



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION III  
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**August 21, 2019**

**IN RESPONSE, PLEASE REFER TO: 03161299 & 03171256**

Mr. Michael J. Vuckovich  
Superintendent  
Indiana Area School District  
501 East Pike  
Indiana, PA 15701

Dear Mr. Vuckovich:

This to notify you of the resolution of the complaints received by the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department), on July 13, 2016 and May 1, 2017, against the Indiana Area School District (District). The Complainant alleged that the District:

1. Discriminates on the basis of sex because the District's selection of interscholastic sports at the Indiana Area Senior High School (the School) does not effectively accommodate the interests and abilities of female athletes.
2. Discriminates against female athletes on the basis of sex in interscholastic sports at the School in the following program areas:
  - a. Equipment and Supplies;
  - b. Travel and Per Diem;
  - c. Coaching;
  - d. Support Services; and
  - e. Locker rooms, practice and competitive facilities.

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. Title IX prohibits discrimination on the basis of sex by recipients of Federal financial assistance. Because the District receives Federal financial assistance from the Department, the District is subject to these laws.

In reaching a determination, OCR reviewed documents provided by the parties and interviewed the Complainant and District staff, as well as obtained information from student athletes. OCR additionally conducted an on-site visit to the District in September 2017 to review the School's athletics facilities. With regard to allegation 1, prior to completion of OCR's investigation, the District asked to resolve this complaint. On August 12, 2019, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the issues in the complaint. With regard to allegation 2, after carefully considering all of the information obtained during the investigation, OCR did not find sufficient evidence to support the Complainant's allegation.

## **Legal Standards**

The Title IX regulation, at 34 C.F.R. § 106.41(a), provides 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, club, or intramural athletics offered by a recipient. The Title IX regulation, at 34 C.F.R. § 106.41(c), states that a recipient which operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes.

The regulation implementing Title IX also requires a recipient to provide equal athletic opportunities for members of both sexes in the provision of equipment and supplies (34 C.F.R. §106.41(c)(2)); travel and per diem allowance (34 C.F.R. § 106.41(c)(4)); opportunity to receive coaching and assignment and compensation of coaches (34 C.F.R. § 106.41(c)(5) & (6)); provision of locker rooms, practice and competitive facilities (34 C.F.R. §106.41(c)(7)); and provision of support services (34 C.F.R. § 106.41(c)).

When investigating athletics program components, OCR examines whether the availability and quality of benefits, opportunities, and treatment provided are equivalent (equal or equal in effect) for members of both sexes. OCR determines whether any disparities are the result of nondiscriminatory factors or whether these disparities resulted in the denial of equal opportunity to male or female athletes, either because the disparities collectively are of a substantial or unjustified nature, or because the disparities in individual program areas are substantial enough by themselves to deny equality of athletic opportunity.

## **FACTS AND ANALYSIS**

### *Interests and Abilities*

OCR applies the following three-part test ("Three-Part Test") to assess whether an institution is providing equal participation opportunities for individuals of both sexes with respect to the selection of sports:

1. Whether interscholastic level 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 interscholastic athletes, whether the institution can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of that sex; or
3. Where the members of one sex are underrepresented among interscholastic athletes and the institution cannot show a continuing practice of program expansion such as that cited 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. If an institution meets any part of the Three-Part Test, OCR will determine that the institution is meeting this requirement.

The table below summarizes enrollment and participation data for the School for the past five school years.

<b>Athletic Program Participation and Student Enrollment</b>				
	<b>BOYS</b>		<b>GIRLS</b>	
<b>YEAR</b>	<b>Participation</b>	<b>Enrollment</b>	<b>Participation</b>	<b>Enrollment</b>
2018-19	399 (62%)	442 (51%)	249 (38%)	431 (49%)
2017-18	363 (58%)	446 (51%)	264 (42%)	436 (49%)
2016-17	355 (58%)	428 (50%)	253 (42%)	433 (50%)
2015-16	335 <sup>1</sup> (57%)	409 (49%)	250 <sup>2</sup> (43%)	432 (51%)
2014-15	345 <sup>3</sup> (58%)	413 (50%)	251 <sup>4</sup> (42%)	411 (50%)

Based on the above data, the School does not meet Part One of the Three-Part Test.

The District provided the following information about the addition of teams for girls at the School.

<b>Girls' Sport</b>	<b>Competitive Start Date</b>
Basketball	1970
Spring Track	1970
Volleyball	1974
Cross Country (Both)	1976
Swimming/Diving (Both)	1976
Rifle (Co-ed)	1977
Tennis	1978
Winter Track (Both)	1985
Softball	1985
Soccer	1989
Golf <sup>5</sup>	2008
Lacrosse	2014

Based on documentation provided by the District, only two girls' teams existed prior to the enactment of Title IX. In the mid-1970s, five girls' teams were added. In the 1980s, three girls' teams were added; and two additional girls' teams were added in the last eleven years. There has been no reported elimination of a girls' interscholastic athletic team in the last ten years. However, girls gymnastics was eliminated in 1988.

