

# East Carolina University Agrees to Reinstate Women's Swimming, Diving & Tennis; Develop Gender Equity Plan; and Comply with Title IX

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**Charleston, WV** – East Carolina University (ECU) has agreed to reinstate its women's swimming, diving, and tennis teams, develop a gender equity plan, and come into full compliance with Title IX to avoid a threatened class action sex discrimination lawsuit. Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits sex discrimination at any educational institution receiving federal funds.

On May 21, 2020, ECU announced that it was eliminating its women's (and men's) varsity swimming & diving and tennis teams. On November 16, 2020, Arthur Bryant of Bailey Glasser's office in Oakland, CA, wrote to ECU's Interim Chancellor, Dr. Ron Mitchelson, on behalf of the women's team members and informed him that the teams' elimination violated Title IX. The law prohibits universities from eliminating 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."

Bryant's letter noted that ECU failed that test. ECU's undergraduate enrollment is 56.57% women, but the school offers females only 50.43% of the opportunities to participate in intercollegiate athletics and, after the teams' elimination, would still offer women only 50.49%. ECU would need to add 70 women to its athletics program to reach gender equality – more than twice the number on

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the women's swimming, diving, and tennis teams.

Bryant said he and his co-counsel would file a class action lawsuit in federal court against ECU for depriving women athletes and potential athletes of equal opportunities, athletic financial aid, and treatment unless the school agreed to reinstate the teams and comply with Title IX. The settlement agreement, reached on January 7, 2021, avoids the need for the class action.

"This is a major victory for women athletes at ECU, Title IX, and all who care about gender equity and the law," said Bryant. "The elimination of these women's teams flagrantly violated Title IX. ECU should be praised for agreeing to reinstate the teams, develop a gender equity plan, and get into compliance with Title IX, but this settlement should put all schools on notice. If they violate Title IX, they will be held accountable."

ECU women's tennis team member Victoria Dixon said, "One of the most important things I learned through this entire process is that it is up to the female student-athletes to hold colleges accountable for Title IX violations. No one else is going to force your college to bring its athletic program into compliance with the law. I'm glad I stood up for myself and all female athletes at ECU and hope that women around the country will hold their schools accountable, too."

Women's swimmer Randi Palandro noted, "It was a real shock when the swimming and diving team was suddenly eliminated. I was upset not only because I would no longer be able to compete, but because it was a violation of federal law to cut these teams for women. I am really happy the university reinstated both the tennis and the swimming and diving teams and look forward to working with the university to make sure it complies with Title IX."

ECU female student-athletes Meghan French, Chelsea Marstellar, and Anna Otto also played key roles in holding ECU accountable.

In addition to Bryant, the legal team for the female student-athletes included Bailey Glasser's Cary Joshi, Britney Littles, and Elliott McGraw (Washington, DC), Sharon Iskra and Laura Babiak (Charleston, WV), Ben Hogan (Morgantown, WV), and Nicole Ballante (St. Petersburg, FL); Lori Bullock of Newkirk Zwagerman in Des Moines, IA; and Daniel K. Bryson, Jeremy Williams, and Sarah Spangenburg of Whitfield Bryson LLP in Raleigh, NC.

Under the settlement agreement, ECU will immediately reinstate its women's swimming, diving, and tennis teams and develop a gender equity plan no later than December 31, 2021. The school will solicit input for the plan from student-athletes for all teams and expressly invite participation by the female swimming, diving, and tennis team members. It will post the plan on ECU's athletics department's website and ensure that ECU's intercollegiate athletic program complies with Title IX during the 2023-24 academic year and beyond. The university will continue to monitor and manage the plan on an on-going basis (including prior to its official adoption) to maintain and

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improve ECU's Title IX compliance.

The ECU settlement comes on the heels of -- and tracks -- an agreement Bryant and his co-counsel reached in late December 2020 with the University of North Carolina at Pembroke (UNCP), which announced the suspension of its women's golf team and then agreed to reinstate the team, develop a gender equity plan, and get into compliance with Title IX to avoid being sued. Additional Title IX settlements were reached recently by Bryant and his co-counsel with Brown University and William & Mary College.

Bryant was the lead trial counsel in the first Title IX case tried against a university for discriminating against its women athletes and potential athletes. He has successfully represented more women athletes and potential athletes in Title IX litigation against schools and universities than any lawyer in the country, including Brown University, Temple University, UCLA, and many more.

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**Practice Areas**

Title IX