RESOLUTION AGREEMENT

Monmouth University
Case No. 02-15-6001

In order to resolve Compliance Review No. 02-15-6001, Monmouth University (the University) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the following actions pursuant to the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106 (Title IX).

INTERESTS AND ABILITIES (I&A)

The University asserts that it provides participation opportunities for female and male students that effectively accommodate the athletic interests and abilities of members of both sexes, consistent with the requirements of the regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(1), and will continue to do so. The University will demonstrate that it provides athletic participation opportunities that are either substantially proportionate to each sex’s enrollment, or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the University’s current athletics program. OCR has made clear to the University and the University understands that OCR does not require or encourage the elimination of any University athletic teams and that it seeks action from the University that does not involve the elimination of athletic opportunities, because nothing in Title IX requires an institution to cut teams or reduce opportunities for students who are participating in intercollegiate athletics in order to comply with the provisions of Title IX relating to the effective accommodation of the interests and abilities of male and female students.

Action Item I: Determination of Unmet Interest and Ability

The University asserts that it has reviewed the results of the survey it conducted in April 2015 to determine the existence and/or scope of any unmet athletic interests of female students. The University asserts that the review of this survey also considered whether the interested students had the ability to sustain an intercollegiate team; noting that they do not need the ability to sustain a successful or elite team, but only need to show that they have the potential to participate in team try-outs, practices and competitions, and with coaching, the potential to attain sufficient ability to participate at the particular level of competition in which they have expressed interest. In addition to reviewing these survey results, the University asserts that it has reviewed other indicators of interests and abilities, including the following:

- A review of female students’ rates of participation in club and intramural sports at the University during academic years 2013-2014, 2014-2015, and 2015-2016; and

- A review of any requests (whether oral, written, formal or informal) made to University administrators, coaches, or staff by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to intercollegiate sport status during academic years 2013-2014, 2014-2015, and 2015-2016.
The University agrees to conduct other periodic assessments of the athletic interests and abilities of its students in subsequent years to ensure it is effectively accommodating the athletic interests and abilities of its male and female students consistent with the regulation implementing Title IX.

**Reporting Requirements:**

a) Along with this executed resolution agreement, the University has provided the results of the assessment referred to under Action Item I, including the following information:

i. A copy of the results of the most recent survey of female students at the University that sought information on female students’ interest and ability to participate in sports currently offered and in sports not currently offered by the University; including at a minimum, the number of students, by sport, who indicated an interest in each sport (copy attached hereto as Exhibit A).

ii. A copy of any written requests and a summary of any non-written requests made by or on behalf of female students to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to intercollegiate sport status during academic years 2013-2014, 2014-2015 and 2015-2016 (copy attached hereto as Exhibit C).

iii. Other information that the University considered as part of its assessment in determining whether it is fully and effectively accommodating the athletic interests and abilities of female students, including a review of female students’ rates of participation in club and intramural sports at the University during academic years 2013-2014, 2014-2015, and 2015-2016 (copy attached hereto as Exhibit B).

**Action Item II: Action to Increase Athletic Opportunities**

Beginning on February 15, 2017, if through the above-described assessment the University identifies a sport or sports in which there is sufficient but unmet interest, and if applicable, ability of female students to participate at the intercollegiate level, the University will add athletics opportunities as described below until such time as either (1) the University is fully and effectively accommodating the expressed interests and abilities of female students (i.e., there remains no unmet interest and ability); or (2) the participation rate for female students in the intercollegiate, athletics program is substantially proportionate to their rate of enrollment. Requirement (1) or (2) above must be met no later than June 30, 2020.

For purposes of this provision, “sufficient interest” is defined as the minimum number of athletes needed to support a team. For “sufficient ability,” it is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team, and students will not be required to demonstrate that they have sufficient ability in a new sport or team if students participating in existing sports or teams are not required to demonstrate through try-outs or some
other process that they possess sufficient ability to participate in the specific sport or at the particular level of competition in which they have expressed interest.

In providing additional athletic opportunities for female students to either accommodate their interests and abilities or until their rate of participation is substantially proportionate to their rate of enrollment, the University shall do the following:

A. **Sports Currently Offered:**

   The University will review the squad size, for sports that are currently offered as intercollegiate sports, to identify opportunities to increase participation opportunities for female students to the maximum extent feasible consistent with the nature of each sport and the level of interest in each sport while still ensuring that meaningful intercollegiate athletic participation opportunities are being provided to all team members.

B. **Sports Not Currently Offered:**

   The University will continue its practice of surveying students on a two-year rotational cycle, utilizing an OCR approved survey during the monitoring period, to determine female students’ interest and ability to participate in sports not currently offered by the University. As provided for under Action Item I, above, the University will determine whether there is a sufficient number of female students with sufficient interest, and if applicable, ability to support the addition of a team in sports not currently offered by the University as intercollegiate sports, and whether there is sufficient competition within the University’s normal competitive division for those teams/sports. If as a result of the analysis under Action Item I the University determines that there is sufficient interest, and if applicable, ability to support the addition of a team, as well as sufficient competition, the University agrees to take action consistent with Title IX to provide additional participation opportunities (such as adding a team in those sports at an intercollegiate level).\(^1\) If the University determines there is sufficient interest and ability to support the addition of a team in sports not currently offered, it will take steps to add such a team to begin competition by academic year 2019-2020. If the University determines after an initial showing that there is not continuing sufficient interest and ability to support an additional team, it shall so report to OCR, in accordance with the reporting requirements below.

