



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION IX  
CALIFORNIA

November 30, 2016

Michael H. Lin, Ed.D.  
Superintendent  
Corona-Norco Unified School District  
2820 Clark Avenue  
Norco, California 91760

(In reply, please refer to Case No. 09-15-1191)

Dear Superintendent Lin:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against Corona-Norco Unified School District (District). The complainant alleged that the District discriminated against the complainant and Student on the basis of sex in the Santiago High School athletic program.<sup>1</sup> Specifically, OCR investigated whether:

1. The program discriminates against women because it does not provide female students an equal opportunity to receive coaching, particularly with respect to the receipt of coaching at wrestling meets.
2. The program discriminates against women because it does not provide female students equal travel/per diem benefits, particularly as it pertains to the participation in wrestling tournaments.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The District is a recipient of financial assistance from the Department. Therefore, OCR had jurisdiction to investigate this matter under Title IX.

To investigate this complaint, OCR conducted interviews with District staff, the complainant, and reviewed documents and other information provided by the complainant and the District, and on September 22-23, 2015 conducted a site visit and interviews. After careful review of the information gathered in the investigation, OCR concluded that the District did not violate Title

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<sup>1</sup> OCR previously provided the District with the identity of the complainant and Student. We are withholding their names from this letter to protect their privacy.

IX and its implementing regulation with respect to its overall athletic program with regards to allegation 1 and 2. However, with respect to the treatment of the Student, OCR finds that the District did violate the statute with respect to the allegations investigated. The legal standards, facts gathered, and the reasons for our determinations are summarized below.

### **Legal Standards**

The Title IX regulations, at 34 C.F.R. §106.41, provide that no 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 athletics offered by a District, and no District shall provide any such athletics separately on such basis. As a means of assessing compliance under the regulations, OCR follows the Policy Interpretation issued by the Department on December 11, 1979, 44 Fed. Reg. 71413, et seq. (1979).

In its investigation, OCR examined the following areas of the XXXXXXXX High School athletic program: travel and per diem allowances and the opportunity to receive coaching. In each of the areas, OCR examined whether the availability and quality of benefits, opportunities, and treatment provided were equivalent for members of both sexes. Equivalent is defined as equal or equal in effect. In accordance with the 1979 Policy Interpretation, OCR compared components of the men's program and the women's program on an overall basis, not on a sport-by-sport basis that would compare, for example, the men's basketball uniforms and the women's basketball uniforms. Where disparities were noted, OCR considered whether the differences were negligible. Where the disparities were not negligible, OCR determined whether they were the result of nondiscriminatory factors. Finally, OCR determined whether disparities resulted in the denial of equal opportunity to male or female athletes, either because the disparities collectively were of a substantial and unjustified nature or because the disparities in individual program areas were substantial enough by themselves to deny equality of athletic opportunity. Nondiscriminatory differences based on unique aspects of a particular sport are considered.

Using the criteria provided in the Policy Interpretation, OCR examined the benefits, services and opportunities provided to male and female athletes in the below areas:

#### Travel and Per Diem

Under the Title IX regulations, at 34 C.F.R. §106.41(c)(4), in assessing compliance in this area, OCR considered the modes of transportation; housing furnished during travel; length of stay before and after competitive events; per diem allowances; and dining arrangements.

#### Coaching

Under the Title IX regulations, at 34 C.F.R. §106.41(c)(5) and (6), in determining compliance for the opportunity to receive coaching, OCR considers three components: (1) the relative availability of coaches, assistant coaches, and graduate assistants; (2) the training, experience,

and other professional qualifications of coaches; and (3) the compensation of coaches for men's versus women's programs. Of these three factors, OCR's primary focus is on the availability of coaches.

***Class allegations 1 and 2: Whether female athletes experience unequal opportunities in their participation in the School's athletic program with respect to travel and per diem allowance and the opportunity to receive coaching.***

**Finding of Fact, Analysis, and Conclusions of Law**

In order to review whether there was a systemic issue under Title IX with the School's interscholastic athletics program, OCR reviewed a sample of the School's sports – sports that were co-ed teams and single sex sports.

Based on the District's response to OCR, the District identified the number of coaches at the School by surveying all the sports per level (freshman, junior varsity, varsity). In the 2014-2015 school year, one female, one male and one coed team did not report having a head coach. For the same year, five male teams, six female teams, and two coed teams did not report having an assistant coach.<sup>2</sup> Based on the District's accounting for the 48 teams that reported their coach count, there was no significant disparity between the coach numbers for male and female athletes.

