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**MEMORANDUM**

**TO:** Anita Murphy, Superintendent  
Jamie M. Coppola, Director of  
Health, Physical Education and  
Athletics

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY WORK PRODUCT**

**FROM:** Christa Cook, Esq

**DATE:** April 27, 2016

**RE:** Title IX Athletic Program Compliance Review

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This memorandum is intended to summarize the purpose and applicability of Title IX and the evaluation of Altmar-Parish-Williamstown Central School District's (the "District") compliance with the requirements of Title IX and its accompanying regulations. This review was voluntarily requested by the Superintendent, Anita Murphy, and the Athletic Director, Jamie Coppola, in order to ensure that the District's athletic programs are compliant with Title IX. This Memo focuses on the interscholastic athletic programs for both boys and girls in grades level 7-12 during the 2014-2015 school year at APW's Junior and Senior High School.<sup>1</sup>

**Purpose and Overview of Title IX**

Title IX prohibits discrimination on the basis of sex in programs or activities receiving federal financial assistance from the Department of Education. Section 901(a) of Title IX of the Education Amendments of 1972 states that, "[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 . . ."<sup>2</sup> The law is intended to prohibit gender-based discrimination in any educational program or activity that receives federal funds. With some exceptions, Title IX covers all aspects of an educational program or activity. Athletics are considered an integral part of an institution's education programs, and therefore included under this law.

The Department of Education has been directed to promulgate rules and regulations consistent with the objectives of Title IX. The Department of Education regulation interpreting Title IX states:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently

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<sup>1</sup> We used the 2014-2015 school year in order to ensure that we had complete data on the athletic programs for each sports season.

<sup>2</sup> 20 U.S.C. § 1681(a).

from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such activities separately on such basis.<sup>3</sup>

This regulation requires equal opportunity for boys and girls to participate in interscholastic sports: “[a] recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes.”<sup>4</sup>

The Department of Education regulations establish two components to Title IX’s equal athletic opportunity requirement: 1) effective accommodation of student interest and abilities, and 2) equal treatment in athletic benefits. The first component, effective accommodation, analyzes students’ opportunities to participate in athletic programs. The second component, equal treatment in benefits, derives from the manner in which the school district is operating its athletic programs. In sum, effective accommodation or “participation opportunities” concerns the opportunity to participate in athletics, while “equal treatment in benefits” is intended to identify if there are sex-based differences in the schedules, equipment, coaching, and other factors affecting student athletes. Consequently, a school district can violate Title IX in three ways: 1) by failing to effectively accommodate student interests *and* failing to provide equal treatment; 2) solely by failing to effectively accommodate the interests and abilities of student-athletes of both sexes, even if the benefits provided athletes of both sexes are equivalent; or 3) by failing to provide equal benefits to athletes of both sexes, even if their interests and abilities are accommodated.

The Office of Civil Rights and the Department of Education have issued a Policy Interpretation (the “Policy Interpretation”) to provide guidance on how schools can comply with Title IX.<sup>5</sup> The Policy Interpretation details specific factors to consider when determining whether schools are in compliance with Title IX and ways in which those factors should be analyzed. Our review and this memorandum are broken down into an analysis of the District’s compliance with both components: 1) Participation Opportunities and 2) Equal Treatment in Athletic Benefits.

### **APW’s Commitment to Title IX Compliance**

It is the policy of the District to make the benefits and services of its athletics program available to students without discrimination on the basis of gender. The Board of Education maintains a policy documenting this commitment, which is entitled *Sports and the Athletic Program*, Policy Number 7420.<sup>6</sup> The Board Policy provides:

#### General Principles and Eligibility

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<sup>3</sup> 34 CFR § 106.41

<sup>4</sup> *Id.* at (c).

<sup>5</sup> Department of Health, Education, and Welfare, Office of Civil Rights (OCR) Policy Interpretation, 44 Fed. Reg. 71413, 1416-18 (1979).

