13 complaints, the documentation provided by the District did not include any records that an investigation had been conducted, although the complaint file indicated that the accused student or employee received a disciplinary sanction.

- Although in some cases the accused student or employee was notified in writing of the outcome of the complaint, there was no indication in any of the complaint files that the District notified the complainant in writing.

OCR reviewed seventeen complaints that alleged sexual assault, for which the District imposed disciplinary sanctions against the accused students or employees. Eight of those complaints are summarized below:

1. On November 21, 2013, a parent contacted the principal at a District high school and reported that a teacher texted her daughter, groped her breasts and buttocks, and possibly engaged in oral sex with her. The accused teacher was removed from the school immediately; the teacher was later arrested and charged with a felony. There was no record in the complaint file that other interim measures were provided to the complainant. The District determined that the teacher had engaged in “an act of sexual harassment as defined by law” and notified the teacher of its determination on February 3, 2014. The principal told OCR that a school counselor provided support to the complainant. However, the records in the complaint file did not indicate that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.
2. The District received a report on October 12, 2011, regarding an incident that occurred on October 11, 2011, at a District middle school in which two male students pushed a female student against a locker while one of the male students groped her buttocks. There was no record in the complaint file that interim measures were provided to the complainant during the investigation. A DTM was held on November 8, 2011, with regard to one of the two accused students, who received ten days of out-of-school suspension. There was no record in the complaint file regarding the other accused student or any action taken, and no indication that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.
3. On June 1, 2011, a District high school received a report that a male student groped a female student in her genital area as he passed her in the hall and called her a “BOP” (epithet indicating that the target engages in oral sex). There was no record in the complaint file that interim measures were provided to the complainant during the investigation. On June 7, 2011, the accused student received out-of-school suspension for thirty days followed by a probationary period. There was no record in the complaint file that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.
4. On November 29, 2011, a District high school received a report from a female student that her math teacher made her feel uncomfortable due to his comments and actions towards her. She reported that he called her “beautiful,” made a comment about marrying him, seated her next to his desk so that he had to

squeeze past her to get to his desk, made her look into his eyes, looked down her blouse, sang “baby hold on to me” during class, and said “I’ll eat everything but ‘gina.” The complainant was removed from the teacher’s class and received individual instruction from another teacher pending the investigation. There is no record in the complaint file that other interim measures were provided to the complainant during the investigation. The teacher received a written letter of warning on December 2, 2011, stating that the conduct was inappropriate. The student’s parents received an e-mail stating that their concerns were addressed and appropriate policies were followed. The school offered the student’s parents the option of returning the student to the class taught by the same teacher or having her complete the work in a different classroom. There was no record in the complaint file that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.

5. On February 24, 2012, a guidance counselor at a District middle school received multiple reports from students that a female student was trying to cut her wrist; the students also reported that the student had told them of an incident of sexual assault that had taken place in November 11, 2011, in a girls’ bathroom at the school. The female student reported to the guidance counselor that she had gone to the bathroom and when she entered the stall, a male student followed her into the stall, dropped his pants, tried to remove her dress, pushed her head to his genital area, and directed her to perform oral sex on him. A DTM was held, and the hearing officer determined that the accused student committed sexual battery, and the accused student was suspended for ten days on February 27, 2012. Following the DTM, the accused student was reassigned to his home school, placed on probation for the remainder of the school year, and required to complete twenty hours of community service and a sexual harassment education program. The guidance counselor’s notes indicate that she was aware the complainant’s grades had dropped and that she would work with her teachers to bring her grades back up. There was no record in the complaint file that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.
6. On March 1, 2011, a parent emailed a school administrator at a District middle school stating that the previous day another student sat on her child’s head with his genitals near his face and attempted to force a belt into his mouth. There was no record in the complaint file that interim measures were provided to the complainant during the investigation. An investigation was conducted and a DTM was held on March 16, 2011. The hearing concluded that the accused student had violated the District’s policy against sexual harassment; he was assigned to an alternative placement for 180 days. The Principal reported to OCR that the complainant had been provided counseling, although the complaint file did not confirm this.
7. On December 12, 2011, a parent reported to the principal of a District high school that her child was forced by two other students to stay in the locker room after

wrestling practice and threatened with violence if he did not strip naked. The accused students video-taped the complainant with a phone while the complainant was naked. An assistant principal and the local police department conducted an investigation. There was no record in the complaint file that interim measures were provided to the complainant during the investigation. The accused students were criminally charged with hazing and false imprisonment. On December 14, 2011, the accused students were placed on short-term suspension pending the outcome of the investigation, and the zone superintendent recommended that the students be assigned to an alternative placement for 180 days. There was no record in the complaint file that the District provided any support services to the complainant and that the District assessed whether a hostile environment existed and, if so, remedied its effects.

