

Report of the Gender Equity Review Director for Michigan State University

September 29, 2023

Background

Pursuant to the January 14th, 2023 settlement agreement (the “Settlement Agreement”) between Sophia Balow, et al., and Michigan State University (“MSU”), I was appointed to serve as the Gender Equity Review Director (“GERD”).¹ The settlement agreement states, in relevant part:

5. The GERD will conduct an annual review, based on data from June 30 to June 30 each year, to determine whether MSU has properly counted “participants,” as defined in Title IX and 44 Fed. Reg. 71415. To facilitate this review, MSU will provide the GERD with the following: (a) squad lists, (b) seasons of competition, and (c) CARA data.
6. The GERD will complete a full gender equity review of MSU’s athletic programs by September 1, 2023. The gender equity review will address all areas of treatment and benefits and athletic financial aid and shall not review or address athletic participation opportunities, other than the review described in paragraph 5, above.
7. The GERD will have direct access to all coaches for one-on-one meetings.
8. The GERD will meet separately with the Student Athletic Advisory Committee representatives from the men’s teams and women’s teams (without MSU staff present).

I completed the gender equity review on September 1, 2023. This Gender Equity Report (the “Report”) addresses the 13 areas of gender equity that I reviewed:

1. Athletic participation counts;
2. Athletic financial assistance;
3. Provision of equipment and supplies;
4. Scheduling of games and practice time;
5. Travel and per diem allowance;
6. Opportunity to receive academic tutoring and assignment and compensation of tutors;
7. Opportunity to receive coaching and assignment and compensation of coaches;

¹ This report was prepared by the Gender Equity Review Director, Professor Gabe Feldman. Professor Feldman is the Sher Garner Professor of Sports Law, Paul and Abram B Barron Professor of Law, the Director of the Tulane Sports Law Program, the Co-Founder of the Tulane Center for Sport, and the Associate Provost for NCAA Compliance at Tulane University.

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8. Provision of locker rooms and practice and competitive facilities;
9. Provision of medical and training facilities and services;
10. Provision of housing and dining facilities and services;
11. Publicity;
12. Recruitment of student athletes;
13. Support services.

Gender Equity Review Process

I conducted a site visit at MSU on May 25, 2023, where I toured MSU athletics facilities and met with coaches, athletes, and staff, as per the terms of the Settlement Agreement. I reviewed MSU's squad lists, medical exception lists, CARA logs, internal handbooks and policies and other data relevant to all 13 areas of gender equity listed above. I was given access to all data that I requested from MSU. I also conducted zoom interviews with athletes and coaches from May 2023-September 2023. All coaches and athletes were invited to contact me directly to discuss any issues related to gender equity and I interviewed all athletes and coaches who contacted me. I was able to meet with all coaches, athletes, and staff that I requested.

Gender Equity Report

1) Opportunity to Participate in Intercollegiate Competition

Title IX² requires that athletic participation opportunities be offered in a gender-equitable manner.³ This section of the Report addresses whether MSU has properly counted participation opportunities afforded to male and female athletes in the intercollegiate athletic program. In 1979, the Department of Health, Education, and Welfare issued a Policy Interpretation to "clarify the meaning of 'equal opportunity' in intercollegiate athletics."⁴ The Policy Interpretation defines participants as those athletes:

- a. Who are 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. Who are participating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and

² 20 U.S.C. § 1681(a).

³ Educational institutions can satisfy this requirement under any of the three following prongs: *Prong 1*: Whether intercollegiate-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective full-time undergraduate enrollments; or *Prong 2*: Where the members of one sex have been, and are underrepresented among intercollegiate athletes, whether the institution has a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex; or *Prong 3*: Where the members of one sex are underrepresented among intercollegiate athletes (i.e., cannot satisfy Prong 1), and the institution cannot show a continuing practice of program expansion (i.e., cannot satisfy Prong 2), whether it can be demonstrated that the interests and abilities of the members of the underrepresented sex have been fully and effectively accommodated by the current athletic program. 1979 Policy Interpretation, 44 Fed. Reg. 71,414, 71, 418 (Dec. 11, 1979).

