



**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

Western Kentucky University
Dr. Timothy C. Caboni, President
1906 College Heights Blvd. #11001
Bowling Green, KY 42101
EMAIL: kim.lancaster@wku.edu

Todd Stewart, Director of Athletics
E.A. Diddle Arena
1605 Avenue of Champions
Bowling Green, KY 42101
EMAIL: todd.stewart@wku.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 Western Kentucky University (“Western Kentucky”) 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 Western Kentucky’s website indicates that Western Kentucky is discriminating on the basis of sex by providing unequal athletic participation opportunities, unequal scholarship dollars and unequal treatment and benefits, including athletic recruitment funding for its female students.

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

III. FACTUAL ALLEGATIONS

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

9. Data submitted by Western Kentucky 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 Western Kentucky 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 its website <https://titleixschools.com/> in just one instance: to remove male practice players who are counted 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				Men	Women	Athletic Participation			
	Men	Women	Total	Percent Women			Total	Percent Women	Female Athletes Who Would Need to be Added to Achieve	
2003-04	5511	7420	12931	57.38%	326	168	494	34.01%	271	
2004-05	5558	7386	12944	57.06%	331	188	519	36.22%	252	
2005-06	5682	7371	13053	56.47%	315	179	494	36.23%	230	
2006-07	6758	9309	16067	57.94%	321	182	503	36.18%	260	
2007-08	5755	7354	13109	56.10%	351	185	536	34.51%	264	
2008-09	5755	7575	13330	56.83%	284	178	462	38.53%	196	
2009-10	6124	7733	13857	55.81%	310	200	510	39.22%	191	
2010-11	6072	7818	13890	56.29%	283	193	476	40.55%	171	
2011-12	5990	7805	13795	56.58%	277	183	460	39.78%	178	
2012-13	6091	7603	13694	55.52%	292	199	491	40.53%	165	
2013-14	6020	7214	13234	54.51%	307	187	494	37.85%	181	
2014-15	5937	7105	13042	54.48%	307	211	518	40.73%	156	
2015-16	5752	7180	12932	55.52%	231	154	385	40.00%	134	
2016-17	5682	7285	12967	56.18%	248	137	385	35.58%	181	
2017-18	5456	7232	12688	57.00%	259	150	409	36.67%	193	
2018-19	5139	7014	12153	57.71%	264	147	411	35.77%	213	
2019-20	4756	6848	11604	59.01%	258	163	421	38.72%	208	
2020-21	4561	6993	11554	60.52%	282	167	449	37.19%	265	
2021-22	4278	6880	11158	61.66%	277	170	447	38.03%	275	

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. Western Kentucky 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. The participation gap from 2003-04 to 2021-2022 for women at Western Kentucky ranged from 15.69 percent in 2003-04, to 15.00 percent in 2018-19, averaging 13.36 percent over the past 16 academic years. Women are 61.66 percent of the student body, but just 38.03 percent of the 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, Western Kentucky's participation gap was 275 athletes.² In other words, Western Kentucky must add 275 additional athletic opportunities for women in order to provide athletic opportunities substantially proportionate to enrollment; 275 additional opportunities are enough to add almost an entire athletic department; Western Kentucky currently only has 82 women athletes. If each new team has an average of 25 women on the roster – some teams will have more athletes, some less – Western Kentucky will need to add 11 new teams to its athletic department.

13. The EADA data and evidence gathered on Western Kentucky's website show that Western Kentucky 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 despite a consistent rise in the percentage of women enrolled.

14. Western Kentucky has not added a new women's sport since the addition of the women's soccer team in 2001 according to the Western Kentucky Athletics Timeline.

15. Over the 19 academic years covered by the available EADA data, Western Kentucky achieved a total net gain of only 2 women's athletic opportunities. In 2016-17, the total number of women athletes had fallen to an all-time low of 137. Western Kentucky achieved a high of 211 women's opportunities in 2014 and has shrunk the department's opportunities for women since. In 2021, Western Kentucky cut women's opportunities by 41 athletic opportunities since the high in 2014. *Champion Women* cannot know the 28-year history of adding sports between 1975 and 2003, but Western Kentucky cannot show a history of continuous program expansion that is demonstratively responsive to women's growing interest in sports of all kinds.

16. A review of Western Kentucky'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. Western Kentucky sponsors 5 men's varsity sports (Baseball, Basketball, Football, Golf, Track & Field) serving 203 men, and 7 women's varsity sports (Basketball, Golf, Soccer, Softball, Tennis, Track & Field, and Volleyball) serving 82 women.

