

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

Dieringer School District No. 343 (district) enters into this agreement to resolve the allegation in a complaint (Reference No. 10181346) filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Title IX of the Education Amendments of 1973 (Title IX).

II. RESOLUTION PROVISIONS

A. Self-Assessment of Current Compliance

The district agrees to provide participation opportunities for female and male students that equally and effectively accommodate the athletic interests and abilities of members of both sexes, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. §106.41, and applicable OCR policies. The district will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its programs or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the district's current athletic programs.

1. If the district elects to demonstrate compliance by providing substantially proportionate athletic participation opportunities to each sex's enrollment in its programs, the district will do so by comparing rates of its female and male students with rates of participation in the district's interscholastic athletics programs (based on participation rates for all sports during the fall, winter, and spring seasons) to determine if they are substantially proportionate. The participation rates of female and male students will reflect the total number of women and men listed on the Washington Interscholastic Athletics Association squad or eligibility list for each interscholastic sport on the date of the first competition for each sport. The participation rates should not include participants in non-competitive athletic activities.
2. If the district elects to demonstrate compliance by showing the interests and abilities of females students, the underrepresented sex in the district's athletics program, are met, the district will conduct an objective assessment to determine the athletic interests and abilities of the female students and whether the district is fully and effectively accommodating the athletic interests and

abilities of female students. The assessment will be based on multiple indicators of interest and multiple indicators of ability, which may include:

- a. Results of surveys of students conducted during the 2018-2019 school year or other information collected from students during the 2018-2019 school year using a method that is designed to fully and accurately assess unmet athletic interests and abilities in interscholastic sports among members of the underrepresented sex;
- b. Identification of sports, squads, and levels of sports for members of the underrepresented sex that are not currently offered by the district that are offered by schools that compete within the athletic conferences in which the district competes and by schools that are within the district's normal competitive region;
- c. Review of any requests (whether oral or written, formal or informal) made to district administrators, coaches, or staff by or on behalf of students and admitted students who are members of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing district intrascholastic team to interscholastic sport status. This review may be limited to requests that were received during the previous three complete academic years;
- d. Assessments made by district coaches or staff during tryouts, or observations of students participating in intrascholastic competition, and other information reflecting the ability of students who are members of the underrepresented sex to compete in a particular sport, prior participation in that sport or a similar sport at the elementary school level, general athletic ability, participation in other district interscholastic sports, the nature of the particular sport, and other relevant factors. Neither a poor competitive record, nor the inability of interested students to play at the same level of competition engaged in by the district's other athletes is conclusive evidence of lack of ability. For the purposes of assessing ability, it is sufficient that interested students have the potential to sustain an interscholastic team;
- e. Participation in interscholastic sports by admitted students and participation rates in sports in elementary schools, amateur athletic associations, and community sports leagues that operate in areas from which the district draws its students;

- f. Where interest and ability in an interscholastic sport not currently offered by the district is identified, the assessment will also consider whether there is a reasonable expectation of interscholastic competition in the district's normal competitive region in that sport; and
- g. Any other information that demonstrates the athletic interests and abilities of the district's students who are members of the underrepresented sex.

B. Reporting Provisions on Self-Assessment of Current Compliance

By May 10, 2019, the district will submit to OCR, for its review and approval, a detailed report regarding its assessment conducted pursuant to Section II.A of the Agreement. The report will include, at a minimum, the following information:

