



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2ND AVE., SUITE 3310
SEATTLE, WA 98174-1099

September 15, 2014

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Mr. Terry Nelsen Bouck
Superintendent
Billings School District No. 2
415 North 30th Street
Billings, Montana 59101

Re: Billings School District No. 2
OCR Reference No. 10141169

Dear Superintendent Bouck:

This is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) is discontinuing its investigation of the above-referenced discrimination complaint against the Billings School District No. 2 (the district), which alleged that the district is discriminating against females at West High School, based on sex, by failing to provide them with equal athletic opportunities in softball with respect to practice and competitive facilities, and scheduling of practice time.

As explained below, prior to completion of OCR's investigation, the district expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegation.

OCR accepted this complaint for resolution under the authority of title IX of the Education Amendments of 1972 and its implementing regulation at 34 CFR Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance from the U.S. Department of Education. The district receives federal financial assistance from this Department.

The regulation implementing Title IX at 34 CFR 106.41(c)(7) states that a recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, OCR considers, among other factors, the provision of locker rooms, practice and competitive facilities. The Title IX Athletics Policy Interpretation,

issued December 11, 1979, states that if a comparison of program components indicates that benefits, opportunities, or treatment are not substantially equivalent in quality, availability, or kind, such disparities may deny equality of athletic opportunity.

In accordance with Section 302 of OCR's Case Processing Manual, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the district requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the district resulted in the district signing the enclosed agreement.

The actions the district will take under the agreement include an assessment of the locker rooms, practice and competitive facilities utilized by all girls' and boys' interscholastic athletics teams at West High School, including alternative practice locations utilized during inclement weather, to determine whether there are any significant disparities between girls' and boys' teams with respect to practice and competitive facilities. If the district determines that the facilities are not equivalent for girls' and boys' teams, the district will develop and implement a plan to address the inequities.

OCR will monitor the district's implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by October 31, 2014.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Tania Lopez, Senior Attorney, by telephone at (206) 607-1623, or by e-mail at tania.lopez@ed.gov.

Sincerely,

Barbara Wery
Team Leader

Enclosure: Voluntary Resolution Agreement

cc: Honorable Denise Juneau, Superintendent of Public Instruction
Felt, Martin, Frazier & Weldon, PC