



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

June 17, 2020

***Via email only to:*** XXXX  
XXXX XXXX XXXX

Attorneys for Lincoln County School District  
233 East Monticello Street  
Brookhaven, MS 39601

Re: OCR Complaints 06-17-1835, 06-18-1375

Dear XXXX XXXX:

This letter is to notify you of the resolution of the above-referenced complaints received by the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office, and filed against the Lincoln County School District (LCSD), Brookhaven, Mississippi. The complaints were received by OCR Dallas on XXXX XXXX XXXX, and XXXX XXXX XXXX, respectively. Based on the complaint allegations and OCR's jurisdictional authority, OCR opened for investigation the following legal issues:

1. Whether the LCSD, XXXX XXXX XXXX, discriminates against female athletes on the basis of sex by failing to provide equal athletic opportunity to members of both sexes with respect to the assignment and compensation of coaches, in violation of Title IX and its implementing regulation, at 34 C.F.R. § 106.41(c)(6) [complaint 06-17-1835].
2. Whether, during the XXXX XXXX school year, the XXXX XXXX XXXX, discriminated against female athletes on the basis of sex by failing to provide equal athletic opportunity to members of both sexes with respect to: (a) the provision of equipment and supplies; and (b) travel and per diem allowance, in violation of Title IX and its implementing regulations, at 34 C.F.R. §§ 106.41(c)(2) and 106.41(c)(4) [complaint 06-18-1375].

This agency is responsible for enforcing Title IX, 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. The LCSD is a recipient of Federal financial assistance from the Department; therefore, OCR has jurisdictional authority to process these complaints for resolution pursuant to Title IX.

### **Legal Standard**

The Title IX implementing regulation, at 34 C.F.R. § 106.41(a), states, in relevant part, that “[n]o 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

*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 offered by a recipient, and no recipient shall provide any such athletics separately on such basis.” The Title IX implementing regulation, at 34 C.F.R. § 106.41(c), states in pertinent part: “A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal opportunity for members of both sexes.” Further clarification of the Title IX implementing regulations is provided in 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 factors that OCR may investigate in assessing a recipient’s compliance with Title IX.

As stated in Title IX’s implementing regulation and OCR’s Policy Interpretation, OCR may consider a variety of factors in determining whether a recipient is providing equal athletic opportunity for members of both sexes. In all, there are 13 major factors that may be considered by OCR, which OCR has termed “program components.” Within the 13 program components, the Policy Interpretation outlines specific factors to be considered by OCR in determining compliance. OCR may also add factors if determined necessary.

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 these complaints, OCR investigated three separate program components: (1) the assignment and compensation of coaches; (2) the provision of equipment and supplies; and (3) travel and per diem allowance. The specific factors considered by OCR in determining compliance with these program components are outlined below.

#### *Assignment and Compensation of Coaches*

The Title IX regulation, at 34 C.F.R. § 106.41(c)(6), requires a recipient to provide equal athletic opportunity with respect to the assignment and compensation of coaches. OCR’s Policy Interpretation lists two factors to be assessed in determining a recipient’s compliance with this subpart with respect to the assignment of coaches:

1. Training, experience, and other professional qualification; and
2. Professional standing.

OCR’s Policy Interpretation lists seven factors to be assessed in determining a recipient’s compliance with this subpart with respect to the compensation of coaches:

1. Rate of compensation (per sport, per season);
2. Duration of contracts;
3. Conditions related to contract renewal;

4. Experience;
5. Nature of coaching duties performed;
6. Working conditions; and
7. Other terms and conditions of employment.

### *Equipment and Supplies*

The Title IX regulation, at 34 C.F.R. § 106.41(c)(2), requires a recipient to provide equal athletic opportunity with respect to the provision of equipment and supplies. OCR’s Policy Interpretation lists five factors to be assessed in determining a recipient’s compliance with this subpart with respect to the provision of equipment and supplies:

1. quality;
2. amount;
3. suitability;
4. maintenance and replacement; and
5. availability of equipment and supplies.

### *Travel and Per Diem Allowance*

Finally, the Title IX regulation, at 34 C.F.R. § 106.41(c)(4), requires a recipient to provide equal athletic opportunity with respect to travel and per diem. OCR’s Policy Interpretation lists five factors to be assessed in determining a recipient’s compliance with this subpart:

1. modes of transportation;
2. housing furnished during travel;
3. length of stay before and after competitive events;
4. per diem allowances; and
5. dining arrangements.

## **OCR’s Preliminary Investigative Findings**

### *Background*

Because OCR began its investigation of these complaints during XXXX XXXX academic year, OCR first requested information regarding the LCSD’s interscholastic athletic program at XXXX XXXX XXXX for the XXXX XXXX and XXXX XXXX school years. The information provided by the LCSD indicates that the District’s XXXX XXXX XXXX offers interscholastic athletic opportunities for students enrolled in grades seven through twelve. As a preliminary matter, OCR notes that the LCSD reported both Dance and Cheerleading as interscholastic athletic offerings at XXXX XXXX XXXX, with Dance open only to female students and Cheerleading offered as a “co-ed” sport. For the purpose of determining compliance with Title IX, OCR does not currently recognize either Dance or Cheerleading as interscholastic athletic opportunities and, therefore, OCR did not consider these athletic programs when conducting its analysis below.

