

**Bayfield 10JT-R**  
**Bayfield High School**  
**Letter of Findings**  
**October 2016**

**Finding 1: Incomplete Communication of Required Information and Coordinators for Compliance**

**Condition:**

Continuing Notification

Notice of nondiscrimination was not made as required. Communication to the public and constituents should be made in all required formats on a continuing basis as required by Title IX (34 C.F.R. §106.9) and Section 504 (34 C.F.R. § 104.8). The following publications for employees and students did not include a statement of nondiscrimination:

- Student Handbook
- Employee Handbook
- Course Catalog
- Bayfield High School Website
- Job Vacancy Announcements

The statement of nondiscrimination in the general and administrative applications for employment publications did not designate a coordinator for compliance and did not provide a telephone number and address for where inquires or grievances could be directed, as required by Title IX (34 C.F.R. § 106.8(a)).

The AppliTrack Employment application did not include the name/ title of the compliance coordinator. It instead directed individuals to the Human Resources Department. It also did not provide the contact information (address and phone number) for the compliance coordinator or mention the District's grievance procedures.

**Criteria:**

Continuing Notification

The OCR encourages institutions to provide one combined notice to comply with the regulations; in 2010 OCR published a pamphlet with a sample of a combined notice on its website. Summarized below are the key requirements from the guidance for compliance with continuing notification.

In order to satisfy the continuing notification requirements, publications must:

- a. Notify students, parents/guardians, employees, applicants for admission and employment, all unions or professional organizations holding collective bargaining or professional agreements, and the general public that it will not discriminate in its programs or activities. [Title IX (34 C.F.R. § 106.9(a)(1)), Section 504 (34 C.F.R. § 104.8(a)) and Title II (28 C.F.R. § 35.106)].
- b. Explicitly state race, color, national origin, gender, and disability as the basis of nondiscrimination. [Title VI (34 C.F.R. § 100.3(a)); Title IX (34 C.F.R. § 106.9(a)(1)), Section 504 (34 C.F.R. § 104.8(a)) and Title II 28 C.F.R. § 35.106)].
- c. Include the name or title, office address, and telephone number of the Title IX, Section 504, and Title II coordinator(s). [Title IX (34 C.F.R. § 106.8(a) and 106.9(a)(1)); Section 504 (34 C.F.R. § 104.8(a)) and Title II (28 C.F.R. § 35.107(a))].
- d. Publish the information on a continuing basis in the following [Title IX (34 C.F.R. § 106.9); Section 504(24 C.F.R. § 104.8); and Title II (28 C.F.R. § 35.106)].

Required:

1. Student handbook
2. Parent/guardian handbook
3. Employee handbook
4. Course catalogs (booklets)
5. Program/employee application forms
6. Recruitment materials for students or employees

Optional:

7. Newspapers/magazines operated by the subrecipient, student, or alumni groups
8. Newsletters/memoranda
9. Bulletins/postings
10. Other written communications
11. Electronic format

The 2010 Pamphlet on Notices of Nondiscrimination states that a combined notice of nondiscrimination should include “the name and/or title of the responsible employee.”

**Corrective Action:**

Continuing Notification

The District is required to provide notice of nondiscriminatory policies that includes all protected groups and required components. At a minimum, this would include adding a complete statement of nondiscrimination to:

- Student Handbook
- Employee Handbook
- Course Catalog
- Bayfield High School Website
- Job Vacancy Announcements

A best practice would be to add to complete statement of nondiscrimination to the High School’s webpages as well.

The statement of nondiscrimination in the general and administrative applications for employment publications should designate a coordinator for compliance and provide a telephone number and address for where inquires or grievances could be directed, as required by Title IX (34 C.F.R. § 106.8(a)).

The AppliTrack Employment application should include the name/ title of the compliance coordinator and that individual’s contact information (address and phone number) and reference the District’s grievance procedures.

