

RESOLUTION AGREEMENT
Greenwood School District
Case No. 03161007

OCR and the Greenwood School District (the District) enter into this Agreement to resolve the Title IX allegation involving the District's High School in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures the U.S. Department of Education (Department), Office for Civil Rights (OCR) that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, with respect to the issue of whether the selection of interscholastic sports at the District's Greenwood High School (the High School) effectively accommodates the interests and abilities of boys and girls to the extent necessary to provide equal athletic opportunity.

Prior to the completion of OCR's investigation, the District agreed to resolve an issue of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the Title IX issue of this investigation involving the District's High School, the District agrees to take the following actions.

I. DEMONSTRATION OF CURRENT COMPLIANCE

Participation Opportunities

The District agrees to provide participation opportunities in its interscholastic athletics program for female and male students at the High School that equally effectively accommodate the athletic interests and abilities of members 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. Accordingly, by November 30, 2017, the District will demonstrate compliance with any one part of the following three-part test for the High School by documenting:

1. Whether participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
2. Where the members of one sex have been and are underrepresented among athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex; or
3. Where the members of one sex are underrepresented among athletes, and the institution cannot show a history and continuing practice of program expansion, as described above, whether it can be demonstrated that the interests and abilities of the members of that 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. The District has the option to choose the part of the three-part test with which it will comply for the High School.

Part 1: Substantial Proportionality

A district could demonstrate compliance if it provided athletic participation opportunities for boys and girls in numbers substantially proportionate to their respective enrollments. OCR will consider opportunities to be substantially proportionate when the number of opportunities that would be required to achieve proportionality would not be sufficient to sustain a viable team, i.e., a team for which there is a sufficient number of interested and able students and enough available competition to sustain an intercollegiate team. As a frame of reference in assessing this situation, OCR may consider the average size of teams offered for the underrepresented sex.

Should the District elect to demonstrate compliance with Part 1 of the three-part test referenced above, then, the District will compare the rates of enrollment of its female and male students with their rates of participation in the High School’s interscholastic athletics program (based on participation rates for all sports during the fall, winter, and spring seasons of the 20162017 school year) to determine if they are substantially proportionate.

1. Enrollment rates will be calculated using those enrollment numbers, by sex, that the District most recently reported to the Pennsylvania State Department of Education for the High School.
2. The participation rates of female and male students will reflect the total number of girls and boys listed on the rosters (for all competitive levels) for each interscholastic sport on the date of the first competition for each sport. The participation rates should not include participants in intramural, club or non-competitive athletic activities.

Part 2: History and Continuing Practice of Program Expansion

In determining whether a district demonstrates compliance with Part 2 of the three-part test, OCR reviews the entire history of the athletic program, focusing on the participation opportunities provided for the underrepresented sex. First, OCR will assess whether past actions of the institution have expanded participation opportunities for the underrepresented sex in a manner that was demonstrably responsive to their developing interests and abilities. Developing interests include interests that already exist at the institution. There are no fixed intervals of time within which an institution must have added participation opportunities. Neither is a particular number of sports dispositive. Rather, the focus is on whether the program expansion was responsive to developing interests and abilities of the underrepresented sex. In addition, the institution must demonstrate a continuing (i.e., present) practice of program expansion as warranted by developing interests and abilities.

OCR will consider the following factors, among others, as evidence that may indicate a history of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex:

- an institution's record of adding teams, or adding additional competitive levels for existing teams, for the underrepresented sex;
- an institution's record of increasing the numbers of participants in athletics who are members of the underrepresented sex; and

- an institution's affirmative responses to requests by students or others for addition or elevation of sports.

OCR will consider the following factors, among others, as evidence that may indicate a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex:

- an institution's current implementation of a nondiscriminatory policy or procedure for requesting the addition of sports (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students; and
- an institution's current implementation of a plan of program expansion that is responsive to developing interests and abilities.

OCR would also find persuasive an institution's efforts to monitor developing interests and abilities of the underrepresented sex, for example, by conducting periodic nondiscriminatory assessments of developing interests and abilities and taking timely actions in response to the results.

