

**Resolution Agreement**  
**Dodge City Community College**  
**Complaint No. 07162080**

On April 11, 2016, a complaint was filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which prohibits discrimination on the basis of sex by recipients of Federal financial assistance (FFA). As a recipient of FFA, Dodge City Community College (the College) is subject to Title IX. The complaint alleged that the College provides different amounts and types of scholarships for male and female athletes, and fails to provide equal housing opportunities for male and female students.

Before OCR completed its investigation of this complaint, the College voluntarily agreed to take the following actions to ensure its Title IX compliance. This Agreement does not constitute an admission of liability on the part of the College, nor does it constitute a determination by OCR of any violation of applicable regulations by the College.

**Action Item 1: Athletic Financial Assistance**

Beginning with academic year 2017-18, the College will take steps to ensure that it provides equal athletic opportunities for members of both sexes to receive athletic financial assistance, in accordance with 34 C.F.R. § 106.37 (c) and OCR policy.

**A. Commitment:**

- i. *Reduction in Scholarship/Grants-in-Aid:* The College agrees it will not reduce the percent of the total scholarship and/or grants-in-aid dollars currently awarded to members of the underrepresented sex without first providing documentation demonstrating the reason for the proposed reduction and obtaining approval from OCR as it simultaneously develops an athletic financial assistance plan, in conjunction with the plan for increasing athletic opportunities for members of the underrepresented sex that provides reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. § 106.37(c), and applicable OCR policies.

- ii. *Demonstration of Current Compliance*

By **October 1, 2017**, the College will compare the amount of athletic scholarships and/or grants-in-aid awarded to male and female athletes during the 2016-17 school year to determine if the athletic scholarships and/or grants-in-aid were substantially equal to the male and female students' intercollegiate athletic participation rates, after taking into consideration any legitimate, nondiscriminatory reasons for any differences.

The College will compare the intercollegiate athletic participation rates of female and male students as reflected on the NJCAA squad or eligibility list for each intercollegiate sport (for purposes of establishing the participation rates, all students, including students who participate in more than one intercollegiate sport, will be counted only once) to the amounts of athletic financial assistance awarded to male and female athletes.

The College will examine whether there are any legitimate, nondiscriminatory explanations for any differences that exist, such as differences related to reasonable professional decisions appropriate for program development, and adjust the total amounts of aid to take those differences into account.

After taking all legitimate, nondiscriminatory explanations into account, the College will compare the intercollegiate athletic participation rates of male and female students to the rates at which athletic scholarships and/or grants-in-aid are awarded to male and female athletes and determine whether any resultant disparity is less than or equal to 1% of the entire budget for athletic scholarships and/or grants-in-aid.

#### **B. Reporting Requirement – Evaluation of Current Compliance**

**By November 1, 2017**, the College will provide OCR with a detailed report, with copies of supporting documents, reflecting the College's evaluation of the awarding of athletic financial assistance to the College's female and male intercollegiate athletes pursuant to this Agreement. The report will include, at a minimum, a copy of the participation data that the College relied on in determining the number of male and female students in the College's intercollegiate athletics program, a copy of team squad or eligibility lists for each sport showing students, by sex, and the amounts of athletic scholarships or grants-in-aid, if any, they were awarded by the College, and a description of any legitimate, nondiscriminatory factors that led the College to make adjustments to the data as well as a detailed description of the adjustments made.

#### **C. Reporting Requirement – Plan to Ensure Future Compliance**

The College will take the following actions only if unable to demonstrate current compliance with Title IX pursuant to Item I(1)(A)(ii) (Demonstration of Current Compliance) of this Agreement:

**By December 1, 2017**, the College will submit to OCR for review and approval its detailed plan with timeframes to ensure that it provides reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics, including the steps noted below. The College will initiate implementation of the plan upon review and approval by OCR.

The College understands that nothing in this agreement requires the College to reduce the amounts of athletic scholarships and/or grants-in-aid it offers to either sex and that any such reductions are discouraged. In making its calculations, the College will use intercollegiate athletic participation numbers that take into account any increase in intercollegiate athletic participation opportunities the College is providing or plans to provide to students from the underrepresented sex in accordance with Item I(1)(A)(i) of this Agreement.

