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ADMINISTRATIVE CLASS COMPLAINT

COMPLAINANT

Champion Women
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RECIPIENT

Marshall University
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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 Marshall University (“Marshall”) 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 Marshall’s website indicates that Marshall 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 Marshall to determine whether it is discriminating against women; whether Marshall 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 Marshall currently violates Title IX’s athletic equity requirements, this complaint is timely.

III. FACTUAL ALLEGATIONS

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

9. Data submitted by Marshall 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 Marshall 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. Women are 58.36% of the student body, but Marshall is giving women just 49.19% of the athletic opportunities.

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 Equity
2003-04	4480	5279	9759	54.09%	215	178	393	45.29%	75
2004-05	3658	4617	8275	55.79%	224	194	418	46.41%	89
2005-06	3625	4565	8190	55.74%	214	214	428	50.00%	55
2006-07	3511	4326	7837	55.20%	214	208	422	49.29%	56
2007-08	3504	4159	7663	54.27%	216	228	444	51.35%	28
2008-09	3439	4229	7668	55.15%	213	235	448	52.46%	27
2009-10	3638	4366	8004	54.55%	229	229	458	50.00%	46
2010-11	3757	4711	8468	55.63%	214	228	442	51.58%	40
2011-12	3795	4782	8577	55.75%	202	216	418	51.67%	39
2012-13	3805	4714	8519	55.34%	215	219	434	50.46%	47
2013-14	3618	4593	8211	55.94%	198	206	404	50.99%	45
2014-15	3535	4517	8052	56.10%	201	214	415	51.57%	43
2015-16	3442	4491	7933	56.61%	215	228	443	51.47%	53
2016-17	3454	4463	7917	56.37%	226	241	467	51.61%	51
2017-18	3357	4416	7773	56.81%	217	242	459	52.72%	43
2018-19	3179	4211	7390	56.98%	219	212	431	49.19%	78
2019-20	3026	4003	7029	56.95%	236	216	452	47.79%	96
2020-21	2940	4027	6967	57.80%	273	269	542	49.63%	105
2021-22	2716	3806	6522	58.36%	252	244	496	49.19%	109

10. *Champion Women* has edited the EADA data on our website <https://titleixschools.com/> in just one instance on our website: 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. Marshall 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 58.36% of the student body, but just 49.19% 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, Marshall's participation gap was 109 athletes. In other words, Marshall must add 109 additional athletic opportunities for women in order to provide athletic opportunities substantially proportionate to enrollment; 109 additional opportunities is enough to add four new teams, assuming 25 women on the average new team.

13. Marshall double-triple counts 60 women, and zero men. This is a trick schools use to provide women with even less than they are currently receiving.

14. The EADA data and evidence gathered on Marshall's website show that Marshall 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.

15. Over the 19 academic years covered by the available EADA data, the number of opportunities Marshall offered to women went up and down. In 2008 Marshall was offering 235 women with opportunities. Opportunities for women then declined sharply by up to 29 women's opportunities, and did not provide women with the same opportunities until 2016. Then in 2018 and 2019, Marshall reduced opportunities by 30 women for the next two years. In the past year, Marshall reduced opportunities for women by 25 athletes. *Champion Women* does not have access to data from 1975 to 2003, but Marshall cannot claim to have a record of continuous program expansion that is demonstrably responsive to the growing interests of women in sports.

16. A review of Marshall'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.

17. Marshall sponsors 7 men's varsity sports (Baseball, Basketball, Cross Country, Football, Golf, Soccer, and Track & Field) or 252 men, and 9 women's varsity sports (Basketball, Cross Country, Golf, Soccer, Softball, Swimming & Diving, Tennis, Track & Field and Volleyball), or 184 women.

18. Information available on Marshall'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. Marshall women participate in the club sports of Soccer, Quoits, Basketball, Volleyball, Flag Football, Cornhole, Ultimate Frisbee, Kickball, Wiffleball, *Campus Recreation*,

Marshall, 2023 (last visited July 31, 2023). The existence of these women's club teams indicates that there may be unmet interest in women's athletics at Marshall.

20. 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

21. Marshall is a member of the Sunbelt Conference, where members come from North Carolina, South Carolina, Georgia, Virginia, Louisiana, West Virginia, Mississippi and Texas. This enormous geographic competitive region will give Marshall many choices of new sports.

22. The Sunbelt Conference sponsors women's Beach Volleyball as a Championship sport, and Marshall does not offer women's Beach Volleyball. These championship teams demonstrate women's interest and abilities in these sports and that competition for these women's sports exists in Marshall's competitive geographic area.

