



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

August 21, 2019

OCR Ref. No. 06-19-1394

[XXXX to end of address line]

Dear [XXXX XXXX]:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint filed against the Round Rock Independent School District (RRISD, District or recipient) in Round Rock, Texas. The complainant alleged that the District discriminated against female students on the basis of sex. Specifically, the complainant made the following allegations:

1. During November 2018, the District discriminated against female students at Pearson Ranch Middle School (School) on the basis of sex by refusing to field a girl's B-Team for basketball at the School, while allowing the boys to field a team, because [XXXX XXXX XXXX XXXX XXXX] asserted that the female students were a danger to themselves and others; and
2. During February 2019, the District discriminated against female students at the School on the basis of sex by limiting the number of female track and field athletes who could participate in competitive high jump events, while allowing male athletes to compete in such events, because [XXXX XXXX] asserted that female athletes had not been able to perform well in practice and that the School did not want the girls' feelings to get hurt.

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department or an agency that has delegated investigative authority to this Department are in compliance with Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations at 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex. Because the District is a recipient of Federal financial assistance from the Department, OCR has jurisdiction to process this complaint for resolution.

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

OCR investigated the following legal issue:

Whether the District discriminated against female athletes on the basis of sex during the 2018–2019 school year by failing to provide equal athletic opportunity to members of both sexes at the School with respect to (a) offering a selection of sports and levels of competition that effectively accommodates the interests and abilities of members of both sexes, and (b) scheduling of games and practice time; in violation of Title IX and its implementing regulations at 34 C.F.R. §§ 106.41(c)(1) and 106.41(c)(3).

Evidence Obtained:

*Issue Part (a) – Effective Accommodation of Interests & Abilities:*

Regarding Part (a) of the issue investigated, the complainant alleged that, during November 2018, the District discriminated against female students at the School on the basis of sex by refusing to field a girl’s B-Team for basketball at the School, even though there was sufficient interest and while allowing the boys to field a team, because [XXXX XXXX] asserted that the female students were a danger to themselves and others.

Relevant to the allegation raised, the recipient’s data reflects that the District did not offer a girl’s B-Team for basketball at the School during the 2018–2019 school year. As a basis for this decision, the District provided that “it made the decision to establish only the A-team based on the number of students who decided to try out for the team and their athletic ability.” Further, the District relayed in general that the “School did not believe that it could safely field a B-team with the students who tried out” because at least six of the 18 students who tried out for the team “did not possess the requisite athletic ability or body control to safely be placed on a competitive basketball court.” Additionally, the District reported that the “decision to only field an A-team” for female basketball players “had nothing to do with gender, only with the number of interested and able students.”

Regarding this Title IX athletics component, the information obtained from the District included data regarding the District’s general accommodation of interests and abilities at the School. Relevant to the first part of the three-part interests and abilities test utilized by OCR, this information reflected the following athletic participation numbers during the 2017–2018 and 2018–2019 school years at the School:

2017-2018 TITLE IX ATHLETICS – I&A – PART 1 ANALYSIS – RRISD PEARSON RANCH MS							
Female Teams 2017-2018	7 <sup>th</sup> Grade	8 <sup>th</sup> Grade	Total Squad List #s	Male Teams 2017-2018	7 <sup>th</sup> Grade	8 <sup>th</sup> Grade	Total Squad List #s
Volleyball	21	16	37	Football	49	23	72
Basketball	20	10	30	Basketball	21	20	41
Track & Field	42	21	63	Track & Field	36	28	64
Soccer	15		15	Soccer	17		17
Total Athletic Participation # by Sex		Females:	145			Males:	194
Total Athletic Participation #							
Total Athletic Participation by Sex		Females:	42.77%			Males:	57.23%
Total Enrollment per Sex #		Females:	360			Males:	322
Total Enrollment #							
% of Enrollment by Sex		Females:	52.79%			Males:	47.21%
<b>Difference</b>		<b>10.01% in favor of males</b>					
<b># of Additional athletic opportunities for females to reach exact proportionality</b>							<b>72</b>
<b>Compliance with Part 1 of the Title IX Athletics Test?</b>							<b>No</b>

