

Resolution Agreement
Chicago Public School District #299
OCR Case Nos. 05-11-1034 and 05-89-1020

Chicago Public School District #299 (the District) agrees to fully implement this resolution agreement (Agreement) to resolve U.S. Department of Education, Office for Civil Rights (OCR), case number 05-11-1034 and case number 05-89-1020, and to ensure its compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, with respect to the issue of whether the selection of interscholastic sports at the District's high schools (not including charter schools) effectively accommodates the interests and abilities of male and female students to the extent necessary to provide equal athletics opportunities. The District has voluntarily agreed to adhere to the terms of this Agreement.

GUIDING PRINCIPLES OF THE AGREEMENT

In determining whether the selection of high school interscholastic sports at the District effectively accommodates the interests and abilities of male and female students to the extent necessary to provide equal athletics opportunities, the District will demonstrate compliance at each District high school.

Compliance at each high school will be measured by using the three-part test of compliance¹ showing at each school that: 1) interscholastic participation opportunities are provided in numbers substantially proportionate to the respective enrollments of boys and girls; or 2) that the District can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex; or 3) that the interests and abilities of the underrepresented sex are fully and effectively accommodated by the present program.

Once compliance at an individual high school with any part of the three-part test is demonstrated as determined by OCR, the District will be notified of this determination and will then not be required to submit information about the school under the terms of Sections I through V of this Agreement.

Following submission by the District of compliance data for an individual high school and pending notification of OCR's determination regarding compliance, the District will not be required to submit any further data regarding said school, unless requested by OCR; the terms of this Agreement will end when the District demonstrates compliance at each District high school, which is anticipated to be no longer than four years after the date the District signs this agreement.

¹On December 11, 1979, the Department issued its Intercollegiate Athletics Policy Interpretation, at 44 *Fed. Reg.* 71,413 *et seq.*, which further clarified OCR's Title IX athletics requirements. The Policy Interpretation is generally applicable to interscholastic athletics and states that OCR will apply the following three-part test to assess whether an institution is providing nondiscriminatory athletic participation opportunities: 1) whether interscholastic participation opportunities are provided in numbers substantially proportionate to the respective enrollments of boys and girls; or 2) where one sex is underrepresented among athletes, whether the institution can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of that sex; or 3) where one sex is underrepresented among interscholastic athletes and the institution cannot show a history and continuing practice of program expansion, whether the interests and abilities of the underrepresented sex are fully and effectively accommodated by the present program. *Id.* at 71418.

I. ADMINISTRATIVE REQUIREMENTS

- A. The District has established a process for compiling and maintaining a database containing an accurate record of the interscholastic sports offered for boys and for girls at each District high school. The database will also include a listing of the different levels (varsity, junior varsity, sophomore, and freshmen) at which each sport is offered for boys and for girls at each District high school and the number of boys and the number of girls participating in each level of each sport at each District high school. The process established by the District will include mechanisms for ensuring that the information contained in the database is current, complete and accurate.
- B. By September 15 annually until OCR has dismissed its monitoring of this Agreement, the District will provide to the Principals and Athletic Directors at each District high school written instructions describing the District's obligations under the terms of this Agreement, and also outlining the District's internal procedures and guidelines for ensuring that the District timely, completely and accurately documents its compliance with the terms of this Agreement, including by implementation of the process referenced in Item I.A of this Agreement. The District will annually provide to the Athletic Director at each District high school training on the relevant requirements of Title IX as they pertain to the provision of equal athletic opportunities to boys and girls.

REPORTING REQUIREMENTS: I.A and I.B

The District has provided documentation to OCR that the process referenced in Item I.A of this Agreement has been established and provide a detailed description of the process with supporting documentation, including a sample of the database. The District will also provide by September 30 annually copies of the instructions and applicable internal procedures and guidelines, along with proof of receipt of the required information by the Athletic Director for each high school, plus materials provided to the Athletic Directors and sign-in sheets for the trainings, as referenced in Item I.B.

- C. The District has appointed an Athletics Equity Liaison (Liaison) to communicate, collaborate, and consult directly with OCR concerning the District's implementation of this Agreement. The Liaison will be responsible for ensuring timely implementation of this Agreement as well as timely submission of documentation of the implementation to OCR. The duties of the Liaison will include ensuring that all District high schools and relevant administrators in the District's Central Office procure and maintain current, complete and accurate information needed by the District to demonstrate its implementation of the Agreement.
- D. By no later than June 15 annually beginning in 2015 for any high school that has not demonstrated compliance as determined by OCR, the District's Athletics Equity Liaison will provide to the Athletic Director and Principal at each District high school a written report detailing each high school's current status with respect to each part of the "three-part test."

