

RESOLUTION AGREEMENT
Complaint No. 08-14-2078
Scottsdale Community College

Scottsdale Community College (SCC) agrees to fully implement this resolution agreement (Agreement) to resolve U.S. Department of Education, Office for Civil Rights (OCR), Complaint No. 08-14-2078 and to ensure its compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, with respect to the issue of whether the selection of interscholastic sports at SCC effectively accommodates the interests and abilities of male and female students to the extent necessary to provide equal athletics opportunities. SCC has voluntarily agreed to adhere to the terms of this Agreement.

I. EVALUATION OF EQUAL OPPORTUNITY

For Title IX athletics, OCR uses a Three-Part Test to evaluate whether both sexes have an equal opportunity to participate in intercollegiate athletics:

1. The College is providing intercollegiate level participation opportunities for female and male students in numbers that are substantially proportionate to their respective enrollments (Part 1); or
2. The College has a history and continuing practice of intercollegiate athletic program expansion that is demonstrably responsive to the developing interests and abilities of students who are members of the underrepresented sex (Part 2); or
3. 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 (Part 3).

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.

II. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

SCC has elected to demonstrate compliance by meeting Part 3 of the Three-Part Test but continues to have the option to choose the part of the Three-Part Test with which it will comply. To meet Part 3, SCC agrees to provide participation opportunities for female and male students that effectively accommodate the athletics interests and abilities of members of both sexes, consistent with the requirements of Title IX, the regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies. SCC 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 SCC's current athletics program.

III. DETERMINATION OF UNMET INTEREST AND ABILITY

To meet Part 3 of the Three-Part Test, SCC agrees to create a survey that accurately assesses whether the interests and abilities of female students to participate in intercollegiate sports are being fully and effectively accommodated by SCC. The survey shall seek information on female students' interest and, if applicable, ability to participate in sports not currently offered by SCC but that are offered by other schools that compete within the Arizona Community College Athletic Conference (ACCAC) and by schools that are within SCC's normal competitive region. The survey should include students' current and future interest in athletics plus an open-ended inquiry where students will be able to submit comments or requests for additional athletic opportunities at SCC. A copy of the draft survey will be submitted to OCR for its review and approval before it is distributed to students. In addition, SCC will develop a plan for administering the survey to its female students, and the plan should seek responses from a target population that adequately reflects the female student population and be provided in a manner consistent with important communications between SCC and students. After submitting its draft survey and plan for administering the survey to its female students, SCC will then work in good faith with OCR to revise these items to meet OCR's approval. After receiving OCR approval, SCC will administer the survey and provide OCR with the survey results.

REPORTING REQUIREMENTS – SECTION III:

1. By September 30, 2014, SCC will provide for OCR's review and approval a copy of the survey and its plan for administering the survey to its female students.
2. SCC will then work in good faith with OCR to revise the survey and plan until it meets OCR's approval.
3. Within 30 days of OCR's approval of the survey and plan for administering the survey, as required by Term III, SCC will administer the approved survey to its female students according to the plan approved by OCR.
4. Within 30 days of administering its survey, SCC will document to OCR that it provided the approved survey in accordance with the plan approved by OCR. Such documentation should include copies of any surveys administered under this section, including but not limited to 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 surveys and a copy of any notes or other documents compiled during the review of the surveys.
5. Within 30 days of administering its survey, SCC will provide OCR with the survey results.

IV. ACTIONS TO INCREASE ATHLETIC OPPORTUNITY

If, based on the annual survey in Term III, SCC identifies a sport or sports in which there is sufficient interest and ability of female students to participate at the intercollegiate level and available competition, SCC will take appropriate measures as described below until such time as either (1) SCC is fully and effectively accommodating the expressed interests and abilities of female students (i.e., there remains no unmet interest and ability); or (2) the participation rate for female students in SCC's intercollegiate athletics program is substantially proportionate to their rate of enrollment at SCC.

For purposes of this provision, "sufficient interest" is defined as the minimum number of athletes needed to support a viable team. For "sufficient ability," it is sufficient that interested students and future students have the potential to sustain an intercollegiate team and students will not be required to demonstrate they have sufficient ability in a new sport or team if students participating in existing sports or teams are not required to demonstrate through try-outs or some other process that they possess sufficient ability to participate in the specific sport in which they have expressed interest.

In providing athletic opportunities for female students to either accommodate their expressed interests and abilities or adjust their rate of participation until it is substantially proportionate to their rate of enrollment at SCC, SCC shall do the following:

1. Sports Currently Offered:

In order to comply with the Three-Part Test used to evaluate whether both sexes have an equal opportunity to participate in intercollegiate athletics, SCC will consider adjusting the squad/team sizes for intercollegiate sports currently offered at SCC, consistent with the nature of each sport and the level of interest in each sport. SCC will adjust the size of each squad/team where determined to be appropriate. If necessary, SCC will provide sufficient coaching staff to support the addition of new athletes to any given squad/team and take any other steps necessary to ensure that the new athletes on each expanded squad/team are provided meaningful opportunities to participate in intercollegiate athletics.

