

Gender Equity Monitor Report for the University of Iowa

Prepared by Professor Gabe Feldman¹

October 1, 2022

In August 2020, the University of Iowa (“UI”) announced the elimination of men’s and women’s swimming and diving, men’s gymnastics, and men’s tennis. As part of a September 22, 2021 settlement agreement, UI agreed to reinstate the women’s swimming and diving team and provide it with materially the same support (benefits, scholarships and treatment) as the team had received prior to its announced elimination.

Pursuant to that settlement agreement, I was appointed to serve as a monitor (the “Monitor”) of UI’s compliance with Title IX of the Education Amendments of 1972 (“Title IX”) for the next three years. The settlement agreement states, in relevant part:

The Monitor will review UI’s Title IX compliance for all three aspects of compliance: equal participation opportunities; equal benefits/treatment; and equal scholarship opportunities. The equal benefits and treatment will include review of the ‘laundry list’ of items as contained in and defined by 34 C.F.R. § 106.41(c)(2)-(10), as well as recruiting and admissions (34 C.F.R. §§ 106.37, 106.21).

The Monitor will issue a public annual report on his findings with respect to each of these areas and provide input on any Title IX failings. The annual report will be provided on UI’s Athletic Department website no later than October 1 of each year. The first report shall be published no later than October 1, 2022. At all times, UI will retain its discretion as how to achieve gender equity and Title IX compliance, by following the Monitor’s input or otherwise, as long as it resolves any lack of Title IX compliance found.

Background

UI competes at the NCAA Division I level, offering 21 sport programs.

UI offers 13 women’s sports:

- Basketball
- Cross Country
- Field Hockey
- Golf
- Gymnastics
- Rowing
- Soccer
- Softball
- Swimming
- Tennis
- Track (indoor)
- Track (outdoor)

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- Volleyball

UI offers 8 men's sports:

- Baseball
- Basketball
- Cross Country
- Football
- Golf
- Track (indoor)
- Track (outdoor)
- Wrestling

All sports compete in the Big 10 Conference. UI has added a women's wrestling program that is scheduled to begin competing in the 2023-2024 season. UI is the first school in an "Autonomy Five" conference to sponsor varsity women's wrestling. The NCAA does not hold a championship for women's wrestling, but it is recognized as part of the NCAA's "Emerging Sports for Women" program.

Process

I conducted a site visit at UI on August 26, 2022, where I toured UI athletics facilities and met with coaches and staff. I reviewed relevant data regarding gender equity at UI, internal handbooks and policies, and other publicly available material, and was given an opportunity to speak with coaches, staff, and athletes.

This public annual report (the "Report") addresses the following 13 areas:

1. Accommodation of interests and abilities;
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;
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.

Accommodation of Interests and Abilities–Opportunity to Participate in Intercollegiate Competition

Title IX’s “Three-Part Test” for accommodation of interests and abilities requires that athletic participation opportunities be offered in a gender-equitable manner and allows educational institutions to satisfy that requirement under any of the three following prongs:²

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.

1. Prong 1: Participation Substantially Proportionate to Enrollment

In order to comply with Prong 1, an institution must provide athletics participation opportunities on men’s and women’s teams in a ratio that is “substantially proportionate” to its full-time male and female undergraduate enrollment. Substantial, not exact, proportionality is required “because in some circumstances it may be unreasonable to expect an institution to achieve exact proportionality—for instance, because of natural fluctuations in enrollment and participation rates or because it would be unreasonable to expect an institution to add athletic opportunities in light of the small number of students that would have to be accommodated to achieve exact proportionality.”³ Substantial proportionality “depends on the institution’s specific circumstances and the size of its athletic program” and is determined “on a case-by-case basis.”⁴

In order to reach substantial proportionality, the U.S. Department of Education’s Office for Civil Rights (OCR) guidance states that it would “consider opportunities to be substantially proportionate when the number of opportunities that would be required to achieve proportionality would not be sufficient to sustain a viable team, i.e., a team for which there is a sufficient number of interested and able students and enough available competition to sustain an intercollegiate team.” The guidance also states that “OCR may consider the average size of

² In 1996, the Department of Education issued a “Dear Colleague” letter to clarify the three-prong test for participation opportunities, confirming that institutions need only comply with any one part of the three-part test in order to provide nondiscriminatory participation opportunities. Office for Civil Rights, U.S. Dep’t of Educ., Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (Jan. 16, 1996),

³ <https://www2.ed.gov/about/offices/list/ocr/docs/clarific.html> (“1996 Letter”).

