

**SENATE SELECT COMMITTEE ON GENDER DISCRIMINATION
AND TITLE IX IMPLEMENTATION**

Friday, August 24, 2007

**Testimony by
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[Remarks as prepared for delivery; not an official transcript]

- Senator Florez, thank you for your interest and concern for gender equity in intercollegiate athletics. I've spent my thirty-year career in Student Affairs, and appreciate this opportunity to speak with you today about our efforts, our progress to date, and our desire and will to do even more.
- Gender equity under Title IX is important to the University of California and the well-being of our 160,000 undergraduates, including roughly 2,000 female intercollegiate student-athletes. We are committed to ensure full compliance with Title IX. In addition, we offer a broad range of athletic opportunities at UC for women, to foster their development as athletes and as individuals.
- Our intercollegiate athletics programs are as diverse as the students in our state and on our campuses. UC has six campuses in Division I of the NCAA, **San Diego** is in Division II, **Santa Cruz** is in Division III, and **Merced** is still a year away from initiating formal planning.
- Moreover, within Division I, there are significant NCAA program distinctions:
 - **Berkeley** and **UCLA** have football programs in the NCAA's "Bowl Subdivision;"

- **Davis** has football in the NCAA’s “Championship Subdivision;” and
 - **Irvine, Riverside** and **Santa Barbara** do not have football programs.
- At UC there is a rich variety of athletic programs in terms of the sports available, number of scholarships offered, conference affiliations, and budgetary support. This is a reminder of why it is sound policy for the lead responsibility for Title IX compliance to reside with individual campuses.
- The primary compliance responsibility remains – as it should – at the campus level. However, at the UC Office of the President we are reexamining our Title IX stewardship responsibilities in athletics.
- I became the Vice President for Student Affairs last January, and I bring to this position my prior campus-based experience overseeing intercollegiate athletics. My involvement in athletics over the years has taught me that it would be beneficial for UCOP to take on more of a central coordination role.
- UCOP supports the creation of a new position within Student Affairs, which will work with campuses to develop guidelines ensuring that relevant personnel receive appropriate training and continuing education regarding Title IX compliance.
- UCOP’s new coordinator for Title IX athletics will be responsible for convening campus administrators in athletics and other departments on a regular basis. This will facilitate the sharing of best practices.

- Senator Florez, last June for the first time a UC Title IX Seminar was convened in Oakland. This inaugural meeting was extremely successful and beneficial for the participants and campuses.
- Notably, all eight UC campuses with intercollegiate athletics programs participated, as did UC General Counsel. A nationally recognized Title IX consultant led the seminar, which was organized by a Title IX Officer and a former Senior Woman Administrator.
- Now I would like to address some specifics regarding UC's Title IX compliance. As you know, Title IX has a three-part test for assessing whether an institution has sufficient athletic opportunities to accommodate the interests and abilities of both sexes. Keep in mind, however, that Title IX also includes other important provisions requiring equal treatment in financial aid, facilities, tutoring and other areas.
- The Office for Civil Rights' 2005 guidance indicates that each prong is a safe harbor for Title IX compliance. Those three prongs are:
 - Proportionality;
 - A history and continuing practice of program expansion;
 - Demonstrating that the interests and abilities of the underrepresented sex have been fully and effectively accommodated.
- The Committee has heard strong criticism of the three-part test and of the enforcement record of OCR under the current Administration in Washington. I believe it is prudent to take a step back and recognize that the 3-prong test for Title IX compliance has stood the test of time in American higher

education since 1979. For three decades OCR, regardless of political party, has used the three-prong test to promote gender equity in athletics.

- In considering possible new legislation, keep in mind the following: OCR's 2005 guidance included a study of all Title IX investigations at four-year colleges between 1992 and 2002. This study found that 66% (86 of 130) complied by satisfying the third prong. Less than 28% (36 of 130) complied using the proportionality prong.
- As one writer [H.L. Mencken] once said, "For every complex problem, there is a solution that is simple, neat and wrong." Legislation that requires strict proportionality is the simple, neat, and wrong solution for many UC campuses.
- As you will discover when you hear from campus representatives, at UC four campuses comply with Title IX using the first prong, and four campuses comply using the second and/or third prongs. A one-size-fits-all approach that discards the flexibility inherent in the three-prong test will not allow UC campuses to be compliant in a manner that best meets the unique needs of their students and campus communities.
- Across the country in recent years, for the most part increases in women's teams have fortunately not been followed by a corresponding drop in men's teams. The flexibility of the three-part test is an important factor underlying this positive development.
- Conversely, requiring rigid proportionality will increase the pressure to eliminate men's teams at some UC campuses. In

short, proportionality *per se* will not assure significantly increased opportunities for female student-athletes.

- We prepared a handout for your Committee, summarizing publicly available information relevant to Title IX and athletics.
- UC's six Division I campuses have a student-athlete population in 2005-06 that is 46% female, or approximately 8.5 points shy of proportionality. This is slightly better than the 9.2 point proportionality gap at Division I institutions nationwide.
- UC San Diego, in Division II, has a student-athlete population that is 50% women, which is a proportionality gap under 2 points.
- UC Santa Cruz, in Division III, has a student-athlete population that is 54% women, equivalent to its undergraduate population.
- At the six UC campuses in Division I, women receive 48% of athletic grant-in-aid scholarships. Again, this is slightly better than Division I schools nationwide, where women receive 45% of athletic scholarships.
- We are glad to report that of among UC students receiving receiving grant-in-aid athletic scholarships, 71% graduate within six years, compared to a 63% graduation rate at Division I institutions nationwide.
- In summary, at UC we are proud of our record of gender equity in intercollegiate athletics. UC counts thousands of accomplished women who participated in athletics among its

alumni, including Olympic gold medalists, outstanding moms, innovators in business and industry, civic leaders and scientists.

- At the same time, at UC we recognize that there is more work to be done to promote gender equity in athletics. We are compliant with Title IX, but we are not complacent. We look forward to working with your Committee in these efforts.