18. Information available on Western Kentucky'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. Western Kentucky women participate in the club sports of Rugby, Fencing, and Disk Golf. The existence of these women's club teams indicates that there is unmet interest in women's athletics at Western Kentucky. The sport of Equestrian is centered in Kentucky, and Western Kentucky has an equestrian club program. See <https://www.wku.edu/agriculture/equestrianteam.php>

20. Western Kentucky is a NCAA Division I, FBS program, and a member of the Conference USA (CUSA) They compete over a large geographic region, spanning from New Mexico to Florida and up to Virginia including Texas, Louisiana, Alabama, and Tennessee. Western Kentucky will have lots of choices of new women's sports in this expansive competitive geographical area.

21. Other members of CUSA sponsor women's Beach Volleyball and Bowling, which Western Kentucky does not sponsor. These teams demonstrate women's interest and athletic abilities, and that competition exists in the CUSA and Western Kentucky's competitive geographic area.

22. High school-age girls in Kentucky and in the competitive geographic region are in <https://www.nfhsnetwork.com/states/KY> Basketball, Field Hockey, Lacrosse, Soccer, Track & Field, Volleyball, Softball, Weightlifting.

High school-age girls also compete in club and travel team sports that are not associated with high schools, like Wrestling, Badminton, Table Tennis, Team Handball, Field Hockey, Fencing, Equestrian, 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.

According to the NCAA,² 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.

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. It cannot be said that there are not women interested and athletically able to compete in many additional sports at Western Kentucky University.

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>

23. Rugby, Equestrian, Triathlon, and Wrestling 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. 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.³

25. A review of the Western Kentucky website does not reveal that Western Kentucky 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.

26. 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 Western Kentucky provided its male and female students with the same opportunities to participate, Western Kentucky would need to add **\$4,051,927** *additional* athletic scholarship dollars, to balance out the amount Western Kentucky provides to its male students.

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>

27. If, for some reason, the OCR determines that Western Kentucky is not discriminating against women in providing opportunities in sports, and the ratio used is the student-athletes, instead of the student body, no more scholarship dollars would be required.

28. Western Kentucky's EADA data further indicates that the university provides inadequate and unequal funding for the recruitment of female athletes. In 2021-2022, Western Kentucky spent \$472,439 on men's recruitment and only \$129,618 on women's recruitment; women were allocated only 21.53 percent of the recruiting budget even though they account for 38.03 percent of the athletic population and 61.66 percent of the full-time undergraduate population. If Western Kentucky treated women like it does men, women's teams – and women's coaches – would have an *additional* **\$630,171** in women's recruiting dollars.

29. If, for some reason, The OCR determines that Western Kentucky is, in fact, not discriminating against women in providing opportunities in sport, Western Kentucky would still need to provide its women's sports teams – and women's coaches – with **\$43,605** more recruiting dollars in order to be consistent with the school's investment in men's sports.

IV. LEGAL ALLEGATIONS

30. 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).

31. 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).

32. 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).

33. 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*].

34. 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*].

35. 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, in comparison to any other non-discrimination civil right. For a school to be able to argue that it is still playing catch-up with men's athletic opportunities – 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 discrimination is acceptable, because the school is “improving”. Title IX's Prong 2 allows schools to provide girls and women less.

36. 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

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.”

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*.

37. 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.

38. 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.*

39. 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).

40. 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*. 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*.

41. 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.*

42. 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.*

43. 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.*

44. 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.*

45. 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.

46. 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*.

47. 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*.

48. 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).

49. 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 (D.R.I. 1992) at 996 (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)”)

50. 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."

51. Western Kentucky'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 recruitment requirements.

V. RELIEF REQUESTED

52. *Champion Women* expects OCR investigators will find additional violations of the civil rights law guaranteeing women equal educational opportunities. *Champion Women* requests that OCR:

- a. Investigate Western Kentucky University to determine whether it is providing female students with equal participation opportunities 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 it identifies in its investigation, as required by Title IX and its implementing regulations. Secure assurances of compliance with Title IX from Western Kentucky, that include full remedies for the violations found.
- c. Among other steps to achieve compliance with Title IX, require Western Kentucky 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 Western Kentucky University to ensure that the school achieves full and complete compliance with Title IX throughout its athletic department, now and in the future.

I give the 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 Sex Discrimination Complaint.



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

Nancy Hogshead, J.D., OLY
September 20, 2023