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Via U.S. Mail and Facsimile

May 5, 2015

Michelle Kolbeck
President
Santa Paula Unified School District
201 S. Steckel Drive
Santa Paula, CA 93060

Elizabeth Garcia
Principal
Santa Paula High School
404 North Sixth Street
Santa Paula, CA 93060

Re: *Santa Paula High School - Title IX Violations*

Dear Ms. Kolbeck and Ms. Garcia:

The Legal Aid Society-Employment Law Center (“Legal Aid”), the California Women’s Law Center (“CWLC”), and Simpson Thacher & Bartlett LLP (“Simpson”) have become aware of serious gender-based inequalities throughout the Santa Paula High School (“SPHS” or “Santa Paula High”) athletic and physical education classes and programs (hereinafter “athletic programs”) as well as possible retaliation. We request that Santa Paula High make immediate changes to ensure Title IX compliance.

I. TITLE IX

Title IX of the Education Amendments of 1972 prohibits educational programs receiving federal financial assistance from discriminating against students on the basis of sex. 20 U.S.C. § 1681, *et seq.* Title IX’s implementing regulations specifically provide: “No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently 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 athletics separately on such basis.” 34 C.F.R. § 106.41(a). Title IX further prohibits retaliation. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 174 (2005); *Ollier v. Sweetwater*, 768 F.3d 843, 870-71 (9th Cir. 2014).

SPHS is failing to comply with Title IX. Based on available information, we understand that throughout the Santa Paula High athletic programs, boys are receiving more participation opportunities as well as better treatment and benefits

with regard to equipment, spending, coaching, teaching, facilities, and more. Girls and faculty are also experiencing retaliation for making Title IX-related complaints.

II. TITLE IX COMPLIANCE

Under Title IX, educational institutions must provide girls with equal athletic treatment and benefits as compared to boys. *See* 44 Fed. Reg. 71,415 (1979), Department of Education, Office for Civil Rights' Policy Interpretation; 34 C.F.R. § 106.41(c)(2)–(10); *Ollier v. Sweetwater Union High School Dist.*, 858 F. Supp. 2d 1093, 1111-12 (S.D. Cal. 2012) (finding unequal treatment and benefits as to class of female athletes). Further, Title IX requires female students be afforded equal participation opportunities, 20 U.S.C. § 1681, and prohibits retaliation for raising Title IX concerns, *Ollier*, 858 F. Supp. 2d at 1113.

A. Equal Treatment and Benefits

Based on available information, Santa Paula High is failing to provide girls with equal treatment and benefits. Equality in treatment and benefits is analyzed based on the following factors, among other considerations: “The provision of equipment and supplies; Scheduling of games and practice time; Travel . . . allowance; Opportunity to receive coaching . . . ; Assignment and compensation of coaches . . . ; Provision of locker rooms, practice and competitive facilities; Provision of . . . training facilities and services; . . . Publicity”; and a school’s “failure to provide necessary funds for teams for one sex.” 34 C.F.R. § 106.41(c).

1. Provision of Equipment and Supplies

“Equipment and supplies” include, but are not limited to, uniforms, sport-specific equipment, and general equipment. 44 Fed. Reg. 71,416. Supplies may be assessed based on quality, amount, suitability, maintenance and availability. *Id.* Here, SPSHS provides female athletes with inferior equipment and supplies.

Girls’ uniforms are not of the same quality and quantity as boys’ uniforms. Football players are generally not required to purchase their own uniforms and boys’ soccer players receive uniforms and bags from a major sports apparel company which they get to keep. Yet girls’ soccer must fundraise for all elements of their uniforms and they are not regularly allowed to keep their uniforms or bags. Male athletes, such as football and soccer players, typically receive more t-shirts (sometimes for free), whereas female athletes receive fewer t-shirts, more often have to buy them with their own funds, and are less often permitted to keep such t-shirts. Further, the boys’ baseball program recently received a new scoreboard and new fencing but the softball program has not been afforded similar benefits. Girls’ basketball is struggling to obtain the proper equipment—the coach’s request for a simple rack to hold basketballs was denied at one point—whereas boys’ basketball does not face similar equipment issues. Further, the weight training equipment provided through the athletic programs is tailored to male athletes, offers mostly heavier weights, and cardio equipment is lacking. *See Ollier*, 858 F. Supp. 2d at 1106 (noting a weight training facility for women’s sports will “typically have lower weight plates, free weights, flexibility equipment, core strength equipment.”).