The District has no policy or procedure for requesting the addition of sports. Community groups are encouraged to express their interest in adding sports to the Board of Directors, which has specific committees dedicated to curriculum and extra-curricular activities.

OCR has determined that, although the District has added two interscholastic girls' athletic teams in the last ten years, its participation numbers have not meaningfully increased, nor does it have a formal process currently in place for requesting and adding a new sport. OCR concluded that the District does not have a history and continuing practice of program expansion which was demonstrably responsive to the developing interests and abilities of girl athletes.

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<sup>1</sup> Includes 1 Eighth grader

<sup>2</sup> Includes 3 Eighth graders

<sup>3</sup> Includes 2 Eighth graders

<sup>4</sup> Includes 6 Eighth graders

<sup>5</sup> District notes girls participated on the boys team as early as 1980

During 2019, the District conducted a survey, which included questions intended to gauge interest in try outs for the sports not currently offered by the School. The survey results reflect 80 girls interested in gymnastics, 54 interested in bowling, and 47 interested in field hockey.

As noted above, prior to the completion of our investigation, the District signed an agreement with OCR. In light of the commitments the District has made in the Agreement, OCR finds that allegation 1 is resolved, and OCR is closing its investigation of this allegation as of the date of this letter. OCR will monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively.

### Equipment and Supplies

The Title IX regulation requires recipients to provide equal athletic opportunity for members of both sexes regarding the provision of equipment and supplies. The Interscholastic Athletic Policy Interpretation (Policy Interpretation) issued December 11, 1979 states: "Equipment and supplies include but are not limited to uniforms, other apparel, sport-specific equipment and supplies, instructional devices, and conditioning and weight training equipment." The Policy Interpretation lists five factors to be assessed in determining compliance: (1) quality (e.g., condition), (2) amount (e.g., adequacy), (3) suitability (e.g., officially sanctioned), (4) the availability of equipment and supplies (e.g., amount of time equipment is accessible) and (5) maintenance and replacement policies and practices (e.g., maintenance services such as laundry, equipment storage, and replacement schedule) of the institution regarding equipment and supplies.

The program component of equipment and supplies includes an analysis of, but is not limited to: uniforms and other apparel (e.g., game uniforms and shoes), sport-specific equipment and supplies (e.g., bats or tennis rackets), general equipment and supplies (e.g., water bottles), instructional devices, and minor conditioning and weight training equipment.

As part of OCR's investigation, coaches and student athletes were interviewed, and OCR inspected the equipment and supplies provided to each team to determine whether any significant disparities existed regarding the equipment and supplies provided to the girls' teams and the boys' teams.

Based on the information provided, as well as interviews with coaches and student athletes, the District provides most teams with uniforms, which are replaced every 5 to 7 years. The exceptions to this are tennis, golf and lacrosse. The tennis coaches explained that the tennis uniforms would not last as long as the replacement schedule. In addition, they explained that replacement uniforms are not available from year to year. Therefore, the coaches elected to have students buy their own uniforms. Likewise, the golf coaches stated that students like to wear the golf shirts for non-scholastic matches and cannot do so if the shirt has a school logo. Therefore, the golf teams do not wear District uniforms and their uniforms are supplied by the students and/or boosters.

Boys' and girls' lacrosse teams are not District-funded teams. Both teams began as club sports and each team petitioned the Board to become District teams in name only, without District funding. Until the 2017-18 school year, the District had not provided any funding, equipment or uniforms to the teams. The teams do, however, practice and play on District fields, and the District does the teams' scheduling but does not provide or pay for referees.

In addition to uniforms, each team, except lacrosse, gets a yearly budget. However, the coaches all told OCR that the budget generally covers only basic necessities, mainly balls for each of the sports. Coaches stated that when they need something additional, the District will usually cover the cost. Coaches also said that the teams' booster clubs provide the teams with needed items.

All teams except track, tennis and freshman volleyball have boosters. The girls' and boys' soccer and girls' and boys' basketball teams each share a booster club. Sponsors and alumni may also sometimes contribute items to teams. The District provided reports of booster financial support for the 2014-2015 and 2015-16 school years that were submitted to the state pursuant to state law.

The District also provided OCR with booster income/expense reports for all teams for the 2016-2017 school year. These reports show that male and female athletes received various similar items and contributions from their boosters, including uniforms, socks and golf bags, practice gear, bats and pitching mats for baseball and softball, coach buses, banquets, pizza parties, pregame meals and gifts such as, plaques, photos, hand towels, t-shirts, backpacks, warm-ups, fleece jackets, etc. However, larger contributions were noted going to three boys' teams: baseball, football, and wrestling, for items such as camera equipment.

