

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
ADMINISTRATIVE COMPLAINT**

November 2, 2023

Office for Civil Rights, Dallas Office
U.S. Department of Education
Office for Civil Rights
Renaissance Tower
1201 Elm St., Suite 1000
Dallas, TX 75270

COMPLAINANT

XXXXX XXXXX
c/o Linda S. Morris
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

COMPLAINANT'S COUNSEL

Linda S. Morris
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004

RESPONDENT

Spring Branch Independent School District
955 Campbell Road
Houston, TX 77024

PRELIMINARY STATEMENT

1. This is a complaint brought by XXXXX XXXXX on behalf of his minor child, XXXXX XXXXX, who is currently seventeen years old and a senior at Spring Woods High School ("SWHS") in the Spring Branch Independent School District ("District"). Mr. XXXXX brings this complaint against the District for discriminating against his daughter based on sex in violation of Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681-1688, and the Department of Education's ("ED") implementing regulations, 34 C.F.R. Part 106.

2. District employees have singled out XXXXX for reprimand and mistreatment for complaining about discriminatory dress code enforcement and other gender disparities in the SWHS cross-country program. This discrimination and retaliation have harmed XXXXX and impeded her educational opportunities, and this conduct violates Title IX and ED's implementing regulations.

3. The District also has implemented and maintained a district-wide, gender-specific dress code that reflects and reinforces harmful and invidious sex stereotypes. In addition, SWHS employees within the District have implemented and maintained a discriminatory dress code policy banning girl athletes from practicing in sports bras as outerwear during outdoor practice, while permitting boy athletes to practice shirtless during outdoor practice.

4. The District's gendered dress code policies discriminate on the basis of sex in violation of Title IX and ED's implementing regulations.

5. XXXXX and her family ask that the District acknowledge and apologize for the harm that they have enacted upon XXXXX because she was brave enough to speak out about the District's discriminatory conduct. XXXXX and her family also ask that the District change its district-wide dress code policy to eliminate gendered language and amend the SWHS athletic dress code policy to eliminate gender disparities so that XXXXX and other athletes can practice in sports bras as outerwear without repercussion. The family requests that the Department of Education Office of Civil Rights open an investigation at the District focused on sex discrimination that violates Title IX and take remedial steps to ensure that no students in the District are discriminated against based on sex.

PARTIES

6. XXXXX XXXXX is the father of XXXXX XXXXX, an African American twelfth-grade student at Spring Woods High School in Spring Branch Independent School District. They live in Houston, Texas, and can be contacted through the undersigned counsel.

7. This complaint is against Spring Branch Independent School District. The contact information for the District's superintendent is:

Dr. Jennifer Blaine, Superintendent
Spring Branch Independent School District
955 Campbell Road
Houston, TX 77024

Phone: 713-464-1511

Email: Jennifer.Blaine@springbranchisd.com

JURISDICTION

8. The District accepts funding from the United States Department of Education.

9. The Department of Education Office for Civil Rights is responsible for ensuring that educational programs receiving departmental funding comply with Title IX, and for investigating complaints of unlawful discrimination and retaliation in violation of Title IX. 34 C.F.R. §§ 100.7(e), 106.1, 106.3, 106.71.

10. This complaint is timely because it is filed within 180 days of the discriminatory and retaliatory conduct. 34 C.F.R. §§ 100.7(c), 106.71. This complaint also challenges a discriminatory written policy of the District that remains in effect as of today's date.

11. The family is not seeking relief from any other federal agency.

FACTUAL BACKGROUND

12. XXXXX XXXXX is a senior at Spring Woods High School ("SWHS") and the only Black student-athlete on the girls' cross-country and track teams.

13. A talented runner, XXXXX joined the varsity cross-country team as a first-year student with the goal of eventually qualifying for collegiate athletic scholarships.

14. However, the District's discriminatory policies and practices have caused, and continue to cause, significant and ongoing harm to XXXXX and her ability to participate in athletics.

