



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

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October 19, 2023

Dr. Carmen Garcia  
Superintendent  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037

By email only to: [garciacarmen@mhusd.org](mailto:garciacarmen@mhusd.org)

Re: Morgan Hill Unified School District  
OCR Case No. 09-22-1295

Dear Superintendent Garcia:

In a letter dated June 7, 2022, the U.S. Department of Education (Department), Office for Civil Rights (OCR) notified the Morgan Hill Unified School District (District) of the above-referenced complaint alleging discrimination on the basis of sex at Live Oak High School (School). Specifically, OCR opened the following allegations for investigation:

- 1) Whether the District discriminates against female students at the School on the basis of sex in the following program components of its athletics program:
  - a. Equipment and supplies,
  - b. Scheduling of games and practice times,
  - c. Travel and per diem,
  - d. Coaching,
  - e. Locker room, practice, and competitive facilities,
  - f. Medical and training facilities and services, and
  - g. Publicity; and
  
- 2) Whether the District failed to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints of sex discrimination.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulations at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance. As a recipient of federal financial assistance from the Department, the District is subject to Title IX.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

To investigate this complaint, OCR conducted interviews and reviewed documents and other information provided by the complainant and the District. As to Issue 1, prior to OCR completing its investigation and making a compliance determination, the District expressed an interest in voluntary resolution pursuant to section 302 of OCR's *Case Processing Manual* (CPM), and OCR determined it was appropriate to do so. As to Issue 2, OCR obtained credible information that indicated the allegation has been resolved. The legal standards, facts gathered, and the reasons for OCR's determinations are summarized below. In order to address the compliance concerns identified by OCR, the District has agreed to a series of actions described in the attached resolution agreement.

**Issue 1:** Whether the District discriminates against female students at the School on the basis of sex in the following program components of its athletics program:

- a) Equipment and supplies,
- b) Scheduling of games and practice times,
- c) Travel and per diem,
- d) Coaching,
- e) Locker room, practice, and competitive facilities,
- f) Medical and training facilities and services, and
- g) Publicity.

#### Legal Standards

The Title IX regulations, at 34 C.F.R. § 106.41, provide 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, intercollegiate, club, or intramural athletics offered by a recipient of federal financial assistance, and no such school district shall provide any such athletics separately on such basis. As a means of assessing compliance under the regulations, OCR follows its Policy Interpretation on Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71413, et seq. (1979). Although the Policy Interpretation focuses on intercollegiate athletics, OCR applies the same general principles to high school athletic programs.

In its investigation, OCR examined the following components of the District's athletic program: equipment and supplies; scheduling of games and practice times; travel and per diem allowances; opportunity to receive coaching; provision of locker rooms, practice and competitive facilities; provision of medical and training facilities and services; and publicity.

In each of the areas, OCR examines whether the availability and quality of benefits, opportunities, and treatment provided were equivalent for members of both sexes, regardless of the funding source(s) for these benefits and services. Thus, OCR considers benefits and services provided through the use of private funds, including booster club funding or fundraising, in combination with all other benefits and services. Where fundraising or booster clubs 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 fundraising or booster clubs provide benefits and services to athletes of one sex that are greater than what the institution is capable of providing to athletes of the other sex, then the institution shall take action to ensure that benefits and services are equivalent for both sexes. Equivalent is defined as equal or equal in effect. In

accordance with the 1979 Policy Interpretation, OCR compares components of the men's program and the women's program on an overall basis, not on a sport-by-sport basis that would compare, for example, the men's basketball uniforms and the women's basketball uniforms. Where disparities were noted, OCR considers whether the differences are negligible. Where the disparities are not negligible, OCR determines whether they were the result of nondiscriminatory factors. Finally, OCR determines whether disparities resulted in the denial of equal opportunity to male or female athletes, either because the disparities collectively were of a substantial and unjustified nature or because the disparities in individual program areas were substantial enough by themselves to deny equality of athletic opportunity.

Using the criteria provided in the Policy Interpretation, OCR examines the benefits, services and opportunities provided to male and female athletes.

