



2. In answer to paragraph two of Plaintiffs' Complaint, Defendants deny that they deprived C.S. of equal treatment and benefits or that they have engaged in gender discrimination against Plaintiffs' daughter. Likewise, the remaining allegations in paragraph 2 of Plaintiffs' Complaint are denied.

3. In answer to paragraph three of Plaintiffs' Complaint, Defendants admit that Plaintiffs seek to redress the alleged deprivation of Plaintiffs' daughter's rights and that Plaintiffs seek declaratory judgment and injunctive relief.

4. In answer to paragraph four of Plaintiffs' Complaint, Defendants admit that Plaintiffs seek injunctive relief; the remaining allegations of paragraph four are denied.

#### **JURISDICTION AND VENUE**

5. Defendants admit the allegations of paragraph five of Plaintiffs' Complaint.

6. Defendants admit the allegations of paragraph six of Plaintiffs' Complaint.

7. Defendants admit the allegations of paragraph seven of Plaintiffs' Complaint.

8. Defendants admit the allegations of paragraph seven of Plaintiffs' Complaint.

#### **THE PARTIES**

9. In answer to paragraph nine of Plaintiffs' Complaint, Defendants admit that to the best of their knowledge, K.S. and K.S. are the parents of C.S. Defendants deny that C.S. has endured unequal treatment and benefits directed by Defendants toward its female athletes. Defendants admit that to the best of their knowledge, the Plaintiffs are residents of McIntosh County, Oklahoma, and further admit that, as residents of McIntosh County, are within the jurisdiction of this Court.

10. In answer to paragraph ten of Plaintiffs' Complaint, Defendants admit that Eufaula ISD No. 1 of McIntosh County, Oklahoma is a public school district authorized by

Oklahoma law to operate and control Eufaula Public Schools, that Eufaula Public School District is located in Eufaula, Oklahoma, and that Eufaula is within this judicial district. Furthermore, Eufaula School District admits that it has received and continues to receive federal financial assistance. Defendant School District admits that it is subject to the requirements of Title IX and that C.S. is a student enrolled in Eufaula Public Schools.

11. In answer to paragraph eleven of Plaintiffs' Complaint, Defendant Bill Wilson admits that he is the Superintendent of Schools at Eufaula Public Schools. Superintendent further admits that he is a resident of the State of Oklahoma and subject to the jurisdiction of this Court. Defendant Wilson is sued only in his official capacity, as superintendent of Eufaula Public Schools.

12. Defendants do not have sufficient information to admit or deny the allegations contained in paragraph twelve of Plaintiffs' complaint.

**GENERAL ALLEGATIONS  
THE REQUIREMENTS OF TITLE IX**

13. Paragraph thirteen of Plaintiffs' Complaint is a statement of Title IX and requires no answer of Defendants. The Eufaula School District acknowledges that it is subject to Title IX.

14. Paragraph fourteen of Plaintiffs' Complaint is a statement regarding the regulations interpreting Title IX and requires no answer of Defendants.

15. Paragraph fifteen of Plaintiffs' Complaint is a statement of § 106.41(a) of 34 C.F.R. and requires no answer of Defendants.

16. Paragraph sixteen of Plaintiffs' Complaint is a statement of 34 C.F.R. § 106.41(c) and requires no answer of Defendants.

17. Paragraph seventeen of Plaintiffs' Complaint references the Office of Civil Rights

of the Department of Education's policy interpretation of Title IX and related regulations. It requires no answer of Defendants.

18. Paragraph eighteen of Plaintiffs' Complaint and related footnote 1 is a statement of requirements of 34 C.F.R. § 106.41(c) and requires no answer of Defendants.

19. Paragraph nineteen of Plaintiffs' Complaint, is a recitation of the requirements of the Policy Interpretation with respect to the three part test for equivalent participation opportunities and requires no answer of Defendants.

20. Paragraph twenty of Plaintiffs' Complaint is a characterization of the regulations and policy interpretation regarding Title IX compliance concerning equal treatment and benefits. It requires no answer of Defendants.

21. In answer to paragraph twenty-one of Plaintiffs' Complaint, Defendants admit, that the School District is required to take such remedial actions as are necessary to overcome the effect of gender discrimination, when found in violation of Title IX. Defendants deny that they have failed to take the required remedial action necessary to place the School District in compliance with Title IX.

22. In answer to paragraph twenty-two of Plaintiffs' Complaint, Defendants admit that time lines for compliance are a part of Title IX and its Regulations. Defendant denies Plaintiffs' allegation that it has failed to comply with Title IX.

#### **THE U.S. CONSTITUTION**

23. Paragraph twenty-three of Plaintiffs' Complaint is a statement of the Fourteenth Amendment and requires no answer of Defendants.