**District Response (please include timeframe of completion (month/year)):**

## **Finding 2: Partial Noncompliance in Grievance Procedures**

### **Condition:**

We reviewed the following five grievance policies and procedures related to discrimination complaints available for students, employees, and other program beneficiaries listed below. We noted noncompliance in four of the policies and procedures reviewed.

- Nondiscrimination/ Equal Opportunity (Board Policy AC/AC-E), which applies to students, employees, and the general public
- Sexual Harassment (Board Policy GBAA/ GBAA -R), which applies to employees
- Sexual Harassment (Board Policy JBB/ JBB-R), which applies to students
- Staff Concerns/Complaints/Grievances (Board Policy GBK/ GBK-R)
- Student Handbook – Sexual Harassment

Policy AC/AC-E does not a regulation AC-R that details the grievance process which would include due process for all parties to the complaint, the required timeframes for the investigation, final outcome, and appeal (if applicable), and that all parties to the complaint will receive a copy of the final outcome in writing.

Policy GBAA/GBAA-R does not comply with all of the requirements for sexual harassment grievance procedures. The policy lacks the required timeframes for the investigation, final outcome, and appeal (if applicable). The policy does not include 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. It is not clear when to use this procedure because it refers complainants back to the procedure at AC-R (which does not exist) and then it also includes its own separate procedure

It is not clear when to use Policy JBB/ JBB-R because it refers complainants back to the procedure at AC-R (which does not exist) and then it also includes its own separate procedure.

It is not clear when to use Policy GBK/ GBK-R. It does not specifically state that it can (or cannot) be used for civil rights related complaints. In addition, the Policy does not include all required elements. It does not list a consistent, impartial compliance coordinator. Employees are directed to file complaints with their immediate supervisor. In employment related civil rights complaints, a direct supervisor may not be an impartial investigator. The Policy also does not include contact information (phone number and address) for the compliance coordinator or 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. Finally, employees are required to file complaints in writing which may not be possible for an employee with a disability.

### **Criteria:**

Following are excerpts from guidance that outline requirements for communicating compliance coordinator(s) and grievance procedures and for making the information available.

Include the name or title, office address, and telephone number of the Title IX, Section 504, and Title II coordinator(s) [Title IX (34 C.F.R. § 106.8(a) and 106.9(a)(1)); Section 504 (34 C.F.R. § 104.8(a)) and Title II (28 C.F.R. § 35.107(a))].

Recipients with 15 or more employees “shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints.” [Section 504 (34 C.F.R. § 104.7(b))]

According to the United States Department of Education Office for Civil Rights' (OCR) Dear Colleague letter dated April 24, 2015 the District must "notify students and employees of the name, office address telephone number, and email address of the Title IX coordinator, including in its notice of nondiscrimination" (p. 5).

According to the United States Department of Education Office for Civil Rights' (OCR) Dear Colleague letter dated April 4, 2011 on Title IX and Sexual Violence (p. 8-9), OCR will utilize a variety of elements deemed "critical to achieve compliance with Title IX" in reviewing a recipient's grievance procedures including: providing written notice to both parties of the outcome (p. 13), the opportunity for both parties to present witnesses and other evidence (p.9); and designating timeframes for major stages of the procedures including when the "school will conduct a full investigation of the complaint", "both parties receive a response regarding the outcome of the complaint", when "the parties may file an appeal, if applicable" (p12), an assurance that "the school will take steps to prevent reoccurrence of any harassment" (pg. 9) and that the school's "investigation and hearing process" will be impartial (pg. 12). This guidance also requires that procedures should be "easily understood" and "easily located" (p9).

OCR's Revised Sexual Harassment Guidance issued in 2001 (2001 Guidance) states "[o]nce a School has notice of possible sexual harassment of students — whether carried out by employees, other students, or third parties — it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the School's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the School to take action (p15)."

**Corrective Action:**

Grievance procedures should be revised to include all of the required elements listed above and should designate compliance coordinators that are impartial and consistent across publications. Contact information, including phone number and address, should be included for the designated coordinator(s).

