

INDIANAPOLIS PUBLIC SCHOOLS
OCR Compliance Review #05-10-5002
Resolution Agreement

The Indianapolis Public Schools (District) agrees to fully implement this resolution agreement (Agreement) to resolve U.S. Department of Education, Office for Civil Rights (OCR), compliance review number 05105002, 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 issues of whether the District is effectively accommodating the athletic interests and abilities of members of both sexes with respect to the opportunity to participate in high school interscholastic athletics and whether the District discriminates against female athletes by not providing them equal opportunity in the provision of equipment and supplies, the provision of locker rooms and practice and competitive facilities, and the scheduling of games and practice times.

I. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

The District agrees to provide participation opportunities for female and male students at the Arsenal, Attucks, Broad Ripple, Northwest, Shortridge and Washington High Schools that equally effectively accommodate the athletic interests and abilities of both sexes at those high schools, consistent with the requirements of Title IX, the regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies. The District will provide athletic participation opportunities at each of the above identified high schools such that either the interscholastic level participation opportunities for female and male students at each high school are substantially proportionate to their respective enrollments in the high school or the interests and abilities of students at the applicable high school who are members of the underrepresented sex are fully and effectively met by the District's current interscholastic athletics program.

II. DETERMINATION OF UNMET INTEREST AND ABILITY

In order to determine whether there is unmet interest and ability among female students at the Arsenal, Attucks, Broad Ripple, Northwest, Shortridge and Washington High Schools (together, the subject schools) who are the underrepresented sex in the District interscholastic athletics program at each of the subject schools, the District will take the following actions:

- A. During the 2013-2014 school year, under the schedule outlined in the "Reporting Requirements" of this section, the District will conduct an objective assessment of the student body at each of the subject schools and the eighth grade level of its middle schools that feed into the subject schools (it may do the assessment at each school), to determine the existence and/or scope of any unmet athletic interests of female students, the underrepresented sex in the District's athletics programs. The assessment will also consider whether the interested students have the ability to sustain an interscholastic team, noting that they do not need the ability to sustain a successful or elite team, but only need to show that they have the potential to participate in team try-outs, practices and competitions and, with coaching, the potential to attain sufficient ability to participate at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest. The

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

1. A survey of female students at the subject schools and the eighth grade level at each middle school that feeds into the subject schools. The survey shall seek information on female students' interest and, if applicable, ability to participate in sports currently offered and in sports not currently offered by the District. A copy of the draft survey will be submitted to OCR for its review and approval before it is distributed to students.
2. A review of the results of 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.
3. Identification of sports, squads, and levels of sports for female students that are not currently offered by each subject school but are offered either by schools that compete within the league(s) in which the subject schools compete or by schools that are within the subject school's normal competitive region and geographic area.
4. For the 2011-2012, 2012-2013 and 2013-2014 school years, female students' rates of participation in club sports, intramural sports, and physical education courses that are offered in the subject schools, and in community sports leagues, clubs or other youth programs offered in the subject schools' normal competitive region and geographic area.
5. For the 2011-2012, 2012-2013, and 2013-2014 school years, a review of the number of female students who were cut from each high school team at the subject schools and the reasons they were cut, to assess whether any of those students had or have the ability to compete in that sport and whether sufficient numbers of students were cut to sustain another level in that sport (e.g., junior varsity).
6. A review of any requests (whether verbal, written, formal or informal) made to School Board Members, District administrators, coaches, or staff by or on behalf of female students at the subject schools to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to interscholastic sport status. This review may be limited to requests that were received during the 2010-2011, 2011-2012 and 2012-2013 school years.
7. Identification of all viable girls' teams that have been eliminated at the subject schools in the past ten school years.
8. For the 2011-2012, 2012-2013, and 2013-2014 school years, if applicable, a review of any assessments made by District coaches or staff during tryouts, or observations of students participating in club or intramural competition offered by the District or in community sports leagues, clubs or other youth programs offered in the District's normal competitive region and geographic area, and other information reflecting the ability of female students at the subject schools to compete in a particular sport, prior participation

in that sport or a similar sport at the middle or high school level or interscholastic, club or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.

