



**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS**

230 SOUTH DEARBORN ST., 37<sup>TH</sup> FLOOR  
CHICAGO, IL 60604

**REGION V**  
ILLINOIS  
INDIANA  
IOWA  
MINNESOTA  
NORTH DAKOTA  
WISCONSIN

September 11, 2019

Dr. Joe Zydowsky  
District Administrator  
School District of the Menomonie Area  
215 Pine Avenue NE  
Menomonie, WI 54751

OCR Case No. 05-17-1450

Dear Dr. Zydowsky:

On September 28, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed against the School District of the Menomonie Area (District). The complaint alleges the District discriminates against female students on the basis of sex in its interscholastic athletic program at Menomonie High School with respect to the scheduling of practice time and the provision of practice facilities. Specifically, the complaint alleges that on numerous occasions during the fall 2017 volleyball season, the girls' volleyball teams' scheduled practices in the Fieldhouse gymnasium were shortened to allow the boys' football team to conduct a pre-game walk through in the Fieldhouse, despite the football team having scheduled practice at a different facility, and practices for boys teams were not shortened.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex in any educational program or activity operated by a recipient of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to Title IX. Therefore, OCR has jurisdiction over this complaint.

During its investigation, OCR reviewed documents provided by the District, interviewed the complainant and District Athletic Director, conducted focus groups with District student-athletes, reviewed responses from District coaches to a survey administered by OCR, and inspected the District's athletic facilities, including its locker rooms, practice and competitive facilities. Prior to the conclusion of OCR's investigation, the District expressed interest in resolving the complaint in accordance with Section 302 of OCR's *Case Processing Manual (CPM)*. On September 3, 2019, the District signed the enclosed Resolution Agreement, which when fully implemented will resolve the issues raised in the complaint. A description of OCR's investigation to date follows.

## **Applicable Legal Standards**

The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), states that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity. In particular, a recipient may not subject any person to separate or different rules of behavior, sanctions, or other treatment on the basis of sex, or otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

In determining whether equal opportunities are available, pursuant to the Title IX regulations at 34 C.F.R. §106.41(c)(3) and (7), OCR considers the program components of scheduling of practice time and the provision of locker rooms, and practice and competitive facilities. In determining compliance with the regulation, OCR uses the Intercollegiate Athletics Policy Interpretation (Policy Interpretation) issued December 11, 1979, and found at 44 Fed. Reg. 71413 *et seq.*<sup>1</sup>

OCR evaluates compliance by comparing the availability, quality and kinds of benefits, opportunities and treatment afforded members of both sexes. An institution is in compliance if the compared program components are equivalent; that is, equal or equal in effect.

OCR examines each factor relating to the benefits, opportunities or treatment of male and female athletes in the applicable program component, and determines whether the same or similar benefits, opportunities or treatment were provided for all students; or if not, whether the differences had a negative effect on one sex that resulted in a disparity. When OCR identifies disparities between the boys and girls teams (e.g., if a boys team receives a superior benefit in some way), OCR considers whether the benefit provided to a team was offset by an unmatched benefit to any of the teams in the program of the opposite sex. In making this comparison, and before OCR concludes that a benefit to one team offsets a benefit provided to a team of the opposite sex, OCR considers whether the offsetting benefits were equivalent or equal in effect. OCR only finds the benefit offsetting if it has the same or a similar effect on the student athlete(s) or team within the program component.

If OCR finds no evidence of offsetting of disparities, OCR then considers whether the differences between the benefits provided to the boys and girls programs are negligible. Where the disparities are not negligible, OCR examines whether the disparities are the result of legitimate, nondiscriminatory factors. If OCR finds no legitimate, nondiscriminatory reasons for the disparities, OCR determines whether the identified disparities result in the denial of equal opportunity to male or female athletes, either because the disparities collectively are of a substantial and unjustified nature or because the disparities in the program component are substantial enough by themselves to deny equal athletic opportunity. The result of this comparison is not to ensure identical benefits, opportunities, or treatment, but rather to ensure that, overall, the athletics program provides equivalent benefits to males and females.

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<sup>1</sup> Available at <http://www2.ed.gov/about/offices/list/ocr/docs/t9interp.html>.