I. The District's Discriminatory Dress Code and Enforcement

15. The District has maintained a gender-specific dress code ("Student Dress Code") that applies to all students in middle school and high school. While it sets forth some requirements that apply broadly to all students, the Student Dress Code also imposes additional and separate gender-specific regulations for girls and boys. *See* Exhibit A, Spring Branch Ind. Sch. Dist. Student/Parent Handbook 2023-2024, at H-24-H-26; *see also* Exhibit B, Spring Branch Ind. Sch. Dist. Student/Parent Handbook 2022-2023, at H-24-H-25.¹

¹ Notably, the District's dress code inappropriately grants principals and coaches broad authority to regulate dress in extracurricular activities, permitting bias and stereotypes to guide decision making at the level of individual schools. *See id.* at H-15.

16. Under the “Girls” section, the Student Dress Code prohibits girls—and only girls—from wearing “[h]alter tops, tank tops, tube tops, and tops that are immodest and/or expose undergarments.” *Id.* at H-26. The Student Dress Code’s “Girls” section further requires that, for girls and only girls, “[u]ndergarments (top and bottom) must be worn at all times.” *Id.*

17. In contrast, the Student Dress Code’s “Boys” section simply provides that “[n]o facial hair is allowed for middle school boys,” and that “[t]ank tops and sleeveless shirts may not be worn.” *Id.* Unlike the “Girls” section, the “Boys” section of the Student Dress Code is devoid of any references to “immodesty” and does not impose any requirements concerning the wearing of undergarments.

18. The District’s records confirm that its dress code unfairly and discriminatorily targets girls for school discipline, including for clothing items typically worn by girls. For example, in 2021, the District disciplined a girl student because her bra strap was exposed during school. *See Exhibit C, Sept. 21, 2021 Spring Woods High School Redacted Dress Code Violation.*

19. The District’s gender-specific dress code reflects and reinforces harmful and invidious sex stereotypes, including that girls’ bodies are inherently inappropriate and vulgar, that girls should dress modestly, and that girls’ bodies and their clothing require greater regulation than those of boys.

a. The District’s Discriminatory Dress Code for Girl Athletes

20. In addition to its district-wide dress code, the District has implemented and maintained a gendered ban on wearing sports bras during outdoor practices for girl athletes at SWHS since August 2021.

21. Prior to August of 2021, it was a longstanding and common practice in the District for all athletes to run shirtless during summer outdoor practices, when temperatures average over ninety degrees and often exceed one hundred degrees.

22. In August 2021, XXXXX’s cross-country coach instructed the SWHS girls’ cross-country team that they had to put on shirts and could no longer run in sports bras—a common and appropriate type of athletic outerwear for athletes.

23. Sports bras are a common and widely accepted type of athletic outerwear for student athletes. Sports bras adequately cover athletes’ bodies and are appropriate for school

practices and events. In fact, sports bras are the official uniform tops of one of the most competitive women’s teams in the United States—the U.S. Women’s Olympic Track and Field Team, which is broadcast on television to fans and spectators across the country and around the world.²

b. XXXXX XXXXX’s Complaints about the District’s Discriminatory Dress Code

24. In 2021, when XXXXX asked what prompted the change in policy on girls’ dress during practice, her coach directed her to the SWHS principal. When XXXXX spoke to the school principal, the school principal said that, as always, the girls could run in their sports bras. XXXXX reported this information back to her coach.

25. During the following summer of 2022, XXXXX ran with a club cross-country team and notified her coaches that she would be able to rejoin SWHS’s practices in July.

26. Before XXXXX rejoined SWHS’s practices for the upcoming cross-country season, the coaches permitted both girls and boys to run shirtless during practices.

27. As soon as XXXXX returned in July 2022, the coaches told the girl athletes to wear shirts and that they could no longer run in sports bras.

28. In early August, XXXXX’s parents emailed her coaches to ask about this apparent change in policy.

29. A few days later, the SWHS campus athletic director unexpectedly called an athletic coaches meeting, during which he announced that all indoor and outdoor athletes (except those doing water sports) would be required to wear shirts because it was “inappropriate” to show skin as a high school student.³

30. At a later cross-country parent informational meeting, the head cross-country coach justified this new policy by stating that he did not want “any boobs, butts, or bellies out.”

31. A couple of days later, on an especially hot August day during an outdoor cross-country practice, XXXXX saw a boy athlete take off his shirt during an intense hill workout.

