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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VERONICA OLLIER; NAUDIA RANGEL,
by her next friends Steve and Carmen Rangel;
MARITZA RANGEL, by her next friends
Steve and Carmen Rangel; AMANDA
HERNANDEZ, by her next friend Armando
Hernandez; ARIANNA HERNANDEZ, by her
next friend Armando Hernandez, individually
and on behalf of all those similarly situated,

Plaintiffs,

vs.

SWEETWATER UNION HIGH SCHOOL
DISTRICT; ARLIE N. RICASA, PEARL
QUINONES, JIM CARTMILL, JAIME
MERCADO, GREG R. SANDOVAL, JESUS
M. GANDARA, EARL WEINS, and
RUSSELL MOORE, in their official
capacities,

Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

JURISDICTION AND VENUE

1. Plaintiffs bring this suit under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* and its interpreting regulations and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution as enforced through 42 U.S.C. § 1983. This Court has jurisdiction over Plaintiff's federal law claims pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and 1343(a)(4).

2. Declaratory and other relief is authorized pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202 for the purpose of determining a question of factual controversy that exists between the parties. A declaration of the correct interpretation of the legal requirements described in this complaint is necessary and appropriate to determine the respective rights and duties of the parties to this action.

3. Venue is proper in the Southern District of California pursuant to 28 U.S.C. § 1391(b), because the events giving rise to Plaintiffs' claims occurred in this District. All Plaintiffs reside in this District, as does the Defendant Sweetwater Union High School District ("Sweetwater"). Plaintiffs are informed and believe and based thereon allege that the individual Defendants reside in this District. In any event, all the individual Defendants engaged in the illegal acts described herein in the District.

INTRODUCTION

4. Plaintiffs bring this action to remedy the unlawful sex discrimination of Sweetwater Union High School District, District employees Jesus M. Gandara, Earl Weins, and Russell Moore (the "individual District Defendants"), and Sweetwater School Board members Arlie N. Ricasa, Pearl Quinones, Jim Cartmill, Jaime Mercado, and Greg R. Sandoval (the "individual School Board Defendants") against present and future female student athletes at Castle Park High School ("Castle Park"). Defendants' unlawful sex discrimination violates female students' rights under Title IX of the Education Amendments of 1972 and the United States Constitution.

5. Defendants have unlawfully failed to provide female student athletes equal

1 treatment and benefits as compared to male athletes.

2 6. Defendants have intentionally discriminated against the female student
3 athletes by funding, authorizing, constructing, renovating, and maintaining a roller hockey
4 rink, a secured, locked, state-of-the-art facility designed and intended primarily for male
5 student athletes. While, at the same time, refusing to provide comparable exclusive state-of-
6 the-art facilities for girls.

7 7. The District and the individual District defendants have discriminated against
8 the female students at Castle Park by failing to provide them with an equal opportunity to
9 participate in athletic programs. Notwithstanding the significant numbers of female students
10 who have the interests and abilities to participate in athletics, the District and the individual
11 District Defendants have failed to offer the female students at Castle Park athletic
12 opportunities proportionate to their numbers. As a result, female students have been unable
13 to participate in team sports, have been deterred from participating, and have been excluded
14 from Castle Park's athletic programs.

15 8. The District cannot demonstrate that its programs nevertheless comply with
16 Title IX despite the failure to provide proportionate numbers of athletic opportunities to the
17 female students at Castle Park. The District does not have a history and continuing practice
18 of expanding its athletic programs in response to the developing interests and abilities of
19 female students. In fact, Castle Park has a history of having cut female athletic opportunities.
20 Accordingly, the failure to provide female students with an equal opportunity to participate
21 has occurred without justification or defense by the District and in total disregard for the
22 female students who have the interest and ability to participate in sports.

23 9. The Defendants' repeated, purposeful differential treatment of female students
24 at Castle Park and female Castle Park athletes reveals an utter disregard for laws protecting
25 against such invidious sex discrimination. The Defendants have continued to unfairly
26 discriminate against females despite persistent complaints by students, parents and others.
27 Plaintiffs and the class they propose to represent have been provided with no other alternative
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1 but to hold the Defendants accountable for their persistent discrimination by instituting this
2 lawsuit.

3 10. In bringing this lawsuit, Plaintiffs seek to require that Defendants comply with
4 Title IX and the Equal Protection Clause of the Fourteenth Amendment to the United States
5 Constitution by ending their discriminatory actions towards the female students at Castle
6 Park and by taking remedial steps to address discrimination in the athletic program.

7 **PARTIES – PLAINTIFFS**

8 11. Plaintiff Veronica Ollier (“VERONICA OLLIER”) is an 18-year-old female
9 who attends Castle Park. VERONICA OLLIER has played basketball and softball and
10 continues to play softball at Castle Park. VERONICA OLLIER intends to play sports in
11 college and hopes to receive an athletic college scholarship. The Defendants have
12 discriminated against VERONICA OLLIER on the basis of her sex by denying her equal
13 athletic treatment and benefits. VERONICA OLLIER is a resident of Chula Vista,
14 California, which is within the jurisdiction of the Southern District of California.