- Scheduling of games and practice times

The Policy Interpretation lists the following five factors to be assessed in determining whether a recipient provides equal opportunities in the area of scheduling of games and practice times: (1) number of competitive events per sport; (2) number and length of practice opportunities; (3) time of day competitive events are scheduled; (4) time of day practice opportunities are scheduled; and (5) opportunities to engage in available pre-season and post-season competition.

- Provision of locker rooms, practice and competitive facilities

The Policy Interpretation lists six factors to be assessed in determining whether a recipient provides equal opportunities in the provision of locker rooms, 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<sup>2</sup> 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.

### **Complaint Allegations**

The complaint alleges that on Fridays during fall 2016 and 2017, the District's JV-2 girls volleyball teams (comprised of freshman and sophomores) were required to shorten their scheduled practice time or relocate their scheduled practice location from the Fieldhouse to the Main Gym or weight room<sup>3</sup>, so the Varsity boys football team could conduct a "walk through"<sup>4</sup> practice in the Fieldhouse. The complaint alleges that the Varsity boys football team has a designated practice facility, which is not the Fieldhouse.

The District does not dispute the complaint allegation. The District confirmed that the Varsity boys football team began conducting "walk throughs" in the Fieldhouse on Friday afternoons during the 2016-17 school year.<sup>5</sup>

### **Factual Information**

The District has one high school, Menomonie High School. The District's high school athletes compete in Levels 1 and 2 of the Big River Conference in the Wisconsin Interscholastic Athletic Association (WIAA). The District offers 11 boys teams and 10 girls teams. During the 2016-17

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<sup>2</sup> Exclusive use of a facility refers to exclusive use at the time of a team's practice session or competition. Thus, exclusivity of use will be affected only if other teams, classes or other groups use the facility at the same time as the team's practices or competitions.

<sup>3</sup> When the JV-2 girls volleyball team relocated its practice from the Fieldhouse to the Main Gym, it shared the practice space with the Varsity/JV girls volleyball team, who had scheduled practice in the Main Gym. The complaint alleges the Main Gym is not large enough to accommodate all of the girls volleyball teams. During the fall 2018 season, the JV-2 girls volleyball team utilized the weight room for practices on some Fridays.

<sup>4</sup> The District's Athletic Director described a "walk through" as an opportunity for the team to run through all of the plays that may be used in the upcoming game.

<sup>5</sup> During the 2015-16 school year, the football team conducted these walk throughs in the cardio room. Prior to the 2015-16 school year, the football walk throughs occurred in the cafeteria, which no longer exists due to the construction of the Main Gym in 2015.

school year, there were 372 participants on boys athletics teams (54.9%) and 305 participants on girls athletics teams (45.1%).

**District Interscholastic Athletic Teams: 2016-17**

<b>Season</b>	<b>Boys teams</b>	<b>Girls teams</b>
<b>Fall</b>	Cross Country Soccer Football	Cross Country Golf Swimming/Diving Tennis Volleyball
<b>Winter</b>	Basketball Hockey Swimming/Diving Wrestling	Basketball Gymnastics
<b>Spring</b>	Baseball Golf Tennis Track	Soccer Track Softball

Scheduling of Games and Practice Times

*Number of competitive events per sport<sup>6</sup>*

According to data provided by the District, during the 2017-18 academic year, the following varsity sports teams were scheduled to compete in the maximum number of competitive events allowed by the WIAA: boys baseball, boys football, boys hockey, boys wrestling, girls softball, girls volleyball, boys and girls basketball, and boys and girls tennis.

The following teams were not scheduled to compete in the maximum number of competitive events allowed by the WIAA: boys and girls cross country, boys and girls soccer, boys and girls swimming/diving, boys and girls track and field, girls gymnastics, and girls golf.

The schedules provided by the District indicate that the District’s male interscholastic athletic participants appear to be afforded the opportunity to participate in the maximum number of competitive events allowed by the WIAA at a higher rate than female District participants. The data provided by the District is not complete. However, the data provided to date in the investigation indicates that approximately 70% of the District’s male participants and approximately 46% of the District’s female participants received this opportunity.