C. **Response to Developing Interests and Abilities:**

   For any sport that is not currently offered by the University where there is a sufficient number of female students who have sufficient interest, and if applicable, ability in that sport, but where the University determines that there is not sufficient competition within the University’s normal competitive division, the University will take ongoing steps to develop students’ interest and ability. These steps may include establishing club or intramural sports, exploring the feasibility of establishing competition in the University’s normal competitive division.

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\(^1\) OCR understands and supports the University’s practice of first offering a club level of sport for a period of time as a means of gauging interest and ability prior to elevating the sport to an intercollegiate level, as long as consistent with the timeframes set forth in this Agreement.
division, and elevating such sports to intercollegiate status when competition becomes available.

D. Additional Intercollegiate Opportunities:

To the extent that the University adds any sports or competitive club or intramural levels of teams, the University will provide those team(s) with sufficient funds in its budgets to cover expenses that include, but are not limited to: coaches, equipment and supplies, travel funds, and publicity and support services. The University will also publicize any new sports or levels of teams through written notices, oral announcements, and postings on the University’s website.

Reporting Requirements:

a) By February 15, 2017, if the University’s assessment demonstrates that it is fully and effectively accommodating the athletic interests and abilities of its female students, the University will submit information detailing its determination of the same.

b) By February 15, 2017, if the University is obligated to offer additional athletic opportunities pursuant to this Agreement, the University will provide to OCR a detailed report that reflects the steps taken/to be taken by the University pursuant to Action Item II above to create new opportunities for female students as the underrepresented sex. This report will detail the timetable for the addition of new sports, levels of sports or newly-created club and/or other opportunities added pursuant to this Agreement. It will also describe how the creation of additional athletics opportunities taken pursuant to this Agreement will either (1) effectively accommodate the expressed interests and abilities of female students (i.e., there remains no unmet interest and ability); or (2) elevate female students’ participation rate in University intercollegiate athletics programs to be substantially proportionate to their rate of enrollment.

c) By June 30, 2017, and each year thereafter until June 30, 2020, unless the University demonstrates compliance by academic year 2018-2019 the University will provide to OCR:

   i. a copy of the squad list for each team;

   ii. the breakdown/enrollment by sex; and

   iii. information regarding any additional athletic opportunities added for female students, consistent with Action Item 2, above.

Action Item III: Process for Requesting Addition of New Sports or Levels of Sports

By January 31, 2017, the University will develop a process and written procedure for students or other interested parties, such as coaches or parents, to use in requesting the addition of new
sports or levels of sports at the University. The process will be implemented upon approval by OCR (see III.a, below), and notice and a copy of the procedure will be published with the electronic version of the Student Handbook (with change to printed version to be made with the summer 2017 revision), and the individual responsible for responding to any requests will be identified by name and contact information. This information will also be displayed on the University’s website (athletics page). The University shall retain all requests for new sports or levels of sports made through the procedure or otherwise in written or electronic form for a minimum of ten years.

**Reporting Requirements:**

a) By February 15, 2017, the University will submit to OCR, for review and approval, a copy of its draft procedure for requesting new sports or levels of sports. OCR will respond within 30 calendar days.

b) By March 31, 2017, the University will provide documentation to OCR demonstrating that the procedure for requesting new sports or levels of sports has been adopted and disseminated to students and staff; including a link to the University’s website where this information may be found.

c) By June 30, 2017, and June 30, 2018, the University will provide documentation to OCR demonstrating that the procedure for requesting new sports or levels of sports has been implemented during the past academic year, including copies of any requests and the responses to those requests.

**Action Item IV: Training**

The University has requested that OCR provide training. By April 15, 2017, OCR will provide training at the University to the Title IX Coordinator and coaches on the relevant requirements of Title IX as it pertains to the provision of equal athletic opportunities to both sexes; how to identify unmet interest in sports; and, the process for adding new sports or levels of sports. By May 31, 2017, the University will provide similar training to any coaches not previously trained.

**Reporting Requirement:** By June 1, 2017, the University will provide supplemental documentation of subsequent trainings provided to coaches and staff who may have been unable to attend the initial training offerings.

**ATHLETIC FINANCIAL ASSISTANCE (AFA)**

The University agrees to provide reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid with gross scholarship/grant funds to be distributed in proportion to the number of students of each sex participating in intercollegiate athletics, consistent with the requirements of Title IX and its implementing regulation at 34 C.F.R. §106.37. The University is not prohibited from providing different scholarship amounts for specific athletes, as long as the gross scholarship/grant funds to be distributed are in proportion
to the number of students of each sex participating in intercollegiate athletics. The University understands that nothing in this Agreement requires the University to cut the amounts of athletic scholarships and/or grants-in-aid it offers to either sex and that any such cuts are discouraged.

