

RESOLUTION AGREEMENT
Mainland Regional High School District
Case No. 02-13-1141

In order to resolve Case No. 02-13-1141, the Mainland Regional High School District (the District) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that pursuant to the applicable requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106, it will take the actions outlined below.

The District agrees to provide participation opportunities for female and male students that effectively accommodate the athletics interest and abilities of members of both sexes, consistent with the requirements of the regulation implementing Title IX, 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 school, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program.

Action Item 1: Determination of Unmet Interest and Ability

By February 15, 2016, the District agrees to conduct an objective assessment of all 9-11 grade students to determine the existence and/or scope of any unmet athletic interests of female students and to determine student interest in athletic programs, clubs and activities.¹

The assessment will also consider whether the interested students have the ability to sustain an interscholastic team; noting that they do not need the ability to sustain a successful or elite team, but only need to show that they have the potential to participate in team try-outs, practices and competitions, and with coaching, the potential to attain sufficient ability to participate at the particular level of competition (varsity, junior varsity, modified, etc.) in which they have expressed interest. The assessment will be based on multiple indicators of interests, and if applicable, multiple indicators of abilities; and shall include, at a minimum, the following:

- A survey of female students at the Mainland Regional High School (High School). The survey shall seek information on female students' interest, and if applicable, ability to participate in sports currently offered and in sports not currently offered by the District. A copy of the draft survey will be submitted to OCR for its review and approval before being distributed to students. The District will make such revisions and improvements to the survey as advised by OCR. Upon OCR's written approval, the District shall administer the survey.

¹ Club, Activity, and Athletic Interest Survey (*pending OCR approval*)

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- For the 2013-2014 and 2014-15 school years, Mainland Regional High School will provide female students' rates of participation in club sports, interscholastic sports, and physical education courses that are offered in the District's schools.
- A review of any requests (whether oral, written, formal or informal) made to the District's Board of Education 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 during school years 2013-2014, 2014-2015, and 2015-2016.

The District also agrees to conduct periodic assessments of the athletics interests and abilities of its students in subsequent years to ensure it is equally and effectively accommodating the athletic interests and abilities of its male and female students consistent with Title IX and its implementing regulation.

Reporting Requirements:

- a) By December 31, 2015, a copy of the draft survey referenced in Action Item 1 above, for OCR's review and approval.
- b) By January 15, 2016, a complete description of the planned methodology to conduct the survey, including how the survey will be distributed, the number of surveys to be distributed, the grade levels of students who will receive the surveys, any planned follow-up to the initial distribution of the survey, the names, titles and contact information for the individual(s) who will evaluate the responses to the surveys, and the protocol for retaining the survey responses, and a copy of any notes and/or other documents compiled during the review of the surveys.
- c) By July 1, 2016, the District agrees to provide a summary of student rosters by grade, sport, and gender to the OCR, reflective of the 2015-2016 school year that shall demonstrate data for participation rates for all male and female high school interscholastic participants enrolled in sports at Mainland Regional High School. The District will also provide the Mainland Regional High School's enrollment data by sex for school year 2015-2016.
- d) By February 15, 2016, the District will provide a detailed report to OCR regarding the survey administered pursuant to Action Item 1. The report will include, at a minimum, the following information:
 - i. A copy of the results of the survey referenced in Action Item 1 above, including but not limited to the number of students, by sport, who indicated an interest in each sport; a complete description of the methodology used to conduct the survey, including how the survey was distributed; the number of surveys distributed and the number of responses; the grade levels of students who received the surveys; any follow-up to the initial distribution of the

survey; the names, titles and contact information for the individual(s) who evaluated the responses to the surveys; and a copy of any notes or other documents compiled during the review of the surveys.

- ii. For school years 2013-2014, 2014-2015 and 2015-2016, a copy of any written requests and a summary of any non-written requests made 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.
- iii. Any other information that was considered by the District as part of its assessment in determining whether it is fully and effectively accommodating the athletic interests and abilities of female students in its high school.

Action Item 2: Action to Increase Athletic Opportunities

Beginning on February 15, 2016, if through the above-described assessment the District identifies a sport or sports in which there is sufficient but unmet interest, and if applicable, ability of female students to participate at the interscholastic level, the District will add athletics opportunities as described below at the High School until such time as either (1) the school is 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 the high school's interscholastic athletics program is substantially proportionate to their rate of enrollment. Requirement (1) or (2) above must be met no later than June 30, 2017.

For purposes of this provision, "sufficient interest" is defined as the minimum number of 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, modified level, etc.) in which they have expressed interest.

In providing additional athletic opportunities for female students to either accommodate their expressed interests and abilities or until their rate of participation is substantially proportionate to their rate of enrollment at the High School, the District shall do the following:

A. Sports Currently Offered:

- 1) The District will determine, for sports that are currently offered as interscholastic sports at the High School, whether there is a sufficient number of female students with the interest, and if applicable, ability to support the creation of additional levels of competition (junior varsity, modified level, etc.) or multiple squads at the same level of competition, and sufficient competition within the school's normal competitive region, to support additional levels of competition or multiple squads at the same level of competition in those sports. If so, the District agrees to take action consistent with Title

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IX to provide additional participation opportunities (such as, adding additional levels of competition or squads at the same or a lower level of competition at the High School in those sports) by the next competitive season consistent with the above determination.