⁴ 44 Fed. Reg. 71,413, 71, 414 (Dec. 11, 1979)

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- c. Who are listed on the eligibility or squad lists maintained for each sport, or
- d. Who, because of injury, cannot meet a, b, or c above but continue to receive financial aid on the basis of athletic ability.⁵

In 1996, OCR issued a clarification, explaining the following, among other things:

- “OCR considers a sport's season to commence on the date of a team's first intercollegiate competitive event and to conclude on the date of the team's final intercollegiate competitive event.”
- “As a general rule, all athletes who are listed on a team's squad or eligibility list and are on the team as of the team's first competitive event are counted as participants by OCR.”
- “In determining participation opportunities, OCR includes, among others, those athletes who do not receive scholarships (e.g., walk-ons), those athletes who compete on teams sponsored by the institution even though the team may be required to raise some or all of its operating funds, and those athletes who practice but may not compete.⁶ OCR's investigations reveal that these athletes receive numerous benefits and services, such as training and practice time, coaching, tutoring services, locker room facilities, and equipment, as well as important non-tangible benefits derived from being a member of an intercollegiate athletic team. Because these are significant benefits, and because receipt of these benefits does not depend on their cost to the institution or whether the athlete competes, it is necessary to count all athletes who receive such benefits when determining the number of athletic opportunities provided to men and women.”⁷

MSU provided the following participation counts in July 2023.

- Baseball: 38
- Men's Basketball: 15
- Women's Basketball: 17
- Men's Cross Country: 29
- Women's Cross Country: 41
- Field Hockey: 25
- Football: 117
- Men's Golf: 10
- Women's Golf: 9
- Women's Gymnastics: 20
- Ice Hockey: 28
- Women's Rowing: 94

⁵ Id. at 71,415.

⁶ See also *Biediger v. Quinnipiac Univ.*, 691 F.3d 85, 93 (2d Cir. 2012) (“It is not necessary for an athlete to meet minimum criteria of playing time ... to count as a participant.”).

⁷ Office for Civil Rights (OCR), U.S. Dep't of Educ., *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (Jan. 16, 1996)

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- Men's Soccer: 31
- Women's Soccer: 34
- Softball: 23
- Men's Tennis: 10
- Women's Tennis: 13
- Men's Indoor Track: 50
- Women's Indoor Track: 68
- Men's Outdoor Track: 47
- Women's Outdoor Track: 64
- Women's Volleyball: 23
- Men's Wrestling: 36

To determine whether MSU properly counted participants, I analyzed squad lists, medical exception lists, seasons of competition lists, and CARA logs for all teams, as well as input provided by coaches and athletes where needed for further clarification. As discussed above, “[a]s a general rule, all athletes who are listed on a team's squad or eligibility list and are on the team as of the team's first competitive event are counted as participants by OCR.”⁸ But, even if an athlete is listed on the team’s squad list and is on the team as of the team’s first competitive event, the athlete only counts as a participant if they are:

- a. [R]eceiving 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. [P]articipating in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
- c. “[L]isted on the eligibility or squad lists maintained for each sport, or
- d. “[B]ecause of injury, cannot meet a, b, or c above but continue to receive financial aid on the basis of athletic ability.”⁹

The analysis is designed to ensure that athletic participants are only counted if their participation opportunities are “real, not illusory.”¹⁰ An athletic opportunity is “illusory”—and thus would not count as a participation opportunity—if, among other things, the athlete does not receive 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), the athlete does not participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season, the institution

⁸ Office for Civil Rights (OCR), U.S. Dep't of Educ., *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (Jan. 16, 1996).

⁹ *Id.* at 71,415.

¹⁰ Office for Civil Rights (OCR), U.S. Dep't of Educ., “Dear Colleague Letter,” *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (Jan. 16, 1996).

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pressured coaches to increase their rosters to boost participation counts, an athlete is placed on the squad list before the team's first competitive event but then is cut or pressured to quit soon after the season starts, or the institution otherwise artificially inflates the size of a roster. I looked carefully at each roster—particularly the athletes on the rosters who were cut or quit—to determine whether all athletes counted by MSU received a real participation opportunity. Athletes who are cut or quit before the date of the first competition cannot be counted as a participant. Athletes who are cut or quit after the date of the first competition can only be counted as participants if they received a real, and not illusory, participation opportunity.

Based on my review of squad lists, medical exception lists, seasons of competition lists, and CARA logs for all teams, as well as input provided by coaches and athletes where needed for further clarification, my conclusion is that MSU properly counted participation opportunities. The count for each team is detailed below, followed by general recommendations and observations regarding participation counts.