With regard to the quality of equipment and supplies, coaches rated equipment and supplies as good. OCR's onsite visit confirmed the quality of the equipment and supplies for all of the teams was good. Athletes provided OCR with similar assessments as their coaches. In addition, all coaches and players stated the amount of equipment and supplies provided were good and reported no problems with equipment and supplies. With regard to suitability, no coach or player raised concerns to OCR and agreed that all equipment was regulation for the sport.

With respect to availability, the District reported that equipment and supplies for all teams are handled by the Assistant Athletic Director and coaches. No athlete or coach interviewed by OCR cited any concern regarding the availability of their team's equipment and supplies. OCR determined that all sports, regardless of sex, were provided with substantially equivalent access to equipment and supplies.

During OCR's September 26-28, 2017 onsite visit, OCR staff examined all of the equipment and supplies provided to both the boys' and girls' teams. OCR's onsite visit did not reveal any significant disparities regarding the amount, suitability or availability of the equipment and supplies provided to any of the boys' or girls' teams. Based on information obtained from players and coaches, OCR determined that all sports, regardless of sex, were provided equipment that met regulation standards.

Finally, regarding maintenance and replacement policies and practices, OCR examined whether teams were provided with maintenance services, such as laundry, as well as replacement schedules. Athletes launder their own uniforms except football game uniforms. Varsity football jerseys and pants are professionally cleaned after each game.

The District informed OCR that coaches are allotted a certain amount of funding for equipment/supplies each year. Coaches look at their equipment and supplies that they currently have and order equipment and supplies as needed. While some equipment/supplies only last for one season, some lasts for many seasons. The District reported that uniform purchases are ordered on rotation every five years. Coaches confirmed uniforms are ordered every five to seven years. Swim suits are ordered every year.

Based on the information provided above concerning the quality, suitability, amount, maintenance and replacement, and availability of the uniforms, sport-specific equipment and general equipment to the boys' and girls' teams, equipment and supplies are provided to the boys' and girls' teams in an equivalent manner at the District. While some minor disparities were noted, these did not have an overall impact on the ability of female athletes to benefit from the program. Coaches of girls' teams and female athletes had no problems with the quality, amount and

availability of equipment provided to them by the District or booster clubs, all are regulation for their sport, and noted no disadvantages with equipment and supplies. Therefore, OCR has determined the District is in compliance with 34 C.F.R. § 106.41(c)(2).

### Travel and Per Diem

The Policy Interpretation lists five factors to be assessed in determining whether a recipient provides equal opportunities in the area of travel and per diem allowance: modes of transportation; housing furnished during travel; length of stay before and after competitive events; per diem allowances; and dining arrangements.

In assessing compliance in this area, OCR considered modes of transportation, housing and dining arrangements furnished during travel, length of stay before and after competitive events, and per diem allowances for the 2014-2015, 2015-2016, and 2016-2017 school years. OCR examined the District's Travel Policy (the Travel Policy) related to travel and per diem. In addition, OCR conducted interviews with District employees and interviewed coaches and student athletes related to travel and per diem.

The Complainant asserted that the District does not provide busing to the boys' and girls' lacrosse teams. Interviews confirmed that until the 2017-18 school year, the District did not pay for busing for the boys' and girls' lacrosse teams. A private lacrosse club provided the funds for busing of both lacrosse teams. Beginning in the 2017-18 school year, the District is providing \$2000 to each lacrosse team for transportation costs.

According to the Travel Policy, the most economical and direct method should be used when choosing transportation. Transportation is provided via school bus or coach bus. Most teams used school buses to attend away events during their regular season. OCR found that boys' and girls' teams traveling to the same city used the same mode of transportation, with the exception of football. Football always uses a coach bus because the cost of two school buses and a van to carry equipment costs about the same as a coach bus. Additionally, using a coach bus allows the team to travel together as other teams do and safely store the large amount of equipment beneath the bus.

Girls' and boys' basketball teams reported using a school bus unless a game is on a weeknight. On these occasions, a coach bus will be utilized when the destination is over 60 miles so that students can do homework. If boys' and girls' basketball teams used a coach bus rather than a school bus, its booster club pays the extra costs. Coaches reported to OCR that a coach bus is used for any team making end of year playoffs.

OCR is unable to ascertain a pattern of disparity favoring one gender over the other related to this factor. The type of transportation services provided were equivalent for boys' and girls' teams.