2018-2019 TITLE IX ATHLETICS – I&A – PART 1 ANALYSIS – RRISD PEARSON RANCH MS							
Female Teams 2018-2019	7 <sup>th</sup> Grade	8 <sup>th</sup> Grade	Total Squad List #s	Male Teams 2018-2019	7 <sup>th</sup> Grade	8 <sup>th</sup> Grade	Total Squad List #s
Volleyball	23	19	42	N/A	N/A	N/A	N/A
Football	0	1	1	Football	42	36	78
Basketball	24	12	36	Basketball	22	22	44
Track & Field	74	37	111	Track & Field	53	45	98
Soccer	18		18	Soccer	19		19
Total Athletic Participation # by Sex		Females:	208	Males:		239	
Total Athletic Participation #							
Total Athletic Participation by Sex		Females:	46.53%	Males:		53.47%	
Total Enrollment per Sex #		Females:	438	Males:		437	
Total Enrollment #							
% of Enrollment by Sex		Females:	50.06%	Males:		49.94%	
Difference		3.52% in favor of males					
# of Additional athletic opportunities for females to reach exact proportionality							32
Compliance with Part 1 of the Title IX Athletics Test?							No

Additionally, OCR reviewed the District's data response for information relevant to the second part of the three-part interests and abilities test. Information received from the District contained no evidence of a history or a continuing practice of program expansion at the School reactive to the developing interest and abilities of the members of either sex. Rather, per Items 10 and 15 of the District's initial data response, the only sports added in the past 10 years to District schools were boys and girls soccer, which was included 8 years ago and prior to the existence of the middle school at issue; and wrestling, which was added to three high schools in the District within the last 3 years. The District's data also reflected that the School is relatively new, having opened for the first time in 2017–2018.

Finally, OCR assessed the preliminary information provided by the District as to the third part of the three-part interests and abilities test. Regarding this element, Items 12 through 16 of the initial data response indicate that the District has no policies or procedures for adding sports, collecting requests for such additions, or surveys or information collected by which the District can affirmatively show that there is no unmet athletic interest at the School.

Prior to OCR collecting additional documentation regarding part (a) of the issue, conducting interviews, and making a determination, the District expressed an interest in resolving the allegations in this case.

*Issue Part (b) – Scheduling of Games and Practice Time:*

Regarding Part (b) of the issue investigated, the complainant alleged that, during February 2019, the District discriminated against female students at the School on the basis of sex by limiting the number of female track and field athletes who could participate in competitive high jump events, while allowing male athletes to compete in such events, because [XXXX XXXX] asserted that female athletes had not been able to perform well in practice and that the School did not want the girls' feelings to get hurt.

Relevant to the allegation raised, the recipient's data reflects that, during the two school years for which OCR received data, the District maintained essentially identical practice and competitive schedules for the female and male track and field athletes. For example, the School maintained the same track meet schedules during 2017–2018 and 2018–2019 for both male and female athletes. Similarly, the practice schedules for these timeframes appear to indicate that male and

female track athletes practiced together during the same days and times each season. As to male and female athletes’ participation specifically in competitive high jump events during February 2019, the recipient provided that, as a District practice, “students who do not clear the opening jump height requirement during practice do not participate in that week's track meet.” Further, as to the track meet in February 2019, the District relayed that “the decision to limit the number of female students who could participate in high jump . . . was not made based on gender, and was instead made based on the students’ ability to clear the opening jump height.” The District reported that “[t]he same rule applies equally to both male and female athletes.”

Regarding this Title IX athletics component as a whole opened under part (b) of the issue investigated, the information obtained from the District included data regarding the District’s general scheduling of games and practice times at the School. Relevant to this component, the District’s data reflected the following practice and competitive scheduling figures during the 2017–2018 and 2018–2019 school years at the School:

2017-2018 TITLE IX ATHLETICS – SCHEDULING ANALYSIS FOR BEFORE/AFTER SCHOOL PRACTICE & COMPETITIVE EVENTS – RRISD PEARSON RANCH MS													
Team	Sex	Grade	Practice Start Date***	Practice End Date	Total # Practice Days	Practice Start Time**	Practice End Time**	Est. Available Practice Time per Day (hrs)	Total Est. Available Practice Time (hrs)	Game/Meet Start Time	# Home Games	# Away Games	Total # Games
Volleyball – A Team	Girls	7	8/23/2017	10/25/2017	27	7:00 a.m.	8:20 a.m.	1.33	35.91	6:30 p.m.	4	6	10
Volleyball – B Team	Girls	7	8/23/2017	10/25/2017	27	7:00 a.m.	8:20 a.m.	1.33	35.91	5:30 p.m.	4	6	10
Basketball – A Team*	Girls	7	11/1/2017	1/30/2018	33	Varied	Varied	Varied	35.89	6:45 p.m.	4	4	8
Basketball – B Team*	Girls	7	11/1/2017	1/30/2018	33	Varied	Varied	Varied	35.89	5:30 p.m.	4	4	8
Soccer	Girls	7 & 8	5/1/2018	5/16/2018	8	7:00 a.m.	8:00 a.m.	1	8	6:15 p.m.	3	2	5
Volleyball – A Team	Girls	8	8/23/2017	10/25/2017	27	7:00 a.m.	8:20 a.m.	1.33	35.91	6:30 p.m.	6	5	11
Volleyball – B Team	Girls	8	8/23/2017	10/25/2017	27	7:00 a.m.	8:20 a.m.	1.33	35.91	6:45 p.m.	5	4	9
Basketball – A Team*	Girls	8	11/1/2017	1/30/2018	33	7:00 a.m.	8:20 a.m.	1.33	43.89	5:30 p.m.	4	4	8
Basketball – B Team*	Girls	8	11/1/2017	1/30/2018	33	7:00 a.m.	8:20 a.m.	1.33	43.89	6:45 p.m.	4	4	8
Football – A Team	Boys	7	8/23/2017	11/3/2017	38	7:00 a.m.	8:20 a.m.	1.33	50.54	7:00 p.m.	4	3	7
Football – B Team	Boys	7	8/23/2017	11/3/2017	38	7:00 a.m.	8:20 a.m.	1.33	50.54	5:30 p.m.	4	3	7
Basketball – A Team*	Boys	7	11/9/2017	2/2/2018	34	3:40 p.m.	5:00 p.m.	1.33	45.22	6:45 p.m.	3	5	8
Basketball – B Team*	Boys	7	11/9/2017	2/2/2018	34	3:40 p.m.	5:00 p.m.	1.33	45.22	5:30 p.m.	3	5	8
Soccer	Boys	7 & 8	5/1/2018	5/16/2018	8	3:45 p.m.	5:00 p.m.	1.25	10	5:00 p.m.	2	2	4
Football – A Team	Boys	8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Football – B Team	Boys	8	8/23/2017	11/3/2017	38	3:35 p.m.	5:00 p.m.	1.42	53.96	5:30 p.m.	3	4	7
Basketball – A Team*	Boys	8	11/9/2017	2/2/2018	34	3:40 p.m.	5:00 p.m.	1.33	45.22	6:45 p.m.	5	3	8
Basketball – B Team*	Boys	8	11/9/2017	2/2/2018	34	3:40 p.m.	5:00 p.m.	1.33	45.22	5:30 p.m.	5	3	8

\* For an additional game (the tournament), the location was listed as TBD.

\*\* Based on a comparison of the School’s practice calendars for most practice days and a school day lasting from 8:20 a.m. – 3:35 p.m., per the School’s webpage. See <https://roundrockisd.org/schools/middle-schools/pearson-ranch-middle-school/> (last accessed 7/2/19).

\*\*\* Includes tryouts.

Note: Track and Field are not included in this analysis because the schedules reflected that boys and girls practiced together during both school years assessed.

Girls Athletics Scheduling	
Average # Practice Days	27.6
Average Est. Practice Time	34.6
Total # Home Games	38
Total # Away Games	39
Total Games	77
% Home	49.4%
% Away	50.6%
Average Game Start Time	6:05 p.m.

Boys Athletics Scheduling	
Average # Practice Days	32.3
Average Est. Practice Time	43.24
Total # Home Games	29
Total # Away Games	28
Total Games	57
% Home	50.9%
% Away	49.1%
Average Game Start Time	5:55 p.m.

