



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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OHIO

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July 11, 2017

Yvonne Caamal Canul, Ph.D.
Superintendent
Lansing School District
519 West Kalamazoo Street
Lansing, Michigan 48933

Re: Lansing School District OCR Docket #15-16-5001

Dear Dr. Caamal Canul:

By letter dated June 30, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), notified the Lansing School District (District) that OCR was initiating a compliance review under Title IX of the Education Amendments of 1972 (Title IX) 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. 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. As a recipient of Federal financial assistance from the Department, the District is subject to this law. Specifically, the compliance review examined whether the District provided or otherwise carried out education programs or activities separately on the basis of sex, or requiring or refusing participation therein by any of its students on the basis of sex, in violation of the Title IX regulation at 34 C.F.R. § 106.34.

Based on its investigation, OCR determined that the District failed to comply with the requirements of Title IX. OCR's findings are set forth below.

Legal Standards

A recipient that operates a nonvocational coeducational elementary or secondary school may provide nonvocational single-sex classes or extracurricular activities only under certain circumstances. See 34 C.F.R. § 106.34(b). Specifically, a recipient may not offer a single-sex class unless it is based on the recipient's important objective. Further, a recipient must implement an important objective in an evenhanded manner, with enrollment or participation completely voluntary, and with all other students provided a substantially equal coeducational class or activity in the same subject or activity. See 34 C.F.R. § 106.34(b)(1)(ii)-(iv).

An important objective is necessary for each single-sex class or extracurricular activity and must be established prior to offering the single-sex class or activity. See 34 C.F.R. §106.34(b)(1)(i); *United States v. Virginia*, 518 U.S. 515, 533 (1996) (in context of sex-separate admissions policy for public postsecondary undergraduate institution, requiring genuine justification that is not hypothetical or invented *post hoc* in response to litigation). At the elementary school level, where a class typically covers many subjects, the recipient must separately justify the use of single-sex classes for each subject.

The regulations on single-sex classes describe the following two important objectives, one of which must be the basis for offering a single-sex class:

1. Diversity Objective: “To improve educational achievement of its students, through a recipient’s overall established policy to provide diverse educational opportunities, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective.” See 34 C.F.R. § 106.34(b)(1)(i)(A). To meet this objective, a recipient must first identify the educational achievement it seeks to improve through the diverse educational opportunities it offers and the proposed single-sex class. The regulation refers to an offering of “opportunities,” so recipients may not rely on the diversity objective if the only type of nontraditional class offered is a single-sex class. Rather, the recipient must offer a range of diverse educational opportunities beyond single-sex and coeducational classes.
2. Needs Objective: “To meet the particular, identified educational needs of its students, provided that the single-sex nature of the class or extracurricular activity is substantially related to achieving that objective.” See 34 C.F.R. § 106.34(b)(1)(i)(B). Unlike the diversity objective, to meet the needs objective, the recipient must identify a particular educational need in its student body, evidenced by limited or deficient educational achievement, which is not being met by coeducational classes. The needs objective also encompasses certain social needs that students may have. OCR recognizes that a school’s educational mission may extend beyond strictly academic objectives and that classes and activities may provide social benefits that can have a positive effect on students’ educational outcomes.

Regardless of which objective it chooses, the recipient must show that the single-sex nature of the class is substantially related to meeting the identified objective. See 34 C.F.R. § 106.34(b)(1)(A) and (B). To satisfy the substantial relationship requirement, OCR will accept a research study that employs a rigorous research design for causal inference, demonstrates the effectiveness of the single-sex nature of the class with respect to the specific important objective at issue, and includes a sample that overlaps with the proposed populations or settings that the recipient is targeting. Claims that a certain strategy (such as a teaching method or a specific learning environment) is more effective for most members of one sex will not be sufficient,

standing alone, to show a substantial relationship between the single-sex nature of a class and the important objective. Rather, the recipient needs further evidence showing that the exclusion of the other sex is necessary to make the strategy effective or, at the least, substantially more effective.

