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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

ALEXANDRA GRANT, MIKAYLA  
BARRE, JESSICA BEAR, KIERA  
GUTIERREZ, BRYN JOHNSON,  
ALEXANDRA LELAND, RUBY  
MCCULLOUGH, ALIYAH  
TREADWELL, and CARISSA  
WARD, individually and on behalf of  
all others similarly situated,

Plaintiffs,

v.

CONCORDIA UNIVERSITY  
IRVINE,

Defendant.

Case No. 8:25-CV-01793

**CLASS ACTION**

**CLASS ACTION COMPLAINT**

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## **INTRODUCTION**

1  
2 1. Plaintiffs, female student-athletes at Concordia University Irvine  
3 (“CUI”), bring this class action lawsuit against CUI for discriminating against its  
4 female student-athletes and potential student-athletes on the basis of their sex in  
5 violation of Title IX of the Education Amendments of 1972 (“Title IX”) by  
6 depriving them of equal opportunities to participate in varsity intercollegiate  
7 athletics—and announcing that it is eliminating the varsity women’s swimming  
8 & diving and tennis teams.

9 2. The announcement was stunning. On the morning of May 20, 2025,  
10 shortly after the conclusion of the semester, Plaintiffs and the other affected  
11 athletes were notified via email from Andrea Riche, CUI’s Associate Athletic  
12 Director – Compliance, that there would be a Zoom team meeting later that day to  
13 discuss “an athletic update”, giving no indication of what was to come. For CUI,  
14 President Michael A. Thomas, Associate Vice President of Athletics Crystal  
15 Rosenthal, and Ms. Riche were in attendance at the Zoom meeting, which lasted  
16 approximately 15 minutes, and informed Plaintiffs in attendance and the other  
17 affected athletes that CUI was eliminating their teams in the upcoming 2025-26  
18 season. The athletes were told that a \$6.5 million budgetary deficit was the basis  
19 for the announcement and that the decision was final.

20 3. Finding out so abruptly, after the semester and season had ended, that  
21 they no longer would have teams at CUI was devastating to Plaintiffs and the other  
22 team members. They were left scrambling to figure out what to do next, both as  
23 students working towards academic degrees and as athletes who trained most of  
24 their lives to compete at the collegiate level.

25 4. CUI’s abrupt, late announcement of its plan to eliminate the  
26 swimming & diving and tennis teams caused—and is causing—irreparable injury  
27 to Plaintiffs and the other athletes. Days later, CUI made matters worse when it  
28 sent an email to the athletes on all of the other teams, telling them that their teams

1 were secure and that CUI was spending \$17.5 million on new, state-of-the-art  
2 sports facilities in addition to \$8 million upgrades to the outdoor baseball, softball,  
3 soccer and lacrosse fields. CUI stated in the email that the investment showed its  
4 dedication to its athletic programs and student-athletes.

5 5. CUI revealed its total disregard for Plaintiffs, the other members of  
6 the swimming & diving and tennis teams, and the truth by claiming the teams were  
7 cut due to a budgetary shortfall and then announcing that it was investing \$25.5  
8 million in new facilities for its student-athletes.

9 6. CUI also revealed its disregard for Plaintiffs, the other members of  
10 the women's swimming & diving and tennis teams, and the law by announcing its  
11 plans to eliminate the women's teams in violation of Title IX. Its announcement  
12 of its plan to eliminate the women's teams was, sadly, consistent with CUI's  
13 history of sex discrimination in its intercollegiate athletic program. Throughout its  
14 history, CUI has failed to provide equal intercollegiate athletic participation  
15 opportunities to its female students. According to the best publicly available  
16 information, in the 2024-25 academic year, women were 59.0% of CUI  
17 undergraduates, but were given only 51.2% of the opportunities to participate in  
18 varsity athletics. Based on this data, the female athlete participation gap at CUI  
19 was 7.8% before the school announced that it was eliminating the women's  
20 swimming & diving and tennis teams. CUI needed to add women's teams to  
21 achieve gender equity and comply with Title IX, but, instead, it announced it was  
22 going to eliminate women's teams. If it does so, the female athletic participation  
23 rate will decrease, the gap between the female undergraduate enrollment and  
24 athletic participation rates will increase to 8.0%, and CUI will have to add 112  
25 athletic opportunities for women for those rates to match.