8. On January 4, 2013, an assistant principal at a District high school contacted Employee Relations to report that a teacher at the school had been pulled over by police, who discovered that a special education student was in the car with her. The student told the police that he was involved in a sexual relationship with the teacher. A joint investigation was conducted by the District and the local police, during which the teacher was suspended with pay. There is no record in the complaint file that interim measures were provided for the complainant. The teacher resigned on March 20, 2013. The records in the complaint file did not indicate that the District provided any support services to the student and that the District assessed whether a hostile environment existed and, if so, remedied its effects.

There was no indication in the files of these complaints that the District provided interim measures to the complainants during the investigation or assessed whether a hostile environment existed and, if so, remedied its effects for complainants. In addition, broader remedies may have been appropriate in some of the cases, but there was no record in the complaint files that the District took any steps. For example, there was media coverage of the incident in which a high school student was forced to strip and was videotaped in a locker room and of the incident in which a high school teacher had physical sexual contact with a student. This media coverage suggests that other students at the school were likely aware of the incident and possibly impacted. The records from other incidents indicate that there were students other than the complainants who may have been impacted, such as by witnessing an act of sexual assault. However, there was no record in the complaint files that the District assessed whether there was a need for a broader response to address sexual harassment and sexual violence in the school or whether the complaint was part of a larger pattern of harassment within a school that warranted the implementation of remedies that focused on the school community.

OCR noted that the District's files were incomplete because they did not include records to support all of the actions that the District staff stated it took with respect to complaints, including, in particular, the provision of interim measures and remedies that were provided to complainants and, as appropriate, the broader community.

OCR concluded that the evidence does not establish that the District provided an equitable response to complaints of sexual harassment, including sexual violence, for the 2010-2011,

2011-2012, 2012-2013 school years and for the fall of the 2013-2014 school year because there was no evidence that the District provided interim measures as appropriate to complainants and assessed whether there was a need to remedy the effects of a hostile environment and to implement remedies for complainants, including the broader school community, in violation of 34 C.F.R. § 106.31.

Notice of Nondiscrimination

A number of statements that prohibit discrimination are included in the District's publications. These include Board Policy GBA: Equal Opportunity, which states, "... all applicants for employment and employees will not be discriminated against on the basis of race, color, religion, sex, age, national origin or disability." This policy applies to all personnel actions, including recruiting, hiring, assignments, promotions, evaluations, transfers, compensation, training, discipline, termination and other terms and conditions of employment," and Board Policy JBA: Harassment of Students by Employees, which prohibits the harassment of students by staff and states, "[T]he Board of Education forbids harassment of any student by employees on the basis of race, color, religion, sex, age, national origin or disability". The Student Code of Conduct states: "In compliance with federal law, Charlotte-Mecklenburg Schools administers all education programs, employment activities and admissions without discrimination against any person on the basis of gender, race, color, religion, national origin, age or disability." In addition, the Parent-Student Handbook states, "no person shall be discriminated against in any educational program, activity or other related service based on race, color, religion, gender, age, national origin or disability."

Although the District publishes statements that prohibit discrimination, including in student and parent handbooks and on its website, none complies with the Title IX regulation that requires that the notice of nondiscrimination state that inquiries about the application of Title IX may be referred to the recipient's Title IX Coordinator or to the Assistant Secretary of the Office for Civil Rights, U.S. Department of Education. Accordingly, OCR concluded that the District is not in compliance with 34 C.F.R. § 106.9(a).

Training

The District's revised grievance procedures are distributed to District staff at New Hire Orientation sessions conducted by the employee relations department; the grievance procedures are also published on the internet. New employees receive a copy of the District's New Employee Guide, which includes copies of the grievance procedures, as well as the policy governing standards of conduct. The Employee Guide also is available on the District website.