2. *Scheduling of Games and Practice Times*

Title IX requires schools to treat athletes equitably as to “the time of day competitive events [and practices] are scheduled.” 44 Fed. Reg. 71,416. Yet, SPHS schedules practices and games in a way that is inequitable between female and male athletes. For example, in soccer, male teams are scheduled to practice right after school whereas female teams often have to go home first and return to campus for practice. Boys’ soccer teams have prime-time Friday night games every week at school whereas girls’ soccer teams do not and instead play away games on Fridays. Girls’ basketball teams also play games earlier than boys’ basketball teams. *See Ollier*, 858 F. Supp. 2d at 1105 (finding school district violated Title IX by failing to alternate optimal game and practice times between male and female basketball teams).

3. *Travel Allowances*

Compliance with Title IX in travel allowances is assessed by comparing, among other factors, the “modes of transportation” for male and female athletes. 44 Fed. Reg. 71,416. At SPHS, female athletes are not provided adequate transportation. For example, the female softball team holds its practices and home games at a Boys & Girls Club approximately two miles away from SPHS, in an area where shootings have occurred. The softball players are not provided any type of school-sponsored transportation to and from their practices or games, forcing the players to travel on their own through unsafe neighborhoods. Softball practice begins less than half an hour after school lets out at 3:00 p.m., making it difficult for many girls to make practice on time. In contrast, the majority of boys’ baseball practices and games are conducted in the center of the SPHS campus. Further, the football team and the boys’ soccer team were recently provided access to new buses with air-conditioning, televisions, and restrooms. Based on available knowledge, when girls’ teams are provided access to transportation, if at all, they do not have access to such buses but instead ride on regular school buses. More often, female teams must rely on coaches and parents to travel to games.

4. *Opportunity to Receive Coaching*

Compliance with Title IX with regard to coaching is assessed by examining the relative availability of full-time coaches, part-time coaches, and assistant coaches. 44 Fed. Reg. 71,416. Coaches for male teams at SPHS, in particular the football, basketball and baseball teams, are frequently permanent school staff members. In comparison, female sports teams at SPHS have more “walk-on” coaches who lack both teaching credentials and comparable access to school resources and facilities. Thus, SPHS female student athletes are not benefitting equally as to coaching. *See Ollier*, 858 F. Supp. 2d at 1105 (finding school district violated Title IX by failing to hire consistent coaching staff for female athletes). Certain male coaches of girls’ teams exhibit sexist attitudes toward female athletes. Further, coaches of female teams are exercising harsher disciplinary approaches to girls as opposed to boys, with regard to suspension policies, for example. And, GPA requirements are applied differentially as to girls, who, unlike boys, must strictly maintain a 2.0 GPA for athletic participation eligibility.

5. *Assignment and Compensation of Coaches*

Compliance in assignment of coaches is assessed by examining the “[t]raining, experience, and other qualifications” of coaches, as well as their “[p]rofessional standing.” 44 Fed. Reg. 71,416. Compliance in compensation of coaches is judged by, among other factors, equivalence in the “[r]ate of compensation,” “[d]uration of contracts,” “[e]xperience,” and “[n]ature of coaching duties performed.” 44 Fed. Reg. 71,416. Here, SPHS does not treat coaches of male and female teams equally. We understand from available information that the stipends provided to coaches of female teams are less than those paid to coaches of male teams.