9. Any other information that demonstrates the athletic interests and, if applicable, abilities of female students at the subject schools and feeder middle schools.

REPORTING REQUIREMENTS – SECTION II:

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

- A. By February 14, 2014, a copy of the draft survey referenced in Section II.A.1., above, for OCR's review and approval.
- B. By February 14, 2014, a complete description of the planned methodology to conduct the survey, including how the survey will be distributed, the number of surveys to be distributed, the grade levels of students who will receive the surveys, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who will evaluate the responses to the surveys, and the protocol for retaining a copy of any notes or other documents compiled during the review of the surveys.
- C. Within 90 days of OCR's approval of the survey and methodology for conducting the survey, a detailed report about the assessment conducted pursuant to Section II of this Agreement for each identified high school and middle school. The report will include, at a minimum, the following information:
 1. A copy of the results of the survey referenced in Section II.A.1., above, including but not limited to the number of students, by sport, who indicated an interest in each sport, a complete description of the methodology used to conduct the survey, including how the survey was distributed, the number of surveys distributed and the number of responses, the grade levels of students who received the surveys, any follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who evaluated the responses to the surveys, and a copy of any notes or other documents compiled during the review of the surveys.
 2. 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.
 3. A summary of sports, squads, and levels of sports for female students that are not currently offered by each District subject 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. For the 2011-2012, 2012-2013, and 2013-2014 school years, for each high school, rates of participation by female students in:
 - i.) Interscholastic sports;
 - ii.) Club sports;
 - iii.) Physical education courses; and
 - iv.) Community and youth sports leagues or clubs in the Chicago area.
5. If applicable, a summary of the number of female students who were cut from each high school team at the subject school, and the reasons they were cut.
6. 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.
7. For the 2011-2012, 2012-2013, and 2013-2014 school years, a summary of any assessments made during tryouts, or other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the middle or high school level or intramural, club or community level, general athletic ability, participation in other high school interscholastic sports, the nature of the particular sport, and other relevant factors.
8. A description of any team(s) that was eliminated by the District at any subject school during the past ten school years, including the number of participants who were on the team in the year it was eliminated and the reason for the team's elimination.
9. 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 its high schools.

III. ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES

If through the above-described assessment, the District identifies a sport or sports in which there is sufficient but unmet interest and, if applicable, ability of female students to participate at the interscholastic level at a particular high school, the District will add athletics opportunities as described below at 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 and admitted students have the potential to sustain an interscholastic team and students will not be required to demonstrate they have sufficient ability in a new sport or team if students participating in existing sports or teams are not required to demonstrate through try-outs or some

other process that they possess sufficient ability to participate in the specific sport or at the particular level of competition (varsity, junior varsity, etc.) in which they have expressed interest.

In providing additional athletic opportunities for female students to either accommodate their expressed interests and abilities or until their rate of participation is substantially proportionate to their rate of enrollment at each subject school, the District shall do the following:

A. Sports Currently Offered:

1. The District will determine, for sports that are currently offered as interscholastic sports at each subject 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.) or multiple squads at the same level of competition, and sufficient competition within the high school's normal competitive region, to support additional levels of competition or multiple squads at the same level of competition in those sports. If so, the District will add additional levels of competition or squads at the same or a lower level of competition at the high school in those sports by the next competitive season consistent with the above determination.
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 for interscholastic sports currently offered at each subject 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 at each subject school 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 high school as interscholastic sports, and whether there is sufficient competition within that high school's normal competitive region and geographic area for those teams/sports. If so, the District will add a team or multiple teams in those sports at the relevant high school(s) by the next competitive season.

