

Brown University to Reinstate Women's Equestrian and Fencing To Comply with Title IX and Provide Equal Opportunity for Women Athletes

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Providence, RI – The legal team representing women student-athletes at Brown University who brought suit in June following cuts to the varsity athletics program announced today that it and the University have reached a proposed settlement agreement that will preserve gender equity for women athletes at Brown. The settlement will ensure that Brown adheres to its promise, made more than two decades ago, to comply with Title IX, the federal law that guarantees equal access to athletic programs for female athletes.

Under the settlement, Brown has agreed to reinstate its women's varsity equestrian and fencing teams. It has further agreed to maintain full support for those teams and not to reduce future support as compared to men's teams' support. Brown also agreed not to eliminate or reduce the status of any women's varsity team or add any men's team for at least the next four years, during which the University will be required to comply with the consent decree it agreed to in 1998. The consent decree will expire on August 31, 2024, but the University must still ensure equal opportunities in its athletics programs under Title IX. The settlement was announced by attorneys Lynette Labinger, cooperating counsel from the American Civil Liberties Union of Rhode Island,

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Leslie Brueckner of Public Justice and Arthur Bryant, now with the law firm of Bailey & Glasser, the attorneys who represented the plaintiffs in the *Cohen v Brown* suit that resulted in the school agreeing to the original consent decree and by attorneys Jill Zwagerman and Lori Bullock, of Newkirk Zwagerman in Des Moines, Iowa, who joined the legal team in 2020 to take on this challenge.

Lynette Labinger, lead counsel for the Plaintiffs stated: "We are very pleased to report that we have convinced Brown that compliance with its obligations under Title IX and the 1998 agreement will result in the restoration of two of the varsity teams for women that it had slated for elimination. This is a bittersweet outcome, because of the reality that, if Brown was determined to shrink the size of its athletic program, we could not stop it and save all five of the women's teams. But through our efforts and the overwhelming contributions and energy of the student-athletes, we have ensured that Brown will provide meaningful participation opportunities for more women athletes and not simply push numbers around on a page. We support the settlement because we believe that it will both preserve gender equity and maximize the athletic opportunities for Brown's women athletes now and in the future."

"Brown's internal emails disclosed that its administrators were fixated on the fact that Brown, alone among its peers, was subject to the Joint Agreement and wanted to, in its words, 'kill this pestilential thing,'" said Arthur Bryant of Bailey & Glasser, LLP, the women's co-counsel, now and in the original suit for Public Justice. "That showed us Brown had -- and has -- a fundamental misunderstanding of Title IX, which the Joint Agreement embodies. We could agree to end the agreement in four years to get Brown to provide real participation opportunities for many more women athletes than it wanted now. We are confident that, after four years, women athletes at Brown will have at least as much protection under Title IX than they had under the Joint Agreement, or we would never have agreed to let it end. Title IX requires gender equity. If Brown University violates Title IX, we'll be back."

Earlier this year, Brown announced it was eliminating five varsity women's teams, a decision that violated the court-ordered requirement that "intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments." The cuts announced by Brown would have resulted in a disproportionate impact on women's representation in the University's athletics programs, running afoul of the maximum gender disparity allowed under the original consent decree. The legal team representing Brown athletes told the court that such cuts would result in "immediate and irreparable harm."

"We are pleased that Brown has recognized its obligations to women athletes and its obligations under the law," added Public Justice Senior Attorney Leslie Brueckner. "At a time when our country is striving to become more equal, and is beginning to acknowledge and address the sins of the past, Brown should be setting the standard for inclusiveness and opportunity. Today's settlement is a

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welcome step in that direction.”

“We could not require Brown to restore all of the women's teams it eliminated, but we did force Brown to comply with the consent decree and Title IX -- and provide gender equity to its female student-athletes,” said Lori Bullock of Newkirk Zwagerman, co-counsel in the case along with the firm’s Jill Zwagerman. “We are proud to have made it do that. We are honored to advocate for and represent these amazing young women, who are extraordinarily accomplished in and passionate about their sports.”

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Public Justice pursues high impact lawsuits to combat social and economic injustice, protect the Earth’s sustainability, and challenge predatory corporate conduct and government abuses. For more information, visit www.PublicJustice.net.

The American Civil Liberties of Union of Rhode Island has been fighting for over 60 years to promote civil liberties and challenge governmental violations of civil rights in the Ocean State.

Attorneys

Arthur H. Bryant

Practice Areas

Title IX