

COMPLIANCE REVIEW NO. 01-11-5001
RESOLUTION AGREEMENT

In order to address the compliance concerns found by the U.S. Department of Education's Office for Civil Rights (OCR) in Compliance Review No. 01-11-5001 and to ensure compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, the Portland School Department (District) agrees to take the following steps:

I. OPPORTUNITY TO PARTICIPATE IN INTERSCHOLASTIC ATHLETICS

A. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

The District agrees to provide participation opportunities for female and male students at both of the District's high schools that effectively accommodate the athletic interests and abilities of both sexes, consistent with the requirements of Title IX, the regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies. The District will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its high schools, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program.

B. DETERMINATION OF UNMET INTEREST AND ABILITY AND ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES

The District has conducted an assessment of its high school student body and the eighth grade level of its middle schools to determine the existence and/or scope of any unmet athletic interests of female students, the underrepresented sex in the District's athletics programs. The survey was formulated with feedback from OCR and the District has provided copies of the survey to OCR. The District will share with OCR the results of the survey, as well as other steps it took to assess interest, including conducting an analysis of the competitiveness and feasibility of starting various teams in its geographic region.

Through the above-described assessment, the District has identified that there is unmet interest and ability of female students in the District to participate at the interscholastic level in the sport of volleyball. Accordingly the District will add female volleyball teams for the 2014-2015 school year at Deering and/or Portland High Schools unless further assessment determines that interest at either school is not sufficient to field a team. The District will promote and recruit for such teams prior to the start of the 2014-2015 school year and will report to OCR that such teams have been established by September 1, 2014. This report will include the teams' roster, coaching staff, and practice and competitive schedules. The District will provide resources and facilities,

including locker rooms, practice and competitive facilities, to the teams at both schools in a manner comparable to other interscholastic teams, with sufficient funds in its budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services.

In response to its ongoing assessment of the unmet interests and abilities of female students in the District, the District will also continue to add athletic opportunities (in addition to volleyball) for female students in the District until such time (but no later than the 2015-16 school year) as (1) the high schools are fully and effectively accommodating the expressed interests and abilities of female students (i.e., there remains no unmet interest and ability); or (2) the participation rate for female students in each high school's interscholastic athletics program is substantially proportionate to their rate of enrollment. For purposes of this provision, "sufficient interest" is defined as the minimum number of eligible athletes needed to support a team. For "sufficient ability," it is sufficient that interested students and admitted students have the potential to sustain an interscholastic team and students will not be required to demonstrate they have sufficient ability in a new sport or team if students participating in existing sports or teams are not required to demonstrate through try-outs or some other process that they possess sufficient ability to participate in the specific sport or at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest.

As part of its ongoing assessment and response to the unmet interests and abilities of female students, the District's actions will include, but not be limited to, the following actions:

1. The District will administer a survey to students in Grades 8 through 12 in the spring of 2015 and every two years thereafter.
2. The District will take ongoing steps to develop students' interest and ability. These steps may include establishing club sports, exploring the feasibility of establishing competition in the District's normal competitive region and geographic area, and elevating such sports to interscholastic status when competition becomes available.
3. The District will maintain and review the interscholastic athletic squad lists, which shall reflect the participation numbers for each sport, by sex, as of each team's first competitive event. The District will also maintain the interscholastic athletic squad lists that reflect any increases and/or decreases in the participation numbers for each sport, by sex, during each sport's season. These records will not be destroyed or otherwise altered until such time as OCR has completed its monitoring of the District's implementation of this Agreement.

4. For each school year covered by this agreement, the District will maintain and review data concerning female students' rates of participation in interscholastic sports, and any non-mandatory or elective physical education classes offered at District schools, and in community sports leagues, clubs or other youth programs in the District's normal competitive region and geographic area.
5. The District will conduct a review of any requests (whether oral, written, formal or informal) made to School Board Members, District administrators, coaches, or staff by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status. This review may be limited to requests that were received since (and including) the 2010-2011 school year.
6. The District will conduct a review of any assessment made during the last three school years (2010-11, 2011-12, and 2012-13) and in subsequent school years, by District coaches or staff during tryouts or interscholastic competition offered by the District or in community sports leagues or other youth programs offered in the District's normal competitive region and geographic area, and any other information reflecting the ability of female students to compete in a particular sport, such as prior participation in that sport or a similar sport at the middle or high school level or interscholastic or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.
7. The District will review any other information that demonstrates the athletic interests and, if applicable, abilities of female students in grades 8-12.

REPORTING REQUIREMENTS FOR SECTION I(B):

To demonstrate its compliance with Section I(B) of this Agreement, the District will submit the following information to OCR:

1. The District will provide information demonstrating compliance with Section B(1-7), above. The information should include a detailed explanation of the surveys conducted, the District's analysis of the survey results, and all additional steps set forth in Section B(2-7) of this Agreement. The first report will be due on September 30th, 2013. Each subsequent report will be due on June 30th of the school year covered by this Agreement.