Women's Teams

1. Basketball

- 17 athletes were on the squad list; 17 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on October 24, 2022.
- Six athletes quit the team several months after the first intercollegiate competitive event and received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

2. Cross-Country Track

- 42 athletes were on the squad list; 41 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 2, 2022.
- One athlete who was on the squad list did not receive a participation opportunity because she quit before the first intercollegiate competitive event and did not:
 - Receive 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; or

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- Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
 - Two athletes quit the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
3. Indoor Track
- 69 athletes were on the squad list; 68 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on December 9, 2022.
 - One athlete who was on the squad list did not receive a participation opportunity because she quit before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
 - One athlete was cut from the team and three athletes quit the team after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

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- Four athletes were not on the squad list but received participation opportunities because they were on the medical exception list and received financial aid.
4. Outdoor Track
- 69 athletes were on the squad list; 64 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on March 3, 2023.
 - Five athletes who were on the squad list did not receive participation opportunities. Four athletes were cut before the team's first intercollegiate competitive event and one athlete quit before the team's first intercollegiate competitive event. These athletes did not receive participation opportunities because they did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
 - All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
5. Field Hockey
- 25 athletes were on the squad list; 25 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on August 19, 2022.
 - Two athletes quit the team and two other athletes exhausted their eligibility several months after the first intercollegiate competitive event and received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
6. Golf
- 9 athletes were on the squad list; 9 athletes received participation opportunities.

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- The team's first intercollegiate competitive event was on September 12, 2022.
 - All athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
7. Gymnastics
- 19 athletes were on the squad list; 20 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on January 6, 2023.
 - All athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - One athlete was not on the squad list but received a participation opportunity because she was on the medical exception list and received financial aid.
8. Rowing
- 96 athletes were on the squad list; 94 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on September 25, 2022.
 - Six athletes who were on the squad list did not receive participation opportunities. Four athletes were cut (with aid) before the team's first intercollegiate competitive event and two athletes quit before the team's first intercollegiate competitive event. These athletes did not receive participation opportunities because they did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
 - Six athletes were cut from the team and six athletes quit the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - All other athletes on the squad list received athletic opportunities because they:

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- Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- Four athletes were not on the squad list but received participation opportunities because they were on the medical exception list and received financial aid.
9. Soccer
- 34 athletes were on the squad list; 34 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on August 6, 2022.
 - One athlete that was on the squad list did not receive a participation opportunity because she was cut (with aid) before the team's first intercollegiate competitive event.
 - Six athletes quit the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - Five athletes exhausted their eligibility several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
 - One athlete was not on the squad list but received a participation opportunity because she was on the medical exception list and received financial aid.
10. Softball
- 23 athletes were on the squad list; 23 athletes received participation opportunities.
 - The team's first intercollegiate competitive event was on September 28, 2022.
 - All other athletes on the squad list received athletic opportunities because they:

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- Received 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
- Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
- Were listed on the eligibility or squad lists.

11. Tennis

- 13 athletes were on the squad list; 13 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 30, 2022.
- All athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

12. Volleyball

- 21 athletes were on the squad list; 23 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on August 26, 2022.
- Three athletes were cut from the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- One athlete exhausted her eligibility several months after the first intercollegiate competitive event but received a participation opportunity because she:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Was listed on the eligibility or squad lists.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

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- Two athletes were not on the squad list but received participation opportunities because they were on the medical exception list and received financial aid.

Men's Teams

1. Basketball

- 15 athletes were on the squad list; 15 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on October 23, 2022.
- Two athletes quit the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

2. Baseball

- 43 athletes were on the squad list; 38 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on February 17, 2023.
- Five athletes who were on the squad list did not receive participation opportunities. Three athletes were cut before the team's first intercollegiate competitive event and two athletes quit before the team's first intercollegiate competitive event. These athletes did not receive participation opportunities because they did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

3. Football

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- 136 athletes were on the squad list; 117 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 2, 2022.
- Twenty one athletes quit and two athletes were cut from the team several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- Nine athletes exhausted their eligibility several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- Sixteen athletes on the squad list did not join the team until January 2023 and did not receive athletic opportunities because they did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

4. Golf

- 10 athletes were on the squad list; 10 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 4, 2022.
- All athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

5. Ice Hockey

- 28 athletes were on the squad list; 28 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on October 1, 2022.
- All athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

6. Soccer

- 31 athletes were on the squad list; 31 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on August 11, 2022.
- One athlete quit the team several months after the first intercollegiate competitive event but received participation opportunities because he:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- Five athletes exhausted their eligibility several months after the first intercollegiate competitive event but received participation opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

7. Golf

- 10 athletes were on the squad list; 10 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 4, 2022.
- All athletes on the squad list received athletic opportunities because they:

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- Received 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
- Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
- Were listed on the eligibility or squad lists.

8. Tennis

- 11 athletes were on the squad list; 10 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on September 16, 2022.
- One athlete who was on the squad list did not receive a participation opportunity because he was cut before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

9. Indoor Track

- 57 athletes were on the squad list; 50 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on December 9, 2022.
- Seven athletes who were on the squad list did not receive participation opportunities because they were cut before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- One athlete quit the team several months after the first intercollegiate competitive event but received participation opportunities because he:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Was listed on the eligibility or squad lists.
- All other athletes on the squad list received athletic opportunities because they:

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- Received 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
- Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
- Were listed on the eligibility or squad lists.