26 7. CUI's actions have caused harm to Plaintiffs, and to those similarly  
27 situated, and constitute intentional, prohibited discrimination based on sex in  
28

1 violation of Title IX and its implementing regulation at 34 C.F.R. Part 106, which  
2 applies to universities—like CUI—that receive federal funding.

3 8. Title IX requires educational institutions receiving federal funds to  
4 provide men and women with (a) equal opportunities to participate, (b) equal  
5 athletic financial aid, and (c) equal treatment in their intercollegiate athletic  
6 programs. CUI receives substantial federal funding but fails to provide the required  
7 equality to women.

8 9. Specifically, CUI fails to satisfy any of the following measures of  
9 compliance with Title IX’s mandate to provide equal opportunities to participate  
10 to its female student-athletes:

11 a. CUI fails to provide female student-athletes with athletic  
12 opportunities at a rate that is “substantially proportionate” to their  
13 undergraduate full-time enrollment rate;

14 b. CUI fails to demonstrate a “history and continuing practice of  
15 program expansion responsive to the developing interests and abilities” of  
16 the sex that has been historically “underrepresented” (*i.e.*, women); and

17 c. CUI fails to show that “the interests and abilities” of the historically  
18 underrepresented sex have been “fully and effectively accommodated.”

19 *See* Office of Civil Rights (“OCR”), A Policy Interpretation, Title IX and  
20 Collegiate Athletics, 44 Fed. Reg. 71,418 (1979) “OCR Policy Interpretation”) at  
21 § VII.C.5.a. ; *see also* OCR, U.S. Dep’t of Educ., *Clarification of Intercollegiate*  
22 *Athletics Policy Guidance: The Three-Part Test* (Jan. 16, 1996).

23 10. The plan to eliminate the women’s varsity swimming & diving and  
24 tennis teams will continue and exacerbate CUI’s failure to satisfy these  
25 requirements in violation of Title IX.

26 11. Prior to filing this lawsuit, Plaintiffs’ counsel sent CUI a letter raising  
27 concerns about CUI’s announcement that it was eliminating these women’s varsity  
28 teams, explaining why the elimination of the teams would violate Title IX, and

1 asking CUI to agree to continue the women's varsity swimming & diving and  
2 tennis teams and develop a plan to comply with Title IX. CUI would not agree to  
3 preserve the teams or come into compliance with Title IX, forcing Plaintiffs to file  
4 this case.

5 12. Through this lawsuit, Plaintiffs seek to block CUI's latest efforts to  
6 discriminate against women in its intercollegiate athletic program and require the  
7 school to comply with federal law.

8 13. Specifically, Plaintiffs seek to prohibit CUI from eliminating its  
9 women's varsity swimming & diving and tennis teams—and all other women's  
10 varsity teams—unless and until CUI is and will be providing women with the equal  
11 opportunities to participate in varsity intercollegiate athletics that Title IX requires.

12 **JURISDICTION AND VENUE**

13 14. This action arises under Title IX of the Education Amendments of  
14 1972, 20 U.S.C. §§ 1681 et seq., and the regulations and policies promulgated  
15 pursuant to that law.

16 15. This Court has jurisdiction over Plaintiffs' federal law claims  
17 pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

18 16. Declaratory and other relief is authorized pursuant to 28 U.S.C. §§  
19 2201 and 2202 to obtain the correct interpretation of the legal requirements  
20 described in this Complaint, which is necessary and appropriate to determine the  
21 parties' respective rights and duties.

22 17. Venue is proper in the United States District Court for the Central  
23 District of California, Southern Division, pursuant to 28 U.S.C. § 1391(b) because  
24 the school and programs at issue are found therein and the events giving rise to  
25 this Complaint occurred in Irvine, California, which is within the Court's  
26 jurisdiction.

