



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

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CHICAGO, IL 60604

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IOWA
MINNESOTA
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September 16, 2021

Mr. Les L. Huddle
Superintendent
Lafayette School Corporation
Sent by email only to lhuddle@lsc.k12.in.us

Re: OCR Docket #05-21-1157

Dear Mr. Huddle:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its complaint resolution activities regarding the above-referenced complaint filed with OCR against Lafayette School Corporation (Corporation) alleging discrimination on the basis of sex.

Specifically, the complaint alleges that the Corporation is subjecting female athletes in the Corporation's high school interscholastic program to discrimination on the basis of sex by failing to provide them equal opportunity in the provision of locker rooms and practice and competitive facilities.

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. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the Corporation is subject to this law.

During its investigation, OCR reviewed information provided by the Complainant and the Corporation. Prior to OCR making a finding in the case, the Corporation agreed to the enclosed Resolution Agreement (Agreement) to resolve the allegation. The basis for OCR's determination that the Agreement is appropriate is set forth below.

Legal Standards

The Title IX regulation, at 34 C.F.R. § 106.41(a), states, "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, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis." The Title IX regulation, at 34 C.F.R. § 106.41(c), states, "A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes."

In determining whether equal opportunities are provided, pursuant to the Title IX regulations at 34 C.F.R. § 106.41(c)(7), OCR considers the program component of the provision of locker

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

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.*¹

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 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.

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 facilities² 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.

Facts

The Complainant identified disparities between the Corporation's baseball stadium and softball facility, in that the baseball stadium has 2600 seats with mostly high back chairs, luxury suites, a massive video board, synthetic playing surface nets to protect the fans, and extremely high

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

² 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.

quality locker rooms, while the softball team uses an old car wash building with a leaky roof as a hitting facility and locker room, the softball field has poor drainage, and the outfield irrigation system is broken. The Complainant also stated that the Corporation built a new practice facility for the baseball team in 2020, but the softball program has only one field.

The Corporation operates the following sports at its Jefferson High School (School): football, girls' soccer, boys' soccer, girls' cross country, boys' cross country, boys' tennis, girls' golf, volleyball, wrestling, girls' basketball, boys' basketball, girls' swimming, boys' swimming, gymnastics, baseball, softball, girls' track, boys' track, unified coed track, girls' tennis, and boys' golf.

Practice and Competitive Facilities

The Corporation utilizes on and off campus facilities for the School's interscholastic athletic program.

On-Campus Facilities

The School's football, cross country, and track teams utilize Scheumann Stadium for practices. The football, soccer, and track teams utilize the facility for home competitions.

The Crawley Center serves as the main gymnasium for the School. The volleyball and girls' basketball teams utilize the facility as a practice facility, and the volleyball and boys' and girls' basketball teams utilize the facility for home games.

The Denny Blind Gymnasium serves as the auxiliary gymnasium for the School. The boys' basketball team utilizes the facility as a practice facility and the wrestling team utilizes the facility for home meets.

The boys' and girls' swimming teams utilize the Aquatic Center for practices and home meets.

The junior varsity (JV) baseball team utilizes the on-campus baseball field as a practice facility in the spring. The facility has two batting cages. This facility is also used as a practice field in the fall by the football and boys' and girls' soccer teams.

Off-Campus Facilities

Loeb Stadium was completed in 2021 and is owned by the City of Lafayette. The facility is located 1.3 miles from the School. It is home to a collegiate summer baseball team in the Prospect League. The stadium has synthetic turf and has 2,600 seats. The Varsity baseball team uses the facility for practices and home games and the JV baseball team utilizes the facility for home games.³ The stadium contains two outdoor batting cages, two public restroom facilities and

³ The Corporation indicated that the girls' and boys' soccer teams will use the facility beginning in fall 2021 for practice and "some games." The Corporation also noted that the stadium was used in spring 2021 by two other high school teams and several youth baseball teams.

several family restrooms, field lights, an electronic scoreboard, dugouts, three suites, a large press box, and two concession stands.

The School's softball facility was built in 2008 and is located 2.2 miles from the School. The Varsity softball team utilizes the facility for practices and home games. The facility has a concession stand, bathrooms, field lights, a manual scoreboard, and a press box. The facility's seating capacity is approximately 500. The facility has three batting cages and bullpens outside both dugouts. The Corporation renovated the infield, at an approximate cost of \$40,000, in 2020 to improve the surface of play and drainage.

The Battle Ground Golf Course, a privately-owned course, is located 11.6 miles from the School. The boys' and girls' golf teams utilize the course for practices and home tournaments.