*Number and Length of Practice Opportunities*

Generally, all District high school interscholastic athletics teams have practices scheduled immediately after school during the weekdays in the team’s designated practice area, lasting for

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<sup>6</sup> The District did not provide the competition schedule for the boys golf team.

approximately two hours per day. The District informed OCR that coaches have discretion to shorten practice on any specific day.

The boys swimming and diving team reported that its regular practice time was occasionally shortened during their season, due to the facility being used to host middle school swimming meets. On Fridays during the fall 2016 and 2017 seasons, the JV-2 girls volleyball team had shortened practices, practiced in the Main Gym with the Varsity/JV girls volleyball teams, or used the weight room for strength training during the remainder of its allotted practice time.

*Time of day competitive events and practice opportunities are scheduled*

All District high school athletic teams have scheduled practices immediately after school during the weekdays. All teams indicated that they practiced at the most desirable time for their sport. On occasions when inclement weather causes teams that typically practice outdoors to move indoors, all teams share the indoor spaces for practices and lower level team practices may occur later in the evening, with priority being given to in-season varsity athletes.

No team expressed concern about the time of day in which its competitive events were scheduled. During the winter sports season, the boys and girls basketball teams shared the same facility for games and rotated their game start times.

*Opportunities to Engage in Available Pre-season and Post-season Competition*

According to the District, all District athletic teams are provided the opportunity to engage in post-season competition. No team competed in pre-season competitions. No student athlete or coach identified any athlete or team that had been denied the opportunity to participate in post-season competition for which they qualified.

Provision of Locker Rooms, Practice and Competitive Facilities

The Policy Interpretation lists six factors to be assessed in determining whether a recipient provides equal opportunities in the provision of locker rooms, 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.

*District Practice and Competitive Facilities*

The District utilizes District facilities (both on and off the high school campus) and leases/rents space off campus for its high school interscholastic athletic program. The on-campus facilities include the Main Gym, Fieldhouse, MHS Sports Complex, indoor pool, outdoor tennis courts, cross country course, wrestling room, softball field, baseball field, and three football fields (in addition to the MHS Sports Complex field). The high school interscholastic athletic program also utilizes soccer fields at the neighboring elementary school. The District rents or leases the following off-campus facilities: Tanglewood Greens Golf Course, Dunn County Ice Arena,

Wakanda Park softball and baseball fields, Exceptional Athletics Dance Studio, and the Don & Nona Football Stadium at University of Wisconsin – Stout. These facilities are discussed in detail below, with the teams identified that utilize each facility for practices, competitive events, or both.

- Main Gymnasium

The Main Gym was built in 2015. The Main Gym has new, wooden flooring and was designed specifically for volleyball and basketball, with markings for a regulation size basketball court and a regulation size volleyball court. The Main Gym has retractable basketball backboards/hoops and post-holes for volleyball nets. There are two large electronic scoreboards (one on each end of the gymnasium) and a PA system. The gymnasium is well-lit with bright overhead lights. Bleachers are located on both sides of the gymnasium for spectator seating.

During the fall sports season, the Main Gym is used for Varsity/JV girls volleyball practices and competitions. Varsity/JV girls volleyball players do not have exclusive use of the space for practices because the cheerleading team practices in the mezzanine at the same time. Additionally, the JV-2 girls volleyball team occasionally practices in the Main Gym on Fridays when the Varsity boys football team is using their designated practice space, so the Varsity/JV girls volleyball players do not have exclusive use of the space at that time. During the winter sports season, the Varsity boys and girls basketball teams practice and compete in the Main Gym. Girls gymnastics and boys wrestling also compete in the Main Gymnasium during the winter sports season. The boys and girls basketball teams do not have exclusive use of the Main Gym during their practices because they share the gym with each other. The Main Gym is always available to the basketball teams during their scheduled practices. All teams that use the Main Gym for competitive events have exclusive use of the facility during their competitions and it is always available to them during their scheduled competitive events.

