



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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January 29, 2016

Superintendent Robert Alejo  
Alamosa School District  
209 Victoria Avenue  
Alamosa, CO 81101

Re: Alamosa School District  
Case number 08-14-1217

Dear Superintendent Alejo:

This is to advise you of the resolution of the above-referenced complaint that was filed with our office. The complainant alleged that the District discriminated on the basis of sex. Specifically, the complainant alleged that the District did not provide equal athletic opportunity for female athletes in the provision of locker rooms, practice and competitive facilities; equipment and supplies; and coaching

We began investigating this complaint pursuant to Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to this law and regulation.

Specifically, the Title IX regulation at 34 CFR 106.41(a) provides, in pertinent part that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic athletics offered by a recipient. The regulation implementing Title IX at 34 CFR 106.41(c) states that a recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, OCR considers, among other factors, the provision of equipment and supplies and provision of locker rooms, practice and competitive facilities. The Title IX Athletics Policy Interpretation, issued December 11, 1979, states that OCR will assess compliance by comparing the availability, quality and kinds of benefits, opportunities, and treatment afforded members of both sexes. Specifically, OCR assesses the various components of the district's boys' athletics program and the girls' athletics program on an overall basis, not on a sport-by-sport basis. Under this standard, identical benefits, opportunities, or treatment are not required, provided the overall effects of any differences is negligible. If a comparison of program components indicates that benefits, opportunities, or treatment are not substantially equivalent in quality, availability, or kind, such disparities may deny equality of athletic opportunity.

During our investigation, we interviewed the complainant and reviewed documentation and other evidence provided by the complainant and the District. On August 11, 2015, during our investigation of this complaint, the District indicated its desire to voluntarily enter into an agreement to resolve the allegations pursuant to Section 302 of the *Case Processing Manual*. We reviewed this request and determined that it justified entering into an agreement without completing a full investigation of this complaint.

### *Facts of the Case*

Prior to receiving the District's request to enter into an agreement to resolve the allegations in this case, we made the following factual findings with respect to the complainant's allegations.

We found during the 2014-15 school year, 175 male athletes participated on six teams: baseball, basketball, football, golf, soccer and wrestling at Alamosa High School (AHS). There were 119 female athletes participating on five teams: basketball, golf, gymnastics, soccer and volleyball. In addition, there were two co-ed teams: track and cross-country. The boys' teams were coached by 6 head coaches and 18 assistant coaches. Similarly, the girls' teams were guided by 6 head coaches and 11 assistant coaches. These teams use a variety of facilities and locker rooms located at AHS and Ortega Middle School for practice and competition. Some of these facilities and locker rooms are also used by physical education classes and the cheer squad. Both golf teams use a city-owned golf course for practice and competition.

The complainant stated that the girls' gymnastics team was the only team which did not have a readily available practice facility during the off season. The complainant explained that the team was required to share its practice facility with the wrestling team and was, therefore, unable to set up all of the necessary equipment including, for example, the spring floor. Additionally, the complainant noted that it was a struggle to get the maintenance department to assist with setting up and taking down the gymnastics equipment. The complainant stated that at the beginning and end of the gymnastics season, the coaches and athletes often moved the heavy, bulky equipment themselves; something not expected of the coaches and athletes of boys' teams.

The complainant stated that the head coach proposed to District staff and administrators that the gymnastics team renovate an unused portion of a building on campus to use as a gymnastics facility. According to the complainant, the District agreed but required the gymnastics team to pay for the vast majority of the renovations expenses including hiring a structural engineer and HVAC specialist to address safety concerns with the facility. The complainant asserted that no boys' team was required to pay for its own facility including renovations required to ensure the facility was safe for use and, in fact, the District planned to spend \$1,000,000 for a new baseball facility.

The complainant also alleged that the District did not provide adequate coaching staff for the gymnastics team while boys' teams were provided with sufficient coaching staff.

As part of OCR's resolution of this case, OCR reviewed information provided by the District in response to a preliminary data request. Specifically, OCR reviewed the policies, procedures and practices regarding the District's sports programs in the following areas: (a) use, availability,

maintenance, and preparation of sports facilities; (b) budget and allocation of funds, (c) quality, amount, suitability, maintenance and replacement, and availability of equipment and supplies; and (d) the availability and assignment of coaches. Additionally, in March 2015, OCR surveyed all head coaches and three athletes from each boys' and girls' team regarding their experiences with and opinions about each of the three components investigated in this complaint: practice and competitive facilities and locker rooms; coaching; and equipment and supplies.

The information gathered to date suggests that expenditures made by the gymnastics team to ensure the availability of a practice facility with the necessary equipment may raise potential equity concerns. With respect to equipment and supplies, the information gathered to date also suggests possible equity concerns with respect to the provision and quality and storage of equipment for girls' teams. There is insufficient evidence collected to date to determine whether inequity concerns exist with respect to the availability and assignment of coaches.

At the time of the District's request for resolution, we would need to gather additional evidence in order to have an accurate understanding of the District's athletics program with respect to the program components listed above and to determine whether overall disparities exist between the boys' and girls' athletic programs.

#### *Agreement to Resolve Complaint Allegations*

As noted earlier, the District requested to enter into a 302 agreement to resolve the complaint allegations before OCR completed its investigation and reached a compliance determination for this complaint. We have received the signed Resolution Agreement, which is enclosed. When the Agreement is fully implemented, the allegations will be resolved consistent with the requirements of Title IX and its implementing regulation. OCR will monitor implementation of the Agreement through periodic reports demonstrating the terms of the Agreement have been fulfilled. We will provide written notice of any deficiencies regarding the implementation of the terms of the Agreement and will promptly require actions to address such deficiencies. If the District fails to implement the Agreement, we will take appropriate action, as described in the Agreement. We will provide the complainant with a copy of formal correspondence we issue to the District during the monitoring.

We thank the District for voluntarily entering into an Agreement to resolve the allegations raised in this complaint. This concludes OCR's investigation of this complaint 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 case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the District has fulfilled all terms of the Agreement. When the monitoring phase of this case is complete, OCR will close case number 08-14-1217 and will send a letter to the District, copied to the complainant, stating that this case is closed.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment. In addition, the complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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

We thank you for the courtesy and cooperation extended to us during the processing of this case. If you have any questions regarding this matter, please feel free to contact XXXXXXXXXXXX, Attorney Advisor, at XXX-XXX-XXXX, or me at 303-844-2557.

Sincerely,

/s/

Stephen Chen  
Supervisory Attorney

Enclosure

cc: Holly Ortiz, District representative