



MASSACHUSETTS LIBERTY LEGAL CENTER

Michael S. Nelson
Superintendent

May 19, 2026

Heidi Letendre
Principal

Jaime Curley
Assistant Superintendent of Student Services

Sarah George
Human Resources Manager

Old Rochester Regional School District
MA Superintendency Union #55
135 Marion Road
Mattapoisett, MA 02739

Via Email and U.S. Mail
michaelnelson@oldrochester.org
heidiletendre@oldrochester.org
jaimecurley@oldrochester.org
sarahgeorge@oldrochester.org

Re: Title IX Complaint and Demand

Dear Mr. Nelson, Ms. Letendre, Ms. Curley, and Ms. George,

I represent Luis and Kerri Rivera, parents of ██████████ Rivera, who is a third-grade student at Rochester Memorial School (hereinafter “the school”). I write to file a formal Title IX complaint on behalf of my clients under Rochester School Committee Policy ACAB-R and to demand that the school ensures the privacy and safety of ██████████ and all other female students at Rochester Memorial School going forward.

Facts

To the Riveras’ knowledge, there are two male students at the school who identify as female. One of these students, ██████████ (hereinafter “the male student”), recently began using the girls’ restroom. In response, multiple parents, including the Riveras, complained to school administration. Kerri Rivera called Principal Letendre on at least three separate occasions to complain and was told that the male student should not be using the girls’ restroom and would not be allowed to do so going forward. Ms. Rivera first called to complain in November of 2025, after the male student used the girls’ restroom with female students on a field trip to Plimoth Patuxet Museums.

However, on the afternoon of Friday, May 1, 2026, after recess, ██████████ was using the toilet in the girls’ restroom during the school day when the male student entered the restroom and looked under the door of ██████████’s stall. ██████████ heard him say, “Whose feet are those?”, and



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he began to peer in at [REDACTED] through the crack between the door and the wall of the stall she was in. Then, the male student pushed the door open, exposing [REDACTED] while she was on the toilet and partially undressed. The male student then stated “Oh, it’s [REDACTED]!”. [REDACTED] closed the door and returned to class distraught and in tears. Another female student, [REDACTED], was in the stall next to [REDACTED] and would have heard the incident occurring.

Now, [REDACTED] is afraid to be around the male student and is so anxious to go to school every day that she feels physically sick. Kerri has now heard from another parent that this same male student peered under the stall door at another girl while she was using the restroom.

When Kerri Rivera initially notified Principal Letendre of the incident via phone call on Monday, May 4, Principal Letendre was apologetic and stated that what happened was unacceptable. She also stated that male students were not allowed into the girls’ restroom. However, later that day, [REDACTED] observed the male student using the girls’ restroom again. Kerri emailed Principal Letendre and Superintendent Nelson on May 4 to report the incident with [REDACTED] in writing. Principal Letendre responded on May 5 by stating that “[u]nfortunately, the bathroom door wasn’t locked by [REDACTED]” and suggested that [REDACTED] could use the individual bathroom or nurse’s bathroom if she felt uncomfortable. The school enacted a “Student Support/Safety Plan” outlining these terms. Principal Letendre also stated that [REDACTED] and the male student were not to be in the bathroom at the same time, but did not state that the student could not use the girls’ restroom. Principal Letendre also told [REDACTED] directly that the male student was legally allowed to use the girls’ restroom. Mr. and Mrs. Rivera learned about this conversation from [REDACTED] and were not informed about it by Principal Letendre.

On May 6, Kerri Rivera asked Principal Letendre to explain the discrepancy between her initial statement that boys were not allowed into the girls’ restroom and the school’s decision to now allow this male student into the girls’ restroom. Principal Letendre responded on May 7 stating that “we are following the legal obligations as a public school” which were outlined in DESE guidance on gender identity in public schools.

Applicable Law

Title IX of the Education Amendments of 1972 mandates that “[n]o person in the United States 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 receiving Federal financial assistance [...]”.¹ As part of this prohibition, public schools must promptly address sex-based harassment, which is defined in relevant part as “[u]nwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment).”² Old Rochester

¹ 20 U.S.C. § 1681.

² 34 CFR § 106.2.



