

June 5, 2020

Commissioner Judy MacLeod
Conference USA
3100 Olympus Blvd.
Suite 400
Dallas, TX 75019

Dear Commissioner MacLeod,

We are a consortium of advocates for women and girls in sports. Access to and participation in sports improves the lives of all students, and that is particularly true for girls and women.

During this time of COVID-19, we are writing to remind you of your institutional obligation to uphold Title IX.¹ We understand that these are trying times for collegiate institutions, including athletics departments. In response to financial pressures, we have become aware that some universities are considering program cuts to their athletic programs.² As the commissioner of the

¹ 20 U.S.C. §§ 1681-1688.

² Sallee, Barrett. "Group of Five Commissioners Ask NCAA to Relax Rules That Could Allow More Sports to Be Cut." CBS Sports, April 15, 2020. Available at: <https://www.cbssports.com/college-football/news/group-of-five-commissioners-ask-ncaa-to-relax-rules-that-could-allow-more-sports-to-be-cut/>. (Five Conferences—American Athletic Conference (AAC), Conference USA, Mid-American Conference (MAC), Mountain West Conference, and the Sun Belt Conference—formally requested the NCAA to lower the minimum team requirements for Division 1 membership. The NCAA subsequently denied their request.)

See also:

- ♦ Hawkins, Stephen. "Slashed St. Ed's: Reeling School Cuts Teams, Breaks Hearts." ABC News. ABC News Network, May 7, 2020. Available at: <https://abcnews.go.com/Sports/wireStory/slashed-st-eds-reeling-school-cuts-teams-breaks-70563956>. (Saint Edward's University cuts six varsity teams.);
- ♦ Keith, Braden. "After Cuts, Sonoma State Says It Will Add Roster Spots to Comply with Title IX." SwimSwam, May 1, 2020. Available at: <https://swimswam.com/after-cuts-sonoma-state-says-it-will-add-roster-spots-to-comply-with-title-ix/> (After cutting two women's varsity teams, Sonoma State University adds roster-spots to women's teams in an attempt to stay compliant with Title IX.);
- ♦ Park, Rohnert. "SSU to Discontinue Men's and Women's Tennis and Water Polo Teams." SSU News. Sonoma State University, April 23, 2020. Available at: <http://news.sonoma.edu/article/ssu-discontinue-men's-and-women's-tennis-and-water-polo-teams>;
- ♦ Rogers, Eric, and Rick Neale. "Florida Tech Cuts Football Program, Announces Layoffs Due to Coronavirus." WKMG News 6 & Click Orlando, May 12, 2020. Available at: <https://www.clickorlando.com/news/2020/05/11/florida-tech-cuts-football-program-announces-layoffs-due-to-coronavirus/>;
- ♦ Shanesy, Todd. "Cost-Cutting Changes Hit Big South Conference." Shelby Star, Gannett, May 12, 2020. Available at: <https://www.shelbystar.com/sports/20200512/cost-cutting-changes-hit-big-south-conference> (The Big South Conference limited schools to only four teams in postseason tournaments next year. Those are men's

Conference USA (C-USA), we ask you be a leader in ensuring that your conference and your members do not cut any athletic programs, and specifically, that they preserve women's athletic opportunities to participate and receive equal treatment. The data we have compiled from the Equity in Athletics Database demonstrate that women are facing serious Title IX deficiencies; they lag behind men's programming in every measurable criteria.³ The attached legal memo provides a thorough analysis of the data for your conference's members under Title IX.

As the Commissioner of the C-USA, we ask for your leadership in upholding your legal and moral obligations to women in higher education by ensuring measures are taken to protect their educational opportunities. Indeed, we sincerely hope the C-USA will be a leader in gender equality in athletics, in service of the larger goals of higher education.

