Oakland Unified School District
Settlement Agreement

I. RECITALS

1. This Settlement Agreement and Release ("Agreement") is made between Oakland Unified School District ("District" or "OUSD"), its agents and representatives, and collectively, "Claimants" who attend school within the Oakland Unified School District and whose real names appear on Exhibit 1 hereto.

2. The "Parties" to the Agreement are the District and Claimants.

3. On or about September 18, 2018, Claimants, by and through their counsel, Legal Aid at Work, ("Claimants' Counsel"), sent a letter to the District alleging that the administration of OUSD's athletic program, with respect to participation opportunities and also in regard to related treatment and benefits issues, violated the District's obligations under Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) ("Title IX").

4. The Parties have engaged in negotiations to resolve their disputes. The Parties now agree that it is in their interest and the public’s best interest to resolve this dispute amicably, and, accordingly, have agreed to voluntarily enter into this Agreement.

5. In addition to the Agreement, the District agrees to enter into a working relationship, memorialized through a contract, with a Title IX Consultant, to aid in addressing any Title IX athletics inequity issues. The District shall retain the Title IX Consultant for one (1) calendar year, retaining the Title IX Consultant within thirty (30 days) of the date of the execution of this Agreement, to assess gender equity under Title IX in OUSD athletic programs. The District has the discretion to further retain the Title IX Consultant after the first year to continue and complete the process of evaluating and addressing any identified gender inequity in OUSD athletic programs.

II. RELIEF

1. Term - The term of this Agreement shall be for three full calendar years from the date of full execution of the Agreement, until June 30, 2023 ("Term").

2. Scope - This Agreement pertains to all District middle and high schools administering any form of interscholastic athletics programming, and any other schools with interscholastic athletics programming (e.g., elementary schools).

   i. Posting - The District will prominently publish on the District web site (e.g., "About Title IX" web site https://www.ousd.org/Page/17832) and all OUSD
school web sites (on the “Athletics” page of the school site, the main home page, or a special “Title IX” page) the name and contact information of the Title IX Coordinator(s) at the District as well as the process through which a Title IX complaint can be made (in accordance with SB 1375, Section 221.61 to the Education Code), and such information shall also be prominently posted on the Oakland Athletic League page as well as made part of the annual notifications handbook that is given to parents before the start of every school year. “Prominently” is defined as “standing out so as to be seen easily.”

ii. Compliance Reporting

a. July Annual Reports—In accordance with the reporting process and approach (i.e., forms used and data supplied) recommended by the Title IX Consultant, the District will simultaneously provide to the Title IX Consultant (while retained) and to Claimants’ Counsel (during the Term), Annual Reports starting in the 2019-2020 school year and continuing throughout the Term of the Agreement. Annual Reports will include supporting documentation as to each and every provision of the Agreement regarding participation opportunities as well as treatment and benefits at each and every OUSD school offering any form of interscholastic competitive athletics, regarding the preceding fall, winter, and spring sports seasons. The Title IX Consultant will provide the necessary forms for each school within the District to complete, forming the July Annual Reports. The District will convey via e-mail or a file-sharing service the July Annual Reports simultaneously to the Title IX Consultant (while retained) and to Claimants’ Counsel (throughout the Term) on July 31 of each year of the Term. Once submitted, the Parties will endeavor to have a call or meeting regarding the July Annual Reports within thirty (30) days.

b. January Check-In Reports—By January 31 of each year of the Term, as to each and every OUSD school offering any form of interscholastic competitive athletics, the District will simultaneously provide to the Title IX Consultant (while retained) and to Claimants’ Counsel (during the Term), participation opportunities data for the preceding fall and current winter sports seasons along with any available projections for the upcoming spring season. Once submitted, the Parties will endeavor to have a call or meeting regarding the January Check-In Reports within thirty (30) days.

III. Equitable Participation Opportunities—Assessment and Remediation

1. Participation Data & Proportionality

i. The District will achieve substantial proportionality no later than the end of the Term at all OUSD schools with interscholastic athletic competition.
a. "Substantial proportionality": For example, if girls make up 48% of the student body and boys make up 52% of the student body at an OUSD school, then at least 48% of the athletic participation opportunities at that school shall be afforded to girls and at most 52% of the participation opportunities shall be afforded to boys. Variation from exact proportionality is permitted where, if opportunities were proportional, the number of female participants would be not enough to add additional viable teams.

2. If substantial proportionality is not reached by the end of the Term, then the District must show that it has fully assessed and responded to current interests and abilities of female students at all schools with interscholastic athletics, completely meeting all interest expressed by female students. The District must show through an additional report that it has completed the following by the end of the Term and found no unmet interest among female students.

   i. Conducted surveys per Section III.4. (Surveys).
   ii. Completed and presented data concerning female students' rates of participation in any non-mandatory or elective physical education classes offered at OUSD.
   iii. Identified all viable girls' sports programs/teams/levels eliminated or discontinued throughout OUSD in the past ten (10) school years;
   iv. Reviewed annually the number of female students who were cut from each team at any OUSD school with interscholastic athletics, and the reasons they were cut, to assess whether any of those students had or have the ability to compete in that sport and whether sufficient numbers of students were cut to sustain another team/level of the sport.
   v. Identified the sports and levels of sports for female students that are not currently offered through the District, but are offered by public or private schools that compete within twenty (20) miles; and
   vi. Assessed girls' interests in youth and community sports in the OUSD geographic area, including, but not limited to, new and emerging sports.

