



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620  
DALLAS, TX 75201-6810

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

September 11, 2014

Ref: 06111239

Dr. Adam Pugh, Superintendent  
Lafayette County School District  
100 Commodore Drive  
Oxford, MS 38655

Dear Dr. Pugh:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the complaint against the Lafayette County School District (LCSD), Oxford, Mississippi, which OCR received on March 8, 2011. The Complainant alleged that LCSD discriminates against participants in the girls' athletics program at Lafayette High School (LHS) and Lafayette Middle School (LMS) on the basis of sex. Specifically, the Complainant alleged that LCSD discriminates on the basis of sex by failing to provide equal athletic opportunities to participants in the girls' athletics program at LHS and LMS in the following athletics program components:

1. Accommodation of student interests and abilities;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Opportunity to receive coaching and academic tutoring;
5. Assignment and compensation of coaches and tutors;
6. Provision of locker rooms, practice and competitive facilities; and
7. Provision of medical and training facilities and services.

OCR has jurisdictional authority to investigate allegations of sex discrimination in interscholastic athletics programs under Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, and its implementing regulations at 34 C.F.R. Part 106, which provide, in relevant part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . .

The Title IX implementing regulations, at 34 C.F.R. § 106.41(c), state in pertinent part: "A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural

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

athletics shall provide equal athletic opportunity for members of both sexes.” Further clarification of the Title IX implementing regulations is provided by the Intercollegiate Athletics Policy Interpretation (Policy Interpretation) issued December 11, 1979 [44 Fed. Reg. 71413 *et seq.* (1979)]. Both the Title IX implementing regulations and the Policy Interpretation list ten factors that OCR may investigate in assessing a recipient’s compliance with Title IX. These ten factors, in turn, have been translated into thirteen “program components” as set forth in OCR’s Title IX Athletics Investigator’s Manual (Title IX Manual).

Under 34 C.F.R. § 106.71, which incorporates by reference into the Title IX implementing regulations the procedural requirements of Title VI of the Civil Rights Act of 1964, at 34 C.F.R. §§ 100.6-100.11, OCR has the authority to obtain from any recipient of Federal financial assistance from the Department all information necessary to investigate a complaint of sex discrimination under Title IX. LCSD is a recipient of Federal financial assistance from the Department. Therefore, acting pursuant to Title IX and the aforementioned regulatory provisions, OCR conducted an investigation to establish whether a violation of Title IX has occurred in this case.

Based upon the Complainant’s allegations, OCR investigated the following legal issues at LHS and LMS, which correspond to six of the thirteen athletics program components in the Title IX Manual:

1. Whether LCSD provides sports and levels of competition that effectively accommodate the athletic interests and abilities of students of both sexes, as required by 34 C.F.R. § 106.41(c)(1).
2. Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the provision of equipment and supplies, as required by 34 C.F.R. § 106.41(c)(2).
3. Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the scheduling of games and practice time, as required by 34 C.F.R. § 106.41(c)(3).
4. Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the opportunity to receive coaching and assignment and compensation of coaches, as required by 34 C.F.R. § 106.41(c)(5) and (6).
5. Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the provision of locker rooms, practice and competitive facilities, as required by 34 C.F.R. § 106.41(c)(7).
6. Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with regard to the provision of medical and training facilities and services, as required by 34 C.F.R. § 106.41(c)(8).

In addition to the above-listed issues, OCR reviewed whether LCSD is in compliance with the Title IX implementing regulations, at 34 C.F.R. § 106.8(a) and (b), which state that recipients are required to designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX, and that they must adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging sex discrimination in violation of Title IX.

A finding that a recipient has violated one of the laws that OCR enforces must be supported by a preponderance of the evidence (*i.e.*, sufficient evidence to prove that it is more likely than not that unlawful discrimination occurred). When there is a significant conflict in the evidence and OCR is unable to resolve that conflict, for example, due to the lack of corroborating witness statements or additional evidence, OCR generally must conclude that there is insufficient evidence to establish a violation of the law.

## **ANALYSIS**

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

In connection with our investigation of the issues in this complaint, OCR analyzed information provided by LCSD and the Complainant. OCR conducted interviews with the Complainant, parents, and LCSD administrators and coaches. In addition, OCR conducted interviews with male and female student athletes at LHS and LMS. Finally, OCR examined the available equipment and supplies, medical and training facilities, and locker rooms, practice, and competitive facilities at LHS and LMS.

## **FINDINGS**

### **COMPONENT #1: EFFECTIVE ACCOMMODATION OF STUDENT INTERESTS AND ABILITIES**

#### **ISSUE**

Whether LCSD provides sports and levels of competition that effectively accommodate the athletic interests and abilities of students of both sexes, as required by 34 C.F.R. § 106.41(c)(1).