The report will include interscholastic athletics participation rates by sport and gender for all sports and levels of competition at each high school for the prior school year. To assist with the Liaison's preparation of the report each year, the Liaison will use information from recent District student surveys and any other surveys and assessments of the athletic interests of students, plus descriptions of any requests for the addition of new sports or levels of competition at the high school that were received during the prior school year, and any actions taken by the high school in response.

- E. To ensure accountability, the Liaison will annually notify the Athletic Director and Principal at each District high school that failure to comply with the terms of this Agreement as explained in the written document described in I.D above and/or any staff member's failure to cooperate with the Liaison could be subject to discipline consistent with the District's employee discipline policies and procedures. The District will ensure that the Liaison reports on a regular basis to the District's Legal Department any school administrator who does not provide timely and full reports as required, fails to comply with the terms of this Agreement and/or fails to cooperate with the Liaison. The District's Legal Department will then investigate the report and, if applicable, the District will take appropriate action consistent with the District's employee discipline policies and procedures.

REPORTING REQUIREMENTS: I.C, I.D, and I.E

The District has provided to OCR the Liaison's name and contact information. By August 1, 2015, the District will provide OCR reports for schools it asserts are in compliance with part 1 of the three-part test, including detailed documentation supporting its assertion that the schools are in compliance with part 1. Between September 1 and October 30 annually during the pendency of this monitoring, the District will provide OCR with a copy of the report provided to each high school in accordance with Item I.D of this Agreement. From September 30, 2015 through October 30, 2015, the District will provide OCR with a description of the actions taken or planned by each high school not previously found by OCR to be in compliance with part one, to achieve compliance with part one or three of the three-part test, along with the timeframe for such compliance. By September 30 annually, the District will provide OCR with its annual notification to the CPS Athletic Directors and CPS Principals and the employee discipline policies and procedures referenced in Item I.E of this Agreement. By June 30 annually, the District will provide information to OCR about all reports made by the Liaison to the District's Legal Department regarding any District high school administrator pursuant to Item I.E of this Agreement, including outcomes of such reports.

II. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

The District acknowledges that Title IX, its implementing regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies require the District to effectively accommodate the interests and abilities of members of both sexes. The District agrees to provide athletic participation opportunities that are either substantially proportionate to the enrollment in its high schools, by sex, or to demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program. OCR acknowledges that in certain limited instances, an individual school may have a history and continuing practice of program expansion that is that is demonstrably responsive to the developing interests and abilities of the underrepresented sex and that the District may demonstrate this to OCR in those limited instances.

III. 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 schools who are underrepresented in the District interscholastic athletics programs, the District will take the following actions:

- F. By September 30, 2015, for high schools not determined by OCR to be in compliance with part one, the District will complete an objective assessment of athletic interests. The assessment will include results from the surveys of athletic interests and abilities that have been conducted by the District since the 2013-14 school year, and will be conducted annually, so long as the survey has been pre-approved as to content by OCR, and the methodology, implementation and response rates of each survey at each high school maximizes the possibility of obtaining accurate information and facilitating responses. From April 1, 2015 - September 30, 2015, the District will administer a survey of athletic interests and abilities to all current freshmen, sophomores and juniors, as well as incoming freshmen for the 2015-16 school year, who have not already responded to the most recent District surveys of athletic interests and abilities. The District will use the survey results, in part, to determine the existence and/or scope of any unmet athletic interests of female students at each District high school. The assessment will also consider whether the interested students at these District high schools have the ability to sustain an Illinois High School Athletic Association (ISHA) sanctioned sports 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. If the assessment indicates interest in a sport or team not sanctioned by the IHSA, then the assessment will also indicate whether the school has the ability to sustain interscholastic competition with other schools in the sport in the school's normal competitive region and geographic area.² The assessment will be based

²The District will refer to the Title IX implementing regulation, and to the Policy Interpretation and applicable OCR policy guidance that was issued in 1996 and 2010 for clarification regarding the meaning of "normal competitive region and geographic area." Throughout this Agreement "normal competitive region" and "geographic area" refer to the

on multiple indicators of interests and, if applicable, multiple indicators of abilities, and will include the following:

1. The results of the most recent survey of female students at these District high schools so long as it was pre-approved as to content by OCR and was implemented by the District to maximize the possibility of obtaining the greatest number of responses at each school, and accurate information and facilitating responses.
2. A review of the results of other recent surveys of students, if any, or other information collected from students, if any, using a method that is designed to fully and accurately assess unmet athletic interests and, if applicable, abilities in interscholastic sports among female students in accordance with the principles outlined above in item III.F.1.
3. Identification of sports, squads, and levels of sports for female students that are not currently offered at a District high school 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.
4. During the 2014-2015 school year, the Athletic Director at each District high school will complete a survey that identifies:
 - a. any club sports³ in place at the high school, the names of the club sports and the number of female students who participated in the club sports;
 - b. popular sports offered during physical education courses at the high school and in community sports leagues, clubs or other youth programs offered in the high school's geographic area;
 - c. if available where records exist, the number (or if unavailable, an estimation) of female students who were cut from each high school team, the reasons they were cut, whether any of the cut students had the ability to compete in that sport and whether the number of females cut from one level (e.g., varsity) was sufficient to sustain another level in that sport (e.g. junior varsity); and,
 - d. to the extent available, any requests (whether oral, written, formal or informal) made to the school on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to interscholastic sport status.
 - e. If available (or if unavailable, an estimation of) the girls' teams that have been eliminated in the past five school years.

normal competitive region and geographic area of each individual high school. In evaluating whether there is a reasonable expectation of interscholastic athletic competition for a particular sport in a particular high school's normal competitive region, consideration is given to available competitive opportunities in the geographic area in which the high school's athletes primarily compete, including competitive opportunities offered by other schools against which the high school competes and competitive opportunities offered by other schools in the particular high school's geographic area, including those offered by schools against which the particular high school does not now compete. *See*, <http://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>; and <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100420.html>

³For purposes of this Agreement, the District defines a "club" sport as any competitive sport that is not currently recognized by the IHSA such as rugby, field hockey, ice hockey etc.

5. Any other information that demonstrates the athletic interests and, if applicable, abilities of female students in the District's high schools.

REPORTING REQUIREMENTS – SECTION III - THE ASSESSMENT

From September 30, 2015 through October 30, 2015, the District will provide OCR a detailed final report about the assessment conducted pursuant to Section III of this Agreement for each identified District high school that OCR has determined is not in compliance with part one, including, at a minimum, the following information:

- a. A complete description of the methodology used to conduct the survey, including how the survey was distributed, the number of surveys distributed, the grade levels of students who received the surveys, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who analyzed 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.
- b. A copy of the results of the survey referenced in Section III.A.1., above, including but not limited to the number of students, by sex, who indicated an interest in each sport.
- c. 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.
- d. A summary of sports, squads, and levels of sports for female students that are not currently offered at a District high school but are offered either by schools that compete within the Chicago High Schools Athletic Association, commonly referred to as the Chicago Public League, or in schools that are within the District's normal competitive region and geographic area.
- e. For the 2014-15 school year, for these high schools, rates of participation by female students in interscholastic sports and club sports;
- f. If available, a summary of the number of female students who were cut from each high school team and level, and the reasons they were cut, if known.
- g. 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 or intramural sport to interscholastic sport status.
- h. If available, a description of any teams that were eliminated at any of these District high school during the past five school years, regardless of gender, including the number of participants who were on the team in the year it was eliminated and the reason for the team's elimination, if known.
- i. 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 District high schools.

IV. ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES⁴

The District anticipates that for the 2014-15 school year it will demonstrate to OCR that as many as 12 of its high schools are currently in compliance with part one.

As to the high schools that are not determined by OCR to be in compliance with part one, 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 undertake efforts to add athletics opportunities as described below at the high school(s) 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 at the high school.

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 have the potential to sustain an interscholastic team and students will not be required to demonstrate they have sufficient ability if students participating in existing sports or teams are not typically 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. The District may, if applicable, submit information to OCR demonstrating that it duly publicized the addition of teams or sports at a school and made try-outs available to students at a reasonably convenient time, but that despite its efforts, an insufficient number of students attended try-outs to support the establishment of an interscholastic team.

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 each District high school, the District shall do the following:

A. Sports Currently Offered:

1. The District will determine, for sports that are currently offered as IHSA sanctioned or non-IHSA sanctioned interscholastic sports at the particular District high school, 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 (junior varsity, sophomore, etc.), and sufficient competition within the Chicago High Schools Athletic Association commonly referred to as the Chicago Public League, as well as the District's normal competitive region

⁴The District will refer to the Title IX implementing regulation, the Policy Interpretation and applicable OCR policy guidance that was issued in 1996, 2008, and 2010 that specifically discusses the application of the three-part test for clarification of terms and compliance standards contained herein, as well as for determining which interscholastic athletic activities can be counted for the purpose of Title IX compliance (<http://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>); <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20080917.html>; and <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100420.html>).

to support additional levels of competition in those sports. If so, the District will implement a plan to add additional levels of competition or squads at the same or a lower level of competition at the high school at a minimum of 10 high schools for the 2015-2016 competitive season in those IHSA sanctioned sports, consistent with the above determination. New levels or squads of currently existing sports will continue to be added at all high schools for the 2016-2017 competitive season and additions of levels or squads will continue until such time as the high school has demonstrated to OCR compliance with the three part test, but by no later than the 2018-2019 competitive season.