A recipient must evaluate its single-sex programs at least every two years, ensuring that its single-sex classes or activities are based on genuine justifications and do not rely on overbroad generalizations about the different talents, capacities, or preferences of either sex. See 34 C.F.R. § 106.34(b)(4).

The Title IX regulation sets forth a different requirement for single-sex schools. Generally, a recipient that operates a public nonvocational elementary or secondary school that excludes from admission any students on the basis of sex must provide students of the excluded sex a substantially equal single-sex school or coeducational school. See 34 C.F.R. § 106.34(c).

Summary of OCR's Investigation

During its investigation, OCR reviewed documents the District provided. OCR also interviewed four District administrators as well as teachers at Willow Elementary School (Willow)—the only District school to offer single-sex classes during OCR's investigation—and Riddle Elementary School (Riddle), which the District identified as a primary coeducational alternative to the program at Willow. OCR also observed a number of classrooms at Willow and Riddle during an onsite visit in December 2016.

The District is one of the state's largest school districts. During the 2015-2016 school year, it enrolled 11,155 students at 28 schools (11 elementary schools, 5 middle schools, 4 themed "academies", 4 high schools, and 3 "specialty schools"). Willow reported enrollment of 156 students in pre-kindergarten through third grade. Riddle reported enrollment of 203 in pre-kindergarten to third grade.

In the fall of 2014, the Michigan Department of Education (MDE) identified Willow as a "Priority School," meaning that it was in the lowest performing 5% of schools in the state. This triggered a process under state law that required the District to within 90 days submit to MDE a reform plan for Willow.

On January 8, 2015, the District submitted its reform plan. It called for Willow to convert from a coeducational school to an all-boys school in an effort to address "improving climate and culture, increasing academic excellence (in reading and math), and maintaining high expectations including a focus on college and career readiness." The plan noted that Willow's 2013-2014 suspension rates were the highest in the District, while its math and reading scores on state standardized tests had dropped significantly from 2011 to 2013. It also stated, citing a single academic paper, that "[r]esearch suggests that students that graduate from single gender schools are significantly more likely to attend a 4-year college."

District administrators told OCR that the turnaround plan reflected several weeks of research and planning. For example, they conducted Internet research on several other single-sex schools and spoke with education faculty at Michigan State University. However, they acknowledge they were unaware of the Title IX regulations pertaining to single-sex classes at this time.

Later in January 2015, MDE approved the District's plan. However, in spring 2015, after receiving "an inquiry" from an outside women's rights organization, the District investigated providing a single-sex school for girls as well. When that idea proved unworkable, the District instead decided to leave Willow coeducational but place students in single-sex classes for all academic subjects.

In fall 2015, Willow opened under its new format. In kindergarten through third grade, all students were divided by sex for English/language arts, math, science, and social studies. "Specials" such as art and music, as well as recess, lunch, field trips, and extracurriculars, were coeducational. Intervention time (during which students receive focused instruction in a particular skill, such as numeral fluency) was also coeducational for some grades. During the 2015-2016 school year, the District increased coeducational instruction in the second grade in an effort to address persistent behavior issues with some of the male students.

The District reported no difference to OCR in curriculum as between male and female students in either year. However, teachers interviewed by OCR during its onsite visit reported differences in their own teaching styles and strategies as between the all-boys and all-girls classes. With respect to boys' classes, teachers said they incorporated more movement, more opportunities for competition, increased use of visual (versus written) explanation, smaller chunks of material (versus longer lessons), and incorporating what they described as the interests of boys, such as engineering and design. Likewise, the teachers said that the girls' classes included more discussion, a greater focus on writing, a focus on what they described as the girls' interests (such as in dancing and arts), and less movement than in the boys' classes. The teachers all noted that the boys presented more disciplinary issues and created more stress for their teachers. OCR noted that in the first-grade boys' classrooms the students had more variety of seating options (e.g., traditional chairs, "peanut" balls (large squishy balls to sit on), and soft pads next to low tables for kneeling while working at the low table) than were available in the girls' classroom. The teacher said this was to accommodate the boys' need for movement. Otherwise, OCR observed no other differences in the physical spaces or resources (computers, etc.) in the classrooms staff visited.