27 //

28 //

**THE PARTIES**

**Plaintiff Alexandra Grant**

18. Plaintiff Alexandra Grant is over 18 years old and is entering her sophomore year and majoring in kinesiology with a minor in psychology. She expects to graduate in 2028.

19. Plaintiff Grant is a member of the women's swimming & diving team at CUI and has three years of athletic eligibility left.

20. Plaintiff Grant grew up in Benecia, California, and started swim lessons when she was just 13 months old. She has been swimming competitively at the club level since she was six years old.

21. Plaintiff Grant committed to CUI when she was seventeen years old after visiting the campus. She chose to swim for CUI's varsity team, turning down the opportunity to swim at Chapman University, Smith College, and Lake Forest College.

22. On the CUI varsity swimming & diving team, Plaintiff Grant competed in the Pacific Collegiate Swim and Dive Conference ("PCSC"). Her events included the 100-yard backstroke and 200-yard medley. The CUI team made the conference finals and finished sixth.

23. CUI's late announcement of its plan to eliminate the team after the school year and season ended means that, unless the team is continued, Plaintiff Grant will be unable to finish her collegiate swimming career. She entered the transfer portal as soon as CUI made the announcement, but other schools' roster spots had been filled and athletic scholarship money had been allocated.

24. Even if a transfer spot became available, Plaintiff Grant would prefer to continue swimming competitively on the swimming & diving team at CUI, where she has given so much of her time and effort. When she committed to CUI, she envisioned swimming there for all four years of her college career and would not hesitate to continue swimming at CUI if the team is preserved. Also, because

1 many of CUI's core courses have a religious focus, the credits would not transfer  
2 to most other schools.

3 25. CUI's announcement of its plan to eliminate the women's swimming  
4 & diving team is causing serious, irreparable injury to Plaintiff Grant. She is  
5 missing out on an important chapter of her life as a college athlete, which she  
6 expected to last four years. She is also losing the opportunity to continue learning  
7 valuable lessons from being on CUI's varsity team, such as communicating with  
8 teammates and pushing through challenges. She also is losing the camaraderie and  
9 close bonds that the CUI team members have developed.

10 26. Plaintiff Grant will be unable to train, practice, or receive coaching  
11 unless the CUI swimming & diving team is continued. CUI's announcement that  
12 it plans to cut the team harmed her ability to continue important training and  
13 maintain the physical conditioning necessary for her sport.

14 **Plaintiff Mikayla Barre**

15 27. Plaintiff Mikayla Barre is over 18 years old and is a sophomore  
16 majoring in graphic design with a minor in business.

17 28. Plaintiff Barre grew up in Lake Forest, California, and has been  
18 swimming competitively since she was in the seventh grade. She had a record top-  
19 ten time in the 100-yard breaststroke for her team in high school.

20 29. Plaintiff Barre had been considering swimming at CUI since she was  
21 a freshman in high school. She committed to CUI when she was seventeen years  
22 old after visiting the campus on a tour that was specific for incoming freshmen that  
23 were considering swimming for CUI. She chose to swim for CUI's varsity team,  
24 turning down the opportunity to swim at Chapman University.

25 30. On the CUI swimming & diving team, Plaintiff Barre competed in  
26 the PCSC. She swam breaststroke and distance free-style events. In freestyle, she  
27 swam events up to 1,000 yards and, in breaststroke, swam both the 100-yard and  
28 200-yard events.



1           31. CUI's late announcement of its intention to terminate the team after  
2 the school year and season ended meant that Plaintiff Barre was left with few, if  
3 any, opportunities to transfer to other schools' varsity swim teams as roster spots  
4 already were filled and athletic scholarship money had been allocated. Even if a  
5 spot was available, transferring to another school carries the significant risk that  
6 she will lose academic credits because many of CUI's core courses have a religious  
7 focus that do not transfer to most other schools. Transferring to another school—  
8 the only way for her to continue her swim career unless CUI's team is preserved—  
9 threatens to set back her academic progress and delay her ability to complete her  
10 degree.