These positions are not full time, salaried positions, but rather are part time and receive a stipend for the season of sport coached. With the exception of football, the School offers the same stipend amount for one head coach and one assistant coach per team. The qualifications of the coach do not affect the rate of pay. The varsity head coach of each team will decide how many additional coaches to bring on. Since the District offers the same lump sum dollar amount for assistant coaches, the head coach may decide to pay the entire stipend to one assistant coach, or divide the same stipend up between multiple assistant coaches. Based on the information gathered in the investigation, OCR concludes that there was not a significant disparity in the compensation and assignment of coaches.

According to the School's Coaching Packet, the coach is responsible for communicating the philosophy of the team, expectations of athletes, locations and times of all practices and competitive events, team requirements, off season expectations, injury procedure, discipline and the coach's availability. The coaches interviewed informed OCR that the average practice time is 1.5-2 hours after school. For sports like cross country, track and field, and wrestling, where the female and male athletes practice and compete in the same season, the coaches informed OCR that the athletes receive coaching based on their skill level in the sport, and do not receive specialized coaching based on their gender. Further, the athletes informed OCR

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<sup>2</sup>The School informed OCR that it identified the School's number of coaches by using a self-reporting survey tool administered to the existing coaching staff. As a matter of technical assistance, OCR recommends the District implement a more accurate mechanism for ensuring that the opportunity to receive coaching is equitable under Title IX.

that they believed their head coach attended all practices and competitive events, with the exception of a conflicting medical or work related appointment. The athletes did not express a concern about the quality of coaching received during the sport.

The teams interviewed informed OCR that the opportunity for athletes to practice with their School teams is through the practice opportunities provided at the School. OCR reviewed the School's athletic practice, conditioning and competitive facilities and confirmed that all teams have access to the facilities they need to train for their sport on the School's campus. The coaches and athletes confirmed to OCR that outside experience in the sport, either during the off season or during the season of sport, are not required or encouraged. They informed OCR that many athletes will participate in the club version of their sport during the off season. The club sports are not District or School sponsored activities, and they are not organized or led by School team coaches. Based on the facts gathered during the investigation, OCR did not identify any significant disparity between the opportunities to receive coaching.

With respect to travel and per diem, OCR reviewed the transportation options, opportunity for overnight competitive events, and per diem allowances/dining arrangements. The School does not provide per diem allowances or dining arrangements to any of its athletic teams. The School will fund team transportation for its sports and provided a summary showing that it funded team transportation for four female sports, four male sports, and two co-ed sports between August, 2014 and April, 2015. The coaches and athletes interviewed informed OCR that athletes typically attend their games using a personal means of transportation, and less frequently use school-funded transportation. The District reported to OCR that there are very few approved overnight competition opportunities. In the 2014-2015 school year, the boys' water polo team was able to compete in an invitational that included an overnight stay. The year prior, the girls' water polo team went to two overnight competitive events. Based on the facts gathered during the investigation, OCR did not identify any significant disparity in the component of travel and per diem. For these reasons, with respect to the School's athletic program, OCR finds there is insufficient evidence to support a conclusion of noncompliance with Title IX and its implementing regulations.

***Individual allegation: Whether the individual female student wrestler was treated differently than the male wrestlers during the 2014-2015 season with respect to travel and per diem allowance and the opportunity to receive coaching.***

#### Findings of Fact

The complainant alleged that the Student was treated differently on the basis of sex with respect to her participation in the School's wrestling program. The Student XXXXXXXXXXXX XX XXX XXXXXX XX X XXXXXX XX XXX XXX XX the 2013-2014 school year. At the time of the Student's enrollment at the School, she XXX XXX XXXX female wrestler. The Student was a wrestler at her prior high school, is competitive in her sport and has placed high in female-only wrestling tournaments. Prior to attending the School, the Student's wrestling experience was primarily in competing with female only wrestlers, and not as a co-ed wrestler.

When a school transfer is not due to a change of residence, the California state's governing body for interscholastic athletics, the California Interscholastic Federation (CIF), requires that the Student "sit out" of their season of sport for a certain period of time. The School's Athletic Director determined that this rule applied to the Student so, as a wrestler, her "sit out" period extended through January 5, 2015, the middle of the wrestling season.

The School had notice that the Student intended to participate in its interscholastic wrestling program. Even though the Student began the 2013-2014 school year late in the academic year and during the wrestling post-season, she began off season practice at the School with the wrestling team. The School permitted the Student to practice with their interscholastic wrestling team which, at the time, was all male wrestlers.

In addition to the wrestling coach at the time, the complainant informed the School's principal and Athletic Director that the Student intended to join the School's wrestling team in the upcoming season during the 2014-2015 school year. The complainant informed OCR that both the wrestling coach and the Athletic Director stated that they did not realize that the CIF offered competitive wrestling for female athletes.