10. Outdoor Track

- 57 athletes were on the squad list; 47 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on March 23, 2023.
- Nine athletes who were on the squad list did not receive participation opportunities because they were cut before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- One athlete who was on the squad list did not receive participation opportunities because he quit before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- All other athletes on the squad list received athletic opportunities because they:
 - Received 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
 - Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
 - Were listed on the eligibility or squad lists.

11. Wrestling

- 42 athletes were on the squad list; 36 athletes received participation opportunities.
- The team's first intercollegiate competitive event was on November 5, 2022.
- Six athletes who were on the squad list did not receive participation opportunities because they were cut before the first intercollegiate competitive event and did not:
 - Receive 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; or
 - Participate in organized practice sessions and other team meetings and activities on a regular basis during a sport's season.
- All other athletes on the squad list received athletic opportunities because they:

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- Received 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
- Participated in organized practice sessions and other team meetings and activities on a regular basis during a sport's season; and
- Were listed on the eligibility or squad lists.

Although my conclusion is that MSU properly counted participation opportunities, MSU should evaluate why their teams cut a greater number of female than male athletes after their respective seasons began. In total, 10 women and 2 men were cut from their respective teams after the start of the season (in contrast, 29 female athletes and 26 male athletes quit their respective teams after the start of the season). I did not see evidence that the disparity in the number of female athletes cut was due to inequitable treatment of female athletes or an effort to artificially inflate female athlete participation counts, and, as discussed above, my review determined that all of these athletes received genuine participation efforts. Nevertheless, MSU should assess any potential issues that may be causing athletes to quit their teams after their seasons have started and should seek to reduce any unnecessary attrition rate and ensure that all athletes are receiving genuine participation opportunities, including by providing greater treatments and benefits where identified below. MSU should also assess why a disproportionate number of female athletes were cut after the season began and how they can better minimize the total number of cuts and the number of cuts of female athletes. Although MSU properly counted the participation opportunities, they must ensure that they are providing equitable treatment to all athletes and not cutting or pushing a disproportionately high number of female athletes to quit after the season has begun.

2) Athletic Financial Assistance Analysis

An institution must “provide reasonable opportunities for [awards of athletics financial assistance] for members of each sex in proportion to the number of students of each sex participating in ... intercollegiate athletics.”¹¹ Compliance with the athletic financial assistance requirement is evaluated “primarily by means of a financial comparison to determine whether proportionately equal amounts of financial assistance (scholarship aid) are available to men’s and women’s athletic programs.”¹² Compliance with this standard is thus measured “by dividing the amounts of aid available for the members of each sex by the numbers of male or female participants in the athletic program and comparing the results.”¹³ An institution is compliant if it awards athletics financial assistance in a ratio substantially proportionate to its athletic participation ratio, or if a resulting disparity can be explained by legitimate, non-discriminatory factors.¹⁴ Generally, an institution is not in compliance with this standard—absent legitimate, non-discriminatory

¹¹ Policy Interpretation of 34 C.F.R. § 106.37.

¹²44 Fed. Reg. at 71,415 (citing to 45 C.F.R. § 86.37(c)).

¹³ Id.

¹⁴ Id.

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factors—if the disparity between athletic financial assistance and athletic participation is greater than 1%.

In 2022-2023, 48.9% (326/667) of MSU’s unduplicated athletes were women, and women only received 46.3% (\$6,666,827.43 / \$14,398,690.20) of MSU’s athletics financial assistance. This creates a disparity of 2.6% and thus does not appear to be substantially proportionate to the ratio of female athlete participation. Additionally, MSU did not offer a legitimate, non-discriminatory explanation for this disparity.

Equitable Treatment Analysis

The remaining Title IX areas are subject to an aggregated analysis across all women’s and men’s teams. OCR assesses compliance with the equitable treatment program areas by comparing the availability, quality and kinds of benefits, opportunities, and treatment provided to members of both sexes:

Institutions will be in compliance if the compared program components are equivalent, that is, equal or equal in effect. Under this standard, identical benefits, opportunities, or treatment are not required, provided the overall effects of any differences [are] negligible. If comparisons of program components reveal that treatment, benefits, or opportunities are not equivalent in kind, quality or availability, a finding of compliance may still be justified if the differences are the result of nondiscriminatory factors. ... If sport-specific needs are met equivalently in both men’s and women’s programs, however, differences in particular program components will be found to be justifiable.¹⁵

Additionally, “Title IX requires a systemic, substantial disparity that amounts to a denial of equal [athletic] opportunity before finding a violation of the statute.”¹⁶ In evaluating equitable treatment, a violation may occur where “disparities of a substantial and unjustified nature in the benefits, treatment, services, or opportunities afforded male and female athletes exist in the institution's program as a whole,” or “where disparities in individual segments of the program with respect to benefits, treatment, services, or opportunities are substantial enough in and of themselves to deny equality of athletic opportunity.”¹⁷

Each treatment area will be discussed in turn below.