The College will identify all legitimate, nondiscriminatory factors that apply and describe how they will be taken into account. Disparities may be explained by actions taken to promote athletic program development, and by differences between in-state and out-of-state tuition. Disparities might also be explained, for example, by legitimate efforts undertaken to comply with Title IX requirements, such as participation requirements. Similarly, disparities may be explained by unexpected fluctuations in the participation rates of males and females. For example, a disparity may be explained if an athlete who had accepted an athletic scholarship decided at the last minute to enroll at another school. For any asserted nondiscriminatory justification, the College must demonstrate that its asserted rationale is in fact reasonable and does not reflect underlying discrimination. For instance, if the College asserts the phase-in of scholarships for a new team as a justification for a disparity, the College must demonstrate that the timeframe for phasing-in of scholarships is reasonable in light of college sports practices to aggressively recruit athletes to build start-up teams quickly.

The College will show that after taking all legitimate, nondiscriminatory factors into account any remaining disparity between the intercollegiate athletic participation rates of male and female students and the rates at which athletic scholarships and grants-in-aid are awarded to male and female athletes will be less than or equal to 1% of the total amount athletic financial assistance awarded.

#### **D. Reporting Requirement – Implementation of the Plan in Item I(1)(C)**

The College will complete and submit to OCR the following reporting requirements only if the College implements the action items set forth above in Item I(1)(C) of this Agreement:

**Reporting Requirement:** By June 15, 2018, the College will provide OCR with a report detailing any and all specific actions taken by the College during the 2017-2018 academic year to provide reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics.

#### **Action Item 2: Accommodation of Athletic Interests and Abilities**

Beginning with academic year 2017-18, the College will take steps to ensure that it provides equal athletic opportunities for members of both sexes in accommodating athletic interests and abilities, in accordance with 34 C.F.R § 106.41(c)(1). Specifically, the College will assess the interests and abilities of female students and demonstrate whether the interests and abilities of

female students are fully and effectively accommodated by the College's current athletics program. The College will submit the conclusions of its assessment for OCR's review and approval in accordance with the Commitments and Reporting Requirements outlined below.

- A. **Commitment #1:** The College agrees to provide participation opportunities in its intercollegiate athletics program for female and male students that equally and effectively accommodate the athletic interests and abilities of members of both sexes, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. § 106.41(c)(1), and the December 11, 1979 guidance, A Policy Interpretation: Title IX Intercollegiate Athletics. Each part of the Three-Part Test is an equally sufficient and separate method of complying with the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities. The College will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the College's current athletics program.

The College will develop a policy setting forth the process by which it will review requests (whether oral or written, formal or informal) made to College administrators, coaches, or staff by or on behalf of students to add a particular sport, squad, level of sport, or to elevate an existing intramural sport or club sport, if any, to intercollegiate sport status, including its policy or procedure for requesting additional sports, the designation of the person responsible for receiving and responding to such requests, and the College's plans, methods and efforts to ensure wide distribution of such policies and procedures to potential applicants, existing and newly admitted students, as well as to coaches and other employees. A copy of the College's draft policy will be submitted to OCR for its review and approval before being adopted by the College, published, and disseminated to students. When submitting the draft policy to OCR for review and approval, the College will also describe the method it will use to publish and effectively disseminate the policy or procedure to its students.

- B. **Reporting Requirement: By August 1, 2017**, the College will provide, for OCR's review and approval, a copy of the College's policy setting forth the process by which it will review requests to add additional or elevate existing sports and the College's plan to ensure wide distribution of such policies and procedures to potential applicants, existing and newly admitted students, as well as to coaches and other employees.
- C. **Reporting Requirement: Within 60 calendar days** of OCR approving the policy required by Item A above, the College shall provide to OCR a list of publications containing the OCR-approved policy and an explanation of the methods and efforts used to disseminate the OCR approved policy to potential applicants, existing and newly admitted students, and to coaches and other employees.
- D. **Commitment #2: Part I – Substantially Proportionate Participation Opportunities.** The College will notify OCR whether the 2016-17 school year intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments. In determining substantial

proportionality, the College agrees that: 1) enrollment rates will be calculated using the full-time undergraduate enrollment by sex; and 2) the participation rates of female and male students will reflect the total number of females and males listed on the NJCAA squad list for each intercollegiate sport on the date of the first competition for each sport. The participation rates should not include participants in intramural, club or noncompetitive athletic activities.