The LCSD reported to OCR that it currently offers the following interscholastic athletic offerings at XXXX XXXX XXXX:

Boys' sports

Football (Varsity and Junior High)  
Boys' Basketball (Varsity and Junior High)  
Baseball (Varsity and Junior High)

Girls' sports

Basketball (Varsity and Junior High)  
Softball (Varsity only)

Co-ed sports

Tennis (Varsity and Junior Varsity)  
Golf (Varsity only)  
Cross-country (Varsity only)  
Archery (Varsity only)

*Assignment and Compensation of Coaches*

OCR requested and received written documentation from the LCSD regarding the assignment of coaches at XXXX XXXX XXXX, including the teaching contracts for all coaches. OCR also requested information regarding the qualifications and experience of each coach, and interviewed coaches during a site visit to XXXX XXXX XXXX. Based on OCR's review of the information obtained, OCR identified preliminary compliance concerns regarding this interscholastic program component. XX – remainder of paragraph redacted – XX.

XX – paragraph redacted – XX

As listed above, in determining compliance with Title IX with respect to the assignment and compensation of coaches, OCR considers the training, experience, and rate of compensation of coaches. Based on the preliminary information received, OCR has compliance concerns that there is a disparity between the experience, qualifications, and compensation of coaches at XXXX XXXX XXXX which, based on OCR's preliminary investigation, appears to favor male athletes.

*Equipment and Supplies*

OCR's preliminary investigation also revealed concerns regarding the provision of equipment and supplies. During its site visit to XXXX XXXX XXXX, OCR inspected all equipment and supplies. OCR also interviewed coaches and student-athletes regarding the equipment and supplies available to athletes. As stated above, one of the factors OCR considers in determining compliance with this subpart is "maintenance and replacement." During interviews with OCR, however, coaches reported that there is no "set" replacement schedule for equipment and supplies, including uniforms, and they tend to re-order items on an "as-needed" basis. OCR also considers the quality

of equipment and supplies provided to athletes. XX – sentences redacted – XX. Based on the preliminary information received, OCR’s investigation also revealed concerns that there is a disparity between the provision of equipment and supplies to athletes at Enterprise Attendance Center, and that this disparity appears to favor male athletes.

*Travel and Per Diem Allowance*

Finally, OCR also considered whether the LCSD provides equivalent athletic opportunities to male and female athletes with regard to travel and per diem allowance. As listed above, one of the factors OCR considers in assessing compliance with Title IX with respect to this athletic component is modes of transportation. OCR’s preliminary investigation revealed compliance concerns with regard to this component. XX – sentences redacted – XX. Accordingly, based on the preliminary information received, OCR’s investigation revealed concerns that there is a disparity in this athletic component (travel and per diem allowance) and that the disparity appears to favor male athletes.

**Resolution**

Prior to OCR investigating further and making a compliance determination, the LCSD expressed interest in taking action to voluntarily resolve the allegations made in these complaints. Pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM), allegations under investigation may be resolved at any time when, prior to the point when OCR issues a final determination, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR’s investigation has identified issues that can be addressed through a resolution agreement. In light of the LCSD’s willingness to address the allegations made in these complaints without further investigation, OCR has determined that entering into a voluntary resolution agreement with the LCSD is appropriate. Accordingly, OCR approved the LCSD’s request to voluntarily resolve both complaints pursuant to Section 302 of the CPM.

The LCSD submitted the enclosed Voluntary Resolution Agreement (Agreement), which was signed by the LCSD on June 15, 2020. The provisions of the Agreement are aligned with the complaint allegations and the information obtained during OCR’s preliminary investigation and are consistent with applicable law and regulations. OCR has determined that the Agreement, upon full implementation by the LCSD, satisfactorily resolves the allegations presented in these complaints. The dates for implementation and specific actions are detailed in the enclosed Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding these complaints; however, OCR will actively monitor the LCSD’s implementation of the Agreement. Please be advised that if the LCSD fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

This letter sets forth OCR’s determination in these individual OCR cases. 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 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 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 personal privacy.

OCR would like to thank the LCSD for its cooperation with OCR in resolving these complaints. If you have any questions regarding this letter, please contact Rachel Caum, Attorney, at (214) 661-9632, or at [rachel.caum@ed.gov](mailto:rachel.caum@ed.gov). You may also contact me, at (214) 661-9638, or at [lori.bringas@ed.gov](mailto:lori.bringas@ed.gov).

Sincerely,

/s/

Lori Howard Bringas  
Supervisory Attorney/Team Leader  
Office for Civil Rights  
Dallas Office

Enclosure: Voluntary Resolution Agreement