11           32. 27. CUI's announcement of its plan to eliminate the women's  
12 swimming & diving team is causing serious, irreparable injury to Plaintiff Barre.  
13 She is losing part of her hard-earned identity as a college student-athlete, which  
14 she has worked for since the seventh grade. She will miss out on an opportunity to  
15 continue setting records at a college level similar to what she did in high school.  
16 When she chose CUI, she expected to have a four-year swim career with the team.

17           33. CUI's intention to eliminate the team also is stripping Plaintiff Barre  
18 of the camaraderie and close bonds that she has established with her CUI  
19 teammates. Ending her college swim career early also means ending the valuable  
20 lessons that being part of CUI's varsity team has provided, such as learning that  
21 hard work, especially in challenging times, pays off and how to communicate with  
22 team members even through adversity.

23           34. Plaintiff Barre will be unable to train, practice, or receive coaching  
24 unless the CUI swimming & diving team is continued. CUI's announcement of its  
25 plan to cut the team harmed her ability to continue important training and maintain  
26 the physical conditioning necessary for her sport.

**Plaintiff Jessica Bear**

35. Plaintiff Jessica Bear is over 18 years old and is a senior who is majoring in liberal studies with a focus on elementary education and minoring in Spanish. She expects to graduate in Spring 2026.

36. Plaintiff Bear is a member of CUI's women's tennis team and has one year of athletic eligibility left.

37. Plaintiff Bear grew up in Carlsbad, California, and has been playing tennis competitively since she was eleven years old. It was her dream to play tennis in college.

38. Plaintiff Bear committed to CUI when she was seventeen years old after attending a tennis match at CUI and meeting the CUI women's team members. She chose to play tennis for CUI's varsity team, turning down the opportunity to play at Biola University, California Lutheran University, and California State University – Northridge.

39. On the CUI varsity tennis team, Plaintiff Bear competed in the PacWest Conference ("PacWest"). CUI's tennis team ranked in the top four in the PacWest during her three years. CUI's women's team also had its best record in its NCAA history in the 2022-23 season. In her junior year, Plaintiff Bear ranked in the top 50 women's tennis players in NCAA Division II.

40. CUI's late announcement that it was cutting the team after the school year and season had ended has meant that Plaintiff Bear will be unable to finish her collegiate tennis career. She cannot transfer to another school because she will be a senior and is working to get her teaching credential this year. Transferring schools would set her back too far both academically and in her future teaching profession. Also, because CUI is a Lutheran university, many of its core courses have a religious focus or aspect that do not transfer to most other schools. If she transferred, which is the only way for Plaintiff Bear to continue playing collegiate

1 tennis unless CUI's team is preserved, she would lose too many academic credits  
2 and would have to go to school beyond four years.

3 41. When she chose CUI, she expected to have a four-year tennis career  
4 with the team. If the tennis team is continued at CUI, Plaintiff Bear plans to use  
5 her final year of eligibility to compete for one last season.

6 42. CUI's announcement of its plan to eliminate the women's tennis team  
7 is causing serious, irreparable injury to Plaintiff Bear. She is missing out on a final  
8 chance to make her mark in tennis, a sport to which she has been dedicated since  
9 childhood. Plaintiff Bear was ranked in the top 50 out of all NCAA Division II  
10 women's tennis players last year and wanted the opportunity to improve her  
11 ranking even further in her senior year. She is also losing the chance to strengthen  
12 the close bonds she has established with her CUI teammates. She wanted another  
13 year to continue learning the lessons that being on the CUI tennis team has taught  
14 her, including working with teammates, achieving goals through hard work, and  
15 how to push through challenges.

16 43. Plaintiff Bear will be unable to train, practice, or receive coaching  
17 unless the CUI swimming & diving team is continued. CUI's announcement that  
18 it plans to eliminate the team harmed her ability to continue important training and  
19 maintain the physical conditioning necessary for her sport.

20 **Plaintiff Kiera Gutierrez**

21 44. Plaintiff Kiera Gutierrez is over 18 years old and is an incoming  
22 junior who is majoring in business finance and business accounting. She expects  
23 to graduate in 2027.

24 45. Plaintiff Gutierrez is a member of the women's swimming & diving  
25 team at CUI and has three years of athletic eligibility left.