<sup>6</sup> We would note that the Board Policy mistakenly references the Department of Health regulations (i.e., 45 CFR 86). The Board Policy should be revised to reflect the Department of Education regulations (i.e., 34 CFR 106.41).

Athletics are an integral part of a well balanced educational program. The District's interscholastic athletic program will conform with the Commissioner's regulations, as well as the established rules of the New York State Public High School Athletic Association and the State Education Department.

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#### Title IX Compliance

The Board supports equal athletic opportunities for members of both sexes through interscholastic and intramural activities. To ensure equal athletic opportunities for its students, the District will consider:

- a) Its accommodation of athletic interests and abilities (the nature and extent of the sports offered (including levels of competition, team competition, and team performance);
- b) The provision of equipment and supplies;
- c) The scheduling of games and practice time;
- d) The provision of travel costs and opportunities for travel;
- e) The assignment and compensation of coaches;
- f) The provision of locker rooms, practice and competitive facilities;
- g) The provision of medical and training facilities and services;
- h) The nature and extent of support, publicity and promotion including cheerleading, bands, programs distributed at games, and booster club activities.

The District may consider other pertinent factors as well. Each of the factors will be assessed by comparing availability, quality, type of benefits, kind of opportunities, and form of treatment. Identical benefits, opportunities, or treatment are not required.

The District's Civil Rights Compliance Officer will coordinate the District's efforts to comply with and carry out its responsibilities under Title IX. This person will be appropriately trained and possess comprehensive knowledge about applicable federal and state laws, regulations, and policies. To the extent possible, the District will not designate an employee whose other job duties may create a conflict of interest, such as the athletic director.<sup>7</sup>

#### Booster Clubs

The School District has a responsibility under Title IX to ensure that boys' and girls' programs are provided with equivalent benefits, treatment, services and opportunities regardless of their source. When determining equivalency, benefits, services and opportunities attained through the use of private funds - including donations, fundraising, and booster clubs must be considered in combination with all benefits, services and opportunities.

### **Participation Opportunities**

Title IX regulations require schools to effectively accommodate the interests and abilities of students so as to provide equal opportunity in the selection of sports and levels

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<sup>7</sup> It is our understanding that the District's current Title IX Officer/Civil Rights Compliance Officer is James Heffron. The District's website also lists Rose LeRoy as a Title IX Officer, but we were informed that she is no longer employed by District. The website and other publications will need to be updated accordingly. We would note that Title IX requires schools to designate a Title IX Officer, to widely disseminate and publish his/her contact information, and to ensure that the individual has been trained as to all Title IX regulatory requirements.

of competition available to members of both sexes.<sup>8</sup> In effectively accommodating the interests and abilities of male and female athletes, schools must provide opportunities for individuals of each sex to participate in interscholastic competition *and* for athletes of each sex to have competitive opportunities that equally reflect their abilities.

The federal Policy Interpretation sets forth three mutually exclusive standards that are used to determine whether a school is in compliance with Title IX's "participation opportunities" requirement. A school is deemed to be accommodating the interests of male and female students in providing equivalent participation opportunities if it meets any one of the three standards. This is commonly referred to as the three-prong test. If the first prong of the test (i.e., substantial proportionality) is satisfied, Title IX compliance has been demonstrated and the other two prongs of the test need not be examined. The three-prong test includes the following:

- 1) *Substantial Proportionality* - Whether interscholastic level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.
- 2) *Program Expansion* - Where the members of one sex have been and are underrepresented among interscholastic athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of that sex.
- 3) *Full Accommodation* - Where the members of one sex are underrepresented and the school district cannot show a continuing practice of program expansion, this prong considers whether the interests and abilities of the members of the underrepresented sex have been fully and effectively accommodated by the present program. In sum, does the school offer every team for girls (if girls are underrepresented) for which there is sufficient interest and ability for a team.

