

September 9, 2021

Via e-mail: jonesj@dickinson.edu
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The Honorable John E. Jones, III
Interim President
Dickinson College
272 West High Street
Carlisle, PA 17013

RE: Elimination of Women's Squash Team in Violation of Title IX

Dear President Jones:

I and my co-counsel have been retained by members of the women's varsity squash team to prevent their team's elimination and, if necessary, pursue a sex discrimination class action against Dickinson College ("Dickinson") for depriving its female athletes and potential athletes of equal participation opportunities and treatment in violation of Title IX of the Education Amendments of 1972. Please respond to this letter as soon as possible and, in any event, no later than Wednesday, September 15, 2021.

Two weeks ago, on August 26, 2021, your office sent an email to the Dickinson Community from George Stroud, Vice President & Dean of Student Life. The email started, "When Dickinson was chartered in 1783, Benjamin Rush viewed athletics as a vital facet of a well-rounded educational experience, and we still view it as such today." It then said—in a stunning twist—that Dickinson had decided to eliminate the women's and men's varsity intercollegiate athletic squash teams at the end of the 2021-22 season.

Dickinson's decision to eliminate its women's and men's squash teams does not appear to have been publicly announced otherwise. As best we can tell, no press release was issued about it. An internet search produces no news about it. Even now, it is not mentioned on Dickinson's web site, including the sections of Dickinson's web site dedicated to its intercollegiate athletic program, the women's squash team, or the men's squash team.

It appears that Dickinson is not interested in having the general public know about its decision. Sadly, there is an obvious reason that could be so: the elimination of the women's squash team flagrantly violates Title IX, which bars sex discrimination by all educational institutions receiving federal funds.

Under Title IX, schools cannot eliminate women's teams for which interest, ability, and competition are available unless "intercollegiate level participation opportunities for male and

female students are provided in numbers substantially proportionate to their respective enrollments.” 44 Fed. Reg. 71418 (Jan. 16, 1996). Dickinson fails this test.

According to the most recent publicly available data, which Dickinson submitted and verified to the U.S. Department of Education under the Equity in Athletics Disclosure Act, Dickinson had an undergraduate population in 2019-20 of 1,193 women and 898 men. So undergraduate enrollment was 57.05% women. The school’s intercollegiate athletic teams had 326 men and 243 women, or 42.71% women—creating a 14.35% gap between the women’s undergraduate enrollment rate and their intercollegiate athletic participation rate. Dickinson needs to *add* women’s opportunities to comply with Title IX.

Instead, Dickinson just announced that it is *eliminating* its women’s squash team (along with the men’s team). As a result, again according to the most recent publicly available data, the school’s athletic participation numbers will drop to approximately 314 men and 231 women, or 42.39% women—creating a 14.67% gap. Dickinson would need to add approximately 186 women to reach gender equity under Title IX. This is, of course, far more opportunities to participate in athletics than the women’s 14-member squash team provides.

Given these facts, Dickinson’s decision to eliminate the women’s squash team (and the men’s squash team) was especially ill-considered. It should not have been made—and needs to be reversed right away. This should not be a surprise. As your office emphasized, “When Dickinson was chartered in 1783, Benjamin Rush viewed athletics as a vital facet of a well-rounded educational experience.” The law still views it “as such today.” For that reason, Title IX requires Dickinson to continue the women’s squash team and provide women with equal opportunities to participate and equal treatment and benefits throughout its intercollegiate athletic program.

I would like to meet with you and/or the school’s lawyers and discuss the relevant facts and the law, as well as the likely outcome if a lawsuit is filed. It is my hope that, considering these factors, Dickinson will agree to reinstate the women’s squash team (and men’s squash team) and come into compliance with Title IX to avoid the need for a lawsuit.

Unless Dickinson does so—or has plans for compliance with Title IX we do not know about—we will file a class action and seek a preliminary injunction immediately preserving the women’s squash team. Courts throughout the country have consistently issued preliminary injunctions preserving women’s varsity teams when the elimination of a women’s team violates Title IX. *See, e.g., Lazor v. Univ. of Connecticut*, No. 3:21-CV-583 (SRU), 2021 WL 2138832, at *1 (D. Conn. May 26, 2021) (granting temporary restraining order to reinstate the women’s rowing team); *Ohlensehlen v. Univ. of Iowa*, 509 F. Supp. 3d 1085, 1088 (S.D. Iowa 2020), *appeal dismissed*, No. 21-1203, 2021 WL 3174982 (8th Cir. Feb. 26, 2021) (granting preliminary injunction to reinstate the women’s swimming and diving team); *Mayerova v. E. Michigan Univ.*, 346 F. Supp. 3d 983, 997 (E.D. Mich. 2018), *appeal dismissed*, No. 18-2238, 2020 WL 1970535 (6th Cir. Apr. 20, 2020) (granting preliminary injunction to reinstate the

women's varsity softball and tennis teams); *Portz v. St. Cloud State Univ.*, 196 F. Supp. 3d 963, 978 (D. Minn. 2016) (granting preliminary injunction to reinstate the women's varsity tennis team); *Biediger v. Quinnipiac Univ.*, 616 F. Supp. 2d 277 (D. Conn. 2009) (granting preliminary injunction to reinstate the women's varsity volleyball team); *Choike v. Slippery Rock Univ.*, 2006 WL 2060576 (W.D. Pa. July 21, 2006) (granting preliminary injunction to reinstate the women's varsity water polo and swimming teams); *Barrett v. West Chester Univ. of Penn.*, 2003 WL 22803477 (E.D. Pa. Nov. 12, 2003) (granting preliminary injunction to reinstate the women's varsity gymnastics team); *Favia v. Indiana Univ. of Penn.*, 812 F. Supp. 578 (1993) (granting preliminary injunction to reinstate the women's varsity gymnastics and field hockey teams); *Cohen v. Brown Univ.*, 809 F. Supp. 978 (D. R.I. 1992), *aff'd* 991 F.2d 888 (1st Cir. 1993) (granting preliminary injunction to reinstate the women's varsity gymnastics and volleyball teams).

We hope that will not be necessary in this case. I look forward to hearing from you as soon as possible and, in any event, no later than Wednesday, September 15, 2021.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arthur H. Bryant", with a horizontal line extending to the right from the end of the signature.

Arthur H. Bryant

AHB/car