

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

Wenatchee Valley College (College) enters into a Voluntary Resolution Agreement (agreement) to resolve the allegation in a complaint (OCR Reference No. 10212162) filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Title IX of the Education Amendments of 1972 (Title IX). This agreement does not constitute an admission by the College of any violation of Title IX or any other law.

II. RESOLUTION PROVISIONS

A. Interests and Abilities

1. Self-Assessment of Current Compliance

The College agrees to provide participation opportunities 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 and the Title IX implementing regulation at 34 C.F.R. § 106.41(c)(1). The College will provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its programs or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the College's current athletic programs.

- a. If the College elects to demonstrate compliance by providing substantially proportionate athletic participation opportunities to each sex's enrollment in its programs, the College will do so by comparing rates of full-time undergraduate enrollment of its female and male students with rates of participation in the College's intercollegiate athletics programs (based on participation rates for all sports during the fall, winter, and spring seasons) during the most recently concluded academic year to determine if they are substantially proportionate. The participation rates of female and male students will reflect the total number of women and men listed on the Northwest Athletic Conference squad or eligibility 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 non-competitive athletic activities.
- b. If the College elects to demonstrate compliance by showing the interests and abilities of female students, the underrepresented sex in the College's athletics program, are met, the College will conduct an objective assessment to determine the athletic interests and abilities of the female students and whether the College is fully and effectively accommodating the athletic interests and abilities of female students. The assessment will be based on multiple indicators of interest and multiple indicators of ability, which may include:
 - i. Results of recent surveys of students and admitted students 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;

- ii. Identification of sports, squads, and levels of sports for members of the underrepresented sex that are not currently offered by the College that are offered by schools that compete within the athletic conferences in which the College competes and by schools that are within the College's normal competitive region;
- iii. Review of any requests (whether oral or written, formal or informal) made to College administrators, coaches, or staff by or on behalf of students and admitted students who are members of the underrepresented sex to add a particular sport, squad, or level of sport, or to elevate an existing club or intramural sport to intercollegiate sport status. This review may be limited to requests that were received during the previous three complete academic years;
- iv. Assessments made by College coaches or staff during tryouts, or observations of students participating in club or intramural competition, and other information reflecting the ability of students and admitted students who are members of the underrepresented sex to compete in a particular sport, prior participation in that sport or a similar sport at the high school level or intramural or club level, general athletic ability, participation in other College intercollegiate 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 to play at the same level of competition engaged in by the College'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;
- v. Participation in interscholastic sports by admitted students and participation rates in sports in high schools, amateur athletic associations, and community sports leagues that operate in areas from which the College draws its students;
- vi. Where interest and ability in an intercollegiate sport not currently offered by the College is identified, the assessment will also consider whether there is a reasonable expectation of intercollegiate competition in the College's normal competitive region in that sport; and
- vii. Any other information that demonstrates the athletic interests and abilities of the College's students who are members of the underrepresented sex.

2. Reporting Requirements on Self-Assessment of Current Compliance

By July 1, 2022, the College will submit to OCR, for its review and approval, a detailed report regarding its assessment conducted pursuant to Section II.A.1 of the Agreement. The report will include, at a minimum, the following information:

- a. If the College has elected to demonstrate compliance by providing substantially proportionate athletic opportunities, the College will provide OCR with a detailed report, based on the standards set forth in Section II.A.1, that contains the results of its comparison of the enrollment and participation rates for men and women during the most recently concluded academic year and, unless the participation rates are substantially proportionate to enrollment, an indication of the number of participation opportunities that the College has calculated would be necessary in order to achieve substantial proportionality. The information provided by the College will be sufficient to allow OCR to determine the number of students, by sex, who were participating on each intercollegiate team on the date of the team's first competition and to identify any changes to the participation numbers that occurred after the first competition.
- b. If the College has elected to demonstrate compliance by demonstrating the interests and abilities of female students are fully met, the College will provide OCR with a detailed report, based on the factors contained in Section II.A.1.b, that includes, at a minimum, (1) its description of the methodology used to conduct the survey; (2) the number of surveys distributed and the number of responses; (3) a summary of sports, squads, and levels of sports for female students that are not currently offered by the College but are offered by other schools that compete within the conference(s) in which the College competes or by schools that are within the College's normal competitive region and geographic area; (4) a summary of the number of female students by sex who were cut from each team and the reasons they were cut; (5) a description of any team(s) that were eliminated during the past ten years, including the number of participants who were on the team in the year it was eliminated and the reason for the team's elimination; (6) a description of the any team(s) that were added during the past ten years, including the year any team(s) were added and the reason for adding the team(s); (7) 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 sport to intercollegiate status; and (8) a copy of the College's new or revised policies and procedures for requesting additional teams including the individual designated for responding to such requests and the College's method of distributing these policies and procedures to existing and newly admitted students as well as coaches and other employees.

3. Actions to Ensure Future Compliance

Upon the completion of OCR's review of the report submitted under Section I.A.2, if OCR has determined that the College is unable to demonstrate compliance with Title IX pursuant to Section II.A.1 of this Agreement, the College will prepare a detailed compliance plan with timeframes to fully and effectively accommodate the interests and abilities of the underrepresented sex to the extent necessary to provide equal opportunity in its intercollegiate athletics program by the end of the 2024-2025 academic year, including the steps detailed below in Section I.A.4. The plan may include a description of interim steps already taken by the College during the 2021-2022, 2022-2023, and 2023-2024 academic years to increase intercollegiate athletic participation opportunities for the underrepresented sex. The College will initiate implementation of the plan upon review and approval by OCR.

OCR has made clear to the College that OCR does not require or encourage the elimination of any athletic teams and that it seeks action from the College 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.

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

- a. **Sports Not Currently Offered.** The College will determine whether there are a sufficient number of students and admitted students at the College who are members of the underrepresented sex with the interest and ability to support the addition of a team in sports not currently offered (during the 2020-2021 academic year) by the College as intercollegiate sports and sufficient competition in those sports within the College's normal competitive region. To the extent that the College adds any sports, the College will hire a coaching staff, recruit student athletes, and provide sufficient resources to the coaching staff by the 2023-2024 academic year to ensure that the team begins competition no later than the 2024-2025 academic year and the College 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.
- b. **Response to Developing Interests and Abilities.** The College will review those sports not currently offered by the College in which there are a sufficient number of students and admitted students who are members of the underrepresented sex who have the interest and ability to support a team, but for which the College determines competition is insufficient in the College's normal competitive region. The College will take ongoing steps to address the interest and ability of the underrepresented sex. Steps may include, but are not required to include, establishment of additional intramural or club sports, exploring the establishment of competition in the College's normal competitive region, and elevating such sports to intercollegiate status when competition becomes available.

4. Reporting Requirements to Ensure Future Compliance

The College will complete and submit to OCR the following reporting requirements only if the College implements the action items set forth in Section II.A.3 of this Agreement:

- a. Within 120 days of receiving OCR's written notice that it must create a compliance plan, the College will submit to OCR, for its review and approval, a draft of its compliance plan. If OCR requires any changes to the compliance plan, the College will resubmit a copy of the compliance plan within 30 calendar days of receiving notice of OCR's required revisions. OCR and the College will continue this process until OCR approves the compliance plan.

- b. Within 180 calendar days of receiving OCR's approval of the compliance plan, and every 180 calendar days thereafter until the completion of the compliance plan, the College will submit to OCR a report regarding the status of its implementation of the compliance plan to fully and effectively accommodate the interests and abilities of members of the underrepresented sex including, as applicable, information demonstrating that a coaching staff has been hired for any new teams being added by the College, an update on the College's progress in recruiting student athletes for any teams that are added teams and a report of the budget provided to the teams.