The School hired a new wrestling coach for the 2014-2015 school year. As soon as the complainant learned of the new coach, he informed the new coach, prior to the end of the Student's sit out period, that the Student intended to wrestle for the School. This coach also stated to the complainant that he did not realize that there was competitive wrestling for female athletes.

Prior to 2011, CIF did not offer female only wrestling opportunities at the regional and state level. Up until that point, female wrestlers were required to compete with male wrestlers to progress in the sport. In 2011, the CIF offered a route for female wrestlers to compete in female-only qualifiers and championships at the regional and state level. However, there are no female-only league competitive events at this time. Therefore, for a female wrestler who wants to compete at a high level with females only, she must compete and qualify at Saturday invitational events held across the state of California during the wrestling season (December through February).

The other way for a female wrestler to compete is in dual meets in a co-ed environment.<sup>3</sup> The CIF leagues organize dual meets and these points can count for an individual to compete in the CIF regional qualifying championships. According to the District, the School's 2014-2015 wrestling program included 5 dual meets and ends with the league finals. At a dual meet, only the top wrestler in each weight class per school gets to compete in the meet – regardless of sex. If a female wrestler on the team is that team's top wrestler in a particular weight class, she would represent the team in that weight class at the meet. The Student did not make attempts to challenge her male counterparts in order to compete at dual meets.

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<sup>3</sup> A dual meet in wrestling is one where there is both individual and team scoring. The wrestler can win a match as an individual and score points, but will also gain points for the team.

The School's team also permits wrestlers to participate in other tournaments and non-league matches during the season, as well as weekend tournaments, up to the match cap per wrestler. However, these are typically events where an athlete is competing as an individual, as opposed to a team.

The complainant alleged that while the wrestling coaches did take steps to confirm the existence of female-only competitive events, the School did not develop a plan to support the Student's participation in these events.

The complainant identified three wrestling tournaments for female-only wrestlers that the Student could compete in after her "sit out" period. One of the tournaments that the complainant sought approval for was for an out of town, overnight trip. The District and School met with the complainant on December XX, 2014 prior to the end of the Student's "sit out" period and informed the complainant that per School Board policy,<sup>4</sup> an overnight trip must be approved by the School Board in advance, and there was not enough time before the January X, 2015 tournament to do this. Further, the School did not have the budget for room and board for the athlete or a coach to attend. The complainant decided he still would take the Student to the tournament and incurred all of the registration and travel costs. A School coach did not attend the meet. The Student competed in two more weekend tournaments where she paid the registration fee and travel expenses.

For approved interscholastic tournaments, the School will pay the registration fees upon request of the coach. The School will pay the fees for all CIF and state championship events. In the 2014-2015 school year, the School paid registration fees for one male team, and four different female teams.

The School informed OCR that it offered to reimburse the complainant for the cost of registration for the tournaments. The complainant informed OCR that this offer was made after he filed this OCR complaint. The complainant did not submit any receipts to the School for reimbursement. During OCR's investigation of this complaint, the School informed OCR that its offer to reimburse the complainant for tournament registration fees remains open.

The School informed OCR that there are two ways coaches can register their athletes for tournaments. The protocol is to plan far in advance and have the School issue the registration fee to the tournament host prior to the event. The second method is that the coaches pay the entry fee for the tournament at the door and submit a receipt to the Athletic Director for reimbursement. During the 2014-15 season, the School recorded six different wrestling tournaments where the athletes paid the fee at the door and submitted for reimbursement.

The School informed OCR that the Student's overnight trip was treated similarly to overnight trips attended by male wrestlers. There were four male wrestlers that attended a different

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<sup>4</sup> Board Policy 6761 and Administrative Regulation 3521 apply to field trips, extended field trips and field trip transportation. A coach is supposed to file extended field trip paperwork eight weeks prior to the event for Board approval.

overnight tournament, and the families arranged for and paid for all the costs on their own, and were also not authorized to attend as a School trip. Also, the Athletic Director told OCR that during the 2014-2015 school year, he recalled denying approval to attend other tournaments to individual male wrestlers.

With respect to the receipt of coaching, the complainant alleges that the Student had to sign up for the tournaments on her own, that neither the head nor the assistant coach attended the tournaments with her, and that there was insufficient coaching and practice time for the Student. When the Student requested registration to weekend tournaments, the head coach informed her to use practice time and his computer to log in to his account to register for tournaments. The Student stated she lost hours of practice as a result because she did not understand the registration process. She did not observe male wrestlers using practice time to do the same. The complainant had the Student attend another high school's wrestling practice for female wrestlers, and paid for private training and a coach for the Student when she progressed to the qualifying tournaments.

