

**Resolution Agreement  
Complaint No. 09-16-1189  
Santa Cruz City Schools**

The Santa Cruz City School District (the District) agrees to fully implement this resolution agreement (Agreement) to resolve U.S. Department of Education, Office for Civil Rights (OCR), Complaint No. 09-16-1189 and to ensure 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 issues of: a. whether the selection of interscholastic sports at the District's high schools effectively accommodates the interests and abilities of male and female students to the extent necessary to provide equal athletics opportunities; b. quality and availability of coaching; and c. the provision of practice and competitive facilities and locker rooms. The District has voluntarily agreed to adhere to the terms of this Agreement with respect to each of its high schools (Harbor, Santa Cruz, and Soquel).

**I. General Provisions**

- A.** Prior to conducting the assessments set forth in this agreement, the District agrees to receive training regarding its responsibilities involving Title IX compliance and specifically with respect to: a. its effective accommodation of the interests and abilities of male and female students; b. the quality and availability of coaching; and c. the provision of practice and competitive facilities and locker rooms.
- B.** By February 24, 2017, the District's Title IX Coordinator, key District and school site administrators, and all other District employees who the District identifies as having responsibilities involving Title IX compliance will attend a training conducted by OCR. The training will cover the District's general responsibilities under Title IX and more specifically, its application to athletics.

**II. Effective Accommodation of Interests and Abilities**

**A. Purpose**

The District agrees to provide participation opportunities for female and male at the District's high schools that effectively accommodate the athletic 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. The District will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its high schools, or demonstrate that the interests and abilities of the underrepresented sex are fully and effectively accommodated by the District's current athletics program.

**B. Definitions**

1. **Sports:** OCR does not have a specific definition of the term “sport.” Instead, OCR considers several factors related to an activity’s structure, administration, team preparation and competition.<sup>1</sup>
2. **District’s normal competitive region and geographic area:** OCR considers available competitive opportunities in the geographic area in which the institution’s athletes primarily compete, including; (a) competitive opportunities offered by other schools against which the institution competes; and (b) competitive opportunities offered by other schools in the institution’s geographic area, including those offered by schools against which the institution does not now compete.<sup>2</sup>

### **III. Determination of Unmet Interest and Ability**

#### **A. Assessment and Data Provisions**

In order to determine whether there is unmet interest and ability among members of the underrepresented sex in the District’s high schools’ interscholastic athletics programs, the District will take the following actions:

By April 28, 2017, the District will conduct an objective assessment of its student body at each of its high schools and the eighth grade level of its middle schools to determine the existence and/or scope of any unmet athletic interests of the underrepresented sex, in the District’s athletics programs.

The assessment will also consider whether the interested students have the ability to sustain an interscholastic team, noting that they do not need the ability to sustain a successful or elite team, but only need to show that they have the potential to participate in team try-outs, practices and competitions and, with coaching, the potential to attain sufficient ability to participate at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest. The assessment will be based on multiple indicators of interests and, if applicable, multiple indicators of abilities, and shall include the following:

1. A survey of the underrepresented sex at each District high school and the eighth grade students at its middle schools. The survey shall seek information on the interest and, if applicable, ability of the underrepresented sex to participate in sports currently offered and in sports not currently offered by the District.<sup>3</sup> A copy of the draft survey will be submitted to OCR by March 30, 2017 for its review and approval before it is distributed to students.

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<sup>1</sup> For further information see OCR Dear Colleague Letter: Athletic Activities Counted for Title IX Compliance, September 17, 2008; see also *Biediger v. Quinnipiac*, 728 F. Supp. 2d 62 (D. Conn. 2010) (competitive cheerleading may qualify as a sport for purposes of Title IX if the OCR factors are met).

<sup>2</sup> For further information see OCR Dear Colleague Letter, April 20, 2010.

<sup>3</sup> For further information see OCR Dear Colleague Letter, April 20, 2010, pages 9-10.