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Regional School District Policy ACAB lists some examples of sexual harassment, which include “unwelcome leering.”³

In addition, the U.S. Department of Education has found that Title IX protects the rights of female students to access female-only private spaces, including restrooms.⁴ Schools that have allowed male students into female spaces have been investigated by the Department and have been found in violation of the law.⁵ The Department has stated that “allowing access to intimate facilities [...] based on ‘gender identity’ discriminates against females by denying them safety, dignity, and equal access to educational programs and activities” and creates a “hostile environment” for female students.⁶ As a binding federal statute, Title IX and its implementing regulations preempt any conflicting state laws.⁷

Schools are required to promptly address complaints of sexual harassment and may be liable for damages if they are deliberately indifferent to such complaints.⁸ Schools are deliberately indifferent when their response is “clearly unreasonable in light of the known circumstances.”⁹

Analysis

Based on the foregoing statements of fact and law, the following are true:

1. ██████████ is a Victim of Sexual Harassment

First, the male student engaged in conduct that qualifies as sex-based harassment under Title IX. Invading the privacy and undermining the dignity of a female student by not only entering the girls’ restroom, but watching a female student use the toilet and opening the stall door on her while she is doing so, is the kind of severe, offensive, sex-based conduct that would deny a female student the ability to fully benefit from an educational program. In this case, ██████████’s ability to participate in and benefit from lessons at school has been significantly hindered by her fear that she will be violated again. She is now physically sick and anxious about going to school. The male student’s conduct is also pervasive, given that this was not the first

³ Available at https://policies.sparqdata.com/masc/browse/oldrochesterset/rochester/ACAB#z2Code_ACAB.

⁴ See “U.S. Department of Education’s Office for Civil Rights Concludes Jefferson County Public Schools in Colorado Has Violated Title IX”, available at <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-concludes-jefferson-county-public-schools-colorado-has-violated-title-ix>; “U.S. Department of Education’s Office for Civil Rights Finds Denver Public Schools Violated Title IX”, available at <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-finds-denver-public-schools-violated-title-ix>; “U.S. Department of Education Finds Five Northern Virginia School Districts in Violation of Title IX”, available at <https://www.ed.gov/about/news/press-release/us-department-of-education-finds-five-northern-virginia-school-districts-violation-of-title-ix>.

⁵ *Id.*

⁶ *Id.*

⁷ See 34 CFR 106.6.

⁸ *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 643 (1999).

⁹ *Id.* at 648.



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time he has used the female restroom and not the first time he has peered in on a girl using the toilet. His conduct qualifies as sexual harassment under Rochester Policy ACAB, which lists “leering” as an example of such harassment. As such, it is clear that [REDACTED] is a victim of sexual harassment under Title IX and policy ACAB.

2. The School Has Responded to this Sexual Harassment in a Deliberately Indifferent Manner

Second, the school has responded to the Riveras’ sexual harassment complaint in a deliberately indifferent manner. The school has not prevented the male student from using the girls’ restroom. It has, to our knowledge, not disciplined the male student in any way. Principal Letendre response to the complaint implied that [REDACTED] was at least partially at fault for not locking the stall door (even though the male student clearly knew the stall was occupied) and put the burden on [REDACTED] to use an alternate bathroom. This response protected the perpetrator while punishing the victim. Since the school has taken no meaningful remedial action in response to this sexual harassment, its response has been deliberately indifferent and will expose it to damages should the Riveras pursue legal action under Title IX.

3. The School’s Policy on Males Using Female Restrooms Violates Title IX

Finally, regardless of the specific sexual harassment incident at issue in [REDACTED]’s case, the school is actively violating Title IX by allowing male students into the girls’ restroom. This creates a hostile environment in which female students are regularly subjected to sex-based harassment. In response to complaints from the Riveras and other families, the school has doubled down on this policy, claiming that it is required by Massachusetts law to violate the privacy and dignity of female students. But as explained above, even if the school is correctly interpreting Massachusetts law, these laws would be preempted by Title IX. Continuing to allow male students to use the girls’ restrooms at Rochester Memorial School will expose the school to further liability and potential loss of federal funds under Title IX.

Conclusion and Demand

You have a legal obligation to investigate and address the violations outlined above. Your response thus far has not met these obligations. We demand a prompt and thorough investigation to be conducted pursuant to Old Rochester Regional School District Policies ACAB and ACAB-R. We also demand that, at the conclusion of that investigation, the male student who sexually harassed [REDACTED] will be disciplined and prohibited from having any further access to the girls’ restroom. Finally, we demand that Old Rochester Regional School District amend its policies and/or protocols to ensure that no male student will be allowed to use a restroom designated for female students.

We reserve all legal remedies should the school fail to meet our demands. We are also concurrently filing a complaint with the Department of Education’s Office of Civil Rights. We



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have attached a copy of this complaint to this letter for your records. We look forward to your prompt response and the prompt resolution of this matter.

