



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

December 31, 2015

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Dr. Traci Pierce
Superintendent
Lake Washington School District No. 414
P.O. Box 97039
Redmond, Washington 98073-9739

Re: Lake Washington School District No. 414
OCR Reference No. 10151160

Dear Dr. Pierce:

The U.S. Department of Education, Office for Civil Rights (OCR) is discontinuing its investigation of the above-referenced complaint against Lake Washington School District No. 414 (the district). As described below, prior to the conclusion of OCR's investigation, the district expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the allegations asserted in the complaint.

The complaint alleged that the district discriminates against females at Lake Washington High School (LWHS), based on sex, by failing to provide them with equal athletic opportunities in softball with respect to the following: scheduling of games and practice times; provision of equipment and supplies; modes of transportation; and provision of practice and competitive facilities.

OCR accepted the complaint for resolution under the authority of title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 CFR Part 106. Title IX prohibits discrimination on the basis of sex in programs and activities receiving federal financial assistance from the U.S. Department of Education. The district receives federal financial assistance from this Department; therefore, it is required to comply with Title IX.

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; scheduling of games and practice times; provision of travel and per diem allowance; 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.

With respect to booster clubs, recipient school districts must ensure that equivalent benefits and services are provided to members of both sexes. Therefore, when booster clubs or other fundraising organizations, which may or may not be sponsored by the district, provide benefits or services that assist only teams of one sex, the district must ensure that teams of the other sex receive equivalent benefits and services. If booster clubs provide benefits and services to athletes of one sex that are greater than what the district is capable of providing to athletes of the other sex, then the district must take action to ensure that benefits and services are equivalent for both sexes.

It is the position of the complainant that the use of a municipal field offers an opportunity for the LWHS boys' baseball team to play in the evening and "under the lights," and that the same opportunity is not offered for the girls' softball team. The complainant also asserted that the LWHS boys' baseball has a booster club which pays for new warm-up gear and other equipment for the boys' baseball program, which is not offered to the LWHS girls' softball team. In addition, the complainant stated that the same booster club pays for charter bus transportation to away baseball games for the LWHS boys' baseball team, and for the expenses associated with a pre-season trip to a city in eastern Washington that also included an opportunity for the members of the baseball team to visit area colleges/universities. It is the position of the complainant that these same opportunities are not offered to the LWHS girls' softball team.

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) scheduling of games and practices; (b) use, availability, maintenance, and preparation of sports facilities; (c) budget and allocation of funds, including funds from parents or booster clubs; and (d) travel and modes of transportation.

OCR also reviewed information found on publicly-available websites of both the school district and the booster clubs associated with specific athletic teams at LWHS. In addition, OCR conducted a preliminary interview of the district's athletic director and LWHS principal.

The information gathered to date suggests that the district's use of a municipal field for the LWHS boys' baseball raises potential equity concerns because the municipal field may have amenities beyond those offered at the high school campus fields, and allows for more flexibility in scheduling. In addition, the information to date suggests that the LWHS boys' baseball team may have been provided pre-season competitive travel opportunities, including an overnight stay and visit to a college campus, that were not available to girls' softball. With respect to transportation, the information to date indicates that the selection and scheduling of private charter buses for away competitions for the LWHS boys' baseball team, including the pre-season travel, raises concerns that the girls' softball team was not given equivalent opportunities. With respect to the private fundraising conducted by parents and/or booster clubs, the information reviewed by OCR to date suggests that this practice may be creating disparities between the LWHS boys' baseball team and the girls' softball team with respect to the quantity and quality of equipment and supplies and pre-season travel opportunities.

In accordance with Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved at any time when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. In such a case, the provisions of a resolution agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the district requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the district resulted in the district signing the enclosed agreement.

The actions the district will take under the agreement include the following: conduct an assessment of locker rooms, practice and competitive facilities; review and, as necessary, revise policies and procedures regarding (a) scheduling of practice and game times; (b) provision of equipment and supplies; (c) scheduling and modes of transportation to competitions; and (d) private fundraising. The agreement also provides for training to relevant groups associated with the district's athletic programs regarding the requirements of Title IX, the district's policies and procedures regarding non-discrimination on the basis of sex, and any substantive revisions to policies regarding private fundraising. OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Christina “Tina” Meade, attorney, at 206-607-1604 or christina.meade@ed.gov; or Catherine Fawley, attorney, at 206-607-1609 or catherine.fawley@ed.gov.

Sincerely,

/s/

Kelli Lydon Medak
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Hon. Randy Dorn,
Superintendent of Public Instruction