



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION III
DELAWARE
KENTUCKY
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November 4, 2014

IN RESPONSE, PLEASE REFER TO: 03142257

Dr. Neil D. Theobald
Office of the President
Temple University
1801 N. Broad Street
Philadelphia, PA 19122

Dear Dr. Theobald:

This is to notify you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against Temple University (the University). The Complainant alleges that the University discriminates against male students on the basis of sex by denying them an equal opportunity to participate in intercollegiate athletics.

OCR enforces Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Title IX and its implementing regulation. As a recipient of Federal financial assistance from the Department and a public entity, the University is subject to Title IX and its implementing regulations.

The Title IX implementing regulation, at 34 C.F.R. § 106.41(a), states, in relevant part, that “no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic” athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. In assessing whether the interests and abilities of the members of both sexes are being effectively accommodated to the extent necessary to provide equal opportunity to participate in interscholastic athletics, OCR uses the three-part test first established in the December 11, 1979 Policy Interpretation. OCR also refers to other policy guidance that has been issued since the Policy Interpretation was issued and that specifically discusses the application of the three-part test. An institution is in compliance if it has met any one of the following three parts of the test: (1) the athletic participation opportunities for males and females are provided in numbers substantially proportionate to their respective enrollments; or (2) there is a showing by the institution of a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex; or (3) it is demonstrated that the interests and abilities of the underrepresented sex have been fully and effectively accommodated by the present program. Each part of the three-part test is an equally sufficient and separate method of complying with the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities. In essence, each part of the three-part test is a safe harbor, and no one part is favored.

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

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of the resolution agreement must be aligned with the complaint allegations or the information obtained during the investigation, and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the University, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the University requested to resolve this complaint through a resolution agreement, which was executed by the University on October 30, 2014. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the University's implementation of the Agreement.

Accordingly, OCR is concluding its investigation of this allegation as of the date of this letter. This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Title XI or its implementing regulations that may exist and are not discussed herein. The Complainant may have the right to file a private lawsuit in Federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for your cooperation in this matter. If you have any questions, please contact Ms. Regina Sheehan at 215-656-8563 or Regina.Sheehan@ed.gov.

Sincerely,

/s/

Judith A. O'Boyle
Chief Attorney
Philadelphia Office

Enclosure