



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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December 3, 2015

Dr. Daniel E. Cates  
Superintendent  
Township High School District 211  
1750 South Roselle Road  
Palatine, Illinois 60067

OCR Case No. 05-14-1055

Dear Dr. Cates:

On November 2, 2015, OCR issued a letter finding Township High School District 211 (District) in violation of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681–1688, and Title IX’s implementing regulations at 34 C.F.R. Part 106, with respect to the above-referenced complaint. The complaint alleged that the District discriminated against a transgender high school student on the basis of sex. Specifically, the complaint alleged that the District denied the student access to the girls’ locker rooms because of her gender identity and gender nonconformity.

OCR is responsible for enforcing Title IX, which prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. The District is a recipient of Federal financial assistance from the Department of Education, and is therefore subject to the requirements of Title IX and its implementing regulations. OCR therefore has jurisdiction over this complaint.

Under Title IX, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a). The regulation implementing Title IX, at 34 C.F.R. § 106.31(a), provides, in relevant part, that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, or other education program or activity operated by a recipient which receives Federal financial assistance. The regulation implementing Title IX, at 34 C.F.R. § 106.31(b), further provides that a recipient may not, on the basis of sex, deny any person such aid, benefit or services;

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treat an individual differently from another in determining whether the individual satisfies any requirement or condition for the provision of such aid, benefit, or service; provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; subject any person to separate or different rules of behavior; or otherwise limit any person in the enjoyment of any right, privilege or opportunity. All students, including transgender students, are protected from sex-based discrimination under Title IX.

OCR's November 2, 2015 letter finding the District to be in violation of Title IX and its implementing regulations with respect to the allegation at issue in the complaint is incorporated by reference into this letter. As explained in the letter of findings, the District's nondiscrimination notice and nondiscrimination policy specifically prohibit discrimination on the basis of gender. OCR's investigation revealed that, except with respect to locker room access, the District has treated the student consistent with her gender identity as a girl. This includes designating the student as female in its computer system, identifying the student by her female name and with female pronouns, providing her with full access to all girls' restrooms, and allowing her to participate in girls' interscholastic athletics.

OCR concluded that the District violated Title IX because, for more than two school years, it has denied the student access to the girl's locker rooms at her high school to change clothes for her athletics activities and for the mandatory physical education (PE) classes needed to satisfy the graduation requirements and receive a high school diploma. Instead, the District has offered the student only separate facilities to change clothes; these facilities are not comparable to those provided other students. As result of the District's denial of access for the student to its girls' locker rooms, the student has not only received an unequal opportunity to benefit from the District's educational program, but has also experienced an ongoing sense of isolation and ostracism throughout her high school enrollment. The student has missed receiving information and access to rental gym uniforms provided to other students in the locker rooms and missed opportunities for bonding with her teammates in the locker rooms.

In October 2015, the District installed five privacy curtains in one of the three girls' locker rooms, specifically the girls' PE locker room. Nevertheless, the District continued to deny the student access to this locker room and any of the other girls' locker rooms, even though the student requested an opportunity to change clothes in private in the locker rooms and has stated that she would use privacy curtains if available. The District had asserted that it must deny the student access to the girls' locker rooms in order to protect the privacy interests of all students.

OCR determined that, given the student's request to change privately, the District could afford equal access to its locker rooms and protect the privacy of all its students. In summary, OCR concluded that the District, on the basis of sex, excluded the transgender high school student from participation in and denied her the benefits of its education program, provided her different benefits or benefits in a different manner, subjected her to different rules of behavior, and subjected her to different treatment in violation of the Title IX regulation, at 34 C.F.R. § 106.31.

On December 3, 2015, OCR received the signed copy of the enclosed Agreement to Resolve (Agreement) from the District. Under the Agreement, the District agreed to take the following specific actions:

- Provide the student with equal access to the girls' locker rooms at her high school based on the student's request to change in private changing stations in the girls' locker rooms;
- Protect the privacy of its students by installing sufficient privacy curtains within the girls' locker rooms at the high school to accommodate the transgender student and any students who wish to be assured of privacy;
- Provide a reasonable alternative for any student requesting additional privacy—beyond the privacy afforded by the privacy curtains—in the girls' locker rooms. Examples could include use of another private area or assignment of a locker in near proximity to the office of a teacher or coach;
- Coordinate with hosts of off-campus, District-sponsored activities to arrange for the transgender student to be provided access to facilities for female students;
- Engage a consultant (who may be a District employee) with expertise in child and adolescent gender identity, including transgender and gender nonconforming youth, to support and assist the District in implementing the resolution agreement;
- Establish a support team, if requested by the transgender student and her parents, to ensure that she has access and opportunity to participate in all District programs and activities, and is otherwise protected from gender-based discrimination at school;
- Adopt and publish a revised notice of nondiscrimination on the basis of sex that complies with the Title IX requirements; and
- Provide OCR with a copy or detailed description of all gender-based discrimination or harassment complaints or incidents.

The Agreement is designed, when fully implemented, to resolve this complaint and remedy the District's Title IX violation by, for the first time in her high school career, providing the student equal access to the girl's locker rooms, while also protecting her privacy and the privacy of all students. As to other students, OCR noted that the District's nondiscrimination policy specifically prohibits discrimination based on gender. To ensure that all students, including transgender students, are not discriminated on the basis of gender, the Agreement requires the District to provide OCR with information on all gender-based discrimination incidents and complaints. OCR will monitor implementation of the Agreement until the District has fulfilled the terms of the Agreement and is in compliance with Title IX and its implementing regulations at issue in this case.

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, a complaint may be filed alleging such treatment.

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. The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

If you or your staff members have any questions about this matter, please do not hesitate to contact Melissa Howard, Attorney Advisor, at 312-730-1527.

Sincerely,

/s/

Adele Rapport  
Regional Director

Enclosure

cc: Jennifer Smith, Esq.