15 12. Plaintiff Naudia Rangel (“NAUDIA RANGEL”) is a 17-year-old minor
16 female who attends Castle Park. NAUDIA RANGEL has played and continues to play
17 softball at Castle Park. NAUDIA RANGEL also has played basketball at Castle Park.
18 NAUDIA RANGEL intends to play softball in college and hopes to receive an athletic
19 college scholarship. The Defendants have discriminated against NAUDIA RANGEL on the
20 basis of her sex by denying her equal athletic treatment and benefits. NAUDIA RANGEL, a
21 minor, is proceeding in this action by her next friends, her mother Carmen Rangel and her
22 father, Steven Rangel. NAUDIA RANGEL and her parents are residents of Chula Vista,
23 California, which is within the jurisdiction of the Southern District of California.

24 13. Plaintiff Maritza Rangel (“MARITZA RANGEL”) is a 14-year-old minor
25 female who attends Castle Park Middle School in Chula Vista, California. MARITZA
26 RANGEL will be attending Castel Park starting in Fall 2007. MARITZA RANGEL intends
27 to play softball at Castle Park. MARITZA RANGEL has played softball since she was
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1 approximately 7 years old. Unless the Defendants cease their discriminatory actions and take
2 remedial action, MARITZA RANGEL will be subjected to discrimination and unequal
3 athletic treatment and benefits. MARITZA RANGEL, a minor, is proceeding in this action
4 by her next friends, her mother Carmen Rangel and her father, Steven Rangel. MARITZA
5 RANGEL and her parents are residents of Chula Vista, California, which is within the
6 jurisdiction of the Southern District of California.

7 14. Plaintiff Amanda Hernandez ("AMANDA HERNANDEZ") is a 14-year-old
8 minor female who attends Castle Park. AMANDA HERNANDEZ has played and continues
9 to play basketball and softball at Castle Park. AMANDA HERNANDEZ intends to play
10 sports in college and hopes to receive an athletic college scholarship. The Defendants have
11 discriminated against AMANDA HERNANDEZ on the basis of her sex by denying her equal
12 athletic treatment and benefits. AMANDA HERNANDEZ, a minor, is proceeding in this
13 action by her next friend, her father, Armando Hernandez. AMANDA HERNANDEZ and
14 her father are residents of Chula Vista, California, which is within the jurisdiction of the
15 Southern District of California.

16 15. Plaintiff Arianna Hernandez ("ARIANNA HERNANDEZ") is a 12-year-old
17 minor female who attends Rancho Del Rey Middle School in Chula Vista, California.
18 ARIANNA HERNANDEZ will be attending Castle Park starting in 2008. ARIANNA
19 HERNANDEZ intends to play softball and soccer at Castle Park. Unless the Defendants
20 cease their discriminatory actions and take remedial action, ARIANNA HERNANDEZ will
21 be subjected to discrimination and unequal athletic treatment and benefits. ARIANNA
22 HERNANDEZ, a minor, is proceeding in this action by her next friend, her father, Armando
23 Hernandez. ARIANNA HERNANDEZ and her father are residents of Chula Vista,
24 California, which is within the jurisdiction of the Southern District of California.

25 **PARTIES – DEFENDANTS**

26 16. Defendant Sweetwater Union High School District is a public school district.
27 The District is a state actor subject to the Fourteenth Amendment's Equal Protection Clause
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1 as enforced through 42 U.S.C. § 1983. Additionally, the District receives federal funding
2 and, therefore, all of its programs and activities are governed by the requirements of Title IX
3 pursuant to 20 U.S.C. § 1687. The District is authorized to operate, and does operate, Castle
4 Park, and is responsible for Castle Park's conduct. The District is located in Chula Vista,
5 California, which is within the Southern District of California.

6 17. Defendant Jesus M. Gandara ("GANDARA") is the Superintendent of
7 Sweetwater Union High School District. Defendant GANDARA has authority and control
8 Castle Park, including its policies, practices, procedures, facilities, maintenance, programs,
9 activities, services, and employees in Castle Park's athletic department. Defendant
10 GANDARA is responsible for ensuring that Castle Park complies with anti-discrimination
11 laws. Defendant GANDARA is a resident of the State of California. Plaintiffs are informed
12 and believe and based thereon allege that Defendant GANDARA resides within the Southern
13 District of California. Defendant GANDARA is sued in his official capacity.

14 18. Defendant Earl Weins ("WEINS") is the principal of Castle Park. Defendant
15 WEINS has authority and control over the day-to-day operations of Castle Park, including its
16 policies, practices, procedures, facilities, maintenance, programs, activities, services, and
17 employees in Castle Park's athletic department. Defendant WEINS is responsible for
18 ensuring that Castle Park complies with anti-discrimination laws. Defendant WEINS is a
19 resident of the State of California. Plaintiffs are informed and believe and based thereon
20 allege that Defendant WEINS resides within the Southern District of California. Defendant
21 WEINS is sued in his official capacity.

22 19. Defendant Russell Moore ("MOORE") is the athletic director at Castle Park.
23 Defendant MOORE has authority and control over the day-to-day operations of Castle Park's
24 athletic department, including its policies, practices, procedures, programs, activities,
25 services, coaches, and teams. Defendant MOORE is a resident of the State of California.
26 Plaintiffs are informed and believe and based thereon allege that Defendant MOORE resides
27 within the Southern District of California. Defendant MOORE is sued in his official
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1 capacity.