- 2) In order to increase the competitive participation opportunities for students who are members of the underrepresented sex, the District will consider expanding the squad sizes for interscholastic sports currently offered at the High School, consistent with the nature of each sport and the level of interest in each sport. The District will increase the size of each squad where determined to be appropriate. If necessary, the District will provide sufficient coaching staff to support the addition of new athletes to any given squad (in addition to any new coaching staff pursuant to Action Item 3 of this Agreement, below) and take any other steps necessary to ensure that the new athletes on each expanded squad are provided meaningful opportunities to participate in interscholastic athletics.

B. Sports Not Currently Offered:

The District agrees to amend District Policy File Code 6145.1 Intramural Competition; Interscholastic Competition to include the commitment to survey students on a two-year rotational cycle utilizing an OCR approved survey for sport activities considerations based on student surveyed interests and sustainability of program grounded on participation interest ability, and competitive opportunities.

The District will determine whether there is a sufficient number of High School female students with sufficient interest, and if applicable, ability to support the addition of a team or multiple teams (varsity, junior varsity, modified, etc.) in sports not currently offered by the school as interscholastic sports, and whether there is sufficient competition within the school's normal competitive region and geographic area for those teams/sports. If so, the District agrees to take action consistent with Title IX to provide additional participation opportunities (such as adding a team or multiple teams in those sports at the High School) by the next competitive season.

C. Response to Developing Interests and Abilities:

For any sport that is not currently offered by the High School where there is a sufficient number of female students who have sufficient interest, and if applicable, ability in that sport, but where the District determines that there is not sufficient competition within each school's normal competitive region, 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.

OCR has made clear to the District and the District understands that OCR does not require or encourage the elimination of any District athletic teams; and that it seeks action from the District that does not involve the elimination of athletic opportunities, because nothing in Title IX or the three-part test requires an institution to cut teams or reduce opportunities for

students who are participating in interscholastic athletics in order to comply with the provisions of Title IX relating to the effective accommodation of the interests and abilities of male and female students.

D. Additional Interscholastic Opportunities:

To the extent that the District adds any sports or additional levels of teams at the High School, the District will provide those team(s) (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. The District will also publicize any new sports or additional levels of teams through written notices, oral announcements and postings on the District's website.

Reporting Requirements:

- a) By January 15, 2016, the District will provide OCR with a draft of its Intramural Competition; Interscholastic Competition policy for review and approval. OCR will provide a response to the District within thirty (30) days. The District will thereafter provide OCR with a copy of the final version of the policy, after Board approval.
- b) By February 15, 2016, if the District's assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of its female students at the high school, the District will submit information detailing its determination of the same.
- c) By February 15, 2016, if the District is obligated to offer additional athletic opportunities pursuant to this Agreement, the District will provide to OCR a detailed report that reflects the steps taken/to be taken by the District pursuant to Action Item 2 above 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 club and/or other opportunities added 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 rate in District interscholastic athletics programs to be substantially proportionate to their rate of enrollment at the High School.
- d) By June 30, 2016, and June 30, 2017, the District will provide to OCR:
 - i. a copy of the squad list for each team at the High School;
 - ii. the breakdown/enrollment by sex at the High School; and
 - iii. information regarding any additional athletic opportunities added for female students, consistent with Action Item 2, above.

Action Item 3: Process for Requesting Addition of New Sports or Levels of Sports

By December 30, 2015, the District will develop and implement a process and written procedure for students or other interested parties, such as coaches or parents, to use in requesting the addition of new sports or levels of sports at the District's High School. Notice and a copy of the procedure will be published in the Student Handbook, and the individual responsible for responding to any requests will be identified by name and contact information. This information will also be displayed on the District's website (athletics page). The District shall retain all requests for new sports or levels of sports made through the procedure or otherwise in written or electronic form for a minimum of ten years. In addition, the District will do the following:

- At the beginning of each school year, the District will provide written notice to coaches, physical education teachers, guidance counselors and principals, of all sports offered at the school. This information will also be posted on the District's website (athletics page).
- At the beginning of each school year, the District will provide a written description of all of its sports offerings to all students in their physical education classes. This information will also be posted on the District's website (athletics page).

Reporting Requirements:

- a) By January 15, 2016, the District will provide to OCR a copy of the notice and description provided to coaches and students of all sports offered at the school; and, a link to where this information is posted on the District's website.
- b) By January 15, 2016, the District will submit to OCR, for review and approval, a copy of its draft procedure for requesting new sports or levels of sports. OCR will respond within 30 days.
- c) By February 15, 2016, the District will provide documentation to OCR demonstrating that the procedure for requesting new sports or levels of sports has been adopted and disseminated to students, parents and staff; including a link of the District's website where this information may be found.
- d) By June 30, 2016, and June 30, 2017 the District will provide documentation to OCR demonstrating that the procedure for requesting new sports or levels of sports has been implemented during the past school year, including copies of any requests and the responses to those requests.

Action Item 4: Training

By February 15, 2016, the District will provide training to the Title IX Coordinator and coaches on the relevant requirements of Title IX as it pertains to the provision of equal athletic opportunities to boys and girls; how to identify unmet interest in sports; and, the process for adding new sports or levels of sports.

Reporting Requirement: By February 15, 2016, the District will provide documentation to OCR demonstrating that it has provided the training required pursuant to Action Item 4 of this Agreement; including copies of the materials provided to the Title IX Coordinator and coaches, and sign-in sheets showing attendance at the meeting.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.E.R. § 106.4I(c)(1), which was at issue in this case. The District also 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, 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.E.R. § 106.41 (c)(1), 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 sixty (60) calendar days to cure the alleged breach.

/s/

Superintendent
Mainland Regional High School District

November 20, 2015

Date