

APPENDIX TO VOLUNTARY RESOLUTION AGREEMENT

Cleveland County School District

OCR Case Number: 06-14-1411

This Appendix to Voluntary Resolution Agreement (“Appendix”) accompanies the Voluntary Resolution Agreement (“Agreement”) entered into between the Cleveland County School District (CCSD or District) and the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, to resolve the above-referenced complaint. Neither the Agreement nor this Appendix should be interpreted to constitute an admission of liability, non-compliance, or wrongdoing by the CCSD.

The provisions of this Appendix accompany the provisions set forth in the Agreement, are expressly incorporated by reference into the Agreement, and have the same force and effect as if set forth fully in the Agreement.

SECTION A: ACCOMMODATION OF INTERESTS AND ABILITIES

The CCSD understands that it may demonstrate compliance with Title IX’s regulatory requirement by satisfying any part of the “Three-Part Test” set forth in OCR’s policy guidance. For purposes of this Agreement and Appendix, however, the CCSD agrees to either (1) provide athletic participation opportunities that are substantially proportionate to each sex’s enrollment at RHS (Part I of OCR’s Three-Part Test); or (2) demonstrate that the interests and abilities of female students (the underrepresented sex) are fully and effectively accommodated by RHS’s current athletics program (Part III of OCR’s Three-Part Test).

Action Item A1: Substantial Proportionality

In determining substantial proportionality, the CCSD will consider the number of full-time enrolled students in grades seven through twelve at RHS, by sex, and the number of female and male students reflected on each squad list, for each level of competition (e.g., junior varsity, varsity) for each interscholastic sport on the first date of competition for each sport. In calculating participation rates, the CCSD will not include participants in noncompetitive athletic activities (e.g., cheerleading, dance).

Action Item A2: Determination of Unmet Interest and Ability

The CCSD understands that the District need only undertake this Action Item if the CCSD is unable to establish that the CCSD provides athletic participation opportunities to male and female students at RHS that are substantially proportionate to each sex’s enrollment at RHS. If the CCSD is unable to establish substantial proportionality, then the CCSD will undertake an objective assessment to determine whether there is unmet interest and ability among female students at RHS (the underrepresented sex in the CCSD’s athletic program). The assessment will be conducted among all female students at RHS and will consider whether the interested students have the ability to sustain an interscholastic team. The assessment will be based on multiple indicators of interest and ability, including, but not limited to:

- a. Administration of a survey of female students at RHS. The survey shall seek information on female students' interest and ability to participate in sports currently offered and in sports not currently offered by the District. A copy of the draft survey will be submitted to OCR for its review and approval before it is distributed to students.
- b. Identification of sports, squads, and levels of sports for female students that are not currently offered at RHS but are offered by other schools that compete within the league(s) in which the District competes or by schools that are within the District's normal competitive region and geographic area.
- c. For the 2018-19 school year, female students' rates of participation in club sports, interscholastic sports, and physical education courses that are offered at RHS, as well as community sports leagues, clubs, or other youth programs offered in the District's normal competitive region and geographic area.
- d. For the 2017-18 and 2018-19 school years, if applicable, a review of the number of female students who were cut from each athletic team and the reasons they were cut, to assess whether any of those students had or have the ability to compete in that sport and whether sufficient numbers of students were cut to sustain another level in that sport (e.g., junior varsity).
- e. A review of any requests (whether oral, written, formal or informal) made to School Board members, CCSD administrators, coaches, or RHS staff by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status. This review may be limited to requests that were received during the last two school years.
- f. Identification of all viable girls' teams that have been eliminated in the past ten school years.
- g. For the 2017-18 and 2018-19 school years, if applicable, a review of any assessments made by RHS coaches or staff during tryouts, or observations of students participating in club or interscholastic competition offered by the District or in community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area, and other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the middle or high school level or interscholastic club or community level, general athletic ability, participation in other junior high or high school interscholastic sports, the nature of the particular sport, and other relevant factors. (Note: Neither a poor competitive record, nor the inability of interested students or incoming high school students to play at the same level of competition engaged in by the CCSD's other athletes is conclusive evidence of lack of ability. For the purposes of assessing ability, it is sufficient that interested students and incoming high school students have the potential to sustain an interscholastic team.)
- h. Consideration of any other information that demonstrates the athletic interests and abilities of RHS's female students.

Reporting Requirements for Action Item A2:

The District's report reflecting its objective assessment of whether there is unmet interest and ability among female students in RHS's interscholastic athletics program will include, at a minimum, the following information and/or documentation:

- a. A copy of the results of the CCSD's student survey, including, but not limited to, the number of female students who indicated an interest in each sport, a complete description of the methodology used to conduct the survey, including how the survey was distributed, the number of surveys distributed and the number of responses, any follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who evaluated the responses to the survey, and a copy of any notes or other documents compiled during the review of the student survey.
- b. An analysis of the results of the survey or other information collected from students using a method that is designed to fully and accurately assess unmet high school athletic interests and, if applicable, abilities in junior high and high school interscholastic sports among female students.
- c. A list of sports, squads, and levels of sports for RHS female students that are not currently offered by the CCSD but are offered by schools that compete within the athletic league(s) in which the CCSD competes or by schools that are within the CCSD's normal competitive region and geographic area.
- d. Copies of any written requests and a summary of any non-written requests made by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club sport to high school interscholastic sport status.
- e. A summary of any assessments made by coaches or staff during tryouts, or other information reflecting the ability of RHS female students to compete in a particular sport, prior participation in that sport or a similar sport at the junior high or high school interscholastic level or club or intramural level, general athletic ability, the nature of the particular sport, and other relevant factors.

