



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

December 4, 2018

Donald Phipps, Ed.D
Superintendent
Caldwell County Schools
1914 Hickory Boulevard, SW
Lenoir, North Carolina 28645

RE: OCR Complaint No. 11-18-1385
Resolution Letter

Dear Dr. Phipps:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on June 7, 2018 against Caldwell County Schools (the District). The Complainant alleges that the District discriminated against male students at the School on the basis of sex. Specifically, the complaint alleges that the Collettsville School (the School) sponsored “Girls in Engineering, Math, and Science” (GEMS), a student club which involves supplemental instruction and access to academic awards that is open only to female students, without an equivalent opportunity for male students.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department. Because the District receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title IX.

Before OCR completed its investigation, the Division expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a summary of the evidence obtained to date by OCR.

Legal Standards

The Title IX regulation, at 34 C.F.R. § 106.34(b), states that a district may provide a single-sex class or extracurricular activity if the class or activity is based on one of the following objectives and its single-sex nature is substantially related to achieving that objective: 1) to improve educational achievement of its students, through an overall established policy to provide diverse educational opportunities; or 2) to meet the particular, identified educational needs of its students. Additionally, the objective must be implemented in an evenhanded manner, enrollment must be voluntary, and the district must provide all other students, including students of the

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

excluded sex, with a substantially equal coeducational class or extracurricular activity in the same subject or activity.

Analysis

The District told OCR that during the 2017-2018 school year, the School, a K-8 school, sponsored a GEMS Club¹ which held periodic meetings after school hours at the School. At each meeting, students learned about a specific engineering or math field (ex. aerospace engineering) and then completed an associated Science, Technology, Engineering, and Mathematics (STEM) activity (e.g., making bottle rockets). The GEMS club held nine meetings during the 2017-2018 school year.

The District maintains that the GEMS club was open to all fourth and fifth grade students who expressed an interest in joining and who had parental permission to participate. The District provided OCR with a copy of the permission form to participate in the club. The permission form read, "...[the School] will be hosting a GEMS Club this school year for ANY girl in 4th and 5th grade." (emphasis in original) The heading on the permission slip read, "GEMS Girls Club." The club had twenty-three members, all of whom were female. The District told OCR that teachers gave permission forms to any student who expressed interest in the club, regardless of sex, and that no male student or his parent asked teachers or administrators to join the club or expressed concern to School staff or administrators that they were not permitted to join.

The District stated that the GEMS club was formed to increase fourth and fifth grade girls' confidence in the subject areas of math and science. In addition, the District stated that the GEMS club was put in place as one of the educational programs it offers to "a diversified student body immersed in a myriad of academic studies from fine arts to advanced curricular courses to career/technical certification through virtual and/or traditional settings."

The District informed OCR that the School offered a number of other coeducational activities that related to math and science, including Science, Technology, Engineering, Arts, and Mathematics (STEAM) Night, an annual evening activity at which students at the School in grades K-8 could participate in STEM projects; Math Counts, a club in which students in grades 6-8 completed math projects; and the Google Gravity Team, in which students in grades 5-8 applied engineering and physics principles to build and race soap-box derby cars.

Contrary to the allegation, the District maintained that the GEMS Club did not afford participants exclusive access to any awards or other favorable consideration, and that the only award presented to GEMS Club members was a participation certificate given at the end of the year, which was similarly provided to student members of all clubs and extracurricular activities at the School.

¹ There is a national organization, GEMS Clubs, which publishes on-line toolkits, guides, and resources for local GEMS clubs, as well as conducts trainings and seminars about creating opportunities for school-aged girls in STEM fields. GEMS Clubs as an organization does not assist in staffing local GEMS clubs, provide materials for implementing STEM projects, collect dues or fees from local GEMS Clubs, or require local GEMS clubs to provide information about their locations or activities to the GEMS Clubs organization. The District informed OCR that a group of teachers at the School attended a GEMS training and used resources found on the GEMS Clubs website to assist in starting the GEMS club at the School.

To date, OCR lacks sufficient evidence to indicate that the District has an overall established policy to provide diverse educational opportunities; additionally, it has not provided specific evidence that the GEMS club meets the particular, identified educational needs of its fourth and fifth grade female students.

As stated above, pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Resolution Agreement on December 4, 2018, which, when fully implemented, will address the above-stated allegation investigated in this complaint. The provisions of the Agreement are aligned with the allegation and issues raised by the Complainant and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the District's implementation of the Agreement until the District has fulfilled the terms of the Agreement.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. 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 whether or not OCR finds a violation.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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

We appreciate the District's cooperation in the resolution of this complaint. If you have any questions, please contact XXXXX, the OCR attorney assigned to this complaint, at XXX XXor XXX.

Sincerely,

XXXXX
Team Leader, Team XXXXX
District of Columbia Office
Office for Civil Rights

Enclosure

cc: XXXXX