With regard to housing furnished during travel, OCR found boys' and girls' teams do not stay overnight when competing at away schools. However, some teams have stayed overnight for special events such as state competitions where they have qualified and camps. At the time of OCR's onsite, OCR found three boys' teams and three girls' teams participated in pre-season or summer camps. Football participates in a summer camp at a private school paid for by a golf event sponsored by its booster club. Baseball travels to Florida or South Carolina every other year for a spring training trip. The team stayed at a Disney hotel. Softball began taking an annual pre-season trip to South Carolina in spring 2018. Wrestling attended a fall training weekend camp in November 2016 sponsored by its booster club. Girls' basketball and soccer generally attend a team camp during the summer at a university sponsored by parents and a booster club. Teams

stayed on the campus of the school or in moderately priced hotels. More recently, during the 2017-18 and 2018-19 school years, three boys' teams (baseball, basketball, and football) and one girls' team (softball) attended special camps or training. While one additional girls' team (basketball) had the opportunity to attend a camp, the team chose not to do so. In June 2017 and 2018, boys' basketball attended a weekend commuter camp at a local college with the assistance of booster money. Girls' basketball did not have sufficient interest in a camp; however, its booster money financed summer and fall league competition. In August 2018, football attended an in-season off-site camp. In March 2018 and 2019, baseball and softball traveled to South Carolina to participate in spring training.

OCR found that during the 2015-2016 school year, cross country, track, and boys' tennis stayed overnight for state playoffs. During the 2016-2017 school year, cross country, swimming, track, and girls' tennis stayed overnight for state playoffs.

OCR is unable to ascertain a pattern of disparity favoring one gender over the other related to this factor. The housing furnished during travel were equivalent for boys' and girls' teams.

With regard to the length of stay before and after competitive events, OCR found that boys' and girls' teams generally arrived approximately one hour before an away event in order to warm-up at the facility and have a brief meeting with the coach prior to competition. All teams reported leaving immediately or soon after a competitive event to return home. OCR found a similar pattern between boys' and girls' teams.

With regard to per diem allowance, the evidence showed that it is only provided when teams reach post-season competition. Allowable expenses include meals, registration, travel, and hotel. It allows \$8 for breakfast, \$10 for lunch, and \$15 for dinner for a combined total of \$33 for full day travel. The District provided a chart listing boys' and girls' teams who received per diem and lodging during playoffs and championships and an amount spent for meals and lodging. No athlete or coach reported that per diem given was insufficient. No pattern was found favoring one gender over the other related to this factor.

When traveling, OCR found the boys' and girls' teams were generally provided with similar dining arrangements. Many coaches (baseball, boys' and girls' basketball, boys' and girls' golf, and volleyball) informed OCR their teams' booster club occasionally to frequently provided the teams' sandwiches or a snack when traveling for away events. Boys' and girl's lacrosse, boys' and girls' soccer, softball, boys' and girls' tennis, volleyball, and wrestling do not or rarely receive snacks. The frequency of this differed from team to team. Some teams reported receiving a meal one to three times per season provided by their boosters, and other teams, such as the soccer teams, bring their own food. Football received a spaghetti meal prior to every game, whether home or away, compliments of a local Italian restaurant.

In conclusion, OCR found that both boys' and girls' teams used similar modes of transportation when traveling to similar destinations. OCR also found that three boys' teams (baseball, football, and wrestling) and three girls' teams (basketball, soccer and softball) had the opportunity to travel overnight to train and practice at camps. No significant variation exists in the amount of travel between male and female athletes due to booster clubs. Moreover, boys' and girls' teams received similar benefits of snacks and meals, with the exception of football. Overall, the services provided were equivalent or equivalent in effect, such that there was not a denial of equal athletic opportunity regarding this component.

### Coaching

In determining compliance of the opportunity to receive coaching and assignment and compensation of coaches component, the Policy Interpretation requires that the following three factors be assessed for coaching: relative availability of full-time coaches; relative availability of part-time and assistant coaches; and relative availability of graduate assistants. The Policy Interpretation lists two factors to be assessed in determining compliance for the assignment of coaches: training, experience, and other professional qualifications; and professional standing. Finally, the Policy Interpretation lists seven factors to be assessed in determining compliance for the compensation of coaches: rate of compensation (per sport, per season); duration of contracts; conditions relating to contract renewal; experience; nature of coaching duties performed; working conditions; and other terms and conditions of employment.

For interscholastic athletics programs, OCR's analysis of the availability of coaches consists of separating the girls' from the boys' program, number of coaches available to each team in the boys' and girls' programs, computing the ratio of the total number of coaches to the total number of participants in each program, and finally comparing the ratio between boys' and girls' programs to determine any inequity.

All head and assistant coaches are part time employees of the District, with a coaching duties for three to four months. Some coaches work as teachers in the District while also working as part-time coaches. All coaches have the primary responsibilities of coaching and developing practice, and ensuring safety of athletes, as well as some administrative duties, and occasional fundraising.

For the 2016-2017 school year, the District had a total of 50 coaches on the coaching staff. For purposes of OCR's analysis, however, boys' and girls' cross country, boys' and girls' indoor track, boys' and girls' swimming, boys' and girls' track, and rifle coaches were excluded from the analysis as the teams are either coed or combined, i.e., the boys' and girls' teams have the same coaches and practice and compete at the same or similar times. Therefore, the total number of coaches examined by OCR is 34.