C. Response to Developing Interests and Abilities:

For any sport that is not currently offered by a District subject school where there is a sufficient number of female students who have sufficient interest and, if applicable, ability in that sport, but where the District determines that there is not sufficient competition within that high school's normal competitive region, the District will take ongoing steps to develop

students' interest and ability. The steps may include establishing club sports, exploring the feasibility of establishing competition in the District's normal competitive region and geographic area, and elevating such sports to interscholastic status when competition becomes available.

D. Elimination of Athletic Teams:

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.

E. Additional Interscholastic Opportunities:

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

REPORTING REQUIREMENTS – SECTION III

Within 90 days of OCR's approval of the survey and methodology for conducting the survey referenced in Section II, if the District was obligated to offer additional athletic opportunities pursuant to Section III of this Agreement, then the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Section III of this Agreement, to create new opportunities for female students as the underrepresented sex. This report will detail the timetable for the addition of new sports, levels of sports or newly-created club and/or other opportunities added pursuant to this Agreement. It will also describe how the creation of additional athletics opportunities taken pursuant to this Agreement will either (1) effectively accommodate the expressed interests and abilities of female students (*i.e.*, there remains no unmet interest and ability); or (2) elevate female students' participation rate in District interscholastic athletics programs to be substantially proportionate to their rate of enrollment at each District subject school.

1. Within 90 days of OCR's approval of the survey and methodology for conducting the survey referenced in Section II, if the District's assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of its female high school students at each subject school, the District will submit information detailing its determination of the same.

2. By May 1, 2014, May 1, 2015, and May 3, 2016, the District will provide OCR with a copy of the squad list for each team at each District subject school for that school year.
3. By May 1, 2014, May 1, 2015, and May 3, 2016, the District will provide information demonstrating the breakdown/enrollment by sex at each District subject school for that school year.
4. By May 1, 2014, May 1, 2015, and May 3, 2016, the District will provide information regarding any increases to the size of its squads, as described by Section III.A.2. above.

IV. 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 each of the District's high schools. The procedure will be written and notice of it will be published in each high school's Student Handbook and the individual responsible for responding to any requests will be identified by name and contact information. This information will also be displayed on the District's website (athletics page) and individual schools' athletic websites, if available.
- B. At the beginning of each school year, the District will provide written notice to coaches, physical education teachers, guidance counselors and principals, of all sports offered at each high school.
- C. At the beginning of each school year, the District will provide a written description of all of its sports offerings at each high school to all students in their physical education classes. This information will also be posted on the District's website, including on any athletics web pages.
- 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 or otherwise altered so that they can be submitted to OCR consistent with the terms of this Agreement.

REPORTING REQUIREMENTS - SECTION IV

- A. By February 14, 2014, and by October 15, 2014, and annually thereafter, the District will submit a copy of its procedure for requesting new sports, as required by Section IV.A, above, and a link to the location on its webpage where the revised procedure is located.
- B. By February 14, 2014, and by October 15, 2014, and annually thereafter, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Sections IV.B and C, above, and a link to the location on its webpage where the notices are located.

V. LOCKER ROOMS, PRACTICE AND COMPETITIVE FACILITIES

- A. By February 14, 2014, the District will develop a plan to ensure that it provides equal athletic opportunities at Arsenal, Broad Ripple, and Marshall High Schools for members of both sexes in the provision of locker rooms, practice and competitive facilities. The District will immediately commence implementation of the plan as applicable to spring 2014 sports, with final implementation by no later than the 2014-2015 school year. To that end, the District will demonstrate that the District's girls' interscholastic athletic teams at each of these high schools are provided with locker rooms, practice and competitive facilities that are comparable in quality, availability, exclusivity, and maintenance and preparation, to the locker rooms, practice and competitive facilities provided to the boys' interscholastic athletic teams at the same school. In particular, the District will address deficiencies in facilities affecting softball at each of the three identified high schools, as well as basketball, soccer and volleyball at Arsenal.
- B. In assessing compliance with Section V of this agreement, OCR will compare the availability, quality and kinds of benefits, opportunities, and treatment afforded to the District's male and female athletes at each of the three identified high schools in the provision of locker rooms, practice and competitive facilities to determine whether they are equivalent. Under this equivalency standard, identical benefits, opportunities, or treatment are not required as long as the effects of any differences are negligible. If a comparison of the benefits, opportunities and treatment afforded to males and females in the identified program components indicates that benefits, opportunities, or treatment are not equivalent, the District could still be in compliance with Title IX if the differences are shown to be the result of nondiscriminatory factors, such as the unique aspects of particular sports or athletic activities.

