

Resolution Agreement
The Board of Trustees of Southern Illinois University
On behalf of Southern Illinois University Carbondale
OCR Case No. 05-17-2224

The Board of Trustees of Southern Illinois University on behalf of Southern Illinois University Carbondale (the University) enters into this Resolution Agreement (Agreement), as set forth below, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), to resolve OCR Case No. 05-17-2224. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the University. The University assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 (Title IX), and its implementing regulations at 34 C.F.R. Part 106, which prohibit discrimination based upon sex in any education program or activity operated by a recipient of Federal financial assistance from the Department.

I. DEMONSTRATION OF COMPLIANCE

The University agrees to provide participation opportunities in its intercollegiate athletics program for female and male students that equally and effectively accommodate the athletic interests and abilities of members of both sexes, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. § 106.41(c)(1), and applicable OCR policies.

A. Demonstration of Compliance

The University has the option to demonstrate compliance with any one part of the three-part test used by OCR to assess whether the interests and abilities of members of both sexes are being effectively accommodated to the extent necessary to provide an equal opportunity to participate in intercollegiate athletics by documenting that:

1. The University is providing intercollegiate athletic participation opportunities for female and male students in numbers substantially proportionate to their respective enrollments (Part 1); or
2. The University has a history and continuing practice of intercollegiate athletic program expansion that is demonstrably responsive to the developing interests and abilities of students who are members of the underrepresented sex (Part 2); or
3. The interests and abilities of students who are members of the underrepresented sex have been fully and effectively accommodated by the University's current intercollegiate athletics program (Part 3).

Each part of the three-part test is an equally sufficient and separate method of complying with the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities.¹

¹ Additional guidance to institutions of higher education on the requirements for compliance with Title IX in intercollegiate athletic programs is provided in the December 11, 1979, Intercollegiate Athletics Policy Interpretation, at 44 *Fed. Reg.* 413 *et seq.*, available at <http://www2.ed.gov/about/offices/list/ocr/docs/t9interp.html>.

B. University's Proposed Plan for Demonstrating Compliance

The University notified OCR of its intent to demonstrate compliance with Part 1 of the three-part test, by no later than the 2019-2020 academic year as outlined in a proposal that it provided to OCR on November 10, 2017, and it commits to taking actions outlined in its proposed plan beginning in the 2017-2018 academic year, which may demonstrate compliance as early as the 2018-2019 academic year.

Because the University has elected to demonstrate compliance with Part 1 of the three-part test, the University will compare the enrollment rates of its female and male students with their rates of participation in the University's intercollegiate athletics program during the same academic year.

The University will calculate enrollment rates using the full-time undergraduate enrollment numbers, by sex, for an academic year.² The University will calculate participation rates of female and male students by counting as participants the athletes who in that same academic year: a) were receiving the institutionally-sponsored support normally provided to athletes competing at the institution involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport's season; and b) were participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and c) were listed on the eligibility or squad lists maintained for each sport, or d) did not meet a, b, or c above but continued to receive financial aid on the basis of athletic ability.

The University will calculate the participation rates of female and male students using the total number of females and males listed on the NCAA varsity squad or eligibility list for each intercollegiate varsity sport on the date of the first competition for each sport. Students who participated in more than one intercollegiate sport will be counted in each intercollegiate sport in which they participated. Participation rates should not include participants in intramural, club or non-competitive athletic activities.

II. ACTIONS TO INCREASE ATHLETIC OPPORTUNITIES

The University's proposed plan submitted to OCR, for compliance with the Title IX requirement to effectively accommodate the interests and abilities of members of both sexes to the extent necessary to provide equal opportunity in its intercollegiate athletics program, increases participation opportunities for female students in the 2017-2018 academic year in four of its existing eight women's intercollegiate sports and in the 2018-2019 academic in an additional three women's intercollegiate sports, thereby realizing an overall increase to the number of female intercollegiate participants without an overall decrease to the number of male intercollegiate participants, in comparison to the numbers in the 2016-2017 academic year.

² Although the University's proposed plan indicates that it excludes certain students from its enrollment count, the University agrees to calculate its enrollment rate pursuant to the terms identified in this Agreement.