### Substantial Proportionality

A key to analyzing substantial proportionality is to measure whether the school district's athletic opportunities for girls is substantially proportionate to their overall student enrollment. This test only requires substantial proportionality, not strict proportionality. If the variance is sufficient to support a viable additional girls' team, this suggests that Title IX compliance has not been met.

In analyzing substantial proportionality, we needed to consider whether opportunities for boys and girls to participate in athletics are substantially proportionate to the respective total enrollments of boys and girls in the District. Thus, the percentage of boys and girls participating in athletics at grade level 7-12 during the 2014-2015 school year was determined and then compared to the percentage of boys and girls enrolled in APW's Jr./Sr. High School during that same time period.

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<sup>8</sup> 34 C.F.R. § 106.41(c)(1).

Student Enrollment

We were informed that the student enrollment during the 2014-2015 school year was as follows:

<b>Chart 1: Student Enrollment at Jr./Sr. High School</b>				
<b>Girls</b>	<b>Percentage Girls</b>	<b>Boys</b>	<b>Percentage Boys</b>	<b>Total Enrollment</b>
319	52%	290	48%	609

Student Athletes

In considering the number of student athletes participating in the school’s athletic programs, OCR generally considers an athletic participant to be someone on the team as of the first day of competition. Unfilled roster slots do not count as athletic participants. An athlete who competes in more than one athletic team in any given school year is to be counted for each team on which he/she participates. In other words, if Sally participates in soccer, basketball and track, she would be counted as three female participants for that school year. It should also be noted that certain activities may not be considered a “sport” under current OCR policy, such as drill team, cheerleading, dance team, etc. and are not to be counted as athletic participants in the “substantial proportionality” test.<sup>9</sup>

The data we were provided regarding the athletic opportunities offered to boys and girls during the 2014-2015 school year and the population of students participating in those athletic teams is set forth in Charts 2-5.<sup>10</sup>

<b>Chart 2: Athletic Opportunities In Grades 7-12</b>				
<b>Sport</b>	<b>Fall</b>	<b>Winter</b>	<b>Spring</b>	<b>Total Teams</b>
<b>Boys Teams</b>	Modified Football Varsity Football	Basketball (7&8) JV Basketball Varsity Basketball Wrestling Modified Wrestling Hockey	Modified Track Varsity Track Modified Baseball JV Baseball Varsity Baseball Golf	15
<b>Girls Teams</b>	Modified Soccer JV Soccer Varsity Soccer	Basketball (7&8) JV Basketball Varsity Basketball Volleyball (7&8) JV Volleyball Varsity Volleyball	Modified Track Varsity Track Modified Softball JV Softball Varsity Softball	16

<sup>9</sup> Whether the school district designates these teams as an “activity” or as a “sport” their classification for Title IX purposes depends on whether the squad satisfies the criteria set forth in the September 17, 2008 OCR Dear Colleague Letter. That OCR guidance sets forth factors to evaluate whether an activity constitutes a “sport.” To date, OCR has generally held that cheerleading and drill teams do not satisfy the criteria to be counted as a “sport” for purposes of the “substantial proportionality” component of Title IX’s three-prong test.

<sup>10</sup> As noted above, per federal guidelines, Winter Guard and Cheerleading are not considered a “sport” and, therefore, were not included in our analysis.

Co-ed Teams	Modified X-Country Varsity X-Country	Indoor Track		3
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<b>Chart 3: Athletic Participation in Grades 7-12 in Fall Sports</b>				
<b>Girls</b>	<b>Percentage Girls</b>	<b>Boys</b>	<b>Percentage Boys</b>	<b>Total Number of Athletes</b>
82	47%	94	53%	176

<b>Chart 4: Athletic Participation in Grade 7-12 in Winter Sports</b>				
<b>Girls</b>	<b>Percentage Girls</b>	<b>Boys</b>	<b>Percentage Boys</b>	<b>Total Number of Athletes</b>
109	58%	79	42%	188

<b>Chart 5: Athletic Participation in Grade 7-12 in Spring Sports</b>				
<b>Girls</b>	<b>Percentage Girls</b>	<b>Boys</b>	<b>Percentage Boys</b>	<b>Total Number of Athletes</b>
93	53%	81	47%	174

