



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

November 7, 2013

Dr. Lawrence Veracco
Superintendent
Lake Central School Corporation
8260 Wicker Avenue
St. John, Indiana 46373

Re: OCR #05-13-1272

Dear Dr. Veracco:

This is to advise you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR) on May 1, 2013, against the Lake Central School Corporation (Corporation) alleging discrimination on the basis of sex. Specifically, the complaint alleged that the Corporation discriminates against female students at the Corporation's Lake Central High School (School) on the basis of sex by failing to effectively accommodate the athletic interests and abilities of members of both sexes with respect to the opportunity to participate in interscholastic athletics.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 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 Corporation is subject to Title IX.

The provision of equal athletic opportunities with respect to the opportunity to participate in interscholastic athletics is addressed in the Title IX implementing regulation at 34 C.F.R. § 106.41(c)(1). The implementing regulation states that in determining whether equal opportunities are provided for males and females, OCR considers whether the selection of sports effectively accommodates the interests and abilities of members of both sexes to the extent necessary to provide equal opportunity. In assessing whether the interests and abilities of the members of both sexes are being effectively accommodated to the extent necessary to provide an equal opportunity to participate in interscholastic athletics, OCR uses the three-part test first established in the Department's "Intercollegiate Athletics Policy Interpretation," issued December 11, 1979, and found at 44 *Fed. Reg.* 71413 *et seq.* (Policy Interpretation). The general principles of the Policy Interpretation are also applicable to interscholastic athletics. OCR also

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

refers to other policy guidance that was issued in 1996 and 2010 and that specifically discusses the application of the three-part test.¹

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. 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 male and female students are provided in numbers substantially proportionate to their respective enrollments (Part 1); 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 (Part 2); or (3) it is demonstrated that the interests and abilities of the underrepresented sex have been fully and effectively accommodated by the present program (Part 3).

In accordance with Section 302 of OCR's *Case Processing Manual* a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. Prior to the conclusion of OCR's investigation, the Corporation requested to resolve the complaint. Subsequent discussions with the Corporation resulted in the Corporation signing the enclosed agreement (Agreement) which, when fully implemented, will resolve the issue raised in the complaint.

OCR will monitor the Corporation's implementation of the Agreement. If the Corporation fails to implement the Agreement, we may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. We look forward to receiving the Corporation's first report on its implementation of the Agreement by December 25, 2013.

Please be advised the Corporation may not harass, coerce, intimidate or discriminate against any individual because he or she has filed 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 receive 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.

¹<http://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>;
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100420.html>

Page 3 – Dr. Veracco

If you have any questions about this letter, please feel free to contact Emily Martin at 312-730-1505 or Mike Figueras at 312-730-1578.

Sincerely,

Ann Cook-Graver
Supervisory Attorney

Enclosure

cc: Cheryl Zic
Crist, Sears & Zic, LLP