The School's tennis courts are located 0.1 miles from the School. The boys' and girls' tennis teams utilize the facility for practices and home meets.

The Linwood Elementary gym is located 2.8 miles from the School. The facility is utilized by the gymnastics team for practices and home meets.

Miami Elementary School is located 1.4 miles from the School. The soccer teams utilize the facility as a practice site.

Locker Rooms

The Varsity baseball team utilizes the home locker room at Loeb Stadium, which was built in 2021. According to the Corporation, the team has exclusive access to the locker room during the season. The locker room is approximately 576 sq. ft. and is used by 20 members of the team. There are also restrooms in the locker room area.

The JV baseball team utilizes the visitor locker room at Scheumann Stadium, built in 2018. According to the Corporation, the team has non-exclusive access to the locker room, but the Corporation did not indicate who else uses this locker room.

The Varsity softball locker room is located across the street from the softball field and was built circa 1980. According to the Corporation, the softball team has exclusive use of the locker room. The locker room is located in a renovated car wash that was purchased by the Corporation. The Corporation informed OCR that the building's roof was replaced in 2016 to address issues with leaks, but no other major renovations were made to the building. The locker room is approximately 238 sq. ft. and is used by 17 team members. There are also restrooms in the locker room area.

The football team locker room is located in Scheumann Stadium. According to the Corporation, the team has non-exclusive access to the locker room. However, information provided by the Corporation did not identify any other teams that use the same locker room during the team's season.

The girls' basketball and volleyball team locker room is located at the Crawley Center and was updated in 2018. According to the Corporation, the teams have non-exclusive access, but information provided by the Corporation did not identify any other teams that use the same locker room during each team's season. The boys' basketball team also uses a locker room located at the Crawley Center that was updated in 2018. According to the Corporation, the boys have exclusive access to their locker room all year.

The girls' soccer team locker room is located at Miami Elementary School. According to the Corporation, the girls' soccer team has exclusive access to the locker room. According to the Corporation, the boys' soccer team does not have a locker room. The Corporation stated that both the boys' and girls' soccer teams use locker rooms at Scheumann Stadium on game days.

The locker rooms for the girls' and boys' swimming teams are located in the Aquatic Center. According to the Corporation, the locker rooms are identical and both teams have exclusive access to their locker rooms.

The locker room for the cross country and wrestling teams is located at the Crawley Center. According to the Corporation, the teams have non-exclusive access, but information provided by the Corporation did not identify any other teams that use the same locker room during each team's season. The locker room for the girls' cross country team is the girls' physical education locker room located at the Crawley Center. According to the Corporation, the girls' cross country team has non-exclusive access to this locker room.

The gymnastics team locker room is located at Linwood Elementary School. According to the Corporation, the team has exclusive access to the locker room.

The locker rooms for the girls' and boys' and co-ed track teams are located in Scheumann Stadium. The girls' locker room was built in 2004 and the boys' locker room was built in 2018. According to the Corporation, the boys have non-exclusive access to their locker room. However, information provided by the Corporation did not identify any other teams that use the same locker room during the team's season. According to the Corporation, the girls' track team shares the locker room with the girls' soccer team, which plays in the fall season and uses the locker room only on game days. Information provided by the Corporation did not identify any other teams that use the same locker room during the team's season.

According to the Corporation, the co-ed track team does not have a locker room.

According to the Corporation, the girls' and boys' golf and tennis teams do not have locker rooms.

Analysis and Conclusion

In accordance with Section 302 of OCR's *Case Processing Manual*, 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 Corporation expressed interest in resolving the complaint.

While OCR has not yet conducted interviews with coaches and athletes or visited the Corporation to assess the quality of the locker rooms and practice and competitive facilities or the maintenance and preparation of the practice and competitive facilities, OCR has identified concerns, particularly the apparent disparity between the state-of-the-art baseball field with amenities that are superior to those at the softball field. OCR determined that a resolution agreement with the Corporation is appropriate under the circumstances presented by this case.

The enclosed Agreement, when fully implemented, will address all of the issues investigated. The provisions of the Agreement are aligned with the allegation 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 Agreement.

This concludes OCR's resolution activities regarding the complaint and should not be interpreted to address the Corporation's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 Corporation 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 individual 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 privacy.

The Complainant may file a private suit in Federal court, whether or not OCR finds a violation.

OCR would like to thank the Corporation for the cooperation and courtesy extended to OCR during our investigation. If you have any questions regarding this matter, please contact Charles Bryans, OCR Attorney, at 312-730-1623 or by email at Charles.Bryans@ed.gov.

Sincerely,

Jeffrey Turnbull
Team Leader

Enclosure