The District's legal department provides annual training for principals, community superintendents, and community administrators that includes a discussion of the laws/District policies that pertain to sexual harassment. The District reported that Employee Relations also provides training to new hires regarding the District's policies related to sexual harassment, focusing particularly on the prohibition of harassment of students by employees and standards of conduct for employees. Some principals reported to OCR that they receive annual refresher training focused on sexual harassment.

Conclusion

OCR finds that the pre-2014 grievance procedures for handling complaints of sexual harassment of students by students and of students by employees did not provide for the prompt and equitable resolution of complaints of sexual harassment, including sexual violence, because they lacked provision for an adequate, reliable, and impartial investigation, including an opportunity for the complainant and the accused student or employee to present witnesses and relevant evidence, lacked designated and reasonably prompt timeframes for major stages of the grievance process, and did not require written notice to the complainant and accused student or employee of the outcome of the complaint, in violation of 34 C.F.R. § 106.8(b).

OCR finds that the District is not in compliance with 34 C.F.R. § 106.8(b) because the District's current grievance procedures do not provide for the equitable resolution of complaints of sexual harassment, including sexual violence, as they do not afford the accused student or employee the same opportunity to present witnesses and evidence as the complainant and they do not provide the accused student with appeal rights equal to those provided to the complainant. In addition, although the District's current grievance procedures are published on the Parents page of the District's website, they are not published in hard copy, including the Parent Student Handbook and the Code of Conduct, and are thus unavailable to members of the community who do not have access to a computer.

Based on its review of complaint files from the 2010-2011 school year through the fall semester of the 2013-2014 school year, OCR concluded that the District failed to provide an equitable response to complaints of sexual harassment, including sexual violence, because there was no evidence that the District provided interim measures to complainants as appropriate and assessed whether a hostile environment existed and, if so, remedied its effects for complainants (including, where appropriate, the broader community), in violation of 34 C.F.R. § 106.31.

OCR concluded that the District is not in compliance with 34 C.F.R. § 106.9 because its statements that prohibit discrimination do not state that inquiries about the application of Title IX may be referred to the recipient's Title IX Coordinator or to the Assistant Secretary.

On October 27, 2015, the District agreed to implement the enclosed Resolution Agreement (Agreement), which commits the District to take specific steps to address the identified areas of noncompliance. The Agreement entered into by the District is designed to resolve the issues of noncompliance.

Under the Agreement, the District will address sexual harassment, including sexual violence, in a manner that requires notice of its commitment and the applicable processes for responding in a prompt and equitable manner, and also requires the District to assess the effectiveness of the steps it takes and, with OCR review and approval, take additional steps that may be necessary to ensure that students are not subjected to a sexually hostile environment. Among other things, the Agreement:

- requires the District to issue a statement to all District students, parents and staff that will be posted in prominent locations at the District's schools, and published on schools' and the District's website, stating that the District does not tolerate acts of sexual or gender-based harassment;
- requires the District to develop and implement a system for tracking and reviewing reports by students of sexual harassment, including sexual violence against students, to ensure that such reports are adequately, reliably, promptly, and impartially investigated and resolved;
- requires the District to develop at the middle and high school level age appropriate school climate surveys, or other appropriate method of assessing school climate, to be used on an annual basis for students and staff to assess the effectiveness of steps taken pursuant to the Agreement or otherwise by the District to ensure that it is free of sexual and gender-based harassment;
- requires the District to review all complaints raising allegations of sexual violence (i.e., physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent) against a currently enrolled student from the 2011-2012, 2012-2013, and 2013-2014 school years and the current school year to date to determine whether appropriate remedies were provided to the victim(s) and, if not, whether additional remedies may still be available in these cases, such as counseling or academic adjustments, and take all necessary steps beyond remedies for the victim to address any hostile environment that exists;
- requires the District to revise its notice of nondiscrimination;
- requires the District to provide training to ensure that all members of the District community – including students, staff, and administrators – are trained regularly on issues related to sexual harassment, the requirements of Title IX, and the District's policies and procedures when a student reports possible sexual harassment, including sexual violence;
- requires the District to submit to OCR copies of all reports and complaints alleging sexual harassment, including sexual violence, filed by students during the spring 2015 semester and the 2015-2016 and 2016-2017 school years, as well as documentation of the District's response to these complaints.

