



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10  
ATLANTA, GA 30303-8927

REGION IV  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

March 30, 2015

Dr. Rosemary Caddell  
Superintendent  
Wilkes County School District  
303A North Alexander Ave  
Washington, Georgia 30673

Re: Complaint #04-14-1480

Dear Dr. Caddell:

The U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint filed against Wilkes County School District (District) alleging discrimination on the basis of sex at Washington-Wilkes High School (School). The Complainant alleged that the District subjects high school girls to discrimination on the basis of sex by failing to provide equitable athletic opportunities, programs and services to female students. Specifically, the Complainant alleged that the District has failed to:

1. Effectively accommodate the athletic interest and abilities of female students, to the extent necessary to provide equal athletic opportunities;
2. Provide equitable food per diem allowance for girl's teams;
3. Equitably assign and compensate the coaches of girl's teams; and,
4. Provide equitable locker rooms, for girl's teams.

OCR investigated the complaint pursuant to Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C §1681 *et seq.* and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance.

LEGAL ISSUE

Whether the District denies female students an equal athletic opportunity, in violation of Title IX at 34 C.F.R. Section 106.41(c)(1), (4), (6) and(7) in the following areas:

- The accommodation of interests and abilities;
- Travel and per diem allowance;

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

- Providing equitable locker rooms, practice and competitive facilities; and,
- Compensation and assignment of coaches.

## LEGAL STANDARDS

The Title IX implementing regulation, at 34 C.F.R. § 106.41(a) states, in relevant part, 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 athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

The provision of equal opportunities with respect to the opportunity to participate in interscholastic athletics is addressed in the Title IX implementing regulation at 34 C.F.R. § 106.41(c)(1). The Title IX implementing regulation, at 34 C.F.R. § 106.41(c), also requires a recipient to provide equal athletic opportunity for members of both sexes at 34 C.F.R., at 34 C.F.R. § 106.41(c)(4), in the provision of travel and per diem allowance, at 34 C.F.R. § 106.41(c)(6) in the assignment and compensation of coaches and tutors, at 34 C.F.R. § 106.41(c)(7), in the provision of locker rooms, practice and competitive facilities.

To assess whether a recipient is providing equal athletic opportunities to members of both sexes, OCR uses the Department’s “Intercollegiate Athletics Policy Interpretation,” issued December 11, 1979, and found at 44 Fed. Reg. 71413 *et seq.* (Policy Interpretation), which is generally applicable to interscholastic athletics. The Policy Interpretation identifies the provision of support services as an additional program component to be assessed by OCR in determining whether a recipient is providing equal athletic opportunity to members of both sexes.

### *Interests and Abilities*

In assessing whether the interests and abilities of the members of both sexes are being effectively accommodated to the extent necessary to provide equal opportunity to participate in interscholastic athletics, OCR uses the three-part test first established in the Policy Interpretation. OCR also refers to other policy guidance that has been issued since the Policy Interpretation was issued and that specifically discusses the application of the three-part test. 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, and no one part is favored. An institution is in compliance if it has met any one of the following three parts of the test: (1) the athletic participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or (2) there is a showing by the institution of a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex; or (3) it is demonstrated that the interests and abilities of the underrepresented sex have been fully and effectively accommodated by the present program.

Under part one of the test, OCR determines the number of participation opportunities afforded to male and female athletes in the school's interscholastic athletic program. OCR compares the participation opportunities to the school's enrollment, by sex, to determine whether athletic opportunities are substantially proportionate to the enrollment.

In making a determination under part two of the test, OCR assesses whether the school's past actions have expanded participation opportunities for the underrepresented sex in a manner that was demonstrably responsive to their developing interests and abilities. OCR considers evidence such as the school's record of adding or upgrading teams to interscholastic status, increasing the numbers of interscholastic athletic participants, and responding affirmatively to requests by students or others for addition or elevation of sports. Further, OCR considers evidence of a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex by examining the school'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. OCR also considers the school's current implementation of a plan of program expansion that is responsive to students' developing interests and abilities.

