

Resolution Agreement
Pittsburg State University
OCR Compliance Review # 07-10-6001

Pittsburg State University (University) enters into this Resolution Agreement (Agreement), as set forth below, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), Kansas City regional office, to ensure its compliance with the requirements of Title IX of the Education Amendments of 1972, 20 United States Code (U.S.C.) 1681 *et seq.* (Title IX), and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 106. This Agreement is submitted to resolve OCR compliance review #07-10-6001, which was initiated to examine whether the University provides an equal opportunity for male and female students to participate in intercollegiate athletics and whether the University scholarships or grants-in-aid to male and female student athletes are in proportion to the number of students of each sex participating in intercollegiate athletics. Accordingly, the University agrees to take the following actions:

I. Effective Accommodation of Interests and Abilities

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 the following OCR policy documents: OCR “Dear Colleague” Letters (April 20, 2010; September 17, 2008; July 11, 2003; and January 16, 1996); and December 11, 1979, A Policy Interpretation: Title IX Intercollegiate Athletics. 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. The University will provide 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.

The University will develop a policy setting forth the process by which it will review requests (whether oral or written, formal or informal) made to University administrators, coaches, or staff by or on behalf of students to add a particular sport, squad, level of sport, or to elevate an existing intramural sport or club sport, if any, to intercollegiate sport status, including its policy or procedure for requesting additional sports, the designation of the person responsible for receiving and responding to such requests, and the University’s plans, methods and efforts to ensure wide distribution of such policies and procedures to potential applicants, existing and newly admitted students, as well as to coaches and other employees. A copy of the University’s draft policy will be submitted to OCR for its review and approval before being adopted by the University, published, and disseminated to students. When submitting the draft policy to OCR for review and approval, the University will also describe the method it will use to publish and effectively disseminate the policy or procedure to its students.

A. Part I – Substantially Proportionate Participation Opportunities

If the University determines that the 2016-17 school year intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments, the University will notify OCR. In determining substantial proportionality, the University agrees that: 1) enrollment rates will be calculated using the full-time undergraduate enrollment by sex; and 2) the participation rates of female and male students will reflect the total number of females and males listed on the NCAA squad list for each intercollegiate sport on the date of the first competition for each sport. The participation rates should not include participants in intramural, club or noncompetitive athletic activities.

Reporting Requirement

By _____, the University will provide to OCR a copy of the results of its determination, documentation verifying its 2016-17 school year enrollment, and the NCAA squad list for each intercollegiate sport on the date of the first competition for each sport for OCR's review and approval. OCR will determine whether the University has demonstrated current compliance by meeting Part I of the Three-Part Test.

B. Part III - Effective Accommodation of Interests and Abilities

If the University plans to demonstrate compliance with Part III of the Three-Part Test (or is otherwise unable to demonstrate current compliance with Title IX pursuant to item I.A. of this Agreement) 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 the interests and abilities of students who are members of the underrepresented sex¹ have been fully and effectively accommodated by the University's current intercollegiate athletics program it will adhere to Section I, Items B.1 (Objective Assessment) and B.2 (Actions to Increase Athletic Opportunities) of this Agreement.

1. Objective Assessment

The University will conduct an objective assessment of its student body to determine the athletic interests and abilities of female students and whether the University is fully and effectively accommodating the athletic interests and abilities of its female students. The assessment will be based on multiple indicators of interest and multiple indicators of ability, including:

- a. administration of an OCR approved survey of students and admitted students who are likely to attend or other information collected from students and admitted students using a method that is designed to fully and accurately assess unmet athletic interests and abilities in intercollegiate sports among members of the underrepresented sex. A copy of the University's draft survey or other assessment tool will be submitted to OCR for its review and approval before being distributed to students and admitted students. The University will make revisions to the survey as advised by OCR. Upon OCR's written approval, the

¹ OCR has determined that female students are the underrepresented sex because the University has not have fully and effectively accommodated the interests of female students in its current intercollegiate athletics program.

