

***Confidential FED. R. EVID. 408 and TEX. R. EVID. 408
Settlement Communication***

June 26, 2017

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Mr. Villegas:

Our firm is legal counsel to Fort Worth Independent School District (“Fort Worth ISD” or the “District”). I write in response to your May 31, 2017 letter to Kent Scribner, Superintendent of Fort Worth ISD regarding “Title IX Issues & Rugby as a Varsity Sport for Female Students.”

We appreciate your effort to reach out and thank you for bringing your concerns to the District’s attention. As a leading urban school district in the region, Fort Worth ISD takes its obligations to provide equitable opportunities for female students seriously and remains committed to providing a breadth of enriching opportunities for all of its more than 86,000 students. As such, the District was concerned to learn that some students and faculty are currently dissatisfied with Fort Worth ISD’s efforts to provide athletic options for female students.

As part of Fort Worth ISD’s commitment to serving female athletes, the District provides for varsity student competition in a variety of sports including tennis, volleyball, basketball, swimming, cross country, baseball, track, softball, golf, wrestling, and football, not to mention club and intramural activities. The District believes these activities are currently meeting the needs and interests of its students. Nevertheless, Fort Worth ISD is in the process of conducting a comprehensive review of its athletic programs’ continued compliance with Title IX of the Education Amendments of 1972. As part of this review, the District will evaluate the current levels of athletic participation in the District, the historical progress Fort Worth ISD has made in expanding opportunities for female students, and student interest in different or additional sports to ensure it continues to provide a wide array of student athletic opportunities in future years. In addition, Fort Worth ISD will assess additional facets of its athletics program to ensure that the District offers equitable and rewarding experiences for female athletes. In short, Fort Worth ISD is taking immediate measures to evaluate and reinforce its Title IX efforts to facilitate continued compliance with Title IX’s mandates.

Unfortunately, while we understand your clients' stated eagerness to have rugby included as a varsity sport, we are unable to take that immediate District-wide action at this time. An educational institution subject to Title IX "is not required to offer particular sports or the same sports for each sex," and Fort Worth ISD is deliberate about how, when, and which new sports are added or removed.¹ Nonetheless, pending the outcome of the District's Title IX compliance review, it is entirely possible that female rugby could be added at one or more campuses.

Fort Worth ISD believes that the outcome of its current programmatic review will provide a strong foundation for understanding how best to strengthen the athletic programs in the District. As you no doubt understand, the allocation of resources and administration of programs for a district as large as Fort Worth ISD requires a great deal of planning and foresight, and significant programmatic changes require a firm basis in evidence. We are hopeful that our review of the District's athletic program will confirm that Fort Worth ISD provides equitable athletic opportunities to all of its students, but the District stands ready to remedy any deficiencies that may be identified.

The District will consider the information provided in your May 31, 2017 in support of rugby as it evaluates its compliance with Title IX, but the District cannot act on this limited information alone. While the District acknowledges the expression of interest in rugby by the students you represent, Fort Worth ISD must do much more to confirm that there is adequate unmet interest in rugby to sustain a team, that there is adequate ability to sustain a team, and that there are opportunities for competition in the region. The "mere fact that there are some female students interested in a sport does not ipso facto require the school to provide a varsity team in order to comply" with Title IX, and Fort Worth ISD must do its diligence to make sure it is making the right choices for the students it serves.² As Fort Worth ISD completes its review, it will need to use the most reliable and complete data to assess and evaluate the future trajectory of its athletic programs. The conclusion of that assessment may be that rugby should be offered as a new fall sport.

The District's reticence to offer rugby at this immediate juncture has nothing to do with any intent to discriminate or a disregard for Title IX. Rather, the District's response has everything to do with ensuring that the precious tax dollars entrusted to the District for the education of students are spent in a manner that best promotes equity and learning.

We hope that you will continue this dialogue with us and support us as we work through our compliance review efforts. Should those efforts ultimately indicate that rugby will best serve female Fort Worth ISD students, you can rest assured that rugby will be the path the District pursues. In the meantime, we welcome any feedback or additional areas of concern you may have that will assist us in our efforts.

¹ Office for Civil Rights, U.S. Dep't of Educ., *Equal Opportunity in Intercollegiate Athletics* (1991), available at <https://www2.ed.gov/about/offices/list/ocr/docs/interath.html>.

² *Cohen v. Brown Univ.*, 991 F.2d 888, 898 (1st Cir. 1993).

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Sincerely,

A handwritten signature in blue ink that reads "Kathryn E. Long". The signature is written in a cursive style with a long, sweeping tail on the "y" and "g".

Kathryn E. Long

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