*Equipment and Supplies.* In assessing compliance with respect to equipment and supplies under the Title IX regulations, at 34 C.F.R. § 106.41(c)(2), OCR considers the quality, suitability, amount, maintenance, replacement, and availability of equipment and supplies. Equipment and supplies include uniforms, other apparel, sport-specific equipment and supplies, instructional devices, conditioning and weight training equipment, and general equipment.

*Scheduling of Games and Practice Times.* In assessing compliance with respect to scheduling of games and practice times under the Title IX regulations, at 34 C.F.R. § 106.41(c)(3), OCR considers the number of competitive events per sport, the number and length of practice opportunities, the time of day that competitive events and practice opportunities are scheduled, and the opportunities to engage in pre-season and post-season competition.

*Travel and Per Diem.* In assessing compliance with respect to travel and per diem under the Title IX regulations, at 34 C.F.R. § 106.41(c)(4), OCR considers the modes of transportation, housing furnished during travel, length of stay before and after competitive events, per diem allowances, and dining arrangements.

*Coaching.* In assessing compliance with respect to the opportunity to receive coaching under the Title IX regulations, at 34 C.F.R. § 106.41(c)(5) and (6), OCR considers three components: (1) the relative availability of coaches, assistant coaches, and graduate assistants; (2) the training, experience, and other professional qualifications of coaches; and (3) the compensation of coaches for men's versus women's programs. Of these three factors, OCR's primary focus is on the availability of coaches.

In analyzing the availability of coaching in interscholastic athletics, OCR separates the girls' and boys' programs, computes the ratio of coaches to the number of participants in each program, and compares the ratio between boys' and girls' programs to determine any inequity.

*Provision of Locker Rooms and Practice and Competitive Facilities.* In assessing compliance with respect to locker rooms and practice and competitive facilities under the Title IX regulations, at 34 C.F.R. § 106.41(c)(7), OCR examines the quality and availability of the facilities provided for practice and competitive events, exclusivity of use of facilities provided for practice and competitive events, the availability and quality of locker rooms, maintenance of

practice and competitive facilities, and preparation of facilities for practice and competitive events.

*Medical and Training Facilities and Services.* In assessing compliance with respect to medical and training facilities under the Title IX regulations, at 34 C.F.R. § 106.41(c)(8), OCR considers the availability of medical personnel and assistance, health, accident and injury insurance coverage, the availability and quality of weight and training facilities, the availability and quality of conditioning facilities, and the availability and qualifications of athletic trainers.

*Publicity.* In assessing compliance with respect to publicity available for the athletic program under the Title IX regulations, at 34 C.F.R. § 106.41(c)(10), OCR considers the following factors: (1) availability and quality of sports information personnel; (2) access to other publicity resources for men's and women's programs; and (3) quantity and quality of publications and other promotional devices featuring men's and women's programs.

### Facts

The School is one of two high schools in the District. During the 2021-2022 school year, the School had 20 interscholastic non-coed athletic sports programs.<sup>1</sup>

#### *Background on Athletic Program*

The District told OCR that it provides financial support to each team based on the number of student athletes participating on that team; however, each team's budget may be supplemented by donations and/or fundraising by the program. Contrary to the District's statement, OCR learned that the athletic programs do not receive any funding from the District and must instead rely on fundraising or the School's sole booster club (Boosters) to meet their teams' equipment and other needs. The mission of the Boosters is to raise funds to support all sports programs at the School. [redacted content] explained that the budget for each team is "whatever that team fundraises" and each team may use the funds as they deem appropriate. Multiple coaches added that the funds raised by one team are not shared but are used exclusively for that team's needs. One coach described this funding model as "the wild west" that requires the teams to "fend for themselves" when it comes to meeting their needs.