2 20. Arlie N. Ricasa ("RICASA") is the Board President of the Sweetwater Board
3 of Education. As Board President, Defendant RICASA is responsible for the actions of the
4 Sweetwater School District and is responsible for ensuring that the District complies with
5 anti-discrimination laws. Defendant RICASA is a resident of the State of California.
6 Plaintiffs are informed and believe and based thereon allege that Defendant RICASA resides
7 within the Southern District of California. Defendant RICASA is sued in his official
8 capacity.

9 21. Pearl Quinones ("QUINONES") is the Board Vice-President of the
10 Sweetwater Board of Education. As Board Vice-President, Defendant QUINONES is
11 responsible for the actions of the Sweetwater School District and is responsible for ensuring
12 that the District complies with anti-discrimination laws. Defendant QUINONES is a resident
13 of the State of California. Plaintiffs are informed and believe and based thereon allege that
14 Defendant QUINONES resides within the Southern District of California. Defendant
15 QUINONES is sued in her official capacity.

16 22. Jim Cartmill ("CARTMILL") is a member of the Sweetwater Board of
17 Education. As a Board Member, Defendant CARTMILL is responsible for the actions of the
18 Sweetwater School District and is responsible for ensuring that the District complies with
19 anti-discrimination laws. Defendant CARTMILL is a resident of the State of California.
20 Plaintiffs are informed and believe and based thereon allege that Defendant CARTMILL
21 resides within the Southern District of California. Defendant CARTMILL is sued in his
22 official capacity.

23 23. Jaime Mercado ("MERCADO") is a member of the Sweetwater Board of
24 Education. As a Board Member, Defendant MERCADO is responsible for the actions of the
25 Sweetwater School District and is responsible for ensuring that the District complies with
26 anti-discrimination laws. Defendant MERCADO is a resident of the State of California.
27 Plaintiffs are informed and believe and based thereon allege that Defendant MERCADO
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1 resides within the Southern District of California. Defendant MERCADO is sued in her
2 official capacity.

3 24. Greg R. Sandoval ("SANDOVAL") is a member of the Sweetwater Board of
4 Education. As a Board Member, Defendant SANDOVAL is responsible for the actions of
5 the Sweetwater School District and is responsible for ensuring that the District complies with
6 anti-discrimination laws. Defendant SANDOVAL is a resident of the State of California.
7 Plaintiffs are informed and believe and based thereon allege that Defendant SANDOVAL
8 resides within the Southern District of California. Defendant SANDOVAL is sued in his
9 official capacity.

10 CLASS ACTION ALLEGATIONS

11 25. The named individual Plaintiffs bring this action on behalf of themselves and
12 on behalf of a class of all those similarly situated pursuant to Rule 23(a) and (b)(2) of the
13 Federal Rules of Civil Procedure.

14 Definition.

15 26. Plaintiffs seek to represent a class of all present and future Castle Park High
16 School female students and potential students who participate, seek to participate, and/or are
17 deterred from participating in athletics at Castle Park High School.

18 Numerosity.

19 27. The class is so numerous that joinder of all members is impractical. The
20 plaintiffs are informed and believe and based thereon allege that there are more than 1,000
21 female students in grades 9 - 12 at Castle Park, including approximately one-third who
22 participate in interscholastic athletics. It is unknown how many of these current female
23 students or how many future female students would seek to participate in interscholastic
24 athletics if additional opportunities were available. Moreover, members of the class who
25 may suffer future injury are not capable of being identified at this time, as the class includes
26 future Castle Park female athletes and the class is constantly in flux, with students graduating
27 and new students attending Castle Park each year.

1 **Common Questions of Law and Fact.**

2 28. Common questions of law and fact predominate, and include: (a) whether
3 female student athletes at Castle Park are receiving unequal treatment and benefits in
4 comparison to the male student athletes; (b) whether female students at Castle Park are being
5 deprived of equal opportunities to participate in sports; and (c) whether female student
6 athletes at Castle Park are being retaliated against because of complaints about sex
7 discrimination in athletics.

8 **Typicality.**

9 29. The claims of the named Plaintiffs are typical of the claims of the class. The
10 types of discrimination and retaliation which Plaintiffs have suffered as a result of sex
11 include (1) receipt of unequal treatment and benefits in Castle Park's sports program, and (2)
12 exclusion from opportunities to participate in sports programs at Castle Park, and are typical
13 of the sex discrimination and retaliation which members of the class have suffered, are
14 suffering, and, unless this Court grants relief, will continue to suffer

15 30. VERONICA OLLIER is a member of the proposed class in that she is a
16 current female student athlete at Castle Park who is subjected to retaliation and to the
17 discriminatory unequal treatment and benefits that the District provides to female student
18 athletes. VERONICA OLLIER has been subjected to sex-based discrimination and
19 retaliation by all Defendants.

20 31. NAUDIA RANGEL is a member of the proposed class in that she is a current
21 female student athlete at Castle Park who is subjected to retaliation and to the discriminatory
22 unequal treatment and benefits that the District provides to female student athletes.
23 NAUDIA RANGEL has been subjected to retaliation and sex-based discrimination by all
24 Defendants.