² Karen Rosen, *Meet the Members of the U.S. Olympic Women’s Track & Field Team*, TEAM USA (July 7, 2021, 11:57 am), <https://www.teamusa.org/news/2021/july/07/meet-the-members-of-the-us-olympic-womens-track-and-field-team>.

³ This ban on practicing in sports bras was never reduced to writing. The Spring Woods High School athletics policy only states that students must wear athletic uniforms during practice and competitions.

32. After noticing that the boy was not reprimanded for practicing without a shirt, XXXXX took off her shirt to finish the workout in her sports bra given the extreme summer heat and intense physical activity. Immediately, the coaches reprimanded XXXXX and yelled at her to put a shirt on.

33. Only after XXXXX pointed out that the coaches had allowed a boy to practice shirtless, even though the new policy required both boys and girls to practice with shirts on, did the coaches ask the boy athlete to don a shirt.

II. Historical Gender Disparities in the SWHS Athletics Program

34. During the 2021-2022 and 2022-2023 cross-country seasons, XXXXX XXXXX and her parents observed and spoke out about many disparities in the treatment of and benefits provided to the SWHS girls' cross-country team as compared to the boys' cross-country team.

a. Differences in Resources and Support for SWHS Boys' and Girls' Teams

35. The head cross-country coach for the SWHS cross-country is paid to coach both girls and boys, and thus is responsible for providing equivalent benefits, opportunities, and treatment to both cross-country teams.

36. However, during the 2021-2022 and 2022-2023 cross-country seasons, the coaching staff provided the boys' team with higher-mileage workouts than the girls' team, even though both teams compete in the races of the same distance. The coaches also routinely ended practice for both teams as soon as the boys' team finished running, regardless of whether the girls' team had completed their workout. As a result, the girls' cross-country team was not provided with the same practice opportunities and was less prepared for competitions as compared to the boys' cross-country team.

37. During these cross-country seasons, the cross-country coaches also provided a greater level of coaching and feedback to the boys' cross-country team than to the girls' cross-country team. For instance, the cross-country coaches routinely yelled out split times⁴ to the boys' team members, and not to the girls' team members, so that boy athletes knew how much time they needed to run specific distances, but girl athletes did not. This practice

⁴ A "split time" refers to the time it takes a runner to cover a specific distance, i.e., their pace over that distance. For example, a marathon runner will carefully monitor their split times every mile or half mile to make sure that they are not running too slow or too fast to achieve their desired finishing time. A runner training for a 1-mile race might focus on quarter-mile splits.

equipped boy athletes, but not girl athletes, with knowledge integral to improving their pacing and achieving specific goal times to be competitive in cross-country meets.

38. Given these disparities in practices, coaching, and supervision, the District failed to provide the SWHS girls' cross-country team with equal benefits, opportunities, and treatment as compared to the boys' cross-country team.

39. As a result of the unequal treatment and resources, XXXXX and other members of the girls' cross-country team were deprived of the same opportunities to compete and improve athletically through practices, training, coaching, and supervision.

b. XXXXX XXXXX's Complaints about Disparities in the Athletic Program

40. XXXXX and her family knew that these disparities within the SWHS cross-country program were unjust, so both XXXXX and her parents raised their concerns with the cross-country coaching staff as well as the campus athletic department.

41. In September 2021, XXXXX approached her head coach with questions about why other District cross-country teams ran more mileage in preparation for their races than SWHS's team did. During this same period, XXXXX's father also reached out to the campus athletic director to raise concerns about the amount of time that the cross-country runners spent exercising on the track. To properly prepare for cross-country races, he knew that the team should have been spending more time running through neighborhoods and fields. Although they persisted in raising their concerns throughout the season, XXXXX and her father's well-founded concerns were met with irritation or blatant dismissal.

42. In August 2022, after XXXXX was reprimanded for running in her sports bra, the coaches pulled her and a teammate aside during practice. XXXXX and her teammate shared that they were struggling to remain motivated because the coaches were not treating the girls' cross-country team fairly. One coach responded that he was only hired to coach the boys' cross-country team, leading XXXXX's teammate to ask: "Who's coaching us?" This question enraged the coaches, who kicked XXXXX and her teammate out of that day's practice.