University will administer the survey, endeavoring to generate as high a response rate as possible, including following up with students and admitted students who do not respond;

- b. identification of any sports, squads, and levels of sports for female students that are not currently offered by the University that are offered by schools that compete within the athletic conference in which the University competes or by schools that are within the University's normal competitive region;
- c. rates of participation by female students in club and intramural sports at the University;
- d. review of any requests (whether oral or written, formal or informal) made to University administrators, coaches, or staff by or on behalf of female students and admitted 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;
- e. examination of the participation rates of female students in interscholastic sports, amateur athletic associations, and community sports leagues that operate in the areas from which the University draws its enrollment;
- f. review the number of students cut from any women's team in the last three years and the reasons they were cut, to assess whether any of the students who were cut have the ability and interest to compete in that or another sport and whether sufficient numbers of students who were cut could sustain a University intramural or club sport;
- g. assessments made by University coaches or staff during tryouts, or observations of students participating in intramural competition, and other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the middle or high school level or intramural or club level, general athletic ability, participation in other sports, the nature of the particular sport, and other relevant factors. (Neither a poor competitive record, nor the inability of interested students or admitted students who are likely to attend to play at the same level of competition engaged in by the University's other athletes is conclusive evidence of lack of ability. For the purposes of assessing ability, it is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team.); and
- h. any other information that demonstrates the athletic interests and abilities of the University's female students.

Reporting Requirements

1. By _____, the University will provide a copy of the draft survey or assessment tool referenced in Section I, Item B.1.a. above (student survey), for OCR's

review and approval.

2. By _____, the University will provide to OCR a complete description of the planned methodology for conducting the student survey, including how the survey will be distributed, the number of surveys to be distributed, any planned follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who prepared the survey and the individuals who will evaluate the responses to the surveys, and the protocol for retaining a copy of any notes or other documents compiled during the review of the student survey.
3. By _____, the University will administer the OCR approved student survey.
4. By _____, the University will provide to OCR a detailed report summarizing results of the assessment conducted by the University pursuant to Item B.1. of this Agreement (University assessment). The report will include, at a minimum, the following information and/or supporting documentation:
 - a. a copy of the results of the student survey referenced in Section I, Item B.1.a. above, including but not limited to the number of students by sex and by sport who indicated an interest in each sport, a complete description of the methodology used to conduct the survey, including how the survey was distributed, the number of surveys distributed and the number of responses, any follow-up to the initial distribution of the survey, the names and contact information for the individual(s) who evaluated the responses to the survey, and a copy of any notes or other documents compiled during the review of the student survey;
 - b. an analysis of the results of the student survey or other information collected from students using a method that is designed to fully and accurately assess unmet athletic interests, and if applicable, abilities in intercollegiate sports among female students;
 - c. a summary of sports, squads, and levels of sports for female students that are not currently offered by the University but are offered either by schools that compete within the athletic conference in which the University competes or by schools that are within the University's normal competitive region and geographic area;
 - d. copies 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's sport to intercollegiate sport status;
 - e. a summary of any assessments made by coaches or staff during tryouts, or other information reflecting the ability of female students to compete in a particular sport, prior participation in that sport or a similar sport at the interscholastic level or club or intramural level, general athletic ability, participation in other high school intercollegiate sports, the nature of the particular sport, and other relevant factors;

- f. a copy of the University's (new and/or revised) policies and procedures for students requesting additional teams and/or elevation of an existing club or intramural sport to the intercollegiate level, including the designation of the person responsible for receiving and responding to such requests, and the University's plan and efforts to ensure wide distribution of such policies and procedures to existing and newly admitted students, as well as to coaches and other employees; and
- g. the University's analysis and conclusions as to whether the University is fully and effectively accommodating the athletic interests and abilities of female students.

2. Actions to Increase Athletic Opportunities

By _____, if the University is unable to demonstrate compliance pursuant to Section I., Item A. Part I - Substantially Proportionate Participation Opportunities, the University will submit its detailed plan with timeframes to effectively accommodate the interests and abilities of female students to the extent necessary to provide equal opportunity in its intercollegiate athletics program by the 2020-21 school year. The University's detailed plan will include the steps noted below. In addition, the plan will include a description of interim steps that will be taken by the University during the 2018-19 and 2019-20 school years to increase intercollegiate athletic participation opportunities for female students. The University also agrees to conduct periodic assessments of the athletic interests and abilities of its students in subsequent years to ensure it is equally and effectively accommodating the athletic interests and abilities of its male and female students consistent with Title IX and its implementing regulation. The University will begin implementation of the plan approved by OCR within 30 days of OCR's approval.