3) Equipment and Supplies

Compliance in this area is assessed by examining, among other things, the equivalence for men and women of game uniforms and apparel, practice uniforms and apparel, sport-specific equipment, general equipment and supplies, instructional devices, and conditioning and weight training equipment.¹⁸ The quality, amount, suitability and maintenance of equipment are assessed to determine compliance in this area.

¹⁵ Policy Interpretation at 71,415-16.

¹⁶ *Parker v. Franklin County [Ind.] Community School Corp.*, 667 F.3d 910, 922 (7th Cir. 2012).

¹⁷ 45 C.F.R. § 86.41(c).

¹⁸ 44 Fed. Reg. at 71,416 (citing to 45 C.F.R. § 86.41(c)(2)).

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MSU has a department-wide contract with Nike for all teams, but a number of female athletes complained that their apparel is not comparable to the apparel received by male athletes. Some of these female athletes complained of relatively low-quality apparel, while others complained of a relatively insufficient quantity of apparel.

There do not appear to be any material issues with respect to sport-specific equipment, general equipment and supplies, instructional devices, and conditioning and weight training equipment.¹⁹

Particularly given the department-wide Nike contract for all teams, MSU should assess team-specific gear and apparel and modify the process for ordering and allocating such gear and apparel to ensure gender equity.

4) Scheduling of Games and Practice Times

Compliance in this area is assessed by examining, among other things, equity regarding the number of competitive events per sport, the number and length of practice opportunities, the time at which competitions and practices are scheduled, and the opportunities to engage in available pre- season and post-season competition.²⁰

MSU has a scheduling committee that handles all scheduling conflicts. The committee works with facilities staff and coaching staffs to attempt to resolve any conflicts. MSU also maintains a central schedule for their indoor practice facility that is created in conjunction with the input of coaches who need to use that facility. Coaches are able to address any additional needs with the MSU facilities staff.

There were complaints that teams with shared facilities, including men's wrestling and women's gymnastics, had difficulty scheduling competitions because of conflicts with other teams sharing the space. These issues impacted both men's and women's sports and do not appear to create a gender inequity in the aggregate. There do not appear to be any other material issues with respect to the times of competitive events or opportunities to engage in available pre-season and post-season competition.

There do appear to be potential gender equity issues regarding access to practice facilities given the relatively limited practice space for the field hockey team. Although the field hockey team has its own outdoor practice and competition facility, it does not have its own indoor practice facility. Because the team does not have a dedicated indoor practice facility, the team often has difficulty finding indoor practice space during inclement weather and often must practice during non-preferred times.

MSU should evaluate the process used by the scheduling committee to handle scheduling conflicts to ensure equitable and efficient use of shared practice facilities and assess how to eliminate any existing scheduling inequities. MSU should also continue to explore the need for new facilities to alleviate the conflicts created by use of shared space.

5) Travel and Per Diem Allowance

¹⁹ 44 Fed. Reg. at 71,416 (citing to 45 C.F.R. § 86.41(c)(2)).

²⁰ 44 Fed. Reg. at 71,416 (citing 45 C.F.R. § 86.41(c)(3)).

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Compliance in this area is assessed by examining, among other factors, equity regarding the modes of transportation, housing and dining arrangements provided during travel, the length of stay before and after competitive events, and per diem allowances.²¹

MSU has department-wide policies regarding modes of transportation, housing and dining arrangements provided during travel, the length of stay before and after competitive events, and per diem allowances. For example, the department policies state that:

- During team travel, coaches or their designees must secure lodging accommodations with no more than 2 student-athletes per room
- During team travel, coaches are required to stay within MSU's per diem amounts and are encouraged to pay for team meals when possible, rather than distributing individual meal money, via individual per diem cards.
- MSU uses the "CONUS Rates" established by the U.S. General Services Administration for per diem levels.
- The level of per diem is determined by the zip code of the hotel property or other lodging accommodation where the team stays during the trip.
- The following minimum per diems are expected for all teams: \$10 for breakfast, \$12 for lunch, and \$18 for dinner. Coaches are encouraged to consider the location and available food options and to adjust the minimum per diems where needed to adequately provide meals to the athletes.
- Maximum per diem amounts for each meal cannot be exceeded.
- All sports have the discretion to determine where they stay and for how long they stay.