Very truly yours,

Sam Whiting
Counsel, MLLC

cc: Members of the Rochester School Committee (via email)



**United States Department of Education
Office for Civil Rights**

DISCRIMINATION COMPLAINT FORM

You do not have to use this form to file a complaint with the U.S. Department of Education’s Office for Civil Rights (OCR). You may send OCR a letter or email instead of this form, but the letter or email must include the information in items 1-15 of this form. If you decide to use this form, please type or print all information and use additional pages if more space is needed. An online, fillable version of this form, which can be submitted electronically, can be found at:

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

Before completing this form, please read all information contained in the enclosed packet including: Information About OCR’s Complaint Resolution Procedures, Notice of Uses of Personal Information and the Consent Form.

If you have questions about civil rights or how to file a complaint, you may contact OCR at 800-421-3481, 800-877-8339 (TTY), OCR@ed.gov, or by calling the enforcement office that serves your state or territory. Contact information for enforcement offices can be found at: <https://ocrcas.ed.gov/contact-ocr>.

If you have difficulty understanding English, you may, free of charge, request language assistance services for this Department information by calling 1-800- USA-LEARN (1- 800-872-5327) (TTY: 1-800-877-8339), or email us at: Ed.Language.Assistance@ed.gov. If you are a person with a disability, you may request disability-related assistance by contacting OCR at 800-421-3481, 800-877-8339 (TTY), OCR@ed.gov, or by calling the enforcement office that serves your state or territory. Contact information for enforcement offices can be found at:

<https://ocrcas.ed.gov/contact-ocr>. To request this document in an alternate format such as Braille or large print please contact the Department at 202-260-0852 or om_eeos@ed.gov.

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Complaint Form, Consent Form, and Complaint Processing Procedures

1. Name of person filing this complaint:

Last Name: Rivera First Name: Luis

Address: [REDACTED]

City: Rochester State: MA Zip Code: _____

Primary number: [REDACTED] Alternate number: _____

Email Address: [REDACTED]

2. Name of person discriminated against (if **other** than person filing). If the person discriminated against is age 18 or older, we will need that person's signature on this complaint form and the consent/release form before we can proceed with this complaint. If the person is a minor, and you do not have the legal authority to file a complaint on the student's behalf, the signature of the child's parent, guardian, or other authorized legal representative is required.

Last Name: Rivera First Name: [REDACTED]

Address: [REDACTED]

City: Rochester State: MA Zip Code: _____

Primary Phone: [REDACTED] Alternative Phone: _____

Email Address: _____

3. OCR investigates discrimination complaints against schools, colleges and universities, institutions, and agencies which receive funds or other forms of financial assistance from the U.S. Department of Education and against public educational entities and libraries that are subject to the provisions of Title II of the Americans with Disabilities Act. Please identify the institution or agency that engaged in the alleged discrimination. If we cannot accept your complaint, we will attempt to refer it to the appropriate agency and will notify you of that fact.

Name of Institution: Old Rochester Regional School District

Address: 135 Marion Rd.

City: Mattapoisett State: MA Zip Code: 02739

Department/School: Rochester Memorial School

4. Please describe each alleged discriminatory act. For each action, please include the date(s) the discriminatory act occurred, the name(s) of each person(s) involved and, why you believe the discrimination was because of race, disability, age, sex, etc. Also please provide the names of any person(s) who was present and witnessed the act(s) of discrimination.

See Attachment A.

5. Do you have documents or written information that you think will help us to understand your complaint?
- No
 Yes

If yes, please describe the documents or written information you have.

- An email exchange between my wife and the school principal regarding the sexual harassment incident and the school's response
- Correspondence with other parents regarding similar conduct by the male student

If OCR investigates your complaint, we may ask you to provide us the items you describe above.

6. What is the most **recent date** you were discriminated against?

Date: May 1, 2026

7. If this date is **more than 180 days ago**, you may request a waiver of the filing requirement.

I am requesting a waiver of the 180-day time frame for filing this complaint.

Please explain why did not file your complaint within 180 days.

8. Have you complained about the allegations that you raise in this complaint to your school, institution, or another organization or agency?

YES NO

If yes, have you complained about the allegations that you raise in this complaint by:

- filing an internal complaint or appeal with your school or institution?
- participating in your school or institution's grievance procedures?
- participating in a due process hearing either at your school or institution, or through another organization or government agency?

If you answered **yes to any of the above questions**, please describe the allegations that you raised in an internal complaint or appeal, through your school or institution's grievance procedures, or in a due process hearing, identify the date you complained about the allegations and where you made the complaint, and tell us the status of the complaint, appeal, grievance procedures, or due process hearing. If possible, please provide us with a copy of your complaint or grievance or appeal or due process request and, if completed, the decision in the matter.