⁴ 1996 Letter; see, e.g., *Lazor v. Univ. of Connecticut*, ___ F. Supp. 3d ___, 2021 WL 2138832, at *6 (D. Conn. May 26, 2021); *Equity in Athletics, Inc. v. Dep’t of Educ.*, 639 F.3d 91, 110 (4th Cir. 2011) (“DOE has not specified a magic number at which substantial proportionality is achieved.”). “[W]e do not, in any event, understand the 1996 Clarification to create a statistical safe harbor at [two percent] or any other percentage.”

teams offered for the underrepresented sex” as a “frame of reference” when assessing Prong 1 compliance.

As detailed in the chart below, in 2021-2022, 52.4% (409 / 780) of UI’s athletic participation opportunities went to women, while women made up 55.9% (11,008 / 19,701) of UI’s full-time undergraduate student population, for a 3.4% Prong 1 disparity. Given that the roster of the women’s swimming team has increased from 13 in 2021-2022 to 22 in 2022-2023, with plans to increase to approximately 30, and that women’s wrestling is scheduled to start competing in 2023 with a roster size of approximately 30 and the maximum allotment of 10 scholarships, female participation will substantially increase this year and the following years, and it thus appears that UI will comply with Prong 1.

University of Iowa 2021-2022 Roster Sizes			
Men's Sports		Women's Sports	
Baseball	45	Basketball	13
Basketball	15	Cross Country	30
Cross Country	17	Field Hockey	27
Football	128	Golf	10
Golf	9	Gymnastics	21
Track (i)	63	Rowing	76
Track (o)	61	Soccer	37
Wrestling	33	Softball	26
	371	Swimming	13
		Tennis	8
		Track (i)	64
		Track (o)	64
		Volleyball	20
			409

2. Prong Two and Prong Three:

Given that UI appears to comply with Prong 1, it need not comply with Prong 2 or Prong 3.

(2) Athletic Financial Assistance

Compliance with Athletic Financial Assistance requires institutions to “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.” Compliance is “primarily” evaluated “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” in the aggregate.⁵ A school may be found in compliance if it awards athletics financial

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

assistance in a ratio substantially proportionate to its athletic participation ratio, or if a resulting disparity can be explained by legitimate, non-discriminatory factors.⁶

UI appears to have achieved nearly exact proportionality in 2021-2022, as 52.1% (319 / 612) of UI's unduplicated student-athletes were women, and women received 52.8% (\$5,960,436 / \$11,283,670) of UI's athletics-related student aid, for a 0.7% scholarship disparity, which complies with Title IX's athletic financial assistance requirements.

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."⁷

Moreover, "Title IX requires a systemic, substantial disparity that amounts to a denial of equal [athletic] opportunity before finding a violation of the statute."⁸ 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."⁹

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.¹⁰ The quality, amount, suitability and maintenance of equipment are assessed to determine compliance in this area.

UI has a department-wide equipment contract with Nike for all teams, which generally provides apparel of comparable quality for male and female student-athletes.

4. Scheduling of Games and Practice Time

⁶ Id.

⁷ Policy Interpretation at 71,415-16.

⁸ *Parker v. Franklin County [Ind.] Community School Corp.*, 667 F.3d 910, 922 (7th Cir. 2012).

⁹ 45 C.F.R. § 86.41(c).

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

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.¹¹

There do not appear to be any material issues with respect to the times of competitive events or opportunities to engage in available pre-season and post-season competition. There also do not appear to be any material issues in the aggregate regarding practice opportunities. Although some coaches indicated that scheduling issues did arise with shared practice facilities, the coaches worked with each other and the Senior Woman Administrator to ensure that practice schedules were equitable. These issues will likely decrease significantly as UI completes construction on new facilities in the near future.

5. Travel and Per Diem Allowance

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.¹²

There do not appear to be any material issues in the aggregate regarding equitable travel benefits, per diem allowances, and dining options. Teams appear to receive access to equivalent dining options, per diem, and travel, including quality of hotels, length of stays, and modes of transportation.