- Fieldhouse

The Fieldhouse is approximately 35 years old. The floor of the fieldhouse is made of a texturized rubber material and is marked with a four-lane, 200m track, as well as boundaries for three regulation volleyball and four regulation basketball courts. There are eight retractable basketball backboards/hoops that appear older than those in the Main Gym. There are post-holes for three volleyball nets. Although the Fieldhouse has markings and equipment for basketball and volleyball, the Fieldhouse was not designed specifically for these sports. The fieldhouse has an old, small, electronic scoreboard and a PA system. There is limited spectator seating in the Fieldhouse.

The JV-2 girls volleyball teams practice and compete in the Fieldhouse during the fall sports season. The Varsity boys football team practices in the Fieldhouse on Fridays during fall. The JV-2 girls volleyball team has exclusive use of the Fieldhouse for their practices and competitions, but the facility is not always available because the team is displaced from practicing in the Fieldhouse on Fridays when the Varsity football team uses the Fieldhouse. During the winter sports season, the JV/JV-2 boys and girls basketball teams practice in the Fieldhouse and the JV-2 teams compete in the Fieldhouse. The boys and girls basketball teams

have exclusive use of the Fieldhouse for competitions; however, these teams do not have exclusive use of the facility during their practices because they share the Fieldhouse with the same level basketball team of the opposite sex. The Fieldhouse is always available to the basketball teams during their scheduled practices and competitions. During the spring sports season, the boys and girls track and field teams practice in the Fieldhouse when inclement weather prevents them from practicing outside.

- MHS Sports Complex

The MHS Sports Complex is an outdoor facility, located behind the school building. A new, regulation, 400m all-weather track encircles a grass field. The track has nine lanes with new, clear markings, and a straightaway for sprinting events. Infield events are held in a field outside the track area and include a long-jump pit and stations for discus and shotput. The infield inside the track is approximately 35 years old and includes football and soccer markings for regulation football and soccer fields. There are two field-goal posts at either end, as well as soccer goals. The field has a single electronic scoreboard. The facility does not have lights. There are two small banks of bleachers that could seat approximately fifty spectators. The facility additionally lacks amenities such as plumbed restrooms, concessions, and a PA system. The teams utilize portable toilets, portable bleachers and a portable PA system.

During the fall sports season, the Varsity football team practices on the infield. The JV, sophomore and freshmen football teams and the boys Varsity soccer team compete on the infield during the fall sports season. The MHS Sports Complex is not used by any teams during the winter sports season. During the spring sports season, the boys and girls track teams practice and compete on the track and field. The Varsity girls soccer team also competes on the field during the spring season. The boys and girls track teams have exclusive use of the MHS Sports Complex during spring competitions, except that they compete with the team of the opposite sex. They also have exclusive use of the facility for practice; however, their practices are shortened slightly when the girls soccer team hosts games at the MHS Sports Complex. The Varsity girls soccer team has exclusive use of the MHS Sports Complex during its competitions, but the facility is not always available. When the track and field teams host competitions, the Varsity girls soccer competitions move to their practice field at River Heights Elementary School (discussed in more detail below). This occurs two or three times per season.

- Indoor Pool

The indoor pool is approximately 35 years old. The pool has a swimming area and a diving area. There are two three-meter springboards in the diving area. In the swimming area, the pool has an eight lane, 25m “short-course” regulation pool. Each swimming lane has a starting block. A bank of non-retractable bleachers six rows high occupies one wall of the swimming area. The floor is made of tile that is older, but in good repair, and the lighting is good. Restrooms can be accessed in the pool locker rooms located adjacent to the pool.

The girls swimming and diving teams use the pool for practice and competition during the fall sports season. They reported having exclusive use of the pool during scheduled practices and competitions, and the pool is always available. The boys swimming and diving teams use the

pool for practice and competition during the winter sports season. The boys swimming and diving team has exclusive use of the pool for competitions but reporting sharing the pool with the middle school swim team for practices. Additionally, boys swimming and diving team reported that the pool is not available for practice when the middle school hosts swim meets. On those dates, the boys swimming and diving team practice is shortened.

- Outdoor Tennis Courts

The high school has ten outdoor regulation-sized tennis courts on campus. The tennis courts are three years old. The court surfaces are in good condition, with no visible cracks or other marks of disrepair. The tennis courts have no lights, bleachers, scoreboards, or PA system. Players and spectators use portable toilets or access restrooms in the school building. A small gazebo near the courts holds some picnic-style seating. Spectators sit in the gazebo or bring lawn chairs to watch competitions from the grassy area surrounding the courts.

