

**DRAFT AGREEMENT**  
**Complaint No. 11-11-1040**  
**Wake County Public School System**

The Wake County Public School System (the District) agrees to fully implement this resolution agreement (Agreement) to resolve U.S. Department of Education, Office for Civil Rights (OCR), Complaint No. 11-11-1040 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 at 34 C.F.R. Part 106, with respect to the issue of whether the selection of interscholastic sports at the District's high schools effectively accommodates the interests and abilities of male and female students to the extent necessary to provide equal athletics opportunities. The District denies that its athletic program violates Title IX or its implementing regulations. The District is proud of the accomplishments of its athletic program for female students and looks forward to continuing to support extensive opportunities for female athletes. The District has voluntarily agreed to adhere to the terms of this Agreement.

**I. EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES**

The District agrees to provide participation opportunities for female and male students at the District's high schools that effectively accommodate the athletics interests and abilities of members of both sexes, 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 that are either substantially proportionate to each sex's enrollment in its high schools, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the District's current athletics program.

**II. DETERMINATION OF UNMET INTEREST AND ABILITY**

In order to determine whether there is unmet interest and ability among female students in the District's high schools who are underrepresented in the District interscholastic athletics programs, the District will take the following actions:

By December 1, 2012, the District will conduct an objective assessment of its student body at each of its high schools and the eighth grade level of its middle schools 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 shall include the following:

1. A survey of female students at each District high school and the eighth grade level at each middle school. 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. The survey would include questions about participation in community sports leagues, clubs or other youth programs, and would focus on emerging sports. 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 the survey and of any 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. For those sports in which the information indicates that female students are participating in the community that are not currently being offered by the District, the District will contact the sponsoring organization(s) and otherwise follow up to determine if there is sufficient interest and ability to offer the sport and whether there is a viable competitive opportunity either within the District or in the normal competitive region.
3. Identification of sports, squads, and levels of sports for female students that are not currently offered by each District high 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 school year, female students' rates of participation in interscholastic sports.
5. For the last two academic years, if applicable, a review of whether female students were cut from each high school team.
6. A review of any requests (whether oral, written, formal or informal) made to current School Board Members, District administrators, coaches, or staff by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status. This review may be limited to requests that were received during the 2009-2010, 2010-11 and 2011-12 school years.
7. Identification of all viable girls' teams that have been eliminated in the past ten school years.
8. Any other information that demonstrates the athletic interests and, if applicable, abilities of female students in the District's high schools and 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:

1. By September 1, 2012, a copy of the draft survey referenced in Section II.1. above, for OCR's review and approval.

2. By September 1, 2012, 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.
3. By February 1, 2013, 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:
  - a. A copy of the results of the survey referenced in Section II.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.
  - b. 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.
  - c. A summary of sports, squads, and levels of sports for female students that are not currently offered by each District high 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.
  - d. For the last two academic years, for each high school, rates of participation by female students in interscholastic sports. If applicable, a list of teams by school and by sport that cut female students.
  - e. A copy of any written requests and a summary of any non-written requests made by or on behalf of female students to current School Board Members, District administrators, coaches, or staff to add a particular sport, squad, or level of sport, or to elevate an existing club sport to interscholastic sport status during the 2009-2010, 2010-2011, and 2011-2012 school years.
  - f. A description of any team(s) that was eliminated by the District at any high 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.

- g. 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 District high school, the District shall do the following:

1. Sports Currently Offered:

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 high 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.

2. Sports Not Currently Offered:

The District will determine whether there is a sufficient number of high school female students 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.

3. Response to Developing Interests and Abilities:

For any sport that is not currently offered by a District high 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. These 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.

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.

4. Additional Interscholastic Opportunities:

To the extent that the District adds any sports or additional levels of teams at any of its high 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, and 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**

By September 14, 2013, if the District was obligated to offer additional athletic opportunities pursuant to Section III of this Agreement, the District will provide OCR with a detailed report that reflects the steps taken by the District pursuant to Sections III(1)-(4) 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 high school.

1. By February 1, 2013, 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 high school, the District will submit information detailing its determination of the same.
2. By August 1 of each academic year covered by this Agreement (2012-2013, 2013-2014 and 2014-2015), the District will provide OCR with a copy of the North Carolina High School Athletic Association ("NCHSAA") athletic eligibility summary form for the previous school year for each team at each District high school.
3. By August 1 of each academic year covered by this Agreement (2012-2013, 2013-2014, and 2014-2015), the District will provide information demonstrating the breakdown/enrollment by sex at each District high school.
4. By August 1 of each academic year covered by this Agreement (2012-2013, 2013-2014, and 2014-15), the District will provide information regarding any increases to the size of its squads, as described by Section III.1.b. above.

#### **IV. ADDITIONAL COMMITMENTS TO IMPROVE THE ATHLETIC OPPORTUNITIES FOR THE UNDERREPRESENTED SEX**

1. 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 the District's high schools. The procedure will be written and notice of it will be published in the 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).

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 District high school.

2. 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 each school's website (athletics page).
3. The schools will maintain the interscholastic athletic squad lists, and the District will maintain the NCHSAA athletic eligibility summary form 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**

1. By September 1, 2012, the District will submit a copy of its procedure for requesting new sports, as required by Section IV.1, above, a link to the location on its webpage where the revised procedure is located.
2. By February 1, 2013, the District will provide OCR with a copy of the notices provided to coaches and students, as required by Section IV.2 and 3, above, and a link to the location on its webpage where the notices are located.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the monitoring of this Agreement, OCR may visit the District schools, interview District staff, 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), which was 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), which was at issue in this case.

Signed:

/s/

6/20/2012

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Kevin Hill  
Chair, Board of Education  
Wake County Public School System

\_\_\_\_\_  
Date

/s/

6/20/2012

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Anthony Tata  
Superintendent  
Wake County Public School System

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Date