



**U.S. Department of Education
Office for Civil Rights**

Dr. Miguel Cardona
Secretary of Education, Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
Phone (202) 401 – 3000
ocr@ed.gov

Catherine Lhamon, J.D.
Ass't Secretary, Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202 - 1100
Catherine.lhamon@ed.gov

Suzanne B. Goldberg, J.D.
Acting Ass't Secretary, Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202 - 1100
Suzanne.goldberg@ed.gov

ADMINISTRATIVE CLASS COMPLAINT

COMPLAINANT

Champion Women
Nancy Hogshead, J.D., OLY, CEO
EMAIL: Hogshead@ChampionWomen.org

RECIPIENT

Endicott College
Dr. Brian A. Wylie, Director of Athletics
376 Hale Street
Beverly, MA 01915
EMAIL: bwylie@endicott.edu

Steven R. DiSalvo, Ph.D., President
376 Hale Street
Beverly, MA 01915
EMAIL: sdisalvo@endicott.edu

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 Endicott College (“Endicott”) 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 Endicott’s website indicates that Endicott is discriminating on the basis of sex. Women are provided unequal athletic participation opportunities and unequal athletic recruitment funding for female students.

4. In order to address these disparities, *Champion Women* requests that the Office for Civil Rights (“OCR”) investigate Endicott to determine whether it is providing women equal opportunities to participate in varsity sports and equivalent benefits and treatment, 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 remediating 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 Endicott currently violates Title IX’s athletic equity requirements, this complaint is timely.

III. FACTUAL ALLEGATIONS

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

9. Data submitted by Endicott 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 Endicott 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.

10. *Champion Women* has edited the EADA data on our website <https://titleixschools.com/> in just one instance: 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

Year	Undergraduate Enrollment				Athletic Participation				
	Men	Women	Total	Percent Women	Men	Women Prong 2: This # should Rise Continuously and Steadily Over Time, Without Going Backwards	Total	Percent Women	Female Athletes Who Would Need to be Added to Achieve
2003-04	591	1014	1605	63.18%	222	151	373	40.48%	230
2004-05	645	997	1642	60.72%	229	151	380	39.74%	203
2005-06	696	1040	1736	59.91%	234	159	393	40.46%	191
2006-07	735	1014	1749	57.98%	256	153	409	37.41%	200
2007-08	726	1089	1815	60.00%	244	164	408	40.20%	202
2008-09	821	1152	1973	58.39%	254	156	410	38.05%	200
2009-10	834	1201	2035	59.02%	277	173	450	38.44%	226
2010-11	861	1250	2111	59.21%	280	175	455	38.46%	232
2011-12	933	1363	2296	59.36%	293	179	472	37.92%	249
2012-13	941	1438	2379	60.45%	286	190	476	39.92%	247
2013-14	945	1474	2419	60.93%	300	175	475	36.84%	293
2014-15	970	1566	2536	61.75%	285	184	469	39.23%	276
2015-16	1048	1639	2687	61.00%	297	206	503	40.95%	258
2016-17	1090	1693	2783	60.83%	306	210	516	40.70%	265
2017-18	1090	1836	2926	62.75%	285	223	508	43.90%	257
2018-19	1070	1711	2781	61.52%	318	263	581	45.27%	246
2019-20	1038	1760	2798	62.90%	346	242	588	41.16%	345
2020-21	1027	1812	2839	63.83%	188	142	330	43.03%	190
2021-22	1024	1767	2791	63.31%	380	240	620	38.71%	416

11. Endicott 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

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/>

participation test. Women are 63.31% of the student body, but just 38.71% 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, Endicott's participation gap was 416 athletes. In other words, Endicott must add 416 additional athletic opportunities for women in order to provide athletic opportunities substantially proportionate to enrollment; 416 additional opportunities are enough to add almost an entire athletic department. To put this women's gap into perspective, Endicott currently only has 226 women athletes. Assuming the average squad size is 25 athletes – some more and some less – Endicott would need to add 16.5 new teams for women.

13. The EADA data and evidence gathered on Endicott's website show that Endicott 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. Over the 19 academic years covered by the available EADA data, Endicott had only added 5 women to its athletics department in the first five years. Endicott has had numerous years of backsliding, including 2006 and 2008. In 2012, Endicott eliminated 15 women's opportunities. In 2021, Endicott does not provide women with as many opportunities as it provided in 2018. *Champion Women* cannot know the 28-year history of adding sports between 1975 and 2003, but Endicott cannot show a history of continuous program expansion that is demonstratively responsive to the growing interests of women in sport.

15. A review of Endicott'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.

16. Endicott sponsors 11 men's varsity sports (Baseball, Basketball, Cross Country, Equestrian, Football, Golf, Ice Hockey, Lacrosse, Soccer, Tennis, and Volleyball), serving 380 men, and 11 women's varsity sports (Basketball, Cross Country, Field Hockey, Ice Hockey, Lacrosse, Soccer, Softball, Tennis, Track & Field, and Volleyball) serving 226 women.