The School did assign a coach to attend meets with the Student, and he attended two of three tournaments<sup>5</sup> with the Student, as well as the CIF Regionals and Masters events. The complainant does not dispute that a wrestling coach was sent by the School to coach at Student's tournaments. However, the complainant learned from the coach and Student that the individual was not a coach who trained the team, had little experience with coaching, and only attended a portion of the Student's matches at tournaments. The complainant alleges that the coach appeared at the meets after warm up and weigh in, and at one tournament, the coach was not present for the Student's last match. The assigned coach was a college student who had wrestled with the School's team the year prior as a high school student. The complainant informed OCR that this coach told him he did not realize there were female-only wrestling events.

The complainant stated that the head coach of the wrestling team would attend meets with male wrestlers and was more helpful to them with registering for competitive events. He stated that he learned that the wrestling coaches attended tournaments with male wrestlers in Riverside and Clovis during the same weekend the Student attended the tournament requiring an overnight stay – even though he recalls being told that no coaches could be available that weekend. However, the tournaments that the male wrestlers attended were not overnight events.

According to the School's Athletic Director, during the 2014-2015 wrestling season there were two concerns related to the Student's experience: a coach that appeared to be allowing parents to make decisions about competitive events for both male wrestlers and the female wrestler, and the complainant's decision to enter the Student into tournaments that were not authorized by the School. The Athletic Director informed OCR that upon investigation, it appeared that the head coach allowed the parents of male wrestlers and the female wrestler to decide what

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<sup>5</sup> As described above, the School informed the complainant that the tournament requiring an overnight trip was not an approved School activity and no coach would be attending the tournament with the Student.

tournaments they would compete in as opposed to organizing the competitive events as a team. The Athletic Director informed OCR that this was the first female wrestler at the School and that the School was not knowledgeable about the separate route a female wrestler could take towards a female-only championship. He informed OCR that the School might have been better prepared to support the Student's participation in wrestling and competitive wrestling opportunities. Secondly, the Athletic Director observed that while the complainant wanted his daughter to receive the benefits of practicing with the head coach and team, that it was not clear whether the student intended to compete with the School's team or as an individual.

As a result of the School's observations of the wrestling coach staff, the School decided not to ask the 2014-2015 coaches to return for the 2015-2016 season. The School hired a new wrestling head coach who has a long experience coaching wrestling, and specifically coaching female wrestlers. There are now six novice female wrestlers training on the co-ed team.<sup>6</sup> The female and male wrestlers practice together and as they qualify to compete, will compete in a co-ed environment. The head coach informed OCR that if more interest shows, and the female athletes become competitive in their ability, he would request that the School consider a second assistant coach to focus on the female wrestlers and enter the team into female-only competitive events.

OCR interviewed a female wrestling athlete who is practicing with the 2015-2016 head coach at the School. The athlete informed OCR that the coach is "amazing." She stated that she and the other female wrestlers practice at the same time and integrated with the male wrestlers. She stated that this has been a helpful experience for her because most of the male wrestlers are more experienced and can help demonstrate the sport. The athlete stated that the coach provided each athlete with a calendar that shows all the practice and competitive opportunities, including weekend tournaments. The coach provided clear instruction about attending Saturday tournaments and how to sign up. She informed OCR that she was not asked to pay a registration fee, but she would have to provide her own transportation to the weekend event. The athlete informed OCR that the only difference she sees between the male and female wrestlers is that the female wrestlers dress down for practice in the female locker room, and the male wrestlers dress down in the wrestling room.

#### Analysis and Conclusions of Law

Under the Title IX regulations at 34 C.F.R. § 106.41(a), no person shall be treated differently from another person, on the basis of sex, in any interscholastic athletics offered by the School. As such, under 34 C.F.R. § 106.41(c), the School shall provide equal athletic opportunity for members of both sexes. With respect to a contact sport, like wrestling, under 34 C.F.R. § 106.41(b), a School need only offer a like sport for the excluded sex if opportunities for the members of the excluded sex have been historically limited, and there is sufficient interest and ability to sustain a viable team and a reasonable expectation of interscholastic competition. In this case, when the Student enrolled in the School, she was the only female wrestler who

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<sup>6</sup> The Student who was the School's first competitive female wrestler graduated from the School at the end of the 2014-2015 school year. She is now wrestling at the collegiate level.



expressed interest and had the ability to compete at the interscholastic level. In this circumstance, and without any other female interest and ability in the sport, the School appropriately included the Student in its historically male only interscholastic wrestling team. OCR reviewed whether the Student was treated differently in her participation on the wrestling team as compared to the male wrestlers.