43. XXXXX noticed that as time wore on, fewer and fewer girls continued to run with the SWHS cross-country team. From XXXXX's perspective, this was the direct result of the coaches' failure to provide the girls with competitive training for races, causing the girls to realize that the coaches prioritized the success of the boys' team more than theirs.

44. As a direct result of XXXXX's advocacy, the District has recently changed its disparate practices as to the girls' cross-country program for the 2023-2024 season. Specifically, the District has hired new coaching staff and changed its coaching and training practices to ensure the girls' cross-country team receives the same quality and level of instruction, coaching, supervision, and training as the boys' cross-country team.

III. The District's Failure to Respond to Complaints of Discrimination of and Retaliation against XXXXX XXXXX

45. Immediately following XXXXX's complaints about the discriminatory dress code enforcement and the gender disparities in the SWHS cross-country program in August and September of 2021, the head coach and other coaches began to mistreat XXXXX during practices.

46. For example, the head coach began to dismiss XXXXX when she asked questions and, at times, even walked away in the middle of XXXXX speaking to him.

47. The mistreatment escalated at the annual Winter Sports Banquet of 2021, where XXXXX was denied any award or recognition for being a top runner on the girls' cross-country team, an important credential for college applications and recruiting.

48. The District refused to recognize XXXXX, even though she had the best performance record on the girls' cross-country team and was the only student-athlete on either cross-country team to have never missed a cross-country practice. In addition, XXXXX consistently encouraged her teammates during practice and at cross-country meets, and she was a top volunteer at school and outside of school.

49. XXXXX and her parents felt that the only reason that XXXXX did not receive an award for her 2021 cross-country season performance, despite meeting all known qualifications for recognition, was because she and her parents raised concerns about the dress code and cross-country program disparities.

50. In August 2022, as discussed above, the coaches kicked XXXXX out of practice immediately after she raised concerns about dress code enforcement and the disparities in coaching.

a. XXXXX XXXXX's Title IX Complaint and Continued Retaliation

51. Given the ongoing mistreatment of XXXXX, XXXXX's father filed a Title IX complaint with the District concerning the District's dress code, discriminatory enforcement

of the dress code against girls, and gender disparities in the SWHS cross-country program on August 24, 2022.

52. Instead of addressing or investigating the complaint, however, the District has singled out XXXXX as a troublemaker and targeted her for threatened discipline.

53. Although the District purported to investigate the family's allegations, the District merely accepted the statements of its own employees at face value and failed to address many of the family's complaints while finding no violation of Title IX on January 27, 2023. *See Exhibit D, January 27, 2023 Spring Branch ISD Determination.* Indeed, the District's cursory determination failed even to correctly identify XXXXX's graduation year. Moreover, in an investigation about discrimination against XXXXX and the girls' cross-country team, the District conducted student interviews in the SWHS principal's office while the principal remained nearby, although doing so may have reasonably caused some students to fear reprimand or discipline if they were forthcoming about their experiences.

54. XXXXX's father timely appealed the District's finding of no responsibility on February 15, 2023.

55. On March 1, 2023, the ACLU and the ACLU of Texas sent a letter to the District, raising the above-referenced concerns about the District's dress code, the SWHS ban on sports bras, gender inequities in the SWHS cross-country program, and District employees' mistreatment of XXXXX. *See Exhibit E, March 1, 2023 ACLU Letter to Spring Branch ISD.*

56. On April 3, 2023, the District upheld its previous finding of no responsibility.

57. Despite the District's denial of Title IX violations in its investigation of the family's Title IX complaint, the District was apparently aware of actionable issues within the SWHS cross-country program. In May 2023, SWHS announced a new head cross-country coach, and new assistant coaches were also hired quickly thereafter.

58. The ACLU has repeatedly reached out to the District to resolve the concerns raised in this complaint. Despite these attempts, the District has refused to work directly with the ACLU or the family to resolve these concerns.