6. *Provision of Locker Rooms, Practice and Competitive Facilities*

Compliance with Title IX is assessed by examining the quality and availability of practice and competitive facilities, as well as the quality and availability of locker and team rooms. 44 Fed. Reg. 71,416. Here, SPHS provides inferior locker rooms, practice and competitive facilities to female students and athletes. *See Ollier*, 858 F. Supp. 2d at 1100 (finding the locker room, practice and competition facilities available to female athletes unequal as compared to those available to male athletes).

a. *Gymnasiums*

The Bryden gym at SPHS, also known as the “Girls’ Gym,” was constructed in or around the early 1900s. The newer McMahan gym, or “Boys’ Gym,” was constructed in the mid-1900s and modernized after 2000. The Girls’ Gym has water damage, termites, nails sticking out on bleacher seats and steps, a roof that leaks, mold, peeling paint, little signage or banners for teams, empty trophy cases, no disability access, and no air conditioning (despite Santa Paula temperatures topping 100 degrees at times). These conditions render the Girls’ Gym hazardous to students, staff, and spectators and impede students in their attempts to participate fully in P.E., Athletics, and sports activities.¹ The Boys’ Gym is in excellent condition, air conditioned, decorated with team banners and trophies, well-lit and located next to the football field. The sole school weight room is located in the Boys’ Gym. Further, unlike the Girls’ Gym, the Boys’ Gym offers ample locker rooms, team rooms, and space for visiting teams.

While boys and girls at SPHS use both the Girls’ and Boys’ Gym, available information indicates that female athletes and non-athletes at SPHS more often use the Girls’ Gym whereas male athlete and non-athletes more often use the far superior Boys’ Gym. Such usage of the SPHS gyms results in inequities in practice and competition facilities for female and male students who attend SPHS as well as students from visiting teams.

b. *Locker Rooms, Team Rooms and Weight Room*

¹ Santa Paula High recently committed large sums to renovation of the football field and to construction of a new science and math building, yet the Girls’ Gym has not been renovated, despite long-needed repairs. Further, attempts by female students to provide input about the inequitable gym and locker room facilities and necessary improvements have been discounted or completely ignored.

The girls' locker room is blatantly inferior to the boys' locker room with regard to the overall quality of such facilities, the number of lockers, and the quality of bathroom and shower areas. *See Ollier*, 858 F. Supp. 2d at 1100 (finding many more male athletes had superior lockers in comparison to female athletes—measured by the locker sizes and locations).

The girls' locker room is in a state of serious disrepair, whereas the boys' locker room is up-to-date and well maintained. Girls' lockers, located in the basement of the Girls' Gym, lack proper locking mechanisms and are regularly the target of theft. Attendants for the girls' locker room have been provided on an erratic basis. The locker room area while equipped mainly to serve P.E. classes, which it does inadequately and inequitably—fails even more miserably to host a range of female athletic teams. Girls have approximately 160 available lockers, but need hundreds more, as girls are currently sharing and there are no athlete-specific lockers. The girls' lockers are too small to fit even a backpack, let alone athletic gear and related belongings.² Further, the girls' locker room has toilets which do not function properly, flimsy bathroom stall doors at such a low height there is no privacy, rusted shower poles, poor lighting, and old paint. The locker room itself is so small that girls using the room are forced to cram in, standing shoulder to shoulder, and to wait in long lines for use of the toilets and sinks. Yet, part of the girls' locker room area is used to store equipment for boys' sports. The showers are not usable and lack privacy. Despite numerous requests, school officials have refused to fix these issues.

In stark contrast, the boys' locker room area—offering space for boys' P.E., boys' varsity teams, and boys' J.V. teams—has several hundred large lockers available to male students. The boys' locker room is extensive and affords the boys' football team its own caged area, recently upgraded for thousands of dollars. Each individual boy's locker offers sufficient storage space for a player's sports-related equipment, even football equipment. Within the Boys' Gym, specific team rooms are afforded to varsity and J.V. boys' teams, in addition to the boy's P.E. locker room area. Boys also have special disability-equipped lockers, working showers in good condition, and sanitary restrooms. Girls have none of these amenities.

