

**HINGHAM PUBLIC SCHOOL DISTRICT
COMPLIANCE REVIEW NO. 01-10-5003
RESOLUTION AGREEMENT**

In order to address the compliance concerns found by the U.S. Department of Education's Office for Civil Rights (OCR) in Compliance Review No. 01-10-5003 and to ensure compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, the Hingham Public School District (District) agrees to take the following steps:

I. OPPORTUNITY TO PARTICIPATE IN INTERSCHOLASTIC ATHLETICS

A. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

The District agrees to provide participation opportunities for female and male students at the District's high school that effectively accommodate the athletic interests and abilities of both sexes, consistent with the requirements of Title IX, the regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies. The District will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its high school, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program.

B. DETERMINATION OF UNMET INTEREST AND ABILITY

In order to determine whether there is unmet interest and ability among female students in the District's high school who are underrepresented in the District's interscholastic athletics program, the District will take the following actions:

By January 15, 2013, or 30 days after OCR's review and approval of the survey, the District will conduct an objective assessment of its high school student body and the eighth grade level of its middle schools to determine the existence and/or scope of any unmet athletic interests of female students, the underrepresented sex in the District's athletics program. The assessment will consider whether the interested students have the ability to sustain an interscholastic team, noting that they do not need the ability to sustain a successful or elite team, but only need to show that they have the potential to participate in team try-outs, practices and competitions and, with coaching, the potential to attain sufficient ability to participate at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest. The assessment will

be based on multiple indicators of interests and, if applicable, multiple indicators of abilities, and shall include the following:

1. A survey of all District female students in grades 8-12, which shall be administered no later than December 15, 2012. The survey shall seek information on female students' interest and, if applicable, ability to participate in sports currently offered and in sports not currently offered by the District. A copy of the draft survey will be submitted to OCR for its review and approval before it is distributed to students.
2. A review of the results of recent surveys of students, if any, or other information collected from students using a method that is designed to fully and accurately assess unmet athletic interests and, if applicable, abilities in interscholastic sports among female students.
3. Identification of sports, squads, and levels of sports for female students that are not currently offered by the District high school but are offered by schools that are within the District's normal competitive region and geographic area.
4. For the 2011-2012 school year, female students' rates of participation in interscholastic sports and any non-mandatory or elective physical education classes offered at District schools, and in community sports leagues, clubs or other youth programs in the District's normal competitive region and geographic area.
5. A review of any requests (whether oral, written, formal or informal) made to School Board Members, District administrators, coaches, or staff by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status. This review may be limited to requests that were received during the 2009-2010, 2010-11 and 2011-12 school years.
6. For the last two academic years (2010-2011 and 2011-2012), if applicable, a review of any assessments made by District coaches or staff during tryouts or interscholastic competition offered by the District or in community sports leagues or other youth programs offered in the District's normal competitive region and geographic area, and any other information reflecting the ability of female students to compete in a particular sport, such as prior participation in that sport or a similar sport at the middle or high school level or interscholastic or community level,

general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.

7. Any other information that demonstrates the athletic interests and, if applicable, abilities of female students in grades 8-12.

REPORTING REQUIREMENTS FOR SECTION I(B):

To demonstrate its compliance with Section II of this Agreement, the District will submit the following information to OCR:

1. By October 22, 2012, a copy of the draft survey referenced in Section I(B)(1), above, for OCR's review and approval.
2. By October 22, 2012, a complete description of the planned methodology to conduct the survey, including how the survey will be distributed, the number of surveys to be distributed, the grade levels of students who will receive the surveys, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who will evaluate the responses to the surveys, and the protocol for retaining a copy of any notes or other documents compiled during the review of the surveys.
3. By January 15, 2013, or 30 days after OCR's review and approval of the survey, a detailed report about the assessment conducted pursuant to Section I(B) of this Agreement. The report will include, at a minimum, the following information:
 - a. A copy of the results of the survey referenced in Section I(B)(1), above, including but not limited to the number of students, by sport, who indicated an interest in each sport, a complete description of the methodology used to conduct the survey, including how the survey was distributed, the number of surveys distributed and the number of responses, the grade levels of students who received the surveys, any follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who evaluated the responses to the surveys, and a copy of any notes or other documents compiled during the review of the surveys.

- b. An analysis of the results of other recent surveys of students, if any, or other information collected from students using a method that is designed to fully and accurately assess unmet athletic interests and, if applicable, abilities in interscholastic sports among female students.
- c. To the extent applicable, a summary of the number of female student who were cut from each high school team, and the reasons they were cut.
- d. A summary of sports, squads, and levels of sports for female students that are not currently offered by the high school but are offered by schools that are within the leagues in which the District competes or the District's normal competitive region and geographic area.
- e. For the last two academic years (2010-2011 and 2011-2012), rates of participation by female students in community and youth sports leagues or clubs in the local area.
- f. 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 elevate an existing club sport to interscholastic sport status, for the 2009-2010, 2010-2011 and 2011-2012 academic years.
- g. For the last two academic years (2010-2011 and 2011-2012), a summary of any assessments made during tryouts, or other information reflecting the ability of female students to compete in a particular sport, such as prior participation in that sport or a similar sport at the middle or high school level or club or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.
- h. Any other information that was considered by the District as part of its assessment in determining whether it is fully and effectively accommodating the athletic interests and abilities of female students in its high school.

C. ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES

If through the above-described assessment, the District identifies a sport or sports in which there is sufficient but unmet interest and, if applicable, ability of female students to participate at the interscholastic level at the high school, the District will add athletics opportunities as described below until such time as either (1) the high school is fully and effectively accommodating the expressed interests and abilities of female students (*i.e.*, there remains no unmet interest and ability); or (2) the participation rate for female students in the high school’s interscholastic athletics program is substantially proportionate to their rate of enrollment.

For purposes of this provision, “sufficient interest” is defined as the minimum number of eligible athletes needed to support a team. For “sufficient ability,” it is sufficient that interested students and admitted students have the potential to sustain an interscholastic team and students will not be required to demonstrate they have sufficient ability in a new sport or team if students participating in existing sports or teams are not required to demonstrate through try-outs or some other process that they possess sufficient ability to participate in the specific sport or at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest.

In providing additional athletic opportunities for female students to either accommodate their expressed interests and abilities or until their rate of participation is substantially proportionate to their rate of enrollment at the high school, the District shall do the following:

1. Sports Currently Offered:
 - a. The District will determine, for sports that are currently offered as interscholastic sports, whether there is a sufficient number of female students with the interest and, if applicable, ability to support the creation of additional levels of competition or multiple squads at the same level of competition, and sufficient competition within the high school’s normal competitive region, to support additional levels of competition (junior varsity, sophomore, etc.) or multiple squads at the same level of competition in those sports. If so, the District will add additional levels of competition or squads at the same or a lower level of competition in those sports by the next competitive season consistent with the above determination.

- b. In order to increase the competitive participation opportunities for students who are members of the underrepresented sex, the District will consider expanding the squad sizes for interscholastic sports currently offered at the high school, consistent with the nature of each sport and the level of interest in each sport. The District will increase the size of each squad where determined to be appropriate. If necessary, the District will provide sufficient coaching staff to support the addition of new athletes to any given squad and take any other steps necessary to ensure that the new athletes on each expanded squad are provided meaningful opportunities to participate in interscholastic athletics.

2. Sports Not Currently Offered:

The District will determine whether there is a sufficient number of high school female students with sufficient interest and, if applicable, ability to support the addition of a team or multiple teams (varsity, junior varsity, sophomore, etc.), in sports not currently offered by the high school as interscholastic sports, and whether there is sufficient competition within the high school's normal competitive region and geographic area for those teams/sports. If so, the District will add a team or multiple teams in those sports at the high school by the next competitive season starting in the 2013-2014 school year.

3. Response to Developing Interests and Abilities:

For any sport that is not currently offered and where there is a sufficient number of female students who have sufficient interest and, if applicable, ability in that sport, but where the District determines that there is not sufficient competition within that high school's normal competitive region, the District will take ongoing steps to develop students' interest and ability. These steps may include establishing club sports, exploring the feasibility of establishing competition in the District's normal competitive region and geographic area, and elevating such sports to interscholastic status when competition becomes available.

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

4. Additional Interscholastic Opportunity:

To the extent that the District adds any sports or additional levels of teams at its high school, the District will provide those team(s) in a manner comparable to other interscholastic teams, with sufficient funds in its budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services. The District will also publicize any new sports or additional levels of teams through written notices, verbal announcements and postings on the District's website.

REPORTING REQUIREMENTS FOR SECTION I(C):

To demonstrate its compliance with Section I(C) of this Agreement, the District will submit the following information to OCR:

1. By March 1, 2013, if the District's assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of its female high school students, the District will submit information detailing its determination of the same.
2. By June 30 of each academic year covered by this Agreement (2012-2013, 2013-2014, and 2014-2015), the District will provide information regarding any increases to the size of its squads, as described by Sections I(C)(1)-(4) above.
3. By June 30 of each academic year covered by this Agreement (2012-2013, 2013-2014, and 2014-2015), the District will provide OCR with copies of the squad lists for each team.
4. By June 30 of each academic year covered by this Agreement (2012-2013, 2013-2014, and 2014-2015), the District will provide information demonstrating the breakdown/enrollment by sex at its high school.
5. By March 1, 2013, if the District was obligated to offer additional athletic opportunities pursuant to this Agreement, the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Sections I(C)(1)-(4) of this Agreement, to create new opportunities for female students as the underrepresented sex. This report will detail the timetable for the addition of new sports, levels of sports or newly-created opportunities added pursuant to this Agreement. It will also describe how the creation of additional athletics opportunities taken pursuant to this Agreement will either (1) effectively accommodate the expressed

interests and abilities of female students (*i.e.*, there remains no unmet interest and ability); or (2) elevate female students' participation rates in District interscholastic athletics programs to be substantially proportionate to their rate of enrollment. The report will include description and supporting documentation of the District's efforts to publicize athletic opportunities to students pursuant to Section I(C)(4).