Also in fall 2015, MDE informed the District that its approach of offering single-sex classes within a coeducational school at Willow failed to comply with Title IX. MDE told the District it could re-integrate Willow or provide a response to MDE showing Title IX compliance. After seeking additional technical assistance from both MDE and OCR, the District submitted its "Proposal to Maintain Single-Gender Classroom Configuration" to MDE in June 2016. The proposal, which incorporated much of the same content as the initial reform plan, sought to explain how Willow's single-sex classes program met the requirements of Title IX's regulations at 34 C.F.R. § 106.34. According to the District, MDE provided no response.

The District's stated objectives for single-sex classes at Willow were to improve its climate and culture, increase academic achievement, and maintain high academic expectations for all students. In support, the District cited Willow's suspension rates and reading/math scores. It did not present any data suggesting any difference in the needs of male and female students in any of these areas, nor any rationale for single-sex classes in areas other than math and reading.

The District cited three research studies as relevant to its determination that single-sex classes were appropriate. The first of the studies found that the majority of elementary students in single-gender classes in one unidentified coeducational school had "positive attitudes" toward those classes. The second dealt with California single-sex middle and high schools (as opposed to single-sex classes within a coeducational school). The third dealt with single-sex high schools in South Korea.

Additionally, District witnesses said that they engaged in Internet research regarding single-sex schools and programs elsewhere; however, they did not provide any documentation of this to OCR. One witness recalled that staff conducting the research could not find any public school comparators (only private schools), nor could they find any elementary school comparators.

With respect to the provision of single-sex classes for the girls specifically, the District indicated it established those classes as an attempt to provide equity (i.e., by offering single-sex classes for both boys and girls), and because it needed an option for the rest of the students at Willow once it established the all-boys classes. Outside of the studies mentioned above, the District did not investigate whether single-sex classes were particularly appropriate for girls.

Students are assigned to Willow based on residency in the school's geographic area. However, any student may opt to attend any other school in the District for free. There are several other District elementary schools in the same geographic area, but Riddle—a K-3 school—is the closest to Willow at 1.4 miles away. Space was available at all other District elementary schools during OCR's investigation. The District stated it will provide free transportation to any student attending a District school more than a certain "safe walking distance" from their home.

The District said it informed the community prior to the 2015-2016 school year that Willow was shifting to a single-sex-classes format through billboards, commercials, flyers, and informational nights for parents. It further said that parents were asked to sign a "compact" each year reflecting their understanding that the school operates single-sex classes. The District provided three flyers related to the school to OCR. One referred to the school as a "Male-centric Academy," and the other two made no mention of the single-sex classes. The District provided no other publicity materials or Willow's "compact" to OCR.

The District asserted it had a general plan to monitor academic achievement, behavioral incidents, and attendance over the course of the 2015-2016 and 2016-2017 school years. It additionally sent out brief surveys to parents and students in spring 2016 seeking to measure general program satisfaction and involvement. The evaluation did not include a written analysis of any data regarding single-sex programs or any conclusion indicating whether or not the single-

sex classrooms for either boys or girls were achieving the District's stated objectives, i.e., improving its climate and culture, increasing academic achievement, and maintaining high academic expectations for all students. It also did not include any analysis of whether the single-sex classrooms were relying on classroom methods or strategies that relied on sex stereotypes. With respect to instruction, as noted above, although the District asserted that curriculum for both genders was the same, teachers noted variation in their implementation of curriculum along gender lines (i.e., boys receiving more chances for movement, girls receiving more opportunities for discussion).