2. A review of the results of recent surveys of students, if any, 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 interscholastic sports among the underrepresented sex.
3. Identification of sports, squads, and levels of sports for the underrepresented sex that are not currently offered by each District high school but are offered either by schools that compete within the league(s) in which the District competes or by schools that are within the District's normal competitive region and geographic area.
4. For the 2015-2016 school year, rates of participation by the underrepresented sex in interscholastic sports, club sports, and physical education courses that are offered in the District's schools, and community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area.
5. For the last two academic years, if applicable, a review of the number of members of the underrepresented sex who were cut from each high school team and the reasons they were cut, to assess whether any of those students had or have the ability to compete in that sport and whether sufficient numbers of students were cut to sustain another level in that sport (e.g., junior varsity).
6. A review of any requests (whether oral, written, formal or informal) made to School Board Members, District administrators, coaches, or staff by or on behalf of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status. This review may be limited to requests that were received during the 2013-2014, 2014-2015, and 2015-2016 school years.
7. For the last two academic years, if applicable, a review of any assessments made by District coaches or staff during tryouts, or observations of students participating in club or interscholastic competition offered by the District or in community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area, and other information reflecting the ability of members of the underrepresented sex to compete in a particular sport, prior participation in that sport or a similar sport at the middle or high school level or interscholastic, club or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.
8. Any other information that demonstrates the athletic interests and abilities of the underrepresented sex at the District's high schools and middle schools.

## **B. Reporting Requirements**

To demonstrate its compliance with the terms of Section III of this Agreement, the District will submit the following information to OCR:

1. By March 30, 2017, a copy of the draft survey referenced in Section III.A.1. above, for OCR's review and approval.
2. By March 30, 2017, a complete description of the planned methodology to conduct the survey, including how the survey will be distributed, the number of surveys to be distributed, the grade levels of students who will receive the surveys, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who 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 surveys.
3. By May 31, 2017, a detailed report about the assessment conducted pursuant to Section III of this Agreement for each identified high school and middle school. The report will include, at a minimum, the following information:
  - a. A copy of the results of the survey referenced in Section III.A.1., above, including but not limited to the number of students, 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, the grade levels of students who received the surveys, 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.
  - b. An analysis of the results of any other recent surveys of students, if any, 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 interscholastic sports among female students.
  - c. A summary of sports, squads, and levels of sports for the underrepresented sex that are not currently offered by each District high school but are offered either by schools that compete within the league(s) in which the District competes or by schools that are within the District's normal competitive region and geographic area.
  - d. For the last two academic years, for each high school, rates of participation by the underrepresented sex in:
    - i. Interscholastic sports;
    - ii. Club sports;
    - iii. Physical education courses; and
    - iv. Community and youth sports leagues or clubs in the normal competitive region.

- e. If applicable, a summary of the number of students from the underrepresented sex who were cut from each high school team, and the reasons they were cut.
- f. A copy of any written requests and a summary of any non-written requests made by or on behalf of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status.
- g. For the last two academic years, a summary of any assessments made during tryouts, or other information reflecting the ability of the underrepresented sex to compete in a particular sport. This includes prior participation in that sport or a similar sport at the middle or high school level or club or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.
- h. Any other information that was considered by the District as part of its assessment in determining whether it is fully and effectively accommodating the athletic interests and abilities of the underrepresented sex in its high schools.

#### **IV. Actions to Increase Athletic Opportunities**

##### **A. Provisions**

If through the above-described assessment, the District identifies a sport or sports in which there is sufficient but unmet interest and, if applicable, ability of the underrepresented sex to participate at the interscholastic level at a particular high school, the District will add athletics opportunities as described below at the high school(s) until such time as either: (1) the high school is fully and effectively accommodating the expressed interests and abilities of the underrepresented sex (i.e., there remains no unmet interest and ability); or (2) the participation rate for the underrepresented sex in the high school's interscholastic athletics program is substantially proportionate to their rate of enrollment at the high school.

For purposes of this provision, "sufficient interest" is defined as the minimum number of athletes needed to support a team. For "sufficient ability," it is sufficient that interested students and admitted students have the potential to sustain an interscholastic 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 or at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest. Students must, however, be academically eligible for participation in athletic opportunities, and must not be

participating in another athletic opportunity that renders them unable to participate in the newly identified activity.

In providing additional athletic opportunities for the underrepresented sex to either accommodate their expressed interests and abilities or until their rate of participation is substantially proportionate to their rate of enrollment at each District high school, the District shall do the following:

1. Sports Currently Offered:

- a. The District will determine, for sports that are currently offered as interscholastic sports at each high school, whether there is a sufficient number of the underrepresented sex with the interest and, if applicable, ability to support the creation of additional levels of competition (junior varsity, sophomore, etc.) or multiple squads at the same level of competition, and sufficient competition within the high school's normal competitive region, to support additional levels of competition or multiple squads at the same level of competition in those sports. If so, the District will add additional levels of competition or squads at the same or a lower level of competition at the high school in those sports by the next competitive season consistent with the above determination.
- b. In order to increase the competitive participation opportunities for students who are members of the underrepresented sex, the District will consider expanding the squad sizes for interscholastic sports currently offered at each high school, consistent with the nature of each sport and the level of interest in each sport. The District will increase the size of each squad where determined to be appropriate. If necessary, the District will provide sufficient coaching staff to support the addition of new athletes to any given squad and take any other steps necessary to ensure that the new athletes on each expanded squad are provided meaningful opportunities to participate in interscholastic athletics.