District Found to be in Compliance with Substantial Proportionality Test

The data indicates that the overall student enrollment for 2014-2015 was 52% girls and 48% boys. The overall student athlete population for that same year was 53% girls and 47% boys. (See Chart 6 below). Therefore, the percentage variance did not exceed 1 percentage point. (See Chart 7 below). Such a minimal percentage variance is deemed to be in compliance with Title IX. In addition, in order for the boys to make up 48% of the athletic program in 2014-2015 (the percentage equal to their enrollment), the District would only need to add approximately 4 male student athletes. Because this number is generally not enough to field an additional sports team, this further substantiates that the District satisfied the first prong of the 3-prong test and would, therefore, be deemed in compliance with Title IX.<sup>11</sup> If the District considers a change in its athletic program offerings, consideration should be made with respect to how such a change will impact the District's Title IX compliance.<sup>12</sup>

<b>Chart 6: Athletic Participation in Grade 7-12 by Gender</b>				
<b>Girls</b>	<b>Percentage Girls</b>	<b>Boys</b>	<b>Percentage Boys</b>	<b>Total Number of Athletes</b>
284	53%	254	47%	538

<sup>11</sup> We would note that the information provided to and published on OCR's website for the 2011 Survey Year indicates that the student enrollment during that time period was 49% girls and 51% boys with a student athlete participation rate of 49% girls and 51% boys. Although we did not review this 2011 data, it suggests that the District's athletic program was "substantially proportionate" and compliant with Title IX then as well.

<sup>12</sup> The Athletic Director informed us that the District is considering adding a bowling team for both boys and girls in the near future. In light of the proposal to offer the program to both genders, and assuming there is sufficient interest from both genders, such a change would not likely have a significant impact on the "substantial proportionality" analysis and related Title IX compliance.

<b>Chart 7: Proportionality of Athletes vs. Students Enrolled</b>	
<b><i>Difference Between Girls' Enrollment % and % of Girls Participating in Sports</i></b>	<b><i>Additional Girls Who Would Have Played Sports if Participation Were Proportional to Enrollment</i></b>
-1% (higher percentage playing sports than enrolled)	N/A
<b><i>Difference Between Boys' Enrollment % and % of Boys Participating in Sports</i></b>	
1%	4

### **Equal Treatment in Athletic Benefits**

As noted above, Title IX also requires that boys and girls be provided with equal treatment in athletic benefits. Title IX does not require equal expenditures for each team. Under this equivalency standard, identical benefits or treatment is not required as long as the effects of any differences are only negligible. If a comparison of program components indicates a lack of equivalency in quality, availability or kind, the school district may still be in compliance if the differences are shown to be the result of non-discriminatory factors. The Policy Interpretation recognizes that non-discriminatory differences may exist based on the unique aspects of particular sports, such as football. For example, equipment costs for the football team would be much higher than for the girls' soccer team, but despite great differences in costs, both teams could be equivalently accommodated according to their needs by providing on the one hand uniforms and balls, and on the other more costly helmets, uniforms, and pads. Equivalency is not established through a strict financial test, but by comparing results.

Another point to be made with regard to Equal Treatment compliance is that the relevant comparison is between the overall benefits provided to all female teams and the overall benefits provided to all male teams. Although discrepancies in same-sport benefits (i.e., equipment provided to girls' basketball in comparison to equipment provided to boys' basketball) may suggest potential compliance problems, Title IX is intended to ensure overall equivalence in athletic benefits, not single sport equivalence. Thus, compliance must be considered by assessing the overall impact of each of the factors on the girls' program as a whole as compared to the boys' program as a whole. The equal treatment in benefits takes into account the following factors:

- Provision of Equipment and Supplies
- Scheduling of Games and Practice Times
- Travel & Per Diem Allowance
- Coaching
- Locker Rooms, Practice and Competitive Facilities
- Medical and Training Facilities
- Publicity
- Incidental Benefits (Booster Club support)

This “equal benefits” compliance requires some subjectivity and involves consideration of many factors that may change over time. For this reason, concrete data is rarely available and school districts must monitor this component on an annual basis. Although we did not have complete and thorough data on each of the relevant factors, we have provided some general observations and guidelines for the District’s ongoing analysis.

