

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROBERT AND CHERYL MCCARTNEY,)
as parents and next friends of their minor)
daughter, ALLISON MCCARTNEY; DEBORAH)
and MICHAEL JOHNSON, as parents and next)
friends of their minor daughter, RIKEE)
JOHNSON; and DANIEL and KELLY JANTZ)
as parents and next friends of their minor daughter)
SHELBY SHEATS,)

Plaintiffs,)

vs.)

INDEPENDENT SCHOOL DISTRICT NO. 32)
of MAYES COUNTY, a/k/a CHOUTEAU PUBLIC)
SCHOOLS; JOHN PHILLIPS, individually and in)
his official capacity as Superintendent, and Does 1)
through 50,)

Defendants.)

FILED

JUN 27 2000 SA

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Case No.: 99-CV-0660 BU (J)
CLASS ACTION

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the Plaintiffs, Robert and Cheryl McCartney, as parents and next friend of their minor daughter, Allison McCartney; Deborah and Michael Johnson, as parents and next friend of their minor daughter, Rikee Johnson; and Daniel and Kelly Jantz, as parents and next friend of their minor daughter, Shelby Sheats and the Defendants, Independent School District No. 32 of Mayes County, Oklahoma, also known as Chouteau-Mazie Public Schools (hereafter "School District") and John Phillips, individually and in his official capacity as Superintendent (hereafter "Phillips"). Plaintiffs are also representatives of a class certified as "All present and future female students enrolled at Chouteau Public Schools who participate, seek to participate, or are deterred from participating in interscholastic and other school-sponsored athletics at Chouteau Public Schools."

WHEREAS, Plaintiffs have sued the School District with respect to their claims that the School District has violated Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and have contended that the School District has denied female students at the School District an equal opportunity to participate in interscholastic and other school sponsored athletics and have denied equal treatment and benefits that should accompany equal participation opportunities;

WHEREAS, the School District and Phillips denied the violations of Title IX attributed to either or both of them and have contended that the District's sports' program is responsive to the interest of girls in school sports and have contended in their Answer that female students have participation opportunities and treatment and benefits that are equivalent to those available to male students;

WHEREAS, Plaintiffs and the School District desire to avoid the uncertainty, time, and expense of maintaining and defending a lawsuit which would consider and decide their competing positions;

WHEREAS, this Agreement represents the Plaintiffs' and Defendant's mutual desire for the District to achieve full compliance with Title IX and its implementing regulations regardless of the parties' divergent views regarding compliance;

NOW THEREFORE, intending to be legally bound hereby, the parties agree to settle this matter as set forth below.

1. The School District agrees to take affirmative steps to increase the participation of female students in the District's athletic program. The District shall, by May 20, conduct a sports interest survey for the specific purpose of determining the interest of female students in grades 5 thru 11 in the addition of and participation in volleyball and soccer at the high school level and volleyball, soccer, and fast and slow pitch softball at the middle school level. Based on the results of the student interest survey, specific to those sports, and in combination with other factors related to the assessment of interest, the District shall add girls' sports for the 2000-2001 school year if necessary to accommodate girls' interest in school sponsored sports. The District agrees to engage in the active promotion of sports participation opportunities available to girls and active promotion of the dates for try-outs for various sports. The District's addition of new sports shall include the assignment of coaching salaries in a gender neutral fashion.

2. The School District shall conduct a written survey of student interest in school sports at least once every three years following the Spring 2000 sports interest survey. The survey shall serve as an aid in determining the interest of female students in school sponsored sports and may be conducted more frequently if the school elects to do so. The survey shall be one of several tools utilized by the District in assessing the extent to which its athletic program is responsive to student interest. Other tools which the District may utilize include the professional opinion of the District's coaching staff, parental and student comment, information regarding sports activities that are prominent in the surrounding community, the effect of potential new sports on existing school sponsored sports' opportunities for girls, and similar information. The School District shall utilize this

information to determine whether new sports should be offered to female students or whether additional teams involving existing sports should be added. The District's review of its existing sports program and the extent to which it accommodates girls' interest in sports should be an ongoing process involving the District's continuous monitoring of the opportunities for girls to participate in sports combined with ensuring that sports offered are responsive to girls' interest in sports.