It should be clear when to use each policy and procedure to report a complaint. This could include overarching grievance procedures for civil rights complaints and a reference back to the overarching policy at all subsequent policies regarding civil rights complaints.

**District Response (please include timeframe of completion (month/year):**

### **Finding 3: Lack of a Process for Identifying Non-English Speaking Communities in the Service Area**

#### **Condition:**

The District did not have a process for determining whether its service area had communities of non-English speakers. When the District has a community of non-English speakers within its service area, it has an obligation to provide annual notification of nondiscrimination in the language(s) of any communities it identifies as well as providing promotional and financial aid materials in the appropriate language(s) per Title VI (34 C.F.R. § 100 Appx B (IV-O), (V-E), & (VI-B)).

#### **Criteria:**

Recipients of federal funds have an obligation to identify communities of non-English speakers within their service areas in order to comply with federal regulations. Formal guidance does not specifically define “community” to assist a subrecipient in meeting its obligations related to non-English speakers. In its annual Vocational Education Methods of Administration Coordinator Training Conference, OCR has indicated that factors such as census data, the number of non-English radio stations, newspapers, or agencies providing social services should be considered in determining whether a service area may include communities of non-English speakers.

If the District identifies any communities of non-English speakers, it would then have an obligation to comply with the criteria listed below.

#### **Annual Notification**

Title VI (34 C.F.R. § 100 Appx B (I-D-3)) states that “[a] comprehensive high school that has a department exclusively or principally used for providing vocational education: or that offers at least one vocational program to secondary level students” is one example of a school to which the regulations apply.

Title VI (34 C.F.R. § 100 Appx B (IV-O)) goes on to state, “Prior to the beginning of each school year, recipients must advise students, parents, employees and the general public that all vocational opportunities will be offered without regard to race, color, national origin, sex, or handicap. ... A brief summary of program offerings and admission criteria should be included in the announcement; also the name, address, and telephone number of the person designated to coordinate Title IX and Section 504 compliance activity. If a recipient's service area contains a community of national origin minority persons with limited English language skills, public notification materials must be disseminated to that community in its language and must state that recipients will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in vocational education programs.”

#### **Promotional Materials**

“If a recipient's service area contains a community of national origin minority persons with limited English language skills, promotional literature must be distributed to that community in its language.” [Title VI (34 C.F.R. § 100 Appx B (V-E))]

#### **Financial Aid Materials**

“Materials and information used to notify students of opportunities for financial assistance may not contain language or examples that would lead applicants to believe the assistance is provided on a discriminatory basis. If a recipient's service area contains a community of national origin minority persons with limited English language skills, such information must be disseminated to that community in its language.” [Title VI (34 C.F.R. § 100 Appx B (VI-B))]

**Corrective Action:**

The District should establish a documented process for identifying whether or not it has language minority communities with limited English language skills within its service area. The process should define when a group of non-English speakers becomes a community. In addition, it should reflect some consideration of factors such as: demographics of the service area (i.e. census data, enrollment data), the number and types of service agencies providing services in other languages; or the number or availability of non-English speaking radio stations, television stations, printed publications, or religious services. Further, the procedure should specify a timeframe for re-evaluation. For any communities that are identified, annual notification of nondiscrimination, promotional materials, and financial aid materials must be provided in the relevant language(s).

**District Response (please include timeframe of completion (month/year):**

**Finding 4: Incomplete Notice of Nondiscrimination in the Work Based Learning Agreement**

**Condition**

The Internship Program Agreement did not contain a complete statement of nondiscrimination by the employer. The statement did not include “color” in its list of protected classes.

**Criteria**

“If a recipient enters into a written agreement for the referral or assignment of students to an employer, the agreement must contain an assurance from the employer that students will be accepted and assigned to jobs and otherwise treated without regard to race, color, national origin, sex, or handicap.” (The Guidelines for Vocational Education Programs VII-A)

**Corrective Action**

The word “color” should be added to the statement of nondiscrimination in the Internship Program Agreement

**District Response (please include timeframe of completion (month/year):**