D. ADDITIONAL COMMITMENTS TO IMPROVE THE ATHLETIC OPPORTUNITIES FOR THE UNDERREPRESENTED SEX

1. The District will develop a process or procedure for students or other interested parties, such as coaches or parents, to use in requesting the addition of new sports or levels of sports at the high school. The procedure will be written and notice of it will be published in the Student Handbook and the individual responsible for responding to any requests will be identified by name and contact information. This information will also be displayed on the District's website (athletics page).
2. At the beginning of each school year, the District will provide a written description to the District community of all of its high school sports offerings. This information will also be posted on the District's website (athletics page).
3. The District will maintain the interscholastic athletic squad lists, which shall reflect the participation numbers for each sport, by sex, as of each team's first competitive event. The District will also maintain the interscholastic athletic squad lists that reflect any increases and/or decreases in the participation numbers for each sport, by sex, during each sport's season. These records will not be destroyed or otherwise altered so that they can be submitted to OCR consistent with the terms of this Agreement.

REPORTING REQUIREMENTS FOR SECTION I(D):

To demonstrate its compliance with Section I(D) of this Agreement, the District will submit the following information to OCR:

1. By October 15, 2012, the District will submit a copy of its procedure for requesting new sports, as required by Section I(D)(1), above, a link to the location on its webpage where the procedure is located.

2. By November 19, 2012, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Sections I(D)(1)-(2), above, including a link to the location on its webpage where the notices are located.

II. LOCKER ROOMS, PRACTICE FACILITIES & COMPETITIVE FACILITIES

In order to ensure that the District provides equal athletic opportunities at its high school for members of both sexes in the provision of locker rooms, practice and competitive facilities in accord with 34 C.F.R. § 106.41(c)(7), the District agrees to the following:

- A. By January 1, 2013, the District will conduct a self-assessment of the locker rooms, practice and competitive facilities (including team rooms) that are provided to its boys' and girls' interscholastic athletics teams, including any facilities that are not owned by the District, to ensure that they are equivalent. The self-assessment will take into account any planned upgrades or improvements referenced in this agreement and identify any additional changes or improvements that need to be made to the locker rooms, practice or competitive facilities (including team rooms) provided to the boys' and girls' high school interscholastic athletics teams to remedy any unjustified disparities on the basis of sex identified by the self-assessment. The District will interview students and coaches as part of this assessment.
- B. By Fall 2013, and assuming April 2013 Town Meeting funding, the District will remedy the equity issues for girls' field hockey field. The district is currently in the final stage of design and permitting for a plan to upgrade the high school field campus with particular attention to the drainage issues that impact the site of the current girls' field hockey field, and the construction of a new multi-purpose game field that will be appropriately sized to accommodate all girls' sports, including girls' field hockey and girls' lacrosse. As well, a new girls' JV softball field will be constructed. The design was funded in October 2011, and the April 2013 Town Meeting will be asked to fund construction costs. Assuming that funding, construction would start soon thereafter. The new turf multi-purpose game field, if approved, would be available by Fall 2013. The new multi-purpose field project will include ADA accessible bleachers and press box and a permanent scoreboard. If funding is not provided at the April 2013 Town Meeting, or if there are other unforeseen obstacles that arise, the District will devise an alternative plan to remedy the problems outlined

with the specific fields discussed in OCR’s Letter of Finding. This alternative plan will be subject to OCR’s review and approval.

REPORTING REQUIREMENTS FOR SECTION II:

The District will provide OCR with a report by or before May 15, 2013 (post Town Meeting), which outlines the progress made towards the commitments in Section II(A-B). The District will attach to that report copies of any documents, plans, or other material that supports the District’s plan of action. Following the initial report, periodic updates will be provided on an annual basis on June 30th.

III. SCHEDULING OF GAMES AND PRACTICES

In order to ensure that the District provides equal athletic opportunities at its high school for members of both sexes in the scheduling of games and practices in accord with 34 C.F.R. § 106.41(c)(3), the District agrees to the following:

- A. By January 15, 2013, the District will conduct a self-assessment of its policies or practices pertaining to the scheduling of games and practices, including any actions taken or support provided by booster clubs supporting specific boys and/or girls teams, and make any revisions necessary to ensure that the District provides equal athletic opportunities at its high school for both sexes in the scheduling of games and practices, including additional opportunities to compete and train, if any.