OCR learned that the boys' lacrosse and football teams raise significantly more than other programs through fundraising, which allows these programs access to higher quality equipment, better transportation, and other benefits not available to the other athletic programs. Multiple coaches described the financial support in the surrounding community as finite and the amount the football (fall season) and boys' lacrosse (spring season) teams are able to fundraise affects the ability of other teams to generate revenue. They said that it feels like the teams are competing against each other for resources because they have to fundraise from a small community. OCR learned that even though the girls' and boys' lacrosse teams play during the

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<sup>1</sup> For purposes of calculating the total number of non-coed athletic sports programs, OCR considered the track and swim programs to consist of separate boys' and girls' programs, rather than as co-ed programs, because the athletes are listed separately in rosters provided by the District.

same season, the boys' team has significantly more financial support and it is difficult for the girls' team to fundraise from the same sources.

The School's Coaches Handbook (Handbook) states that the Boosters may also make purchases on behalf of an athletic team. When a coach submits an allocation request to the Boosters, the Boosters will analyze the purpose of the request, the use and duration of the equipment requested, and the financial status of the Boosters. According to the Handbook, a majority vote of the Boosters' board is required for approval of an allocation request. However, OCR learned that, in practice, the Athletic Director has authority to approve (or deny) a coach's request for Boosters support without necessarily going through a vote of the Boosters' board.

### *Locker Room, Practice, and Competitive Facilities*

The School currently has two baseball fields and one softball field. OCR learned from witnesses that the School previously had two softball fields but due to overcrowding, the District removed one softball field to install portable classrooms. Witnesses told OCR that the remaining softball field (which is in use today) was supposed to be temporary and that when the portable classrooms were removed, the plan was to rebuild the second softball field. The District represented to OCR that given the current use of the space, it is currently not feasible to rebuild the second softball field, but it was not able to provide information about prior plans, if any, to rebuild the field. OCR found that because there is currently only one softball field, the junior varsity (JV) team practices in a grass field behind the softball field most of the time. However, because there are non-school sports teams that pay to use the grass field, there are times when the JV softball team had to ask them to move in order to practice. Furthermore, a witness told OCR that the second baseball field allows the JV baseball team to do more in one hour of practice than the JV softball team can do in two hours.

When OCR visited the School, it observed that the varsity baseball field has dugouts with more seating and storage than the softball field. The varsity baseball field also has more spectator seating, an electronic scoreboard, press box, lighting, and a public address (PA) system—all features that the softball field appears to lack. OCR found that the softball field backstop is in disrepair and the varsity baseball field backstop is in much better condition.

The School has an athletic locker room (Athletic Locker Room) that is adjoined to the boys' locker room, with a door connecting it to the boys' locker room and a separate entrance/exit to the outside common areas. The Athletic Locker Room contains lockers with greater storage capacity than the lockers in the boys' or girls' locker rooms and a connecting media room. The District told OCR that the Athletic Locker Room is available (upon request) to any team (male or female).

The [redacted content] told OCR that the football team uses the Athletic Locker Room during the football season. The [redacted content] also explained that for the most part, the Athletic Locker Room is vacant outside of football season primarily due to its location—it is far from the athletic fields.

Multiple coaches of girls' teams told OCR that their teams have not asked to use the Athletic Locker Room because their athletes perceive it to be located in or part of the boys' locker room. One girls' team stores their equipment in their coach's office because the team's equipment does

not fit into lockers in the girls' locker room. OCR also learned that although the girls' basketball team is not assigned lockers in the Athletic Locker Room, they have occasionally used the team room (media room) prior to games to discuss game strategy because the team room has a white board and is large enough for the whole team.

### *Medical and Training Facilities*

OCR found that female athletes do not have equal access to the School's weight room because the football team's use of the weight room does not allow other teams to use or feel comfortable using the weight room. There is no schedule for the weight room or process for the girls' programs to request access to the weight room. OCR learned that when one person asked about use of the weight room for girls' teams, the response they received from athletic leadership was: "why would you ever need it?"

According to the District, a local doctor (Trainer) provides emergency services at sports events and any team may request to use the Trainer. The District also told OCR that the Trainer is not assigned to specific athletic teams and serves all student athletes. OCR learned that although the Trainer is supposed to serve the entire athletics program, in reality, the Trainer is only available at football games and is only on campus during football season. The [redacted content] said that the Trainer attends every football game and can otherwise be made available as needed for other sports. However, OCR found that coaches do not receive a schedule for when the Trainer is on campus or otherwise receive information about how to access the Trainer's services on campus. Non-football coaches have sent their athletes to see the Trainer in the training room, but the Trainer was not there, and a coach of a girls' team told OCR that their athletes have suffered injuries during games that required emergency attention and there was no medical professional present to assist.