1. If the district has elected to demonstrate compliance by providing substantially proportionate athletic opportunities, the district will provide OCR with a detailed report, based on the standards set forth in Section II.A.1, that contains the results of its comparison of the enrollment and participation rates for male and female students and, unless the participation rates are substantially proportionate to enrollment, an indication of the number of participation opportunities that the district has calculated would be necessary in order to achieve substantial proportionality. The information provided by the district will be sufficient to allow OCR to determine the number of students, by sex, who were participating on each interscholastic team on the date of the team's first competition and to identify any changes to the participation numbers that occurred after the first competition.
2. If the district has elected to demonstrate compliance by demonstrating the interests and abilities of female students are fully met, the district will provide OCR with a detailed report, based on the factors contained in Section II.A.2(a)-(g), that includes, at a minimum, (1) its description of the methodology used to conduct the survey; (2) the number of surveys distributed and the number of responses; (3) a summary of sports, squads, and levels of sports for female students that are not currently offered by the district but are offered by other schools that compete within the conference(s) in which the district competes or by schools that are within the district's normal competitive region and geographic area; (4) a summary of the number of female students by sex who were cut from each team and the reasons they were cut; (5) a description of any team(s) that were eliminated during the past ten years, including the number of participants who were on the team in the

year it was eliminated and the reason for the team's elimination; (6) a description of the any team(s) that were added during the past ten years, including the year any team(s) were added and the reason for adding the team(s); (7) a copy of any written requests and a summary of any non-written requests made by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing intrascholastic sport to interscholastic status; and (8) a copy of the district's new or revised policies and procedures for requesting additional teams including the individual designated for responding to such requests and the district's method of distributing these policies and procedures to existing students as well as coaches and other employees.

C. Actions to Ensure Future Compliance

Upon the completion of OCR's review of the report submitted under Section II.B, if OCR has determined that the district is unable to demonstrate compliance with Title IX pursuant to Section II.A of this Agreement, within 120 days of the completion of OCR's review of the report submitted under the reporting provisions of Section II.B (Self-Assessment of Current Compliance) above, the district will prepare a detailed compliance plan with timeframes to fully and effectively accommodate the interests and abilities of the underrepresented sex to the extent necessary to provide equal opportunity in its interscholastic athletics program by the 2020-2021 academic year, including the steps detailed below in Section II.C.1-2. The plan will include an assessment of whether there are a sufficient number of students at the district who are members of the underrepresented sex with the interest and ability to support an additional squad in a sport already offered or the addition of a team in sports not currently offered. The plan may include a description of interim steps already taken by the district during the 2018-2019 and 2019-2020 academic years to increase interscholastic athletic participation opportunities for the underrepresented sex. The district will initiate implementation of the plan upon review and approval by OCR.

OCR has made clear to the district and the district understands that OCR does not require or encourage the elimination of any 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.

D. Reporting Provisions to Ensure Future Compliance

The district will complete and submit to OCR the following reporting requirements only if the district implements the action items set forth in Section II.C of this Agreement:

1. By June 7, 2019, the district will submit to OCR, for its review and approval, a draft of its compliance plan. If OCR requires any changes to the compliance plan, the district will resubmit a copy of the compliance plan within 30 calendar days of receiving notice of OCR's required revisions. OCR and the district will continue this process until OCR approves the compliance plan.
2. Within 180 calendar days of receiving OCR's approval of the compliance plan, and every 180 calendar days thereafter until the completion of the compliance plan, the district will submit to OCR a report regarding the status of its implementation of the compliance plan to fully and effectively accommodate the interests and abilities of members of the underrepresented sex including as applicable, information demonstrating that a coaching staff has been hired for any new teams being added by the district, an update on the district's progress in recruiting student athletes for any teams that are added teams and a report of the budget provided to the teams.

III. GENERAL PROVISIONS

- A. The district understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the district understands that during the monitoring of this agreement, OCR may visit the district, interview staff and students, 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 regulation implementing Title IX at 34 C.F.R. § 106.41, which were at issue in this case. Upon completion of the obligations under this agreement, OCR shall close this case.
- B. The district understands and acknowledges that, if it does not fully implement this agreement, OCR will take appropriate measures within its authority to effect compliance and 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 a minimum of sixty (60) calendar days to cure the alleged breach.

Signed:

_____/s/_____
Dr. Judy Martinson-Neumeier
Superintendent
Dieringer School District No. 343

February 27, 2019
Date