Under part three of the test, the school may demonstrate that, despite disproportionate participation rates and the lack of a history and continuing practice of program expansion for the underrepresented sex, the interests and abilities of the underrepresented sex are, nevertheless, being fully and effectively accommodated by the current athletics program. In making this determination, OCR considers whether there is (a) unmet interest in a particular sport; (b) sufficient ability to sustain a team in the sport; and (c) a reasonable expectation of competition for the team in the school's normal competitive region. If all three conditions are present, then OCR will find that the school has not fully and effectively accommodated the interests and abilities of the underrepresented sex. OCR evaluates a broad range of indicators including whether a school uses nondiscriminatory methods of assessment when determining the athletic interests and abilities of its students; whether a viable team for the underrepresented sex recently was eliminated; multiple indicators of interest; multiple indicators of ability; and the frequency of conducting assessments. If the school has recently eliminated a viable team from the interscholastic program, then OCR will find that there is sufficient interest, ability, and available competition to sustain an interscholastic team in that sport unless there is strong evidence that interest, ability, or available competition no longer exists.

### *Assignment and Compensation of Coaches*

The Policy Interpretation lists two factors to be assessed in determining compliance for the assignment of coaches: (1) training, experience, and other professional qualifications and (2) professional standing. In accordance with the Policy Interpretation, OCR considers whether the compensation policies or practices of an institution deny male and female athletes coaching of equivalent quality, nature, or availability. Nondiscriminatory factors can affect the compensation of coaches. In determining whether differences are caused by permissible factors, the range and nature of duties, the experience of individual coaches, the number of participants for particular sports, the number of assistant coaches supervised, and the level of competition will be considered. Where these or similar factors represent valid differences in skill, effort,

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

responsibility or working conditions they may, in specific circumstances, justify differences in compensation. Similarly, there may be unique situations in which a particular person may possess such an outstanding record of achievement as to justify an abnormally high salary.

The Policy Interpretation lists seven factors to be assessed in determining compliance for the compensation of coaches: (1) rate of compensation (per sport, per season); (2) duration of contracts; (3) conditions relating to contract renewal; (4) experience; (5) nature of coaching duties performed; (6) working conditions; and (7) other terms and conditions of employment.

#### *Travel and Per Diem Allowance*

The Policy Interpretation lists the following four factors to be assessed in determining whether a recipient provides equal opportunities in the area of travel and per diem allowance: (1) modes of transportation; (2) housing and dining arrangements furnished during travel; (3) length of stay before and after competitive events; and (4) per diem allowances.

#### *Locker Rooms and Practice and Competitive Facilities*

Under the Policy Interpretation, OCR assesses six factors in determining whether a recipient provides equal opportunities to males and females in the provision of locker rooms and practice and competitive facilities: (1) the quality and availability of the facilities provided for practice and competitive events; (2) the exclusivity of use of facilities provided for practice and competitive events; (3) the availability of locker rooms; (4) the quality of locker rooms; (5) the maintenance of practice and competitive facilities; and (6) the preparation of facilities for practice and competitive events.

## BACKGROUND

The District's only high school, Washington Wilkes High School (School), is located in Washington, Georgia with a total enrollment of 431 (210 male and 221 female) students as of April 2014. See Figure 1.

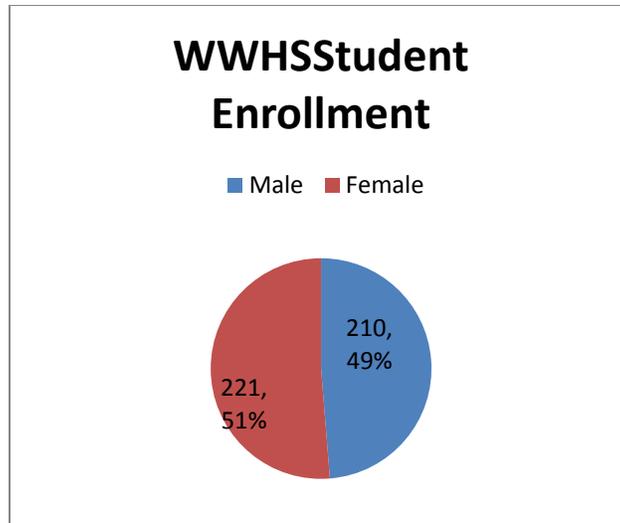


Figure 1.