17. It appears Endicott has an Equestrian Team for women, but it is not on their EADA report. <https://www.facebook.com/EndicottEQ/>

a. Equestrian is on Endicott's Athletics webpage:

<https://www.ecgulls.com/navbar-women> and
<https://www.ecgulls.com/sports/equest/index>

b. In addition, Endicott appears to also sponsor a women's Rugby team with a roster of 29, which is also not on their EADA page.

<https://www.ecgulls.com/sports/wrugby/index>

c. Perhaps these are club sports.

18. Information available on Endicott’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.

19. Endicott women participate in the club sports of Cheerleading, Rowing, Dance, Roller Hockey, Rugby, Basketball, Broomball, Floor Hockey, Indoor Arena Football, Outdoor Flag Football, Ice Hockey, Indoor soccer, Futsal, Outdoor Soccer, Softball, Volleyball, *Athletics & Recreation*, Endicott, 2023 (last visited August 2, 2023). The existence of these women’s club teams indicates that there is unmet interest in women’s athletics at Endicott.

20. Endicott is a member of the Commonwealth Coast Conference, a Division III conference NCAA. Members are in New York, Massachusetts, Connecticut, Rhode Island, and Maine. This five-state, large geographic region will host almost every women’s sport.

21. High school girls in Massachusetts compete in Lacrosse, Golf, Gymnastics, Skiing, and Swimming, sports that Endicott does not offer. <https://www.nfhsnetwork.com/states/MA> Endicott will have a steady supply of well-qualified women athletes from Massachusetts high schools, and the Commonwealth Coast Conference.

Massachusetts high school female athletes are provided very few college sports opportunities. According to the NCAA,² 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.

High school-age girls in the Commonwealth competitive geographic region compete in non-school-sponsored sports, or club sports and travel teams. These include Basketball, Soccer, Golf, Tennis, and Track & Field, Wrestling, Badminton, Table Tennis, Team Handball, Sailing, Equestrian, Speedskating, Cycling, Field Hockey, Fencing, Swimming & Diving, Skateboarding, Water Polo, Archery, Field Hockey, Rifle, Triathlon, Ice Hockey, Sport Climbing, Artistic Swimming, Skiing, Snowboarding, Gymnastics, Rowing, Wrestling, Rugby, and all sorts of combat sports, like Judo, Karate, and Taekwondo, to name a few.

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 Endicott College.

22. 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

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

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.³

23. Wrestling, Rugby, Equestrian, and Triathlon are NCAA emerging sports. There are 163 college women’s Wrestling programs, 42 NCAA schools sponsor Triathlon, 26 colleges sponsor women’s varsity Equestrian, and at least 32 colleges currently sponsor women’s varsity Rugby.

24. A review of the Endicott website does not reveal that Endicott 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. Endicott’s EADA data further indicates that the university provides inadequate and unequal funding for the recruitment of female athletes. In 2021-2022, Endicott spent \$22,896 on men’s recruitment and only \$10,609 on women’s recruitment; women were allocated only 31.66 percent of the recruiting budget even though they account for 38.71 percent of the athletic population and 63.31 percent of the full-time undergraduate population. If Endicott provided women with equal recruiting dollars, it would need to add **\$28,900** to women’s teams – and women’s coaches – for their recruiting budget.

26. If, for some reason, the OCR determines that Endicott is, in fact, not discriminating against women in providing opportunities in sport, Endicott would still need to

³ 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>

provide its women's sports teams – and women's coaches – with **\$1,886** more recruiting dollars in order to be consistent with the school's investment in men's sports.

IV. LEGAL ALLEGATIONS

27. 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).

28. 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).

29. 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).

30. 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*].

31. 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*].

32. 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>

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

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.”

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 very strict 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
- 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. Title IX also requires schools to provide equal scholarship dollars, in proportion to the number of students of each sex participating in athletics. 34 C.F.R. §106.37(c) (2000). NCAA limits on scholarships per team is not a legal defense; schools cannot blame a third party for sex discrimination; recipients are responsible for equality. Schools choose which sports to sponsor, and some schools have chosen scholarship-dense sports for men, such as football and basketball, and scholarship-light sports for women, such as track.

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. As NIL monies become more available, equal promotion and publicity will be important for female athletes. *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 nor 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. Endicott's own data, as outlined in the Factual Allegations above, demonstrate that it is not providing equal educational opportunities for its female students to participate in sports under Title IX's three-part participation test, in addition to treatment and recruitment requirements.

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 Endicott College to determine whether it is discriminating against its female students, by providing women with unequal educational opportunities. Investigate whether women receive equal athletic opportunities, athletic budgets, and equal treatment and benefits.
- b. Take all necessary steps to remedy any and all 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 Endicott College, that include full remedies for all the violations found.
- c. Among other steps to achieve compliance with Title IX, require Endicott 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 opportunities, and adopt and implement a plan to achieve compliance with Title IX.
- d. Monitor any resulting agreement with Endicott College to ensure that the school achieves compliance with Title IX, now and in 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 22, 2023