There do not appear to be any material issues in the aggregate regarding equitable travel benefits, per diem allowances, and dining options while traveling, but there were complaints by some athletes that the per diem they received while traveling was insufficient. Teams appear to receive access to equivalent dining options, per diem, and travel, including quality of hotels, length of stays, and modes of transportation.

Although MSU's per diem and travel policy appears to be equitable on its face, MSU should monitor actual levels of per diem offered to athletes to ensure gender equity.

6) Opportunity to Receive Coaching and the Assignment and Compensation of Coaches

²¹ 44 Fed. Reg. at 71,416 (citing 45 C.F.R. § 86.41(c)(4)).

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Compliance in this area is assessed by examining, among other factors, the relative availability of equivalently qualified coaches. Relevant factors include the availability of full-time coaches, part-time and assistant coaches, and graduate assistants, as well as the training, experience, and other professional qualifications and professional standing of the coaches. A disparity in the average years of coaching experience and average salaries of coaches can be an indication of the disparity in quality of the coaches.²²

MSU coaches across the board are experienced and highly qualified. There do not appear to be any material issues with respect to compliance regarding the opportunity to receive coaching and the assignment and compensation of coaches. MSU teams generally use the maximum number of coaches permitted by NCAA rules. Most recently, MSU announced that they have hired two additional coaches for Women's Rowing.

7) Opportunity to Receive Academic Tutoring and the Assignment and Compensation of Tutors

Compliance in this area is assessed by examining, among other factors, the availability, quality, and compensation provided for tutoring services.²³ Although there were isolated complaints related to access to academic tutoring, those complaints do not appear to be based on gender, and there do not appear to be any material issues regarding the provision of academic tutoring or the assignment and compensation of tutors. All teams have dedicated academic coordinators and three Learning Assistants are available to all MSU athletes. All teams are provided with as many tutors as needed based upon requests by athletes.

8) Provision of Locker Rooms, Practice and Competitive Facilities

Compliance in this area is assessed by examining, among other factors, the equivalence for men and women of access to quality facilities, including the quality, availability, exclusivity, maintenance and preparation of the practice and competitive facilities, and the availability and quality of the locker rooms.²⁴

The practice and competitive facilities and locker room locations for team are as follows:

Competition Locations

²² 34 C.F.R. § 106.41(c)(5); 44 Fed. Reg. at 71,416 (citing 45 C.F.R. § 86.41(c)(5) and (c)(6)).

²³ 34 C.F.R. § 106.41(c)(5) and (c)(6); 44 Fed. Reg. at 71,416 (citing to 45 C.F.R. § 86.41(c)(5)).

²⁴ 44 Fed. Reg. at 71,417 (citing to 45 C.F.R. § 86.41(c)(7)).

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McLane Baseball Field

- 1) Baseball

Ralph Young Field

- 1) Field Hockey

Spartan Stadium

- 1) Football

Jenison Field House

- 1) Women's Gymnastics
- 2) Wrestling

Munn Ice Arena

- 1) Ice Hockey

Forest Akers

- 1) Men's Golf
- 2) Women's Golf

Ralph Young Field

- 1) Men's Track and Field
- 2) Women's Track and Field

DeMartin Soccer Complex

- 1) Men's Soccer
- 2) Women's Soccer

Secchia Stadium

- 1) Softball

MSU Tennis Center

- 1) Women's Tennis
- 2) Men's Tennis

Breslin Center Main Court

- 1) Men's Basketball
- 2) Women's Basketball
- 3) Women's Volleyball

Practice Locations

McLane Baseball Stadium

- 1) Baseball

Ralph Young Field

- 1) Field Hockey

MSU Football Practice Field

- 1) Football

Jenison Field House

- 1) Women's Gymnastics
- 2) Women's Volleyball

IM West

- 1) Men's Wrestling

Forest Akers/Other Local Courses

- 1) Men's Golf

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- 2) Women's Golf

Secchia Stadium

- 2) Softball

MSU Tennis Center

- 1) Men's Tennis
- 2) Women's Tennis

Ralph Young Field

- 1) Men's Track and Field
- 2) Women's Track and Field

DeMartin Soccer Complex

- 1) Men's Soccer

MSU Boat House

- 1) Women's Rowing

Munn Ice Arena

- 1) Ice Hockey

Breslin Center Practice Court

- 1) Women's Basketball
- 2) Men's Basketball
- 3) Men's Soccer

Locker Room Locations

Munn Ice Arena

- 1) Hockey

Lasch Center

- 1) Men's Golf
- 2) Women's Golf

DeMartin Soccer Complex

- 1) Men's Soccer
- 2) Women's Soccer

MSU Tennis Center

- 1) Men's Tennis
- 2) Women's Tennis

Breslin Center

- 1) Men's Basketball
- 2) Women's Basketball

MSU Boat House Grand River Field

- 1) Women's Rowing

Jenison Field House

- 1) Baseball
- 2) Field Hockey
- 3) Women's Gymnastics
- 4) Softball
- 5) Women's Volleyball
- 6) Men's Wrestling