During the fall sports season, the girls tennis team practices and competes on the tennis courts. During the spring sports season, the boys tennis team practices and competes on the tennis courts. These teams have exclusive use of the courts for their practices and competitions, and the courts are always available during scheduled practices and competitions.

- Cross Country Course

The cross-country course includes an approximately 3-mile path running through a forested area and encircling the campus. It does not include any amenities.

The boys and girls cross-country teams practice and compete on the cross country course during the fall. These teams generally have exclusive use of their cross-country course during practices and competitions, with the exception of sharing the course with the team of the opposite sex.

- Wrestling room

The wrestling room is approximately three years old and located next to the boys athletics locker room and weight room. The majority of the floor space is taken up by lined wrestling mats, with appropriate markings for wrestling. The walls are padded.

The boys wrestling team uses the wrestling room for practice during the winter sports season. The team has exclusive use of this room and the space is always available during their scheduled practices.

- Baseball practice field

The baseball practice field is located on campus, down a hill from the main campus, and is over 40 years old. The baseball practice field has an all-brick-dust infield with intermittent grass. It is not a regulation field, the outfield is bumpy and uneven, and the fencing surrounding the field is rusted and has collapsed in multiple sections.

The boys baseball team practices at the baseball practice field during the spring. The team has exclusive use of the field and it is always available.

- Softball practice field

The softball practice field is located on campus, down a hill from the Fieldhouse. It is located further away from the school buildings than any other athletics facility and is over 40 years old. The softball practice field has an all-brick dust infield and grass outfield. Although the infield is regulation sized, the outfield has no terminal point. The softball practice field has no dugouts or fencing aside from backstop fencing.

The girls softball team practices at the softball practice field during the spring. The team has exclusive use of the field and it is always available.

- JV/sophomore/freshman football practice fields

The JV/sophomore/freshman practice football fields are approximately 45 years old. They are located outside, on campus, farther from the school than the Varsity practice field at the MHS Sports Complex. The fields have regulation-sized football fields with football markings and are designed specifically for football. There are field-goal posts and electronic score boards at the fields.

The JV, sophomore and freshman football teams practice on these practice fields during fall. The teams have exclusive use of their fields for practices and the fields are always available.

- Football Stadium at University of Wisconsin – Stout (off campus)

The Don & Nona Football Stadium at University of Wisconsin – Stout (UW-Stout Football Stadium) is located off campus, approximately a three-minute drive from the District high school. The stadium opened in 2001. The District leases the facility for use by its football teams. The UW-Stout Football Stadium is maintained by the University.

The UW-Stout Football Stadium is a large, state-of-the-art football stadium. It includes a regulation-sized football field with stadium-style seating in the grandstand. The seating area includes both individual seats and bleachers on one side of the field. The infield is made of synthetic turf. The field has football markings (end zones, 50-yard-line, yardage markers) of a professional quality. The stadium has a PA system and a large electronic scoreboard at one end of the field. The grandstand includes a press box, concessions, and indoor plumbed restrooms. The field has bright overhead lighting to accommodate evening competitions.

The Varsity football team competes at the UW-Stout Football Stadium during the fall sports season, and practices at the facility two or three times per season. The JV and sophomore football teams competed at the UW-Stout Football Stadium twice each during the 2017 season. The teams have exclusive use of the facility for their competitions and practices that are held at the facility, and the venue is always available during the scheduled practices and competitions.

- Wakanda Park Baseball Field (off campus)

The Wakanda Park baseball fields are located off campus at a public park in the town of Menomonie, located approximately three miles, or a ten-minute drive, from the high school. The Wakanda Park baseball fields are owned and maintained by the town of Menomonie. The District pays an upkeep fee to the city for use of one baseball field in the park.

The outdoor baseball field at Wakanda Park used by the District is regulation sized and designed specifically for baseball. The infield is made of brick dust and grass. The outfield is grass with a brick-dust warning track. The Wakanda Park baseball field has lights, an electronic scoreboard, hurricane fencing with yellow protective fence-tops, enclosed wooden dugouts, and a concrete press box/concession stand with a PA system. There is one section of bleachers with ten rows of seating at the field used by the District. The Wakanda Park baseball field has indoor, plumbed restrooms.