Under Section 303(b) of OCR's Case Processing Manual, a complaint will be considered resolved and the recipient deemed compliant if the recipient enters into an agreement that, fully performed, will remedy the identified areas of noncompliance (pursuant to Section 303(b)). OCR will monitor closely the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may conduct additional visits and may request additional information as necessary to determine whether the District has fulfilled the terms of the Agreement and is in compliance with Title IX with regard to the issues raised. As stated in the Agreement entered into by the District on October 27, 2015, if the District fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial


proceedings, including to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Based on the commitments the District has made in the Agreement, OCR has determined that it is appropriate to consider the investigative phase of this case resolved. This letter of findings sets forth OCR's determination in an individual compliance review and should not be construed to cover any other issue regarding the District's compliance. 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.

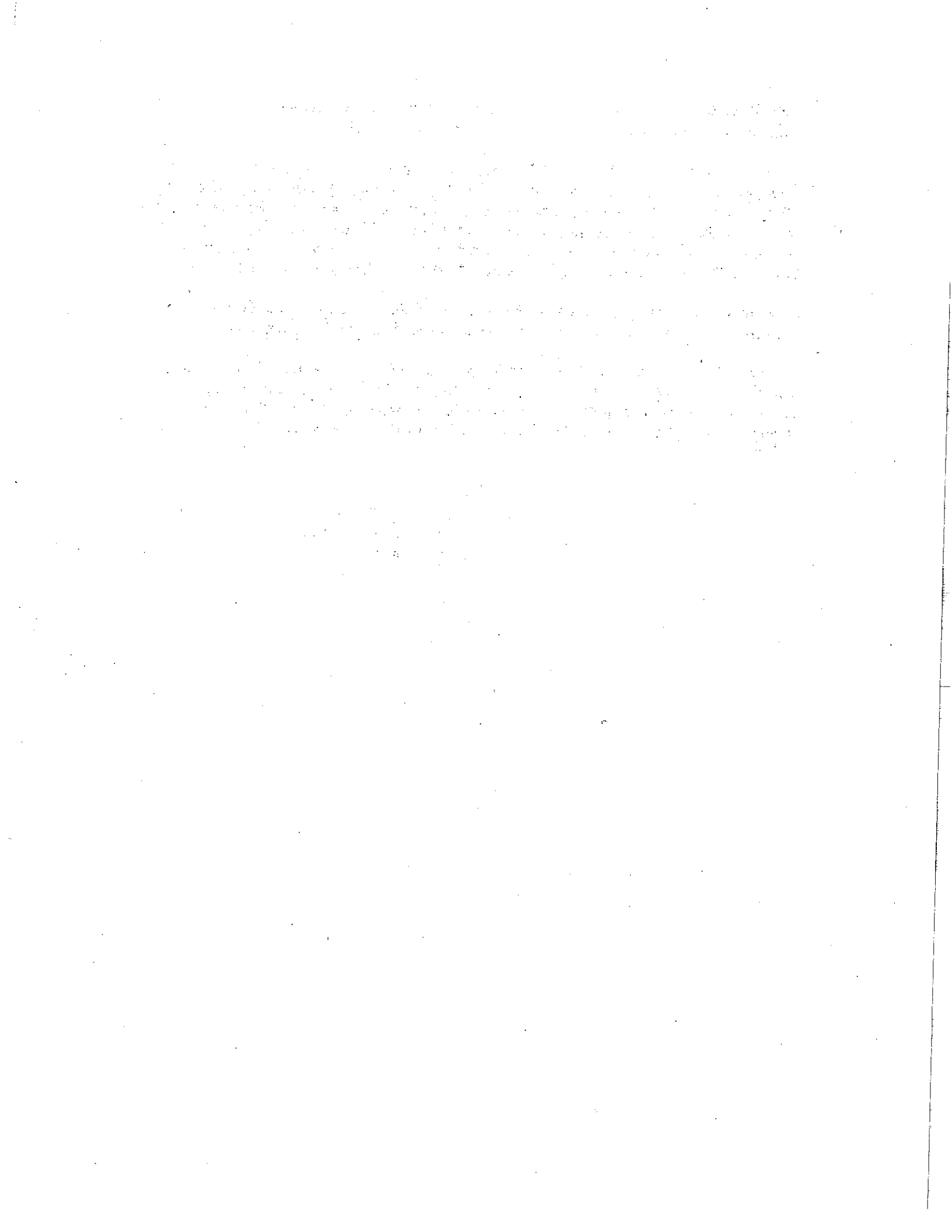
It is unlawful to harass, coerce, intimidate or discriminate against any individual who has filed a complaint, assisted in a compliance review, or participated in actions to secure protected rights.