REPORTING REQUIREMENTS - SECTION V

- A. By February 14, 2014, the District will submit a report to OCR that includes its plan to upgrade the facilities referenced in item V.A. of this agreement. If the District has begun implementing and/or completed any of the planned upgrades of improvements, the report will include detailed documentation regarding the progress made.
- B. By May 1, 2014, the District will submit a report to OCR demonstrating implementation of the plan to upgrade facilities for spring 2014 sports, as applicable.
- C. By May 1, 2015, the District will submit a report to OCR demonstrating its full implementation of Section V of this Agreement.

VI. EQUIPMENT AND SUPPLIES

- A. By February 14, 2014, the District will develop a plan to ensure that it provides equal athletic opportunities at Marshall and Washington High Schools for members of both sexes in the provision of equipment and supplies. The District will immediately commence implementation of the plan as applicable to spring 2014 sports, with final implementation by no later than the 2014-2015 school year. To that end, the District will demonstrate that the District's girls' interscholastic athletic teams at both of these high schools are provided with equipment and supplies that are comparable in quality, amount, suitability, maintenance and replacement, and availability to the equipment and supplies provided to the boys' interscholastic athletic teams at the same school. In particular, the District will ensure comparability in equipment and supplies as it affects basketball, softball, and volleyball at Marshall and basketball, softball, and track at Washington.

- B. In assessing compliance with Section VI of this agreement, OCR will compare the availability, quality and kinds of benefits, opportunities, and treatment afforded to the District's male and female athletes at each of the two identified high schools in the provision of equipment and supplies to determine whether they are equivalent. Under this equivalency standard, identical benefits, opportunities, or treatment are not required as long as the effects of any differences are negligible. If a comparison of the benefits, opportunities and treatment afforded to males and females in the identified program components indicates that benefits, opportunities, or treatment are not equivalent, the District could still be in compliance with Title IX if the differences are shown to be the result of nondiscriminatory factors, such as the unique aspects of particular sports or athletic activities.

REPORTING REQUIREMENTS - SECTION VI

- A. By February 14, 2014, the District will submit a report to OCR that includes its plan to improve the equipment and supplies referenced in item VI.A. of this agreement. If the District has begun implementing and/or completed any of the planned improvements, the report will include detailed documentation regarding the progress made.

- B. By May 1, 2014, the District will submit a report to OCR demonstrating implementation of the plan to improve equipment and supplies for spring 2014 sports, as applicable.

- C. By May 1, 2015, the District will submit a report to OCR demonstrating its full implementation of Section VI of this Agreement.

VII. SCHEDULING OF GAMES AND PRACTICE TIME

- A. By February 14, 2014, the District will develop a plan to ensure that it provides equal athletic opportunities at Arsenal, Broad Ripple, Northwest, and Washington High Schools for members of both sexes in the scheduling of games and practice times. The District will immediately commence implementation of the plan to the extent practicable for spring 2014 sports, with final implementation by no later than the 2014-2015 school year. To that end, the District will demonstrate that the District's girls' interscholastic athletic teams at each of these high schools are provided with comparable opportunities as provided to the boys' interscholastic athletic teams at the same school in the number of competitive events per sport, number and length of practice opportunities, time of day competitive events are scheduled, time of day practice opportunities are scheduled, and opportunities to engage in available pre-season and post-season competition. In particular, the District will provide girls' basketball teams at the identified schools a comparable opportunity to compete at the prime time of Friday or Saturday night as provided to the boys' interscholastic athletic teams at the same school and will also provide a comparable number of athletic contests to boys' and girls' teams at Arsenal, and will ensure that boys' and girls' basketball teams are provided comparable schedules for optimal practice times at Arsenal.