2018-2019 TITLE IX ATHLETICS - SCHEDULING ANALYSIS FOR BEFORE/AFTER SCHOOL PRACTICE & COMPETITIVE EVENTS - RRISD PEARSON RANCH MS													
Team	Sex	Grade	Practice Start Date***	Practice End Date	Total # Practice Days	Practice Start Time**	Practice End Time**	Est. Available Practice Time per Day (hrs)	Total Est. Available Practice Time (hrs)	Game/Meet Start Time	# Home Games	# Away Games	Total # Games
Volleyball - A Team	Girls	7	8/17/2018	10/26/2018	29	Varied	Varied	Varied	29.18	6:45 p.m.	4	7	11
Volleyball - B Team	Girls	7	8/17/2018	10/26/2018	29	Varied	Varied	Varied	29.18	5:30 p.m.	4	7	11
Basketball - A Team	Girls	7	10/31/2018	1/31/2019	33	Varied	Varied	Varied	32.36	6:45 p.m.	5	6	11
Basketball - B Team	Girls	7	10/31/2018	1/31/2019	33	Varied	Varied	Varied	32.36	5:30 p.m.	5	6	11
Soccer	Girls	7 & 8	4/1/2019	5/15/2019	19	3:45 p.m.	5:00 p.m.	1.25	23.75	5:00 p.m.	2	4	6
Volleyball - A Team	Girls	8	8/17/2018	10/26/2018	29	Varied	Varied	Varied	33.07	6:45 p.m.	5	6	11
Volleyball - B Team	Girls	8	8/17/2019	10/26/2018	29	Varied	Varied	Varied	33.07	5:30 p.m.	5	6	11
Basketball - A Team	Girls	8	10/31/2018	1/31/2019	33	Varied	Varied	Varied	36.89	6:45 p.m.	4	7	11
Basketball - B Team	Girls	8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Football - A Team	Boys	7	8/17/2018	10/26/2019	35	3:35 p.m.	5:00 p.m.	1.42	49.70	7:00 p.m.	3	4	7
Football - B Team	Boys	7	8/17/2018	10/26/2019	35	3:35 p.m.	5:00 p.m.	1.42	49.70	5:30 p.m.	3	4	7
Basketball - A Team*	Boys	7	11/5/2018	2/15/2019	40	3:35 p.m.	5:00 p.m.	1.42	56.80	6:45 p.m.	4	5	9
Basketball - B Team*	Boys	7	11/5/2018	2/15/2019	40	3:35 p.m.	5:00 p.m.	1.42	56.80	5:30 p.m.	4	5	9
Soccer	Boys	7 & 8	4/1/2019	5/15/2019	19	3:45 p.m.	5:00 p.m.	1.25	23.75	6:15 p.m.	2	4	6
Football - A Team	Boys	8	8/17/2018	10/26/2018	35	7:00 a.m.	8:20 a.m.	1.33	46.55	7:00 p.m.	4	3	7
Football - B Team	Boys	8	8/17/2018	10/26/2018	35	7:00 a.m.	8:20 a.m.	1.33	46.55	5:30 p.m.	4	3	7
Basketball - A Team*	Boys	8	11/5/2018	2/15/2019	40	7:00 a.m.	8:20 a.m.	1.33	53.2	6:45 p.m.	4	5	9
Basketball - B Team*	Boys	8	11/5/2018	2/15/2019	40	7:00 a.m.	8:20 a.m.	1.33	53.2	5:30 p.m.	4	5	9
* For an additional game (the tournament), the location was listed as TBD.													
** Based on a comparison of the School's practice calendars for most practice days and a school day lasting from 8:20 a.m. – 3:35 p.m., per the School's webpage. See <a href="https://roundrockisd.org/schools/middle-schools/pearson-ranch-middle-school/">https://roundrockisd.org/schools/middle-schools/pearson-ranch-middle-school/</a> (last accessed 7/2/19).													
*** Includes tryouts.													
Note: Track and Field are not included in this analysis because the schedules reflected that boys and girls practiced together during both school years assessed.													

Girls Athletics Scheduling		Boys Athletics Scheduling	
Average # Practice Days	29.3	Average # Practice Days	35.4
Average Est. Practice Time	31.2	Average Est. Practice Time	48.5
Total # Home Games	34	Total # Home Games	32
Total # Away Games	49	Total # Away Games	38
Total Games	83	Total Games	70
% Home	40.96%	% Home	45.71%
% Away	59.04%	% Away	54.29%
Average Game Start Time	6:05 p.m.	Average Game Start Time	6:15 p.m.

Prior to OCR collecting additional documentation regarding part (b) of the issue, conducting interviews, and making a determination, the District expressed an interest in resolving the allegations in this case.

#### Preliminary Analysis:

In this matter, OCR only reviewed preliminary documentation and information from the complainant and the recipient, and did not receive sufficient information to make a compliance determination. Specifically, OCR did not receive sufficient information to determine that the District discriminated against female students on the basis of sex.