a. Sports currently offered

The University will review the squad sizes of current teams 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 for all team members.

b. Sports not currently offered

The University will determine whether there are a sufficient number of female students with the interest and ability to support the addition of a team in sports not currently offered by the University as intercollegiate sports and sufficient competition in those sports within the University's normal competitive region. If so, the University will add a team in those sports and will hire coaching staff, recruit student athletes and provide sufficient resources to the coaching staff during the 2019-20 academic year to ensure that each team begins competition no later than the 2020-21 academic year, consistent with the above determination.

c. Response to developing interests and abilities

For any sport that is not currently offered by the University in which there are a sufficient number of female students who have the interest and ability to support a team in that sport, but where the University determines that there is not sufficient competition in that sport within the University's normal competitive region, the University will take ongoing steps to address such interest and ability. Steps may include establishment of intramural or club sports, exploring the establishment of competition in the University's normal competitive region, and elevating such sports to intercollegiate status when competition becomes available.

d. Elimination of athletic teams

OCR has made clear to the University that OCR does not require or encourage the elimination of any University intercollegiate athletic teams and that it seeks action from the University that does not involve the elimination of athletic opportunities, because nothing in Title IX or the Three-Part Test 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. OCR has also made clear to the University that Title IX provides institutions with flexibility and choice regarding how they will provide nondiscriminatory participation opportunities.

e. Additional intercollegiate opportunities

To the extent that the University adds any 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: scholarships and financial support, coaches, recruiting, equipment and supplies, travel, publicity and support services.

Reporting Requirements

1. By _____, the University will provide to OCR for its review and approval a copy of its detailed report that includes information and supporting documentation demonstrating the plan required above will effectively accommodate the interests and abilities of members of both sexes. The plan will include a description of the interim steps that will be taken by the University during the 2018-19 and 2019-20 school years to increase intercollegiate athletic opportunities for the underrepresented sex.
2. By _____, and _____, and by the same dates annually thereafter, the University will provide OCR status reports regarding its implementation of its plan to effectively accommodate the interests and abilities of members of both sexes including, as applicable, information demonstrating that a coaching staff has been hired

for any new teams being added by the University, an update on the University's progress in recruiting student athletes for the added teams, and a copy of the detailed budget provided to the teams to ensure they are able to begin competition during the 2020-21 school year. The status reports will also include documentation regarding the interim steps taken by the University to increase intercollegiate athletic participation opportunities for women during the 2018-19 and 2019-20 school years.

3. By _____, and by the same date annually thereafter, the University will provide OCR, for OCR's review and approval, a report that includes information demonstrating that its intercollegiate athletics program equally effectively accommodate the athletic interests and abilities of its female students.

II. Athletic Financial Assistance (AFA)

The University agrees it will not reduce the percent of the total scholarship and/or grants-in-aid dollars currently awarded to members of the underrepresented sex without first providing documentation demonstrating the reason for the proposed reduction and obtaining approval from OCR as it simultaneously develops an athletic financial assistance plan, in conjunction with the plan for increasing athletic opportunities for members of the underrepresented sex that provides reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. § 106.37(c), and applicable OCR policies.

A. Demonstration of Current Compliance

1. By _____, the University will compare the amount of athletic scholarships and/or grants-in-aid it awarded to male and female athletes during the 2016-17 school year to determine if the athletic scholarships and/or grants-in-aid were substantially equal to their intercollegiate athletic participation rates, after taking into consideration any legitimate, nondiscriminatory reasons for any differences.
 - a. 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.
 - b. 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, and adjust the total amounts of aid to take those differences into account.
 - c. After taking all legitimate, nondiscriminatory explanations into account the University will compare the intercollegiate athletic participation rates of male and

female students to the rates at which athletic scholarships and/or grants-in-aid are awarded to male and female athletes and determine whether any resultant disparity is less than or equal to 1% of the entire budget for athletic scholarships and/or grants-in-aid.

Reporting Requirement

By _____, the University will provide OCR with 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 the Section II.A. of this Agreement. 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, they were awarded by the University, and a description of any legitimate, nondiscriminatory factors that led the University to make adjustments to the data as well as a detailed description of the adjustments made.