## FACTUAL INFORMATION AND LEGAL ANALYSIS

Whether the District denies female students an equal athletic opportunity, in violation of the regulation implementing Title IX at 34 C.F.R. Section 106.41(c)(1)(4)(5)(6)(7) in the following areas:

- The accommodation of interest and abilities;
- Travel and per diem allowance;
- Providing equitable locker rooms, practice and competitive facilities; and,
- Compensation and assignment of coaches.

### a. Accommodation of Athletic Interests and Abilities

A District is in compliance if it has met any one of the following three parts of the test: (1) the athletic participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or (2) there is a showing by the institution of a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex; or (3) it is demonstrated that the interests and abilities of the underrepresented sex have been fully and effectively accommodated by the present program.

The current enrollment at the School is 431 students, 51% are female and 49% are male. The School provides 16 sports in its athletic programs, seven sports for girls and nine sports for boys. The School reported its participation data for each sport and provided OCR with copies of its roster for each sport. See Figure 2.

<b>Sport</b>	<b>Division Level</b>	<b>Date Began Year Interscholastic Competition began</b>	<b>Total # of athletes on roster</b>
Girls Basketball	8-AA	Pre 1954	17
Boys Basketball	8-AA	Pre 1954	12
Girls Soccer	8-AA	2012	17
Boys Soccer	8-AA	2012	12
Girls Cross Country	8-AA	1980	17
Boys Cross Country	8-AA	1980	17
Girls Track	8-AA	Pre 1979	24
Boys Track	8-AA	Pre 1954	19
Wrestling	8-AA	2003	20
Softball	8-AA	1979	15
Baseball	8-AA	Pre 1954	13
Football	8-AA	1919	74
Girls Tennis	8-AA	Pre 1954	12
Boys Tennis	8-AA	Pre 1954	8
Girls Golf	8-AA	Pre 1954	9
Boys Golf	8-AA	?????	4
JV Baseball	8-AA		8
JV Girls Basketball	8-AA	Pre 1954	10
JV Boys Basketball	8-AA	Pre 1954	10

Figure 2.

Under part one of the test, OCR determines the number of participation opportunities afforded to male and female athletes in the school's interscholastic athletic program. OCR compares the participation opportunities to the school's enrollment, by sex, to determine whether athletic opportunities are substantially proportionate to the enrollment.

During the 2013-2014 school year, there were 318 athletic opportunities at the School. The total number of female athletic opportunities at the School was 121, which was 39%. The total number of male athletic opportunities at the School was 197, which was 61%. During the 2013-2014 school year, the athletic participation was not substantially proportionate to the enrollment. Therefore, OCR found that the District had not effectively accommodated the interests and abilities of female athletes based upon the first prong of the three-part test and examined whether there is a showing by the institution of a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex.

With regard to part two, OCR assesses whether the School's past actions have expanded participation opportunities for the underrepresented sex in a manner that was demonstrably responsive to their developing interests and abilities. OCR considers evidence such as the school's record of adding or upgrading teams to interscholastic status, increasing the number of interscholastic athletic participants, and responding affirmatively to requests by students or others for addition or elevation of sports. Further, OCR considers evidence of a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex by examining the school'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. OCR also considers the school's current implementation of a plan of program expansion that is responsive to students' developing interests and abilities.