Action Item A3: Corrective Action Plan

The CCSD's Corrective Action Plan will include a description of interim steps to be taken during the 2020-21 school year. The CCSD also agrees to conduct periodic assessments of the athletic interests and abilities of its RHS students in subsequent years to ensure it is equally and effectively accommodating the athletic interests and abilities of its female and male students consistent with Title IX and its implementing regulation. The CCSD's Corrective Action Plan will include, at a minimum, the following:

- a. Sports currently offered: The CCSD will review the squad sizes of current teams to identify opportunities to increase participation opportunities for RHS female students to the maximum extent feasible, consistent with the nature of

each sport and the level of interest in each sport, while still ensuring that meaningful interscholastic participation opportunities are being provided for all team members.

- b. Sports not currently offered: The CCSD will determine whether there are a sufficient number of female students with the interest and ability to support the addition of a team in a sport(s) not currently offered by the District, and sufficient competition in those sports within the District's normal competitive region. If so, the CCSD will add a team in those sports, hire a coaching staff, recruit student-athletes, and provide these student-athletes with the equivalent treatment, benefits, and services, including sufficient resources to the coaching staff, during the 2020-21 school year to ensure that the team begins competition no later than the 2021-22 school year.
- c. Response to developing interests and abilities: For any sport not currently offered at RHS and in which there are a sufficient number of female students who have the interest and ability to support a team in that sport, but where the CCSD determines that there is not sufficient competition in that sport within the District's normal competitive region, the District will take ongoing steps to address such interest and ability. Such steps may include establishment of a club, exploring the establishment of competition within the District's normal competitive region, and elevating such sports to interscholastic status when competition becomes available.
- d. Additional interscholastic opportunities: To the extent that the CCSD adds any sport(s), the CCSD will provide those team(s), in a manner comparable to other RHS interscholastic teams, with sufficient funds in its budget to ensure equal opportunities and to cover expenses, including, but not limited to: coaches, equipment and supplies, travel, publicity, and support services.

The CCSD acknowledges that OCR does not require or encourage the elimination of any high school interscholastic athletic teams and that it seeks action from the CCSD that does not involve the elimination of athletic opportunities, because nothing in Title IX or OCR's Three-Part Test requires an institution to cut teams or reduce opportunities for students who are participating in interscholastic athletics in order to comply with the provisions of Title IX relating to the effective accommodation of the interests and abilities of female and male students. The CCSD acknowledges that Title IX provides recipients with flexibility and choice regarding how they will provide nondiscriminatory athletic participation opportunities.

SECTION B: SCHEDULING OF GAMES AND PRACTICE TIME

In conducting its assessment to determine whether the CCSD is providing equivalent benefits and opportunities to RHS's female and male students with respect to the scheduling of games and practice times, the CCSD will consider: the number of competitive events per sport; the number and length of practice opportunities; the time of day competitive events are scheduled; the time of day practice opportunities are scheduled; the number of competitive events per sport; and opportunities to engage in available pre-season and post-season competition. Further, based on

the allegations raised in this complaint, the CCSD will ensure that it specifically assesses the following:

- a. Whether each interscholastic athletic team at RHS is afforded an opportunity to begin practices prior to the commencement of its competition season, and whether the number and length of practices are substantially equivalent.
- b. Whether RHS's softball and baseball programs are scheduled a substantially equivalent number of regular-season competition games.
- c. Whether any athlete – male or female – is permitted to be enrolled in RHS's designated Athletics period if he/she is not currently on the roster for the sport which is currently practicing during Athletics period.
- d. Whether female athletes are being afforded equivalent opportunities with respect to the time of day that practices are scheduled, including, but not limited to, consideration of the convenience of practice times. The CCSD will specifically assess whether female athletes are being provided with an opportunity to practice at the end of the school day – with “carryover” into after-school practices – or whether this opportunity is only being provided to male athletes (including assessing whether there is any negative impact to female students with respect to the time of day that practices are scheduled).

SECTION C: PROVISION OF LOCKER ROOMS, PRACTICE AND COMPETITIVE FACILITIES

In conducting its assessment to determine whether the CCSD is providing equivalent benefits and opportunities to female and male students at RHS with respect to the provision of locker rooms, practice and competitive facilities, the CCSD will consider, at a minimum, the following:

- a. The quality and availability of the facilities provided for practice and competitive events.
- b. The exclusivity of use of facilities provided for practice and competitive events.
- c. The availability of locker rooms; the quality of locker rooms; the maintenance of practice and competitive facilities.
- d. The preparation of facilities for practice and competitive events.

Further, based on the allegations raised in this complaint, the CCSD will ensure that it assesses whether all female and male athletes at RHS are provided with equivalent opportunities to utilize the weightlifting facilities located in RHS's “Pride” Building.