59. Despite this pattern of targeted mistreatment, XXXXX participated in the 2023 winter track and field season.

60. Since her first year, XXXXX had trained as a long-distance runner. During the fall cross-country seasons, XXXXX and her cross-country teammates ran to hit the goal of

running ten miles per week so that they would be competitive in races. During winter track, distance runners spend more time on the track, but still run about four miles per week to stay in shape. On the other hand, sprinters utilize a vastly different skill set, typically running much shorter distances but at a much faster pace than distance runners.

61. Although XXXXX had always been trained as and excelled as a distance runner, the coaches transitioned XXXXX into the winter 2023 track and field team's sprinting section, without any explanation. XXXXX felt she was being targeted by her coaches for speaking out because they knew that her passion and her talent lied with long-distance running and by placing her within the sprinting section, they were setting her up to perform poorly.

62. When she had the occasional opportunity to practice with the distance coaches, who are also the cross-country team coaches, the coaches continued to deliberately ignore XXXXX while addressing all the distance runners.

63. During the summer of 2023, XXXXX opted to participate in a running camp as part of SWHS's cross-country program. The running camp was hosted on SWHS's campus and managed by District employees.

64. During the first week of June 2023, the new head cross-country coach called XXXXX's mother and informed her that the campus athletic director directed him to specifically tell XXXXX to put her shirt on while she was running.

65. The new head cross-country coach further explained that XXXXX had taken her shirt off during a run, which did not bother him, but that he told her to put her shirt back on because of this directive. He also told XXXXX's mother that he was very uncomfortable with this directive because he just wanted to focus on training XXXXX and the other runners.

b. Impact of the District's Conduct on XXXXX XXXXX and Other Students

66. The District's conduct has sent a clear message to XXXXX and other students that any complaints about discrimination in the cross-country program would be met with negative consequences for their running careers. The District is telling XXXXX and other students that speaking out about discrimination makes you a target for continued mistreatment.

67. The District’s ban on sports bras reflects and reinforces harmful and archaic sex stereotypes, including that girls’ bodies are inherently vulgar and inappropriate, that boys will be distracted by girls’ bodies, and that girls’ bodies require greater regulation than those of boys.

68. District officials’ justifications for the ban on sports bras—including the head coach’s statements that he did not want to see “boobs, butts, or bellies”—and disparate enforcement against girls further confirm that this policy is grounded in sex stereotypes, including that girls’ bodies are inherently inappropriate and require greater regulation than those of boys.

69. As a result of the District’s dress code and ban on sports bras during athletic practices, XXXXX and other girl athletes have felt shamed and humiliated in front of their peers and coaches. The constant scrutiny of her and other girls’ bodies and appearance has caused XXXXX to feel unwelcome and even excluded at cross-country practices and meets and has caused her to question whether she would like to continue to run on the cross-country team despite her great love for running.

ARGUMENT

I. The District’s Gender-Specific Dress Code Policy and Discriminatory Enforcement Violate Title IX and its Implementing Regulations

70. Title IX is a broad remedial statute enacted to eradicate gender inequality and stereotypes in education. Title IX provides that no person “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.” 20 U.S.C. § 1681(a). Title IX was designed to “protect[] individuals from discriminatory practices carried out by recipients of federal funds.” *Gebser v. Lago Vista Indep. Sch. Distr.*, 524 U.S. 274, 287 (1998).

71. The U.S. Department of Education (“ED”) has promulgated regulations implementing Title IX in schools that receive departmental funding. These regulations specifically prohibit schools from “subject[ing] any person to separate or different rules of behavior, sanctions, or other treatment” on the basis of sex. 34 C.F.R. § 106.31(b)(4).

72. The Supreme Court has held that, in light of Title IX’s remedial purpose to eliminate sex discrimination in education, courts “must accord [Title IX] a sweep as broad as its language.” *N. Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521 (1982) (quoting *United States*

v. Price, 383 U.S. 787, 801 (1966)). Title IX is absolute in its prohibition against “discrimination” in any program or activity that receives federal funds. Although the statute contains a number of narrow and clearly enumerated exceptions (covering, for example, private schools controlled by religious organizations, schools training individuals for military services or merchant marine, social fraternities, or sororities, *see* 20 U.S.C. § 1681(a)(2)-(9), or separate living facilities, *see* 20 U.S.C. § 1686), gender-differentiated dress codes are not among them.