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

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.¹³

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. UI teams use the maximum number of coaches permitted by NCAA rules, and all coaches are full-time employees.

There do not appear to be any material issues regarding the relative quality of the coaches assigned to the men's and women's teams in the aggregate. All of UI's coaches appear to be extremely qualified for their positions. Many of the coaches have significant accomplishments and experience. For example, coaches of the women's teams have the following accomplishments and experience:

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

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

¹³ 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)).

- Larissa Libby, women's gymnastics head coach, has served as head coach at UI for more than seventeen years and has earned Big Ten Coach of the Year honors three times, including most recently in 2020-2021. The women's gymnastics team won the Big Ten regular season championship in 2021.
- Lisa Cellucci, women's field hockey head coach, was named Big Ten Co-Coach of the Year in 2021.
- Renee Gillispie, women's softball head coach, has served as a head coach for more than 20 years, including successful stints at UCF and Texas Tech prior to joining UI. Coach Gillispie ranks 19th among active softball coaches in D1 for career wins.
- Lisa Bluder, women's basketball head coach, is entering her 23rd year as head coach and has led the team to two regular season Big Ten championships and three Big Ten Tournament championships, including winning both titles in 2022.
- Dave Dilanni, women's soccer head coach, has a 282-66-25 career record and led the team to a Big Ten championship in 2020-2021.

There do not appear to be any material issues regarding the compensation of coaches that could deny male or female student-athletes access to coaching of equivalent quality, nature, or availability.

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.¹⁴ There do not appear to be any material issues regarding the provision of academic tutoring or the assignment and compensation of tutors. UI provides extensive student-athlete tutoring and academic services, including the following:

- *The Gerdin Athletic Learning Center* is the central location for all student-athletes to receive tutoring and other academic support.
- *The Hawkeye Life program* is a comprehensive life skills and leadership development model provided for all student-athletes. This program offers all student-athletes educational opportunities beyond their athletic and academic responsibilities.
- *The Hawkeye Life Academic Success pillar* is dedicated to supporting the academic, intellectual and personal growth of all student-athletes through the coordination of campus-wide initiatives that support the student-athletes' transition to UI and enhance retention and graduation rates.
- *The Summer Bridge Program* provides academic assistance for all student-athletes who choose to begin their intercollegiate academic and athletic careers in the summer instead of the fall semester.
- The *Multicultural Focus Group* is a UI committee that offers resources for all minority student-athletes.
- *HERkys* provides resources for female student-athletes to help them succeed as leaders.

Tutoring is available to all student-athletes through their Athletics Academic Coordinator. The UI Tutor and Retention Coordinator schedules all appointments for student-athletes. The UI

¹⁴ 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)).

Student-Athlete Academic Services staff includes dozens of tutors and learning assistants that can provide specific subject matter assistance as well as general study strategies. All student-athletes can request a tutor through their “GradesFirst Account,” have access to regular meetings with their Academic Coordinator, weekly tutoring sessions, and meetings with a Learning Specialist or their staff to help build academic skills.

All of these services appear to be provided in an equitable manner.

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.¹⁵

Overall, UI has state-of-the-art athletics facilities for men’s and women’s teams, including the following facilities for women’s teams:

- *Women’s Rowing*: Beckwith Boathouse, the first UI building named solely for a female benefactor, is a state-of-the-art facility that contains an adjustable speed rowing tank for training, locker rooms and medical-training rooms, and a terrace and community room.
- *Women’s Tennis*: Hawkeye Tennis and Recreation Complex recently hosted the Big 10 Women’s Championships.
- *Women’s Swimming*: A state-of-the-art facility that has hosted numerous conference championships and was scheduled to host the NCAA championships in 2020-2021, features dedicated office space for coaches and will include a new video scoreboard.
- *Women’s Soccer*: The Iowa Soccer Complex includes a state-of-the-art grass competition field with lights and a practice field, and the team has access to two indoor training facilities. A new facility was recently built that serves as a dedicated space for the soccer team, including a modern athletic training room, a large locker room, coaching offices, a team room, a multipurpose room, and a press box.
- *Women’s Track and Field*: Iowa’s indoor practice and competition facility is state of the art and houses a raised track. The Recreation Building contains locker rooms, weight training and athletic training space for the men’s and women’s track and field and cross country teams. The Francis X. Cretmeyer outdoor track is also state of the art.