2. Response to Developing Interests and Abilities:

- a. The District will determine whether there is a sufficient number of the underrepresented sex at the high school with sufficient interest and, if applicable, ability to support the addition of a team or multiple teams (varsity, junior varsity, sophomore, etc.), in sports not currently offered by the high school as interscholastic sports, and whether there is sufficient competition within that high school's normal competitive region and geographic area for those teams/sports. If so, the District will add a team or multiple teams in those sports at the relevant high school(s) by the next competitive season.

- b. For any sport that is not currently offered by a District high school where there is a sufficient number of the underrepresented sex who have sufficient interest and, if applicable, ability in that sport, but where the District determines that there is not sufficient competition within that high school's normal competitive region, the District will take ongoing steps to develop students' interest and ability. These steps may include establishing intramural or club sports, exploring the feasibility of establishing competition in the District's normal competitive region and geographic area, and elevating such sports to interscholastic status when competition becomes available.
    - c. The District agrees to reinstate the Harbor High School girls varsity and junior varsity softball teams to their full competitive status no later than the beginning of the 2016-2017 season.
3. OCR has made clear to the District and the District understands that OCR does not require or encourage the elimination of any District athletic teams and that it seeks action from the District that does not involve the elimination of athletic teams and that it seeks action from the District 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 interscholastic 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.
4. Additional Interscholastic Opportunities:
  - a. To the extent that the District adds any sports or additional levels of teams at any of its high schools, the District will provide those team(s), in a manner comparable to other interscholastic teams, with sufficient funds in its budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services. The District will also publicize any new sports or additional levels of teams through written notices, verbal announcements and postings on the District's website.

## **B. Reporting Requirements**

1. By June 30, 2017, if the District was obligated to offer additional athletic opportunities pursuant to Section II of this Agreement, the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Sections IV.A.(1)-(4) of this Agreement, to create new opportunities for the underrepresented sex. This report will detail the timetable for the addition of new sports, levels of sports or newly-created club and/or other opportunities added pursuant to this Agreement. It will also describe how the creation of additional athletics opportunities taken pursuant to this Agreement will either (1) effectively

accommodate the expressed interests and abilities of the underrepresented sex (*i.e.*, there remains no unmet interest and ability); or (2) elevate the underrepresented sex' participation rate in District interscholastic athletics programs to be substantially proportionate to their rate of enrollment at each District high school.

2. By June 30, 2017, if the District's assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of the underrepresented sex at each high school, the District will submit information detailing its determination of the same.
3. By April 30, 2017 of each academic year covered by this Agreement (2014-2015, 2015-2016, 2016-2017), the District will provide OCR with a copy of the squad list for each District high school.
4. By March 30, 2017 the District will provide documentation to OCR which confirms the reinstatement of the Harbor High School girls varsity and junior varsity softball teams to their full competitive status. This documentation will include, but is not limited to:
  - a. A roster of participants for each softball team; and
  - b. A schedule of the team's practices and competitive events for the 2016-2017season.
5. By January, March and June 2016 and 2017 of each academic year covered by this Agreement (2014-2015, 2015-2016, 2016-2017), the District will provide the enrollment data of each District high school by sex.
6. By January, March and June 2016-17 of each academic year covered by this Agreement (2014-2015, 2015-2016, 2016-2017), the District will provide information regarding any increases to the size of its squads, as described by Section IV.A.1.b. above.

## **V. Additional Commitments to Improve Athletic Opportunities for the Underrepresented Sex**

### **A. Provisions**

1. The District will develop a process or procedure for students or other interested parties, such as coaches or parents, to use in requesting the addition of new sports or levels of sports at the District's high schools. The procedure will be written and notice of it will be published in the board policies and athletic websites and the individual responsible for responding to any requests will be identified by name and contact information. This information will also be displayed on the District's website (athletics page).



2. At the beginning of each school year, the District will provide written notice to coaches, physical education teachers, guidance counselors and principals, of all sports offered at each District high schools.
3. At the beginning of each school year, the District will provide a written description of all of its sports offerings at each District high school to all students in their physical education classes. This information will also be posted on the District's website (athletics page).
4. The District will maintain the interscholastic athletic squad lists, which shall reflect the participation numbers for each sport, by sex, as of each team's first competitive event. These records will not be destroyed or otherwise altered so that they can be submitted to OCR consistent with the terms of this Agreement.