The Policy Interpretation sets out a three-part test that OCR uses to assess whether an institution is effectively accommodating the athletic interests and

abilities of its students to the extent necessary to provide equal athletic opportunity. In applying the test, OCR considers the following questions:

1. Whether the participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
2. Where the members of one sex have been and are underrepresented among athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of that sex; or
3. Where the members of one sex are underrepresented among athletes and the institution cannot show a continuing practice of program expansion, as described above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

The three-part test furnishes an institution with three individual avenues to choose from when determining how it will provide equal athletic participation opportunities to individuals of each sex. If an institution has met any part of the three-part test, OCR will determine that the institution has satisfied its Title IX obligation to fully and effectively accommodate the athletic interests and abilities of both sexes.

Based on the evidence obtained during the investigation, OCR has determined that LCSD has not satisfied any part of the three-part test. Specifically, OCR has determined that athletic participation numbers for boys and girls at LMS and LHS are not substantially proportionate to their respective enrollments at either school; LCSD has not shown that it has a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of female students at either school; and LCSD has not assessed the athletic interests and abilities of its students to determine if its girls have been fully and effectively accommodated by its athletics program. Therefore, OCR determined that LCSD has not effectively accommodated the athletic interests and abilities of members of both sexes in its athletics program, in violation of Title IX, at 34 C.F.R. § 106.41(c).

## **COMPONENT #2: THE PROVISION OF EQUIPMENT AND SUPPLIES**

### **ISSUE**

Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the provision of equipment and supplies, as required by 34 C.F.R. § 106.41(c)(2).

As explained in the Title IX Manual, compliance determinations for the *provision of equipment and supplies* program component must be based on an assessment of the following five factors:

1. Quality of equipment and supplies;
2. Amount of equipment and supplies;
3. Suitability of equipment and supplies;
4. Maintenance and replacement of equipment and supplies; and
5. Availability of equipment and supplies.

More specifically, OCR must: (1) determine the extent to which equipment and supplies are provided to each athletic team; (2) compare the extent to which boys' teams are provided equipment and supplies with the extent to which girls' teams are provided equipment and supplies, taking into account the quality, suitability, and maintenance and replacement of the equipment and supplies provided, along with the amount and overall availability of the equipment and supplies; and (3) determine whether any observable differences, considered individually or in combination, constitute a significant disparity.

Equipment and supplies include but are not limited to: uniforms, other apparel, sport-specific equipment and supplies, general equipment and supplies, instructional devices, and minor conditioning and weight-training equipment.

OCR noted several minor disparities that favored boys' teams with regard to LCSD's provision of equipment and supplies to the boys' and girls' athletics programs at both LHS and LMS. Specifically with respect to laundry (i.e., more girls' teams than boys' teams are required to launder their own uniforms), storage (i.e., insufficient lighting in the LMS girls' basketball storage area, and no storage at all for the girls' LHS powerlifting team), and availability (i.e., occasionally missing volleyball equipment at LHS). The difference in the budget allotments afforded the baseball program the ability to provide all essential equipment to its team members, including gloves and shoes, whereas the softball teams did not receive all essential equipment necessary to participate in the sport. In addition, OCR found that the baseball team used a properly functioning Fungo pitching machine, while the softball team used an unreliable Iron Mike pitching machine that required constant resets during practice. OCR has determined that this further contributes to the overall disparity between the girls' and boys' equipment allocations.

Accordingly, considering all of the aforementioned disparities together, OCR determined that there is sufficient evidence to support a conclusion of noncompliance with Title IX based on OCR's analysis of this program component.

### **COMPONENT #3: SCHEDULING OF GAMES AND PRACTICE TIME**

#### **ISSUE:**

Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the scheduling of games and practice time, as required by 34 C.F.R. § 106.41(c)(3).

Pursuant to the Title IX Manual, compliance determinations for the *scheduling of games and practice time* program component will be assessed by examining the following five factors:

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 preseason and postseason competition.

OCR's investigation revealed that the number, times, and length of practice and competitive events for boys' and girls' teams are similar at both LHS and LMS. The athletes and the coaches for both girls' and boys' teams consider the competitive schedule reasonable as to permit sufficient opportunities to compete before an audience. However, OCR did note significant differences between boys' and girls' teams regarding the class periods designated for practice at both LHS and LMS. LCSD's scheduling of athletic periods for LHS and LMS boys' and girls' teams affords only the male athletes the opportunity to seamlessly transition from one sport to the next without a disruption to the students' class schedule. In direct contrast, the arbitrary scheduling of the girls' athletic periods could hinder female athletes' opportunity to participate in multiple sports. Therefore, OCR has determined that the significant differences identified with respect to the scheduling of boys' and girls' athletic periods are, standing alone, sufficient to constitute disparities that warrant a determination of noncompliance with Title IX based on OCR's analysis of this program component.

