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ADMINISTRATIVE CLASS COMPLAINT

COMPLAINANT

Champion Women
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RECIPIENT

University of the Incarnate Word
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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.

As detailed in the Factual and Legal Allegations below, data submitted by University of the Incarnate Word (“Incarnate Word”) 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 Incarnate Word’s website indicates that Incarnate Word 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.

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

II. JURISDICTION

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

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

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

III. FACTUAL ALLEGATIONS - Updated

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

9. Data submitted by Incarnate Word to the U.S. Department of Education pursuant to the EADA that are publicly available on the Office of Postsecondary Education website for

academic years 2003-04 through 2021-2022 indicates that Incarnate Word is not currently, and has not in the past been, providing female athletes equal opportunities to participate in athletics under Title IX’s three-part participation test.

Year	Undergraduate Enrollment				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	664	1372	2036	67.39%	104	104	208	50.00%	111
2004-05	712	1486	2198	67.61%	115	108	223	48.43%	132
2005-06	751	1680	2431	69.11%	126	127	253	50.20%	155
2006-07	751	1680	2431	69.11%	113	141	254	55.51%	112
2007-08	902	1970	2872	68.59%	178	149	327	45.57%	240
2008-09	1114	2177	3291	66.15%	209	181	390	46.41%	227
2009-10	1159	2212	3371	65.62%	307	176	483	36.44%	410
2010-11	1290	2416	3706	65.19%	362	180	542	33.21%	498
2011-12	1480	2616	4096	63.87%	361	178	539	33.02%	460
2012-13	1590	2757	4347	63.42%	390	223	613	36.38%	453
2013-14	1592	2566	4158	61.71%	296	207	503	41.15%	270
2014-15	1673	2596	4269	60.81%	366	232	598	38.80%	336
2015-16	1686	2552	4238	60.22%	341	231	572	40.38%	285
2016-17	1772	2716	4488	60.52%	365	265	630	42.06%	294
2017-18	1721	2687	4408	60.96%	386	270	656	41.16%	333
2018-19	1558	2490	4048	61.51%	393	247	640	38.59%	381
2019-20	1546	2483	4029	61.63%	357	225	582	38.66%	348
2020-21	1429	2483	3912	63.47%	402	270	672	40.18%	429
2021-22	1414	2547	3961	64.30%	404	250	654	38.23%	478

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

11. Incarnate Word does not and has not provided athletic opportunities to female students in numbers substantially proportionate to their enrollment pursuant to part one of the

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/>

Title IX participation test. Women are 64.23% of the student body, but just 38.23% of the student-athletes.

12. In 2013, Incarnate Word elevated its athletic programs to NCAA Division I status, a much more expensive athletic department.

13. In 2021-2022, the most recent academic year for which EADA data are available that are not corrupted by disruptions related to Covid-19, Incarnate Word's participation gap was 478 athletes. In other words, Incarnate Word must add 478 additional athletic opportunities for women in order to provide athletic opportunities substantially proportionate to enrollment. Currently Incarnate Word only has 200 women in its athletic department. To put this in perspective, if the average sports team is 25 athletes – some more and some less – Incarnate Word will need to add over 19 new teams for its female students.

Unusually, the percentage of women attending Incarnate Word in the student body has gone down, from a high of almost 70% women to where it is now at 64%. One would expect the change in enrollment to lead to closing the gap between men's and women's opportunities, but the opposite seems to have happened here at Incarnate Word.

Incarnate Word added 300 men to its athletic department in the past 19 years.

It does not appear that Incarnate Word has attempted to remedy the enormous gaps between men and women's opportunities in the 19 years of EADA data.

15. The EADA data and evidence gathered on Incarnate Word's website show that Incarnate Word 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. The number of women athletes does not consistently increase over time. Over the past 19 years of data from the EADA, Incarnate Word backslid in 2009, 2011, 2013, 2015, 2017, and 2018. In 2017 Incarnate Word had a high of 270. The next year it rolled back 23 of those opportunities, and the next year it eliminated 45 women's opportunities. *Champion Women* cannot know the 28-year history of adding sports between 1975 and 2003, but Incarnate Word 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 Incarnate Word's website did not cover 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. Incarnate Word sponsors 10 men's varsity sports (Baseball, Basketball, Cross-Country, Fencing, Football, Golf, Soccer, Swimming & Diving, Tennis, and Track) providing opportunities for 342 men, and 11 women's varsity sports (Basketball, Cross Country, Fencing, Golf, Soccer, Softball, Swimming & Diving, Artistic Swimming, Tennis, Track, and Volleyball) providing opportunities for 200 women.