REPORTING REQUIREMENTS FOR SECTION III:

The District will provide OCR with a report by or before January 15, 2013, which outlines the progress made towards the commitments in Section III(A). The District will attach to that report copies of any documents, plans, or other material that supports the District’s plan of action. Following the initial report, periodic updates will be provided on an annual basis on June 30th.

IV. PROVISION OF COACHES

In order to ensure that the District provides equal athletic opportunities at its high school for members of both sexes in the provision of coaches in accord with 34 C.F.R. § 106.41(c)(6), the District agrees to undertake a comprehensive review of the assignment of all coaches (full-time, part-time, and volunteer) to ensure that the District provides equal athletic opportunities for members of both sexes in the provision of coaches. The assessment will specifically consider and address any actions taken or support provided by booster clubs supporting specific boys or girls teams, with particular emphasis on

how such outside funding is used to provide stipends for part-time and volunteer coaches. Based upon the results of the review, the District will by January 15, 2013, implement any necessary changes to the assignment of coaches.

REPORTING REQUIREMENTS FOR SECTION IV:

The District will provide OCR with a report by or before January 15, 2013, which outlines the progress made towards the commitments in Section IV. The District will attach to that report copies of any documents, plans, or other material that supports the District's plan of action. Following the initial report, periodic updates will be provided on an annual basis on June 30th.

V. PROVISION OF EQUIPMENT AND SUPPLIES

In order to ensure that the District provides equivalent athletic opportunities for members of both sexes in the provision of equipment and supplies in accord with 34 C.F.R. § 106.41(c)(2), the District agrees to the following:

- A. The District will undertake an immediate and comprehensive assessment of all of its teams to assess equipment and supply needs. The assessment will specifically consider booster club funding and any other private donations, with particular emphasis on how such outside funding is used to purchase equipment and supplies for District athletes. Once this comprehensive review is complete, the District shall draft a report of its relevant findings and a strategic plan to ensure that the equipment and supplies provided to the District's female athletes are equivalent to the amount, quality, suitability, availability, as well as maintenance and replacement of equipment and supplies provided to the District's male athletes. OCR will review this report with the District prior to budgeting decisions for academic year 2013-14.
- B. The District will take all reasonable steps to ensure the equitable provision of equipment and supplies to male and female athletes during the 2012-13 school year.
- C. Beginning in 2012-13, the District will begin keeping its athletic department budget by sex, including all purchases for equipment, supplies, training facilities, etc.

REPORTING REQUIREMENTS FOR SECTION V:

The District will provide OCR with a report by or before January 12, 2013, which outlines the progress made towards the commitments in Section V(A-C). The District will attach to that report copies of any documents, plans, or other material that supports the District's plan of action. Following the initial report, periodic updates will be provided on an annual basis on June 30th.

VI. ADDITIONAL REQUIREMENTS

- A. By April 1, 2013, the District will create a comprehensive policy to regulate booster club funding and any other private donations flowing into the athletic program. The policy will ensure that if booster clubs provide benefits and services to athletes of one sex that are greater than the benefits and services provided to the other sex, the District will take action to ensure that the benefits and services are equivalent for both sexes. This policy will provide particular guidance on how such outside funding is used to provide benefits with regard to any of the relevant components outlined by the implementing regulations to Title IX, e.g., equipment and supplies, opportunity to receive coaching, compensation of coaching and tutoring, locker rooms and athletic facilities, etc. The policy will also set forth explicit procedures that must be utilized in the event that outside funding is used to provide benefits to student athletes or the athletic program without the District's knowledge and consent. This policy will be submitted to OCR by May 1, 2013, for review and approval. The District will implement the policy with 30 days of OCR's approval.
- B. In assessing compliance with this agreement, OCR will compare the availability, quality and kinds of benefits, opportunities, and treatment afforded to the District's male and female athletes at the high school in the provision of locker rooms, practice and competitive facilities, practice and competitive scheduling, coaching opportunities, and equipment and supplies to determine whether they are equivalent. Under this equivalency standard, identical benefits, opportunities, or treatment are not required as long as the effects of any differences are negligible. If a comparison of the benefits, opportunities and treatment afforded to males and females in the identified program components indicates that benefits, opportunities, or treatment are not equivalent, the District could still be in compliance with Title IX if the differences are shown to be the result of nondiscriminatory factors, such as the unique aspects of particular sports or athletic activities.

- C. The District understands that OCR will not close the monitoring of this Agreement until it has determined that 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(c), which was at issue in this case. If the District fails to implement the Agreement, we may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the 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.
- D. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, if necessary, 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(c), which was at issue in this case.

/s/

Superintendent Dorothy H. Galo, Ph.D
Hingham Public School District
September 28, 2012