3. Should any unmet interest among female students be identified through the steps above (Section III.2.i.-vi.), the District must add relevant and responsive sports offerings for girls no later than one (1) year following the end of the Term (June 30, 2023) accompanied by a report submitted by June 30, 2024 demonstrating all girls' interests in sports are reasonably met.

4. Surveys
   i. The District will conduct annual surveys of female student interest (approved as to form by the Title IX Consultant) in the first year of the Term, including during the 2019-2020 school year, no later than May 15, 2020, with a focus on determining the teams/sports/levels girls would like to play on/in greater numbers at all District middle and high schools offering interscholastic athletics.
ii. The District will partner with the Oakland Athletic League ("OAL") to determine whether and which sports and levels should be added throughout the OAL based on the sports identified as popular among female students.

IV. Equitable Treatment and Benefits - Assessment and Remediation

1. The District shall ensure equitable treatment and benefits for female student athletes in comparison to male student athletes, regardless of the source of such treatment and benefits (e.g., donations, team fundraising, coach's property, procurement with school funds), as to the following athletic program components: equipment and supplies; facilities; scheduling; coaching; publicity and promotional support; fundraising; training facilities and services; and travel/transportation.

2. The District will retain the services of a Title IX Consultant for one calendar year (per Section I.5) to assist in assessment of the District's provision of athletic treatment and benefits to its female students. Based on such assessment, the District shall address treatment and benefits issues, if any, per Section IV and report on such issues per Section II.3.ii. (Compliance Reporting).

3. As to each Title IX treatment and benefits component, the District shall assess what is provided to male and female athletes and teams on an ongoing basis to ensure equity and remediate where girls are not receiving equitable treatment and benefits.

   i. Equipment and Supplies - The District shall ensure that all female athletes and teams receive equitable equipment and supplies, in comparison to male athletes and teams, including but not limited to uniforms, practice apparel, miscellaneous athletic gear, and any other items necessary for practice, conditioning, and competitive play.

   ii. Facilities - The District shall ensure that all female athletes and teams throughout the District have equitable practice and competitive facilities to those provided to male athletes and teams, including but not limited to facilities used for practice and play, locker rooms, team rooms, and storage spaces.

   iii. Scheduling - The District shall ensure that all female athletes and teams have equitable access to scheduled times for competition and practice as male athletes and teams (e.g., number of practices and games/tournaments/scrimmages, length of practice time, prime days of the week and times of the day for practice and competition, etc.).

   iv. Coaching - The District shall ensure that all female athletes and teams have coaches of equitable quality to male athletes and teams (e.g., in terms of experience, qualifications, and availability to students), subject to requirements set forth in applicable law and the District's collective bargaining agreements.
v. Publicity and Promotional Support - The District shall ensure that all female athletes and teams receive equitable publicity and promotional support in comparison to male athletes and teams (e.g., cheer and band presence at games, yearbook coverage, printed materials, banquets, rallies, assemblies, awards, marquee recognition, school newspaper coverage, etc.).

vi. Fundraising Monitoring of OUSD/Third-Party Contributions/Boosters/Budgets - The District shall ensure that athletic funding and fundraising conducted by the District, OUSD teams, and/or outside third parties, do not create inequities in the provision of treatment and benefits to female athletes and teams in comparison to male athletes and teams.

vii. Training Facilities and Services - The District shall ensure that all female athletes and teams have equitable access to and usage of any weight rooms or other fitness facilities throughout the District in comparison to male athletes and teams (e.g., weight rooms, conditioning facilities, training rooms providing injury prevention and treatment services, etc.).

viii. Travel/Transportation - The District shall ensure that all female athletes and teams have equitable access to travel and transportation as male athletes and teams (e.g., access to charter busses, etc.).

V. Other Terms

1. Title IX Training - After receiving training from the Title IX Consultant, the District will provide training to relevant District personnel (including but not limited to all OAL staff and all Athletic Directors), if and as recommended by the Title IX Consultant. All training will be evidenced in clear, legible sign-in sheets and certifications, which is to be included in Compliance Reporting, as described above in Section II.3.ii. (Compliance Reporting).

2. Complaint and Anti-Retaliation Policy & Measures - The District will create a clear Title IX Complaint and Anti-Retaliation Policy and distribute such information prominently (per the aforementioned definition) on the OAL website, in the District's annual notice to parents, and in athletics handbooks on an annual basis throughout the Term.