Analysis and Determination

The District stated that its single-sex classes at Willow were based on a "needs objective." See 34 C.F.R. § 106.34(b)(1)(i)(B). The District identified its needs as improving climate and culture, increasing academic achievement, and maintaining high academic expectations for all students, but it was unable to demonstrate a substantial relationship between the single-sex nature of the classrooms at Willow and the District's alleged "needs objective." The District did not identify any evidence—other than the school's overall suspension rates and reading/math scores—that was gathered to establish its objective and could not explain how that objective was specifically evaluated to reach the determination that offering single-sex classes for boys, and excluding girls, would improve those areas. Further, the District had no information about what specific evidence was considered or what evaluation took place at Willow to determine that single-sex classrooms for girls would improve girls' outcomes in these areas. The limited research the District utilized to support the establishment of single-sex education within the coeducational school at Willow was not closely tied to the population at issue. Of three studies cited, only one dealt with an American elementary population, and those findings pertained only to students' own level of satisfaction with their program, not to the needs specifically identified by the District in this case. Likewise, the District did not consider any public schools as comparators.

Additionally, the District failed to demonstrate that, with respect to either boys' or girls' alleged needs at Willow, such needs could not be addressed in coeducational classes. The information provided by the District demonstrated that it intended to implement the same curricular and pedagogical approach in both male and female students' classrooms. No rationale was provided as to why the female students needed to be separated at all, aside from the fact that they needed someplace to be educated within Willow after the District implemented its all-male classrooms.

Based on the above, OCR concludes that the District was unable to identify an important objective that was substantially related to the single-sex classrooms offered at Willow. Therefore, the District's single-sex classroom program did not meet the requirements of 34 C.F.R. § 106.34(b)(1)(i)(A) or (B).

OCR determined that the District's offering of single-sex classes could not meet other requirements of the Title IX regulation as well. For instance, given that Willow served as the default school for students based on residence, the District used an opt-out process with respect

to student assignment to single-sex classrooms that violated Title IX's voluntariness requirement. See 34 C.F.R. § 106.34(b)(1)(iii). The difference in teaching methodologies and styles between the classes raised concern the District was not providing a substantially equal opportunity to either sex, as required by Title IX. See 34 C.F.R. § 106.34(b)(1)(iv). Finally, the District's periodic evaluations were deficient because the District focused on general measures of academic achievement and subjective satisfaction, but failed to focus on the efficacy of the single-sex classrooms, as required. See 34 C.F.R. § 106.34(b)(4).

Based on the above, OCR has determined that the District violated the Title IX regulation at 34 C.F.R. § 106.34 with regard to its single-sex classrooms at Willow.

Resolution of Review

Willow's March 7, 2017, cover letter to its "annual education report," available on the District's website at http://www.lansingschools.net/downloads/willow/willowaer_1.pdf, notes that for the 2017-2018 school year Willow will restructure its setting into a "traditional learning environment" from its "gender by classroom" structure. On June 21, 2017, the District's Executive Director of School Improvement confirmed to OCR that Willow would be eliminating its single-sex classrooms effective for the 2017-2018 school year. The District signed the enclosed resolution agreement on July 8, 2017, which, when fully implemented, will address the violations of Title IX identified by OCR.

Under this agreement, the District agrees to provide OCR with documentation demonstrating that it has eliminated the single-sex program at Willow as represented. The District will also provide notice on its website that the program has been eliminated; provide notice to relevant Willow and District administrators, board members, and staff about the requirements of Title IX with respect to single-sex programs; and provide OCR with annual updates through the 2018-2019 school year on whether or not the District intends to implement a single-sex program. In the event the District determines it wishes to implement a single-sex program in the future, it agrees to conduct training and align its program with the requirements of Title IX in advance of offering any single-sex classes or activities. OCR will monitor the implementation of the agreement and the District's actions to ensure the District's compliance with Title IX.

This concludes OCR's investigation and 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 investigation. It 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.

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, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

We appreciate the courtesy and cooperation shown by the District during the course of this review. We look forward to receiving the District's first monitoring report by **August 1, 2017**. If you have any questions about this matter, please contact xxxxxxxxxxx xxxxxxxxxxx, the OCR employee who will oversee the District's implementation of the agreement, at (216) xxx-xxxx or by e-mail at xxxxxxxxx.xxxxxxxxxxxxx@ed.gov.

Sincerely,

/s/

Meena Morey Chandra
Regional Director

Enclosure