During the 2016-2017 school year, the District's athletic program consisted of the boys' program with eight (8) sports, eight (8) head coaches and thirteen (13) assistant coaches and the girls' program with eight (8) sports, eight (8) head coaches and five (5) assistant coaches. OCR considered the differences in the number of available assistant coaches for the men and women programs. Baseball had two assistant coaches, whereas softball only has one assistant coach. Boys' basketball had two assistant coaches, whereas girls' basketball only had one assistant coach and a volunteer consistently coached for over seven years. However, boys' basketball has a 9<sup>th</sup> grade team, whereas girls' basketball does not. None of the lacrosse coaches are hired by or paid by the District. Girls' freshman volleyball had one head coach. Both boys' and girls' soccer, boys' and girls' tennis, volleyball and wrestling each had one assistant coach. In addition, football had five assistant coaches, and fields a 9<sup>th</sup> grade football team. Generally, the nature of football, including the number of participants needed to field a team, the rate of injury, and the rate of severe injury, requires the assignment of several assistant coaches for Football.

For 2016-2017, the total of coaches for all sports in the girls' program was 13 in comparison to the boys' program, which had a total of 21 coaches, a difference of 8, in favor of the boys' program. The overall ratio of coaches to athletes for 2016-2017 boys' teams was 1:11 (21 coaches to 221 athletes) and for girls' teams it is 1:12 (13 coaches to 160 athletes). This is a difference of 2 athletes per coach favoring the boys' teams.

For the 2015-2016 school year, the District had a total of 50 coaches on their coaching staff, the same coaching structure as for the 2016-2017 school year. Excluding the coed teams or combined teams, the total number of coaches examined by OCR is 34. During the 2015-2016 school year, the District's athletic program consisted of the boys' program with eight (8) sports, eight (8) head coaches and thirteen (13) assistant coaches and the girls' program with eight (8) sports, eight (8) head coaches and five (5) assistant coaches. The total of coaches for all sports in the girls' program was 13 in comparison to the boys' program, which had a total of 21 coaches, a difference of 8, in favor of the boys' program. The overall ratio of coaches to athletes for 2015-2016 boys' teams is 1:11 (21 coaches to 236 athletes) and for girls' teams it is 1:11 (13 coaches to 145 athletes). There is no difference of athletes per coach favoring boys' or girls' teams.

With regard to assignment of coaches, OCR analyzed information, including education and coaching experience for 2015-2016 and 2016-2017. Interviews with athletic staff officials reveal that coaches are selected based on contracts negotiated by the union.

For the 2016-2017 school year, the boys' teams had a total of twenty-one (21) coaching positions with coaching experience ranging from 1 to 25 years, with an average of 9.6 years coaching experience per position. Comparably, the girls' teams had thirteen (13) coaching positions with experience ranging from 1 to 22 years, an average of 8.9 years coaching experience per position. The evidence reveals that for total coaching positions, there is a negligible difference of less than 1 years' experience, slightly favoring the boys' sports.

For the 2015-2016 school year, the boys' teams had a total of twenty-one (21) coaching positions with coaching experience ranging from 1 to 24 years, with an average of 8.6 years coaching experience per position. Comparably, the girls' teams had thirteen (13) coaching positions with experience ranging from 1 to 21 years, an average of 7.9 years coaching experience per position. The evidence reveals that for total coaching positions, there is a negligible difference of less than 1 years' experience, slightly favoring the boys' sports.

Based on the analysis of the evidence, OCR determined the difference of less than 1 year in favor of the boys' program for 2016-2017 and a difference of less than 1 year in favor of the boys' program for 2015-2016 does not indicate an inequality in effect for either the boys' or girls' athletic programs because OCR found no evidence that the District routinely assigned coaches of less experience or qualifications to any particular sports program over another. Interviews revealed no concerns regarding the qualifications of its coaching staff, and the evidence shows that the boys' and girls' programs have comparable qualifications, education, and experience for their respective coaches.

In determining compliance for compensation of coaches, OCR examines the allocation of funds for coaching to the boys' and girls' program. Specifically, OCR examines the rate of compensation, duration of contracts, conditions relating to contract renewal, experience, nature of coaching duties performed, working conditions, and other terms and conditions of employment.

OCR's investigation revealed that teacher contracts determine coaching salaries. The District reported that some coaches' sports length of season is three months. Football's season lasts three to four months, whereas basketball, football, rifle, swimming, track (indoor), and wrestling lasts four months. The former AD told OCR that football puts in more time than other sports, e.g. the team lifts throughout the summer.

For the 2016-2017 school year, OCR determined funds allocated for District coaching was \$219,055. For the purposes of this analysis, however, boys' and girls' cross country, boys' and girls' indoor track, boys' and girls' swimming, boys' and girls' track, and rifle were excluded from

the analysis as the teams are coed or combined, i.e., the boys' and girls' teams have the same coaches and practice and compete at the same or similar times. Approximately \$106,383 (66%) was received for coaching boys and \$53,807 (34%) was received for coaching girls. OCR then considered the percentage of District athletes, excluding coed or combined teams, (381 total) by sex, and found that for 2016-2017, 221 male athletes made up 58% of athletes, while 160 female athletes made up 42% of athletes at the District.

