

**RESOLUTION AGREEMENT**  
**Arizona Interscholastic Association**  
**OCR Case 08-21-1090**

The Arizona Interscholastic Association (AIA) enters into this Agreement to resolve an allegation in the above-referenced case that AIA's mask policy during athletic competitions and tournaments at Arizona public high schools in 2021 failed to provide student athletes, parents, and other spectators with disabilities exemptions from AIA's mask mandate. Prior to the U.S. Department of Education, Office for Civil Rights (OCR) completing its investigation of the allegation, AIA agreed to resolve it pursuant to Section 302 of OCR's *Case Processing Manual*.

AIA assures OCR that AIA will take the following actions to comply with the requirements of: Section 504 of the Rehabilitation Act of 1973 ("Section 504"), as amended, 29 United States Code (U.S.C.) Section 794, and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination based on disability by recipients of federal financial assistance; and Title II of the Americans with Disabilities Act of 1990 ("Title II"), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination based on disability by public entities. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by AIA.

**TERM I: POLICIES AND PROCEDURES RELATED TO DISABILITY DISCRIMINATION**

A. Within 30 calendar days of this Agreement being signed, AIA will revise its disability-related policies and procedures to ensure that:

- at least one person is designated to coordinate AIA's efforts to comply with Section 504 and Title II (commonly referred to as a "Section 504 Coordinator");<sup>1</sup>
- AIA has grievance procedures that provide for the prompt and equitable resolution of complaints alleging disability discrimination;<sup>2</sup>
- AIA takes appropriate and continuing steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate based on disability in violation of Section 504 or Title II;<sup>3</sup> and
- AIA takes appropriate and continuing steps to notify participants, beneficiaries, applicants, and employees of the identification of the person(s) designated to serve as the Section 504 Coordinator.<sup>4</sup>

Additionally, AIA will develop policies and procedures that specify how AIA will handle requests for disability-related accommodations or modifications, including how AIA will work with member public schools and districts to adequately respond to such requests.<sup>5</sup>

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<sup>1</sup> See 34 C.F.R. § 104.7(a); 28 C.F.R. § 35.107(a).

<sup>2</sup> See 34 C.F.R. § 104.7(b); 28 C.F.R. § 35.107(b).

<sup>3</sup> See 34 C.F.R. § 104.8(a); 28 C.F.R. § 35.106.

<sup>4</sup> See 34 C.F.R. § 104.8(a).

<sup>5</sup> See 34 C.F.R. §§ 104.4, 104.37; 28 C.F.R. §§ 35.130, 35.149.

**Reporting Requirement 1:** Within 30 calendar days of this Agreement being signed, AIA will submit to OCR for review and approval a draft of the policies and procedures required by Term I. AIA will promptly and fully address OCR's concerns, if any, until AIA receives notification from OCR that no further reporting is required for Reporting Requirement 1.

B. Within 20 calendar days of receiving OCR's approval of the revised disability-related policies and procedures, AIA will disseminate them to students, parents and guardians, all member schools and school districts, and all AIA staff, committee, and Board members. Methods of dissemination will include, at a minimum:

- posting the policies and/or procedures on AIA's website, including its "Health & Safety" webpage;
- posting the policies and/or procedures on AIA's social media (e.g., Facebook, Twitter, Instagram, and YouTube);
- publishing the policies and/or procedures in AIA's newsletter; and
- adding the policies and/or procedures to AIA's *Policies and Procedures Manual*.

**Reporting Requirement 2:** Within 30 calendar days of receiving OCR's approval of the policies and procedures, AIA will submit to OCR for review documentation demonstrating that the approved policies and procedures were disseminated as required by Term I (e.g., copies of emails showing the recipients, email text, and attachments; copies of newsletters and a description of distribution; links to webpages; etc.). AIA will promptly and fully address OCR's concerns, if any, until AIA receives notification from OCR that no further reporting is required for Reporting Requirement 2.

