

Complaint of Title IX Non-Compliance for the Chico Unified School District High School Sports Program

Sept. 30, 2010

Title IX, accepted as law in 1972, mandates that equal high school sport opportunities are afforded to students irrespective of gender. Thirty eight years later, both the Pleasant Valley High School (PVHS) and Chico High School (CHS) sports programs remain out of compliance with Title IX. The following is a non-inclusive list of inequities in the sports programs:

- Participation opportunities - As a four year average, there is a 9-10% (PVHS) and a 6-7% (CHS) difference between athletic participation and student enrollment resulting in 280 to 320 more boys on sport teams per year than girls for the two schools combined. This difference is approaching the size of the entire girls' sport program at either high school;
- Facilities - The quality of the playing surface of the softball field is significantly inferior to the quality of the playing surface of the baseball field;
- Equipment and supplies - Disparities exist in quality and quantity of sport equipment;
- Fundraising - Fundraising dollars are used for specific sports as opposed to controlled distribution which would ensure gender equality;
- Publicity - Cheerleaders cheer for boys games, but not girls' which reduces girls' ability to increase gate revenue since research shows that cheerleaders increase sport attendance;
- Coaching - Disparities exist in coaching staff, e.g. more coaches for boys' than girls' teams and greater turnover in coaches for girls' teams.
- Scholarship opportunities - Stats for CHS volleyball team boys are posted on the MaxPreps.com website. Stats for the girls' team are not posted even though both teams have the same coach.

A. Participation Opportunities

Only one of the three following tests must be met to demonstrate Title IX compliance with regard to participation opportunities. The high school sports program does not meet any of the three tests for participation opportunities.

1. Proportionality The CUSD sport program does not achieve proportionality since there is typically a 9-10% (PVHS) and a 6-7% (CHS) difference between athletic participation and student enrollment resulting in 280 to 320 more boys on sport teams per year than girls. Additionally, district data indicate that cuts are used to keep girls' team sizes smaller than comparable boys' teams. For example, over the past five years 80% of the boys' freshman and varsity basketball teams at PVHS have posted rosters of 15 players. This establishes a de facto standard of 15 players per team. In contrast, the use of cuts for girls trying out for basketball have resulted in 0% of the girls' basketball freshman and varsity teams having as many as 15 players. The average number of players on the girls' teams is 12-13.

District sport staff has referred on numerous occasions to lack of interest and sport ability for girls as rationales for smaller team sizes for girls compared to boys. A CHS

girl attending a May 12, 2010 CUSD school board meeting refuted their statements by reporting that 65 girls tried out for the CHS varsity 2010 soccer team. Historically, there is a maximum of 25 players on the soccer team. In spring 2010 there were 26 players. There are no freshman or JV girls' soccer teams at either high school.

Sport staff further state that athleticism is not sufficient cause for a girl to be selected to play on a sport team without also being able to demonstrate competence in the sport. This was stated repeatedly at the May 12, 2010 school board meeting despite the fact that the district and community had honored Emily Azevedo the night before as the Chico High School 2010 Athlete of the Year for her performance in an Olympic sport that she spent less time learning than a girl spends in high school.

Given the coaching staff's emphasis on the importance of demonstrated ability for the selection of players for girls' teams, it is incongruent that a similar selection process, i.e. 'cuts', is not used for football or wrestling. Instead, it is assumed that all interested students have the ability to play these sports at a competitive level. Girls are typically cut for lack of ability in basketball, softball, volleyball, soccer, and field hockey, but all students interested in football and wrestling are accommodated regardless of ability. This practice of accepting all students for football and wrestling while at the same time cutting girls' teams to a smaller than standard number of players provides yet another refutation of the district's rationale for their longstanding gender disproportionality.

2. A history and continuing practice of program expansion The second test to demonstrate compliance with Title IX with regard to participation opportunities is, "a history and continuing practice of program expansion." CUSD is unable to meet this test since the most recent sport team added was boys' volleyball.

3. Interest and ability CUSD has relied on an improperly conducted survey of interest as a means for both documenting girls' disinterest in sports and demonstrating compliance with this third Title IX test. Sport staff stated at a May 12, 2010 school board meeting that they recognize it is no longer legal to rely solely on a survey of interest as documentation of Title IX compliance and that the district can no longer be considered in compliance based on this third test. During this meeting, the school board probed for detail related to the sport survey and showed dismay with the athletic staff's use of the student survey to support their decision to make no changes to the girls' program, but instead add another boys' team (volleyball) three years earlier. They noted that the athletic staff took this action even with the knowledge that there were significantly fewer girls playing sports than boys and without giving consideration to the option of adding girls' freshman and JV soccer teams despite the fact that hundreds of girls play on community soccer teams prior to entering high school, thus demonstrating their interest.