My internal complaint is attached as Attachment B. I am filing the internal complaint concurrently with this complaint.

9. If the allegations contained in this complaint have been filed with any other Federal, state or local civil rights agency, or any Federal or state court, please give details and dates. We will determine whether it is appropriate to investigate your complaint based upon the specific allegations of your complaint and the actions taken by the other agency or court.

Agency or Court: N/A

Date Filed: _____

Case Number or Reference: _____

Results of Investigation/Findings by Agency or Court:

10. You do not need to have a lawyer to file a complaint with OCR; however, if you do have a lawyer, OCR staff are required to communicate directly with your lawyer. If you have a lawyer representing you in this matter, please provide the lawyer's contact information.

Last Name: Whiting First Name: Sam
Telephone: 774-462-7043 Email: sam@malibertylegal.org

11. If we cannot reach you at your home or work, we would like to have the name and telephone number of another person (relative or friend) who knows where and when we can reach you. This information **is not required**, but it will be helpful to us.

Last Name: Rivera First Name: Kerri
Telephone: [REDACTED] Email: [REDACTED]

12. **Option to Participate in OCR's Early Mediation Process**

OCR provides an early mediation process as an opportunity for you and the recipient institution to voluntarily resolve your complaint soon after you file it with OCR.

Mediation is a form of complaint resolution that OCR offers as an alternative to its investigative process. Mediation is an informal process in which a staff member from OCR who is trained in mediation assists the parties to reach a negotiated resolution of the complaint. The mediator does not decide who is right or wrong and does not have the authority to impose a settlement on the parties. Instead, the mediator helps the parties to find a mutually acceptable resolution to your complaint. Mediation is a strictly voluntary process. If either party does not want to participate in mediation, OCR will address the complaint through its regular processes.

If you are interested in participating in the early mediation process, you must check the box below. If you indicate your interest in early mediation by checking the box below **and** OCR determines that your complaint is appropriate for this process, OCR will contact you and the recipient institution and offer this resolution option. If the recipient agrees to participate in early mediation, OCR will work with you and the recipient to achieve a mutually agreeable resolution of your complaint. If the recipient does not wish to participate in early mediation, OCR will proceed with its regular processing of your complaint. ***If you do not indicate your interest in early mediation by checking the box below, early mediation will not be offered to you and OCR will proceed with its regular processing of your complaint.***

I am interested in participating in early mediation (Please check box):

NOTE: You **MUST** submit a signed Consent Form to OCR if you want to participate in early mediation.

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13. What would you like the institution to do as a result of your complaint— what remedy are you seeking?

- Discipline the male student who sexually harassed my daughter
- Prohibit the male student from using the girls' restroom
- Enact a policy prohibiting any male student from using the girls' restroom

14. We cannot accept your complaint if it has not been signed. Please sign and date your complaint below.

5/18/26
(Date)

5/18/26
(Date)

[Signature]
(Signature)

[Signature] (Father)
(Signature of person in Item 2)

Please mail or email the completed and signed Discrimination Complaint Form, your signed consent form and copies of any written material or other documents you believe will help OCR understand your complaint to the OCR Enforcement Office responsible for the state where the institution or entity about which you are complaining is located. You can locate the mailing information for the correct enforcement office on OCR's website at <https://ocrcas.ed.gov/contact-ocr>.

**CONSENT FORM - FOR DISCLOSING NAME AND OTHER PERSONAL INFORMATION
CONTAINED IN THE DISCRIMINATION COMPLAINT FORM TO OTHERS**

(Please print or type except for signature line)

Your Name: Luis Rivera

Name of School or Other Institution That You Have Filed This Complaint Against: _____

Old Rochester Regional School District, Rochester Memorial School

- The purpose of this consent form is for the Office for Civil Rights (OCR) to request your consent to disclose your name and other personal information when OCR decides that doing so will assist in investigating and resolving your complaint.
- For example, to decide whether a school discriminated against a person, OCR often needs to reveal that person's name and other personal information to employees at that school to verify facts or get additional information. When OCR does that, OCR informs the employees that all forms of retaliation against that person and other individuals associated with the person are prohibited. OCR may also reveal the person's name and personal information during interviews with witnesses and consultations with experts.
- If you do not consent to OCR disclosing your name or other personal information, OCR may decide to close your complaint if OCR determines it is necessary to disclose such information in order to determine whether the school discriminated against you.

NOTE: If you file a complaint with OCR, OCR can release certain information about your complaint to the press or general public, including the name of the school or institution; the date your complaint was filed; the type of discrimination included in your complaint; the date your complaint was resolved, dismissed or closed; the basic reasons for OCR's decision; or other related information. Any information OCR releases to the press or general public will not include your name or the name of the person on whose behalf you filed the complaint.