25 32. MARITZA RANGEL is a member of the proposed class in that she will be a
26 female student athlete at Castle Park for the 2007-2008 school year and will be subjected to
27 the District's retaliation and its failure to accommodate the athletic interest and abilities of
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1 Castle Park's female students, and to the unequal treatment and benefits that the District
2 provides to female student athletes at Castle Park, if the District is not ordered to cease
3 immediately its discriminatory and retaliatory actions and to remedy its past discriminatory
4 and retaliatory conduct. MARITZA RANGEL faces sex-based discrimination and retaliation
5 if all Defendants are not ordered to cease their unlawful acts.

6 33. AMANDA HERNANDEZ is a member of the proposed class in that she is a
7 current female student athlete at Castle Park who is subjected to retaliation and to the
8 discriminatory unequal treatment and benefits that the District provides to female student
9 athletes. AMANDA HERNANDEZ has been subjected to retaliation and sex-based
10 discrimination by all Defendants.

11 34. ARIANNA HERNANDEZ is a member of the proposed class in that she will
12 be a female student athlete at Castle Park for the 2008-2009 school year and will be subjected
13 to the District's retaliation and its failure to accommodate the athletic interest and abilities of
14 Castle Park's female students, and to the unequal treatment and benefits that the District
15 provides to female student athletes at Castle Park, if the District is not ordered to cease
16 immediately its discriminatory and retaliatory actions and to remedy its past discriminatory
17 and retaliatory conduct. ARAINNA HERNANDEZ faces sex-based discrimination and
18 retaliation if all Defendants are not ordered to cease their unlawful acts.

19 **Adequacy of Representation.**

20 35. The named Plaintiffs are members of the proposed class and will fairly and
21 adequately represent and protect the interests of the class. Plaintiffs intend to prosecute this
22 action rigorously in order to secure remedies for the entire class. Counsel of record for
23 Plaintiffs are experienced in state and federal civil rights litigation and class actions,
24 including Title IX litigation.

25 **Injunctive and Declaratory Relief**

26 36. Defendants have acted or refused to act on grounds generally applicable to the
27 class, thereby making appropriate final declaratory and injunctive relief with respect to the
28

1 class as a whole under Federal Rule of Civil Procedure 23(b)(2).

2 **STATEMENT OF FACTS**

3 37. Plaintiffs claim that Defendants have been and are discriminating and
4 retaliating against present and future female students at Castle Park in violation of Title IX
5 and the United States Constitution.

6 38. Defendants were put on notice of their illegal discrimination and retaliation
7 against girls. Both parents and students complained about Title IX violations and/or unfair
8 treatment for female athletes. In or around May 2006, in response to a complaint about Title
9 IX violations Defendant MOORE stated that softball Coach Chris Martinez, a highly
10 qualified and well-loved softball coach, could be fired at any time for any reason.
11 Undeterred by this threat, Plaintiffs continued to press for improvements to girls' athletics
12 programs at Castle Park. Mr. Martinez was terminated, as threatened, on Wednesday, July
13 19, 2006.

14 39. Defendants were again put on notice of their discriminatory and retaliatory
15 conduct and actions when Plaintiffs' counsel sent a letter to the School Board, Interim
16 Superintendent, Principal, and Athletic Director on or about July 27, 2006. However, the
17 discrimination and retaliation against female athletes has continued.

18 **SEX-BASED DISCRIMINATION IN ATHLETIC TREATMENT AND BENEFITS.**

19 40. The District and the individual Defendants have unlawfully discriminated
20 against female student athletes with respect to athletic treatment and benefits in areas
21 including, but not limited to: practice and competitive facilities; locker rooms; training
22 facilities; equipment and supplies; travel and transportation, coaches and coaching facilities;
23 scheduling of games and practice times; publicity; and funding.

24 **Practice and Competitive Facilities**

25 41. The Defendants provide inequitable practice and competitive facilities to
26 female student athletes. In addition, the District and the individual Defendants discriminate
27 against female student athletes in that they fail to properly maintain the facilities provided to
28

1 them.

2 *Baseball and Softball Facilities.*

3 42. The girls' softball team has inadequate, and at times dangerous, practice and
4 competitive facilities. Some of the girls have gotten hurt because of the fields' condition.

5 43. Castle Park does not adequately maintain the girls' fields. In the past, the girls
6 have been forced to clean up animal feces and used condoms because of the School's lack of
7 maintenance. The girls also have had to drag the fields. The girls presently have not been
8 provided with any equipment to maintain the fields and therefore the fields have not been
9 properly maintained. There have been water leaks on the field that have interfered with the
10 Plaintiffs' ability to practice and play softball.

11 44. Physical education ("P.E.") classes play on the girls' softball fields but not on
12 the baseball field. A number of boys' teams, including freshman baseball and boys' soccer,
13 practice on the softball outfield.

14 45. Because the junior varsity and varsity fields are next to each other, it is
15 difficult to have practice and games on both fields at the same time. A parent asked if the
16 girls' softball team could play on the football practice field, but was told they could not.

17 46. The girls' softball fields' bleachers are inadequate in quality in quantity as
18 compared to the bleachers provided at the baseball field.

19 47. Castle Park has not provided the girls' softball team with an adequate batting
20 cage. The boys' team has at least two batting cages. The girls fundraised and built a batting
21 cage themselves, but other students have climbed on it and ruined it.

