



SYSTEMWIDE TITLE IX OFFICE

OFFICE OF THE PRESIDENT
1111 Franklin Street,
Oakland, California 94607-5200

May 9, 2023

VICE PRESIDENT GULLATT

SUBJECT: UC Public Comment on Proposed Title IX Regulation from the U.S. Department of Education

Dear Colleagues,

We are pleased to share with you the response on behalf of the University of California to the proposed regulation implementing Title IX of the Education Amendments of 1972 (Title IX) regarding Sex-Related Eligibility Criteria for Male and Female Athletic Teams, as published in the *Federal Register* on April 13, 2023. (See the [Department of Education's Fact Sheet](#) for a summary of the proposed amendment.)

The University of California shares the Department's recognition that participation in sports has intrinsic value and is an important part of educational programs and activities. The University of California recognizes that participation in sports fosters important character traits such as work ethic, commitment, and interpersonal skills. Athletic programs at the University of California serve as a standard of excellence across the country, and a vast majority of student-athletes excel at both academics and athletics. UC athletes also actively participate in recreational sports, club sports, and intramural sports.

The Department of Education's proposed regulation would advance Title IX's longstanding goal of ensuring equal opportunity in athletics. The proposed rule would establish that policies violate Title IX when they categorically ban transgender students from participating on sports teams consistent with their gender identity. The proposed changes also provide a standard of review for sex-related eligibility criteria that would limit or deny a student's eligibility to participate on an athletic team consistent with their gender identity. Under the proposed rule, a school could only substantiate criteria that serve important educational objectives, such as ensuring fairness in competition or preventing sports-related injury. Any eligibility criteria would have to account for the sport, level of competition, and grade or education level to which they apply. The criteria would also have to minimize harms to students whose opportunity to participate on a male or female team consistent with their gender identity would be limited or denied.

The University of California supports the Department's rule as it sets a high bar for any institution to exclude trans athletes from participating based on gender identity and narrows the justification for sex-related eligibility criteria that might limit or deny eligibility to only those that are substantially related to an important educational objective, by sport, at the most elite level of competition, and when the criteria are developed in a way that minimizes harm to excluded persons.

The University of California's comments in support of the proposed regulation are discussed in detail in Section One of the attached. Additional feedback and requests for clarification or revision are set forth in Section Two.

You are welcome to contact me with questions. Thank you for your help with this important undertaking.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Julie Lewis', with a long horizontal flourish extending to the right.

Julie Lewis
Systemwide Title IX Director

Attachment:

UC Public Comment on Proposed Title IX Regulation from the U.S. Department of Education regarding Sex-Related Eligibility Criteria for Male and Female Athletic Teams, as published in the *Federal Register* on April 13, 2023