1. Equipment and Supplies

This factor encompasses the provision of uniforms, sports equipment and supplies, and minor conditioning and weight training equipment. In assessing compliance in this area, school districts need to consider not only the availability of equipment and supplies, but the maintenance and replacement policies and practices regarding equipment and supplies. We were informed that the District sets a budget line for materials and supplies for all athletic programs, such as balls, bats, uniforms, etc., but does not address how it will be allocated amongst the various teams. It is our understanding that the Athletic Director maintains a list of each team’s uniforms and supplies and provides for replacements on a rotational basis. We would recommend that this inventory/replacement schedule be in writing and maintained for a minimum of three years. We were informed that equipment and supplies of equivalent grade and quality are provided to boys’ and girls’ teams, but did not independently verify this.

2. Scheduling of Games and Practice Times

The scheduling of game and practice times is evaluated by considering the following factors: the number of competitive events per sport, time and day competitive events are scheduled, number and length of practices, and time and day practices are scheduled. In interscholastic athletics, the season of a sport, length of that season and even the competitive schedules may be set by the league or association, not the District. Thus, the focus is placed on the overall equity in the number of events and any latitude in scheduling events and practices.

The length of the seasons and scheduling of games for the District’s athletic teams is predominantly set by the Onondaga High School League (Liberty League) and NYSPHSAA. Consequently, there is no disparity based on sex when it comes to length of various sports seasons and the scheduling of games/meets.

Generally, practice schedules are dictated to a large extent by game schedules. The District does not retain practice schedules, but the Athletic Director stated that the same factors are used in scheduling boys and girls practices. We were informed that the time and day practices are scheduled is essentially the same across the boys’ and girls’ teams. However, the girls’ Volleyball team routinely practices at a later time due to unavailability of the gymnasium and the coach’s preference. The District defers to a coach’s preference both as to practice location and time.<sup>13</sup> Other teams’ practice times, such as the wrestling, hockey and golf, are driven by the availability of the outside facilities

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<sup>13</sup> It is our understanding that, beginning in the 2016/2017 school year, the District’s volleyball program will move from the winter to the fall sports season, which will alleviate scheduling conflicts for practices in the main gymnasium and eliminate the need for the volleyball team’s 7-9 pm “late” practice slot. We believe this also addresses any potential disparity in practice and game schedules in this area for Title IX purposes.



and the necessary coordination of others who use those facilities. The Athletic Director informed us that the boys' and girls' teams are given equivalent opportunity to participate in post-season competition. APW appears to provide equivalent access to practice and games in compliance with Title IX requirements.

### 3. Travel & Per Diem Allowance

At the high school level, the focus here is on the overall equivalency of the type of travel and transportation and per diem meal allowances provided to the respective teams. Items such as the travel budget, modes of transportation, overnight accommodations, and per diem allowances should be considered. School districts should strive to provide girls' and boys' teams comparable transportation to and away from away contests or games. The travel arrangements for boys' and girls' teams need not be identical. A determination should be made, however, as to whether or not there is a pattern of favoring teams of one gender over another.

It is our understanding that the District's travel budget was approximately \$15,000 for all of its sports teams during the 2014/2015 school year. The budget is not broken down separately for each team, but is allocated to the overall athletic program. A significant amount of the budgeted travel expense is, however, incurred by the boys' wrestling, hockey and golf teams due to the fact that these teams do not practice or compete at APW facilities.<sup>14</sup> We were informed that, with respect to the remaining athletic teams, the District provides boys' and girls' teams with comparable transportation to and from away contests/meets. There is likely a slightly larger transportation cost for the football team due to the number of athletes and the amount of equipment that needs to be transported. We did not confirm whether girls' and boys' teams are provided sufficient opportunities to arrive at away games with time to rest, eat meals, and prepare for the competition. We were also unable to confirm whether per diem allowances for meals while traveling, if any, are comparable for the girls' and boys' athletic programs. These factors should be considered by the District. Based on the information we were provided, it appears that the District does not exhibit a pattern of favoring teams of one gender over another and, therefore, is Title IX compliant in this area.