22 48. The girls' dugout had no roof until this year (when a roof was attached), so the
23 girls have had to sit outside in the sun or rain. The roof that was installed is inadequate to
24 protect the girls from the elements and is inferior to the boys' cinderblock dugouts. The
25 benches in the girls' dugout are inferior in quality to the benches in the boys' dugout. The
26 boys' dugout has secure storage whereas the girls' dugout does not. The girls' dugout had a
27 dirt floor until the coaches paid out of their own pocket to have concrete poured for the
28

1 dugout floor.

2 49. The girls' fields are not fully fenced in or locked. Because the fields are not
3 fenced, people walk on the fields during practice and game times.

4 50. The girls' teams do not have meaningful access to adequate restroom facilities
5 when they are practicing or playing games.

6 51. In contrast, the boys' baseball fields are level and well-maintained. The field
7 has a sprinkler system. The boys' fields have multiple sets of bleachers, and the fields are
8 fully enclosed and locked by security fencing. Castle Park has also provided the baseball
9 team with a bullpen, two lighted batting cages, two cinderblock dugouts, a rollaway
10 backstop, a large backstop, and a baseball snackstand.

11 *Roller Hockey*

12 52. In approximately 2002 Castle Park built a new roller hockey rink at the cost of
13 approximately \$500,000. This facility provides an exclusive, state-of-the-art boys-only
14 facility for male athletes at Castle Park.

15 *Soccer*

16 53. Girls' soccer primarily plays on the softball outfield whereas boys' soccer
17 primarily plays on the football field which is a superior field.

18 **Locker Rooms.**

19 54. The Defendants provide inequitable locker rooms and related storage and
20 meeting facilities to female student athletes. In addition, the District and the individual
21 Defendants discriminate against female student athletes in that they fail to properly maintain
22 the facilities provided to them.

23 55. Defendants fail to provide adequate locker room facilities (including athletic-
24 sized locker) for girls' athletic teams. The school-provided storage container was not
25 adequately secured and was broken into, and the girls' equipment was stolen. The girls'
26 coach personally paid for and provided a secure storage container (old manure container).
27 When their coach was terminated, he was asked to remove that storage container and he did
28

1 so at his expense. The girls currently have a very small storage container.

2 56. Male football players have access to the football locker room. This locker
3 room has full-sized lockers, large enough for the boys to store their equipment in.

4 57. Boys' baseball has storage space in their dugout and in a Connex box by the
5 batting cage.

6 58. In addition to locker rooms, Castle Park also has provided the boys' basketball
7 coach with his own office and meeting room. The girls' basketball coach has no comparable
8 office/meeting room.

9 59. The football team has a TV/VCR in the coach's office. Girls are not afforded
10 any comparable amenities.

11 **Training Facilities.**

12 60. The Defendants provide inequitable training facilities to female student
13 athletes.

14 61. During boys' football games, Castle Park provides ice and a cart for taking
15 injured players off the field. These medical services are not provided for girls' games. The
16 softball team does not have any water at all unless they provide it themselves. The football
17 team has a trainer, none of the girls' teams do.

18 62. Castle Park has only one weight room. Boys' teams have regular access to the
19 weight room. No girls' teams have regular weight room access.

20 **Equipment and Supplies.**

21 63. Plaintiffs are informed and believe and based thereon allege that defendants
22 provide inequitable equipment and supplies to female student athletes as compared to male
23 athletes.

24 **Travel and Transportation.**

25 64. Plaintiffs are informed and believe and based thereon allege that Defendants
26 provide inequitable transportation vehicles to female student athletes as compared to male
27 athletes.

1 **Coaches and Coaching Facilities.**

2 65. Plaintiffs are informed and believe and based thereon allege that Defendants
3 provide inequitable coaches and coaching facilities to female student athletes as compared to
4 male athletes.

5 66. For the Spring 2007 Softball season, Defendants have barred parents with the
6 proper credentials from assisting with softball coaching and have barred parents from
7 running a snackstand during softball games and have barred any parent involvement.
8 However, this policy has not been applied to parents of male athletes.

9 67. Plaintiffs are informed and believe and based thereon allege that Defendants
10 provide inequitable office space to coaches of female teams as opposed to male teams.

11 **Scheduling of Games and Practice Times.**

12 68. Plaintiffs are informed and believe and based thereon allege that defendants
13 have failed to provide girls with equitable scheduling of games and practice times as
14 compared to male athletes.

15 **Publicity.**

16 69. Plaintiffs are informed and believe and based thereon allege that defendants
17 fail to provide girls with equitable publicity as compared to male athletes.

18 **Funding.**

19 70. Plaintiffs are informed and believe and based thereon allege that defendants
20 fail to provide girls with equitable funding as compared to male athletes.

21 **FAILURE TO EFFECTIVELY ACCOMMODATE FEMALE STUDENTS' INTEREST AND ABILITIES**
22 **IN ATHLETICS.**

23 71. The District and the individual District Defendants have discriminated, and
24 continue to discriminate, against female students by failing to provide them with equal
25 athletic participation opportunities, despite their demonstrated athletic interest and abilities to
26 participate in sports.

27 72. For the 2006-2007 school year, girls were approximately 47 percent of the
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1 population at Castle Park; however, plaintiffs are informed and believe and based thereon
2 allege that girls do not receive equitable opportunities to participate, despite having the
3 interest and abilities to participate in greater numbers.