26 46. Plaintiff Gutierrez grew up in El Paso, Texas and has been swimming  
27 competitively since the second grade.  
28

1           47. Plaintiff Gutierrez committed to CUI when she was eighteen years old  
2 because of the school's athletics. She chose to attend CUI as a walk-on athlete  
3 even though she had opportunities to receive athletic scholarships from other  
4 schools, such as Fresno Pacific University.

5           48. On the CUI varsity swimming & diving team, Plaintiff Gutierrez  
6 competed in the PCSC. Her events were sprint freestyle and butterfly.

7           49. CUI's late announcement that it was cutting the team after the school  
8 year and season had ended has left Plaintiff Gutierrez with few if any options to  
9 continue her college swimming career. She entered the transfer portal as soon as  
10 CUI made the announcement, but the majority of other schools had filled their  
11 roster spots and allocated their athletic scholarship money.

12           50. Even if a spot becomes available on another school's team, Plaintiff  
13 Gutierrez would prefer to continue swimming competitively on the CUI swimming  
14 & diving team where she has given so much of her time and effort. When she  
15 committed to CUI, she envisioned swimming there for all four years of her college  
16 career and wants to continue swimming at CUI if the team is preserved. Also,  
17 transferring to another school likely would set back her academic progress  
18 significantly because many of CUI's core courses have a religious focus, the  
19 credits for which will not transfer to most other schools.

20           51. CUI's announcement of its plan to eliminate the women's swimming  
21 & diving team is causing serious, irreparable injury to Plaintiff Gutierrez. If CUI's  
22 team is not preserved, she will miss out on an important chapter of her life as a  
23 college athlete. Her ability to swim at this level is the result of years of sacrifice  
24 and hard work and was something she expected to last four years. Personally, she  
25 is losing her identity as a student-athlete and the support system that her CUI  
26 teammates provided.

27           52. Plaintiff Gutierrez will be unable to train, practice, or receive  
28 coaching unless the CUI swimming & diving team is continued. CUI's

1 announcement that it plans to eliminate the team harmed her ability to continue  
2 important training and maintain the physical conditioning necessary for her sport.

3 **Plaintiff Bryn Johnson**

4 53. Plaintiff Bryn Johnson is an incoming junior majoring in engineering.  
5 She has enough academic credits to potentially meet her degree requirements by  
6 June of 2026 and potentially could graduate that year.

7 54. Plaintiff Johnson is a member of the CUI tennis team. She has two  
8 years of athletic eligibility left. She also has been the Student-Athlete Advisory  
9 Committee (“SAAC”) representative for the women’s tennis team.

10 55. Plaintiff Johnson grew up in Exeter, California, and has been playing  
11 tennis since she was three years old and competitive tennis since she was  
12 approximately four or five years old.

13 56. Plaintiff Johnson committed to CUI when she was nineteen years old  
14 because of the school’s athletics. She graduated early from high school, but took  
15 a brief break to play tennis professionally before she went to college. She chose  
16 CUI because the school offered her an athletic scholarship, as well as an academic  
17 and music scholarship. She also met the tennis coach and one of the other team  
18 players during a campus visit and believed CUI was a good fit. She chose to attend  
19 CUI even though she had the opportunity to play tennis at Fresno Pacific  
20 University.

21 57. On the CUI tennis team, Plaintiff Johnson competed in the PacWest  
22 Conference. She received numerous honors playing collegiate tennis at CUI. She  
23 was named third-team doubles in the 2024 season. In the 2025 season, she was  
24 named player of the week, as well as first-team doubles and third-team singles.  
25 The team also placed in the top-five of the conference tournament in her freshman  
26 and sophomore years. The team made it to regionals last year. Last year, the team  
27 was named to the Academic All-American team, a prestigious honor that was  
28 received because the team grade point average was above a 3.2. Further, in both

1 her freshman and sophomore years, Plaintiff Johnson was recognized as a scholar  
2 athlete, which is an honor awarded for academic achievement.