The School last added a sport for the underrepresented sex in 2012 when girls' soccer was added. The Athletic Director informed OCR that there was no written policy concerning criteria for adding a sport to the athletics program. Generally, if there is an interest expressed by parents or students, the District will think about adding a sport. Prior to 2010, parents expressed an interest in adding soccer, since many students in the District played it as a recreational sport. The District started a coed soccer team during the 2010-2011 school year and created separate boys and girls teams the following year. Based on the information provided it was determined that the District had added one female sport in the last 30 years. OCR found that the District had not shown a history and continuing practice of program expansion which has been demonstrably responsive to the developing interests and abilities of the underrepresented sex.

Under part three of the test, the school may demonstrate that, despite disproportionate participation rates and the lack of a history and continuing practice of program expansion for the underrepresented sex, the interests and abilities of the underrepresented sex are, nevertheless, being fully and effectively accommodated by the current athletics program. In making this determination, OCR considers whether there is (a) unmet interest in a particular sport; (b) sufficient ability to sustain a team in the sport; and (c) a reasonable expectation of competition for the team in the school's normal competitive region. If all three conditions are present, then OCR will find that the school has not fully and effectively accommodated the interests and abilities of the underrepresented sex. OCR evaluates a broad range of indicators including whether a school uses nondiscriminatory methods of assessment when determining the athletic interests and abilities of its students; whether a viable team for the underrepresented sex recently was eliminated; multiple indicators of interest; multiple indicators of ability; and the frequency of conducting assessments. If the school has recently eliminated a viable team from the interscholastic program, then OCR will find that there is sufficient interest, ability, and available competition to sustain an interscholastic team in that sport unless there is strong evidence that interest, ability, or available competition no longer exists.

The District informed OCR that it had not conducted surveys of its students, parents, and other districts<sup>1</sup> to determine athletic interest. The Athletic Director stated that a survey has not been conducted since he has been at the School (2010). The majority of the coaches interviewed stated

---

<sup>1</sup> Other districts are surveyed to determine competitive potential.

they believed that the interests and abilities of female students were being effectively accommodated by the sports currently provided. The District did not conduct a survey of their region and the surrounding geographic area in order to assess the potential for competition.

During the interview with the Athletic Director, he stated that when he first arrived at the School 2010, a number of parents approached him about offering soccer as a sport. The Athletic Director further stated that a number of students played soccer in the parks and recreational leagues and many of them were interested in pursuing the sport at the high school level. The Athletic Director stated that after speaking with parents and administrators from the local parks and recreation association, he decided to offer the sport at the School.

During the interviews with the various coaches and students, it was mentioned on multiple occasions (cross country and girls track coaches) that there was an interest in adding volleyball as a girls sport. The District has never eliminated a sport. OCR interviewed male and female athletes from every team concerning the District's accommodation of their athletic interests and abilities. Both male and female students stated that they were interested in adding volleyball, lacrosse, gymnastics and swimming. Based upon the above information, OCR determined that the District has not assessed whether the current program effectively accommodates the interests and abilities of the underrepresented sex and, therefore, OCR found there is sufficient evidence to establish that the District has failed to provide equal athletic opportunities for female athletes with regard to this component.

b. Travel and per diem allowance

The Complainant alleged that only football players receive pregame meals while female sports do not get meals before games.

The Policy Interpretation lists five factors to be assessed in determining compliance with regard to this component: (1) modes of transportation; (2) housing furnished during travel; (3) length of stay before and after competitive events; (4) per diem allowances; and (5) dining arrangements.

*Modes of Transportation*

OCR first looked at the mode of transportation to competitive events. The District did not provide a detailed travel budget for travel. All of the coaches interviewed by OCR stated that they did not have a travel budget. The coaches reported that they ride school buses to their away athletic events. Each coach is responsible for providing the transportation department with a copy of their athletic schedule, in order to reserve a school bus to transport their teams. The coaches further stated they are all required to drive their teams' school bus to competitive events. The girls track coach stated that when she took athletes to the state championship, she drove the District's car and was reimbursed for gas.

