

**Jeff Davis County Schools
Resolution Agreement
Complaint #04-14-1550**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of Jeff Davis County Schools (District) pursuant to 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. Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance. Following the completion of OCR's investigation, the District voluntarily agreed to resolve the issue in this complaint.

EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

The District agrees to provide participation opportunities for female and male students at the Jeff Davis Middle School (JDMS) that effectively accommodate the athletics interests and abilities of members 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 at JDMS, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program.

I. DETERMINATION OF UNMET INTEREST AND ABILITY

In order to determine whether there is unmet interest and ability among female students at JDMS who are underrepresented in the interscholastic athletics programs, the District will take the following actions:

By January 23, 2015, the District will conduct an objective assessment of its student body at JDMS to determine the existence and scope of any unmet athletic interests of female students, the underrepresented sex in the District's athletics programs. The assessment will also 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 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 current 6th and 7th grade female students at JDMS and 5th grade students at Jeff Davis Elementary School. 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 before¹ it is distributed to students.
2. Identification of sports, squads, and levels of sports for female students that are not currently offered by JDHS but are offered either by schools that compete within the

¹ Failure to obtain OCR's approval prior to conducting the new survey will invalidate the results.

- league(s) in which the District competes or by schools that are within the District's normal competitive region and geographic area.
3. For the 2014-2015 school year, female students' rates of participation in club sports, interscholastic sports, and physical education courses that are offered in the District's schools, and in community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area.
 4. 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 2013-2014 and 2014-2015 school years.
 5. For the last two academic years, if applicable, a review of any assessments made by District coaches or staff during tryouts, or observations of students participating in club or interscholastic competition offered by the District or in community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area, and other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the middle school level, club or community level, general athletic ability, participation in other middle school interscholastic sports, the nature of the particular sport, and other relevant factors.
 6. Any other information that demonstrates the athletic interests and, if applicable, abilities of female students in the District's middle school.

REPORTING REQUIREMENTS – SECTION I:

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

1. By November 21, 2014, a copy of the draft survey referenced in Section I.1., above, for OCR's review and approval.
2. By November 21, 2014, 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. The District will propose to OCR for review and approval alternate means of conducting the survey to ensure a higher response rate and to ensure that students who do not have access to computers at home can participate in the survey.

3. By March 11, 2015, a detailed report about the assessment conducted pursuant to Section II of this Agreement for JDMS. The report will include, at a minimum, the following information:
 - a. A copy of the results of the survey referenced in Section I.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 any 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. A summary of sports, squads, and levels of sports for female students that are not currently offered by JDMS but are offered either by schools that compete within the league(s) in which the District competes or by schools that are within the District's normal competitive region and geographic area.
 - d. For the last two academic years, for JDMS, rates of participation by female students in:
 - i) Interscholastic sports;
 - ii) Club sports;
 - iii) Physical education courses; and
 - iv) Community and youth sports leagues or clubs in the local area.
 - e. If applicable, a summary of the number of female students who were cut from each JDMS team and the reasons they were cut.
 - 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 to elevate an existing club sport to interscholastic sport status.
 - g. For the last two academic years, a summary of any assessments made during tryouts, or other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the middle school level or club or community level, general athletic ability, participation in other middle 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 at JDMS.

II. 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 a particular high school, the District will add athletics opportunities as described below at JDMS until such time as either (1) JDMS 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 JDMS interscholastic athletics program is substantially proportionate to their rate of enrollment at JDMS.

For purposes of this provision, “sufficient interest” is defined as the minimum number of 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 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 JDMS, the District shall do the following:

1. Sports Currently Offered:
 - a. The District will determine, for sports that are currently offered as interscholastic sports at JDMS, 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 JDMS’s normal competitive region, to support additional levels of competition 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 at JDMS 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 JDMS, 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 JDMS female students with sufficient interest and, if applicable, ability to support the addition of a team or multiple teams, in sports not currently offered by JDMS as interscholastic sports, and whether there is sufficient competition within JDMS'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 JDMS by the next competitive season.

3. Response to Developing Interests and Abilities:

For any sport that is not currently offered by JDMS 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 the 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 Opportunities:

To the extent that the District adds any sports or additional levels of teams at JDMS, 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 – SECTION II

By May 29, 2015, if the District was obligated to offer additional athletic opportunities pursuant to Section III of this Agreement, the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Sections II(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 club and/or other 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 rate in JDMS' interscholastic athletics programs to be substantially proportionate to their rate of enrollment at JDMS.

1. By May 29, 2015, if the District's assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of its female students at JDMS, the District will submit information detailing its determination of the same.
2. By May 1 of each academic year covered by this Agreement (2015-2016 and 2016-2017), the District will provide OCR with a copy of the squad list for each team at JDMS.
3. By May 1 of each academic year covered by this Agreement (2015-2016 and 2016-2017), the District will provide information demonstrating the breakdown/enrollment by sex at JDMS.
4. By May 1 of each academic year covered by this Agreement (2015-2016 and 2016-2017), the District will provide information regarding any increases to the size of its squads, as described by Section II.1.b. above.

III. 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 JDHS. 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 written notice to coaches, physical education teachers, guidance counselors and principals, of all sports offered at JDMS.
3. At the beginning of each school year, the District will provide a written description of all of its sports offerings at JDMS to all students in their physical education classes. This information will also be posted on the District's website (athletics page).
4. 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. 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 – SECTION III

1. By March 11, 2015, the District will submit a copy of its procedure for requesting new sports, as required by Section III.1, above, and a link to the location on its webpage where the revised procedure is located.
2. By May 1 of each academic year covered by this Agreement (2015-2016 and 2016-2017, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Section III.2 and 3, above, and a link to the location on its webpage where the notices are located.

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, OCR may visit the District schools, interview District 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 which was at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, which was at issue in this case.

The District understands and acknowledges 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.

This Resolution Agreement will become effective immediately upon the signature of the District Superintendent or his/her designee below.

Signed:

Superintendent
Jeff Davis County School

Date