During the spring sports season, the boys baseball team competes at the Wakanda Park Baseball Field. The team has exclusive use of the baseball field during competitions and it is always available during scheduled games. However, because it is a field at a public park and used by others when not being used by the District, it can be difficult to reschedule games.

- Wakanda Park Softball Field (off campus)

The Wakanda Park softball fields are located off campus at a public park in the town of Menomonie, located approximately three miles, or a ten-minute drive, from the high school.<sup>7</sup> Similar to the Wakanda Park baseball fields, the Wakanda Park softball fields are owned and maintained by the town of Menomonie, and the District pays an upkeep fee to the city for use of one softball field, which is adjacent to the baseball field used by the District. The softball field used by the District was renovated and the Spring 2019 season was the first season in which the softball team competed on it.<sup>8</sup>

The District uses one regulation-sized outdoor softball field at Wakanda Park. The infield is made of brick dust and the outfield is grass with a brick-dust warning track. The field is enclosed by hurricane fencing with yellow protective fence-tops. The Wakanda Park softball field has lights, an electronic scoreboard, enclosed wooden dugouts, bleacher seating, and a wooden press box/concession stand with a PA system. The Wakanda Park softball field has portable toilets.

The girls softball team competes at the Wakanda Park Softball Field during the spring. They have exclusive use of the softball field during competitions and it is always available during scheduled games. The softball field was not available for the softball team to use during the 2018 sports season because it was being renovated. Because it is a field at a public park and used by others when not being used by the District, it can be difficult to reschedule games.

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<sup>7</sup> The girls softball coach noted that traveling off-campus for competitions was problematic for her players because the District does not provide transportation to the facility. Instead, players have to drive and not enough players on the team drive to accommodate all the non-drivers. Payment for bus transportation is taken out of the team's budget.

<sup>8</sup> The field normally used by the District was being renovated during the spring 2018 season. During that season, the girls softball team utilized a different field in Wakanda Park.

- River Heights Elementary School Soccer fields (off campus)

The River Heights Elementary School, which is adjacent to the high school campus, has two outdoor soccer fields that are used by the District. The fields are approximately 45 years old, regulation size, and comparable to one another. Both are appropriately marked and designed specifically for soccer, with goals on each end, which appear fairly old. There are large muddy patches in the field. There are no bleachers, lights, benches, or scoreboards, and there is no PA system or concession stand. The fields have portable toilets.

During the fall sports season, the Varsity boys soccer team practices and the JV boys soccer team practices and competes at the River Heights Elementary School soccer fields. During the spring sports season, the Varsity girls soccer team practices and occasionally competes, and the JV girls soccer team practices and competes at the River Heights Elementary School soccer fields. These teams have exclusive use of their respective field during practices and competitions and the facility is always available during scheduled practices and competitions.

- Exceptional Athletics Dance Studio (off campus)

The Exceptional Athletics Dance studio is a private studio located 6.4 miles from the high school, approximately a fifteen-minute drive. It is approximately 10 years old. Athletes are responsible for their own transportation to and from the dance studio. The facility has men's and women's restrooms, but no locker room.

During the winter sports season, the girls gymnastics team practices at the Exceptional Athletics Dance studio. The dance studio is always available to the girls gymnastics team at the scheduled time. They generally have exclusive use of the facility, with the exception of part of their Monday practices when they share the facility with a youth gymnastics class.

- Tanglewood Greens Golf Course (off campus)

Tanglewood Greens Golf Course is a public golf course located approximately 2.5 miles from the high school, approximately a ten-minute drive. The girls golf team practices and competes at Tanglewood during the fall sports season, and the boys golf team during the spring sports season.<sup>9</sup> The golf course is only available to the players when booked by the team, and neither team has exclusive use of the course during practice because it is a public course. The boys and girls golf teams have exclusive use of the golf course during competitions.

- Dunn County Fairgrounds Ice Arena (off campus)

The Dunn County Fairgrounds Ice Arena is located approximately 2.5 miles from the high school, approximately an eight-minute drive. The boys ice hockey team practices and competes at the Ice Arena during the winter sports season.

