

June 16, 2017



Re: Response to Complaint (Non-Uniform Complaint Procedure Allegations)

Dear Ms. Gumb:

On or about January 3, 2017, you submitted a written complaint ("Complaint") to the San Dieguito Union High School District ("District"), alleging that Torrey Pines High School ("TPHS") athletics programs engaged in various violations of District policy and state laws. As stated in the District's separate complaint response, also dated June 16, 2017, the District retained an outside investigator to thoroughly review the allegations. Based on our review of the Complaint and the investigation report, we determined that the only allegation subject to the District's Uniform Complaint Procedure is that the District failed to comply with the prohibition against requiring students to pay fees, deposits, or other charges for their participation in TPHS athletics.

This letter addresses other allegations in the Complaint that did not fall within the District's Uniform Complaint Procedure. Please note, this letter is intended only to summarize the relevant findings from the investigation, as well as to state whether any corrective measures have already or will be taken.

1. Are TPHS baseball coaches hired, evaluated and compensated pursuant to District policies?

All District coaches, including those at TPHS, are hired as temporary athletic team coaches pursuant to Education Code section 44919 and District Administrative Regulation ("AR") 6145.4. They receive a stipend for their coaching assignment, which the District pays to them directly. The TPHS Foundation ("Foundation") has reimbursed the District for coaching stipends when a TPHS team's coaching needs exceed the District's budget.

All District coaches, including those at TPHS, are supervised by the athletic director and an administrator. They all receive written evaluations at the end of their team's respective season.

There is evidence that TPHS coaching vacancies have not been internally or externally advertised for the past three school years, even though TPHS coaches have been hired during that period. The District will therefore take corrective measures to ensure that all school site

coaching vacancies are advertised as required by District policy. The evidence also supports, however, that TPHS coaches otherwise went through the District's regular interview and hiring selection process in the past three years, which involves a school site interview and screening through Human Resources. Like teachers, those coaches went through fingerprinting, drug screening, and mandated reporter training, among other requirements applicable to new hires. They also received CPR, first aid, and concussion protocol training.

2. Do TPHS coaches charge students for baseball lessons at TPHS facilities?

There is evidence that one TPHS baseball coach charged for private lessons at TPHS facilities during non-school hours. There is no evidence he submitted a facilities use permit. The District will take appropriate corrective action with regard to this employee.

Other TPHS coaches have volunteered their time to work with TPHS baseball players to develop their skills, which they consider to be part of their overall coaching responsibilities. There is no evidence those coaches have charged students to work with them in this manner.

3. Have all TPHS baseball coaches and students completed 510 forms disclosing pre-enrollment contact?

There is evidence suggesting that two TPHS baseball coaches may have had pre-enrollment contact with students as part of their involvement with a club baseball team. There is no evidence that those students or coaches disclosed any such contact on 510 forms or otherwise documented that contact with the District. The District will review and take appropriate corrective action as needed to ensure compliance with all applicable rules and regulations.

4. Does TPHS hold a tryout and select players based on that tryout?

There is evidence that TPHS holds an annual two-day tryout, which coaches use as the primary means to select students to participate on the varsity, junior varsity, and freshman teams. There is evidence that, in addition to tryouts, coaches have taken into account other factors, such as their knowledge of a prior season's performance and club team performance. The evidence does not support that coaches selected players prior to holding tryouts, or that they gave preferential treatment to players who were also on club teams. (See the District's response under its Uniform Complaint Procedure.)

5. Did the District permit outside entities and/or persons to use District facilities and equipment without charge?

The Foundation uses TPHS facilities in accordance with Board Policy ("BP") / AR 1330, *Public Use of District Facilities*. The District considers the Foundation to be a school-sponsored organization that BP/AR 1330 expressly exempts from paying fees for facilities use. The District therefore has not charged the Foundation for its use of TPHS facilities. This has included its use of a TPHS office and office equipment, which are made available provided that they are not needed for school-related purposes or that their use would otherwise interfere with school activities. There is no evidence that the District has permitted the Foundation to use District equipment or resources to advertise or promote specific fee-based club baseball teams.

There is evidence, however, that the Foundation has extended its use of TPHS baseball fields and batting cages to outside entities and persons who are not school-sponsored organizations. Under these arrangements, the Foundation is sponsoring the activity in recognition of revenue received as a fundraising activity. This has included club baseball teams who use TPHS baseball fields and batting cages during non-school hours. It also included non-student, minor league baseball players who used the TPHS batting cages during school hours.

Some of these uses appear related to an August 2015 agreement between the Foundation and Andrew Singer ("Singer"), a community member who provided the funding to construct the TPHS batting cages. The agreement included provisions setting aside certain uses, at no charge, to club baseball teams selected by Singer in recognition of his generous donation. The District was not a party to this agreement, nor was it Board approved. There is no evidence that Singer's donation of the batting cages was Board approved pursuant to BP/AR 3290, *Gifts, Grants, Bequests*.

The District will take appropriate corrective actions to ensure that all future TPHS facilities uses are in accordance with BP/AR 1330. The District will also review whether any entities or persons should have been charged for their uses of TPHS facilities in the 2015-16 and 2016-17 school years, whether or not those activities were sponsored by the Foundation, and take appropriate responsive measures with regard to any such fees that should have been paid. The District will also take prompt corrective action to place the batting cages donation before the Board at the next available public meeting, pursuant to BP/AR 3290. Future public uses of TPHS baseball fields and batting cages will be permitted only in accordance with BP/AR 1330.

6. Were the TPHS batting cages approved by the Division of State Architect ("DSA")?

The TPHS batting cages were constructed in 2013. At the time, District staff assigned to oversee the project determined that the project was exempt from DSA review as a fencing project, pursuant to DSA Interpretation of Regulation A-22. As a result of this Complaint, DSA evaluated the project and determined that, under current regulations, the District needed to apply for approval. The District has since submitted batting cages plans to the DSA along with plans for an Americans with Disabilities Act ("ADA") accessible path and modifications to the TPHS junior varsity softball field. DSA approved the plans on or about February 3, 2017.

We appreciate that you have brought these concerns to our attention. The District is committed to ensuring compliance with all applicable laws, regulations and policies governing its athletic programs, employees and facilities use. If you have questions regarding this response, please feel free to contact me.

Respectfully,



Eric R. Dill
Superintendent