*Dining arrangements*

With respect to pregame meals only football was provided with a pregame meal. The football coach stated that local churches provide the football team with a pregame meal. The meal

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

generally consists of whatever the church chooses to provide. The football team leaves the School on Friday around 3:30 in order to head over to the church for pre-game meals. No other sport reported having a pregame meal. The Tennis Coach and boys' Soccer Coach stated that on occasion, parents make sandwiches for the team before matches that are far away, but did not state that there was a dedicated pregame meal before every match.

The District response to the OCR data request, states "All sports teams that travel on an away game are given a bottle of water and a snickers bar provided by the athletic booster club. If the event involves more than two hours of travel, the School cafeteria will provide an additional sandwich." The District's policy further stated that if a team made the state playoffs, they received five dollars as a meal allowance. If the team wins the region championship, then the booster club provides funds for a meal at a restaurant of the coaches' choice.

#### *Housing, per diem, and dining arrangements furnished during travel*

OCR also interviewed coaches on housing furnished during away travel. Of all the coaches interviewed only the girls track coach, boys and girls cross country coach, and girls basketball coach stated they had taken overnight trips during the 2013-2014 school year. The baseball coach took his last overnight trip 8 years ago. Of the other coaches interviewed, none had overnight trips during their time coaching the various teams.

The girls track coach informed OCR that during the regular season there are no overnights trips for track season. The only time members of the girls track team needed to be housed overnight is during the state championship track meet in Albany Georgia. The girls track coach took two students to the state championship track meet during the 2013-2014 school year. During the trip, the District paid for a hotel room for the two students, and the girls track coach was provided with a room as well. The two members of the girls track team spent one night in a hotel and returned the following day. The girls track coach stated that during the state championship, each athlete was given five dollars per meal. This statement was further substantiated by a student interview with a female track athlete. The boys track coach stated to OCR that he did not take any athletes to the boys' track and field state championship held in Jefferson, Georgia. The boys coach stated that if he were to take athletes for overnight trips, it was his understanding that their hotel rooms would be provided by the athletic department, and his athletes would receive five dollars per meal.

The girls' basketball coach stated that during the regular season her team does not have any overnight trips. The girls' basketball coach further stated that when her team goes to basketball camp in the summer, they have to fundraise, to pay for expenses. During summer basketball camp, the girls' basketball team is not allotted a per diem for meals because meals are included in the cost of the basketball camp. The girls stay in the Holiday Inn Express and they sleep 4 to a room. Members of the girls' basketball team were able to corroborate the information provided by the girls basketball coach regarding travel and per diem. The boys' basketball coach stated that he has not taken his team on overnight trips or to off season basketball camps. The boys basketball coach stated that he believes if his team was going to travel overnight, the per diem would be 5 dollars per meal.

The boys and girls cross country coach stated that when her team qualifies for the state championship meet in Carrolton Georgia they sleep 4 to a room.

The cross country coach further stated that each athlete receives five dollars per meal. The coach generally tries to find a hotel that has free breakfast in order to save money.

The baseball coach stated that the last time his team had an overnight trip was in 2006. The baseball coach stated he believed the players stayed four to a room. He further stated that athletes received 5 dollars per meal for playoff games. The softball coach stated that the team had never stayed overnight. None of the athletes on these teams have taken overnight trips so they were unable to provide additional information.

#### *Length of stay before and after events*

All of the coaches interviewed stated that the team generally arrives 30 minutes to 2 hours before their competitive event in order for the athletes to warm up. The football team generally arrived two hours before their games. The football coach stated that team arrived two hours in advance of competitive events because players needed time to put on pads, jerseys and helmets. Football players also needed times for taping which is done by athletic managers prior to warm up. Both boys and girls basketball arrived a minimum of one hour before their games began. The boys and girls basketball coaches stated they play on the same nights so both teams are present at the gym an hour before the girls games start. The baseball and softball team generally arrives 30 minutes before their competitive event. All other teams arrive about an hour before their event was scheduled to begin. Every team leaves immediately after the event has ended except for boys and girls basketball, and boys and girls soccer. Since both sets of teams ride the same bus to away games, the girls must stay and watch the boys once their competition has concluded