3 58. CUI's late announcement that it was cutting the team after the school  
4 year and season ended has left Plaintiff Johnson with few if any options to continue  
5 her college tennis career. Plaintiff Johnson was unable to attend the Zoom meeting  
6 because the school year had ended and she was attending Officer Candidate School  
7 for the United States Marines Corps in Quantico, Virginia. She was not permitted  
8 phone or email access during the training and thus did not learn that CUI  
9 eliminated the tennis team until early June. She was very upset that CUI did not  
10 communicate its plans to eliminate the team earlier in the school year.

11 59. Plaintiff Johnson could not enter the transfer portal because she was  
12 in the Officer Candidate School. It was too late when she learned the news.

13 60. Plaintiff Johnson would prefer to continue competing on the CUI  
14 tennis team, where she has given so much of her time and effort. When she  
15 committed to CUI, she envisioned playing tennis there for all four years of her  
16 college career and wants to continue playing tennis at CUI if the team is preserved.  
17 Also, as she plans to be an Officer in the United States Marine Corps, she cannot  
18 afford to set back her academic progress. If the CUI tennis team is continued, she  
19 plans to play this season.

20 61. CUI's announcement of its plan to eliminate the women's tennis team  
21 is causing serious, irreparable injury to Plaintiff Johnson. If CUI's team is not  
22 preserved, she will miss out on an important chapter of growth and the chance to  
23 leave a lasting mark on the program. Plaintiff Johnson was expected to be a co-  
24 captain this coming season, as well as being number one in both singles and  
25 doubles. She wanted to help influence the team culture in a positive manner for  
26 her teammates and particularly for the incoming freshman joining the team. She  
27 also was looking forward to developing her skill set as a leader, particularly as she  
28 will be joining the Marines in a leadership role as an officer. She had a personal

1 goal of making the nationals pre-season tournament, which determines both her  
2 pre-season ranking and helps the CUI team ranking. Her ability to play tennis at  
3 this level is the result of years of sacrifice and hard work and was something she  
4 expected to continue throughout her years in college. Personally, she is losing the  
5 close friendships that she and her CUI teammates have formed.

6 62. Plaintiff Johnson will be unable to train, practice, or receive coaching  
7 unless the CUI swimming & diving team is continued. CUI's announcement that  
8 it plans to eliminate the team harmed her ability to continue important training and  
9 maintain the physical conditioning necessary for her sport.

10 **Plaintiff Alexandra Leland**

11 63. Plaintiff Alexandra Leland is over 18 years old and is an incoming  
12 senior majoring in business management. She expects to graduate in spring 2026.

13 64. Plaintiff Leland is a member of the women's swimming & diving team  
14 at CUI and has one year of athletic eligibility left.

15 65. Plaintiff Leland grew up in Fort Collins, Colorado, and has been  
16 swimming competitively since she was approximately four years old.

17 66. Plaintiff Leland committed to CUI when she was seventeen years old  
18 after a campus visit with other potential swim team members. She chose to attend  
19 CUI even though she had opportunities to swim at other schools such as University  
20 of Northern Iowa, University of Wisconsin – Green Bay, and Colorado State  
21 University.

22 67. On the CUI varsity swimming & diving team, Plaintiff Leland  
23 competed in the PCSC. Her events are the 100-yard and 200-yard breaststroke,  
24 and the 50-yard and 100-yard freestyle. She received numerous awards while  
25 swimming for CUI. She was named freshman of the week in her first year, and  
26 also was named swimmer of the week twice. She and her teammates set school  
27 records for the best time in school history in the 200-medley relay, 200-yard  
28 freestyle relay, and the 400-yard freestyle relay. They broke the all-time school



1 record for two of these events twice. She also received the team “high point,”  
2 which means she scored the most points for the women’s team for all of the events  
3 combined throughout the season.

4 68. Plaintiff Leland was unable to attend CUI’s Zoom meeting on May  
5 20, 2025, announcing the school intended to eliminate the women’s swimming &  
6 diving team because, as the school year had ended, she was at work. She learned  
7 the news at the end of her work day when she checked her email and was stunned  
8 and very upset, particularly at the late timing of the announcement.