- E. **Reporting Requirement: By August 1, 2017**, the College will provide to OCR a copy of the results of its determination, documentation verifying its male and female 2016-17 school year enrollment, and the NJCAA squad list for each intercollegiate sport on the date of the first competition for each sport for OCR's review and approval. OCR will determine whether the College has demonstrated current compliance by meeting Part I of the Three-Part Test as outlined in Item III(7)(A) and (C).
- F. **Commitment #3: Part III - Effective Accommodation of Interests and Abilities.** If the College plans to demonstrate compliance with Part III of the Three-Part Test (or is otherwise unable to demonstrate current compliance by meeting Part I of the Three-Part Test as outlined above in this Agreement) used by OCR to assess whether the interests and abilities of members of both sexes are being effectively accommodated to the extent necessary to provide an equal opportunity to participate in intercollegiate athletics by documenting that the interests and abilities of students who are members of the underrepresented sex have been fully and effectively accommodated by the College's current intercollegiate athletics program it will adhere to Items II(7)(F)(i) (Objective Assessment) and II(7)(F)(ii) (Actions to Increase Athletic Opportunities) of this Agreement.
  - i. **Objective Assessment:** The College will conduct an objective assessment to determine the athletic interests and abilities of female students and whether the College is fully and effectively accommodating the athletic interests and abilities of its female students. The assessment will be based on multiple indicators of interest and multiple indicators of ability, including:
    - a. administration of a survey of students and admitted students who are likely to attend or other information collected from students and admitted students using a method that is designed to fully and accurately assess unmet athletic interests and abilities in intercollegiate sports among female students. A copy of the College's draft survey or other assessment tool will be submitted to OCR for its review and approval before being distributed to students and admitted students. The College will make revisions to the survey as advised by OCR. Upon OCR's written approval, the College will administer the survey, endeavoring to generate as high a response rate as possible, including following up with students and admitted students who do not respond;

- b. identification of any sports, squads, and levels of sports for female students that are not currently offered by the College that are offered by schools that compete within the athletic conference in which the College competes and by schools that are within the College's normal competitive region;
- c. reviewing rates of participation by female students in club and intramural sports, if any, at the College;
- d. reviewing any requests (whether oral or written, formal or informal) made to College administrators, coaches, or staff by or on behalf of female students and admitted female students to add a particular sport, squad, or level of sport, or to elevate an existing intramural sport or club sport, if any, to intercollegiate sport status;
- e. examination of the participation rates of female students in interscholastic sports, amateur athletic associations, and community sports leagues that operate in the areas from which the College draws its enrollment;
- f. reviewing the number of students cut from any women's team in the last three years and the reasons they were cut, to assess whether any of the students who were cut have the ability and interest to compete at the intercollegiate level in that or another sport and whether sufficient numbers of students who were cut could sustain a College intramural or club sport;
- g. examination of assessments made by College coaches or staff during tryouts, or observations of students participating in intramural competition, and other information reflecting the ability of female students compete in a particular sport, prior participation in that sport or a similar sport at the middle or high school level or intramural or club level, general athletic ability, participation in other sports, the nature of the particular sport, and other relevant factors. (Neither a poor competitive record, nor the inability of interested students or admitted students who are likely to attend to play at the same level of competition engaged in by the College's other athletes is conclusive evidence of lack of ability. For the purposes of assessing ability, it is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team.); and
- h. consideration of any other information that demonstrates the athletic interests and abilities of the College's female students.

ii. **Objective Assessment - Reporting Requirement**

- a. By **February 1, 2018**, the College will provide a copy of the draft survey or assessment tool referenced in Item II(7)(F)(i)(a) above (student survey), for OCR's review and approval.

b. By **February 1, 2018**, the College will provide to OCR a complete description of the planned methodology for conducting the student survey, including how the survey will be distributed, the number of surveys to be distributed, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who prepared the survey and the individuals will evaluate the responses to the surveys, and the protocol for retaining a copy of any notes or other documents compiled during the review of the student survey.

c. By **September 1, 2018**, the College will administer the OCR approved student survey.

d. By **October 1, 2018**, the College will provide to OCR a detailed report summarizing results of the assessment conducted by the College pursuant to Item II(7)(F)(i)(a)-(h) of this Agreement (College assessment). The report will include, at a minimum, the following information and/or supporting documentation:

1. a copy of the results of the student survey referenced in Item II(7)(F)(i)(a) above, including but not limited to the number of students by sex, by sport, 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;
2. an analysis of the results of the student survey or other information collected from students using a method that is designed to fully and accurately assess unmet athletic interests, and if applicable, abilities in intercollegiate sports among female students;
3. a list of sports, squads, and levels of sports for female students that are not currently offered by the College but are offered either by schools that compete within the athletic conference in which the College competes or by schools that are within the College's normal competitive region and geographic area;
4. 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 clubs sport to intercollegiate sport status;
5. a summary of any assessments made by coaches or staff during tryouts, or 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 interscholastic level or club or intramural level, general athletic ability, participation in other high school intercollegiate sports, the nature of the particular sport, and other relevant factors; and