For the 2015-2016 school year, OCR determined the total funds allocated for District coaching salaries was \$218,391. Approximately \$113,420 (69%) was received for coaching boys and \$51,679 (31%) was received for coaching girls. OCR then considered the percentage of District athletes, excluding coed or combined teams, (381 total) by sex, and found that for 2015-2016, 236 male athletes made up 62% of athletes, while 145 female athletes made up 38% of athletes at the District.

OCR determined the total funds allocated for District 2015-2016 coaching salaries and then compared the percentage of funds used for coaching of girls and for coaching boys. OCR found the proportion of the percentage were not equivalent to the proportion of male to female participants in the athletics program, with an advantage to boys' sports.

Based on the analysis of the compensation factor, OCR determined that football is the most significant difference impacting compensation favoring the boys' program. Football has a large team (2014-2015: 58 student athletes; 2015-2016: 49 student athletes), which requires a large coaching staff, and consists of a total of five coaches, with one head coach, and four assistant coaches. As such, the salary of the head coach is significantly higher as reflective of the number of assistant coaches he supervises, as well as the salaries for each of the assistant coaches on staff. Based on this information, OCR determined that this difference is a result of nondiscriminatory factors regarding the nature of the sport of football.

OCR's analysis further determined there are no compensation differences of coaching staff with respect to comparable sports (i.e. boys' and girls' basketball, boys' baseball and girls' softball, boys' and girls' golf, boys' and girls' soccer, and boys' and girls' tennis head coaches for 2015-2016 and 2016-2017).

OCR determined that compensation for coaches favors the boys' program when compared to the girls' program in total compensation allocated for the 2015-2016 and 2016-2017 school years. Further analysis reveals that the proportion of the percentages of compensation are not equivalent to the proportion of male to female participants in the athletics program. The differences in compensation between the programs are attributed to football, which has a significantly larger team, requiring a greater coaching staff, and in turn, additional salaries and compensation. In addition, there were no differences in comparable sports' compensations, and therefore no impact in compensation favoring either boys' or girls' sports. As such, OCR determined that the differences in compensation between the boys' and girls' programs does not have a negative impact on girls.

In summary, OCR determined the availability, assignment and compensation of coaches for the girls' athletic program was equivalent to that provided to the boys' athletic program. Although there are minor differences with regard to the factors examined, the evidence did not reveal that these differences were sufficient to constitute a significant disparity, as the differences did not have a negative impact on athletes of one sex when compared to the other sex overall. In analyzing all the factors of the coaching component, the primary focus of the analysis is the availability of coaches. Based on the analysis of the evidence, OCR determined that the availability and qualifications, assignment, and compensation of coaching staff for the boys' and

girls' program is equivalent in effect, with negligible differences that do not result in a disparity. Therefore, OCR's investigation found that overall, equivalent benefits, treatment and services are being provided to District male and female athletes in the opportunity to receive coaching and the assignment and compensation of coaches.

### Support Services

The Policy Interpretation lists two factors to be assessed to determine whether a recipient provides equal opportunities in the provision of support services: the amount of administrative assistance provided to men's and women's programs; and the amount of secretarial and clerical assistance provided to men's and women's programs. In assessing compliance in this area, OCR considered, among other factors, the equivalence for boys' and girls' teams regarding the amount of administrative, secretarial, and clerical assistance received, and the availability of office space, equipment and supplies, and other support services.

The District does not have a formal written policy regarding administrative services and distribution of staff support to athletic teams. The School has an Athletic Director (AD), who reports to the Principal. The School also employs an Assistant Athletic Director and an Administrative Assistant who serve the Athletic Department. All coaches informed OCR that if they need additional support, they contact the Athletic Department and the Assistant Athletic Director or Administrative Assistant who provide any assistance that is requested.

The Complainant alleged that girls' lacrosse is not provided the necessary support of referees or officials during competition. According to boys' and girls' lacrosse coaches, the District does not provide officials and referees to either the boys' and girls' lacrosse teams. Each lacrosse team's booster club provides the funds to acquire the necessary officials.

OCR reviewed job descriptions for the Assistant Athletic Director and Administrative Assistant. In addition, OCR interviewed District coaches to determine the extent of administrative support, equipment and supplies, and office space available to the boys' and girls' teams. No one team is provided with exclusive administrative and clerical support personnel. Interviews with coaches revealed all performed some level of their own clerical work necessary in support of their teams' activities. All coaches were satisfied with the level of support services and their time spent on many support tasks.