The complainant's allegations in this case raise two unique circumstances that distinguish this Student's experience from that of other female athletes at the School. First, the Student was the School's first competitive female wrestler. Second, the interscholastic sport of wrestling operates very differently than the majority of interscholastic team sports because athletes can compete both as a team and as individuals. Specifically, individual athletes can compete in non-league organized tournaments, without the presence of the entire team, in order to score points and qualify for the CIF regionals and state championships. In the CIF, there is a separate route to regional and state championships for a female wrestler to compete in the sport should she decide to wrestle with females only; but currently there are no female only meets in the School's league. As described above, this means a female wrestler would need to be the top wrestler in her weight class on her team to compete in a co-ed environment, or she would need to compete on the weekends at female-only tournaments to earn a qualifying ranking.

During the course of the investigation, OCR obtained evidence that the School affirmatively addressed several of the inequities that occurred in the provision of coaching by hiring an entirely new wrestling coaching staff, including a head coach who had a history of coaching female wrestlers. This coach informed OCR of how he provided equitable opportunities to receive coaching support during practice times, as well as normalizing the weekend tournament opportunities for all wrestlers. He informed OCR that the now six female wrestlers were still at a novice level and his plan to consider a female wrestling team at the time the female wrestlers' skill sets advance to a competitive level. A female wrestler interviewed by OCR confirmed that her experience was equitable to that of the male wrestlers. For these reasons, OCR concludes that the School has resolved the systemic issue with respect to different treatment of a female athlete on the wrestling team.

OCR reviewed the Student's experience in the School's wrestling program, specifically with regard to her receipt of coaching, and travel and per diem. Regarding coaching, the information gathered by OCR shows that the Student did not receive any coaching from the head coach or the assistant coach during her competitive events. While true that she competed at separate events than the male wrestlers, the head or assistant coach could have chosen to coach her at some of her Saturday competitions instead of coaching individual male athletes at their Saturday tournaments. OCR also had concerns based on the complainant's account that the assistant coach that was sent with the Student did not have experience coaching, or coaching a female wrestler at her level in the sport, and whose attendance at the Student's matches was inconsistent. The complainant provided documentation from social media postings that the head and assistant coach attended weekend events with male wrestlers, indicating that the weight of working with the newest coach was carried by the Student only and not spread across the team. Further, the Student observed that while the

male wrestlers were practicing, the head coach informed her she could use his computer and account to register herself for tournaments. She stated that since she was not familiar with how to do this, she lost hours of practice time. She did not observe other male wrestlers missing practice time to register for events. As a result of a loss of valuable practice time and coaches unfamiliar with female wrestling, the complainant and Student utilized other coaches and practice opportunities outside of the School. Even the School informed OCR that the Athletic Department had not been fully informed on how to support a female wrestler, despite having advance notice during the off season, pre-season, and the Student's sit out period that the Student intended to wrestle.

Regarding the receipt of travel and per diem, the School has a nondiscriminatory policy for reviewing overnight trips and provided evidence that other male wrestlers who attended overnight trips did so without the School's support. The School also provided information that during that particular season of wrestling, other male wrestlers paid for their own tournament registration fees and later sought reimbursement. The School did not provide travel reimbursement to the athletes.

For all of these reasons, OCR determined that the evidence supports a conclusion of noncompliance with Title IX and its implementing regulations regarding the Student's experience in the wrestling program. While OCR did not find any substantial disparities regarding the ability to travel or per diem, the quality of coaching and coaching opportunities for the Student was not equal to that received by male wrestlers during the 2014-2015 season. OCR found that the School had enough advance notice of the Student's intention and ability to wrestle that it could have grown its wrestling program to meet the needs of a female wrestler who intended to compete in female-only competitive events. In order to address this finding, the District entered into the enclosed resolution agreement, which is discussed below.

## **Conclusion**

This concludes the investigation of this complaint.

To address the issues alleged in the complaint, the District, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and the findings and information obtained by OCR during its investigation. The agreement provides for an educational stipend to be issued to the Student to address her experience in the School's wrestling program.

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. When fully implemented, the resolution agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of agreement until the District is in compliance with Title IX and its implementing regulations.

OCR's determination in this matter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those

addressed in this letter. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

Please be advised that 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 complainant 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, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Tammi Wong, attorney, at (415) 486-5555.

Sincerely,

/s/

James M. Wood  
Team Leader

cc: Alexandria M. Davidson, Atkinson, Andelson, Loya, Ruud & Romo