



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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**July 2, 2020**

**IN RESPONSE, PLEASE REFER TO: 03162170 and 03162174**

Dr. Brenda A. Allen  
Office of the President  
Lincoln University  
1570 Baltimore Pike  
Lincoln University, PA 19352

Dear Dr. Allen:

This is to notify you of the resolution of the above-referenced complaints filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Lincoln University (the University). The Complainants allege the University fails provide equal athletic opportunity for female athletes compared to male athletes, with respect to:

1. Recruitment of Student Athletes;
2. Athletic Financial Assistance;
3. Equipment and Supplies; and
4. Opportunity to Receive Coaching/Assignment and Compensation of Coaches.

By letter dated July 7, 2016, OCR informed the University that our procedures for the investigation of intercollegiate athletics required that OCR also review the following components of the University's athletics program:

5. Locker Rooms, Practice and Competitive Facilities;
6. Housing and Dining Facilities and Services;
7. Scheduling of Games and Practice Time;
8. Travel and Per Diem Allowance;
9. Academic Tutoring;
10. Medical and Training Facilities and Services;
11. Publicity; and
12. Support Services.

In subsequent interviews with the Complainants, conducted respectively on October 16 and 17, 2019, the Complainants stated that they did not have any information relating to disparities in the University's athletic program components that were not specifically raised in the original complaints. Accordingly, OCR's investigation focused on the program areas enumerated in 1 -4 above.

OCR enforces Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Title IX and its implementing regulation.

**Legal Standards:**

The Title IX implementing regulation, at 34 C.F.R. § 106.41(a), states generally that “no person shall on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient [of Federal financial assistance], and no recipient shall provide any such athletics separately on such basis.”

The provision of athletic scholarships or grants-in-aid is addressed in the Title IX implementing regulation at 34 C.F.R. § 106.37(c), which states that “to the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in intercollegiate athletics.” The Policy Interpretation provides that OCR will examine compliance primarily by means of a financial comparison to determine whether the total amounts of financial assistance (scholarship aid) available to men’s and women’s athletic programs is substantially proportionate to their respective participation rates. To assess this, OCR divides the amounts of aid available for the members of each sex by the numbers of male or female participants in the athletic program and compares the results. The analysis is conducted on a case-by-case basis, but institutions may be found in compliance if this comparison results in substantially equal amounts or if a resulting disparity can be explained by adjustments to take into account legitimate, nondiscriminatory factors (such as differences in in-state vs. out-of-state tuition at public institutions, as long as out-of-state scholarships are not disproportionately limited to one sex; or reasonable professional decisions concerning awards necessary for program development) that the institution can demonstrate are reasonable and do not reflect underlying discrimination.

Recipients must also provide equivalent treatment, services, and benefits regarding athletic program components, such as the provision of athletic equipment and supplies, recruitment of student athletes, and the opportunity to receive coaching/compensation of coaches. The overall equivalence standard allows recipient types to achieve their own program goals within the framework of providing equal athletic opportunities. To determine equivalency for men’s and women’s athletic programs, program components assessed by comparing the following: availability, quality, kind of benefits, kind of opportunities, and kind of treatment.

Under this equivalency standard, identical benefits, opportunities, or treatment are not required. If a comparison of program components indicates that benefits, opportunities, or treatment are not equivalent in quality, availability, or kind, the recipient type may still be in compliance with the law if the differences are shown to be the result of nondiscriminatory factors. Compliance concerns will exist only if disparities are of a

substantial and unjustified nature in a school's overall athletic program; or if disparities in individual program areas are substantial enough in and of themselves to deny equality of athletic opportunity.

### **Investigation to Date**

OCR reviewed information provided by the Complainants and the University and conducted onsite interviews with the University's athletic coaches and administrators. OCR's review of the information provided indicates that as of the 2015-2016 academic year, the University has three men's sports teams, with a total of 126 male athletes, and four women's sports teams, with a total of 59 female athletes. The University also has one co-educational team with 18 male and 17 female athletes.

OCR's review identified areas of concern in each of the athletic program areas at issue in this complaint. With respect to the University's recruitment of student athletes, the Director of Compliance informed OCR that that recruitment funds were made exclusively available to men's sports of football and basketball available because they are considered to be "flagship sports." The head men's basketball coach affirmed that the team receives funding for trips, research and recruiting-related travel; whereas, all women's team coaches affirmed that they received no funds for recruitment.

Concerning the University's provision of athletic financial assistance, based OCR's review scholarship awards information provided by the University, financial assistance was disproportionately awarded to men during both years examined (the 2014-2015 and 2015-16 years).

OCR also identified areas of concern regarding the University's provision of equipment and supplies. During OCR's onsite review, the University acknowledged that its sports teams do not broadly adhere to the established policies and procedures for the requisition of equipment and supplies and that funding allocations are made on an ad hoc basis. As a result, the University acknowledged that its records regarding expenditures were inaccurate.

University administrators stated that generally men's teams receive more apparel than women's, and that female athletes have needed to purchase their own apparel. Examples included men's basketball receiving new compression shirts and jerseys while the women's basketball players used old jerseys. Women's softball players purchase their own bats while the men's team is provided new bats.

OCR has also identified concerns regarding the University's compensation of coaches. The Business Manager stated that there is a significant difference between the compensation of men's team coaches and women's team coaches, noting that women's teams have part-time coaches who make \$18,000-\$36,000 annually, but the men's salaries start at \$36,000 annually. He also stated that women's team coaches have more extra duties and men's coaches are not made to perform extra duties—i.e. women's coaches work during football games, but men's coaches sit in the stands; women's coaches also conduct ticket sales, work the front gate, and monitor tailgating.

The Director of Compliance informed OCR that he was of aware of the University failing to abide by its established policies with respect to the hiring of coaches. Further, the Business Manager affirmed procedural violations in the hiring of coaches, noting that in hiring there are supposed to be search committees in the hiring of head coaches but that recent hiring decisions were made without convening search committees.

## **CONCLUSION**

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a voluntary resolution agreement. The provisions of the agreement must be aligned with the complaint allegations and the issues investigated and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations. Consistent with OCR's procedures, the University requested to resolve the issues in this complaint through a voluntary resolution agreement, which was executed on June 29, 2020. When fully implemented, the resolution agreement will address all of the allegations investigated. Accordingly, OCR is concluding its investigation of this complaint. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the University's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Title IX and its implementing regulations that may exist and are not discussed herein.

Under the Freedom of Information Act it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact investigator Josh Galiotto at (215) 656-8587 or by email at [joshua.galiotto@ed.gov](mailto:joshua.galiotto@ed.gov).

Sincerely,

/s/

Christina M. Haviland  
Supervisory Attorney

Enclosure  
cc: Richard Harris and Jeanine Conley, Esqs.