We appreciate the cooperation that the District extended to OCR throughout this investigation, especially that of Margaret Manos, Senior Associate General Counsel. If you have any questions, please contact Martha Russo, Deputy Chief Attorney, at (214) 661-9622 or via email at martha.russo@ed.gov or Sara Clash-Drexler, at (202) 453-5906 or via email at sara.clash-drexler@ed.gov.

Sincerely,


Alice B. Wender
Regional Office Director

Enclosure (as stated)



**Resolution Agreement
Charlotte Mecklenburg Schools
OCR Complaint No. 11-13-5002**

This Resolution Agreement (Agreement) resolves a compliance review under the authority of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department. The review assessed the District's handling of complaints of sexual harassment, including sexual violence, to determine if the District has responded promptly and appropriately. The review also included an examination of the District's policies and grievance procedures related to Title IX.

ANTI-HARASSMENT STATEMENT

By January 30, 2016 or sixty days after the signing of this Agreement (whichever occurs later), the District will post a statement in prominent locations at the District's schools, and publish the statement on schools' and the District's website, stating that the District does not tolerate acts of sexual or gender-based harassment. The statement will encourage any student who believes he or she has been subjected to sexual or gender-based harassment to report the harassment to the District and note the District's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member to whom students and parents may report allegations of harassment. The statement will indicate that counseling and educational resources will be available to both students who are harassed and students found to have engaged in acts of sexual or gender-based harassment; it will also warn that harassers may be disciplined including, if circumstances warrant, suspension or expulsion. The statement will encourage students, parents and District staff to work together to prevent sexual and gender-based harassment. In addition to posting the statement as described above, by January 30, 2016, the District will revise the electronic version of its Parent-Student Handbook posted on the District's website to include the anti-harassment statement. The District will distribute this statement in languages other than English, as necessary.

REPORTING REQUIREMENT: The District will provide the anti-harassment statement to OCR for review and approval 10 days prior to posting, publishing and/or distributing it as required in the immediately preceding provision. The District will provide OCR with confirmation that the statement has been posted, published, and/or distributed as described above.

TITLE IX COORDINATOR

By November 30, 2015, the District will ensure that its job description of the Title IX Coordinator's responsibilities, if it already has one, includes, at minimum, the coordination of investigations of all Title IX complaints, and regularly developing and participating in activities designed to raise awareness with the District's students/parents and staff about student-to-student and employee-to-student sexual and gender-based discrimination and harassment. If the District does not already have such a description, the District will develop one. If the District decides to designate these responsibilities to another employee, it will make clear the scope of each designated individual's duties and will ensure that the Title IX Coordinator has ultimate

oversight responsibility over such issues.

REPORTING REQUIREMENT: By December 30, 2015, the District will provide OCR with documentation that it has implemented this item, including the name and title of the Title IX Coordinator and any designee(s) and a copy of the job description for the position for review and approval of the Title IX Coordinator's responsibilities.

NOTICE OF NONDISCRIMINATION

By March 1, 2016, the District will revise its notice of nondiscrimination to state that inquiries about the application of Title IX may be referred to the District's Title IX Coordinator or to the Office for Civil Rights and to include the name or title, office address, e-mail address, and telephone number for the District's Title IX Coordinator. The District will revise its notice of nondiscrimination as set forth in this paragraph in each of the publications identified in 34 C.F.R. § 106.9(b) provided, however, that with respect to any publication identified in said rule that is distributed in hard copy but that is not printed between the date of this Agreement and September 1, 2016, the District may revise its notice of nondiscrimination as set forth in this paragraph when such publication is next printed. With respect to any Board of Education policies that contain a notice of nondiscrimination, the District will revise those policies by May 1, 2016.