In 1972, Congress passed Title IX, and President Nixon signed it into law. In 1975, schools were given three years, until 1978, to comply with the regulations applying the statute to athletics.⁴ In the 2018–2019 year alone, at C-USA member schools, in sum (refer also to table below):

- 1,725 females were denied a sports opportunity, under the first test of Title IX compliance, based on unduplicated numbers.
- There are two other legal tests for whether an institution is providing enough athletic opportunities for women, and C-USA member institutions fail both of them as well.
- If C-USA member institutions were to provide women with equal opportunities to participate and add these 1,725 female student-athletes for the 2020–2021 school year, an additional \$31,648,093 in scholarship aid would need to be provided for their female student-athletes in order to equal the male student-athlete scholarships.
- Moreover, C-USA member institutions would need to spend an additional \$5,330,910 recruiting female athletes to provide this type of benefit equally to male and female athletes, as required by Title IX.
- Title IX requires not just equal opportunities *quantitatively*, but *qualitatively* as well. We urge you to review whether women's sports receive equal treatment in aspects such as: facilities, equipment, scheduling, marketing, coaching, recruiting, academic and other support.
- As a reminder, these are rare and rationed educational experiences for both men and women. C-USA member institutions provided just 2.5% of its students with a varsity sports experience in 2018–2019 school year.

and women's soccer, women's volleyball, softball, and baseball, or three women's sports and two men's sports.)

³ Equity in Athletics Disclosure Act, available at: <http://ope.ed.gov/athletics/>. Each year, colleges and universities provide the Department of Education with data from their athletic department regarding numbers of participation opportunities provided to the students, scholarships, staffing, and revenues and expenses, that are broken down by the men's and women's teams.

⁴ 34 C.F.R. § 106, available at: <https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html#S41>.

Conference USA Institution Name	Needed Additional Sports Opportunities for Women (based on duplicated count)	Needed Additional Sports Opportunities for Women (based on unduplicated count)	Needed Additional Scholarship Dollars for Women	Needed Additional Recruiting Dollars for Women	Student- athletes as percent of total student body (based on unduplicated numbers)
Florida Atlantic University	114	156	\$1,503,369	\$625,823	2.9%
Florida International University	51	112	\$2,033,980	\$317,015	1.4%
Louisiana Tech University	0	11	\$480,870	\$48,273	4.4%
Marshall University	78	131	\$2,998,204	\$417,771	5.1%
Middle Tennessee State University	159	149	\$2,675,440	\$321,744	2.2%
Old Dominion University	138	138	\$3,720,197	\$594,625	3.1%
Rice University	52	69	\$3,002,137	\$325,119	8.6%
The University of Texas at El Paso	82	77	\$806,122	\$262,618	2.3%
The University of Texas at San Antonio	127	113	\$1,751,809	\$454,815	1.7%
University of Alabama at Birmingham	146	182	\$3,400,393	\$514,456	4.0%
University of North Carolina at Charlotte	128	119	\$1,792,047	\$265,184	2.1%
University of North Texas	35	34	\$868,714	\$206,112	1.3%
University of Southern Mississippi	235	241	\$3,933,603	\$566,480	3.4%
Western Kentucky University	213	193	\$2,681,208	\$410,875	2.8%
Totals:	1558	1725	\$31,648,093	\$5,330,910	Average: 2.5%

Denying women equal athletic opportunities is a significant loss. The research linking sports participation with life-long educational, economic, and health benefits is well-established. Sports provide males and females from diverse socioeconomic, racial, and ethnic backgrounds measurable positive educational impacts.⁵ Betsey Stevenson, an economist now at University of Michigan, found that playing sports actually *caused* more education and higher incomes.⁶ Girls who play sports make 8% higher wages compared to their non-sport playing counterparts.⁷ In addition, a sports experience changes a woman’s short-term and long-term health trajectory including: decreased risk of heart disease, breast cancer, osteoporosis, tobacco and drug use, unwanted teen pregnancy, sexually transmitted diseases, depression and suicide.⁸ Research by Ernst and Young found that 96% of C-suite women were athletes.⁹

⁵ Staurowsky, E. J., M. J. DeSousa, K. E. Miller, D. Sabo, S. Shakib, N. Theberge, and N. Williams. *Her Life Depends on It III: Sport, Physical Activity, and the Health and Well-Being of American Girls and Women*. East Meadow, NY; Women’s Sports Foundation. (May 2015).

