

June 5, 2020

Commissioner Craig Thompson
Mountain West Conference
10807 New Allegiance Drive, Suite 250
Colorado Springs, CO 80921

Dear Commissioner Thompson,

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

Mountain West Conference (MW), 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 MW, 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 MW 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 MW member schools, in sum (refer also to table below):

- 603 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 MW member institutions fail both of them as well.
- If MW member institutions were to provide women with equal opportunities to participate and add these 603 female student-athletes for the 2020–2021 school year, an additional \$16,966,630 in scholarship aid would need to be provided for their female student-athletes in order to equal the male student-athlete scholarships.
- Moreover, MW member institutions would need to spend an additional \$4,306,083 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. MW member institutions provided just 2.5% of its students with a varsity sports experience in 2018–2019 school year.

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>.

Mountain West Conference 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)
Boise State University	2	21	\$1,597,952	\$504,821	3.1%
California State University-Fresno	56	98	\$1,457,431	\$395,861	2.6%
Colorado State University-Fort Collins	68	46	\$1,440,892	\$605,615	1.7%
San Diego State University	0	0	\$1,059,069	\$310,633	2.0%
San Jose State University	36	48	\$753,793	\$176,670	2.0%
University of Nevada-Las Vegas	49	121	\$3,279,727	\$724,801	2.1%
University of Nevada-Reno	0	19	\$1,175,345	\$435,895	2.6%
University of New Mexico-Main Campus	112	149	\$3,420,705	\$413,426	3.3%
University of Wyoming	4	56	\$1,619,494	\$533,376	4.8%
Utah State University	38	45	\$1,162,222	\$204,985	3.1%
Totals:	365	603	\$16,966,630	\$4,306,083	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

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 MW members treat men and women as

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.

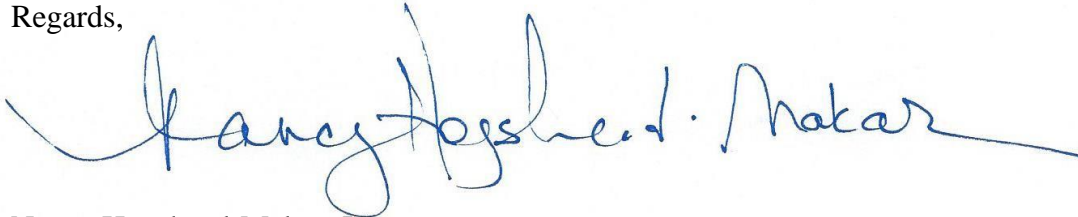
⁹ Ernst & Young, “Global Survey Reveals Critical Role Sports Play for Female Executives in Leadership Development and Teamwork in Business,” (June 18, 2013). Available at: <https://www.prweb.com/releases/2013/6/prweb10841451.htm>.

equals. If the MW 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.

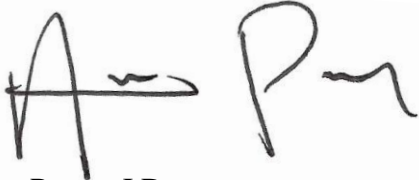
The facts and the law are both clear.

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,

A handwritten signature in blue ink that reads "Nancy Hogshead-Makar". The signature is fluid and cursive, with a long horizontal line extending to the right.

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

A handwritten signature in black ink that reads "Amy Poyer". The signature is cursive and somewhat stylized, with a large "A" and "P".

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. Marlene Tromp, President, Boise State University
Joseph I. Castro, President, California State University, Fresno
Joyce E. McConnell, President, Colorado State University
Dr. Adela de la Torre, President, San Diego State University
Mary A. Papazian, President, San Jose State University
Marta Meana, President, University of Nevada, Las Vegas
Dr. Marc A. Johnson, President, University of Nevada, Reno
Garnett S. Stokes, President, University of New Mexico
Neil Theobald, President, University of Wyoming
Noelle E. Cockett, President, Utah State University
Curt Apsey, Athletic Director, Boise State University
John David Wicker, Athletic Director, San Diego State University
Marie Tuite, Athletic Director, San Jose State University
Desiree Reed-Francois, Athletic Director, University of Nevada, Las Vegas
Doug Knuth, Athletic Director, University of Nevada, Reno
Eddie Nuñez, Athletic Director, University of New Mexico
Tom Burman, Athletic Director, University of Wyoming