However, OCR's review of the information obtained revealed concerns relevant to the allegations raised and the issue investigated. First, regarding part (a) of the issue, the documentation received from the District does not appear to meet any part of the three-part test OCR uses to determine whether the District effectively accommodated the interests and abilities of members of both sexes at the School during the 2017–2018 and 2018–2019 school years. Relevant to the first portion of the test, a comparison of the athletic participation by sex and enrollment by sex at the School during the 2017–2018 school year reflects an approximate 10-point percentage difference in favor of male students. To eliminate this difference, the School would have needed to add an additional 72 athletic opportunities for females to reach exact proportionality. Similarly, a comparison of the athletic participation by sex and enrollment by sex at the School during the 2018–2019 school year reflects a 3.52 percentage difference in favor of male students. To eliminate this difference, the School would have needed to add an additional 32 athletic opportunities for females to reach exact proportionality. Although the District need not demonstrate exact proportionality to meet part one of the three-part test, the 72 and 32 additional athletic opportunities for the 2017–2018 and 2018–2019 school years, respectively, when compared with the sizes of athletic teams at the School for these timeframes, would have been sufficient to sustain a viable team. Based on these figures, the District appears unlikely to meet the first part of the three-part test as to the School. Moreover, because the District's data does not contain evidence of a history or a continuing practice of program expansion at the School reactive to the developing interest and abilities of the members of either sex; and because the District has no policies or procedures for adding sports, collecting requests for such additions, or surveys or information collected by which the District can affirmatively show that there is no unmet athletic interest at the School; it appears unlikely from the information received that the District will be able to demonstrate compliance with parts 2 and 3, respectively, of the three-part test. Collectively, this information calls into question whether the

District offered during the timeframes assessed a selection of sports and levels of competition that effectively accommodated the interests and abilities of members of both sexes.

Second, relevant to part (b) of the issue, OCR's analysis of the information received thus far revealed differences between the practice and competitive opportunities offered to male and female athletes. For example, during the 2017–2018 school year, female athletes at the School received an average of approximately 9 fewer hours of practice time and an average of approximately 5 fewer days of practice than their male counterparts. For basketball, a sport with teams offered to members of both sexes, female athletes experienced inconsistent practice times throughout the season, whereas male athletes maintained the same practice start and end times throughout the season. Additionally, for seventh grade basketball in particular, the female athletes received approximately 10 fewer hours of practice time than the seventh-grade male athletes on the same team. As to soccer, male athletes enjoyed 25 percent more practice time than female athletes on the same team.

Similarly, during the 2018–2019 school year, female athletes received an average of approximately 17 fewer hours of practice time and an average of approximately 6 fewer days of practice than their male counterparts. For basketball, the female seventh and eighth grade teams averaged approximately 21 fewer hours of practice time than the male seventh and eighth grade basketball teams. Further, for basketball and volleyball, female athletes experienced varied practice times throughout the season, whereas male athletes on all teams maintained the same practice start and end times throughout the season. Taken together, these apparent differences raise a concern as to whether, during the timeframes assessed, the District provided equal athletic opportunity to members of both sexes at the School with respect to the scheduling of games and practice times.

Prior to OCR collecting additional documentation, conducting interviews, and making a determination as to the issues investigated, the District expressed an interest in resolving the related allegations.

#### Resolution Summary:

In addition to collecting the above-referenced information, OCR received the District's expressed interest in resolving the complaint allegations. Section 302 of OCR's *Case Processing Manual* provides that complaint allegations may be resolved at any time when, prior to the point when the Regional Office issues a final determination under CPM Section 303, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement. OCR approved the District's request to resolve this complaint prior to the conclusion of the investigation.

The District signed the enclosed Resolution Agreement (Agreement) on August 20, 2019. OCR has determined that, when fully implemented, the Agreement will address all of the complaint allegations. Further, OCR accepts the Agreement as an assurance the District will fulfill its obligations under Title IX with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. As of the date of this letter, OCR's investigation of this complaint is closed. OCR will monitor the District's implementation of the

Agreement. Please be advised that if the District fails to adhere to the actions outlined in the Agreement, OCR will resume its compliance efforts.

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 the District 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 a 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 appreciates you and the District for your cooperation during the investigation and resolution of this complaint. If you have any questions regarding this letter, please contact General Attorney Cristin Hedman, the investigator assigned to the matter, at (214)-661-9647 or [cristin.hedman@ed.gov](mailto:cristin.hedman@ed.gov). You may also contact me at (214)-661-9638 or [lori.bringas@ed.gov](mailto:lori.bringas@ed.gov).

Sincerely,

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

Enclosure: Signed Resolution Agreement