2. Sports Not Currently Offered:

SCC will conduct an analysis of the results of the survey administered pursuant to Term III to determine whether there is sufficient interest and, if applicable, ability among its female students to support the addition of a team or multiple teams in sports not currently offered by SCC. This analysis should include a review of sports that are not currently offered by SCC but are offered by schools that compete in the ACCAC and by schools that are within SCC's normal competitive region. If the survey results show that there is an interest and ability in an intercollegiate team or teams not currently offered by SCC, SCC will also consider whether there is a reasonable expectation of intercollegiate competition within the ACCAC and with schools that are within SCC's normal competitive region. If SCC's analysis of the survey results and expectation of competition indicates that it could support another

viable female sports team(s), SCC shall develop a plan provide athletic opportunities for female students to either accommodate their expressed interests and abilities or will adjust athletics opportunities for male and/or female students until their rate of participation is substantially proportionate to their rate of enrollment at SCC as soon as practicable.

OCR has made clear to SCC and SCC understands that OCR does not require or encourage the elimination of any SCC athletic teams and that it seeks action from SCC 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.

3. Additional Intercollegiate Opportunities:

To the extent that SCC adds any sports, SCC will provide those team(s) in a manner comparable to other intercollegiate teams, with sufficient funds in their budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services. SCC will also publicize any new sports or additional levels of teams through postings on SCC's website and posting in common areas.

REPORTING REQUIREMENT – SECTION IV:

1. By October 30, 2014, SCC will provide a summary to OCR, along with any related documents, of its efforts, if any, to expand the squad/team sizes for intercollegiate sports currently offered at SCC.
2. By October 30, 2014, SCC will provide OCR with a copy of the summary of female sports and squads that are not currently offered by SCC but that are offered by schools that compete within the ACCAC and by schools that are within SCC's normal competitive region.
3. After conducting the survey in Term III and submitting the results to OCR, SCC will have 30 days to document to OCR its analysis and determination regarding whether there is sufficient interest and ability among its female students to support the addition of a team or multiple teams in sports not currently offered by SCC and whether there is a reasonable expectation of intercollegiate competition within the ACCAC or schools within SCC's normal competitive region. In addition, if SCC's analysis of the survey results and expectation of competition indicates that it could support another viable female sports team(s), SCC shall provide OCR with a copy of its plan to create the new team(s).

V. ADDITIONAL COMMITMENTS TO IMPROVE THE ATHLETIC OPPORTUNITIES FOR THE UNDERREPRESENTED SEX

SCC will draft a procedure for students to submit formal requests to SCC's athletic department for the addition of an intercollegiate athletic team and for the athletic department's consideration of any such request. In addition, the procedure will list the factors the athletic department will consider in evaluating requests, and such consideration by SCC shall include whether there is sufficient interest for SCC to support a viable athletic team with a reasonable expectation of competition based on the annual survey in Term III and other relevant factors. In addition, the draft procedures shall include the opportunity for the student submitting the request to offer information supporting their view about whether the new team would be viable and whether there is sufficient interest and ability to support the additional team, along with a written decision issued to the student who submitted the request and timeframes for that decision. After submitting its draft procedure, SCC will then work in good faith with OCR to revise it to meet OCR's approval. Finally, within 30 days of OCR's approval of the procedure, SCC will adopt, publish, and disseminate the approved procedure in accordance with its typical practices, and such dissemination shall include publication on SCC's website and in its student handbook.

REPORTING REQUIREMENT – SECTION V:

1. By November 30, 2014, SCC should submit to OCR its proposed procedure for a formal request system.
2. SCC will then work in good faith with OCR to revise the procedure until it meets OCR's approval.
3. Within 30 days of OCR's approval of the procedure, SCC will adopt, publish, and disseminate the approved procedure in accordance with its typical practices, and such dissemination shall include publication on SCC's website and in its student handbook.

VI. TRACKING AND COUNTING OF ATHLETES

SCC will compile data regarding: 1) current enrollment numbers for SCC, by sex; and 2) the number of participants on all of SCC's intercollegiate sports teams.

REPORTING REQUIREMENT – SECTION VI:

1. By July 1, 2015, and annually thereafter while this Agreement is still in monitoring, SCC will report to OCR the data regarding: 1) current enrollment numbers for SCC, by sex; and 2) the number of participants on all of SCC's intercollegiate sports teams. If OCR closes the monitoring of this Agreement prior to July 1, 2015, SCC does not need to provide this information.

SCC 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 SCC written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

SCC understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with Title IX, 20 U.S.C. §1681, and its implementing regulation, at 34 C.F.R. Part 106, which were at issue in this case.

SCC 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. Further, SCC understands that during the monitoring of this agreement, if necessary, OCR may visit SCC, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether SCC has fulfilled the terms of this agreement and is in compliance with Title IX, 20 U.S.C. §1681, and its implementing regulation, at 34 C.F.R. Part 106, which were at issue in this case.

For Scottsdale Community College:

/s/ Jan L. Gehler

9/10/14

Name

Date

/s/ President

Title

Scottsdale Community College