6. the College's analysis and conclusions as to whether the College is fully and effectively accommodating the athletic interests and abilities of female students.

iii. **Actions to Increase Athletic Opportunities:** By **February 1, 2019**, if the College is unable to demonstrate compliance pursuant to Action Item II(D), Part I - Substantially Proportionate Participation Opportunities, or Action Item II( F) – Part III Effective Accommodation of Interests and Abilities, the College will submit its detailed plan with timeframes to effectively accommodate the interests and abilities of female students to the extent necessary to provide equal opportunity in its intercollegiate athletics program by the 2019-20 school year. The College's detailed plan will include the steps noted below. In addition, the plan will include a description of interim steps that will be taken by the College during the 2018-19 school year to increase intercollegiate athletic participation opportunities for female students. The College also agrees to conduct periodic assessments of the athletic interests and abilities of its students and admitted students in subsequent years to ensure it is equally and effectively accommodating the athletic interests and abilities of its male and female students consistent with Title IX and its implementing regulation. The College will begin implementation of the plan approved by OCR within 30 days of OCR's approval.

a. *Sports currently offered:* The College will review the squad sizes of current teams to identify opportunities to increase participation opportunities for 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 intercollegiate athletic participation opportunities are being provided for all team members.

b. *Sports not currently offered:* The College will determine whether there are a sufficient number of female students with the interest and ability to support the addition of a team in sports not currently offered by the College as intercollegiate sports and sufficient competition in those sports within the College's normal competitive region. If so, the College will add a team in those sports and will hire a coaching staff, recruit student athletes and provide these student athletes equivalent treatment, benefits and service, including sufficient resources to the coaching staff during the 2018-19 and/or 2019-20 academic years to ensure that each team begins competition no later than the 2019-20 academic year, consistent with the above determination.



*c. Response to developing interests and abilities:* For any sport that is not currently offered by the College 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 College determines that there is not sufficient competition in that sport within the College's normal competitive region, the College will take ongoing steps to address such interest and ability. Steps may include establishment of intramural or club sports, exploring the establishment of competition in the College's normal competitive region, and elevating such sports to intercollegiate status when competition becomes available.

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

*e. Additional intercollegiate opportunities:* To the extent that the College adds any sports, the College will provide those team(s), in a manner comparable to other intercollegiate teams, with sufficient funds in its budget, to ensure equal opportunities, to cover expenses including, but not limited to: scholarships and financial support, coaches, recruiting, equipment and supplies, travel, publicity and support services.

**iv. Actions to Increase Athletic Opportunities – Reporting Requirements**

By **August 1, 2019** and by the same date the following year, the College will provide OCR status reports regarding its implementation of its plan to effectively accommodate the interests and abilities of members of both sexes including, as applicable, information demonstrating that a coaching staff has been hired for any new teams being added by the College, an update on the College's progress in recruiting student athletes for the added teams, and a copy of the detailed budget provided to the teams to ensure they are able to begin competition no later than during the 2019-20 school year. The status reports will also include documentation regarding the interim steps taken by the College to increase intercollegiate athletic participation opportunities for women during the 2018-19 and 2019-20 school years. The College agrees to provide status reports for additional academic years if those reports are requested by OCR.

By **August 1, 2021** and by the same date the following year the College will provide OCR, for OCR's review and approval, a report that includes information

demonstrating that its intercollegiate athletics program effectively accommodates the athletic interests and abilities of its female students. However, if the report provided on August 1, 2021 demonstrates the College's intercollegiate athletics program effectively accommodates the athletic interests and abilities of its female students no further reporting will be required.

## **II. GENERAL PROVISIONS**

This Agreement resolves OCR Docket No. 07162080 and does not constitute an admission by the College of any violation of Title IX or any other law.

OCR will discontinue its investigation of OCR Docket No. 07162080 based upon the College's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegation in OCR Docket No. 07162080. In the event the College fails to implement any provision of this Agreement, OCR may resume its investigation of the complaint or take other appropriate measures within its authority to effect compliance with Title IX.

The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX.

The College understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement and that all actions taken to comply with the requirements of the Agreement are subject to OCR's review and approval. Further, the College understands that during the monitoring of this Agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX which were at issue in this case.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the College written notice of the alleged breach and 60 (sixty) calendar days to cure the alleged breach.

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/s/ Harold Nolte, President  
Dodge City Community College

3-22-2017  
Date