Female students lack dedicated team rooms for athletic activities. Existing team rooms for home and away teams are located exclusively within the Boys' Gym, making it difficult for female SPHS teams and female opponents to access team rooms. Even when girls' teams do play in the Boys' Gym, visiting teams must change in the weight room because visitor team rooms are only made available to boys' teams. Moreover, male soccer players have access to team rooms during half-time periods in games, yet female soccer players do not. Several girls on SPHS soccer teams change into their uniforms in the Boys' Gym restroom due to the poor condition of the Girls' Gym, lacking even a single team room, and its distance from their field.

The Boys' Gym weight room is stocked with equipment catering mainly to boys, including heavy weights and football-oriented weight lifting machines. Requests for female-oriented weight room equipment, such as lighter dumbbells, were rejected on the basis that there

² Because the lockers are so small, SPHS female students have no safe place to put their backpacks and many girls have had items stolen such as phones and athletic wear. We understand that SPHS has penalized girls (*e.g.*, with Saturday school) for placing their backpacks outside of the locker room (*i.e.*, in the gym during class or practice). The girls are now required to place their backpacks in a dusty storage room, yet items are still stolen.

was not enough room, yet large heavy weight racks and medicine balls were recently added for boys' usage at a cost of thousands of dollars. The limited equipment used primarily by girls is not well maintained. Boys' teams, such as football, have exclusive use of the room on certain school day mornings and afternoons but girls' teams are not afforded any similar periods of exclusive access.

c. Softball and Baseball Facilities

In addition to the facilities inequities noted above, the softball facilities are also inequitable. As noted, the Santa Paula High girls' softball program practices and plays off campus in an unsafe area, whereas the boys' baseball program plays and practices on a dedicated on-campus field. Softball players further lack proper facilities in that the outfield fencing is low and there are no foul poles, scoreboard, bullpens, or dedicated storage space. Thus, on this basis as well, the quality and availability of practice and competitive facilities are unequal based on gender. *See Ollier*, 858 F. Supp. 2d at 1100 (relying on an expert report that concluded the facilities available to female athletes were inferior based on the quality of the fields, location of fields, etc.).

7. *Provision of Training Facilities and Services*

The adequacy of training facilities and services may be assessed based on, among other factors, the availability and qualifications of athletic trainers and the availability and quality of weight and training facilities. 44 Fed. Reg. 71,416. The training facilities and services available to SPHS female athletes are inferior to those available to male athletes. As explained above, the weight room is geared toward male athletes, is located within the Boys' Gym, and is predominantly used by male teams. *See Ollier*, 858 F. Supp. 2d at 1100 (concluding the training facilities available to female athletes were inferior). Male athletes, such as football and basketball players, have also worked with high-level athletic trainers and attended special clinics on the SPHS campus, opportunities unavailable to female athletes.

8. *Publicity & Promotional Support*

Publicity is assessed by examining, among other factors, the "[a]ccess to . . . publicity resources for men's and women's programs," and the "[q]uantity and quality of publications and other promotion devices featuring men's and women's programs." 44 Fed. Reg. 71,416. SPHS recognizes the accomplishments of male athletes more widely than those of female athletes. In the Girls' Gym, for example, the trophy case stands empty, while the Boys' Gym contains a myriad of pictures and awards. Banners celebrating female teams and female athletes are fewer, particularly in the Girls' Gym. *See Ollier*, 858 F. Supp. 2d at 1112 (finding Title IX violation where female sports were covered less in yearbooks, fewer announcements were made in the school's daily newsletter, and cheerleaders attended more male athletic games than female athletic games). The band appears only at football games and cheerleaders attend only football and basketball games. SPHS boys' teams, particularly football, basketball, and soccer, receive the bulk of publicity and promotional support at Santa Paula High in terms of rallies, flyers, public broadcasts, and other support. We understand the Athletic Director encourages engagement in boys' sporting events, but that he has in fact *discouraged* students from going to

female athletic events, telling members of the boys' basketball team not to attend girls' basketball games.