REPORTING REQUIREMENT: By December 30, 2015, the District will provide its notice of nondiscrimination to OCR and information regarding the phased schedule for publications distributed in hard copy for review and approval.

REPORTING REQUIREMENT: For each publication identified in 34 C.F.R. § 106.9(b), the District will provide verification of its publication including the revised notice of nondiscrimination within 30 calendar days following the date of publication.

TITLE IX GRIEVANCE PROCEDURES

By November 30, 2015, the District will revise its Title IX Grievance Procedures to include the following:

- a. provision for the adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and the alleged perpetrator to present witnesses and evidence;
- b. provision for extension of the timeframe for filing a complaint for a reasonable period at the discretion of the Title IX Coordinator and for good cause;
- c. equal appeal rights to the Title IX Coordinator for both parties;
- d. definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
- e. provision stating the protocol for confidential reporting;
- f. identification of the employee or employees responsible for evaluating requests for confidentiality;
- g. notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;

- h. notice of available interim measures that may be taken to protect the student in the educational setting;
- i. the evidentiary standard that must be used (preponderance of the evidence) (i.e., more likely than not that sexual violence occurred) in resolving a complaint;
- j. notice of potential remedies for students;
- k. notice of potential sanctions against perpetrators;
- l. notice that questions about complaints of student-to-student or employee-to-student sexual harassment and sources of support for the student, including counseling, may be directed to the Title IX Coordinator; and
- m. contact information for the District's Title IX Coordinator.

REPORTING REQUIREMENT: By December 15, 2015, the District will provide its revised Title IX Grievance Procedures for OCR's review and approval.

REPORTING REQUIREMENT: Within 30 calendar days of OCR's approval of the District's revised Title IX Grievance Procedures, the District shall provide verification to OCR that it published the revised procedures, posted the revised procedures on its website, and disseminated the revised procedures to school administrators and relevant central office staff along with a notice explaining the revisions.

EDUCATION AND TRAINING

1. By December 30, 2015, the District will arrange with OCR for OCR to conduct a one-time Title IX training (including training on what constitutes sexual and gender-based harassment, including the hostile environment theory; a review of the District's responsibility under Title IX to address allegations of harassment, the District's responsibility for responding to sexual harassment whether or not a grievance is filed and regardless of whether the actions are potentially criminal in nature, how to report possible harassment, and how to respond to sexual harassment when a student is no longer enrolled in the District; how to conduct and document a sexual harassment investigation, the appropriate standards to determine whether a sexually hostile environment exists, the provision of interim measures to protect complainants during the course of an investigation, and how to formulate any corrective actions) to its Title IX Coordinator, school administrators, and all other District personnel involved in processing, investigating, and/or resolving complaints of sexual harassment, or who will otherwise coordinate the District's compliance with Title IX. The District will coordinate with OCR to include in this training guidance for the school administrators that any school dress code must be enforced equitably in compliance with Title IX and a discussion of the District's revised Title IX grievance procedures. By March 1, 2016, OCR will conduct the above-described training.

REPORTING REQUIREMENT: Following the training, the District will provide OCR with sign-in sheets or other documentation that provides the name and title for each attendee.

2. Prior to the start of the 2016-2017 school year, and annually thereafter, the District will

develop and provide Title IX training to all District instructional and counseling staff. The training will include:

- a. Guidance to increase awareness of what constitutes sexual harassment and gender-based harassment among students or involving a student victim, including the hostile environment theory;
- b. Guidance that any school dress code must be enforced equitably in compliance with Title IX;
- c. A review of the District's responsibility under its own procedures and Title IX to address allegations of harassment, including specific guidance on the District's Title IX grievance procedures, what constitutes sexual and gender-based harassment, the District's responsibility for responding to sexual harassment whether or not a grievance is filed and regardless of whether the actions are potentially criminal in nature, how to report possible harassment, and how to respond to sexual harassment when a student is no longer enrolled in the District; and
- d. Notice that failure to respond appropriately to notice of sexual harassment violates the District's Title IX grievance procedures and federal law.