24. Paragraph twenty-four of Plaintiffs' Complaint is a characterization of 42 U.S.C. § 1983 and requires no answer of Defendants.

**INJUNCTIVE RELIEF**

25. Defendants deny the allegations contained in paragraph twenty-five of Plaintiffs' Complaint.

**ATTORNEYS' FEES**

26. In answer to paragraph twenty-six of Plaintiffs' Complaint, Defendants deny that Plaintiffs were required to retain legal counsel in order to present their claims to the Defendants. Plaintiffs had ample opportunity in accordance with the District's policies and practices to approach the School District's Director of Athletics, Superintendent and/or Board of Education members and, on information and belief, failed to do so with respect to specific claims presented in this lawsuit or simply ignored direct knowledge of the School District's planning for new softball and baseball fields.

**FIRST CLAIM FOR RELIEF: TITLE IX (Unequal Treatment and Benefits)**

27. In answer to paragraph twenty-seven of Plaintiffs' Complaint, Defendants adopt and re-allege its admissions and denials made in connection with paragraphs one through twenty-six above.

28. Defendants deny the allegations contained in paragraph twenty-eight of Plaintiffs' Complaint.

29. Defendants deny the allegations contained in paragraph twenty-nine and related sub-parts of Plaintiffs' Complaint.

30. Defendants deny the allegations contained in paragraph thirty of Plaintiffs' Complaint.

31. Defendants deny the allegations contained in paragraph thirty-one of Plaintiffs' Complaint.

32. Defendants deny the allegations contained in paragraph thirty-two of Plaintiffs' Complaint.

**SECOND CLAIM FOR RELIEF: EQUAL PROTECTION  
(All Defendants)**

33. In answer to paragraph thirty-three of Plaintiffs' Complaint, Defendants adopt and re-allege its admissions and denials made in connection with paragraphs one through thirty-two above.

34. Defendants deny the allegations contained in paragraph thirty-four of Plaintiffs' Complaint.

35. Defendants deny the allegations contained in paragraph thirty-five of Plaintiffs' Complaint.

36. Paragraph thirty-six of Plaintiffs' Complaint is a statement of Section 1983 and requires no answer of Defendants.

37. Defendants deny the allegations contained in paragraph thirty-seven of Plaintiffs' Complaint.

**REQUESTED RELIEF**

38. Defendants deny that Plaintiffs are entitled to the relief requested with respect to parts A, B, and C of this section of their Complaint. Specifically, Defendants deny that an order should issue declaring that the School District has engaged in a past and continuing pattern and practice of discrimination based on students' gender. Defendants respectfully note that Plaintiffs have filed their Complaint on behalf of one student and not on behalf of all female students.

39. Likewise, the School District denies that a permanent injunction is appropriate or required or that an expedited hearing is necessary. Defendants also deny that Plaintiffs should be

awarded attorneys' fees and costs or that other relief, not specifically denominated by Plaintiffs, is proper.

40. Defendants specifically deny each and every allegation contained in Plaintiffs' Complaint except those allegations specifically admitted herein.

41. The Defendants deny each and every allegation contained in the Plaintiffs' Complaint except those allegations specifically admitted.

WHEREFORE, having fully answered the Complaint, Defendants urge that Plaintiffs take nothing by this Complaint.

#### **AFFIRMATIVE DEFENSES**

By way of affirmative defenses, the Eufaula School District and Superintendent state as follows:

42. The School District's program of school sponsored sports is managed and administered in a nondiscriminatory manner and no unlawful or material disparities, attributable to gender discrimination, exist between its softball and baseball programs.

43. The School District provides equipment, supplies, and uniforms for male and female athletes, including C. S., in a nondiscriminatory and gender-neutral manner.

44. Locker rooms, practice and competitive facilities are allocated in a non-discriminatory manner based on the teams and activities which must draw upon available facilities and the particular sport's competitive schedule.

45. There is an absence of any indication of intentional discrimination on the part of the School District or its Superintendent.

46. There is no policy, custom, or practice of the School District which results in disparate treatment of C.S. as compared with their male counterparts and Plaintiffs have failed to

plead facts sufficient to support § 1983 liability.

47. Neither the School District nor Superintendent have actual notice or knowledge of gender inequity in connection with the School District's program of school sponsored sports generally, or specifically involving its baseball and softball offerings.

48. The minimum requirements for injunctive relief have not been satisfied by Plaintiffs.

49. Other affirmative defenses may be identified as this litigation proceeds and Defendants reserve the right to add affirmative defenses as the lawsuit proceeds.

Respectfully submitted,

s/ Andrea Kunkel  
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ATTORNEY FOR DEFENDANT

**CERTIFICATE OF MAILING**

I hereby certify that on the 19<sup>th</sup> of March, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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s/Andrea Kunkel  
Andrea Kunkel