3. The School District agrees to establish a system for accounting for revenues and expenditures for male and female sports. A revenue and expenditure report shall be available from the School District, upon written request, within twenty working days following the closure of the District's fiscal year (June 30) which shall show for each sport the amount expended by the District with respect to the sport. An individual requesting copies of this information shall pay the District's customary cost for public records. An individual may also choose to inspect records and may do so in accordance with the provisions of the *Oklahoma Open Records Act* which includes the right to inspect public records. Sources of revenues and expenditures shall include general fund revenues, booster club donations, or other third party donations or payments. The District agrees that it has the responsibility to equitably support boys' and girls' sports.

4. The District shall publish to students at least once during the 2000-2001 school year its commitment to equal opportunity for male and female student athletes to include participation opportunities and equal treatment and benefits, notice of the District's grievance procedure which can be used for reporting possible gender inequity with respect to the District's sports offerings, and the identity, address, and telephone number of the District's Title IX Compliance Officer.

5. The School District for the 2000-2001 school year shall institute specific training related to gender equity in school sponsored sports which training shall be delivered to the District's administrative and athletic staff and shall also include any other staff members or volunteers who are associated with the District's program of school sponsored sports. Upon a public records request, the District shall furnish information concerning the date, time and location of training and shall also furnish a program agenda sufficient for any interested party to identify the matters covered.

6. The District shall encourage parents to support interscholastic sports through fundraisers and in other ways designed to enhance opportunities to secure financial and parental support for school sponsored sports. Plaintiffs for themselves and the class they represent agree that parental support of school sponsored sports is a critical component of a well-rounded and successful sports program. To this end Plaintiffs agree to support the District's school sponsored sports' program as boys' parents are requested and

encouraged to participate in the support of school sports. The reference to parental contributions, in this Section, refers to Plaintiffs and class efforts made in support of school sports and is not meant as a reference to a specific level of monetary contributions.

7. The School District acknowledges its obligation to select coaches for all teams (male and female) using the same criteria and with the same motivation to attract qualified and skilled coaches. Plaintiffs acknowledge that not all sports or teams or schools are able to attract equally qualified coaches. The School District must utilize a gender neutral system for attracting coaches for all of its teams. Similarly, if the District chooses to use lay or volunteer coaches it must afford the opportunity for additional coaching without regard to team gender. The coach-player ratio shall be consistent with the regulations of Title IX. Coaches, with respect to the scheduling of games, shall make reasonable effort to schedule a full slate of competition opportunities for teams and shall alert the District's Athletic Director of any reasons resulting in a reduced competition schedule.

8. The District's first position opening, which includes a coaching position, will be reserved for a girls' team head coach. This obligation may also be satisfied by assigning an individual who is not currently a head coach to a position as head coach for a girls' sport.

9. The District shall, beginning with the 2000-2001 school year, provide off season training opportunities to female athletes that are equivalent to those available to male athletes. This recognizes that a student's capacity to use the opportunity may be affected by factors such as the student's academic schedule or other sports or activities selected by the student.

10. The School District agrees that it has an obligation to furnish equipment, supplies, and uniforms, for students who participate in school sponsored sports, in a manner that does not discriminate on the basis of gender.

11. Plaintiffs agree, with respect to uniforms, equipment, and supplies, to promptly notify the Athletic Director or the Superintendent in writing of any instance where they have formed a belief that equipment, supplies, or uniforms fall short of Title IX requirements. This shall include equipment, supplies, or uniforms which Plaintiffs believe are the responsibility of the school to provide to female athletes and which Plaintiffs have concluded are routinely provided to male teams or athletes. Plaintiffs' notification to the Athletic Director or the Superintendent shall include the facts underlying their belief that female students have been treated unfairly with respect to these areas and that any disparity in treatment is based on gender. Plaintiffs, in addition to or as a part of

notification, may utilize the District's grievance procedure applicable to claims of discrimination.

12. The School District has a designated weight room which is available to students without regard to gender. In order to facilitate meaningful use of the weight facilities, the District shall insure that coaches of female teams receive special instruction regarding the value of strength and conditioning and with respect to the use of the weight room to enhance athletic skills and training. Supervision of the weight room shall be performed in a manner conducive to equal access to weight facilities and equipment for males and females. Signage added to the outside of the weight room shall identify it as a "Co-Educational Weight Facility".

13. The girls' dressing room located in the junior high school gym shall be furnished with a set of dumbbells ranging in weight from 3 to 21 pounds, and free weights in poundage appropriate for female use. Access to the heavier weights located in the boys' junior high dressing room shall be available to girls during hours which shall be specified at the beginning of each school year.