73. Federal courts have held that Title IX unambiguously applies to gendered dress and grooming policies in schools. *See, e.g., Peltier v. Charter Day Sch.*, 37 F.4th 104, 128 (4th Cir. 2022) (en banc), *cert denied*, 143 S.Ct. 2657 (2023) (“Based on the plain language and structure of the statute, we conclude that Title IX unambiguously encompasses sex-based dress codes promulgated by covered entities.”); *Hayden ex rel. A.H. v. Greensburg Comm. Sch. Corp.*, 743 F.3d 569, 583 (7th Cir. 2014) (holding that a gender-specific grooming policy that denied participation to boys who did not comply with hair-length requirements in interscholastic basketball violated Title IX); *A.C. v. Magnolia Indep. Sch. Dist.*, No. 4:21-cv-03466, Dkt. 20 (S.D. Tex. Oct. 26, 2021) (holding that the plaintiffs established a substantial likelihood of success in showing that the school district’s gender-based grooming policy violated Title IX); *Sturgis v. Copiah Cnty. Sch. Dist.*, No. 3:10-cv-455, 2011 WL 4351355, at *5 (S.D. Miss. Sept. 15, 2011) (declining to dismiss a Title IX challenge to a gender-based school dress code).

74. The U.S. Department of Education (“ED”) and the U.S. Department of Justice (“DOJ”) have recently reiterated that Title IX prohibits discrimination in school dress and grooming codes, and ED has investigated Title IX complaints involving dress and grooming policies.⁵

75. As a recipient of federal funds, the District must comply with Title IX and ED’s implementing regulations.

⁵ United States’ Statement of Interest, *Arnold v. Barbers Hill Sch. Dist.*, No. 20-cv-01802 (S.D. Tex. July 23, 2021), at 14 n.13, <https://www.justice.gov/crt/case-document/file/1419201/download>. *See also* Rehearing En Banc Brief for the United States as Amicus Curiae Supporting Plaintiffs-Appellees/Cross-Appellants, *Peltier v. Charter Day School*, Nos. 20-1001(L), 20-1023 (4th Cir. Nov. 18, 2021), at 28 n.5, <https://www.justice.gov/crt/case-document/file/1449811/download>.

76. The District’s gender-specific dress code and its targeted enforcement has subjected XXXXX and other girl students to “different rules of behavior, sanctions, or other treatment” based on their sex in violation of Title IX.

77. As discussed *supra*, the District’s dress code for students in middle and high school imposes different gender-specific requirements for boys and girls, and further singles out girls, and only girls, for restrictions on undergarments and requirements based on “modesty.” *See* Exhibits A, B, and C.

78. Dress code policies that utilize gender-specific “modesty” requirements and single out girls for additional requirements perpetuate traditional, patriarchal notions of femininity and modesty, and they set unfair expectations for how girls should dress. These dress codes also strip girls of autonomy and opportunities for self-expression based solely on their gender.⁶

79. In addition, the District’s prohibition against sports bras as appropriate athletic outerwear imposes a gendered requirement that disproportionately targets girls for discipline based on harmful sex stereotypes.

80. The District’s enforcement practices demonstrate that its ban on sports bras as outerwear is grounded in harmful sex stereotypes. For example, when both the girls’ and boys’ cross-country teams were practicing on an extremely hot August day, a boy was permitted to practice shirtless without issue. When XXXXX attempted to practice in her sports bra to prevent heat exhaustion and maintain her health and well-being during an intense workout, the coaches immediately reprimanded her and told her to put her shirt back on. The coaches only asked the boy to wear a shirt after XXXXX pointed out the double standard. This is clear disparate treatment based on sex.

81. As recently as June 2023, XXXXX was singled out by her cross-country coach during a District-sponsored summer running camp and required to put her shirt on after taking it off and running in her sports bra for her comfort and safety while training on an extremely hot day.