9. *Access to Fundraising*

Although unequal expenditure on boys' and girls' sports does not itself constitute noncompliance, compliance may be assessed by examining the "failure to provide necessary funds for teams for one sex." C.F.R. § 106.41(c). Title IX requires that revenues from all sources be used to provide equitable treatment and benefits to both female and male students. *See Ollier*, 858 F. Supp. 2d at 1111. Fundraising for sports at SPHS depends primarily on the athletes and their families, with no oversight from administrators or a school-wide booster club, to ensure equitable spending of raised funds. Girls' programs, such as soccer, struggle to raise enough funds for needed uniforms and supplies, whereas boys' programs, such as football and soccer, have many successful fundraisers, in addition to receiving school-supplied uniforms and equipment. Concessions are sold at football games, potentially contributing to team funds, but concessions are not offered at any female athletic event. SPHS fails to provide the necessary funds for female athletics and fails to oversee fundraising processes as required under Title IX.³

10. *Athletics Classes*

At SPHS, female students are receiving fewer educational resources in terms of "Athletics" classes, offered as an alternative to traditional P.E. for athletes in after-school sports. Currently, SPHS offers sixth period Athletics classes to both girls and boys, yet boys have two classes (one for football players and one for other male athletes) whereas girls have only one. SPHS coordinates the Athletics class such that male athletes have a jump-start on their sports practices, conditioning, and training, whereas very few female athletes are accessing the Athletics class in the same manner, likely due to a lack of proper oversight by SPHS administrators. While P.E. classes are co-ed and taught in both the Boys' and Girls' Gym, the all-girls Athletics class more often uses the subpar Girls' Gym. In addition to affording female athletes unequal treatment and benefits in terms of coaching, training and facilities, these classes further violate Title IX's requirement that a school provide any type of single-sex classes in an evenhanded and substantially equal manner. *See* 34 C.F.R. § 106.34(b).

B. Equal Participation Opportunities

The Department of Education, Office for Civil Rights' 1979 Policy Interpretation created a "three-part" test to determine whether a recipient of federal funds is in fact providing equal participation opportunities for male and female students. 44 Fed. Reg. 71,418.

³ With regard to booster club activity, the Office for Civil Rights, Title IX Investigator's Manual (1990) makes clear that institutions must ensure that equivalent benefits and services are provided to members of both sexes. "Therefore, where booster clubs provide benefits or services that assist only teams of one sex, the institution shall ensure that teams of the other sex receive equivalent benefits and services." *Id.* at 5. Accordingly, if SPHS permits boosters to provide male athletes with resources and amenities disproportionate to those received by female athletes, it must either receive proportionate third party funds for the female teams or provide such from school funds. Simply because boosters provide boys' soccer, or other male teams, with special equipment does not mean Santa Paula High, a federally-funded institution, can allow unequal treatment for girls' teams.

In determining whether a recipient is providing the sexes with “equal athletic opportunity,” one factor listed in the regulations is “[w]hether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes.” 34 C.F.R. § 106.41(c). The 1979 OCR interpretation created a “three-part” test to determine whether a recipient is effectively accommodating both sexes as follows:

- (1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
- (2) Whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of an underrepresented sex; or
- (3) Whether it can be demonstrated that the interests and abilities of the members of an underrepresented sex have been fully and effectively accommodated by the present program.

44 Fed. Reg. 71,418. While initially written in the collegiate context, this test unambiguously applies to high school sports as well. *See Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 855 (9th Cir. 2014) (“[T]he three-part test applies to a high school.”). Here, SPHS cannot show it satisfies the test under any of its three parts.

1. *Part One: Participation Numbers Are Not Substantially Proportionate*

Part one examines whether participation opportunities for male and female students are substantially proportionate to their respective enrollments. *Cohen v. Brown*, 101 F.3d 155, 163 (1st Cir. 1996) (affirming that the “participation opportunities” offered by an institution are measured by counting *actual* participants on teams). “Substantial proportionality requires a close relationship between athletic participation and enrollment.” *Ollier v. Sweetwater Union High School Dist.*, 604 F. Supp. 2d 1264, 1271-72 (S.D. Cal. 2009) (rejecting 6.7% as an acceptable gap between girls’ enrollment and participation in athletics); *Biediger v. Quinnipiac University*, 691 F.3d 85, 91 (2d Cir. 2012) (describing a non-compliant 3.62% disparity between female enrollment and female athletic participation).