### 4. Coaching

In assessing this factor, OCR is focused on the opportunity to receive coaching as well as the assignment and compensation of coaches. OCR also looks at the general qualifications of coaches. Generally, the focus is on whether female student athletes have the same overall quality and expertise of coaching as do male student athletes. OCR also considers the ratio of coaches to players for boys and girls.

Based on the information we obtained on this factor, it appears that the boys and girls within the District generally have equivalent access to athletic coaches. There are only a select number of teams with more than one coach, such as football. Notably, the Varsity girls' track team also has two coaches, but the Varsity boys track team has one coach. The participants on those teams are nearly identical (girls' track had 19 and boys' track team had 20) so the ratio of track coaches to student athletes favored the girls' team, at least during the 2014-2015 school year. A similar issue is presented with respect to the

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<sup>14</sup> We would note that there are a select number of female athletes on each of these three teams.

boys' modified baseball team, which had two coaches for 16 players, while the girls' modified softball team had only one coach for nearly the same number of players, i.e., 12 female softball players. Overall, there were approximately 22 coaches for the boys' athletic teams (in which 254 boys participated) and approximately 19 individuals coaching the girls' teams (in which 284 girls participated) resulting in a ratio favoring the boys' teams. These discrepancies, taken alone, are unlikely significant enough to rise to any Title IX violation, but should be considered as a whole when viewing this overall factor. We would note that we did not assess the individual qualifications of the District's coaches.

The salary information for the 2014-2015 school year appears to confirm that the pay for coaches for similar sports is generally equivalent. This analysis was complicated by the fact that certain individuals coach more than one sport and it was also not clear whether the salary information we obtained was limited solely to compensation for coaching as opposed to other services for the District. We were also not aware of how the District reached the determination of coaches' salaries and/or increases in those salaries. We would note that the District employs approximately three times as many male coaches as compared to female coaches. This may very well be due to non-discriminatory factors and is not alone a Title IX violation, but is a point for future consideration for the District.

#### 5. Locker Rooms, Practice and Competitive Facilities

In determining whether there is equivalence in this program area, the following should be considered: 1) quality and availability of the facilities provided for practice and competitive events; 2) exclusivity of use of facilities provided for practice and competitive events; 3) availability of locker rooms; 4) quality of locker rooms; 5) maintenance of practice and competitive facilities; 6) preparation of facilities for practice and competitive events.

It is our understanding that APW's outdoor facilities include a football field that is located behind the high school, two soccer fields, an outdoor track around one of the soccer fields, two baseball fields, and two softball fields. The indoor facilities utilized by the District's sports teams include the main gymnasium at the high school, boys' and girls' main locker rooms at the high school, the gymnasium at the elementary school (which is across the street from the high school), and the locker rooms at the elementary school.

The girls' and boys' basketball teams, as well as the girls' volleyball teams, practice and compete in the main gymnasium of the high school. We were informed that there is generally equal time allotted to each of these teams for practices and games. However, it appears that the boys' basketball teams practice earlier and more often at the high school. This may be due to the preference of the coaches. This could be a problem if there was a significant disparity and/or the preference of one coach was imposed upon the others.

The girls' and boys' track teams practice and compete on the same all-weather track. The track was recently refurbished and is generally in good condition. It appears that accessibility to the track for practices is equitable.