In regards to travel and per diem allowances, OCR found that all teams that participate in overnight trips are provided with hotel rooms. Both male and female athletes sleep four students to a room. Every coach interviewed stated that for overnight trips, athletes are given five dollars per meal. OCR concluded that there were no disparities involving travel per diem and overnight stay arrangements for the athletic teams. OCR did identify disparities in the component of travel and per diem. In particular, the football team is provided with pre-game meals before their competitive events while no other sport receives meals prior to competitive events. While other teams did on occasion receive meals prepared by parents of the athletes, football was the only sport with a dedicated pre-game meal, before competitive events.

#### c. Assignment and compensation of coaches

The Complainant alleged that the coaches of the football team were paid more than coaches of female teams. In accordance with the Policy Interpretation, OCR considers whether the compensation policies or practices of an institution deny male and female athletes coaching of equivalent quality, nature, or availability. Nondiscriminatory factors can affect the compensation of coaches. In determining whether differences are caused by permissible factors, the range and nature of duties, the experience of individual coaches, the number of participants for particular

sports, the number of assistant coaches supervised, and the level of competition will be considered.

Where these or similar factors represent valid differences in skill, effort, responsibility or working conditions they may, in specific circumstances, justify differences in compensation. Similarly, there may be unique situations in which a particular person may possess such an outstanding record of achievement as to justify an abnormally high salary.

OCR reviewed a list of all coaching supplements provided to each coach. The head football coach/athletic director received the largest coaching supplement. When discussing why football coaches received the largest supplement, the Athletic Director cited the fact that they have the longest season, conduct the most practices, and generally require many more additional hours than the other coaches. The head boys' basketball coach is paid the same supplement as the head girls' basketball coach. The assistant coaches for both boys and girls basketball were paid the same coaching supplement. The head boys' soccer coach is paid the same supplement as the head girls' soccer coach. The boys and girls track coaches were paid the same supplement and conducted joint practices. The baseball and softball teams were coached by the same person and he received the same supplement for both sports.<sup>2</sup> Boys and girls cross country are coached by the same person and she receives one supplement.<sup>3</sup> Boys and girls tennis are coached by a head and assistant coach, and they received one supplement for coaching both teams.<sup>4</sup> Boys and girls golf are coached by one person and he is paid one supplement for both teams.<sup>5</sup> A review of the coaching supplements also indicated that female coaches were not paid less than male coaches for comparable sports. The boys' basketball coach, who is male, is paid the same amount as the girls' basketball coach who is female. Also the boys' soccer coach, who is male, is paid the same amount as the girls' soccer coach who is female. During interviews each coach was able to verify their coaching supplement amount. Each coach also provided both their academic and athletic credentials. All of the coaches had at least obtained a bachelor's degree. Only the boys and girls cross country coach, baseball/softball coach and the boys' basketball coach had experience playing their sport at the collegiate level. All other coaches had only participated in the sport at the high school level. Additionally, all coaches stated that they conducted their own practices and attended all games. All coaches stated that they did not receive any type of reduction in teaching load due to their coaching duties. Some coaches stated that they are given a coach's shirt for no charge. OCR also determined that in addition to football, baseball, softball, basketball, soccer, tennis and track (girls and boys) each have assistant coaches. All the assistant coaches receive a stipend and the stipends were comparable for boys and girls teams.

The Athletic Director stated that he does not set the coaching supplement amounts. All coaching supplements amounts are set by the Board of Education. The Athletic Director stated he believes the coaching supplements are set based on the length of season, number of athletes on the team

---

<sup>2</sup> Baseball and Softball are held during two separate seasons.

<sup>3</sup> Boys and girls cross country are held during the same season and athletes are coached during the same practices and competitive events.