SPHS cannot show that the numbers of athletic opportunities it provides for females and males are substantially proportionate. Based on the most recent available numbers, SPHS enrollment is evenly split between female students (50%) and male students (50%).⁴ However, based on an analysis of recent seasons, female students receive approximately 44% of athletic opportunities overall, constituting a participation gap of 6%. SPHS would need to add 69 female athletes, or roughly three to four girls’ teams, to be proportional under Title IX.

⁴ See School Accountability Report Card, available at <http://www.sphs.net/news/sarc/sphs-sarc-english-2011-2012.pdf>.

Therefore, SPHS fails part one of the test. *See Ollier v. Sweetwater Union High School Dist.*, 768 F.3d 843, 856-57 (9th Cir. 2014) (affirming as unacceptable 6.7% gap between female enrollment and participation in athletics).

2. *Part Two: No History or Practice of Program Expansion for Female Students*

Where an institution fails to meet proportionality under part one, it bears the burden of showing a history and continuing practice of program expansion demonstrably responsive to girls' interest. *Cohen v. Brown Univ.*, 991 F.2d 888, 901-02 (1st Cir. 1993). Part two examines an "institution's record of adding female participation opportunities and its current 'plan of program expansion that is demonstrably responsive to the developing interests and abilities' of women." *Mansourian v. Regents of Univ. of Cal.*, 602 F.3d 957, 969 (9th Cir. 2010) (citing the 1996 Office for Civil Rights Guidance Letter); *see also Bryant v. Colgate University*, No. 93-CV-1029, 1996 WL 328446 at *11 (N.D.N.Y. June 11, 1996) ("[t]he hallmarks of this defense are *continuity and persistence*." (emphasis added)). Title IX was passed over forty years ago and thus, all publicly-funded educational institutions have been on notice of the law's requirements since the 1970s. *See Ollier*, 768 F.3d at 857 (finding defendants failed to demonstrate a history and continuing practice where female participation had dramatic ups and downs during the relevant period).

Here, SPHS has a history of *rejecting* program expansions for female athletes. For example, Santa Paula High tried to establish a girls' cross country team in 2011, yet SPHS administrators cancelled the team despite student interest. Cross country has since been added for girls, yet the program has developed in fits and starts by beginning one year, being cancelled, then re-emerging.

3. *Part Three: No Effective Accommodation of the Interests of Female Students*

As to part three, "[i]f there is sufficient interest and ability among [girls], not slaked by existing programs, an institution necessarily fails this prong of the test." *Cohen*, 991 F.2d at 898. *See, e.g., Ollier*, 768 F.3d at 858-59 (noting school's inability to find a field hockey coach does not indicate female students' interest waned). It is not a defense to cite evidence that more boys try out or express interest in sports, if interested girls are turned away. *Neal v. California State Universities*, 198 F.3d 763, 769-73 (9th Cir. 1999); *Cohen v. Brown Univ.*, 101 F.3d 184, 178-80 (1st Cir. 1996).

Here, SPHS female students' interest in athletics is not slaked by existing programs. SPHS does not adequately accommodate girls interested in participating in that more girls try out for soccer and other female teams than are able to play. For example, one female student tried out for soccer, yet was cut from the team, despite her deep knowledge of the sport and strong desire to play for her school team. SPHS is failing to organize additional teams in line with expressed interest. Several female students have shared their interest in novice-level soccer, softball, volleyball and basketball, yet SPHS has not established girls' novice teams in these sports. SPHS offers boys' freshmen teams in basketball and soccer, but no counterpart for girls. Girls are often cut from teams after try-outs, despite expressing clear interest in participation. Further, female students interested in athletics are often not aware of try-outs being held (and

public address system announcements are difficult to hear), despite their desire to join SPHS sports teams, whereas boys' team try-outs are better advertised. Several girls are interested in playing rugby, although SPHS has not taken steps to gauge female interest in new sports.

Since SPHS does not accommodate female interest in athletics, SPHS does not meet part three of the test.