The University's proposed plan sets forth the University's commitment to adding a new women's intercollegiate sport, specifically women's soccer, as a Division I competitive sport with the 2019-2020 academic year as its inaugural year of intercollegiate completion. To this end, the University's proposed plan outlines interim actions to be taken by the University beginning in the current 2017-2018 academic year, including hiring a head coach and an assistant coach, recruiting athletes, conducting tryouts for University soccer club team members, and addressing details of scheduling practices and competitions at University athletic facilities. The University's proposed plan calls for hiring a second assistant coach, hiring other staff, and starting practices in the 2018-2019 academic year. In addition, the University's proposed plan recognizes the need for the University to modify and upgrade its athletic facilities for the new women's intercollegiate sport of soccer.

The University agrees to demonstrate compliance as early as the 2018-2019 academic year, but no later than the 2019-2020 academic year, consistent with A-D set forth below. The University will begin implementing its proposed plan for compliance with Part 1 of the three-part test upon the execution of this Agreement.

A. Sports currently offered

The University will institute a squad size policy providing for increased 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 for all team members.

B. Sports not currently offered

The University acknowledges as part of this Agreement that there are a sufficient number of female students and admitted students at the University with the interest and ability to support the addition of an intercollegiate women's soccer team and that such a team is not currently offered. The University agrees to add an intercollegiate women's soccer team with the 2019-2020 academic year as the inaugural year of intercollegiate competition, and to implement the preparatory actions outlined in its proposed plan during the 2017-2018 and 2018-2019 academic years.

C. Elimination of athletic teams

Title IX provides institutions with flexibility and choice regarding how they will provide nondiscriminatory participation opportunities. OCR does not require or encourage the elimination of any University intercollegiate athletic teams and seeks action from the University that does not involve the elimination of any athletic opportunities. Title IX does not require 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.

D. Additional intercollegiate opportunities

To the extent that the University adds sports, the University will provide those team(s), in a manner comparable to other intercollegiate teams, with sufficient funds in its budget to cover expenses including, but not limited to: coaches, recruiting, equipment and supplies, travel, publicity and support services.

Reporting requirements:

1. Upon the execution of this Agreement, the University will begin to implement the steps outlined in the University's proposed plan. Within **60 days** of the execution of this Agreement, the University will provide OCR with a detailed status report on the implementation of this Agreement, including the steps the University has taken in implementing the proposed plan. Thereafter, while this Agreement is in force, the University will notify OCR of changes it wishes to make to the proposed plan for OCR's review and approval.
2. By **June 30 and December 31 of 2018**, the University will provide OCR status reports demonstrating implementation of Section II(A)-(D) of this Agreement and the University's proposed plan to effectively accommodate the interests and abilities of members of both sexes including, as applicable, information demonstrating coaching staff has been hired for the new intercollegiate women's soccer team, an update on the University's progress in recruiting student athletes for the newly added team, a copy of the team's practice and competitive schedules, and a copy of the detailed budget provided to the newly added team to ensure it is able to begin intercollegiate competition during the 2019-2020 academic year
3. By **June 30, 2018**, and by the same date annually thereafter, while this Agreement is in force, the University will provide OCR a detailed annual report evaluating whether intercollegiate athletic participation opportunities for female and male students are provided in numbers substantially proportionate to their respective enrollments with respect to the most recently concluded academic year. The report will include a copy of supporting documents showing the University's full-time undergraduate student enrollment numbers, by sex, and the number of female and male participants in athletics on each intercollegiate team, consistent with Section I(B) of this Agreement. The report will include a copy of the team squad or eligibility lists for each intercollegiate varsity sport team on the date of the first competition for each sport, by sex, and other information reflecting the basis for the University's evaluation. In addition, the University will provide documentation to allow OCR to identify any changes to the team's participation numbers that occurred after the first competition, including attestation from each head coach confirming the accuracy of the team's final participation numbers.

The annual report will identify the increases in participation opportunities for female students in sports currently offered in the University's intercollegiate athletics

program, pursuant to its proposed plan. The annual report will include documentation showing that the new women's intercollegiate soccer team has been provided sufficient funds in its budget to cover expenses, pursuant to Section II(D) of this Agreement.

IMPLEMENTATION AND ENFORCEMENT OF THIS AGREEMENT

The University understands that by signing this Agreement, it agrees to provide the foregoing 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, if necessary, 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 Title IX and its implementing regulation at 34 C.F.R. § 106.41(c)(1). Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings 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 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.

This Agreement will become effective immediately upon the signature of the University's representative below:

Carlo Montemagno, Chancellor

Date