4 73. The failure to provide girls with participation opportunities substantially
5 proportionate to their representation in Castle Park's student body, despite their interest and
6 abilities to participate, has occurred without justification or defense by the District. The
7 District has no history and continuing practice of expanding its athletic programs in response
8 to the developing interests and abilities of female students. In fact, in approximately 2004,
9 the District cut the sport of field hockey despite having female interest in playing the sport.

10 74. Defendants' failure to provide adequate participation opportunities and the
11 full range of teams for girls' sports severely limits girls' participation in sports and
12 discourages interested girls from going out for sports.

13 **Girls' Softball.**

14 75. The District has sponsored only 2 softball teams for female students at Castle
15 Park (JV and Varsity), while it has sponsored 3 baseball teams for boys (Fresh/Soph, JV and
16 Varsity). As a result, the District offers significantly more participation opportunities to boys
17 than to girls.

18 76. Without a frosh/soph softball team, girls who need more seasoning before
19 they are capable of performing at the varsity level are forced to play on an overlarge junior
20 varsity team and thereby denied opportunities to play. Older girls are also affected by lack of
21 adequate participation opportunities by being force to play on an overlarge junior varsity
22 team.

23 **Additional Girls' Sports.**

24 77. The Plaintiffs are informed and believe and based thereon allege that the
25 District denies to female student athletes equal athletic participation opportunities by failing
26 to provide opportunities in additional girls' sports.

FIRST CLAIM FOR RELIEF
Unequal Treatment and Benefits in Athletic Programs
in Violation of Title IX of the Education Amendments of 1972
Against Defendant Sweetwater School District

78. Plaintiffs restate and incorporate by reference, as though fully set forth herein, the allegations contained in the preceding paragraphs.

79. Title IX, enacted in 1972, provides in relevant part: "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 ..." 20 U.S.C. § 1681(a).

80. Since the passage of Title IX, the District has received and continues to receive federal financial assistance and the benefits therefrom. Therefore, all programs in the Sweetwater Union High School District, including the athletic programs, are subject to the requirements of Title IX. 20 U.S.C. § 1687.

81. Title IX's implementing regulations provide that "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 the recipient shall provide any such athletics separately on such basis." 34 C.F.R. § 106.41(a).

82. Under Title IX, schools must provide "equal treatment and benefits" to members of both sexes in their athletic programs. 44 Federal Register 71,413 (1979), the Department of Education, Office of Civil Rights' 1979 Policy Interpretation (the "Policy Interpretation").

83. Equal treatment and benefits is assessed based on an overall comparison of the male and female student athletic programs, including an analysis of the following factors, among other considerations: "The provision of equipment and supplies; Scheduling of games and practice time; Opportunity to receive coaching . . . ; Assignment and compensation of coaches . . . ; Provision of locker rooms, practice and competitive facilities; Provision of . . . training facilities; Publicity" and a school's "failure to provide necessary funds for teams for

1 one sex.” 34 C.F.R. § 106.41(c) (2) – (10).

2 84. The regulations required that sponsors of interscholastic athletics comply with
3 the regulations within three years of their effective date, or by July 21, 1978. The regulations
4 further require that sponsors of interscholastic athletics take such remedial actions as are
5 necessary to overcome the effects of sex discrimination in violation of Title IX. 34 C.F.R.
6 §106.3(a).

7 85. Plaintiffs are informed and believe and based thereon allege that the District
8 has not taken remedial actions and that any remedial actions which the District has taken in
9 the past thirty (30) years have been insufficient to satisfy the District’s obligations under
10 Title IX.

11 86. The District has intentionally violated Title IX by knowingly and deliberately
12 discriminating against female students, including Plaintiffs, by, among other things, failing to
13 provide female student athletes at Castle Park with treatment and benefits that are
14 comparable to the treatment and benefits provided to male student athletes in areas including,
15 but not limited to: practice and competitive facilities, training facilities, locker rooms,
16 coaches and coaching facilities, scheduling of games and practice times, publicity, and
17 funding.

18 87. The inequitable treatment of female and male student athletes at Castle Park,
19 as detailed above, demonstrates the District’s intentional and conscious failure to comply
20 with Title IX. The District’s conduct has persisted despite the information provided by and
21 the requests made by Plaintiffs and other individuals, and despite the mandates of the
22 relevant Title IX regulations, particularly 34 C.F.R. §§ 106.31 and 106.41, and the Policy
23 Interpretation.

24 88. Plaintiffs and other individuals have informed the District that its actions
25 constitute violations of Plaintiffs’ Title IX rights. The District has failed to remedy or
26 address its violations.

27 89. As a proximate result of these unlawful acts, the Plaintiffs and others similarly
28

1 situated have suffered and continue to suffer irreparable injury.

2 90. The Plaintiffs and others similarly situated are entitled to relief, including
3 declaratory relief and injunctive relief.

4 91. Counsel for the Plaintiffs and the proposed class of similarly situated
5 individuals are entitled to attorneys' fees and costs.