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<sup>9</sup> The JV boys golf team reported also practicing at Pinewood Golf Course when the Tanglewood Course is crowded.

### *Locker Rooms*

The boys and girls “athletics locker rooms” are located approximately 40 feet down a hallway off the Main Gym. They are located on opposite sides of the hallway. The locker rooms are identical with the exception of the following differences: the girls locker room has four restroom stalls whereas the boys locker room has two stalls and two urinals; the girls locker room has four sinks whereas the boys has three; the girls locker room has two hair dryers while the boys locker room has none; and the girls locker room has a large mirror near the hair dryers that the boys locker room does not have.

Both locker rooms have 131 lockers made of red-metal latticework. The upper portion of the lockers is open and unenclosed, while the bottom portion can be locked with a padlock. Several locker banks contain lockers that are larger in size than others in both locker rooms. Both locker rooms have twelve showers partitioned by individual shower stalls with curtains. Both locker rooms have one hand dryer near the sinks. The locker rooms each have one drinking fountain and one white dry-erase board. There are no benches in the locker rooms. Instead, there is a sitting area at each locker that divides the locker’s upper and lower portions. Both locker rooms also have an office of the same size and quality, with a glass window. The quality of the lighting, fixtures, and materials in both locker rooms is the same.

In addition to the athletics locker rooms, just off the main entrance to the pool are boys and girls pool locker rooms. The boys and girls pool locker rooms were identical to each other, but older and of lower quality than the athletics locker rooms.

The boys and girls athletics locker rooms are used by all athletes, except the boys and girls swimming/diving team, who use the pool locker rooms. The athletics locker rooms are used exclusively by District athletes.<sup>10</sup> With the exception of the swimming/diving team, each athlete is assigned a locker in the locker room during the competitive season, and the locker rooms are always available to the athletes during their season.<sup>11</sup> The boys and girls swimming/diving athletes use the pool locker room, but do not have specific assigned lockers.

The boys and girls athletics and pool locker rooms are similarly maintained by the high school custodial staff.

### *Preparation of facilities*

The girls gymnastics team is responsible for setting up and taking down equipment before and after competitions, which are held in the Main Gym. The boys wrestlers set up mats in the Main Gym for their competitions. The baseball players drag their competition field after games and place tarps over the infield. The girls softball team helps set up before practices and competitions by dragging the nets for batting and setting up practice tees. The boys and girls track and field athletes help set up for infield events and hurdles.

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<sup>10</sup> Visiting teams use the general “PE locker rooms.”

<sup>11</sup> Both the boys and girls golf team members told OCR although they could be assigned a locker, they are not assigned lockers in the locker room because they practice and compete off campus and do not generally use the locker room, except the girls use it to change.

## **Conclusion**

Based on the investigation to date, OCR has identified concerns with disparities in several factors under the components of scheduling of game and practice times and the provision of locker rooms, practice and competitive facilities, including: equal opportunities for male and female interscholastic athletes in the number of competitive events per sport and the length of practice opportunities, quality of the facilities provided for competitions, the availability of the facilities for competitions, and the exclusivity of use of facilities for practices.

In accordance with Section 302 of the CPM, a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. Prior to the conclusion of OCR's investigation, the District expressed interest in resolving the complaint under Section 302. OCR determined that a resolution agreement with the District is appropriate under the circumstances presented by this case. The enclosed Resolution Agreement, when fully implemented, will address all of the allegations investigated. The provisions of the Resolution Agreement are aligned with the allegations in the complaint and the information obtained during OCR's investigation to date, and are consistent with the applicable regulations. OCR will monitor the implementation of the Resolution Agreement.

The 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.

Please be advised that the District 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. The Complainant may 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. 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 privacy.

OCR would like to thank the District for its cooperation during this investigation. OCR looks forward to working with the District during the monitoring of the Resolution Agreement. If you have any questions or need assistance, please contact Melissa Katt at (312) 730-1617 or [Melissa.Katt@ed.gov](mailto:Melissa.Katt@ed.gov).

Sincerely,

Dawn R. Matthias  
Team Leader

Enclosure

CC: Steven Weld, esq.