- B. In assessing compliance with Section VII of this agreement, OCR will compare the availability, quality and kinds of benefits, opportunities, and treatment afforded to the District's male and female athletes at each of the four identified high schools in the scheduling of games and practice times to determine whether they are equivalent. Under this equivalency standard, identical benefits, opportunities, or treatment are not required as long as the effects of any differences are negligible. If a comparison of the benefits, opportunities and treatment afforded to males and females in the identified program components indicates that benefits, opportunities, or treatment are not equivalent, the District could still be in compliance with Title IX if the differences are shown to be the result of nondiscriminatory factors, such as the unique aspects of particular sports or athletic activities.

REPORTING REQUIREMENTS - SECTION VII

- A. By February 14, 2014, the District will submit a report to OCR that includes its plan referenced in item VII.A of this Agreement and its schedule of competitive events for each identified school for the 2013-2014 school year.

- B. By May 1, 2014, the District will submit a report to OCR demonstrating implementation of the plan referenced in item VII.A for spring 2014 sports, as applicable.

- C. By May 1, 2015, the District will submit a report to OCR demonstrating its full implementation of Section VII of this Agreement.

VIII. ADDITIONAL REQUIREMENTS

- A. By February 14, 2014, the District will create a comprehensive policy to regulate booster club funding and any other private donations flowing into the athletic program. The policy will ensure that if booster clubs or other outside sources provide benefits and services to athletes of one sex that are greater than the benefits and services provided to the other sex, the District will take action to ensure that the benefits and services are equivalent for both sexes. This policy will provide particular guidance on how such outside funding is used to provide benefits with regard to any of the relevant components outlined by the implementing regulations to Title IX, e.g., equipment and supplies, locker rooms and athletic facilities, etc. The policy will also set forth explicit procedures that must be utilized in the event that outside funding is used to provide benefits to student athletes or the athletic program without the District's knowledge and consent. This policy will be submitted to OCR by February 14, 2014, for review and approval. The District will implement the policy with 30 days of OCR's approval.
- B. In 2012, the state of Indiana authorized a takeover of Arlington, Howe, and Manual High Schools. The three schools taken over by the state of Indiana are currently operated by private entities as charter schools. If during OCR's monitoring of this agreement any of these schools or any additional high school(s) not currently operated by the District is operated by or under the auspices of the District, then the District will demonstrate to OCR with respect to each school that it meets the requirements of the applicable Title IX regulations pertaining to the provision of equal interscholastic athletic opportunities for boys and girls regarding the accommodation of interests and abilities, the provision of locker rooms, practice and competitive facilities, the provision of equipment and supplies, and the scheduling of games and practice times. The substantive requirements of Sections I through VII of the Agreement will be applied to each such school. To ensure compliance, the District will provide prompt notice to OCR of all decisions to add any high school, including any decision to reinstate Arlington, Howe, or Manual, or operate a differently named school at the site of the former Arlington, Howe, or Manual, after which OCR will determine the extent of information necessary for the District to demonstrate compliance consistent with the Agreement and after which OCR and the District will determine implementation and reporting dates.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(1), 34

C.F.R. § 106.41(c)(2), 34 C.F.R. § 106.41(c)(3), and 34 C.F.R. § 106.41(c)(7), which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(1), 34 C.F.R. § 106.41(c)(2), 34 C.F.R. § 106.41(c)(3), and 34 C.F.R. § 106.41(c)(7), which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the recipient written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of the Indianapolis Public Schools:

/s/

Superintendent
Indianapolis Public Schools

Date