### *Equipment and Supplies*

The District does not have any written policies, procedures, or criteria for providing, maintaining, and replacing equipment and supplies. Each coach is expected to maintain existing equipment and replace equipment as needed with funds from their athletic budget. Multiple coaches confirmed this expectation and added that such expenses are paid through fundraising efforts and limited contributions from the Boosters.

The [redacted content] told OCR that the football team's equipment (including specialty equipment) and supplies are in good condition and do not need to be replaced. The [redacted content] shared that there is strong community support for the football program and that it is not hard to raise money for the program's needs. The [redacted content] acknowledged that other programs have struggled at times to fundraise money at the same capacity as the football team. [redacted content] attributed this discrepancy to the (fewer) number of athletes in the other programs. OCR learned that the football team has access to a lot of specialty equipment (including a full hydration system) that only football players use, and the field hockey team, which frequently practices at the same time on the same field, is not permitted to use the

hydration system. Instead, the field hockey team fills Gatorade jugs with water and carries them to the field.

Multiple witnesses told OCR that the boys' lacrosse team raised approximately \$40,000 during the 2022-2023 school year through fundraising, which allowed the team access to higher quality equipment, better transportation, and other benefits. OCR learned that the girls' lacrosse team has so few balls that following the boys' lacrosse team practice, balls lost in the grass are collected for the girls' lacrosse team to use. With respect to uniforms, OCR learned that the girls' lacrosse team wears standard-issue uniforms whereas the boys' lacrosse team has newer, high-quality uniforms.

#### *Travel and Per Diem*

The District told OCR that the School does not provide or arrange for transportation for any of the athletic teams and should a team wish to hire a private mode of transportation, the funding must come from the team's budget.

Multiple coaches who OCR spoke with stated that only the football and boys' lacrosse teams take buses to away games—specifically charter buses. Athletes on other teams travel by personal vehicle (*i.e.*, students, parents, or coaches driving). OCR heard many safety concerns about athletes driving to and from away games, and a desire among coaches for the option to travel by bus to away games. OCR learned of only one instance in recent history that a team other than football and boys' lacrosse teams received approval to use a bus—when the Athletic Director approved an allocation of funding from the Boosters for the softball team to use a charter bus for a playoff game due to the distance to the game.

OCR also learned that the boys' lacrosse players are released from class early and provided meals (*i.e.*, boxed lunches or dinner at a local restaurant) when they travel to away games. In contrast, the girls' lacrosse players did not receive the same benefits, such as, charter buses, early release from class, and free meals. A witness told OCR that girls' lacrosse players have verbalized their frustration about the lack of financial support for their teams, as compared to the support for the boys' team.

#### *Coaching*

With respect to coaching opportunities, the District and multiple coaches told OCR that the District's union contract with teachers specifies the number of coaching positions that each athletic program may have, and the number of stipend units allocated to each position. OCR reviewed an excerpt from that contract that identified the number of coaching positions but included limited information about the stipend units. The football team is allocated 7 positions; the field hockey, volleyball (boys and girls), soccer (boys and girls), basketball (boys and girls), wrestling, baseball, and softball teams are each allocated 2 positions; and the tennis (boys and girls), badminton, swimming (boys and girls), golf, and lacrosse teams are each allocated 1 position. OCR learned that a team may have more than the allocated positions if coach(es) split their stipend(s). For example, although the union contract allocates 7 coaching positions to the

football team, the team of 90 athletes actually has 18 coaches as a result of coaches splitting their stipends.