82. Moreover, the justifications offered for prohibiting sports bras as outerwear during athletic practices further confirm that the District’s policies and practices are

⁶ *See, e.g.,* Nadra Nittle, *Lawsuits, complaints and protests are upending sexist school dress codes*, THE 19TH NEWS (Jan. 12, 2022), <https://19thnews.org/2022/01/school-dress-code-challenges/>.

grounded in harmful sex stereotypes. For example, District employees' statements that it is "inappropriate" to show skin and that District employees did not want any "boobs, butts, or bellies out" are targeted at girls, and reflect the view that girls' bodies are inherently inappropriate and vulgar, that other students will be distracted by girls' bodies, and that girls' dress and appearance require more regulation than that of boys.

83. The District's gendered dress code policies and enforcement practices, as well as District employees' justifications for these policies and practices, reflect and reinforce broad and archaic generalizations about boys' and men's inability to control their sexual impulses and girls' inability to make their own decisions about the clothing that makes them feel safe and physically comfortable. The District's policies and practices diminish girls' autonomy, physical comfort, safety, and wellbeing by forcing girl athletes to wear more layers of clothing, despite the hot weather, to avoid scrutiny and disciplinary action. Importantly, these stereotypes reflect and reinforce a longstanding culture of victim-blaming, rooted in misogyny, which conveys the message to girls that their clothing choices may justify anything that happens to them. Such attitudes reflect the "romantic paternalism" that the U.S. Supreme Court has recognized puts women "in practical effect...not on a pedestal, but in a cage." *Frontiero v. Richardson*, 411 U.S. 677, 684 (1973).

84. The District clings to these archaic sentiments despite the widely accepted use and recognition of sports bras as appropriate athletic outerwear for professional, amateur, and casual athletes, including in high school athletic programs.

85. Significantly, the District's enforcement of its ban on sports bras as outerwear only when XXXXX—the only Black runner on the girls' cross-country and track teams—participated seems to be rooted in intersectional race and gender discrimination. Black girls and other girls of color are disproportionately targeted for dress and grooming code enforcement because of intersecting race and gender stereotypes about proper feminine behavior and appearance.⁷ Black girls are often denied the benefit of the doubt that is accorded to white girls. They are perceived as less innocent, more adult, aggressive, and threatening, and needing less support and protection—otherwise known as the "adultification

⁷ Nat'l Women's Law Ctr., *Dress Coded: Black girls, bodies, and bias in DC schools*, https://nwlc.org/wp-content/uploads/2018/04/5.1web_Final_nwlc_DressCodeReport.pdf; see also Rachel Anspach, *School dress codes unfairly target Black girls. But students are fighting back*, MIC, Oct. 30, 2019, <https://www.mic.com/p/school-dress-codes-unfairly-target-black-girls-but-students-are-fighting-back-19276290>.

bias.”⁸ Black and Latina girls are also sexualized more than others their age, making them more vulnerable to harassment and misconduct by adults and peers alike.⁹

II. The District’s Punitive Response to XXXXX XXXXX’s Complaints of Sex Discrimination Violates Title IX’s Prohibition Against Retaliation

86. The U.S. Department of Education (“ED”) prohibits “recipient[s] or other person[s]” from retaliating “against any individual for the purpose of interfering with any right or privilege secured by [T]itle IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under [Title IX].” 34 C.F.R. § 106.71(a). Specifically, ED prohibits retaliatory conduct including “intimidation, threats, coercion, or discrimination.” *Id.*

87. ED has prohibited retaliation under Title IX to ensure that “the rights created under [Title IX] do not go unenforced for fear of adverse official reaction.”¹⁰ In light of Title IX’s broad remedial purposes, “protected activities include more than filing complaints seeking a vindication of personal rights.” *Id.* The protections of 34 C.F.R. § 106.71 are not limited to complainants, they cover all parties, witnesses, and other individuals from retaliation for asserting rights and privileges under Title IX. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30026, 30278 (May 19, 2020) (to be codified at 34 C.F.R. pt. 106).

88. Unlawful retaliation occurs when (1) a complainant engaged in “activities or asserted rights protected under Title IX; (2) the recipient knew of the protected activity; (3) the recipient thereafter subjected the person to adverse action, treatment or conditions;” and (4) a causal connection exists between the complainant’s protected activity and the

⁸ Rebecca Epstein et al., *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*, Georgetown Law Ctr. on Poverty & Inequality, <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>; see also Alex Laughlin, *The startling thing that happens to black girls in preschool*, WASH. POST, Apr. 25, 2016, <https://www.washingtonpost.com/news/wonk/wp/2016/04/25/monique-morris-pushout/> (noting that Black girls are stereotyped as being “social deviants” and having “certain attitude”).