REPORTING REQUIREMENT: Within 90 days of the training described in Item #1 above, the District will schedule the trainings described in Item #2 above. Within 30 days of scheduling each training, the District will provide OCR with the name and qualifications of the trainer and an outline of the training content for OCR approval. Within 30 days of the completion of the trainings, the District will provide OCR with a copy of the sign-in sheets or other written verification that the above-described training has occurred.

3. The District will develop a program to provide ongoing (annual) age-appropriate student education at all schools designed to increase awareness of sexual and gender-based harassment, inform students of the consequences of sexual and gender-based harassment, explain to students what they should do if they believe they or another student is being harassed based on sex/gender, and encourage students to report sexual harassment. The program shall include information to educate students about safe strategies for bystander intervention. The education materials will use age-appropriate terminology and the instruction will promote sensitivity to and tolerance of the diversity of the student body, and will specifically address harassment issues related to sex and gender.

REPORTING REQUIREMENT: By August 1, 2016, the District will provide OCR with copies of the program(s) or the name and description of the professionally developed materials that it intends to provide for OCR's review and approval. At the same time, the District will provide OCR with an estimate of the times during the 2016-2017 school year when the instruction will occur. Within 60 days of receiving OCR's comments, the District will provide OCR with a schedule for the preparation of any additional curriculum or instruction that may need to be developed and then provide these materials to OCR for OCR's review and approval in accordance with this schedule. As the additional curriculum and instructional materials are developed by the District and approved by OCR, they will be provided to District students during the annual instruction

described in Item #3 above.

REPORTING REQUIREMENT: Within 60 days of OCR's review and approval of the District's education materials, the District will begin to implement the curriculum or education referenced in the foregoing paragraphs. The District will provide student education during each successive year. By June 30th of the 2016-2017 and 2017-2018 school years, the District will provide confirmation to OCR that the sessions occurred.

SCHOOL CLIMATE

1. The District will develop at the middle and high school level age appropriate school climate survey questions to be used on an annual basis for students and staff at the District's middle and high schools to assess the effectiveness of steps taken pursuant to this Agreement or otherwise by the District in an effort to ensure that it is free of sexual and gender-based harassment.

REPORTING REQUIREMENT: The District will provide OCR its proposed climate survey questions relating to sexual and gender-based harassment for OCR's review and approval at least 60 calendar days prior to administering said survey.

2. Based on the results of the climate survey, the District will take appropriate steps to address any sexual and gender-based harassment issues identified through the climate survey.

REPORTING REQUIREMENTS: By June 30, 2016, June 30, 2017, and June 30, 2018, the District will provide OCR with a summary of the climate survey results, as well as a list of appropriate steps it will take, if applicable, in response to the survey results, for OCR's review and approval.

3. The District will utilize its existing student advisory committee to assess its efforts to eliminate any student-on-student hostile environment based on sex and its effects, and its efforts to prevent harassment based on sex from recurring. The Committee will discuss any student concerns or recommendations regarding sexual harassment during at least two meetings per school semester beginning with the second semester of the 2015-2016 school year. The Committee will:
 - a. Recommend strategies for preventing sexual harassment, and for ensuring that the students understand their right to be protected from sex discrimination, including sexual harassment; and
 - b. Provide continuing input to District officials regarding strategies to ensure students understand how to report possible sexual harassment and are aware of the District's obligation to promptly and effectively respond to sexual and gender-based harassment complaints and how, and if, outreach efforts to families can be made to obtain support for the District's efforts to prevent sexual and gender-based harassment.

Reporting Requirement: By June 30, 2016, and at least annually thereafter until OCR closes the monitoring of this review, the District will provide OCR with copies of notes from the student advisory committee meetings or other documentation reflecting student recommendations, if any, as well as a list of students on the committee, including grade level and school, and a report summarizing the District's responses to the recommendations (including whether and how they were or will be implemented).