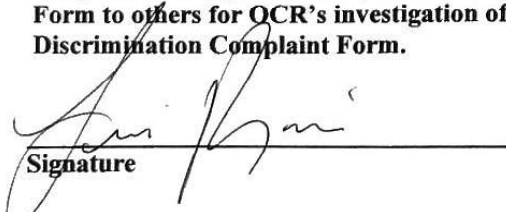
NOTE: OCR requires you to respond to its requests for information. Failure to cooperate with OCR's investigation and resolution activities could result in the closure of your complaint.

Please sign section A or section B (but not both) and return to OCR:

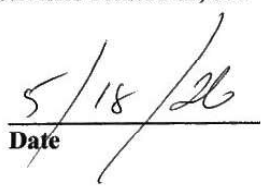
- If you filed the complaint on behalf of yourself, you should sign this form.
- If you filed the complaint on behalf of another specific person, that other person should sign this form.
EXCEPTION: If the complaint was filed on behalf of a specific person who is younger than 18 years old or a legally incompetent adult, this form must be signed by the parent or legal guardian of that person.
- If you filed the complaint on behalf of a class of people, rather than any specific person, you should sign the form.

A. **I give OCR my consent to disclose my name (and that of my minor child/ward on whose behalf the complaint is filed) and other personal information contained in the Discrimination Complaint Form to others for OCR's investigation of, and enforcement activities related to, the Discrimination Complaint Form.**

Signature



Date



OR

B. I do not give OCR my consent to disclose my name (and that of my minor child/ward on whose behalf the complaint is filed) nor other personal information contained in the Discrimination Complaint Form to others for OCR's investigation of, and enforcement activities related to, the Discrimination Complaint Form. I understand that OCR may have to close my complaint.

Signature

Date

I declare under penalty of perjury that it is true and correct that I am the person named above; and, if the complaint is filed by a parent or legal guardian on behalf of a minor child/individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, that I am that person's parent or legal guardian. This declaration only provides consent for the disclosure of identity of the persons (and other individually identifiable information about them contained in the Discrimination Complaint Form) and does not extend to any of the claims filed in the complaint.

Updated October 30, 2023

Excerpt from the Online Interactive Complaint Form

Race / Color / National Origin / Ethnicity / Shared Ancestry

Discrimination based on national origin includes discrimination based on the country, world region, or place where a person or their ancestors come from; a person's limited English proficiency or English learner status; and a person's actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (e.g., Hindu, Jewish, Muslim, and Sikh students). For more information about race, color, and national origin discrimination, please visit <https://www.ed.gov/laws-and-policy/civil-rights-laws/race-color-and-national-origin-discrimination>.

Sex

Discrimination based on sex includes discrimination based on sex stereotypes, pregnancy or related conditions, sexual orientation, and gender identity. Discrimination based on sex also encompasses rules about parental, family, or marital status that treat people differently based on sex. For more information about sex discrimination, please visit <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>.

Disability

A person with a disability is defined as any person who (i) has a physical or mental impairment, which substantially limits one or more major life activities, or (ii) has a record of such impairment, or (iii) is regarded as having such an impairment. Whether a person has a disability is determined without considering mitigating measures. For more information about disability discrimination, please <https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination>.

Attachment A

My daughter, [REDACTED], is a 9-year-old third grade student at Rochester Memorial School in Rochester, Massachusetts. On Friday, May 1, 2026, [REDACTED] was sexually harassed in the girls' restroom by a male third grade student named [REDACTED]. This student entered the girls' restroom, saw my daughter's feet under the door of the toilet stall she was in, and exclaimed "whose feet are those?" He then peered into the stall while she was using the toilet and pushed open the door and looked at her while she was partially undressed. He stated, "Oh, it's [REDACTED]!" There was at least one other female student in the restroom at the time, whose name is [REDACTED]. After the male student left, my daughter returned to class crying and extremely distraught. She is physically sick and anxious now about going to school because she fears that she will be sexually harassed again.

This male student has a history of such conduct, including peering under the stall while another girl was on the toilet. Because the student identifies as female, the school has taken no action against him and continues to allow him to use the girls' restroom. The school has suggested that if my daughter feels uncomfortable, she can go out of her way to use a single-occupancy restroom or the nurse's restroom. The school claims it is bound by Massachusetts law to allow boys into the girls' restroom if they identify as girls.

Multiple other families have complained about this male student using the girls' restroom, but the administration has done nothing.