OCR determined that there are three coach offices in the high school, one in the girls' old gym locker room, one in the boys' gym locker room, and one in the football locker room. OCR inspected and analyzed office space provided for coaches of boys' and girls' teams. There is a computer present in the boy's old gym locker room. All three offices are approximately the same size and included similar quality furniture and office supplies, and there is no significant disparity in the office space provided for boys' and girls' teams.

Football, track, and wrestling coaches use the football locker room office, although the wrestling coach only uses a cabinet in the office to store confidential files. There are two other offices: one in the old gym girls' locker room and one in the old gym boys' locker room. No other coaches reported using an office, but no problems were reported as coaches go to the Athletic Department office if administrative or clerical tasks are needed.

Coaches are not provided a computer. However, all coaches said they have access to office equipment at the Athletic Department or Athletic Department staff. OCR noted no differences with regard to the shared availability of office equipment, as all coaches indicated that they have access to necessary equipment.

With regard to referees and officials, the District reported that there are sports which do not require PIAA officials. Those teams are: boys' and girls' golf and boys' and girls' tennis. The only teams which must pay for their own referees and/or officials are boys' and girls' lacrosse. Interviews with the remaining coaches revealed that the District paid for their referees and officials, and no problems exist.

Based on the evidence, OCR determined that there is no difference in clerical support. OCR also considered that coaches of all boys' and girls' teams perform at least some clerical duties in support of their athletic team and that there are no meaningful differences in office equipment available for use. Although only two teams use a designated office space, all other coaches reported this is not a problem. OCR also determined that neither boys' nor girls' lacrosse teams receive District paid officials. Based on the information analyzed, OCR determined that the District has provided equivalent support services to boys' and girls' teams as required by 34 C.F.R. § 106.41(c).

#### *Locker rooms, practice and competitive facilities*

Compliance determinations for the *provision of locker rooms, practice and competitive facilities* component must be based on an assessment of the following six factors: quality and availability of the facilities provided for practice and competitive events; exclusivity of use of facilities provided for practice and competitive events; availability of locker rooms; quality of locker rooms; maintenance of practice and competitive facilities; and preparation of facilities for practice and competitive events.

More specifically, OCR must: (1) determine whether any policies, procedures, or other criteria used for allocating locker rooms, practice, and competitive facilities differ on the basis of sex; (2) compare the quality and availability of the practice and competitive facilities provided to participants in the boys' and girls' athletics programs; (3) compare the quality and availability of locker rooms provided to participants in the boys' and girls' athletics programs; (4) compare the number of boys' teams that have exclusive use of practice and/or competitive facilities to the number of girls' teams that have exclusive use of practice and/or competitive facilities; (5) compare the number of boys' teams that have exclusive use of locker room facilities to the number of girls' teams that have exclusive use of locker room facilities; and (6) compare the maintenance and preparation of practice and competitive facilities for the boys' program with the maintenance and preparation of practice and competitive facilities for the girls' program.

The Complainant asserted that the girls' locker room has only 20 lockers, is outdated and not painted in school colors, while the football locker room is updated, and has a separate area for storage. In addition, the Complainant asserted the baseball field has actual seats rather than bleacher seating, in addition to a scoreboard, dugouts, and a concession stand, while the softball field has only bleachers, no seats for spectators, and not lights, bathrooms, dugouts, or a scoreboard.

Regarding the quality and availability of the practice and competitive facilities for the boys' and girls' teams, OCR interviewed coaches and players and also conducted a visual inspection of all practice and competitive facilities used by the boys' and girls' teams, including offsite facilities. With respect to the availability of the practice and competitive facilities, coaches and players for boys' and girls' teams stated that the facilities were available for use while their teams were in season.

With respect to the quality of the practice and competitive facilities, for the boys' teams, all had facilities rated as good by the coaches and players while the boys' baseball team stated that there are problems with drainage on the field. The turf facility was used by football and boys' and girls' soccer games in the fall and boys' and girls' lacrosse games in the spring. The turf is in good condition with amenities such as accommodations for visiting teams; concession facilities, spectator capacity, public address system, electronic scoreboards, and lights. OCR viewed the baseball field, which is located off-site and appeared to be in good condition. The field has seats, rather than bleachers, which seat about 400 people, dugouts, three restrooms, fencing, scoreboard, parking lot and concessions. However, the baseball field lacks a fixed PA system, has no lighting and is two miles from the School.

OCR's inspection of the quality of the girls' practice and competitive facilities revealed all facilities in good condition with the exception of the softball field. The softball field is also located off-site at Kennedy-King Park which houses a "multi-purpose" field. The District reported that although the softball facility is located off-site, District staff maintain the field. The coach stated that the softball infield is very nice but the outfield is "spotty." OCR noted there are several benches for players and only one bench for spectators. However, there are no amenities such as scoreboard, concessions, restrooms, and the field lacks a permanent fence as noted by the coach. At the time of OCR's on-site, a temporary fence was used in which balls could roll underneath. During the 2018-2019 school year, the District installed a permanent fence, comparable to the baseball field fence. The softball field is less than one half mile from the School.