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- 7) Men's Track and Field
- 8) Women's Track and Field

Spartan Stadium/Duffy Daugherty Building/Skandalaris Football Center

- 1) Football

There appear to be potential inequities regarding access to quality facilities for female athletes. Despite significant expenditures on facilities on campus, the last facility built for a women's team at MSU was in 1998. The women's gymnastics, field hockey, men's and women's track and field, and men's wrestling facilities appear to be subpar compared to other athletic facilities on campus. Some noted that there seems to be a "tiering" of sports on campus, in that certain sports receive better overall treatment than others. But, female athletes appear, on balance, to have access to relatively inferior facilities.

The field hockey facility is problematic. The facility does not have permanent bathrooms. The only bathrooms near the facility are in trailers, and for a period of time the only bathrooms near the facility were stand-alone portable toilets. This issue also impacts men's and women's track and field. Additionally, the locker rooms and equipment room for field hockey athletes are in a different location than their practice facilities. Moreover, in addition to the scheduling difficulties faced by women's gymnastics referenced above, the setup of the gymnastics practice facility makes it difficult to safely train without disrupting the typical practice routines of the gymnasts.

The MSU administration appears to recognize the need for upgraded facilities for a number of teams, but as of the publication date of this report, no plans for a new facility have been announced publicly. MSU should address the facilities issues that exist and continue to monitor, assess, and address all team facilities needs. MSU should also ensure that a process is in place to ensure that shared facilities are truly shared equitably.

9) Provision of Medical and Training Facilities and Services

Compliance in this area is assessed by examining, among other factors, access to medical personnel and assistance, availability and qualification of certified athletic trainers, availability and quality of athletic training facilities, availability and quality of weight training and conditioning facilities, and health, accident and injury insurance coverage.²⁵

Although there were isolated complaints about some athletes only having access to relatively inexperienced athletic trainers, there do not appear to be any material issues in the aggregate regarding access to medical personnel and assistance, availability and qualification of certified athletic trainers. All teams have dedicated athletic trainers and appear to provide appropriate levels of assistance. MSU has shown significant improvement recently in this area. In the past, not all sports had an athletic trainer specifically designated for each sport. Each sport now has their own athletic trainer, access to a nutritionist, and greater access to mental health

²⁵ 44 Fed. Reg. at 71,417 (citing to 45 C.F.R. § 86.41(c)(8)).

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resources, including the creation of a stand-alone mental health facility for all athletes and the addition of three new mental health professionals. All athletes also appear to have access to a wide range of medical doctors with comprehensive sports medicine expertise.

There are potential issues regarding access to weight training facilities. It appears that field hockey athletes have relatively inequitable access to weight training facilities. Although in theory they are able to share weight training facilities with other teams, it appears that in practice they only get relatively limited access to these facilities. Although there were other isolated complaints about access to weight training facilities, there do not appear to be any other material issues regarding the availability and quality of weight training and conditioning facilities in the aggregate.

There do not appear to be any material issues regarding insurance coverage, or the availability of medical personnel and assistance, which are equitably available as needed. There also do not appear to be any material issues in the aggregate regarding the availability and qualifications of athletic trainers assigned to men's and women's teams.

There do not appear to be any material issues regarding strength and conditioning staffing. The staff are highly qualified and their assignments and workouts are specifically tailored to the individual sports. The staff also appropriately supervised strength training and conditioning sessions.

MSU should address inequities that currently exist regarding access to weight training facilities and continue to monitor and address issues that may arise in this area, including by monitoring the assignment of certified trainers and strength and conditioning staff to sports programs based on health and safety factors, sports' seasons, and time demands, and by exploring facility improvements and upgrades as needed.