C. Retaliation

“[R]etaliation against individuals because they complain of sex discrimination is ‘intentional conduct that violates the clear terms of [Title IX].’” *Ollier v. Sweetwater Union High Sch. Dist.*, 858 F. Supp. 2d at 1113. We believe SPHS and District administrators and staff have violated Title IX by retaliating against female students after such students spoke out about the unequal treatment of girls at the school. The faculty has been a target of retaliation as well.

Under Title IX, to establish a *prima facie* case of retaliation plaintiffs must show they engaged in a protected activity, that they were thereafter subjected to an adverse action, and that a causal link exists between the protected activity and the adverse action. *Id.* We believe all three parts of a *prima facie* case are met here.

First, female SPHS students clearly engaged in protected Title IX activity by attempting to file Title IX complaints with the school in fall 2013, but were purposely given the run-around by administrators. In addition, on November 21, 2013, several female students attended a school board meeting with their parents and supporters, testifying about the need for better athletic facilities under Title IX. Second, female students exercising Title IX rights were subject to adverse actions. For example, it is our understanding that some of the students who attended the school board meeting have since been brought more frequently before the disciplinary “School Attendance Review Board” (“SARB”) in comparison to their peers. Further, Santa Paula High’s only female P.E. teacher, who has been vocal about facility inequities and Title IX, has been placed on administrative leave shortly after conducting Title IX-related advocacy activities with students. The act of openly disciplining the teacher created a chilling effect, curbing student interest in publicly discussing and asserting Title IX rights. As the Ninth Circuit recently recognized, female students may assert a retaliation claim based on a school’s act of targeting an advocate for the students, such as a coach, where a suspension or termination impedes the girls’ participation in athletic opportunities. *Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 870 (9th Cir. 2014) (affirming finding that softball Coach Martinez was fired in retaliation for plaintiffs’ Title IX complaints). We believe there is a causal link between female students’ participation in Title IX advocacy and the disciplinary actions taken against female students and faculty.

Efforts to retaliate against those individuals highlighting gender inequities at SPHS appear to be continuing, if not worsening. To be clear, Title IX *does not permit* any such retaliation by SPHS and District administrators.

III. REMEDY

We request that SPHS take immediate steps to remedy violations of Title IX. If we do not hear from you by May 19, 2015 regarding concrete changes to address Title IX violations, we intend to file a complaint in the U.S. District Court for the Central District of California. For your information, from the Title IX matter of *Ollier v. Sweetwater Unified School District*, we enclose a copy of the Southern District of California's 2009 Order Granting Plaintiffs' Motion for Summary Adjudication, that court's 2012 Findings of Fact and Conclusions of Law, and the Ninth Circuit Court of Appeals' September 2014 decision affirming the entirety of the trial court's rulings. In 2009, 2012, and 2014 the district and appellate courts found in favor of the female athlete plaintiffs in the *Sweetwater* matter. There the school district chose not to engage in productive, structured negotiations, instead opting to litigate for more than seven years, at the expense of the plaintiffs, their families, and all female student athletes. For further background, we also include a copy of the 2009 Fee Order from the Central District of California in the Title IX case *Cruz v. Alhambra School District*. We hope to avoid litigation and resolve these critical issues through negotiations. However, if we are not able to reach a fair and just resolution, we will have little choice but to pursue litigation.

Please direct all communications regarding these matters to the Legal Aid Society-Employment Law Center. We look forward to hearing from you.

Sincerely,

Kim Turner &
Elizabeth Kristen



Harrison Frahn



Laura Riley



Legal Aid Society-
Employment Law Center

Simpson Thacher & Bartlett
LLP

California Women's
Law Center

Encl.

- *Ollier v. Sweetwater*, Ninth Circuit Court of Appeals Decision (September 2014)
- *Ollier v. Sweetwater*, Findings of Fact and Conclusions of Law (February 2012)
- *Ollier v. Sweetwater*, Order Granting Plaintiffs' Motion for Summary Adjudication (March 2009)
- *Cruz v. Alhambra School District*, Fee Order (2009)