### **COMPONENT #4: THE OPPORTUNITY TO RECEIVE COACHING AND THE ASSIGNMENT AND COMPENSATION OF COACHES**

#### **ISSUE:**

Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the opportunity to receive coaching and assignment and compensation of coaches, as required by 34 C.F.R. § 106.41(c)(5) and (6).

As explained in the Title IX Manual, compliance determinations for the *opportunity to receive coaching and assignment and compensation of coaches* must be based on an assessment of the following factors:

1. Availability – Relative availability of head and assistant coaches;
2. Assignment – Training, experience, and other professional qualifications of coaches; and
3. Compensation – the allocation of funds for coaching to the girls’ and boys’ program.

Coaching positions of combined and co-ed teams are excluded from the analysis. “Co-ed teams” are boys’ and girls’ teams that have the same coach(es) and practice and compete at the same or similar times. The information obtained during this investigation indicated that the girls’ and boys’ cross-country, tennis, and bowling teams at LHS had the same coaches and practice opportunities, competed at the same time, and received the same proportion of coaching time. As a result, OCR has excluded these teams and their coaches from the analysis.

In its investigative process, OCR does not look at just one sport when considering whether female athletes have the same opportunity to receive coaching as compared with male athletes. Further, in its assessment, OCR generally does not make determinations as to whether any coach is or is not qualified to coach or whether one coach is better than another, and did not do so in this case. OCR compared benefits, opportunities, and treatment within each factor of this component. Where a difference was found, OCR considered whether the difference was the result of a non-discriminatory factor and whether the difference resulted in the denial of equal athletic opportunity for members of the boys’ or girls’ athletics program.

Based on the information obtained during the investigation regarding the availability, assignment, and compensation of coaches, OCR determined that there are significant differences with respect to the availability of coaches to the athletes in LCSD’s boys’ and girls’ programs. However, OCR did not find any notable differences pertaining to the assignment and compensation of coaches. OCR has determined that the significant differences identified with respect to the availability of coaches to male and female LCSD athletes are, standing alone, sufficient to constitute disparities that warrant a determination of noncompliance with Title IX based on OCR’s analysis of this program component.

## **COMPONENT #5: THE PROVISION OF LOCKER ROOMS, PRACTICE AND COMPETITIVE FACILITIES**

### **ISSUE:**

Whether LCSD provides equal athletic opportunities to participants of both sexes in its athletics program with respect to the provision of locker rooms, practice and competitive facilities, as required by 34 C.F.R. § 106.41(c)(7).

As explained in the Title IX Manual, compliance determinations for the *provision of locker rooms, practice and competitive facilities* component must be based on an assessment of the following six factors:

1. Quality and availability of the facilities provided for practice and competitive events;
2. Exclusivity of use of facilities provided for practice and competitive events;
3. Availability of locker rooms;
4. Quality of locker rooms;
5. Maintenance of practice and competitive facilities; and
6. Preparation of facilities for practice and competitive events.

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

Regarding the quality and availability of the LCSD facilities provided for practice and competitive events, OCR determined that appropriate practice and competitive facilities are available to all LHS and LMS athletes for the sports in which they participate. OCR also, however, identified differences between the boys' and girls' athletics programs to the extent that the boys' baseball field has two bullpens, while the girls' softball field has only one, and to the extent that the baseball field has a new backstop, whereas the softball field does not. Concerning exclusive use of practice facilities, OCR found that the football, softball, baseball, track, and volleyball teams have exclusive use of their respective facilities during their practice times. The boys' and girls' LHS basketball teams generally have exclusive use of their practice facility, but share their facility with other sports during inclement weather. The LMS boys' and girls' basketball teams occasionally share their facility with other teams during their respective practice time. Concerning exclusive use of competitive facilities, all LCSD teams have exclusive use of competitive facilities during competitive events. With respect to the quality and availability of competitive facilities, OCR determined that the competitive facilities were in good condition and readily available to both boys' and girls' LHS and LMS teams.

Regarding the availability of locker rooms, OCR determined that LHS girls' teams are not provided locker room access to the same extent that LHS boys' teams are provided such access. OCR also determined that LMS girls' teams are not provided locker room access to the same extent that LMS boys' teams are provided such access. Thus, there is a significant difference between LCSD's boys' and girls' athletics programs with respect to the availability of locker rooms.

The investigation revealed that LCSD's athletic facilities are generally maintained by LCSD janitorial staff. However, OCR found that the softball coach makes periodic repairs to the softball backstop. The baseball coach no longer makes repairs to the baseball backstop because baseball received a \$30,000 new backstop. Coaches and managers for both boys' and girls' teams prepare facilities for practice and competition. Infrequently, players for both boys' and girls' teams at LHS and LMS assist in preparation of the fields for practice and competition. Overall, however, OCR did not identify any notable differences between the boys' and girls' athletics programs with respect to the maintenance and preparation of facilities for practice and competition.