9 69. Transferring to another school is not a viable option for Plaintiff  
10 Leland. She is entering her senior year and cannot afford any academic set-backs.  
11 CUI has many core classes that have a religious focus or aspect to them. Credits  
12 for these classes will not transfer to many schools.

13 70. Plaintiff Leland would prefer to continue swimming competitively on  
14 the CUI team where she has given so much of her time and effort. If the CUI  
15 swimming & diving team is continued, she plans to use her final year of eligibility  
16 to compete for one last season.

17 71. CUI’s announcement of its plan to eliminate the women’s swimming  
18 & diving team is causing serious, irreparable injury to Plaintiff Leland. It took  
19 away the thing that she worked for her whole life - swimming. The way CUI  
20 communicated its plan to eliminate the program was emotionally damaging.  
21 Plaintiff Leland is hurt by no longer being a student-athlete and missing out on her  
22 senior year athletically. She has devoted so many years and sacrificed many parts  
23 of her life to swimming, but no longer will be able to finish her college swimming  
24 career because of CUI’s plans to eliminate the team. She also believes that it hurts  
25 her future job opportunities because she will be unable to list on her resume that  
26 she swam all four years in college.

27 72. Plaintiff Leland will be unable to train, practice, or receive coaching  
28 unless the CUI swimming & diving team is continued. CUI’s announcement that



1 it plans to eliminate the team harmed her ability to continue important training and  
2 maintain the physical conditioning necessary for her sport.

3 **Plaintiff Ruby McCullough**

4 73. Plaintiff Ruby McCullough is over 18 years old and is an incoming  
5 sophomore majoring in psychology. She expects to graduate in 2028.

6 74. Plaintiff McCullough is a member of the women's swimming &  
7 diving team at CUI and has three years of athletic eligibility left.

8 75. Plaintiff McCullough grew up in Meridian, Idaho, and has been  
9 swimming competitively since she was six years old. Being on a swimming team  
10 has allowed her to fuel her competitive spirit after she had to stop playing other  
11 sports, like soccer and basketball, due to knee injuries.

12 76. Plaintiff McCullough committed to CUI when she was seventeen  
13 years old after a campus visit with the coaches and CUI swim team members. She  
14 chose to attend CUI even though she had opportunities to swim at other schools,  
15 such as Pacific Lutheran University, Adams State University, and Azusa Pacific  
16 University.

17 77. On the CUI varsity swimming & diving team, Plaintiff McCullough  
18 competed in the PCSC. Her events are sprint freestyle and butterfly. She swims  
19 the 50-yard and 100-yard freestyle, as well as the 100-yard butterfly. She received  
20 an athletic scholarship at CUI and received an award for Most Improved Swimmer  
21 for the 2024-25 season.

22 78. Plaintiff McCullough was unable to attend the last-minute CUI Zoom  
23 meeting on May 20, 2025, because she already had two doctors' appointments  
24 scheduled that day. The CUI email notifying her of the Zoom meeting did not  
25 signify its importance, only stating that CUI would be giving an athletics update.  
26 After learning later that day that CUI intends to eliminate her team, she was  
27 confused and uncertain about what to do next.  
28

1           79. Plaintiff McCullough immediately entered the transfer portal to  
2 preserve all options to continue swimming competitively on a varsity team.  
3 However, since the school year had already ended, most of the schools no longer  
4 had roster spots and there no longer was any athletic scholarship money available.  
5 She considered returning to her home state to swim at the University of Idaho, but  
6 the school had no spots remaining.

7           80. While Plaintiff McCullough has the opportunity to transfer to  
8 California State University – Bakersfield, she would prefer to continue swimming  
9 at CUI because it is where she has given so much of her time and effort. If the CUI  
10 swimming & diving team is continued, she would like to swim for CUI.

