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April 17, 2026

Sent Via E-mail to

Bradley R. Burke  
Regional Director, Office for Civil Rights  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106

Frank E. Miller  
Director,  
Student Privacy Policy Office  
U.S. Department of Education  
400 Maryland Ave., S.W.  
Washington, D.C. 20009

Re: Olathe Public Schools (USD 233) (OCR Case No. 07251502 & SPPO No. 25-0737)

Dear Mr. Burke & Mr. Miller:

As you know, I represent Olathe Public Schools (Olathe or District). We have met for the past four months during which time Olathe has addressed all three issues raised in your August 14, 2025, letter. The three issues were not new to Olathe as the District was already in compliance with the law at the time of your 2025 letter. Olathe has confirmed that its staff were, and continue to be, in compliance with the law as they work with our students and families.

Nevertheless, Olathe has enclosed its guidance document with the specific language requested by your offices during these past four months. Most importantly, this guidance protects the rights of all students in Olathe. It also resolves all three issues in the pending investigations by --

1. The Office of Civil Rights (OCR) under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. and 34 C.F.R. Part 106 (Title IX) (OCR Case No. 07251502); and
2. The Student Privacy Policy Office (SPPO) under the Family Educational Rights and Privacy Act 20 U.S.C. § 1232g and 34 CFR Part 99 (FERPA) (SPPO No. 25-0737).

At the specific request of OCR and SPPO, Olathe has rescinded its prior guidance referenced in your August 14, 2025, letter and prepared the enclosed Guidance Regarding Athletics, Facilities and Education Records” (“Guidance”) to voluntarily comply and resolve all three issues.

As you know, OCR is required under Title IX law to take no action until it “has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.” It “shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.” Voluntary

compliance is critical to improving government efficiency, saving taxpayers money, and expediting compliance, so that we may meet our joint goal, which is to serve and protect all students in the District. Each of the three issues is described further below.

1. Athletics: Title IX requires that “no person in the United States 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.” The District’s Guidance included an explicit reference to require compliance with Title IX for athletics. The District has been, is, and agrees to continue to be, in compliance with applicable Title IX law and Kansas law regarding its athletics policy. Despite the flux in national law notwithstanding (including a decision currently pending by the U.S. Supreme Court) and at OCR’s specific request, the District has updated its Guidance to add references to its intramural athletic programs for high school students.
2. Facilities: The District has been, is, and agrees to continue to be, in compliance with applicable Title IX law and Kansas law regarding use of facilities as it maintains separate restrooms, locker rooms and showers for boy and girl students. Despite federal appellate case law in the 10<sup>th</sup> Circuit Court of Appeals, and specifically at OCR’s request, the District updated its Guidance to confirm that it maintains restrooms, locker rooms and showers as well as overnight accommodations separately for boys and girls.

Equally importantly, to protect the safety, privacy and disability rights of all students, the District includes in its Guidance a provision that it will make available, as appropriate, separate use facilities, including restrooms, locker and shower rooms, and overnight accommodations, to protect all students and that this determination is, and will continue to be, made generally at the building level by the principal. This provision is critical to not only protect the rights of all students, but also to comply with multiple laws (including, but not limited to, the U.S. Constitution, Title IX, the Individuals with Disabilities Act and Section 504 of the Rehabilitation Act).

3. FERPA: Under FERPA, the District must provide parents with access to the education record it maintains for a student in attendance. The District has been, is, and agrees to continue to be, in compliance with FERPA requirements regarding providing parents with access to their student’s education record, consistent with FERPA.

During our discussions from January through April 2026, the District has confirmed that staff and teachers have not, currently do not, and would not, maintain more than one education record for a student. Moreover, in response to SPPO’s inquiry, the District confirmed that it has not ever maintained a separate education record regarding a student’s gender identity. At SPPO’s request, the District updated its Guidance to add language that its annual orientation training for staff will include the FERPA requirements regarding parent access to the student’s education record maintained by the District.

Please find enclosed the updated Guidance document. We trust that this Guidance document, once finalized, would resolve all three issues raised in the ongoing investigations. Kindly confirm receipt of this letter as well as resolution of all three issues.

We look forward to hearing from you.

Sincerely,

*Kala Shah*

Kala Shah

Enc.

cc: (by e-mail)

Brent Yeager (Superintendent, USD 233) (w/enc.)

Chris A. Pittman, Esq. (Counsel, USD 233) (w/enc.)