⁹ Rebecca Epstein et al., *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*, Georgetown Law Ctr. on Poverty & Inequality, <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>; see also Nat’l Women’s Law Ctr., *Let Her Learn: A Toolkit to Stop School Push Out for Girls of Color* (2016), at 1, https://nwlc.org/wp-content/uploads/2016/11/final_nwlc_NOVO2016Toolkit.pdf.

¹⁰ U.S. Department of Justice, Civil Rights Division, Title IX Legal Manual: Retaliation, <https://www.justice.gov/crt/title-ix#3.%C2%A0%20Retaliation> (last updated Aug. 12, 2021).

recipient's adverse response.¹¹ See *Trudeau v. Univ. of N. Texas, By & Through its Bd. of Regents*, 861 F. App'x 604, 607-08 (5th Cir. 2021); *Feminist Majority Found. v. Hurley*, 911 F.3d 674, 694 (4th Cir. 2018); *Doe v. Mercy Cath. Med. Ctr.*, 850 F.3d 545, 564 (3d Cir. 2017).

89. The District has subjected XXXXX XXXXX to unlawful retaliation in violation of Title IX. Beginning in August 2021, XXXXX engaged in activities protected under Title IX by complaining about how boys were allowed to practice shirtless, but girls could not practice in their sports bras. XXXXX, along with her parents, also pointed out inconsistencies and inadequacies in how the SWHS girls' cross-country team was trained, supervised, and supported as compared to the boys' team.

90. The District's punitive response and verbal reprimands against XXXXX for her protected Title IX activities resulted in significant emotional harm and embarrassment to XXXXX and negatively impacted her sense of belonging on the SWHS girls' cross-country team.

91. XXXXX's protected activities resulted in the following retaliatory treatment:
- a. XXXXX was denied an important student athlete award at the 2021 Winter Sports Banquet, despite her stellar cross-country record.
 - b. XXXXX was ignored and dismissed by the head cross-country coach when she asked questions or raised additional concerns about the cross-country program.
 - c. In July 2022, the SWHS cross-country coaches waited for XXXXX to return to practice to reinstate their rule requiring girls to wear shirts during practices.
 - d. During the 2023 winter track season, XXXXX was inexplicably transferred to the sprinting section even though she is a distance runner, thereby depriving her of the opportunity to improve her distance-running skills and to compete with other distance runners. The distance coaches also ignored XXXXX during practices.
 - e. In June 2023, XXXXX was deliberately targeted by the campus athletic director, who demanded that the SWHS head cross-country coach tell XXXXX to put on a shirt while training, despite the extreme heat and humidity.

92. Since XXXXX began speaking out against gender discrimination in August 2021, she has been a constant target of the District's unlawful retaliatory conduct. Through its

¹¹ *Id.*

actions, the District has intimidated and punished XXXXX, negatively impacted her love for running and her self-esteem, interfered with her collegiate athletic opportunities by denying well-deserved athletic awards, and harmed her sense of belonging on the SWHS girls' cross-country team and in the District.

REMEDIES

93. XXXXX XXXXX requests that the Department of Education Office for Civil Rights:

- a. Investigate the District to determine whether gender-based provisions of its dress code comply with Title IX and Department of Education implementing regulations, both on their face and as enforced;
- b. Take all steps necessary to remedy any unlawful sex discrimination, as required by Title IX and Department of Education implementing regulations, including but not limited to ordering the District to adopt a gender-neutral dress code, stop disciplining students based on gender, and provide mandatory training for District employees about non-discrimination and compliance with federal anti-discrimination laws;
- c. Require the District to issue a written apology to XXXXX for its discriminatory and retaliatory conduct;
- d. Take all steps necessary to ensure that XXXXX will not be retaliated against nor threatened with further discriminatory discipline; and
- e. Monitor any resulting agreement with the District to ensure continued compliance.

Respectfully Submitted,

/s/ Linda S. Morris

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