4. The District will utilize its existing school leadership teams, which are composed of staff and parents at each school, to obtain input from District parents and staff on its efforts to eliminate any student-on-student hostile environment based on sex and its efforts to prevent sexual harassment. The teams will meet regularly during the school year, each meeting will be open to the public, and any concerns or recommendations regarding sexual harassment of students will be discussed during at least two meetings per school semester beginning with the second semester of the 2015-2016 school year. The District will consider recommendations from parents and staff regarding strategies for preventing sexual harassment and the District's efforts at ensuring students understand how to report possible sexual harassment and are aware of the District's obligation to promptly and equitably respond to sexual and gender-based harassment.

Reporting Requirement: During the 2015-2016 school year, and annually thereafter until OCR closes the monitoring of this review, the Principal or his/her designee from the school leadership teams will provide a report to the District's Title IX Coordinator summarizing staff/parent recommendations or concerns regarding sexual harassment of students. By June 30, 2016, the District will provide an initial report to OCR, which will include information from the second semester of the 2015-2016 school year for one elementary school, one middle school, and one high school from each of the District's Learning Communities, summarizing parent/staff concerns or recommendations regarding sexual harassment and the District's response, if any, to specific recommendations. By June 30, 2017, and annually thereafter until OCR closes the monitoring of this review, the District will provide a report to OCR summarizing parent/staff concerns or recommendations regarding sexual harassment of students and the District's response, if any, to specific recommendations.

SEXUAL HARASSMENT COMPLAINTS

1. By March 30, 2016, the District will develop a centralized recordkeeping process for documenting and tracking complaints of sexual harassment, including a description of the allegations, where it occurred, a copy of any documentation of the District's response, including interview notes, investigative reports, written findings, and records of any corrective action taken, including any disciplinary action. The process will require District personnel to maintain information that includes the name of the individual who reported the allegation, the identification of the alleged victim and alleged perpetrator, notes from witness interviews, documentation of investigative steps completed, a description of all interim measures, and the determination, including any corrective and/or disciplinary action taken and other remedies to support the victim and eliminate a hostile environment.

REPORTING REQUIREMENT: By April 30, 2016, the District will provide OCR with information on its centralized recordkeeping process for OCR's review and approval.

REPORTING REQUIREMENT: Within 60 days of OCR's approval of the recordkeeping process, the District will provide training on the recordkeeping process to the Title IX Coordinator, District/School administrators, and any instructional staff responsible for investigating and/or responding to sexual harassment complaints.

2. By October 1, 2016, the District will review all complaints raising allegations of sexual violence (i.e., physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent) against a currently enrolled student from the 2011-2012, 2012-2013, 2013-2014, 2014-2015, and 2015-2016 school years to determine whether appropriate remedies were provided to the victim(s) and, if not, whether additional remedies may still be available in these cases, such as counseling or academic adjustments, and take all necessary steps beyond remedies for the victim to address any hostile environment that exists.

REPORTING REQUIREMENT

By November 1, 2016, the District will provide for OCR's review and approval the results of its review as described in the preceding paragraph of this Agreement, including, but not limited to, any actions taken by the District and remedies put in place by the District as a result of its review. For the 2014-2015 and 2015-2016 school years, the District also will provide OCR with documentation related to the District's original response to each of the complaints, including documentation related to the investigation of each complaint, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals. If OCR determines that the District must take any different or further action(s) and/or provide any different or further remedies, the District will do so within sixty (60) days of receipt of OCR's determination.

3. Within 60 days of the end of each school semester of the 2016-2017 school year, the District will provide to OCR the information maintained in the centralized recordkeeping system developed pursuant to this Agreement regarding the reporting, investigation and disposition of each incident of alleged sexual and gender-based harassment, which occurred in the immediately preceding semester in the District. Specific information concerning individual complaints, including the complaint itself, incident report, correspondence (including e-mail) or other written description of the allegations, and a copy of any documentation of the District's response, including interview notes, investigative reports, written findings, and records of any corrective action taken, including any disciplinary action, will be available upon request by OCR.

REPORTING REQUIREMENT: Within 60 days of the end of each semester until the monitoring of this Agreement ends, the District will provide OCR with the information described above.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing the provisions Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which were at issue in this case. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District 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 the provisions of Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which were at issue in this case.

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 sixty (60) calendar days to cure the alleged breach.

Ann Blakeney Clark
Superintendent or Designee
Charlotte-Mecklenburg Schools

10-27-15
Date