<sup>4</sup> Boys and girls tennis is held during the same season and athletes are coached during the same practices and competitive events

<sup>5</sup> Boys and girls golf is held during the same season

and the amount of overall time spent at practice. After the coaching supplements are set by the Board of Education, then the Athletic Director and the Superintendent review the list.

When comparing boys and girls sports, OCR found that there was no disparity in coaching supplements. Coaches of boys and girls teams were paid the same coaching supplements for comparable sports (basketball, track, and soccer). Football coaches were paid higher supplements, but this was due to larger teams, more practices, more hours spent, and longer seasons. OCR determined that there is no discrepancy in the pay for coaches of similar male and female teams. Football coaching stipends were higher based on the size of the team, length of the season and practices. There is no female sport comparable to football. Coaches who coached comparable sports were paid the same amount, regardless of coaching experience or past participation in the sport. Additionally, OCR determined that boys and girls teams have assistant coaches and the supplements are comparable for boys and girls teams. The evidence also showed that coaches are available for both practices and games.

OCR found no significant disparities regarding the opportunity to receive coaching and compensation for boys and girls teams. OCR found no evidence to support the complainant's assertion that coaches of female teams were paid lower stipends than the coaches of similar male teams. The data provided by the District and verified by all the coaches, shows that there was no discrepancy in the coaching supplements across sports. With regard to football the District provided nondiscriminatory reasons for the coaches' higher stipends, namely the size of the team and the length of the season and practices.

d. Provision of locker rooms, practice, and competitive facilities

The Complainant alleged that the field house (containing the weight room) is not equipped with a girls' locker room.

In determining whether there is equivalence in this program area, OCR examined the quality, availability, and exclusivity of use of facilities provided for practice and competitive events, the maintenance and preparation of facilities for practice and competitive events, and the availability, quality, and exclusivity of locker rooms.

OCR reviewed all of the athletic facilities. The main athletic field on campus is used for football and boys and girls soccer practices. The main field on campus contains two 100 yard x 55yard fields adjacent to each other. Both soccer teams and the football team use Tiger stadium (downtown) for their competitive matches. Soccer season is in the spring and football is in the fall so the teams have exclusive use of the field during their respective season. The football team has a locker room in the field house that they use exclusively. No other team uses the facility to dress before practices. Both the boys and girls soccer teams dress in the gym locker rooms. Neither team has exclusive use of the gym locker room nor are any athletes assigned lockers. Both the football players and the soccer players have access to the weight room if they want to use it.

The school does not have a track facility so the boys and girls track teams practice at the Wilkes County Parks and Recreation Center (Center). The Center has a small concrete track that is used

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

by both teams for practice. There is no track on campus and the Center's track is not suitable for track meets so the teams do not host home meets. The athletes on both track teams dress out in the Center's bathrooms. Both the boys and girls track teams have access to the weight room if they need to use it. All coaches have access to the weight room and would only need to schedule a time for their teams to lift weights.

The boys and girls basketball teams both practice and compete in the High School gymnasium. Both teams use the gym locker rooms for practice and games. The basketball players are not assigned individual lockers. Every member of both basketball teams has the opportunity to use the weight room. Both boys and girls basketball, change in the gymnasium locker room which is also used by the P.E students.

The softball and baseball teams both have their own fields for practice and competitive games. The teams also share a batting cage. There is no issue with scheduling use of the batting cage because the teams participate in different seasons. The softball and baseball fields are adjacent to each other. Both teams have access to a scoreboard. The softball and baseball team members change in the gym locker room before practices and competitive games. There is no changing room adjacent to either the baseball or softball field. Both the baseball and softball field had equal seating for spectators. There was no press box for either field.

The boys and girls cross country teams compete and practice on a course which circles the School campus. The boys and girls cross country team both change in either the gym locker room or the School restrooms before practice.

The tennis courts were in good condition. All athletes on the tennis team dress out in the gymnasium locker room and then walk to tennis practice The same facilities are used for practice and for games.