## **B. Reporting Requirement**

1. By June 30, 2017, the District will submit a copy of its procedure for requesting new sports, as required above, and a link to the location on its webpage where the revised procedure is located.
2. By June 30, 2017, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Section V.A.2. and 3., above, and a link to the location on its webpage where the notices are located.

## **VI. Locker Rooms, Practice, and Competitive Facilities**

### **A. Provisions:**

1. The District agrees to provide equivalent benefits and opportunities to female and male student athletes with respect to locker rooms and practice and competitive facilities.
  - a. By May 30, 2017, the District will complete an assessment of locker rooms and practice and competitive facilities and, based on the results of the assessment, develop and implement a plan to ensure that female and male student athletes are provided with equivalent benefits and services in this area; the assessment will include a review and revision, as necessary, of its policies, procedures and practices in this area to ensure the equivalent provision of locker rooms and practice and competitive facilities. The assessment will include, at a minimum:
    - i. A list of all locker rooms, and practice and competitive facilities. Indicate the name and age of the facility, whether it is on or off-campus, whether it has restrooms or concession areas, and whether

certain teams or programs have exclusive use of the facility. Include a schedule showing when any facilities are used for practice and how long the locker rooms are assigned for use by each team;

- ii. A copy of each campus map, which locates all of the facilities.
- b. The District will ensure that the Harbor High School girls varsity and junior varsity softball teams are provided with practice and competitive facilities that are equivalent in number, quality, use, and maintenance, to the facilities provided to the school's varsity and junior varsity baseball teams no later than the start of the 2016-2017 season. This will include, but is not limited to, completing repairs necessary to providing the Harbor High School varsity and junior varsity softball teams with a safe and adequate softball field for games and practices.

#### **B. Reporting Requirements:**

1. By May 30, 2017, the District will submit a copy of its locker rooms, practice, and competitive facilities assessment from each high school to OCR for review. Within 30 days of submission, OCR will provide comments on the District's assessment.
2. By May 30, 2017, the District will provide OCR with a plan, if applicable, to address any disparities in the provision of locker rooms, practice, and competitive facilities; including, where applicable, dates of planned construction and planned completion.
3. By May 30, 2017, the District will provide OCR with its plan, including a proposed timeline, to provide equivalent practice and competitive facilities to the Harbor High School girls varsity and junior varsity softball teams.

### **VII. Assignment, Availability, and Compensation of Coaches**

#### **A. Provisions:**

1. The District agrees to provide equivalent benefits and opportunities to female and male student athletes with respect to coaching.
2. By May 30, 2017, the District will complete an assessment of the assignment, availability, and compensation of coaches based on the results of the assessment, develop and implement a plan to ensure that female and male student athletes are provided with equivalent benefits and services in this area; the assessment will include a review and revision, as necessary, of its policies, procedures and practices in this area to ensure the equivalent assignment,

availability, and compensation of coaches. The assessment will include, at a minimum:

- a. A list of the members of each high school's athletic department's hiring committee;
- b. A review of all coaching assignments, with the following information regarding their assignments:
  - i. head coach and/or assistant coach;
  - ii. full-time or part-time as coach, and indicate percentage of full-time;
  - iii. length of contract or assignment;
  - iv. type of contract or assignment;
  - v. describe any differences in compensation, benefits, or anything else that results because of the various types of contracts;
  - vi. other non-coaching duties at each school and indicate the percentage of time spent on coaching, and on other duties;
  - vii. a summary of each coach's background and qualifications; and
  - viii. salary, stipend, or hourly compensation for coaching.
3. As part of this process, and within the context of the overall provision of equivalent assignment, availability, and compensation of coaches, the District agrees to specifically review whether there is adequate assignment, availability, and compensation of coaches in each sports' program.

## **B. Reporting Requirements**

1. By May 30, 2017, the District will submit a copy of its provision of coaching assessment from each high school to OCR for review. Within 30 days of submission, OCR will provide comments on the District's assessment.
2. By May 30, 2017, the District will provide OCR with a plan, if applicable, to address any disparities in the provision coaching; including, where applicable, dates of planned hiring of coaches.

## **VIII. Monitoring**

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the

monitoring of this Agreement, OCR may visit the District schools, interview District staff, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX at 34 C.F.R. § 106.41(c)(1), § 106.41(c)(5), § 106.41(c)(6), and § 106.41(c)(7) which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX at 34 C.F.R. § 106.41(c)(1), which was at issue in this case.

The District 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

Date:

\_\_\_\_\_/s/\_\_\_\_\_  
Kris Munro  
Superintendent  
Santa Cruz City Schools

11/30/2016