



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 4, 2022

Dr. James Richardson
President
Wenatchee Valley College
1300 Fifth Street
Wenatchee, Washington 98801-1799

Re: Wenatchee Valley College
OCR Reference No. 10212162

Dear President Richardson:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Wenatchee Valley College with the U.S. Department of Education, Office for Civil Rights (OCR). The complaint alleged that:

1. The College is failing to provide equal athletic opportunities to female student athletes by not effectively accommodating their interests and abilities.
2. The College is discriminating against female student athletes in the assignment and compensation of coaches for the female sports teams as compared to the male sports teams.
3. The College is discriminating against female student athletes with respect to the provision of locker rooms.

OCR's *Case Processing Manual* provides that OCR will dismiss an allegation when OCR obtains credible information indicating that the allegation is currently resolved. With respect to allegation No. 3, the complainant specifically alleged that the College was not providing the women's softball and volleyball teams with lockers in their locker rooms. On January 27, 2022, the College provided OCR with information demonstrating that it had installed lockers in the women's softball and volleyball locker rooms. Based on the above, OCR is dismissing allegation No. 3.

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

OCR investigated this case under the authority of 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. § 106, which prohibit discrimination on the basis of sex in any education program or activity receiving financial assistance. The College offers education programs and activities and receives financial assistance from the Department and is therefore a recipient subject to Title IX.

The regulation implementing Title IX at 34 C.F.R. § 106.41 requires institutions to provide equal athletic opportunities for members of both sexes and to effectively accommodate students' athletic interests and abilities. The Department's 1979 "Intercollegiate Athletics Policy Interpretation" (1979 Policy Interpretation), published on December 11, 1979, sets out a three-part test that OCR uses as part of determining whether an institution is meeting its Title IX obligations with respect to accommodating students' athletic interests and abilities. An institution is in compliance with the three-part test if it meets any one of the following parts of the test:

- (1) The number of male and female athletes is substantially proportionate to their respective enrollments; or
- (2) The institution has a history and continuing practice of expanding participation opportunities responsive to the developing interests and abilities of the underrepresented sex; or
- (3) The institution is fully and effectively accommodating the interests and abilities of the underrepresented sex.

The regulation implementing Title IX at 34 C.F.R. § 106.41(c)(6) requires institutions to provide equal athletic opportunities for members of both sexes with respect to equitable assignment and compensation of coaches.

With respect to allegation No. 1 regarding the accommodation of students' athletics interests and abilities, OCR's investigation to date indicated that during the 2021-2022 academic year, female students comprised approximately 64% of the College's enrollment but only comprised 30% of athletics participants. In order to achieve substantial proportionality, the College would need to add 138 female athletes. This information raises a concern that the College may not be providing equal athletic opportunities to female students. With respect to allegation No. 2 regarding the assignment and compensation of coaches, OCR's investigation to date indicated that the College recently advertised open coaching positions in both the men's and women's athletics programs; however, the advertisements for the

men's program coaching positions were posted with added incentives that were not provided in the posting for a women's program coaching position. The investigation to date also indicated that the College has struggled to hire coaches for at least one women's team for several seasons. Based on this information, OCR has concerns that the disparity in the recruitment, hiring and compensation of coaches may have resulted in inequity in the men's and women's programs. Before concluding OCR's investigation, the College requested to resolve the complaint.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint allegation[s] and OCR determines that it is appropriate to resolve the issues under investigation with an agreement during the course of an investigation. In this case, the College requested to resolve the complaint prior to the conclusion of OCR's investigation. In light of the College's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into a voluntary resolution agreement was appropriate. Subsequent discussions with the College resulted in the College signing the enclosed agreement.

The actions the College will take under the agreement include conducting a self-assessment of its current compliance with respect to its provision of participation opportunities to female and male students that equally and effectively accommodates the athletic interests of both sexes and its provision of equivalent benefits to female and male athletics teams with respect to the assignment and compensation of coaches. Upon completion of the self-assessment, the College will provide OCR with the results of its self-assessment and, where necessary, a plan of action with timeframes for addressing any compliance concerns identified by the assessment. Upon OCR's approval, the College will implement the plan until OCR has determined the College is in compliance with the terms of the agreement.

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.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

Please be advised that the College 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, we 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. The first report under the agreement is due by July 1, 2022.

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 Mark Farr, Senior Equal Opportunity Specialist, at (206) 607-1607 or at mark.farr@ed.gov.

Sincerely,

Tina Sohaili
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement