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ADMINISTRATIVE CLASS COMPLAINT

COMPLAINANT

Champion Women
Nancy Hogshead, J.D., OLY, CEO
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RECIPIENT

Berry College
Dr. Angel Mason, Director of Athletics
2277 Martha Berry Highway NW
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I. PRELIMINARY STATEMENT

1. This complaint is filed by *Champion Women*, pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”) and the regulations and policies promulgated thereunder. *See* 34 C.F.R. § 106 *et seq.* Title IX prohibits discrimination on the basis of sex in federally funded education programs and activities, including athletics.

2. *Champion Women* is a 501(c)(3) that provides legal advocacy for girls and women in sports.

3. As detailed in the Factual and Legal Allegations below, data submitted by Berry College, (“Berry”) to the Office of Postsecondary Education of the U.S. Department of Education pursuant to the Equity in Athletics Disclosure Act (“EADA”), 20 U.S.C. § 1092, as well as information collected from Berry’s website indicates that Berry is not providing women with equal educational opportunities. Berry is not investing in its women students equally with men, and is discriminating on the basis of sex by providing women with unequal athletic participation opportunities, unequal athletic scholarship dollars, and unequal treatment and benefits, including athletic recruitment funding.

4. In order to address these disparities, *Champion Women* requests that the Office for Civil Rights (“OCR”) investigate Berry to determine whether it is providing women equal opportunities to participate in varsity sports, equal opportunities to earn athletic scholarships, and equivalent treatment and benefits, including recruitment funding as required by Title IX and, if not, to remedy any unlawful conduct.

II. JURISDICTION

5. The OCR is responsible for ensuring compliance with Title IX and receiving information about, investigating, and remedying violations of Title IX and its implementing regulations and guidelines. 34 C.F.R. §§ 106.71, 100.7.

6. *Champion Women* has not filed this complaint with any other agency or institution.

7. As Berry currently violates Title IX’s athletic equity requirements, this complaint is timely.

III. FACTUAL ALLEGATIONS

8. Berry receives federal financial assistance and is therefore prohibited from discriminating on the basis of sex pursuant to Title IX.

9. Data submitted by Berry to the U.S. Department of Education pursuant to the EADA that is publicly available on the Office of Postsecondary Education website for academic years 2003-04 through 2021-2022 indicates that Berry is not currently and has not in the past been providing female athletes equal opportunities to participate in athletics under Title IX’s three-part participation test.

Year	Undergraduate Enrollment				Men	Women Prong 2: This # should Rise Continuously and Steadily Over Time, Without Going Backwards	Athletic Participation		
	Men	Women	Total	Percent Women			Total	Percent Women	Female Athletes Who Would Need to be Added to Achieve
2003-04	677	1178	1855	63.50%	117	125	242	51.65%	79
2004-05	642	1185	1827	64.86%	102	115	217	53.00%	73
2005-06	663	1166	1829	63.75%	96	114	210	54.29%	55
2006-07	577	1099	1676	65.57%	92	102	194	52.58%	73
2007-08	575	1126	1701	66.20%	100	107	207	51.69%	89
2008-09	533	1120	1653	67.76%	104	121	225	53.78%	98
2009-10	540	1196	1736	68.89%	117	145	262	55.34%	114
2010-11	608	1274	1882	67.69%	137	182	319	57.05%	105
2011-12	633	1275	1908	66.82%	143	172	315	54.60%	116
2012-13	670	1333	2003	66.55%	177	189	366	51.64%	163
2013-14	797	1305	2102	62.08%	270	176	446	39.46%	266
2014-15	799	1256	2055	61.12%	319	209	528	39.58%	292
2015-16	790	1284	2074	61.91%	333	223	556	40.11%	318
2016-17	812	1234	2046	60.31%	357	255	612	41.67%	288
2017-18	761	1181	1942	60.81%	346	252	598	42.14%	285
2018-19	738	1160	1898	61.12%	348	252	600	42.00%	295
2019-20	751	1158	1909	60.66%	360	229	589	38.88%	326
2020-21	754	1228	1982	61.96%	352	215	567	37.92%	358
2021-22	781	1376	2157	63.79%	370	256	626	40.89%	396

10. *Champion Women* has edited the EADA data in just one instance on our website <https://titleixschools.com/> to remove male practice players who are counted up in the tally as “women”. These male practice players are not female athletes and have therefore been subtracted from the totals in the EADA.¹

¹ See *Champion Women* website for every college and university receiving federal funds: <https://titleixschools.com/2023/05/20/eada-data/> High school data for these schools receiving federal funds is available here: <https://titleixschools.com/2023/06/06/check-your-high-school/>

11. Berry does not and has not provided athletic opportunities to female students in numbers substantially proportionate to their enrollment pursuant to part one of the Title IX participation test. Women are 63.79% of the student body, but just 40.89% of the student athletes.

12. In 2021-2022, the most recent academic year for which EADA data is available that is not corrupted by disruptions related to Covid-19, Berry's participation gap was 396 athletes. In other words, Berry must add 396 additional athletic opportunities for women in order to provide athletic opportunities substantially proportionate to enrollment; 396 additional opportunities are enough to add almost an entire athletic department; Berry currently only has 256 women athletes. If an average sports team is 25 athletes – some more some less – Berry will need to add almost 16 new teams in order to equal the amount Berry invests into its men's athletic programming.

13. The EADA data and evidence gathered on Berry's website show that Berry does not have a history and *continuing practice* of expanding athletic participation opportunities for women pursuant to Prong 2 of the Title IX participation test. See column "Women" under "Athletic Participation" above. The number of women athletes does not consistently increase over time.

14. Berry's opportunities have gone backwards several times over the years. For example, in 2003, Berry provided 125 of its female students with the educational opportunity of sport. The Berry eliminated up to 23 opportunities for women; it took until 2008 for Berry to provide women with the same number of opportunities for women. The same pattern emerges from 2012 and again in 2016. Between 2016 and 2021, Berry's women's sports opportunities remain stagnant. *Champion Women* does not have access to the years between 1975 and 2003 to see the whole history of adding sports steadily, but it is unlikely to show a history of continuous program expansion that is demonstratively responsive to the growing interests of women in sport.

15. A review of Berry's website did not show any policy or procedure for adding new sports or elevating existing club sports to varsity status. Nor did it reveal any athletic gender equity plan, or any gender equity committee. Berry's "Title IX" web page deals exclusively with sexual violence. <https://berry.edu/student-life/dean-of-students/title-ix/>

16. Berry sponsors 9 men's varsity sports (Baseball, Basketball, Track, Football, Golf, Lacrosse, Soccer, Swimming & Diving, and Tennis) serving 315 men, and 12 women's varsity sports (Basketball, Beach Volleyball, Track, Equestrian, Golf, Soccer, Softball, Swimming & Diving, Tennis, and Volleyball) serving 185 women.

a. Berry's EADA report says it has 35 women participating in "other sports" - but does not identify the sport.

b. Berry’s website does not mention Equestrian as one of the sports offered, so it is difficult to tell if the sport would qualify as a varsity sport under OCR standards.

17. Information available on Berry’s website suggests that the university is not accommodating the interests and abilities of female athletes as required by part three of the Title IX participation test.

18. Women students at Berry participate in numerous club sports; archery, outdoor soccer, sand volleyball, ultimate frisbee, 3x3 basketball league, pickleball, cornhole, spikeball, dodgeball, indoor soccer, 5v5 basketball league, esports, indoor volleyball, tennis, softball, *Recreation*, Berry, 2023 (last visited July 26, 2023). The existence of these women’s club teams indicates that there is unmet interest in women’s athletics at Berry.

19. Sport Governing Bodies and the NCAA, for member schools, make it very easy to see where other competitors are located. The NCAA publishes the “NCAA Sports Sponsorship and Participation Rates Report, 1956 - 2022” for schools to find competitors within the school’s normal competitive region: NCAA Sports Sponsorship and Participation Rates Report.²

20. Berry University is a member of the Sunshine State Athletic Conference. All members are in the state of Florida.

21. The Sunshine State Conference sponsors Lacrosse as a championship sport, and Berry does not sponsor Lacrosse, making it an easy sport to add. These women’s championship teams are unique educational experiences. Conference Championship sports also demonstrate

See

https://ncaaorg.s3.amazonaws.com/research/sportpart/2022RES_SportsSponsorshipParticipationRatesReport.pdf

See individual sports’ governing bodies for more, e.g.,

Women’s College Rugby: <https://www.urugby.com/teams/womens-teams>

Collegiate Equestrian: <https://collegiateequestrian.com/sports/2020/5/6/schools.aspx>

Women’s Collegiate Wrestling: <https://wrestlelikeagirl.org/college-opportunities>

Collegiate Competitive Cheer Teams: <https://www.ncsasports.org/cheerleading/colleges> (not to be confused with sideline cheerleading)

Women’s Collegiate Triathlon: <https://www.usatriathlon.org/multisport/ncaa-triathlon>

Collegiate Sailing is governed by the Inter-Collegiate Sailing Association (ICSA) with 220 schools: <https://www.collegesailing.org/about/overview>

Women’s Collegiate Ice Hockey: <https://www.uscho.com/teams/#d1women>

Collegiate Field Hockey: <https://www.teamusa.org/USA-Field-Hockey/PLAYERS/College/Team-Websites>

Collegiate Synchronized/ Artistic Swimming: <https://www.collegexpress.com/lists/list/colleges-with-notable-synchronized-swimming-teams/581/>

Collegiate Bowling - <https://collegebowling.bowl.com/teams>

Collegiate Rifle - <https://competitions.nra.org/competitions/nra-national-matches/collegiate-championships/collegiate-shooting-sports-directory/>

Collegiate Skiing – <https://www.uscsa.org/>

Collegiate Water Polo - <https://collegiatewaterpolo.org/>

Collegiate Women’s Gymnastics <https://www.ncaa.com/sports/gymnastics-women>

women's interest in these sports, their athletic abilities, and that competition for these women's sports exists in Berry's competitive geographic area.

22. Girls in high school Florida compete in numerous sports. The Florida High School Athletic Association has recently added girls' Wrestling, competitive Cheer, Bowling, Water Polo, and Weightlifting. <https://www.nfhsnetwork.com/states/FL> Florida high school graduates will have interests and abilities in these sports; Berry cannot be said to have fully and effectively accommodated by its present program.

Florida high school female athletes are provided very few college sports opportunities. According to the NCAA,³ in 2020, only 1.7% of high school girls' basketball players were provided the opportunity to play in Division III. Just 5.8% of high school Field Hockey players, 2.1% of Golfers, 16.2% of Ice Hockey players, 6.2% of Lacrosse players, 2.9% of Soccer players, 2.2% of Softball players, 3% of Swimmers, 2% of Tennis players, 1.9% of Track & Field athletes, 1.6% of Volleyball players, 1.2% of Water Polo players in high school are provided opportunities to play their sport in Division III.

These metrics demonstrate the enormous demand for women to compete in collegiate sports that is unmet. Girls and women have the interest and athletic ability to play additional sports. It cannot be said that there are not women interested and athletically able to compete in many additional sports at Berry College.

Girls in Florida also compete in club sports, such as Wrestling, Badminton, Table Tennis, Team Handball, Sailing, Field Hockey, Fencing, Swimming & Diving, Water Polo, Archery, Field Hockey, Rifle, Triathlon, Ice Hockey, Sport Climbing, Artistic Swimming, Gymnastics, Rowing, Wrestling, and Rugby, and all sorts of combat sports, like Judo, Karate, and Taekwondo, to name a few.

23. Rugby, Equestrian, Triathlon, and Wrestling are NCAA emerging sports. There are 163 college women's Wrestling programs, 42 NCAA schools sponsor Triathlon, and at least 32 colleges currently sponsor women's varsity Rugby.

24. A review of the Berry College website does not reveal that the school undertook any athletic interest surveys or other research into interest and competition to support the addition of women's varsity sports. While surveys are never sufficient to deny women sports opportunities, they are often helpful in determining *which sports* the school should add.

25. Berry's EADA data further indicates that the university provides inadequate and unequal funding for recruitment of female athletes. In 2021-2022, Berry spent \$56,405 on men's recruitment and only \$21,631 on women's recruitment; women's sports were allocated only 27.72 percent of the recruiting budget even though they account for 40.89 percent of the athletic population and 63.79 percent of the full-time undergraduate population. Berry needs to add \$77,746 to the women's athletic opportunities for the women's budget to be commensurate with the recruiting Berry provides to men's sports.

³ NCAA: Estimated Probability of Competing in College Athletics:
<https://www.ncaa.org/sports/2015/3/2/estimated-probability-of-competing-in-college-athletics.aspx>

26. If, for some reason, the OCR determines that Berry College is, in fact, not discriminating against women in providing opportunities in sport, Berry would still need to provide its women's sports teams – and women's coaches – with \$7,242 more recruiting dollars in order to be consistent with the school's investment in men's sports.

27. Berry is an NCAA DIII school that does not offer athletic scholarships to men or women.

IV. LEGAL ALLEGATIONS

28. Title IX provides that “[n]o 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).

29. Title IX regulations prohibit athletic programs from discriminating on the basis of sex in interscholastic, intercollegiate, club or intramural athletics offered by the institution. 34 C.F.R. §106.41(a) (2000).

30. Title IX regulations require institutions that offer athletics programs to provide equal athletic opportunities to members of both sexes to participate in athletics. 34 C.F.R. §106.41(c)(1).

31. Pursuant to the 1979 Title IX Policy Interpretation, compliance with Title IX's equal athletic participation requirement is measured by determining whether the educational institution meets one part of the following three-part test:

1. Prong 1: Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
2. Prong 2: Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex; or
3. Prong 3: Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a history and continuing practice of program expansion, as described above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

United States Department of Health, Education, and Welfare, Office for Civil Rights, *Policy Interpretation; Title IX and Intercollegiate Athletics*, 44 Fed. Reg. 71413 (Dec. 11, 1979) [hereinafter *Policy Interpretation*].

32. In determining substantial proportionality under part one of the three-part test, OCR considers the number of opportunities that would have to be added to achieve proportionality and whether it would be sufficient to support another team. If there are a significant number of unaccommodated women, it is likely that a viable sport could be added and therefore the institution has not satisfied part one of the three-part test. United States Department of Education, Office for Civil Rights, *Clarification of Intercollegiate Athletics Policy Guidance: the Three-Part Test* (Jan. 16, 1996) [hereinafter *1996 Clarification*].

33. In 1975, schools were given three years to be in compliance with the equal participation mandate under Title IX. Schools had only one year to end sex-discrimination in all other areas of Title IX's non-discrimination mandate. Only athletics gave schools three years to add athletic opportunities and to stop discriminating against women – or until 1978. That deadline passed 45 years ago. 34 C.F.R. §106.41(d).⁴

It is worth noting how odd Prong 2 is as a legal test, in comparison to other non-discrimination civil rights. For a school to be able to argue that it is still playing catch-up with non-discrimination – exists nowhere else in law. This is especially true 51 years after the passage of Title IX, and 48 years after the passage of the regulations OCR depends on, regulations that were passed by Congress. When a school uses Prong 2, it is admitting that it is not providing women with equal educational opportunities, but that their actions are acceptable, because the school is “improving.” Title IX's Prong 2 allows schools to provide girls and women with less.

34. Therefore, it is understandable that Prong 2 is a strict legal test. In determining whether an institution has a history and continuing practice of expansion under Prong 2 of the three-part test, OCR reviews the entire history of the athletic program and evaluates whether the institution has expanded participation opportunities for the underrepresented sex in a manner that was demonstrably responsive to their developing interests and abilities, considering a number of factors, including:

- an institution's record of adding intercollegiate teams, or upgrading teams to intercollegiate status, for the underrepresented sex;
- an institution's record of increasing the numbers of participants in intercollegiate athletics who are members of the underrepresented sex;
- an institution's affirmative responses to requests by students or others for addition or elevation of sports; and

⁴ 34 C.F.R. §106.41(d) “*Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.”

- whether the institution has effective ongoing procedures for collecting, maintaining and analyzing information on the interest and abilities of students of the underrepresented sex, including monitoring athletic participation, and assessing interest and ability on a periodic basis.

United States Department of Education, Office for Civil Rights, *Intercollegiate Athletics Policy Clarification: The Three-Part Test- Part Three* (Apr. 20, 2010) [hereinafter *2010 Clarification*]; *1996 Clarification*.

35. In determining whether an institution has a continuing practice of program expansion under Prong 2, OCR will consider a number of factors, including:

- an institution's current implementation of a non-discriminatory policy or procedure for requesting the addition of sports (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students;
- an institution's current implementation of a plan of program expansion that is responsive to developing interests and abilities; and
- an institution's efforts to monitor developing interests and abilities of the underrepresented sex, for example, by conducting periodic nondiscriminatory assessments of developing interests and abilities and taking timely actions in response to the results.

2010 Clarification, 1996 Clarification.

36. OCR will not find a history and continuing practice of program expansion where an institution increases the proportional participation opportunities for the underrepresented sex by reducing opportunities for the overrepresented sex alone or by reducing participation opportunities for the overrepresented sex to a proportionately greater degree than for the underrepresented sex. *2010 Clarification, 1996 Clarification.*

37. Courts have found that schools must have both a history *and* continuing practice of expanding opportunities for women for Prong 2 compliance. *Mansourian v. Bd. Of Regents of Univ. of Cal.*, 594 F. 3d 1095, 1108. (9th Cir. Cal. 2010).

38. Prong 3 of the three-part test requires an examination of whether there is an unmet interest in a particular sport, a sufficient ability to sustain a team in the sport, and a reasonable expectation for competition for a team in the sport. *2010 Clarification, 1996 Clarification.*

39. Whether there is unmet interest and ability will be determined by examining a broad range of indicators, including whether the institution uses non-discriminatory methods of assessing interest and ability, the elimination of a viable team for the unrepresented sex, multiple indicators of interest and ability, and frequency of conducting assessments. *2010 Clarification.*

40. Sufficient interest can be established by student requests to add a sport or elevate a club sport, increases in club or intramural sport participation, responses to interviews and interest surveys, assessments of student athletic participation before entering the institution or in the secondary schools from which the university draws its students, and assessments of participation in intercollegiate sports in the institution's normal competitive regions. *Id.*

41. Ability may be established by the athletic accomplishments and competitive experience of club sports and admitted students, the opinions of coaches, administrators, and athletes, and student participation in other sports. *Id.*

42. Expectation of competition may be established through athletic opportunities offered by other schools with which the school competes or opportunities at other schools in the school's geographic area, including those against which the institution does not compete. *Id.*

43. Under Prong 3 of the three-part test, OCR will also examine an institution's recruitment practices. If an institution recruits potential student-athletes for its men's teams, OCR will examine whether the institution is providing women's teams with substantially equal opportunities to recruit potential student-athletes. *Id.*

44. In determining whether certain sports "count" for Title IX purposes, the OCR will inquire "Whether the regular season competitive opportunities differ quantitatively and/or qualitatively from established varsity sports; whether the team competes against intercollegiate or interscholastic varsity opponents in a manner consistent with established varsity sports;" and "whether the primary purpose of the activity is to provide athletic competition at the intercollegiate or interscholastic varsity levels rather than to support or promote other athletic activities. When analyzing this factor, the following may be taken into consideration:

a. Whether the activity is governed by a specific set of rules of play adopted by a state, national, or conference organization and/or consistent with established varsity sports, which include objective, standardized criteria by which competition must be judged;

b. Whether resources for the activity (e.g., practice and competition schedules, coaching staff) are based on the competitive needs of the team;

c. If post-season competition opportunities are available, whether participation in post-season competition is dependent on or related to regular season results in a manner consistent with established varsity sports; and

d. Whether the selection of teams/participants is based on factors related primarily to athletic ability.

For more, please see *Letter from Stephanie Monroe, Assistant Sec’y for Civil Rights, Dear Colleague Letter: Athletic Activities Counted for Title IX Compliance*, (Sept. 17, 2008) (“2008 OCR Letter”) Available at: <http://www2.ed.gov/print/about/offices/list/ocr/letters/colleague-20080917.html>

45. Title IX also requires equal opportunity in the recruitment of student-athletes where equal athletic opportunities are not present for male and female students. Compliance will be assessed by examining the recruitment practices of the athletic programs for both sexes and evaluating whether the financial and other resources made available for recruitment in male and female athletic programs are equivalently adequate to meet the needs of each program. *1979 Policy Interpretation*.

46. Title IX requires schools to provide women with equal treatment, including equipment and supplies; game and practice times; travel and per diem allowances; coaching and academic tutoring; assignment and compensation of coaches and tutors; locker rooms, practice, and competitive facilities; medical and training facilities and services; housing and dining facilities and services; and publicity. 34 C.F.R. §106.41(a) (2000), *Policy Interpretation*.

47. Lack of money is not a legal defense to sex discrimination. *See, e.g., Roberts Colorado State Univ.*, 814 F. Supp. 1507, 1518 (D. Colo. 1993) (“[A] financial crisis cannot justify gender discrimination.”); *Favia v Indiana University of Pennsylvania*, 812 F. Supp. 578, 585 (W.D. Pa. 1993) (finding that financial concerns alone cannot justify gender discrimination); *Cook v. Colgate University*, 802 F. Supp. 737, 750 (1992) (“[I]f schools could use financial concerns as a sole reason for disparity of treatment, Title IX would become meaningless.”); *Haffer v. Temple*, 678 F. Supp. 517, 520 (1987) (finding that financial concerns alone cannot justify gender discrimination).

48. Monies and in-kind benefits from third-party sources, such as donors, sponsorships, television rights, ticket sales, and student fees, are not a defense to a sex discrimination charge, whether those resources were used to build facilities, provide equipment and uniforms, or any other benefit of sports participation. None of those sources of money creates a legal defense against sex discrimination. Schools must ensure that their students are not receiving second-class educational opportunities because they are female. See 20 U.S.C. § 1687 (2005); See Office for Civil Rights, *Department of Education, Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance* (June 11, 2003), *Cohen v. Brown Univ.*, 809 F. Supp. 978, 996 (D.R.I. 1992) (concluding that “all monies spent by Brown’s Athletic Department, whether originating from university coffers or from the Sports Foundation [booster club] must be evaluated as a whole under § 106.41(c)”)

49. It is *Champion Women’s* experience that most athletes and former athletes are acutely aware of all the ways they are treated as second-class within their athletics department, because they are women. *Champion Women* asked current collegiate athletes what equality would look like under this list. Here’s what the athletes came up with:

- i. Men's and Women's sports would be equally featured, with equal prominence, on school and Athletic Department websites and social media.
- ii. Schools would invest equally in cameras and production equipment for Women's and Men's sports.
- iii. Schools would optimize Google searches for their Men's and Women's teams to receive equal search results.
- iv. Women's and Men's sports would employ an equal caliber of talent in their sports information and marketing departments, and they would be paid and promoted equally.
- v. Women's and Men's sports jerseys, apparel and memorabilia would be equally and easily accessible.
- vi. The needs of Women's teams would not revolve around Men's football and men's basketball teams.
- vii. The Women's and Men's teams would have equal access to dining halls, nutrition, etc. at times equally convenient to both teams.
- viii. Men's and Women's teams would have equal access to optimal practice times when they share facilities.
- ix. Men's and Women's sports marketing efforts would focus on performance; Broadcasters and schools would not focus on a woman-athlete's appearance or sexuality.
- x. Women's and Men's medical care and athletic training access would be equal; Neither male or female athletes would have priority accessing these resources.
- xi. Schools would hire competition officials of the same quality, with equal compensation, for the Women's and Men's teams.
- xii. Men's and Women's sports performance staff would be equal and would be paid and promoted comparably.
- xiii. Schools would intentionally use language that equally prioritizes Men's and Women's sports.
 1. Teams would be referred to as "Women's Basketball" and "Men's Basketball."
 2. "Basketball" would not be used to refer to Men's Basketball.
 3. Schools would have Social Media handles that referred to men's and women's teams; "Oregon Soccer" would be changed to "Oregon Men's Soccer."

50. Berry's own data, as outlined in the Factual Allegations above, demonstrate that it is not providing equal opportunities for its female students to participate in sports under Title IX's three-part participation test, treatment and benefits, as required by Title IX.

V. RELIEF REQUESTED

51. *Champion Women* expects OCR investigators will find additional violations of Title IX, the law guaranteeing women equal educational opportunities, including athletics. *Champion Women* requests that OCR:

- a. Investigate Berry College to determine whether it is discriminating against women; whether it is providing female students with equal participation opportunities in varsity athletics, equal athletic scholarship dollars, and equal treatment and benefits, as required by Title IX.
- b. Take all necessary steps to remedy any unlawful conduct that you identify in your investigation, as required by Title IX and its implementing regulations. Secure assurances of compliance with Title IX from Berry, that include full remedies for the violations found.
- c. Among other steps to achieve compliance with Title IX, require Berry to add more athletic opportunities for women, accord to additional teams and athletes the full range of benefits accorded to men's varsity teams and athletes, increase recruiting budgets, and adopt and implement a plan to achieve compliance with Title IX.
- d. Monitor any resulting agreement with Berry College to ensure that the school achieves compliance with Title IX, ceases all sex discrimination, and creates equal men's and women's educational opportunities in athletics, now and into the future.

I give OCR my consent to disclose my name and Champion Women's name contained in this letter to others for OCR's investigation of, and enforcement activities related to, the Discrimination Complaint.



A handwritten signature in blue ink that reads "Nancy Hogshead".

Nancy Hogshead, J.D., OLY
September 21, 2023