2. By June 30th of each school year covered by this Agreement, the District will provide OCR with copies of the squad lists for each team.
 3. By June 30th of each school year covered by this Agreement, the District will provide information demonstrating the breakdown/enrollment by sex at its high schools. The District will also provide copies of the survey conducted and the results.
 4. By September 1, 2014, the District will provide OCR with a report that reflects the steps taken by the District pursuant to Sections I(B) of this Agreement, to create new opportunities for female students as the underrepresented sex. This report will detail the timetable for the addition of new sports, levels of sports or newly-created opportunities added no later than the 2015-16 school year pursuant to this Agreement. It will also describe how the creation of additional athletics opportunities taken pursuant to this Agreement will either (1) effectively accommodate the expressed interests and abilities of female students (i.e., there remains no unmet interest and ability); or (2) elevate female students' participation rates in District interscholastic athletics programs to be substantially proportionate to their rate of enrollment. The report will include a description and supporting documentation of the District's efforts to publicize athletic opportunities to students in the District. This report will include the teams' roster, coaching staff, and practice and competitive schedules. The District will include documentation demonstrating that the District has provided any new teams for female students with resources and facilities, including locker rooms, practice and competitive facilities, in a manner comparable to other interscholastic teams and provided the new teams with sufficient funds in its budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services.
- C. ADDITIONAL COMMITMENTS TO IMPROVE THE ATHLETIC OPPORTUNITIES FOR THE UNDERREPRESENTED SEX
1. The District will continue to implement its administrative procedure for the addition of new sports or levels of sports at the high schools.
 2. At the beginning of each school year, the District will provide a written description to the District community of all of its high school sports offerings. This information will also be posted on the District's website (athletics page).

REPORTING REQUIREMENTS FOR SECTION I(C):

To demonstrate its compliance with Section I(C) of this Agreement, the District will provide OCR with copies of the written descriptions set forth in Section I(C)(2) by June 30th of each school year covered by this Agreement. If the description has not changed since the previous year for any sport, the District may so indicate in lieu of providing a new description.

II. OPPORTUNITY TO RECEIVE COACHING; ASSIGNMENT & COMPENSATION OF COACHES

In order to ensure that the District provides equal athletic opportunities at its high schools for members of both sexes in the provision of coaches in accord with 34 C.F.R. § 106.41(c)(5)-(6), the District has revised its policies regarding booster club funding and any other private donations, with particular emphasis on how such outside funding is used to provide stipends for, or gifts to, volunteer and part-time coaches. The District understands that funding (including funding received from outside sources) must be used to provide equivalent benefits, services and opportunities to both sexes.

REPORTING REQUIREMENTS FOR SECTION II:

To demonstrate its compliance with Section II of this Agreement, the District will submit the following information to OCR:

1. By June 30th of each school year covered by this Agreement, the District will provide OCR with a list of the coaches for each team, including the head coach, assistant coaches, and any volunteer coaches. The District will also annotate this list of coaches with their salaries, stipends, or any other compensation.
2. The District will provide OCR the results of its salary re-assessment as soon as it is completed and finalized but no later than December 31st of 2013. The District will make clear in this submission when the new salary guidelines will be put into place.

III. LOCKER ROOMS, PRACTICE FACILITIES & COMPETITIVE FACILITIES

A. IMPROVEMENTS TO LOCKER ROOMS

In order to ensure that the District provides equal athletic opportunities at its high schools for members of both sexes in the provision of locker rooms, practice and competitive facilities, in accord with 34 C.F.R. § 106.41(c)(7), the District has refurbished the girls locker rooms and constructed a new team room for girls' teams at Deering

High School. The coaching areas for girls' and boys' coaches at Deering High School will be made comparable over the summer of 2013.

B. IMPROVEMENTS TO COMPETITIVE AND PRACTICE FACILITIES

In order to address the disparity between current baseball and softball facilities within the District, a softball field at Payson Park will be designated for the exclusive use of the Portland High School and Deering High School girls' softball teams during their game and practice times. The field will be upgraded substantially as described in Exhibit A. In addition, the District will ensure that practice fields used by the girls' softball team and the boys' baseball team at Deering High School are maintained in equivalent condition.

REPORTING REQUIREMENTS FOR SECTION III:

To demonstrate its compliance with Section III of this Agreement, the District will submit the following information to OCR:

1. The District will provide OCR with a report on or before September 1, 2013 setting forth the completion of upgrades to the coaches room and other locker room facilities at Deering High School, including providing photographs of the renovations.
2. By September 1, 2014 and at six month intervals thereafter until completion, the District will provide OCR with a report as to the status of the renovations at Payson Park, as set forth in Section III(B).

IV. ADDITIONAL REQUIREMENTS

- A. In assessing compliance with this Agreement, OCR will compare the availability, quality and kinds of benefits, opportunities, and treatment afforded to the District's male and female athletes at the high schools in the provision of locker rooms, practice and competitive facilities and in the provision of opportunities to receive coaching and the assignment and compensation of coaches, to determine whether they are equivalent. Under this equivalency standard, identical benefits, opportunities, or treatment are not required as long as the effects of any differences are negligible. If a comparison of the benefits, opportunities and treatment afforded to males and females in the identified program components indicates that benefits, opportunities, or treatment are not equivalent, the District could still be in compliance with Title IX if the differences are shown to be the result of nondiscriminatory factors, such as the unique aspects of particular sports or athletic activities.

- B. The District understands that OCR will not close the monitoring of this Agreement until it has determined that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. § 106.41(c), which was 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.
- C. 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 Title IX, at 34 C.F.R. § 106.41(c), which was at issue in this case.

_____/s/_____
Superintendent Emmanuel Caulk
Portland School Department

September 11, 2013