⁶ Stevenson, Betsey. *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports*. NBER Paper Series, Working Paper 15728. 2010. Available at: <http://www.nber.org/papers/w15728>.

⁷ *Id.* at 24.

⁸ Staurowsky, *supra*, note 5.

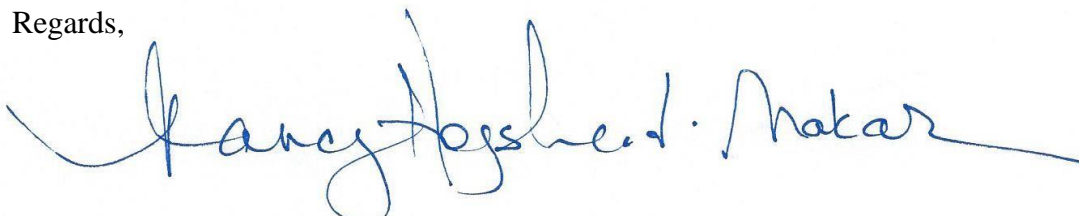
⁹ Ernst & Young, “Global Survey Reveals Critical Role Sports Play for Female Executives in Leadership Development and Teamwork in Business,” (June 18, 2013). Available at: <https://www.prweb.com/releases/2013/6/prweb10841451.htm>.

Athletics is commonly referred to as the “front porch” to the university and thereby communicates an institution’s values to the entire community. As such, athletics can lead the way towards a better environment for women on campus overall, including sexual assault prevention. Gender equality in athletics—as one of the only sex-segregated areas of your member schools—demonstrates *substantively* that C-USA members treat men and women as equals. If the C-USA and its member institutions’ athletics departments do not treat women as equal to men, it cannot expect its male students to do so, either now or in the future.


The facts and the law are both clear.

We look forward to your leadership response before June 23, 2020, the 48th anniversary of Title IX. Please respond to this correspondence by email.

Regards,



Nancy Hogshead-Makar, J.D.
CEO, *Champion Women*



Amy Poyer, J.D.
Senior Staff Attorney, *California Women’s Law Center*

Supporting Organizations:

- Active Policy Solutions
- Athletes Unlimited
- Centre for Sport and Human Rights
- Clearinghouse on Women's Issues
- The Drake Group
- Equal Rights Advocates
- Fair Play for Girls in Sports, a project of Legal Aid at Work
- The Fearless Coach
- Feminist Majority Foundation
- National Center for Lesbian Rights
- National Federation of State High School Associations

Power Plays
Southwest Women's Law Center
Tucker Center for Research on Girls & Women in Sport
USA Badminton
What Equality Looks Like
Women's Law Project
Women's Rugby Coaches and Referees Association

cc: Dr. John W. Kelly, President, Florida Atlantic University
Dr. Leslie K. Guice, President, Louisiana Tech University
Jerome A. Gilbert, President, Marshall University
John R. Broderick, President, Old Dominion University
David W. Leebron, President, Rice University
Dr. Philip L. Dubois, Chancellor, The University of North Carolina at Charlotte
Rodney D. Bennett, President, The University of Southern Mississippi
Ray L. Watts, President, University of Alabama at Birmingham
Neal J. Smatresk, President, University of North Texas
Dr. Heather Wilson, President, University of Texas at El Paso
Dr. Taylor Eighmy, President, University of Texas at San Antonio
Timothy C. Caboni, President, Western Kentucky University
Tommy McClelland II, Athletic Director, Louisiana Tech University
Chris Massaro, Athletic Director, Middle Tennessee State University
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Joe Karlgaard, Athletic Director, Rice University
Mike Hill, Athletic Director, The University of North Carolina at Charlotte
Jeremy McClain, Athletic Director, The University of Southern Mississippi
Mark Ingram, Athletic Director, University of Alabama at Birmingham
Wren Baker, Athletic Director, University of North Texas
Jim Senter, Athletic Director, University of Texas at El Paso
Lisa Campos, Athletic Director, University of Texas at San Antonio