B. Actions to Ensure Future Compliance

The University will take the following actions only if unable to demonstrate current compliance with Title IX pursuant to Section II, Item A. (Demonstration of Current Compliance) of this Agreement:

1. By _____, the University will submit to OCR for review and approval its detailed plan with timeframes to ensure that it provides reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics by the beginning of the 2020-21 academic year, including the steps noted below. The plan will include a description of interim steps that have been or will be taken by the University during the 2018-19 and 2019-20 academic year(s). The University will initiate implementation of the plan upon review and approval by OCR.
 - a. The University understands that nothing in this Agreement requires the University to reduce the amounts of athletic scholarships and/or grants-in-aid it offers to either sex and that any such reductions are discouraged. In making its calculations, the University will use intercollegiate athletic participation numbers that take into account any increase in intercollegiate athletic participation opportunities the University is providing or plans to provide to female students in accordance with Section I of this Agreement.
 - b. The University will identify all legitimate, nondiscriminatory factors that apply and describe how they will be taken into account. Disparities may be explained by actions taken to promote athletic program development, and by differences between in-state and out-of-state tuition. Disparities might also be explained, for example, by legitimate efforts undertaken to comply with Title IX requirements,

such as participation requirements. Similarly, disparities may be explained by unexpected fluctuations in the participation rates of males and females. For example, a disparity may be explained if an athlete who had accepted an athletic scholarship decided at the last minute to enroll at another school. For any asserted nondiscriminatory justification, the University must demonstrate that its asserted rationale is in fact reasonable and does not reflect underlying discrimination. For instance, if the University asserts the phase-in of scholarships for a new team as a justification for a disparity, the University must demonstrate that the timeframe for phasing-in of scholarships is reasonable in light of college sports practices to aggressively recruit athletes to build start-up teams quickly.

- c. The University will show that after taking all legitimate, nondiscriminatory factors into account any remaining disparity between the intercollegiate athletic participation rates of male and female students and the rates at which athletic scholarships and grants-in-aid are awarded to male and female athletes will be less than or equal to 1% of the total amount athletic financial assistance awarded.

Reporting Requirements

The University will complete the following reporting requirements only if the University implements the action items set forth above in Section II, Item B. of this Agreement:

1. By _____, and _____, the University will provide OCR with reports for OCR's review and approval that include information documenting the steps it has taken to implement the plan referenced in Section II.A. of this Agreement and demonstrating that the University will provide reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics during the 2020-21 academic year.
2. By _____, and _____, the University will provide OCR with a report for OCR's review and approval detailing any and all interim actions taken by the University during the 2018-19 and 2019-20 academic years to provide reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics.

III. NOTICE OF NONDISCRIMINATION

- A. By _____, the University will submit for OCR review and approval a revised notice of nondiscrimination to comply with the applicable requirements of Title IX, and its implementing regulation at 34 C.F.R. § 106.8(a) which requires a recipient to identify the individual designated to coordinate its efforts to comply with Title IX by name, office address, and telephone number.

B. Within 30 days of OCR's approval of the revised notice of nondiscrimination, the University will publish the revised notice in electronic and printed publications that provide information to applicants for admission or employment, students and employees about the University's programs, services, or policies (e.g., student and employee handbooks, course catalogs, applications for employment). The University may use inserts containing the revised notice for printed publications until such publications are reprinted. Additionally, the University will prominently post the revised notice of nondiscrimination on its website and at various locations throughout the campus. The University will remove postings of the former, noncompliant notice of nondiscrimination from its website and other locations on campus.

Reporting Requirement

Within 30 days of the publication of the revised notice of nondiscrimination, the University will provide OCR with copies of all printed publications containing the revised notice of nondiscrimination, links to all webpages and electronic documents on the University's website containing the revised notice of nondiscrimination, and a listing of the locations throughout the University at which a copy of the notice of nondiscrimination is posted.

Implementation and Enforcement of this Agreement

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with Title IX implementing regulation at 34 C.F.R. § 106.37(c) and 34 C.F.R. §§ 106.41(c)(1), which were at issue in this compliance review. The University 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 and that all actions taken to comply with the requirements of the Agreement are subject to OCR's review and approval. 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 the regulations implementing by Title IX as identified above.

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.

For Pittsburg State University:

President, Pittsburg State University

Date