18. Information available on Incarnate Word'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. Incarnate Word women participate in the club sport of triathlon, table tennis, volleyball, lacrosse, shooting, and basketball, (*Club Sports*, Incarnate Word, last visited August 2023). The existence of these women’s club teams indicates that there is unmet interest in women’s athletics at Incarnate Word.

20. Incarnate Word is an NCAA Division I university. It is a member of the Southland Conference. Members are in Texas and Louisiana, and affiliates are in Georgia, Idaho, Rhode Island, South Carolina, New Jersey, and California. Incarnate Word’s “normal competitive geographic region” spans the United States, from coast to coast. Geography will not pose an obstacle to Incarnate Word’s choice of new women’s sports to add, in which they’ve expressed interest and ability.

21. The Southland Conference sponsors Beach Volleyball as a Championship sport, and Incarnate Word does not. Championship sports are unique educational opportunities. Championship sports are a unique educational experience. The existence of these teams demonstrates that women’s interest and athletic ability exist in the competitive geographic area from which Incarnate Word draws its students and with whom it competes to sustain additional varsity sports.

22. High school girls in Texas compete in Badminton, Basketball, Bowling, Field Hockey, Ice Hockey, Lacrosse, Soccer, Softball, Swimming & Diving, Tennis, Track & Field, Volleyball, Water Polo, Weightlifting, and Wrestling. <https://www.nfhsnetwork.com/states/TX>

Girls in the Incarnate Word and the Southland Conference’s competitive geographic region compete in both school and club sports, or travel teams; sports that are disconnected from their school. These include Wrestling, Badminton, Table Tennis, Equestrian, 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, 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 the University of the Incarnate Word.

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. 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

24. 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.

25. A review of the Incarnate Word website revealed that the school undertook a contact form for potential new club sports: <https://my.uiw.edu/clubsports/contact.html> While surveys are never sufficient to deny women sports opportunities, they are often helpful to determine *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 Incarnate Word provided its male and female students with the same opportunities to participate, Incarnate Word would need to add ~~\$4,996,394.00~~ **\$6,212,519 additional athletic scholarship dollars**, to balance out the amount Incarnate Word provides to its male students.

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

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>

28. Incarnate Word's EADA data further indicates that the university provides inadequate and unequal funding for recruitment of female athletes. In 2021-2022, Incarnate Word spent \$155,017 on men's recruitment and only \$59,074 on women's recruitment; women were allocated only 27.59 percent of the recruiting budget even though they account for 38.23 percent of the athletic population and 64.23 percent of the full-time undergraduate population. Incarnate Word would need to add **\$220,154 additional** recruiting dollars, to balance out the amount Incarnate Word provides for men's recruitment.

29. If, for some reason, the OCR determines that Incarnate Word is, in fact, not discriminating against women in providing opportunities in sport, Incarnate Word would still need to provide its women's sports teams – and women's coaches – with **\$19,926** 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 as a legal test, 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 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 discrimination is acceptable, because the school is “improving”. Title IX's Prong 2 allows schools to provide girls and women with 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 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:

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.”

- 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 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.

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.*

41. 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.*

42. 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.*

43. 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.*

44. 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.*

45. 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.*

46. 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.

47. 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.*

48. 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.*

49. 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).

50. 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)”)

51. 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."

52. Incarnate Word'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

53. *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 the University of Incarnate Word to determine whether it is providing female students with equal participation opportunities in varsity athletics, equal and proportionate athletic scholarship dollars, and receiving equal treatment and benefits, including equal recruiting budgets.
- 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 Incarnate Word, that include full remedies for the violations found.
- c. Among other steps to achieve compliance with Title IX, require Incarnate Word 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 the University of the Incarnate Word to ensure that the school achieves compliance with Title IX, now and in the future.



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

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