Should the District elect to demonstrate compliance with Part 2 of the three-part test referenced above, then, for the High School(s) for which it is attempting to demonstrate compliance, the District will complete an evaluation that objectively assesses whether it has a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of members of the underrepresented sex. The District's evaluation will be based on multiple factors for the High School, including:

1. the District's record for the last 20 years of adding interscholastic teams or levels for members of the underrepresented sex or upgrading teams to interscholastic status and increasing the numbers of participants who are members of the underrepresented sex in interscholastic athletics;
2. affirmative responses to requests in the last 10 years by students or others for addition or elevation of sports/levels for students who are members of the underrepresented sex;
3. the existence and implementation of a nondiscriminatory policy or procedure for requesting the addition of sports/levels (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students and parents;
4. the existence and implementation of a plan of program expansion that is responsive to the developing interests and abilities of members of the underrepresented sex; and
5. efforts to monitor the developing interests and abilities of members of the underrepresented sex, for example, by conducting periodic nondiscriminatory assessments of developing interests and abilities and taking timely actions in response to the results.

Part 3: Accommodation of student interests and abilities

Should the District elect to demonstrate compliance with Part 3 of the three-part test referenced above, then the District will conduct an objective assessment to determine the athletic interests and abilities of the underrepresented sex and whether the District is fully and effectively accommodating the athletic interests and abilities of members of the underrepresented sex. The assessment will be based on multiple indicators of interest and multiple indicators of abilities for the High School, including:

1. A survey of students or other information collected from students using a method that is designed to fully and accurately assess unmet athletic interests and abilities in intercollegiate sports among members of the underrepresented sex. 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, endeavoring to generate as high a response rate as possible.
2. Identification of sports, squads, and levels of sports for members of the underrepresented sex that are not currently offered by the High School that are offered by schools that compete within the league(s) in which the District competes and by schools that are within the District's normal competitive region.
3. For the 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 school years, rates of participation by members of the underrepresented sex in interscholastic sports, intramural sports, club sports, and physical education courses that are offered in the District's schools, and in community sports leagues or clubs in the geographic areas from which the District draws its enrollment.
4. Review of the number of students who are members of the underrepresented sex who were cut from a High School team, and the reasons they were cut, to assess whether any of the students who were cut have the ability to compete in that sport and whether sufficient numbers of students were cut to sustain another level in that sport.
5. Review of any requests (whether oral, written, formal or informal) made to District administrators, coaches, or staff by or on behalf of students who are members of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to interscholastic sport status. This review may be limited to requests that were received during the previous three complete school years.
6. Elimination of a viable team in the past ten school years.
7. Assessments made by High School coaches or staff during tryouts, or observations of students participating in club or intramural competition, and other information reflecting the ability of students who are members of the underrepresented sex to compete in a particular sport, prior participation in that sport or a similar sport at the school level or

intramural or club level, general athletic ability, participation in other school interscholastic sports, the nature of the particular sport, and other relevant factors.

8. Any other information that demonstrates the athletic interests and abilities of the High School students who are members of the underrepresented sex.

REPORTING REQUIREMENTS

- A. Should the District elect to demonstrate compliance with Part 1 of the three-part test referenced above, by January 30, 2018, the District will provide OCR with a detailed report, with copies of supporting documents, reflecting the District's evaluation of the proportions of female and male students in athletics at the High School conducted pursuant to Section I, Part 1 of this Agreement. The report will include, at a minimum, a copy of the enrollment and participation data that the District relied on in determining whether the District is providing interscholastic athletic participation opportunities, a copy of team rosters for each sport showing students, by sex, and other information reflecting the basis for the District's evaluation.
- B. Should the District elect to demonstrate compliance with Part 2 of the three-part test referenced above, by January 30, 2018, the District will provide OCR with a detailed report containing the District's evaluation as described and enumerated in Section I, Part 2 of this Agreement for the High School, including the assessment and results.
- C. Should the District elect to demonstrate compliance with Part 3 of the three-part test referenced above:
 1. By October 30, 2017 a copy of the draft survey referenced in Section I.A., above, for OCR's review and approval, a complete description of the planned methodology for conducting the survey, including how the survey will be distributed, the number of surveys to be distributed, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who will evaluate the responses to the surveys, and the protocol for retaining a copy of any notes or other documents compiled during the review of the surveys.
 2. By February 28, 2018, the District will provide OCR with a detailed report to include, at a minimum, the following information:
 - a. Copies of any surveys administered under Section I, Part 3.1 and the results of those surveys, including but not limited to 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 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.