2. 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, in accordance with IHSA rules and regulations, for interscholastic sports currently offered at the particular District 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.

B. 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 particular District high school as interscholastic sports, and whether there is sufficient competition within Chicago High School Athletic Association commonly referred to as the Chicago Public League and within that high school's normal competitive region and geographic area for those teams/sports. If so, the District will implement a plan at each high school to add a team or multiple teams in those sports at the relevant high school(s) beginning where possible for the 2015-2016 competitive season but beginning no later than for the 2016-17 competitive season and continuing in ensuing years until such time as the high school has demonstrated to OCR compliance with the three part test, but by no later than the 2018-2019 competitive season. Where necessary, additional levels or squads will be added where possible beginning for the 2016-17 competitive season but beginning no later than the 2017-18 competitive season in new sports added at each school until such time the school has demonstrated compliance to OCR with the three part test, but by no later than the 2018-2019 competitive season.

C. Response to Developing Interests and Abilities:

For any sport that is not currently offered by the particular District high school where there is a sufficient number of female students who have interest and, if applicable, ability in that sport, but where the District determines that there is not sufficient competition within the Chicago High School Athletic Association commonly referred to as the Chicago Public League, the District will take ongoing reasonable steps to develop students' interests and abilities. The steps

may include establishing club sports, exploring the feasibility of establishing competition in the Chicago High School Athletic Association commonly referred to as the Chicago Public League or otherwise in the District's normal competitive region and geographic area, and advocating with the IHSA to elevate such sports to interscholastic status, or 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.

Additional Interscholastic Opportunities:

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

REPORTING REQUIREMENTS – SECTION IV

1. By June 30, 2015 (Fall, Winter and Spring Sports) for the 2014-15 academic year, and by November 30 (Fall Sports), April 1 (Winter Sports) and June 30 (Spring Sports) of each ensuing academic year covered by this Agreement, the District will provide OCR with a copy of the roster for each team at each District high school, as verified and attested to by the Athletic Director or coach for each team.
2. The District has provided OCR the breakdown/enrollment by sex at each District high school for 2014-2015 and it will do so on November 1 of each ensuing academic year covered by this Agreement.
3. Between September 30 through October 30 of each ensuing academic year covered by this Agreement, the District will provide information regarding any increases to the size of its squads, as described by Section IV.A.2. above.

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

- A. 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 District’s high schools. The procedure will be written and notice of it will be published on the District’s website.⁵ The individual responsible for responding to any requests is the Athletics Equity Liaison, identified above and her name and contact information will continue to be published on the website.
- B. By September 15, 2015 and by September 15th of each school year, the District will provide written notice to coaches, physical education teachers, guidance counselors and principals, of all sports offered at each District high school.
- C. By September 15, 2015, and by September 15th of each school year, the District will provide a written description of all of its sports offerings at each District high school to any high school students enrolled in their physical education classes. This information will also be posted on the District’s website.
- D. 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 for five years or otherwise altered so that they can be submitted to OCR consistent with the terms of this Agreement.
- E. The District will establish, post and regularly update on the world wide web a publicly available athletics “web page” for the District; the web page will include a description of the sports offerings at each high school, including at a minimum, the interscholastic and club sports available to male and female students at each high school, the season in which the sport competes and the name and contact information for the athletic directors for each high school.

REPORTING REQUIREMENTS – SECTION V

- 1. By September 30, 2015, the District will submit a copy of its procedure for requesting new sports, as required by Section V.A, above, and a link to the location on its webpage where the revised procedure is located.
- 2. By September 30, 2015, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Section V.B, C, and E, above, and a link to the location on its webpage where the notices are located.

⁵ See, http://cps.edu/Programs/Before_and_after_school/AthleticsSports/Pages/AthleticsSports.aspx

OCR is cognizant of the District’s reported ongoing financial constraints and it will work with the District to ensure the timely implementation of the Agreement despite those constraints.

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 District schools, interview District staff, 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)(1), which was at issue in this case. Before OCR visits a District school or interviews any District staff, OCR will provide the District with at least five school days’ notice of the school visit or interview.

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 at 34 C.F.R. § 106.41(c)(1), which was at issue in this case.

/s/

July 1, 2015

Annette Gurley

Date

Chief Officer of Teaching and Learning

Title