14. The parties have toured the District's facilities for the purpose of identifying modifications to facilities which are desirable to ensure that the District's athletic facilities, assigned to female athletes, are equivalent to those available to male athletes. Improvements to the District's softball field shall include:

- a. purchase of movable fencing which shall be installed in connection with the fast pitch softball season to establish a fence distance - between 185' and 225';
- b. modification of the existing press box to include enclosure of the press box and any public address system added to the press box on the baseball field shall be duplicated in the press box on the softball field;
- c. signage installed on the fence of the softball field which identifies the District's softball field and advises the public that the District's teams have priority use of the field;
- d. maintenance of the field prior to the 2000 fast pitch softball season shall include overseeding, aeration, spraying of pre and post emergent, and sand to be used to fill in ruts in the field;

- e. construction of a bull-pen in an area to be mutually determined;
- f. construction of a batting cage to include a frame with net (which District has on site) to be hung at the beginning of each softball season and removed at the end of the season to avoid unnecessary wear, tear, and vandalism to the net;
- g. dug-outs and dug-out benches which shall duplicate those on the baseball field;
- h. consideration shall be given to replacing the scoreboard on the softball field with a larger scoreboard at such time as a larger scoreboard becomes available or when the District replaces the existing scoreboard.

The District has a football locker room located at the south end of the football field and two girls' and two boys' locker rooms located in the Middle School Gym. The football locker room shall continue to be used by male athletes during the football season and the remainder of the first semester. During the second semester of each year the football locker room shall be utilized for girls' sports as designated by the School District. The District reserves the discretion to provide for boys' and girls' use of the football locker room outside of the period when the facility is designated primarily for use by boys or girls as long as the use does not interfere with the primary gender's scheduled use of the facility. Dual use of the facility shall end at such time as the District has added facilities that provide adequate locker/dressing room facilities sufficient to meet the needs of both genders.

15. The schedule for basketball games shall be based on gender neutral factors. This is not an issue when junior varsity boys and girls compete at the same time in different gyms or where competition is scheduled at non-school locations. To the extent that varsity games are traditionally scheduled to require varsity girls to play just prior to varsity boys — the District shall, in determining the varsity basketball schedule, take into consideration gender neutral factors and shall consider the best interests of the respective teams.

16. The parties agree that athletes in all sports benefit from the attention and publicity that may accompany participation and competition. Attention may be focused on a particular sport or individual athletes based on media interest in sports or athletes which the District may have little or no influence over. Likewise, the attention may be based on

District efforts to recognize sports and athletes such as the introduction of athletes at opportune times during football games or other sporting events prominent in the school district, through pep assemblies, through announcements made over a school's intercom system, or through school or school-related publications that publicize school sports or individual athletes. The District agrees to afford female athletes with publicity that, to the best of its effort, is equivalent to the opportunities for publicity available to male athletes. The parties recognize that teams, male or female, may receive more publicity both inside the District and outside the District, based on fan support for a particular sport, achievement in a given year such as advancement to regional or state competition, or based on the extraordinary accomplishments of a particular team or individual athlete. This extra attention, when not tied to gender, neither violates the District's obligations under Title IX nor creates a special obligation of the District with respect to those athletes or teams who do not receive as much attention as another team or athlete.

17. Female athletes shall be treated in the same manner as male athletes with respect to travel, food, lodging and similar privileges. This means that females who have the opportunity to participate in out-of-state tournaments shall be given the same benefits as males who have that opportunity. Male and female students shall be treated in the same manner with respect to travel arrangements, housing, meals and similar areas in matters that involve support for teams and athletes.

18. The District and Plaintiffs acknowledge the interest that athletes participating in school sponsored sports may have in connection with scholarship opportunities connected with sports. The District's coaches shall be responsive to student or parent requests to respond to third party requests for information regarding a student and her involvement in school sports. Students and parents should alert coaches to pending requests for information and should cooperate with the coaches in the provision of information relevant to outside inquiries.

19. This Settlement Agreement is approved by and entered as an order and judgment of the Court and shall be subject to the full enforcement powers of the Court. The parties agree not to object to the Court's authority to enforce the terms of the Settlement Agreement. In the event a party believes that there has been a default of an obligation created by this Agreement and that the default is the result of gender discrimination, prohibited by Title IX, such party shall take its complaint through the District's Grievance Procedure applicable to claims of discrimination.

20. Plaintiffs agree to release and by this instrument release the School District and Phillips, their attorneys, assigns and successors, of any and all claims, liabilities, or actions which Plaintiffs presently have or have had against the School District and Phillips existing as of the date of execution of this Agreement.