OCR reviewed the School's rosters for each athletic team and the list of coaches during the 2021-2022 school year and found that the girls' program had a ratio of approximately 12 athletes per 1 coach while the boys' program had a ratio of approximately 7 athletes per 1 coach.<sup>2</sup> OCR also found that although one girls' team was able in the past to split a coaching stipend to bring on assistant coaches, the assistant coaches were former players (on the team). OCR identified a general perception that the athletes could benefit from having more qualified assistant coaches. However, because additional coaches are compensated with partial (*i.e.*, split) stipends, it is challenging to recruit more qualified assistant coaches. Furthermore, OCR learned that in the past, the School had difficulty finding coaches for one co-ed athletic program and two girls' athletic programs and as a result, coaches with limited or no experience were hired for the positions. This difficulty was attributed to the School's failure to properly advertise the positions, the location of the School, and limited compensation (due to the splitting of stipends).

#### *Scheduling of Games and Practice Times*

With respect to the scheduling of practices, OCR interviewed several coaches and none of them expressed discontent with their teams' practice times as the times aligned fairly well with their schedules. With respect to the scheduling of games, OCR learned that the league sets the dates and times for league games. OCR reviewed the 2021-2022 Athletic Master Schedule and found that during the winter season when both the boys' and girls' basketball teams compete, only the boys' teams were scheduled to play league games on Friday evenings. The only Friday evening games that the girls' basketball teams played were non-league games. OCR similarly found that during the spring season when both the boys' and girls' lacrosse teams compete, only the boys' teams were scheduled to play league games on Friday evenings.

#### *Publicity*

With respect to publicity, the District told OCR that the School posts information about its athletic program on its Facebook page and School webpage, and that the Athletic Director and Vice Principal were in charge of posting information during the 2021-2022 school year. Multiple witnesses told OCR that there is no clear process for requesting publicity for their teams. Coaches either thought a specific parent of an athlete manages the social media accounts, did not know who manages the accounts, or thought the Boosters manage the account. OCR also heard concerns about considerable disparity in social media postings about male sports and female sports at the School, including that the Facebook and Twitter pages mostly highlighted football and boys' lacrosse; that although the girls' basketball team made the playoffs during the 2022-2023 school year, the School's social media only promoted the boys' basketball team's success; and that the School and Boosters promote football and boys' lacrosse and do not promote the field hockey and girls' lacrosse teams. OCR reviewed a list of the School's social media posts provided by the District and found that during the 2021-2022 school year, across multiple platforms (*e.g.*, Facebook, Instagram, Twitter, and the School website), there were

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<sup>2</sup> More specifically, OCR found that the girls' and boys' programs each had a ratio of approximately 18 athletes per 1 head coach, but the girls' program had a ratio of approximately 39 athletes per 1 assistant coach while the boys' program had a ratio of approximately 10 athletes per 1 assistant coach.

approximately 109 posts about boys' athletic programs and 59 posts about girls' athletic programs. Furthermore, OCR heard concerns that the football team received special attention during pep rallies.

### Analysis and Conclusion

The totality of OCR's investigation to date reflects a concern that the School is not providing equal athletic opportunities for members of both sexes.

First, OCR has a compliance concern that the School is not providing its male and female student athletes with equivalent locker rooms and practice and competitive facilities under the Title IX regulations, at 34 C.F.R. § 106.41(c)(7). The baseball program has two fields for its exclusive use, while the softball program only has one. OCR learned that the School previously had two softball fields, but one field was removed to install portable classrooms, a decision that witnesses told OCR was originally intended to be temporary. The absence of a second softball field requires the JV softball team to use a grass field behind the softball field during practice, which adversely impacts the team's ability to practice infield drills, pitching, and hitting. Moreover, the JV softball team must compete for use of that field with non-School sports, further restricting the JV softball team's ability to practice. Furthermore, the varsity baseball field has features which the softball field lacks, such as, lighting, a scoreboard, and a PA system. With respect to the availability of locker rooms, although the District told OCR that the Athletic Locker Room is available upon request by any team, regardless of the sex of the players, OCR learned that the girls' teams do not request use of the Athletic Locker Room because they perceive it to be part of the boys' locker room (because it is adjoined to and can be directly accessed from inside the boys' locker room) and for the male athletes' exclusive use. At least one girls' team must store their equipment in their coach's office because they do not have access to larger lockers, such as the lockers available in the Athletic Locker Room. OCR is concerned that the School is not providing its male and female student athletes with equivalent locker rooms and facilities with regards to quality, availability, and exclusivity.

