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May 7, 2015

VIA E-MAIL (Hogshead@ChampionWomen.org) and U.S. MAIL

Nancy Hogshead-Makar
ChampionWomen
3116 Johns Avenue
Jacksonville, FL 32205

Dear Ms. Hogshead-Makar,

This responds to your April 15, 2015 letter to UC Berkeley Chancellor Nicholas Dirks, myself, and others regarding UC Berkeley's compliance with Title IX in its intercollegiate athletics program. First, let me thank you for your interest in Cal Athletics and for the time you have taken to review our data. Cal has a long history of strong support for women's athletics, and we are enormously proud of the many remarkable accomplishments our female student-athletes and coaches have achieved over many years. Because of our strong support for women's athletics, we are acutely aware of our responsibilities under Title IX, and we take them very seriously. I would like to take this opportunity to provide some additional information about the manner in which Cal provides equal opportunities to its female and male student-athletes.

Participation Opportunities

Since publication of the December 1979 "Intercollegiate Athletics Policy Interpretation," the Department of Education's Office for Civil Rights has consistently advised that institutions may meet the requirement that they provide equal athletic participation opportunities by satisfying any one of three compliance options. As OCR stated in its 1996 publication "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" and reiterated in its April 2010 "Dear Colleague Letter:"

"[T]he three-part test furnishes an institution with three individual avenues to choose from when determining how it will provide individuals of each sex with nondiscriminatory

opportunities to participate in intercollegiate athletics. If an institution has met any part of the three-part test, OCR will determine that the institution is meeting this requirement.”

Cal provides equal participation opportunities for its women student-athletes through test three: full and effective accommodation of interests and abilities. Compliance with test three is measured by the answer to three questions:

1. Is there unmet interest in a particular sport?
2. Is there sufficient ability to sustain a team in the sport?
3. Is there a reasonable expectation of competition for the team?

(See April 2010 DCL.) If the answer to all three questions is “yes,” an institution will be required to offer competitive opportunities in the sport to remain in compliance under test three. The third of these questions is particularly relevant in assessing Cal’s compliance. “In evaluating available competition, OCR considers available competitive opportunities in the geographic area in which the institution’s athletes primarily compete.” (April 2010 DCL) In Cal’s case, the 16 women’s intercollegiate teams it offers represent every women’s sport in which there is a reasonable expectation of intercollegiate competition in the geographic area in which Cal’s athletes primarily compete. Therefore, Cal fully complies with test three.

Scholarship Opportunities

Contrary to the suggestion in your letter, institutions that comply with the equal participation opportunities requirement through tests two or three are not required to provide athletic scholarship aid proportional to the representation of male and female students in their general undergraduate populations. Rather, financial assistance must be provided “in proportion to the rate of each sex *in intercollegiate athletics*.” (See <http://www2.ed.gov/about/offices/list/ocr/docs/interath.html> (emphasis added).) Cal meets the Title IX standards in its scholarship awards to its female and male student-athletes.

Equal Treatment

Cal is quite aware of its obligation to provide equal treatment with respect to equipment, team travel, tutoring and academic support services, medical and training services, and the like. We regularly review our practices in these areas and believe that we have a strong record of equal treatment.

Coach Compensation

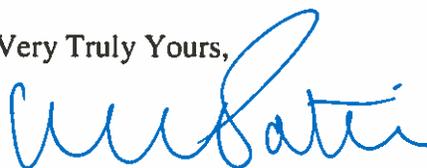
The differentials in *average* compensation between coaches of men’s and women’s teams referenced in your letter are largely the result of salaries paid to coaches of football and men’s basketball who, because of the high-profile nature of their sports, have additional responsibilities compared to coaches of other men’s and women’s teams. Those salaries are fully compliant with legal requirements under Title VII, Title IX and the Equal Pay Act.

We believe that the coaches of Cal's women's and men's intercollegiate teams are exceptional. With respect to student athletes, OCR's 1979 Policy Interpretation clarified that Title IX is violated "only where [coach] compensation or assignment policies or practices deny male and female athletes coaching of equivalent quality, nature, or availability." Cal fully meets this requirement through the outstanding—and equal--quality and availability of the coaches it provides its student-athletes.

Finally, we appreciate your offer to provide further guidance regarding Cal's ongoing compliance with Title IX. We have, however, ongoing relationships with expert Title IX consultants who help us assess compliance with our legal obligations.

Again, thank you for your interest in Cal Athletics.

Very Truly Yours,



Christopher M. Patti
Chief Campus Counsel
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