23. Other members of the Sunbelt Conference offer Bowling, Field Hockey, Lacrosse, Rifle, Rowing, and Sailing. These 6 sports are natural competitors for Marshall to compete against. These teams against peer-schools demonstrate women's interest and athletic abilities in these sports and that competition for these women's sports exists in Marshall's competitive geographic area.

² See NCAA:

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>

24. West Virginia High School Athletic Association sponsors girls' Ice Hockey, Softball, and Wrestling, and Marshall does not offer any of these women's sports. <https://www.nfhsnetwork.com/states/WV> These feeder-school teams will provide Marshall with a steady supply of athletes who are interested and able to compete in these sports. The high school sports also demonstrate women's interest in these sports and that competition for these women's sports exists in Marshall and the Sunbelt's competitive geographic area.

These are rare opportunities. According to the NCAA,³ in 2020, only 1.3% of high school girls basketball players were provided the opportunity to play in Division I. Just 2.9% of high school Field Hockey players, 2.8% of Golfers, 8.9% of Ice Hockey players, 3.7% of Lacrosse players, 2.4% of Soccer players, 1.8% of Softball players, 3.3% of Swimmers, 1.5% of Tennis players, 2.8% of Track & Field athletes, 1.2% of Volleyball players in high school are provided opportunities to play their sport in Division I.

High school-age girls in Marshall's competitive geographic region are active in club sports or travel teams that are not associated with their school, such as Basketball, Soccer, Golf, Tennis, and Track & Field, Wrestling, Cycling, Speedskating, Badminton, Equestrian, Table Tennis, Team Handball, Sailing, Field Hockey, Fencing, Swimming & Diving, Skateboarding, Water Polo, Archery, Field Hockey, Rifle, Triathlon, Ice Hockey, Sport Climbing, Artistic Swimming, Skiing, Snowboarding, Gymnastics, Rowing, Rugby, and all sorts of combat sports, like Judo, Karate, and Taekwondo, to name a few.

These metrics demonstrate that women have expressed enormous demand to compete in sports that is unmet. Girls and women have the interest and athletic ability to play additional sports.

25. Women's 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.

26. A review of the Marshall website does not reveal that Marshall 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.

27. The failure to provide women with equal opportunities to play impacts the availability of athletic scholarship dollars for women. These are important sources of funding for educational attainment that women are being denied because of their sex. If Marshall provided its male and female students with the same opportunities to participate, Marshall would need to add **\$3,216,890 additional** athletic scholarship dollars, to balance out the amount Marshall provides to its male students.

28. If, for some reason, the OCR determines, Marshall is, in fact, not discriminating against women in providing opportunities in sport, then Marshall would still need to provide its

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>

women students participating in sports with **\$144,711** more in athletic scholarship aid, to match the amount Marshall provides its male athletes.

29. Marshall's EADA data further indicates that the university provides inadequate and unequal funding for the recruitment of female athletes. In 2021-2022, Marshall spent \$832,090 on men's recruitment and only \$206,128 on women's recruitment; women were allocated only 19.85 percent of the recruiting budget even though they account for 49.19 percent of the athletic population and 58.36 percent of the full-time undergraduate population. If Marshall treated women like it does men, women's teams – and women's coaches – would have an *additional* **\$959,900** in recruiting dollars.

30. If, for some reason, the OCR determines Marshall is, in fact, not discriminating against women in providing opportunities in sport, Marshall would still need to provide its women's sports teams – and women's coaches – with **\$232,019** more recruiting dollars in order to be consistent with the school's investment in men's sports.

IV. LEGAL ALLEGATIONS

31. 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).

32. 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).

33. 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).

34. 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*].

35. 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*].

36. 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. §105.41(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.

37. 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

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.”

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*.

38. 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 nondiscriminatory 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.

39. 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.*

40. 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).

41. 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.*

42. 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.*

43. 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.*

44. 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.*

45. 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.*

46. 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.*

47. 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.

48. 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.*

49. 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*.

50. 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).

51. 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, fund scholarships, 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)”).

52. 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."

53. Marshall'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, in addition to scholarship, treatment and benefits, also required by Title IX.

V. RELIEF REQUESTED

54. *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 Marshall University to determine whether it is discriminating against women; whether it is providing female students with equal participation opportunities to participate in varsity athletics, equal and proportionate athletic scholarship dollars, and equal treatment and benefits.
- 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 Marshall, that include full remedies for the violations found.
- c. Among other steps to achieve compliance with Title IX, require Marshall 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 Marshall University to ensure that the school achieves full and complete compliance with Title IX throughout its athletic department, now and into the future.

Respectfully submitted,



A handwritten signature in blue ink that reads "Nancy Hogshead". The signature is fluid and cursive.

Nancy Hogshead, J.D., OLY
September 22, 2023