Second, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities with regards to the availability of the School's athletic trainer and availability of weight training facilities under the Title IX regulations, at 34 C.F.R. § 106.41(c)(8). Although the District told OCR that the Trainer is not assigned to specific athletic teams and serves all student athletes, and the Athletic Director said the Trainer can be made available as needed for non-football sports, OCR learned that coaches have not received the Trainer's on-campus schedule and the Trainer appears to only be on campus during football season, despite need from other female athletes. In addition, OCR is concerned that male athletes (specifically, the football team) may have greater or preferred access to the weight room.

Third, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities with regards to the quality, suitability, amount, maintenance, replacement, and availability of equipment and supplies under the Title IX regulations, at 34 C.F.R. § 106.41(c)(2). Each team generally purchases, maintains, and replaces equipment and supplies that the team needs with funds from its own athletic budget. The football and boys' lacrosse teams have the financial resources to purchase high-quality and custom-designed uniforms and equipment, whereas the field hockey and girls' lacrosse teams wear standard-issue uniforms. The football team has access to specialty equipment, including a hydration system

during practice, which the field hockey team is not permitted to use despite sharing practice time and space with the football team. The girls' lacrosse team supplements their equipment by using balls discarded by the boys' lacrosse team. The information gathered by OCR suggests that the disparity in access to quality uniforms, equipment, and supplies is due to challenges and disparities that arise from fundraising. OCR does not view some School athletic programs having access to better equipment as a result of successful fundraising to be a legitimate, non-discriminatory reason that excuses the District from providing equivalent equipment and supplies to girls' and boys' athletic programs.

Fourth, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities with regards to transportation to and meal arrangements for away games under the Title IX regulations, at 34 C.F.R. § 106.41(c)(4). In recent years, the softball team has been the only team with female athletes to receive approval to use a charter bus to travel to one game, while the football team and the boys' lacrosse team use charter buses for every away game. Coaches for other teams raised concerns about the safety of athletes driving themselves to and from away games and would like their teams to have the option to take a bus. However, many teams are unable to afford to hire a bus and therefore have inferior transportation options. Furthermore, in addition to the inequity in access to charter transportation, the boys' lacrosse players are also the only team provided meals (*e.g.*, boxed lunches or dinner at a local restaurant) when they travel to away games. Other teams have expressed frustration with the disparity in these benefits.

Fifth, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities to receive coaching under the Title IX regulations, at 34 C.F.R. §§ 106.41(c)(5) and (6). During the 2021-2022 school year, the girls' program had a ratio of approximately 12 athletes per 1 coach and the boys' program had a ratio of approximately 7 athletes per 1 coach. Notably, the football team has a ratio of 5 athletes per 1 coach. The ratios indicate a disparity in the availability of coaches in the girls' program compared to the boys' program. More specifically, the boys' program offers 1.8 times the availability of coaching to its athletes than the girls' program. OCR learned of frustration amongst coaches that female athletes cannot benefit from more attention from more qualified coaches. Finally, OCR encountered a general perception that coaching positions for at least two girls' programs were not properly advertised to reach qualified candidates. For these reasons, OCR has concerns that the District is not providing male and female student athletes with equivalent availability of qualified coaches and assistant coaches.

Sixth, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities with respect to scheduling of game times under the Title IX regulations, at 34 C.F.R. § 106.41(c)(3). During the winter and spring seasons of the 2021-2022 school year, the boys' basketball and boys' lacrosse league games were scheduled for Friday evenings while the girls' basketball and girls' lacrosse league games were not. Because Friday evening games are considered preferred time slots more likely to generate attendance and interest than evening games on other weekdays, OCR is concerned that this schedule did not provide the girls' teams with equal opportunity to compete before an audience as the schedule provided the boys' teams.

