



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

February 28, 2018

REGION VI  
ARKANSAS  
LOUISIANA  
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TEXAS

Dr. Michael Hinojosa, Superintendent  
Dallas Independent School District  
3700 Ross Avenue  
Dallas, TX 75204

OCR Ref. No. 06151216

Superintendent Hinojosa:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Dallas Independent School District (DISD, the District), in Dallas, Texas, on January 30, 2015. In the complaint, the Complainant alleged that DISD discriminates against female students at W.T. White High School (WTWHS) on the basis of sex.

OCR is responsible for determining whether organizations that receive or benefit from Federal financial assistance, either from the Department or from an agency that had delegated investigative authority to the Department, are in compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulations at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex. OCR has determined that DISD is a recipient of Federal financial assistance from the Department. Therefore, OCR has jurisdiction to process this complaint for resolution under Title IX.

Based on the allegations of the Complainant, OCR opened the following legal issues for investigation:

1. Whether the WTWHS provides equal athletic opportunities to participants of both sexes in its athletics program with regard to the provision of scheduling of games and practice time, in violation of Title IX and its implementing regulation at 34 C.F.R. § 106.41(c)(3).
2. Whether the WTWHS 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, in violation of Title IX and its implementing regulation at 34 C.F.R. § 106.41(c)(7).

The Title IX implementing regulation at 34 C.F.R. § 106.41(a) states, in relevant part, that “no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, interscholastic” athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. The provision of equal opportunities with respect to the opportunity to participate in interscholastic athletics is addressed in the Title IX implementing regulation at 34 C.F.R. § 106.41(c).

There are 13 major factors listed in the Title IX regulation and the 1979 Policy Interpretation that may be investigated by OCR. OCR has termed these 13 major factors ‘program components.’ Within these 13 program components, the Policy Interpretation lists specific factors to be investigated. The 13 program components are not considered to be a finite list. OCR may add factors if necessary. The 13 program components are:

34 C.F.R. 106.37(c)

Athletic Scholarships

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

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|------------------------|--|
| 34 C.F.R. 106.41(c)(1) | Accommodation of athletic interests and abilities                  |
| (2)                    | Equipment and supplies   |
| (3)                    | Scheduling of games and practice times                             |
| (4)                    | Travel and per diem allowance                                      |
| (5)                    | Opportunity to receive coaching and academic tutoring <sup>1</sup> |
| (6)                    | Assignment and compensation of coaches and tutors                  |
| (7)                    | Locker rooms, practice and competitive facilities                  |
| (8)                    | Medical and training facilities and services                       |
| (9)                    | Housing and dining facilities and services                         |
| (10)                   | Publicity  |

Policy Interpretation - Support Services  
Recruitment of student athletes

To assess whether a recipient is providing equal athletic opportunities to members of both sexes, OCR utilizes the Department’s “Intercollegiate Athletics Policy Interpretation,” issued December 11, 1979, and found at 44 Fed. Reg. 71413 et seq. (Policy Interpretation). The Policy Interpretation explains OCR’s approach to determining compliance in intercollegiate athletics, which is generally applicable to interscholastic athletics. The Policy Interpretation specifically identifies factors for assessment in examining compliance for each program component. Pursuant to the Title IX regulation, the governing principle is that male and female athletes should receive equivalent treatment, benefits, and opportunities. With regard to this matter, OCR investigated two components: A) scheduling of games and practice times, and B) locker rooms, practice and competitive facilities.

The Title IX regulation at 34 C.F.R. § 106.41(c)(3) requires recipients to provide equal athletic opportunity for members of both sexes in the provision of scheduling of games and practice time. OCR considers the following five factors to be assessed in determining compliance of the recipient regarding scheduling of games and practice time:

- 1) The number of competitive events per sport;
- 2) The number and length of practice opportunities;
- 3) The time of day competitive events are scheduled;
- 4) The time of day practice opportunities are scheduled;
- 5) The opportunities to engage in available pre-season and post-season competition.

The Title IX regulation at 34 C.F.R. § 106.41(c)(7) requires recipients to provide equal athletic opportunity for members of both sexes in the provision of locker rooms, practice and competitive facilities. OCR considers six factors for OCR to assess in determining whether a recipient provides equal opportunities to males and females in the provision of locker rooms and practice and competitive facilities:

- 1) The quality and availability of the facilities provided for practice and competitive events;

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<sup>1</sup> OCR has determined that the investigation and analysis of the coaching and tutoring program components are simplified significantly by combining the opportunity to receive coaching (106.41(c)(5)) and the assignment and compensation of coaches (106.41(c)(6)) into one investigative category and the opportunity to receive academic tutoring (106.41(c)(5)) and the assignment and compensation of tutors (106.41(c)(6)) into another investigative category.

- 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.

Prior to the conclusion of the investigation, the DISD asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On February 27, 2018 the DISD submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the DISD has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the DISD's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the DISD has fulfilled the terms of the Agreement and is in compliance with Title IX with regard to the issues raised.

If the DISD fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement or judicial proceedings to enforce the Agreement, OCR shall give the DISD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint and should not be interpreted to address the DISD'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. Please be advised that the DISD 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 harmed individual may file a 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 personal privacy.

If you have any questions regarding this letter, please contact (redacted), Civil Rights Attorney, at (redacted) or (redacted), or me at (redacted) or (redacted).

Sincerely,

Paul Coxe  
Supervisory Attorney/Team Leader  
Dallas Office