21. The parties shall enter a Stipulation for Dismissal With Prejudice which shall be filed in this matter within five calendar days of the final disposition of all issues including the issue of attorney fees and costs, which shall be addressed in a separate document.


22. This Agreement shall be binding on the successors, assigns, and transferees of the School District and the Plaintiffs as well as the class which the named Plaintiffs represent.

23. This Agreement contains the complete description of the terms between the parties. All material representations, understandings and promises of the parties are contained in this Agreement and the separate document concerning attorney fees and costs.

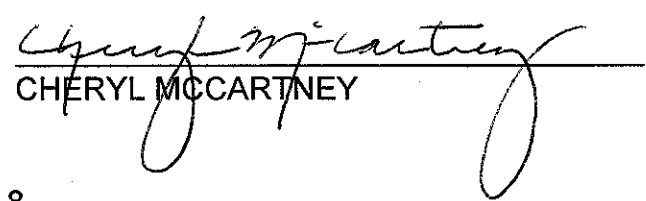
24. Any modifications to this Agreement must be set forth in writing and signed by all parties.

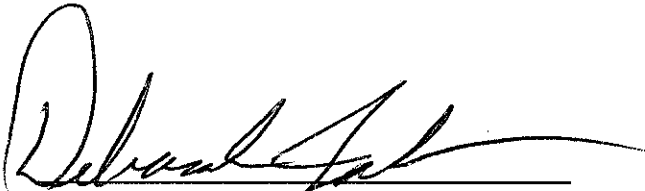
25. The parties acknowledge that each has been represented by legal counsel, of their choice, at all times material to this action and that they have had a full opportunity to consult with legal counsel throughout the legal proceedings occasioned by Plaintiffs' lawsuit.

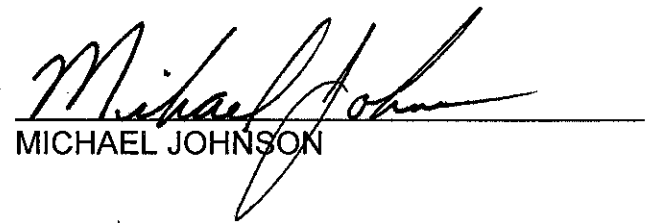
Signed this 27th day of June, 2000.


HONORABLE MICHAEL BURRAGE
JUDGE OF THE DISTRICT COURT

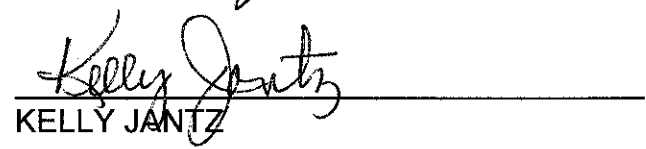

ROBERT MCCARTNEY


CHERYL MCCARTNEY

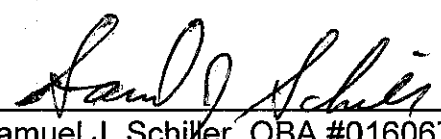

DEBORAH JOHNSON


MICHAEL JOHNSON

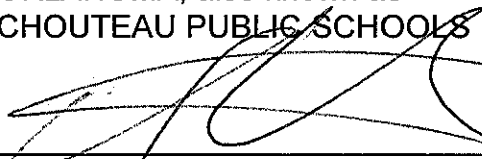

DANIEL JANTZ

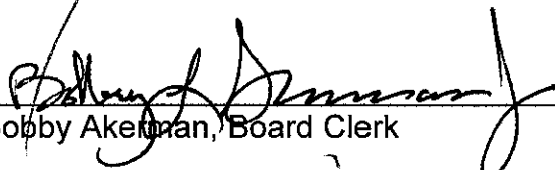

KELLY JANTZ

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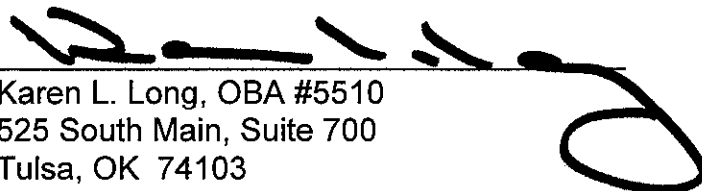
INDEPENDENT SCHOOL DISTRICT
NO. 32 OF TULSA COUNTY,
OKLAHOMA, also known as
CHOUTEAU PUBLIC SCHOOLS

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Board of Education

By: 
Bobby Akerman, Board Clerk

By: 
John Phillips, Superintendent

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