The girls' soccer fields were updated in the past ten years with one in excellent condition and the other in fair condition. The football field is in good condition and the stands and press box were recently updated and are in excellent condition. We understand

that the football team is also provided with its own separate storage facility for its equipment and supplies. It is our understanding that the District recently relocated the storage areas for all other sports equipment. We would note that the District must ensure that the equipment storage areas provide an equivalent amount of storage space for girls' and boys' teams and that those storage areas are equally accessible. We did not view the storage areas or assess their accessibility.

The baseball fields are located on campus near the high school and are used for practice and home games. It appears that one field is in good condition while the other is in fair condition. The softball fields are located across the street from the high school and have both been updated in the past ten years. The scoreboards for the baseball and softball fields are generally equivalent. It is our understanding that the locker rooms in the high school, which are used by the baseball players, are in better condition than the elementary school locker rooms that may be used by the softball players. We did not view the locker room facilities. We were provided with photographs of the boys' batting cage, but no such equivalent practice area for the softball team. If accurate, these factors may exhibit some disparity in favor of the boys' baseball teams.

Although we have identified a few areas of potential disparity that need to be considered, APW appears to generally be Title IX compliant with respect to this area.

#### 6. Medical and Training Facilities

In assessing compliance in this area, the following factors should be considered: 1) availability of medical personnel and assistance; 2) health, accident, and injury assistance coverage; 3) availability and quality of weight and training facilities; 4) availability and qualification of athletic trainers.

We were informed that none of the athletic teams have access to medical personnel or athletic trainers during their athletic practices/competitions, but that the District provides equal insurance coverage for all student athletes regardless of gender. We were further informed that all of the boys and girls participating in the District's athletic programs have equal access to the weight room at the high school.

#### 7. Publicity

In assessing compliance in the area of publicity for student athletes, the school district should consider the availability of sports information personnel, access to other publicity resources for boys' and girls' teams, and the publication and other promotional materials featuring boys' and girls' programs.

We were informed that the District's Superintendent and Athletic Director are the available sports information personnel for all teams. We were also informed that scores and team information is reported to the local media by the Superintendent for all teams. The District's website provides general information about the athletics programs, but does not appear to publicize any specific teams. To the extent that athletic achievements are noted on the website, such publicity should recognize both the boys and girls programs. Based on this information, APW appears to be Title IX compliant with respect to publicity.

## 8. Incidental Benefits

A key point to the overall compliance in “equal benefits” concerns the source of funding to the athletic programs. OCR evaluates this component and “other incidental benefits” which are provided to boys and girls teams, regardless of the sources of funding which pay for those benefits. For example, if the booster club pays for the purchasing of a new field for use by a boys’ team, then that new field will be considered as part of the overall benefits provided by the school district to the boys’ athletic program. If the booster clubs’ funding creates a disparity between the boys’ and girls’ programs, the school district must provide the funding to correct the disparity. Likewise, benefits paid for by team fundraising activities must be considered when evaluating the overall benefits. This concept is reflected in APW’s Board Policy.

### Summary

While the intent of Title IX is clear, its application is imprecise in many ways. For example, under the law, it can be difficult to distinguish between legitimate, non-discriminatory differences and discriminatory discrepancies in boys’ and girls’ athletic programs. Fortunately for APW, based on the data we were provided, any discrepancies were minimal and, therefore, the District need not struggle with this common dilemma in its Title IX compliance assessment. The District appears to be in compliance with the first component of “Accommodation of Athletic Interests and Abilities” (Participation Opportunities). Specifically, the student enrollment is substantially proportionate to the population of male and female student athletes. To the extent that athletic programs are added or removed by the District, the Athletic Director should conduct a self-audit to ensure that such changes do not significantly impact its Title IX compliance. Although less precise, it appears that the District is also in compliance with the component of “Equal Treatment in Athletic Benefits”. The District should continue to monitor the factors noted above that are part of this analysis. Due to the fact that our review is essentially a snapshot analysis of APW’s athletic programs, we encourage the District to review this information and the analysis encompassed within it in the future in order to ensure its’ continued compliance and commitment to gender equity in its athletic programs.