



UNITED STATES DEPARTMENT OF EDUCATION
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August 21, 2019

IN RESPONSE, PLEASE REFER TO: #03192117 & #03192126

Dr. Freeman A. Hrabowski, III
President
University of Maryland, Baltimore County
1000 Hilltop Circle
Baltimore, MD 21250

Dear Dr. Hrabowski:

This is to notify you of the resolution of the above-referenced complaints filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the University of Maryland, Baltimore County (the University). In OCR #03192117, the Complainant alleged that the University discriminates on the basis of sex by failing to provide the women's softball team with facilities and publicity that are equivalent to the men's baseball team. Consistent with OCR's procedures, the scope of OCR's investigation is whether the University provides equal opportunities with regard to locker rooms, practice and competitive facilities and publicity for male and female athletes in its interscholastic athletic program. In OCR #03192126, the Complainant alleged that the University discriminates against the women's softball team on the basis of sex because it failed to schedule umpires for the women's softball games, but scheduled umpires for the men's baseball games.

Legal Standards

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 University receives Federal financial assistance from the Department, the University is subject to these laws.

34 C.F.R. § 106.31(a), requires that a recipient may not discriminate on the basis of sex with regard to any aspect of services, benefits, or opportunities it provides. Subsection (b) of the same states that a recipient may not, on the basis of sex, subject any person to separate or different rules of behavior, sanctions, or other treatment in providing an aid, benefit, or service.

34 C.F.R. § 106.41 prohibits discrimination in athletics. 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, interscholastic, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

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The regulation implementing Title IX, at 34 C.F.R. § 106.41(c) provides that a recipient which operates or sponsors athletic teams must provide equal opportunity for members of both sexes. Specifically, the regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(7), requires these equal opportunities in the provision of locker rooms, practice and competitive facilities. The regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(10), requires recipients to provide equal opportunity for members of both sexes with regard to publicity.

In determining equality of opportunity, OCR considers factors set forth in 34 C.F.R. § 106.41(c) and in the clarifying policy and guidance documents, including the OCR Intercollegiate Athletics Policy Interpretation issued December 11, 1979, 44 Fed. Reg. 71413 (1979) (1979 Policy Interpretation). The Policy Interpretation lists six factors to be assessed in determining compliance with the provision of locker rooms, practice, and competitive facilities component: (1) quality and availability of the facilities provided for practice and competitive events; (2) exclusivity of use of facilities provided for practice and competitive events; (3) availability of locker rooms; (4) quality of locker rooms; (5) maintenance of practice and competitive facilities; and (6) preparation of facilities for practice and competitive events.

Complainant's Allegations

#03192117

The Complainant alleged the following inequities with respect to the softball and baseball fields: the baseball field has lights, but the softball field does not; the baseball scoreboard shows runs scored per inning, but the softball scoreboard does not; the area around the softball field is used for storage while it is not for baseball; the baseball field has stadium seating and a backstop behind home plate but the softball field does not; the softball batting cages and dugouts are not in as good a condition as the baseball field's cages and dugouts; the baseball field has permanent speaker equipment, while the speaker equipment at the softball field is sometimes taken away and unavailable for use; and there have been injuries to softball players due to the gravel outfield warning track and lack of padding on the outfield fence, while this is not an issue for baseball.

With respect to locker rooms, the Complainant alleged that the softball team's locker room is smaller than the baseball team's locker room and that the baseball team's locker room has nicer amenities, including kitchens. Also, the softball team locker room shares a bathroom facility with the woman's track team locker room and the Complainant alleged that visiting teams use the woman's track team locker room and on multiple occasions when this has happened, the softball team has been locked out of the adjoining restroom and have no access to restroom facilities in their locker room. The Complainant further alleged that the softball team has been unable to use their locker room on a few occasions because it was being used for storage.

With respect to publicity, the Complainant alleged that the University devotes greater resources to the baseball team as compared with the softball team. For example, it only promotes baseball games by making posters, putting schedules around campus, and placing signage on game days directing people to games. Additionally, the Complainant alleged that some men's sports have their games videotaped by ESPN, but softball does not.

#03192126

The Complainant alleged that for one game during the 2018 softball season and one game during the 2019 softball season, umpires were not scheduled for the softball competitions. According to the Complainant, on both occasions that this occurred, the softball team had to cancel their competitions, meaning that the games were not counted as a win or loss on the team's records. The Complainant maintained to OCR that this did not happen to the men's baseball team.

Factual Background

The following men's and women's sports are offered at the University:

Men's Teams:

- Baseball
- Basketball
- Cross Country
- Lacrosse
- Soccer
- Swimming and Diving
- Track and Field

Women's Teams:

- Basketball
- Cross Country
- Lacrosse
- Soccer
- Softball
- Swimming and Diving
- Track and Field
- Volleyball

Additionally, the University has recently constructed and opened a new Event Center which hosts men's and women's basketball and women's volleyball. The Center has a practice gymnasium, strength and conditioning and academic centers, a sports medicine suite, multimedia spaces and meeting facilities.

Request to Resolve Complaint through a Voluntary Resolution Agreement

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a Resolution Agreement and OCR determines that such a resolution is appropriate. The provisions of the Resolution Agreement must be aligned with the complaint allegations and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the University, nor does it constitute a determination by OCR of any violation of our regulations.

These complaints are appropriate for resolution via a Resolution Agreement because OCR would need to obtain and analyze additional information to make compliance determinations regarding the allegations in these complaints.

Consistent with OCR's procedures, on June 5, 2019, the University requested to resolve these complaints through a Resolution Agreement, and on August 19, 2019 the University signed a Resolution Agreement (Agreement) with OCR in order to resolve the complaints. As is our standard practice, OCR will monitor the University's implementation of the Agreement, a copy of which is enclosed. Accordingly, OCR is concluding its investigation of these complaints as of the date of this letter.

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Title IX and its implementing regulations that may exist and are not discussed herein. The Complainant may have the right to file a private lawsuit in Federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Dale J. Leska, Investigator, at (215) 656-8562 or by email at dale.leska@ed.gov.

Sincerely,

/s/

Vicki Piel
Team Leader/Supervisory Attorney
Philadelphia Office

Enclosure

cc: Bobbie L. Hoye, Esquire (w/encl.)