Based on the foregoing, OCR noted a disparity in favor of the boys' teams with regard to practice and competitive facilities.

The next factor considered by OCR was whether the male and female teams had exclusive use of their practice and competitive facilities during their scheduled seasons. All coaches indicated that they have priority use of their facilities while their sport is in season, with the exception of boys' and girls' soccer who may occasionally have to hold varsity soccer games on the grass soccer field, rather than the turf, due to junior varsity football games. Thus, it appears there is no disparity regarding the assessment factor of exclusivity of use of practice and competitive facilities.

Next, OCR compared whether the boys' and girls' teams had exclusive use of their locker rooms. Only football has exclusive use of their locker rooms while the team is in season and players have assigned lockers. It is in good condition, and the team purchased new seats during the 2018-2019 school year. Historically, the football locker room is used exclusively by football players in the fall and by male football athletes who participate in other sports during the winter and spring. However, beginning with the 2017-2018 school year, access was denied to students during the winter and spring because boys' lacrosse athletes were misbehaving in the football locker room. The football coach noted that lockers are open with hooks to hang uniforms with only a very small locked box which is only large enough to lock a wallet or phone.

The boys' old gym locker room is used by physical education students, boys' basketball prior to games, boys' soccer, and wrestling. The girls' old gym locker room is used by physical education students year round and girls' soccer has access to it in the fall but rarely use it. Softball, who rarely uses it, track, and freshman volleyball have access to it in the spring. Boys' teams who use the boys' new gym locker are boys' basketball in the winter during half-time and post-game. Girls' teams who use the girls' new gym locker room are volleyball in the fall and girls' basketball during half-time.

The girls' basketball team room is used by girls' basketball in the winter and girls' lacrosse in the spring. Each team has exclusive use during their season. The girls' basketball players have assigned lockers, although the coach reported there are not enough lockers for all players so freshman members of the team utilize hooks and a shelf on a wall in the team room. The girls' lacrosse team reported their locker room as adequate and spacious.

Baseball, boys' lacrosse, and boys' and girls' tennis do not have access to a locker room. Due to the size of bat bags, the baseball coach stated athletes must use a storage room to lock their equipment because bat bags do not fit in any lockers available to them. Due to the large amount of boys' lacrosse equipment, the team must use a storage room and hang their uniforms from the ceiling. Neither of these storage rooms have access to restrooms and showers. At the time of OCR's on-site, the girls' golf coach reported that the team could not access a locker room at the country club where they practice and play unless a family member has a membership, which the coach stated does not present a problem because girls' can store their golf bags at the golf course, while the boys' golf coach reported his team has access to the guest lockers. Currently, however, the girls' golf coach reported that they now have access to locker rooms at the country club. Therefore, a disparity exists in favor of girls regarding the availability and of use of locker rooms.

Next, OCR compared the quality of the locker rooms provided to the male and female athletes. There are three locker rooms available to boys and three locker rooms available to girls. These are two old gym locker rooms, two new gym locker rooms, girls' basketball team room, and football locker room.

OCR, coaches, and athletes rated the both old gym locker rooms as poor. The new gym locker rooms were rated by OCR, coaches, and athletes as good. The football locker room and the girls' basketball team room are in good condition.

Finally, OCR compared the maintenance and preparation of the practice and competitive facilities for the male and female teams. Most of the facilities are prepared and maintained by School staff, with the exception of the baseball field which is maintained by the lessor, White Township Recreation Complex, for an annual amount of \$4,500. Athletes of some teams assist in the preparation of practice, i.e., set out some equipment or clean up: boys' and girls' lacrosse, boys' and girls' tennis, and wrestling. The preparation of facilities was rated by all coaches and players as either good or excellent. The three teams that play offsite (baseball, boys' and girls' golf, boys' and girls' tennis, softball and boys' and girls' swimming) have facilities that are maintained by the staff at those locations where the teams play.

In conclusion, OCR's investigation found a disparity favoring the boys' program in terms of the quality of the practice and competitive facilities (particularly with regard to the softball and baseball facilities). OCR also found that a disparity exists in favor of girls regarding the factor of availability and use of locker rooms (particularly with respect to baseball and boys' lacrosse). Overall, however, OCR determined that equivalent benefits, treatment and services are being provided to the boys' and girls' programs in terms of the provision of locker rooms, practice and competitive facilities.

## **CONCLUSION**

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly

authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

The complainant has a right to appeal OCR's determination within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or inaccurate, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the District. The District has the option to submit to OCR a response to the appeal. The District must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the District.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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

If you have any questions, please contact Gina DePietro at (215) 656-8595 or by email at [gina.depietro@ed.gov](mailto:gina.depietro@ed.gov).

Sincerely,

/s/

Joseph P. Mahoney  
Program Manager

Enclosure

cc: Jared Cronauer (via email only)