



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

March 19, 2019

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Dr. Judy Martinson
Superintendent
Dieringer School District No. 343
1320 178th Avenue E
Lake Tapps, Washington 98391

Re: Dieringer School District No. 343
OCR Reference No. 10181346

Dear Dr. Martinson:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is closing its investigation of the above-referenced complaint against the Dieringer School District No. 343 (district). The complainant alleged that during the 2018-2019 school year:

1. the district discriminated against female students on the basis of sex in the provision of transportation to female interscholastic athletics teams; and
2. the district discriminated against female students on the basis of sex by denying them an equal opportunity to participate in interscholastic athletics.

OCR investigated the complaint under the authority of Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations, which prohibit discrimination on the basis of sex in education programs and activities that receive federal financial assistance. The district is a recipient of federal financial assistance from the Department, and is therefore subject to Title IX.

As set forth below, OCR determined that the evidence did not support a conclusion that the district violated Title IX with regard to allegation no. 1. Prior to completion of OCR's investigation into allegation no. 2, the district expressed an interest in voluntarily resolving this allegation and signed the enclosed Voluntary Resolution Agreement (agreement) to address the concern raised in allegation no. 2.

Findings of Fact Regarding Allegation No. 1

The district has three schools, two elementary schools and one middle school. The North Tapps Middle School (middle school) is the only district school that offers interscholastic athletic teams as part of its extracurricular program for students.

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The complainant told OCR that the district does not provide transportation from the middle school to meets, or competitive events, for the girls' gymnastics team, but that the district does provide transportation to games, or competitive events, for all other teams, both girls' teams and boys' teams.

The district provided a copy of its transportation policy to OCR, which states that the district provides bus transportation to all middle school interscholastic athletic teams sponsored by the district. The transportation policy states that the district provides bus transportation for all district interscholastic athletic teams from the middle school to an away site for away games, but the district does not provide transportation for games that take place at the middle school, or home games.

The athletic director told OCR that the district has never identified girls' gymnastics as a sport sponsored by the district. Rather, according to the athletic director, the district reached an agreement with the neighboring school district, the Auburn School District, to allow female students from the middle school to participate on the girls' gymnastic team at Mt. Baker Middle School sponsored by the Auburn School District. The district stated in its narrative response to OCR that the girls' gymnastics team does not receive any funding from the district because it is operated entirely by the Auburn School District and not considered a district team. The district does not currently count the gymnastics team toward its interscholastic sports participation numbers.

Analysis Regarding Allegation No. 1

The issue investigated was whether the district was discriminating against female students on the basis of sex in the provision of transportation to female interscholastic athletics teams.

The regulation implementing Title IX at 34 C.F.R. § 106.41(c)(4) requires that a recipient which sponsors or operates interscholastic athletics provide equal athletic opportunities for both sexes with respect to travel, including transportation.

While the complainant believed that the middle school offered girls' gymnastics as part of its extracurricular program, OCR found that the district does not sponsor or offer interscholastic gymnastics to female students at the middle school. The evidence established, instead, that the district has an arrangement with a neighboring district that allows female students from the middle school to participate on the interscholastic girls' gymnastics team at Mt. Baker Middle School sponsored by the Auburn School District. OCR found that the evidence reflects that each of the boys' and girls' interscholastic athletic teams offered by the district receives transportation to away games. Therefore, there is insufficient evidence to conclude that the district is violating Title IX with respect to the issue investigated.

Allegation No. 2

Before the conclusion of OCR's investigation, the district expressed an interest in voluntarily resolving this allegation. OCR's investigation to date identified a concern regarding whether the district was providing equal athletic opportunities to female athletes. Specifically, OCR identified information indicating that the district's participation opportunities for male and female students may not be

provided in numbers substantially proportionate to their respective enrollments. OCR has not concluded its investigation in order to determine whether or not the district has a history and continuing practice of program expansion responsive to the developing interests and abilities of female students or is fully and effectively accommodating the interests and abilities of female students.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, prior to the point OCR issues a final determination, a recipient expresses an interest in resolving the complaint allegations, and OCR determines that it is appropriate to resolve the complaint allegations with a voluntary resolution agreement. OCR determined that a voluntary resolution agreement was appropriate in this case. Subsequent discussions with the district resulted in the district signing the enclosed agreement, which when fully implemented, will resolve the allegations in the complaint. OCR will monitor the implementation of the agreement until the district fulfills the terms of the agreement.

This letter sets forth OCR's determination in an individual OCR case and should not be interpreted to address the district's compliance with any other regulatory provisions or to address any issues other than those addressed in this letter. 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. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

The complainant has a right to appeal OCR's determination with respect to allegation no. 1 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete, inaccurate, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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 occurs, the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related records upon request. In the event that OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information, which if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. OCR looks forward to receiving the reports as set forth in the agreement.

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Thank you for the cooperation that you and your staff extended to OCR in resolving this complaint. If you have any questions about this letter, you may contact Tina Sohaili, Attorney, by telephone at (206) 607-1634, or by e-mail at tina.sohaili@ed.gov.

Sincerely,

Barbara Wery
Team Leader

Enclosure: Voluntary Resolution Agreement