B. Assignment and Compensation of Coaches

1. Self-Assessment of Current Compliance

The College agrees to provide female and male student athletes with equivalent benefits and opportunities with respect to the assignment and compensation of coaches. The College will conduct an objective assessment to determine whether it is providing equal athletic opportunities for members of both sexes with respect to the assignment and compensation of coaches and will consider, among other factors, whether the compensation or assignment policies or practices serve to deny male and female athletes coaching of equivalent quality, nature, or availability. The College will also consider the range and nature of duties, the experience of individual coaches, the number of participants for particular sports, the number of assistant coaches supervised, and the level of competition. In conducting its assessment, the College may also consider whether non-discriminatory factors have affected the compensation of coaches and, where these or similar factors represent valid differences in skill, effort, responsibility or working conditions they may, in specific circumstances, serve to justify differences in compensation. The College may also consider whether there are unique situations in which a particular person may possess such an outstanding record of achievement as to justify an abnormally high salary.

In conducting its assessment, the College will in particular review its efforts to hire a head coach for its women's soccer program during the 2020-2021 academic year and will consider whether the compensation or assignment policies or practices of the College, the range and nature of duties, the experience of individual applicants or coaches, the number of participants for particular sports, the number of assistant coaches supervised, and the level of competition have served to deny female athletes coaching of equivalent quality, nature, or availability to the coaching of male athletes.

2. Reporting Requirements of Self-Assessment of Coaching

By July 1, 2022, the College will submit to OCR, for its review and approval, a detailed report regarding its assessment conducted pursuant to Section II.B.1 of the Agreement. The report will include, at a minimum, the following information:

- a. Policies, procedures and practices regarding its compensation and assignment of coaches to men's and women's athletic teams, including, if needed, its plan to ensure that female

and male student athletes are provided equivalent benefits and opportunities related to the compensation and assignment of coaching.

- b. The relative availability of full-time head coaches, part-time head coaches, full-time assistant coaches, and part-time assistant coaches.
- c. The relative training, experience, professional standing, and other professional qualifications of the coaches for men's teams and women's teams.
- d. The rate of compensation (per sport, per season); duration of contracts; and other terms and conditions of employment.

3. Actions to Ensure Future Compliance

Upon the completion of OCR's review of the report submitted under Section II.B.2, if OCR has determined that the College is unable to demonstrate compliance with Title IX pursuant to Section II.B.1 of this Agreement, the College will prepare a detailed compliance plan with timeframes to ensure that it is providing equal athletic opportunities for members of both sexes with respect to the assignment and compensation of coaches by the end of the 2022-2023 academic year, including the steps detailed below in Section II.B.4.

4. Reporting Requirements to Ensure Future Compliance

The College will complete and submit to OCR the following reporting requirements only if the College implements the action items set forth in Section II.B.3 of this Agreement:

Within 30 days of OCR's completion of its review of the College's compliance plan, the College will complete its implementation of the approved compliance plan developed under II.B.3, above in accordance with the timeline specified in the compliance plan. Modifications of the action plan will be permitted if approved by OCR, whose approval will not be unreasonably withheld.

Within 60 days of receiving OCR's approval of the compliance plan, and every 180 calendar days thereafter until completion, the College will provide OCR with a report describing the specific steps and actions completed under its action plan pursuant to section II.B.3. The plan and report may include a description of interim steps already taken by the College during the 2022-2023 academic year.

III. GENERAL PROVISIONS

- A. The College understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner in accordance with the reporting requirements of the agreement. Further, the College understands that during the monitoring of this agreement, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms and obligations of this

agreement. Upon the College's satisfaction of the terms and obligations of this agreement, OCR will close this case.

- B. The College understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this agreement and/or the applicable regulation, 34 C.F.R. § 106.41. Before initiating such proceedings, OCR will give the College written notice of the alleged breach and 60 calendar days to cure the alleged breach.

Signed:

/s/

February 4, 2022

Dr. Jim Richardson
President
Wenatchee Valley College

Date