6 **SECOND CLAIM FOR RELIEF**

7 Unequal Participation Opportunities in Athletic Programs
8 in Violation of Title IX of the Education Amendments of 1972
9 Against Defendant Sweetwater School District

10 92. Plaintiffs restate and incorporate by reference, as though fully set forth herein,
11 the allegations contained in the preceding paragraphs.

12 93. Under Title IX, schools must provide both sexes "equivalent participation
13 opportunities (including both the number of opportunities and whether the selection of sports
14 and the level of competition effectively accommodate the interests and abilities of members
15 of both sexes)." 44 Federal Register 71,413, the Policy Interpretation.

16 94. Compliance in the area of equivalent participation opportunities must be
17 determined by a three-part test:

18 (1) whether intercollegiate level participation opportunities for male and female
19 students are provided in numbers substantially proportionate to their respective
20 enrollments;

21 (2) where the members of one sex have been and are under-represented among
22 intercollegiate athletes, whether the institution can show a history and continuing
23 practice of program expansion which is demonstrably responsive to the developing
24 interest and abilities of the members of that sex; or

25 (3) where the members of one sex are under-represented among intercollegiate
26 athletes and the institution cannot show a continuing practice of program expansion
27 such as that cited above, whether it can be demonstrated that the interests and abilities
28 of the members of that sex have been fully and effectively accommodated by the

1 present program.

2 44 Fed. Reg. 71,418, the Policy Interpretation. (Although the Policy Interpretation refers to
3 "intercollegiate" sports, it is applicable to all recipients of federal education funds, including
4 high schools and is thus, applicable to interscholastic high school sports as well as
5 intercollegiate sports. 34 C.F.R. § 106.11.)

6 95. The District has failed to comply with each of the three (3) parts of the test for
7 determining the equal opportunity to participate in athletics under Title IX. Specifically,
8 Plaintiffs are informed and believe and based thereon allege that the ratio of female to male
9 athletes at Castle Park is not substantially proportionate to the overall ratio of enrolled female
10 and male students at Castle Park and that the interests and abilities of the female students at
11 Castle Park have not been fully and effectively accommodated by the present program.
12 Further, the District cannot show "a history and continuing practice of program expansion
13 which is demonstrably responsive to the developing interest and abilities" of Castle Park's
14 female students.

15 96. Rather, female students have historically been and continue to be under-
16 represented in Castle Park's athletics program. Despite this under-representation and despite
17 the interest and abilities of the female students to participate on additional teams, the District
18 has not adequately expanded its girls' athletics program as female students' interests and
19 abilities have demanded.

20 97. Plaintiffs and parents have on numerous occasions informed the District that
21 its actions discriminate against female students and that these actions constitute violations of
22 Plaintiffs' Title IX rights to have their interest and abilities effectively accommodated.
23 Despite the fact that Plaintiffs have drawn these inequities to the attention of the District, it
24 has knowingly and consciously continued to fail and refuse to take necessary actions to
25 remediate existing violations, even though Title IX mandates that they do so. The fact that
26 Defendant persists in refusing to provide these athletic participation opportunities
27 demonstrates Defendant's intentional and conscious failure to comply with Title IX.

1 98. Defendant's conduct has persisted despite the information provided by and the
2 requests made by Plaintiffs and other individuals and despite the mandates of federal anti-
3 discrimination law.

4 99. As a proximate result of these unlawful acts, the Plaintiffs and others similarly
5 situated have suffered and continue to suffer irreparable injury.

6 100. The Plaintiffs and others similarly situated are entitled to relief,
7 including declaratory relief and injunctive relief.

8 101. Such injunctive relief may include, but is not limited to, the provision
9 of the full range of teams and participation slots in existing sports, with teams for freshmen,
10 sophomore, junior varsity, and varsity-level female student athletes.

11 102. Counsel for the Plaintiffs and the proposed class of similarly situated
12 individuals are entitled to attorneys' fees and costs.

13 **THIRD CLAIM FOR RELIEF**

14 Retaliation in Violation of Title IX of the Education Amendments of 1972
15 Against Defendant Sweetwater School District

16 103. Plaintiffs restate and incorporate by reference, as though fully set forth
17 herein, the allegations contained in the preceding paragraphs.

18 104. Title IX and its implementing regulations prohibit retaliation for
19 complaints of sex discrimination. 20 U.S.C. § 1681; 34 C.R.R. § 100.7(e); *see also Jackson*
20 *v. Birmingham Bd. of Educ.*, 544 U.S. 167, 174, 178, 183 (2005).

21 105. After plaintiffs and parents complained of sex discrimination, the
22 district retaliated against plaintiffs by, *inter alia*, terminating the well-liked softball coach,
23 barring parents from running a snackstand during softball games, and barring qualified
24 parents from assisting with softball coaching.

25 106. Defendant's conduct has persisted despite the well-settled mandates of
26 federal anti-discrimination law.

27 107. As a proximate result of these unlawful acts, the Plaintiffs and others
28 similarly situated have suffered and continue to suffer irreparable injury.

1 108. The Plaintiffs and others similarly situated are entitled to relief,
2 including declaratory relief and injunctive relief.

3 109. Counsel for the Plaintiffs and the proposed class of similarly situated
4 individuals are entitled to attorneys' fees and costs.