Last, OCR has a compliance concern that the School is not providing its male and female student athletes equal opportunities with respect to publicity available for the athletic program under the

Title IX regulations, at 34 C.F.R. § 106.41(c)(10). During the 2021-2022 school year, there were nearly twice the number of social media posts about boys' athletic programs than about girls' athletic programs. Furthermore, there is general confusion among coaches about how to request promotion of their teams and a perception that boys' teams are disproportionately publicized. The notable difference in quantity of social media posts and lack of transparency around the process for requesting publicity raises concerns that the District is not providing equivalent coverage for male and female student athletes.

**Issue #2:** Whether the District failed to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints of sex discrimination.

### Legal Standards

A district is required to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints of sex discrimination. 34 C.F.R. § 106.8(c). A district must notify all applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district, about the district's grievance procedures, including how to report or file a complaint of sex discrimination and how the district will respond.

### Facts

At the time of the OCR complaint, the District's Title IX information webpage was not operational, and OCR was unable to locate information regarding the District's procedures for prompt and equitable resolution of complaints of sex discrimination.

As of the date of this letter, the District has a functional Title IX Information webpage.<sup>3</sup> The webpage contains information including: the name and contact information of the District's Title IX Coordinator, instructions regarding how to file a formal Title IX complaint with a link to the District's Uniform Complaint Procedures (UCP) and Form (which it uses to process Title IX complaints), a statement that the District does not discriminate based on sex, and information regarding where to locate the District's Title IX grievance procedures.<sup>4</sup>

### Analysis and Conclusion

With respect to Issue #2, OCR obtained credible information that indicates this allegation has been resolved, and there is no systemic allegation. The District took steps to repair its Title IX webpage which now includes the contact information of the Title IX Coordinator, instructions regarding how to file a formal Title IX complaint, and a statement that the District does not discriminate on the basis of sex. Therefore, OCR is dismissing Issue #2 under OCR's *Case*

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<sup>3</sup> The District's Title IX webpage can be found at: <https://www.mhusd.org/departments/human-resources/title-ix-athletic-information>.

<sup>4</sup> The District's statement of Nondiscrimination can be found at: <https://www.mhusd.org/departments/human-resources#:~:text=In%20the%20event%20of%20a%20complaint%20regarding%20gender,IX%20Coordinator%3A%20TBD%2C%20Assistant%20Superintendent%20Human%20Resources%20408-201-6015>.

*Processing Manual* (CPM)<sup>5</sup> subsection 110(d) because OCR obtained credible information indicating that the allegation is resolved.

### **Overall Conclusion**

This concludes the investigation of this complaint.

To address the complaint allegations and OCR's concerns identified in the investigation, the District, without admitting to any violation of law, entered into the enclosed resolution agreement. In order to resolve OCR's concerns, the District agreed to ensure that male and female athletes have access to equivalent benefits and services in the School's athletic programs. The District further agreed to provide training on its obligations under Title IX and its application to athletics to coaches and relevant administrators. The District also agreed to provide equitable access to locker rooms and facilities to its student athletes including by making improvements to the School's varsity softball field and converting the School's existing practice baseball field to a multipurpose field that will be used for softball and baseball and ensuring that the softball team has equal access to the renovated multipurpose field. The District also agreed to ensure that the School's girls' and boys' athletics teams have equivalent access and opportunity to use vans, buses, or charter buses for transportation to away games and matches, and that female athletes are provided with equivalent opportunities to receive coaching.

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. When fully implemented, the resolution agreement is intended to address the evidence obtained and all of the allegations investigated. OCR will monitor the implementation of the resolution agreement until the District is in compliance with the terms of the resolution agreement and the statutes and regulations at issue in the case.

OCR's determination in this matter 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a separate retaliation complaint with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will

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<sup>5</sup> *Case Processing Manual* (Jul. 18, 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorneys Lele Yutzy and Ellen Moy at [lele.yutzy@ed.gov](mailto:lele.yutzy@ed.gov) and [ellen.moy@ed.gov](mailto:ellen.moy@ed.gov), respectively.

Sincerely,

/s/

Yohance Edwards  
Team Leader