B. Compliance with Additional Components of Title IX

The following sport program components are out of compliance with Title IX:

- Practice and competitive facilities - The quality of the playing surface of the softball field is significantly inferior to the quality of the playing surface of the baseball field;
- Provision and maintenance of equipment and supplies - Disparities exist in quality and quantity of equipment provided to athletes, e.g. inferior quality of field hockey sticks compared to quality and quantity of football equipment;

- Publicity - Cheerleaders cheer for boys' games, but not girls' with the exception of two games during '09-'10 at PVHS. Research has demonstrated that cheerleaders increase much needed gate revenue for both girls and boys teams.
- Coaching and the assignment and compensation of coaches - There is higher turnover in girls' coaches relative to boys' coaches and more coaches for boys' teams. It is also noteworthy that 83% of the coaches at PVHS are male.
- Promotion for sport scholarship opportunities - Chico High Boys' volleyball stats are posted on the www.MaxPreps.com website whereas girls' stats are not posted even though the teams have the same coach. The girls, then, have less chance of being recruited for college teams and related scholarships. As quoted from the MaxPreps.com website, "MaxPreps.com is the nation's largest, most comprehensive and highly visited high school sports web site. MaxPreps.com provides an opportunity for every CIF (CA Interscholastic Federation) team to post its roster, schedule and stats. MaxPreps.com is the primary information source for high school sports."
- District identification of a Title IX coordinator - There is no identification on the district website of the CUSD Title IX coordinator; nor is this person identified in other district information readily available to parents and community members. The availability of this information is mandated by Title IX.

C. Budgets, Boosters Clubs, and Fundraising

While schools can accept donations and even use them for earmarked purposes, opportunities and resources still have to be equal. Boys' sports tend to receive a higher level of donations than girls'. According to Title IX, schools, "must either use other funds for equivalent perks for girls or else decline the earmarked donation". Title IX does not require that budgets or expenditures be equal for girls' and boys' teams in the same sport or overall programs. Title IX does require, however, that equivalent opportunities and benefits be provided and that lack of funds cannot justify more limited opportunities and/or benefits for girls. CUSD provided a handout of sport budgets at the May 2010 school board meeting. While budgets suggest intent, expenditures show practices. A listing of expenditures by gender has not been made available. During the May 2010 meeting, district staff provided information indicating that there were no safeguards in place for controlled distribution of fundraising dollars to ensure gender equality.

D. District Mishandling of Complaints against High School Coaches

CUSD administrators do not appear to value complaints by female students about coaching practices that are perceived to be discriminatory and/or inappropriate. A case in point is a May 19, 2010 complaint by a CHS varsity soccer girl stating that her coach regularly used profanity, made sexist remarks to players, denigrated the importance of school classes, glorified alcohol in his speech, and was inebriated in front of players when he was the only adult present for an out of town game. District policy states that all involved in a complaint will receive a written response within 30 days. This student requested a response to her complaint after 75 days had passed with no response from the district. A few days later, on August 9, 2010, this student received a district letter refuting the concerns presented in her four page, carefully documented complaint. It

was clear that a response would not have been forthcoming without this young female asserting her right to a response from the district.

E. Conclusions and Recommendations

There are long standing gender disparities in the CUSD high school sports program. District staff has defended the sport program by stating that high schools do not have to show gender proportionality because they can't achieve proportionality if they offer football. At the May 12, 2010 school board meeting, the district's Title IX "expert" expressed surprise that Castle Park High School in Chula Vista, CA offers football and had recently lost a court case based on disproportionality. In its ruling in favor of the plaintiffs, the federal district court issued this statement, "The court reasoned that the current 6.7% disparity between the percentage of athletic opportunities afforded to girls (38.7%) and the percentage of girls in the student body (45.4%) does not qualify as substantial proportionality because the 6.7% difference reflects 47 girls who would have played sports if athletic participation was proportional to female enrollment." The figures for the CUSD program are worse than those of Castle Park High School.

CUSD gender disproportionality exists because girls have fewer teams, smaller team sizes, and have to pass through a 'cut' to get on a team at almost twice the rate of boys. That is, there are more boys' teams with essentially unlimited participation opportunities, i.e. they do not use 'cuts'. As a result, the five sports that do not use cuts for either boys or girls (track, cross country, swimming, tennis, and golf) typically represent more than 50% of all girl athletes, but only 30% of boy athletes. This is because boys have more sport choices and more opportunities to be a member of a team.

Girls are interested in playing sports. One method for assessing girls' interest in sports is to examine their participation in the same five sports common to both genders for which 'cuts' are not imposed. There is no difference in participation rates between CUSD high school girls and boys for these five sports over the past six years.

Girls appear to be making use of every avenue for sport participation in a district sports program that is inherently designed to restrict opportunities for them compared to their male counterparts. They have maximized their opportunities within the current sport program. Given the longstanding disproportionality between girl and boy participation rates, the CUSD gender disparity is, to a large degree, a systematic outcome of the structure and function of the athletic program. History substantiates that when barriers to girls' participation in sports are lifted, participation rates soar.

In Nov. 2008 my husband and I filed a complaint with the district citing gender disparities in sport opportunities. District administrators responded to our complaint by stating that CUSD was compliant with Title IX because high school girls had documented their disinterest in sports via their responses to a survey the year prior. Outside of stating on May 12, 2010 that the district will not continue to rely on surveys as an attempt to document girls' disinterest in sports, there has been no indication of district understanding that gender disproportionality and demonstrated unmet interest (use of 'cuts') document non-compliance with Title IX.

It appears that the district will need external influences to generate corrective changes to bring the sport program into compliance with Title IX. In several communications during the past two years, the CUSD has been encouraged to adopt the following four recommendations:

- Require district staff and booster clubs to become familiar with Title IX requirements;
- Utilize team carrying capacity for girls' teams for which 'cuts' are used;
- Undertake a process for correcting the current gender based inequities present in the high school sports program;
- Establish procedures for monitoring progress toward Title IX compliance.

There has been no response by the district to these recommendations. Nor have there been overt steps by the district to mitigate the current gender inequity in the high school sports program.