

August 29, 2025

Sent Via Email: Bradley.Burke@ed.gov

Bradley R. Burke
Regional Director
Office for Civil Rights
U.S. Department of Education

**RE: OCR Case Nos. 07251501, 07251502, 07251503, 07251504
SPPO Case Nos. 25-0738, 25-0737, 25-0739, 25-0704**

**Requests for Extension of Time to Respond to Data Requests and
for Clarification regarding Data Requests**

Mr. Burke,

Kansas City, Kansas School District U.S.D. 500, Olathe School District U.S.D. 233, Shawnee Mission School District U.S.D. 512, and Topeka School District U.S.D. 501 (collectively referred to herein as the "School Districts") are in receipt of the Data Requests that the Office for Civil Rights emailed to the respective superintendents on August 22, 2025. Because the School Districts received nearly identical investigation notice letters and Data Requests, this letter is provided jointly to efficiently address certain items in your letter and accompanying Data Requests.

The School Districts are unable to submit a response to the Data Requests within the nine business day deadline set forth in your August 22nd letter. Further, the School Districts also require additional time and clarification on multiple points in order to respond with fidelity to the Data Requests. Consequently, the School Districts request that OCR provide up to 90 additional days for submission of their responses to the Data Requests, with the 90-day timeline to begin running after sufficient clarification has been provided to enable the School Districts to understand what information OCR is seeking as well as pursuant to what authority OCR is seeking such information.

In your letter you requested a point of contact for this investigation and "*the individual authorized by the District to resolve any concerns identified or findings of noncompliance.*" The undersigned counsel for each School District will be the point of contact. Additionally, you can grant access to each undersigned counsel to the SharePoint site.

With respect to OCR's Data Requests regarding guidance the School Districts have received, the undersigned counsel provide legal guidance to their respective School Districts on a variety of legal matters, including on compliance with Title IX and other civil rights laws with respect to sex and gender identity.

Your August 22nd letter to the School Districts indicates: *"If you have any questions regarding this Data Request relating to Title IX, please contact Bradley.Burke@ed.gov, or relating to FERPA, please contact FERPA.ComplaintResponse@ed.gov."* Further, the Data Requests issued by OCR appear to seek information regarding both compliance with FERPA and with Title IX. This duality raises questions for the School Districts regarding the distinction between what exact issue(s)/complaint(s) are being investigated by OCR, and what exact issue(s)/complaint(s) are being investigated by SPPO.

As you are aware and as acknowledged in your August 14th correspondence, OCR does not have authority to enforce FERPA. Some of OCR's Data Requests, however, appear to directly relate to compliance with FERPA. Please clarify the legal authority for OCR's Data Requests related to FERPA compliance with specific citation to such authority.

As you may know, the School Districts have not been notified of any parent complaint alleging failure to provide access to education records (or failure to comply with any other parent right afforded under FERPA) that has been filed with the SPPO. Consequently, please clarify whether there is a pending parent/guardian complaint alleging a FERPA violation against any of the School Districts. If any parent/guardian of the School Districts has filed a complaint with the SPPO regarding FERPA, please: (a) provide a copy of the complaint and/or the specific complaint allegations to the appropriate School District, (b) identify the specific provision of FERPA that is alleged to have been violated so that the School District can provide a meaningful response; and (c) identify the SPPO representative who is assigned to the complaint by name, title, and contact information.

With regard to OCR's request for *"A copy of all documentation submitted by the District to the Kansas Department of Education requesting or applying for federal funding, including formula and discretionary grants"*, the School Districts' understanding is that the U.S. Department of Education readily has access to such records. Please clarify whether or not the U.S. Department of Education has access to documents submitted by the School Districts related to federal funding. Please also clarify how such records would be relevant to this investigation or would be determinative of the School Districts' compliance with FERPA or Title IX.

With regard to OCR's Data Requests concerning "*interscholastic athletic and intramural programs*", the School Districts seek clarification regarding the specific civil rights compliance concern that OCR is investigating. The School Districts are all members of the Kansas State High School Activities Association (KSHSAA) and are subject to KSHSAA's policies and rules. After the Kansas legislature passed the Fairness in Women's Sports Act (K.S.A. §§ 60-5601 *et. seq*) in 2023, KSHSAA modified its participation policy. The current KSHSAA policy requires that interscholastic activities "shall be expressly designated as one of the following based on biological sex: 1. Males, men, or boys, 2. females, women, or girls; or 3. coed or mixed."¹

As KSHSAA members, the School Districts must, and do, comply with this participation policy. If any parent/guardian of a School District student has filed a complaint with OCR regarding the KSHSAA participation policy, please: (a) provide a copy of the complaint and/or the specific complaint allegations to the appropriate School District and to KSHSAA, and (b) identify the specific provision of Title IX that is alleged to have been violated so that the School District can provide a meaningful response.

With regard to OCR's Data Requests regarding "*sex-separated restrooms, locker rooms, or changing rooms*", the School Districts seek clarification regarding the specific civil rights compliance concern that OCR is investigating. The School Districts' school buildings are each outfitted with typical sex-separated restrooms and locker rooms that would be present in any school building or other public building. The School Districts ensure students and staff have equal access to facilities, and they ensure equivalent quality and availability of athletic facilities. If any parent/guardian of the School Districts has filed a complaint with OCR regarding equal access to facilities, please: (a) provide a copy of the complaint and/or the specific complaint allegations to the appropriate School District, and (b) identify the specific provision of Title IX that is alleged to have been violated so that the School District can provide a meaningful response.

Thank you in advance for providing the requested clarification. The undersigned counsel have had minimal time to review the Data Requests and may have additional questions and requests for clarification as we work with OCR to resolve this investigation. The undersigned counsel are amenable to meeting with you to discuss the requested points of clarification and to provide information about the School Districts' practices with regard to working with transgender students and their families. We are confident that, through a civil and constructive discussion about the common sense manner in which our school staff work with parents and transgender students, any civil rights compliance concerns can be dispelled.

¹ See KSHSAA Policies for Transgender Student Participation, available here: <https://www.kshsaa.org/Public/PDF/TransgenderPolicyRecommendations.pdf>

Greg Goheen, Legal Counsel
ggoheen@mvplaw.com
Kansas City, Kansas School District U.S.D. 500

Chris Pittman, Staff Counsel
capittman@olatheschools.org
Olathe School District U.S.D. 233

Rachel England, General Counsel
rachelengland@smsd.org
Shawnee Mission School District U.S.D. 512

Donna Whiteman, General Counsel
dwhiteman@tps501.org
Topeka School District U.S.D. 501