## **TERM II: NOTICE TO MEMBERS**

A. When disseminating the revised disability-related policies and procedures under Term I.B, AIA will provide a written notice to all member schools and school districts that explains the following:

- should COVID-related conditions require AIA to mandate face coverings (e.g., masks) for student athletes, their parents, or other spectators in the future, persons with disabilities who cannot wear masks would be exempted and AIA will provide a process by which individuals with disabilities may request an exemption to the mandate with supporting medical documentation demonstrating that the individual cannot wear a mask due to disability;
- AIA recognizes that enforcing a face covering requirement could impede individuals with disabilities' access to the public school or school district's athletic programs or activities subject to AIA rules;
- individuals with disabilities may request reasonable modifications to AIA's policies, practices, or procedures – including any addressing the use of face coverings – and AIA will grant reasonable modifications when they are necessary to avoid discrimination

based on disability and can be made consistent with the health, safety, and well-being of all students and staff;<sup>6</sup>

- AIA and its member public schools and school districts must comply with Section 504, Title II, and their implementing regulations, including that they must not aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates based on disability;<sup>7</sup> and
- if AIA or its member public schools or school districts provide significant assistance to an outside entity and the entity is shown to have discriminated based on disability, the public school or school district must take steps to obtain compliance from the organization or terminate its assistance.

**Reporting Requirement 3:** Within 30 calendar days of this Agreement being signed, AIA will submit to OCR a draft of the notice required by Term II. AIA will promptly and fully address OCR's concerns, if any, until AIA receives notification from OCR that the notice is approved and that no further reporting is required for Reporting Requirement 3.

- B. Within 20 days of OCR approving the written notice, AIA will send it to, at a minimum, existing listservs or email lists of coaches, athletic directors, superintendents, or other school or school district liaisons.

**Reporting Requirement 4:** Within 30 calendar days of receiving OCR's approval of the written notice, AIA will submit to OCR documentation demonstrating that the approved notice was disseminated as required by Term II.B. AIA will promptly and fully address OCR's concerns, if any, until AIA receives notification from OCR that no further reporting is required for Reporting Requirement 4.

### **TERM III: ONGOING MONITORING BY OCR**

AIA will report to OCR any complaints – whether written or oral, or formal or informal – regarding face coverings that it received in 2021, 2022, and 2023, if any.

**Reporting Requirement 5:** By June 27, 2023, AIA will submit to OCR a report about complaints to AIA regarding face coverings in 2021 and 2022, if any. By January 26, 2024, AIA will submit a report about complaints to AIA regarding face coverings in 2023, if any. These reports will include all complaints from students, parents, coaches, officials, spectators, and others. These reports will include copies of complaints, descriptions of AIA's responses to the complaints, and all other related records (*e.g.*, emails, phone logs, investigatory records, etc.). For any oral complaints, AIA will provide OCR with a written description of the complaint. AIA will promptly and fully address OCR's concerns, if any, until AIA receives notification from OCR that no further reporting is required for Reporting Requirement 5.

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<sup>6</sup> *See id.*

<sup>7</sup> *See* 34 C.F.R. § 104.4(b)(1)(v); 28 C.F.R. § 35.130(b)(i)(v).

#### **TERM IV: FUTURE POLICIES AND PROCEDURES RELATED TO FACE COVERINGS**

While AIA remains subject to this Agreement, AIA will obtain OCR's prior approval before adopting any new policies or procedures regarding COVID and face coverings. OCR will review and approve the policies or procedures to ensure compliance with Section 504, Title II, and their implementing regulations.

**Reporting Requirement 6:** Prior to adopting any new policies or procedures regarding COVID and face coverings, AIA will submit to OCR a draft of the policy or procedure. AIA will promptly and fully address OCR's feedback, if any, until AIA receives OCR's final approval of the policy or procedure.

By signing the Agreement, AIA agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, AIA understands that during the monitoring of the Agreement, if necessary, OCR may visit AIA and member schools, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether AIA has fulfilled the terms of the Agreement and is in compliance with the statutes and regulations at issue in this case. AIA understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that AIA is in compliance with the terms of the Agreement and the statutes and regulations at issue in the case.

AIA understands and acknowledges that OCR may initiate proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms and obligations of the Agreement and/or the applicable statutes and regulations. Before initiating such proceedings, OCR will give AIA written notice of the alleged breach and 60 calendar days to cure the alleged breach.

**For AIA:**

/s/  
David Hines, Executive Director

5/10/23  
Date