The wrestling team practices and competes at the old elementary school which is located just under 2 miles from the school. In the old gym, there is a small locker room for them to change with lockers but there are no doors on the lockers.

The golf team practices and competes at the Washington Wilkes Country Club. Athletes for both the girls and boys teams dress out at school or at the country club.

Team	Facility	Age of Facility	Amenities	Team Weight Room Access
Girls Basketball	HS/MS Gymnasium	2009	Locker, showers, restrooms, water fountains, concessions	Yes
Boys Basketball	HS/MS Gymnasium	2009	Locker, showers, restrooms, water fountains, concessions	Yes
Football	Field House	2010	Locker, showers,	Yes

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

Team	Facility	Age of Facility	Amenities	Team Weight Room Access
			restrooms, water fountains, concessions	
Softball	Behind the HS adjacent to the Softball field	2011	Field, Dugouts, Seating, Batting Cage (use gym locker room)	Yes
Baseball	Behind the HS adjacent to the Softball field	2011	Field, Dugouts, Seating, Batting Cage (use gym locker room)	Yes
Tennis	Behind the HS adjacent to the Softball field	2011	Court seating, use gym locker room	Yes
Golf	Washington Wilkes Country Club	1930	Restrooms and snack bar	Yes
Cross Country	Designate trail laid out through the HS campus	2009	Locker, showers, restrooms, water fountains, concessions	Yes
Soccer (Coed)	<p><b>Practice:</b> Athletic Field located below Field House on HS/MS campus</p> <p><b>Games:</b> Tiger football stadium across from HS/MS</p>	<p>2009</p> <p>1990</p>	<p><b>Practice:</b> Locker, showers, restrooms, water fountains, concessions</p> <p><b>Games:</b> Field House Locker, showers, restrooms, water fountains, concessions</p>	Yes <sup>6</sup>
Wrestling	ES gymnasium	1958	Locker, showers, restrooms, water fountains, concessions, seating mats,	Yes
Track	Washington Wilkes Parks and Recreation Department	1980	Restrooms, water fountains, seating.	Yes

<sup>6</sup> During the 2012-2013 school year, soccer was split from coed to a separate boys and girls team.

OCR reviewed all the facilities including practice and competitive fields and locker rooms and they were in good condition. The various fields around campus are maintained by the facilities staff or by the coaches. Coaches are responsible for preparing their fields for practices and competitive events.

OCR interviewed the coaches from all sports at the School. All coaches interviewed stated that their players had access to changing facilities, but only the football players had a locker room completely dedicated to their sport.

OCR did find disparities in the locker room facilities. The football team was the only sport team with individually assigned lockers. Aside from football no other team was given a changing area that they used exclusively during their season. As a result female athletes are not provided with the same benefits as male athletes in regards to locker room facilities.

## Conclusion

Based on the above findings OCR determines that there are disparities in the District's provision of sports and levels of competition to effectively accommodate the interests and abilities for female athletes, locker rooms, and travel and meals that result in the denial of equal athletic opportunities to females; the District is in violation of Title IX with regard to these allegations of the complaint. The football team is the only team that receives a dedicated pregame meal, while no female sports get food provided to them before games. The football is the only team with a designated changing area while no female sport has exclusive use of their locker room. Lastly, the District has not conducted a survey to gauge the interests and abilities of female athletes. Therefore, based on the preponderance of the evidence OCR has determined that the District is not in compliance with Title IX with respect to the complaint allegations. In order to resolve this compliance concern, the District voluntarily agreed to take corrective actions outlined in the enclosed Resolution Agreement (Agreement). OCR will monitor the implementation of the Agreement until the recipient is in compliance with the statute(s) and regulations at issue in this case.

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.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent possible, any personally identifiable information, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

because one has made a complaint, or participated in any manner in an investigation in connection with a complaint.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions about this complaint, please contact Vicki Lewis, at 404-974-9332 or Arthur Manigault, Compliance Team Leader at 404-974-9376.

Sincerely,

Deborah Floyd  
Acting Regional Director

Enclosure