10) Provision of Housing and Dining Facilities and Services

Compliance in this area is assessed by examining, among other factors, the equivalence for men and women of housing provided and special services as part of housing arrangements (e.g, laundry facilities, parking).²⁶

MSU's general policy is to provide equal access to housing and dining facilities for all sports and to allow coaches to tailor the meals and food to the specific needs and schedule of their respective teams. Nevertheless, there were a number of complaints from female athletes that they were provided inferior dining options as compared to male athletes. Although there have apparently been discussions regarding the creation of a training table that will provide all athletes with access to food, currently, football, men's and women's basketball, and ice hockey are the only teams that have access to their own dining options. Several female athletes stated that they often had to pay for food out of their own pocket because the food provided during the season was insufficient, and also stated that they were not given access to supplements and items from the

²⁶ 44 Fed. Reg. at 71,417 (citing to 45 C.F.R. § 86.41(c)(9)).

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fueling station that were routinely given to male athletes. One student noted that “food is a major issue for all women’s sports.”

There do not appear to be any material issues regarding the equivalence for men and women of housing provided and special services as part of housing arrangements.

MSU should address inequities that currently exist to ensure that female athletes receive equitable dining options. MSU should also continue to monitor individual teams’ dining, nutrition, and housing needs.

11) Publicity

Compliance in this area is assessed by examining, among other factors, the availability and quality of sports information personnel, quantity and quality of publications, and other publicity and promotional items.²⁷

There do not appear to be any material issues regarding the equivalence of publicity for men and women. Although the competitive market often dictates greater emphasis on particular sports and although there were some complaints about a lack of social media presence for some women’s sports, MSU’s efforts in the aggregate to promote men’s and women’s teams appear to be equitable.

Among other things, each team has a marketing and fan engagement strategy and a dedicated athletic communication staff member. MSU’s NIL program, Evergreen, is available to all MSU athletes.

12) Recruitment of Student-Athletes

Compliance in this areas is assessed by examining (1) whether coaches or other professional athletic personnel in the programs serving male and female athletes are provided with substantially equal opportunities to recruit, (2) whether the financial and other resources made available for recruitment in male and female athletic programs are equivalently adequate to meet the needs of each program, and (3) whether the differences in benefits, opportunities, and treatment afforded prospective student athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex.²⁸

Although there were complaints from some coaches regarding their opportunity to recruit and the resources available to them to meet their recruiting needs, these complaints do not appear to be based on gender. There do not appear to be material differences regarding the equivalence for recruiting of male and female athletes. There do not appear to be any material issues with respect to the recruiting resources provided to coaches and the ability of coaches to recruit athletes to MSU.

13) Support Services

Compliance in this area is assessed by examining, among other factors, the

²⁷ 44 Fed. Reg. at 71,417 (citing to 45 C.F.R. § 86.41(c)(10)),

²⁸ 44 Fed. Reg. at 71,417 (citing generally to 45 C.F.R. § 86.41(c)).

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equivalence of the provision of clerical and administrative support for men's and women's programs and available office space, equipment, and supplies. The purpose of assessing the support services provided to coaches is to ensure that the provided services enable coaches to perform their coaching functions.²⁹

There does appear to be an inequity in this area given that a disproportionate number of women's teams do not have a Director of Operations. Specifically, the following teams do not have Directors of Operations: men's and women's soccer, men's and women's golf, men's and women's tennis, men's wrestling, field hockey, women's rowing, and women's gymnastics.

There do not appear to be any other meaningful differences regarding the equivalence of the other clerical and administrative support or available office space, equipment and supplies provided for men's and women's teams, and each team appears to have access to administrative, secretarial, and clerical support.

MSU should address inequities that currently exist to ensure that female athletes receive equitable support services.

Women's Swimming and Diving Team

As part of this review, I also spoke with a number of former members of the women's swimming and diving team. Given that MSU no longer fields swimming and diving teams, the issues raised by the former MSU swimmers—including inadequate facilities and locker rooms, insufficient food and unsafe drinking water, inadequate apparel, and insufficient access to coaching—were not included in the discussion above, but, given the issues raised by these athletes, MSU should continue to monitor and assess all teams to ensure equitable treatment with respect to benefits, treatment and services.

Conclusion

This review determined that there appear to be gender inequities with respect to athletic financial assistance and in parts of the following treatment areas: equipment and supplies, provision of locker rooms and practice and competitive facilities scheduling of games and practice times, provision of medical and training facilities and services, provision of housing and dining facilities and services, and support services.

Pursuant to the settlement agreement, I will work with MSU to “create a Gender Equity Plan (GEP) to address all issues of inequity identified by the gender equity review. The GEP will bring MSU into full Title IX compliance by the end of the 2026-2027 academic year, subject to extensions of time as deemed reasonable by the GERD.”

Report Prepared by Professor Gabe Feldman

²⁹ 44 Fed. Reg. at 71,417.