5 **FOURTH CLAIM FOR RELIEF**
6 Sex-Based Discrimination in Violation of
7 the Fourteenth Amendment to the United States Constitution
 42 U.S.C. § 1983
8 Against All Individual Defendants in Their Official Capacities

9 110. Plaintiffs restate and incorporate by reference, as though fully set forth
herein, the allegations contained in the preceding paragraphs.

10 111. The Equal Protection Clause of the Fourteenth Amendment to the
11 United States Constitution prohibits state actors from discriminating on the basis of sex.

12 112. Under 42 U.S.C. § 1983, certain Defendants may be held liable for
13 their actions in violating Plaintiffs' rights under the Fourteenth Amendment.

14 113. By failing to provide female student athletes with the same treatment
15 and benefits as the male student athletes (as detailed above) and by failing to provide equal
16 athletic participation opportunities for female students, the individual District Defendants
17 have purposely discriminated against female students, including the named Plaintiffs, on the
18 basis of sex and have intentionally deprived them of their rights to equal protection secured
19 by the Fourteenth Amendment to the Constitution.

20 114. Defendant WEINS, as the principal at Castle Park, has failed to add
21 sufficient athletic participation opportunities for female students or to remedy the unequal
22 treatment and benefits received by Castle Park's female student athletes – despite the history
23 of numerous complaints of the named Plaintiffs and other individuals. Therefore, Defendant
24 WEINS's actions constitute a knowing disregard for Plaintiffs' constitutional rights.

25 115. Defendant MOORE, as Athletic Director at Castle Park, has failed and
26 refused to add sufficient athletic participation opportunities for female students or to remedy
27 the unequal treatment and benefits received by Castle Park's female student athletes – despite
28

1 the numerous complaints of the named Plaintiffs and other individuals. Defendant
2 MOORE's actions constitute a knowing disregard for Plaintiffs' constitutional rights.

3 116. When the herein named Defendants engaged in the improper actions
4 described above, they were acting as state actors and under color of law for purposes of 42
5 U.S.C. § 1983 and were acting in violation of the Equal Protection Clause.

6 117. As a proximate result of these unlawful acts, the Plaintiffs and others
7 similarly situated have suffered and continue to suffer irreparable injury.

8 118. The Plaintiffs and others similarly situated are entitled to relief,
9 including declaratory relief and injunctive relief.

10 119. Counsel for the Plaintiffs and the proposed class of similarly situated
11 individuals are entitled to attorneys' fees and costs.

12 **DECLARATORY RELIEF ALLEGATIONS**

13 120. Plaintiffs restate and incorporate by reference, as though fully set forth
14 herein, the allegations contained in the preceding paragraphs.

15 121. A present and actual controversy exists between Plaintiffs and
16 Defendants concerning their rights and respective duties. The Plaintiffs contend that the
17 Defendants have violated their rights, and the rights of those similarly situated, under federal
18 and state anti-discrimination laws. The Plaintiffs are informed and believe and based thereon
19 allege that the Defendants deny these allegations. Declaratory relief is therefore necessary
20 and appropriate.

21 **INJUNCTIVE RELIEF ALLEGATIONS**

22 122. Plaintiffs restate and incorporate by reference, as though fully set forth
23 herein, the allegations contained in the preceding paragraphs.

24 123. No plain, adequate, or complete remedy at law is available to the
25 Plaintiffs to redress the wrongs addressed herein.

26 124. If the court does not grant the injunctive relief sought herein, the
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28

1 Plaintiffs, and others similarly situated, will be irreparably harmed.

2 **PRAYER FOR RELIEF**

3 WHEREFORE Plaintiffs respectfully pray that this Court:

4 (1) Certify the proposed class of plaintiffs;

5 (2) Enter an order declaring that the District has retaliated against and
6 discriminated against female students on the basis of sex in violation of Title IX and the
7 regulations promulgated thereunder (including both unequal treatment and benefits and
8 unequal participation opportunities);

9 (3) Enter an order declaring that the individual Defendants have discriminated
10 against female students on the basis of sex in violation of the Equal Protection Clauses of the
11 Fourteenth Amendment to the United States Constitution as enforced by 42 U.S.C. § 1983;

12 (4) Issue a permanent injunction restraining the Defendants and their officers,
13 agents, employees, successors, and any other persons acting in concert with them, from
14 retaliating against and discriminating against female students on the basis of sex;

15 (5) Issue a permanent injunction requiring the District and the individual
16 Defendants to remediate their violations of state and federal laws prohibiting sex
17 discrimination by, among other required actions, providing female student athletes with
18 treatment and benefits comparable to those provided to male athletes, and affording female
19 students the equal opportunity to participate in school-sponsored sports;

20 (6) Award counsel for Plaintiffs reasonable attorneys' fees and costs, pursuant to
21 28 U.S.C. § 1988 and any other applicable provisions of federal law; and

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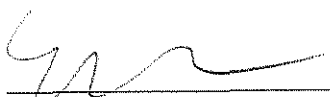
1 (7) Order such other and further relief as the Court deems appropriate.

2 Dated: April 18, 2007

3 Respectfully submitted,

4 Vicky L. Barker
5 CALIFORNIA WOMEN'S LAW CENTER

6 Patricia Shiu
7 Elizabeth Kristen
8 LEGAL AID SOCIETY-EMPLOYMENT
9 LAW CENTER

10 By: 
11 Elizabeth Kristen