- b. A summary of sports, squads, and levels of sports for members of the underrepresented sex that are not currently offered by the School that are offered by schools that compete within the league(s) in which the District schools compete and by schools that are within the District's normal competitive region.
- c. For the High School, rates of participation by members of the underrepresented sex in interscholastic sports, intramural sports, club sports, and physical education courses that are offered in the High School, and in community sports leagues or clubs in the geographic areas from which the District draws its enrollment.
- d. A summary of the number of students who are members of the underrepresented sex who were cut from High School teams, and the reasons they were cut.
- e. Copies of any written requests and summaries of any non-written requests made by or on behalf of students who are members of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to interscholastic sport status at the High School.
- f. Description of any team(s) that was eliminated by the High School during the past ten school years, including the number of participants who were on the team in the year it was eliminated and the reason for the team's elimination.
- g. Summaries of any assessments made during tryouts, or observations of students participating in club or intramural competition, and other information reflecting the ability of students who are members of the underrepresented sex to compete in a particular sport, prior participation in that sport or a similar sport at the school level or intramural or club level, general athletic ability, participation in other school interscholastic sports, the nature of the particular sport, and other relevant factors.
- h. 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 members of the underrepresented sex in its High School Sports Programs.

II. ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES

By July 30, 2018, if the District is unable to demonstrate compliance pursuant to Section I, Parts 1, 2 or 3 of this Agreement, the District will identify whether or not the High School is in compliance with any part of the three-part test and will take the following steps:

1. Sports currently offered.

- a. The District will determine, for sports that are currently offered as interscholastic sports at the High School, whether there is a sufficient number of students who are members of the underrepresented sex with the interest and ability to support the creation of additional levels of competition or multiple squads at the same level of competition, and sufficient competition within the High 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 will add additional levels of competition or squads at the same level of competition at the School in those sports by the next competitive season consistent with the above determination, unless there are state activities association or other league requirements that would limit the ability to add additional levels of competition or squads at the same level of competition.
- b. The District will institute a squad size policy at the High School that increases competitive participation opportunities for students who are members of the underrepresented sex to the maximum extent feasible consistent with the nature of each sport and the level of interest in each sport. The policy will apply to each sport currently offered in which cuts were made and where there is not a sufficient number of students who are members of the underrepresented sex who have the interest and ability to compete on a team in that sport to support the creation of an additional squad, or where there is not sufficient competition within the District's league or normal competitive region to support the addition of a squad in that sport, unless there are state activities association or other league requirements that would limit the ability to expand the size of the squad.

2. Sports not currently offered.

The District will determine whether there is a sufficient number of students at the High School who are members of the underrepresented sex with the interest and ability, and sufficient competition within the School's normal competitive region, to support the addition of a team or teams in sports not currently offered by the High School as interscholastic sports. If so, the District will add a team or teams in those sports at the High School by the next competitive season consistent with the above determination.

3. Response to developing interests and abilities.

For any sport that is not currently offered by the High School, in which there is a sufficient number of students who are members of the underrepresented sex who have the interest and ability, but where the District determines that there is not sufficient competition within the High School's normal competitive region, the District will take ongoing steps to address such interest and ability. Steps may include establishment of

intramural or club sports, exploring the establishment of competition in the District's normal competitive region, and elevating such sports to interscholastic status when competition becomes available.

4. Elimination of athletic teams.

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.

5. 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 including, but not limited to: coaches, equipment and supplies, travel funds, and publicity and support services.

REPORTING REQUIREMENTS

- A. By October 1, 2018, if the District was obligated to offer additional athletic opportunities pursuant to Section II of this Agreement, the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Section II of this Agreement.
- B. By October 1, 2018, the District will provide OCR a report that includes information demonstrating that its interscholastic athletics program is equally and effectively accommodating the athletic interests and abilities of its female students at the High School.

The District understands that by signing this Agreement, it agrees to provide the foregoing 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 Section 504 and its implementing regulation at 34 C.F.R. §104.21, and Title II implementing regulation at 28 C.F.R. §35.149. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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.

This Agreement will become effective immediately upon the signature of the District's representative below.

/s/

9/14/2017

Superintendent or Designee

Date

/s/

9/19/2017

Philadelphia OCR Director/Designee

Date