**Action Item V: Demonstration of Current Compliance**

By January 31, 2017, the University will demonstrate that during academic year 2015-2016, the amount of athletic scholarships and/or grants-in-aid it awarded to male and female athletes was substantially equal to their intercollegiate athletic participation rates, after taking into consideration any legitimate, nondiscriminatory reasons for any differences.

- The University will compare the intercollegiate athletic participation rates of female and male students as reflected on the NCAA squad or eligibility list for each intercollegiate sport (for purposes of establishing the participation rates, all students, including students who participate in more than one intercollegiate sport, will be counted only once) to the amounts of athletic financial assistance awarded to male and female athletes.

- The University will determine whether any resultant disparity is less than or equal to 1% of the entire budget for athletic scholarships and/or grants-in-aid.

- The University will examine whether there are any legitimate, nondiscriminatory explanations for any differences that exist, such as differences related to reasonable professional decisions appropriate for program development.

**Reporting Requirement:**

By January 31, 2017, the University will provide to OCR a detailed report, with copies of supporting documents, reflecting the University’s evaluation of the awarding of athletic financial assistance to the University’s female and male intercollegiate athletes pursuant to Action Item V. The report will include, at a minimum, a copy of the participation data that the University relied on in determining the number of male and female students in the University’s intercollegiate athletics program; a copy of team squad or eligibility lists for each sport showing students, by sex, and the amounts of athletic scholarships or grants-in-aid, if any, the students were awarded by the University; and a description of any legitimate, nondiscriminatory factors that led to any disparities. The University will also indicate the amount of a typical athletic scholarship or grant-in-aid, and whether any disparities are greater to or less than this amount.

**Action Item VI: Actions to Ensure Future Compliance**

If the University is unable to demonstrate compliance with Title IX pursuant to Action Item V, the University agrees to take the following actions to ensure that the provision of athletic financial assistance to male and female athletes is substantially proportionate to their respective rates of participation:
A. By June 30, 2017, assign an administrator to implement the procedure described in paragraph VI.B, below, to ensure that the athletic financial assistance is substantially proportionate to male and female athletes’ participation rates;

B. By June 30, 2017, establish a procedure, or review and revise as necessary its current procedures, to review, on an annual basis, whether the athletic financial assistance provided to male and female athletes is substantially proportionate to their respective rates of participation.

The procedure will, at a minimum, require the University to:

1. determine the number of participants of each sex on each athletic team, utilizing OCR’s definition of “participant”;

2. determine the number of University students who tried out for, but were cut from each team; the number and identity of all athletes who participated on more than one intercollegiate team and the teams on which they participated; and the maximum number of scholarships authorized by the NCAA for each men’s and women’s team;

3. identify the number of scholarships (either head-count or full-ride equivalency) that was authorized by the University to be awarded for each team; and for each team, if the maximum number of scholarships authorized was not awarded, the reasons for not making the awards; and

4. determine whether there are any legitimate, nondiscriminatory explanations for the provision of athletic financial assistance to male and female athletes that is not substantially proportionate to their respective rates of participation.

C. By August 31, 2017, the University will incorporate the procedures established under Action Item VI.B of this Agreement into the University’s policy library and website as are published or maintained by the University.

**Reporting Requirements:**

a) By June 30, 2017, the University will provide documentation to OCR reporting the name, title, telephone number, and mailing and electronic mail addresses of the person(s) assigned as the administrator(s) to implement the procedure described in paragraph VI.B, above, to ensure that the provision of athletic financial assistance to male and female athletes is substantially proportionate to their respective rates of participation;

b) By June 30, 2017, pursuant to Action Item VI.B, the University will submit to OCR, for review and approval, a copy of its draft procedure for determining whether the athletic financial assistance provided to male and female athletes is
substantially proportionate to their respective rates of participation; OCR will review within 30 calendar days.

c) By August 31, 2017, the University will provide documentation to OCR demonstrating that the procedure for determining whether the athletic financial assistance provided to male and female athletes is substantially proportionate to their rates of participation has been adopted;

d) By August 31, 2017, the University will provide to OCR copies of the publications and/or links to the websites that incorporate the University’s revised procedures.

e) By January 1, 2018, the University will provide to OCR a written report demonstrating that the provision of athletic financial assistance to male and female athletes is substantially proportionate to their respective rates of participation.

This Agreement was entered into to amicably resolve disputed claims and shall not in any way be construed as an admission by the University of any wrongful acts by the University or any other person.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §§ 106.37(c) and 106.41(a) and (c)(1), which was at issue in this case. The University also understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the University understands that during the monitoring of this Agreement, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §§ 106.37(c) and 106.41(a) and (c)(1), which was at issue in this case. The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings, including to enforce this Agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

December 20, 2016  
Date

/s/  
Authorized Representative
Monmouth University