3. Monitoring Period and Reporting Demonstrating Compliance - Per the above, the Term of the Agreement, Claimants’ Counsel will monitor during the Term and the District will provide documentation of its Compliance through Compliance Reporting, as described above in Section II.3.ii. (Compliance Reporting).

4. Enforcement Through Court Action, As Necessary - Should the District not substantially comply with this Agreement, Claimants’ Counsel may bring an action in Court to enforce the Agreement.

5. Expert / Ongoing Technical Assistance - The Title IX Consultant shall work with the District to implement the terms of the Agreement by assessing the Title IX
athletics issues, training relevant District stakeholders on Title IX athletics issues, and helping the District create a plan to address any unresolved Title IX issues. The District, Claimants' Counsel, and the Title IX Consultant (while retained) shall meet three times a year to discuss the District's progress in addressing these issues.

6. Site Visits - The District will permit the Title IX Consultant and/or Claimants' Counsel to conduct site visits to any and all elementary, middle, and high school campuses and related athletic facilities where District schools are conducting interscholastic athletics, to assess Title IX issues during the Term, with arrangements made with District personnel so as to ensure little to no disruption to student activities. Claimants' Counsel will give one (1) month advance notice of intention to visit and schedule according to the District's availability. Claimants' Counsel will limit in-person site visits to no more than four (4) schools per calendar year with a maximum of four (4) hours per visit. The District agrees that it will provide complete photographs of the athletic facilities and related areas (e.g., locker rooms, storage areas, team rooms, fields, and gyms) of any and all schools offering interscholastic athletics that are not visited in person by the Title IX Consultant or Claimants' Counsel, per the request of the Title IX Consultant or Claimants' Counsel. Such photographs with explanatory labels will be provided within sixty (60) days of the request and shall only be taken and provided during a school year period of the Term.

7. Attorneys' Fees and Costs - In the interest of resolving this matter, the District will pay Claimants' Counsel for their reasonable attorneys' fees, costs, and expenses accumulated thus far in this matter, including those to be incurred as a result of monitoring this Agreement for the duration of the Term, in an amount totaling sixty-eight thousand dollars ($68,000) to be paid within forty-five (45) business days of the date of the execution of the Agreement, which is subject to District Board approval.

8. Retaliation - The District is prohibited from retaliating in any manner against students, and/or their families, coaches, agents, and representatives for asserting Title IX rights and/or for making a complaint under Title IX.

For Claimants:

Date: ____________  

By: ______________________________________________________________________

[redacted] whose actual signature appears on Exhibit 1
hereto on: __________________________________________________________________

APPROVED AS TO FORM
athletics issues, training relevant District stakeholders on Title IX athletics issues, and helping the District create a plan to address any unresolved Title IX issues. The District, Claimants’ Counsel, and the Title IX Consultant (while retained) shall meet three times a year to discuss the District’s progress in addressing these issues.

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8. Retaliation - The District is prohibited from retaliating in any manner against students, and/or their families, coaches, agents, and representatives for asserting Title IX rights and/or for making a complaint under Title IX.

For Claimants:

Date: 3/10/20____  By: _________________________

(whose actual signature appears on Exhibit 1 hereeto) on _____________

APPROVED AS TO FORM
CLAIMANTS’ COUNSEL

Date: ___3/10/20___

By: ____________________________________________
Kim Turner
Legal Aid at Work
Fair Play for Girls in Sports Project

For the District:

APPROVED AS TO FORM

Date: ___3/11/20___
By: ____________________________________________
Andrea Epps, Deputy General Counsel

Date: ___3/11/2020___
By: ____________________________________________
Melissa Phung
Attorneys for Oakland Unified School District

Fagen Friedman & Ful frost, LLP

Jody London, President
Board of Education

Kyla Johnson Trammell, Secretary
Board of Education
Oakland Unified School District  
Settlement Agreement  
Amendment No. 1

This Amendment ("Amendment No. 1") modifies the Settlement Agreement and Release ("Agreement"), executed on March 10, 2020, made between Oakland Unified School District ("District" or "OUSD"), its agents and representatives, and Legal Aid at Work on behalf of (collectively, "Claimants") attends school within the Oakland Unified School District.

The Parties agree to modify Section III.4.i. of the Agreement as follows:

The District will conduct annual surveys of female student interest during the 2020-2021 and 2021-2022 school years of the Term (approved as to form by the Title IX Consultant). Surveying shall start during the 2020-2021 school year, no later than three weeks following the opening of school for the Fall 2020 term or if closed for the Fall semester, three weeks following the re-opening of school occurring after that time, with a focus on determining the teams/sports/levels girls would like to play on/in greater numbers at all District middle and high schools offering interscholastic athletics.

All other provisions of the Agreement shall remain unchanged and in full force and effect as originally stated.

AGREED:

Legal Aid at Work

Kim Turner

Date

5/15/20

Oakland Unified School District

Andrea Epps

Date

5/15/20