UI is also in the process of starting several facilities projects that will primarily benefit women’s teams, including the following:

- **Women’s Wrestling**: UI is currently constructing a new wrestling training facility to house both women’s and men’s wrestling teams. The new facility will be close to 40,000 square feet and will provide additional workout facilities, training areas, locker rooms,

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

office space and direct access into Carver-Hawkeye Arena, where intercollegiate wrestling competitions will continue to be held.

- **Women’s Gymnastics:** UI plans to construct a new Women’s Gymnastics and Spirit Squad Training Center, a dedicated space designed specifically for gymnastics that will include practice space, locker rooms, a team room, an equipment room, coaching offices, and a multipurpose viewing room. The facility is estimated to be completed in time for the 2024-2025 competition season.
- **Women’s Field Hockey:** UI is planning to add a new video scoreboard to the field hockey stadium and will be adding a field hockey operations facility next to their field. UI has also recently renovated the outdoor field and is in the process of renovating the indoor turf.

Currently, the women’s gymnastics facility—which was shared with the men’s gymnastics team until it was recently eliminated—is not on par with the impressive facilities used by most of the other UI teams. The existing facility has limited gym space, inadequate locker room and restroom facilities, limited facilities for strength and conditioning or training and recovery on site, and limited temperature and humidity controls. This facility did not create an inequity for men and women until the men’s team was eliminated. The facility project discussed above should remedy any equity issues regarding the equivalence of facilities for men and women.

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.¹⁶

There do not appear to be any material issues regarding the availability and quality of weight training and conditioning facilities. All student-athletes have access to high quality medical training facilities and services, including the following athletic training rooms, which all have advanced medical and rehabilitation equipment:

- *Carver-Hawkeye Arena Athletic Training Room*, which is used by men's and women's basketball, women’s volleyball, women’s golf, women’s rowing and men’s and women’s wrestling teams.
- *The Athletic Training Room*, located in the Jacobson Athletic Building, which is used by men’s and women’s track and field and cross country, baseball, softball, and women’s soccer.
- *The Field House* athletic training room, which is used by women's gymnastics.
- *Beckwith Boathouse Athletic Training Room*, which is used by women’s rowing.
- *The Hawkeye Tennis and Recreational Center*, which is used by field hockey, women's tennis and women’s soccer.

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

- *The Campus Recreation and Wellness Center Natatorium athletic training room, which is used by women's swimming and diving.*

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. UI also appeared to resolve scheduling issues and potential space conflicts in an equitable manner.

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).¹⁷

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 given that the on-campus housing for male and female student-athletes does not differ materially.

There do not appear to be any material issues regarding the provision of dining facilities and services. All student-athletes appear to have access to high-quality food and appropriately stocked fueling stations.

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.¹⁸

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, UI's efforts in the aggregate to promote men's and women's teams appear to be equitable. Among other things, all competitive events are broadcast or streamed for all men's and women's teams.

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

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

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

afforded prospective student athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex.¹⁹

There do not appear to be material differences regarding the equivalence for recruiting of male and female student-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 UI.

13. Support Services

Compliance in this area is assessed by examining, among other factors, the 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.²⁰

There do not appear to be meaningful differences regarding the equivalence of the clerical and administrative support or available office space, equipment and supplies provided for men's and women's teams. All teams are supported by Directors of Operations or similar staff to meet teams' respective needs, and each team appears to have access to administrative, secretarial, and clerical support. Several women's teams will benefit from new facilities projects described above.

Conclusion

In the aggregate, UI appears to be in compliance with Title IX's equitable treatment provisions. Although some differences regarding the treatment of women's gymnastics currently exist, these differences should be remedied by the planned facilities and other projects described above. As per the settlement agreement, I will continue to monitor UI's compliance with Title IX and issue an annual public report through the period required by the settlement agreement. I also understand that UI will continue to monitor its Title IX compliance and make adjustments as issues may arise.

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

²⁰ 44 Fed. Reg. at 71,417.