In summary, OCR has determined that the differences between the amenities provided at the boys' baseball and girls' softball fields, coupled with the significant difference between LCSD's boys' and girls' programs regarding the availability of locker rooms, are sufficient to support a determination of noncompliance with the regulations implementing Title IX based on OCR's analysis of this program component.

## **COMPONENT #6: THE PROVISION OF MEDICAL AND TRAINING FACILITIES AND SERVICES**

### **ISSUE:**

Whether the District provides equal athletic opportunities to participants of both sexes with regard to the provision of medical and training facilities and services, as required by 34 C.F.R. § 106.41(c)(8).

As explained in the Title IX Manual, compliance determinations for the provision of *medical and training facilities and services* component must be based on an assessment of the following five factors:

1. Availability of medical personnel and assistance;
2. Health, accident and injury insurance coverage;
3. Availability and quality of weight and training facilities;
4. Availability and quality of conditioning facilities; and
5. Availability and qualifications of athletic trainers.

OCR found no differential treatment between boys and girls within the co-ed teams (i.e., cross country, tennis, and bowling) in this component. Therefore, OCR excluded the co-ed teams from its analysis of this component.

With respect to the provision of medical and training facilities and services component, OCR found a significant difference in the fact that the professional trainer attends more boys' games than girls' games. OCR also notes that the unique aspects of particular sports may justify differences that appear to be disparities. With respect to football, a nondiscriminatory factor such as the increased rate of injury to team members may justify the assignment of a professional trainer for all home and away games. However, OCR did not find a nondiscriminatory reason for the excessive difference in the overall number

of boys' games versus the number of girls' games attended by the trainer. Regarding the other factors analyzed in this component, OCR determined that there are no notable differences between LCSD's boys' and girls' athletics programs. Overall, OCR has determined that LCSD female athletes lack equivalent access to a professional trainer when compared to their male counterparts. This disparity is sufficient to support a determination of noncompliance with the regulations implementing Title IX based on OCR's analysis of this program component.

In light of the foregoing, OCR has determined by a preponderance of the evidence that LCSD is in noncompliance with Title IX with respect to the following athletics program components: Effective Accommodation of Student Interests and Abilities; Provision of Equipment and Supplies; Scheduling of Games and Practice Time; Assignment and Compensation of Coaches; Provision of Locker Rooms, Practice and Competitive Facilities; and The Provision of Medical and Training Facilities and Services.

### **TITLE IX COORDINATOR AND GRIEVANCE PROCEDURES**

#### **ISSUE:**

Whether LCSD is in compliance with the Title IX implementing regulations, at 34 C.F.R. § 106.8(a) and (b), which state that recipients are required to designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX, and to establish and implement grievance procedures providing for the prompt and equitable resolution of complaints of sex discrimination made pursuant to Title IX.

The Title IX implementing regulations, at 34 C.F.R. § 106.8(a) and (b), state that recipients shall designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX, and shall adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX. The regulations also require that recipients notify all students and employees of the name, office address, and telephone number of the employee(s) designated to coordinate their Title IX compliance efforts.

During the course of the investigation, OCR learned that LCSD has not met its obligations to designate a Title IX Coordinator or to provide its students and staff the necessary contact information for its Title IX Coordinator. In its initial data response, LCSD indicated that it did not have a Title IX Coordinator, and did not have required grievance procedures. Moreover, during an interview with OCR on August 29, 2011, the Athletic Director confirmed that LCSD did not have a Title IX Coordinator. In light of this information, OCR concludes that there is sufficient evidence to establish by a preponderance of the evidence that LCSD is in noncompliance with the Title IX implementing regulations, at 34 C.F.R. § 106.8(a) and (b).

LCSD committed to a written resolution agreement (copy enclosed) on September 5, 2014, which addresses the aforementioned compliance concerns. OCR has determined

that this agreement, upon full implementation, will satisfactorily resolve the compliance concerns. OCR will monitor LCSD's progress in the implementation of the agreement. Failure to implement the agreement, as scheduled, will result in OCR immediately resuming its investigation.

This concludes OCR's investigation of the complaint and should not be interpreted to address LCSD's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

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

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

Thank you for the cooperation that you and your staff extended to OCR in our efforts to resolve this complaint. If you have any questions about this matter, please contact Mrs. Tamara Williams, the OCR investigator assigned to this complaint, at (214) 661-9607.

Sincerely,

Taylor D. August  
Director, Dallas Office  
Office for Civil Rights