11           81. CUI's announcement of its plan to eliminate the women's swimming  
12 & diving team is causing serious, irreparable injury to Plaintiff McCullough. It has  
13 derailed her college experience, caused her to lose her identity as a student-athlete,  
14 which she worked nearly her whole life to achieve. She also lost her support  
15 system, the camaraderie of her teammates, during a time when she is trying to  
16 balance school and her future goals. CUI's announcement that it plans to eliminate  
17 the team also ends her ability to push her swimming career forward and receive  
18 additional awards. The timing of CUI's announcement made transferring very  
19 difficult due to rosters being full at other schools, beyond the fact that many of  
20 CUI' academic credits will not transfer to most other schools. Plaintiff  
21 McCullough also is losing the opportunity to continue learning valuable lessons  
22 from being on CUI's swimming & diving team, such as meeting and working with  
23 teammates from diverse backgrounds, being disciplined, applying good time  
24 management, and working hard to achieve goals.

25           82. Plaintiff McCullough also will be unable to train, practice, or receive  
26 coaching unless the CUI swimming & diving team is continued. CUI's  
27 announcement that it plans to eliminate the team harmed her ability to continue  
28 important training and maintain the physical conditioning necessary for her sport.

1 Because of previous knee injuries, the CUI swim team has been a way for her to  
2 compete and stay active, which she will lose if the team is not preserved.

3 **Plaintiff Aliyah Treadwell**

4 83. Plaintiff Aliyah Treadwell is over 18 years old and is an incoming  
5 senior majoring in psychology. She expects to graduate in 2026.

6 84. Plaintiff Treadwell is a member of the women's swimming & diving  
7 team at CUI and has one year of athletic eligibility left.

8 85. Plaintiff Treadwell grew up in Roseville, California, and has been  
9 swimming competitively since she was eight years old.

10 86. Plaintiff Treadwell committed to CUI when she was eighteen years  
11 old after a campus visit during which she met the coaches and other incoming  
12 swimmers. She chose to attend CUI even though she had opportunities to swim at  
13 other schools such as College of Idaho, Fresno Pacific University, Redlands  
14 University, and other smaller schools.

15 87. On the CUI varsity swimming & diving team, Plaintiff Treadwell  
16 competed in the PCSC. She swam the 100-yard and 200-yard backstroke, as well  
17 as 200-yard and 500-yard freestyle. She was on the scoring roster for two years,  
18 which means she was among the top 18 women on the CUI team that were chosen  
19 by the coach to swim at the conference finals. Also, the team placed third in  
20 conference her freshman year.

21 88. CUI's late announcement that it plans to eliminate the team after the  
22 school year and season ended means that, unless the team is preserved, Plaintiff  
23 Treadwell will be unable to finish her collegiate swimming career. She cannot  
24 transfer to another school because she will be a senior and transferring schools  
25 would set her back too far both academically and in her future profession. Because  
26 many of CUI's core courses have a religious focus or aspect, the credits do not  
27 transfer to most other schools. If she transferred, Plaintiff Treadwell would lose  
28 too many academic credits and would have to go to school beyond four years.



1           96. On the CUI varsity swimming & diving team, Plaintiff Ward  
2 competed in the PCSC. She received an athletic scholarship to swim at CUI. She  
3 was also top-eight five times in conference finals, which they refer to as being an  
4 A-finalist. She has multiple top-10 school records at CUI.

5           97. CUI's late announcement that it plans to eliminate the team after the  
6 school year and season has left Plaintiff Ward with no viable option to continue  
7 her collegiate swimming career. Plaintiff Ward immediately entered the transfer  
8 portal to preserve all options to continue swimming competitively on a varsity  
9 team. But other schools' roster spots already had been filled and athletic  
10 scholarship money had been assigned and was no longer available. The two  
11 schools that she had an interest in, Pepperdine University and University of San  
12 Diego, already had filled their roster spots.

13           98. Even if a transfer spot became available, Plaintiff Ward would prefer  
14 to continue swimming competitively on the CUI swimming & diving team, where  
15 she has given so much of her time and effort. She would like to continue swimming  
16 at CUI if the team is preserved. Also, as an incoming junior, she cannot afford the  
17 academic set-back that a transfer would cause because CUI's core classes have a  
18 religious aspect and those credits do not transfer to most other schools.

19           99. CUI's announcement of its plan to eliminate the women's swimming  
20 & diving team is causing serious, irreparable injury to Plaintiff Ward. She is  
21 missing out on an important chapter of growth and the chance to leave a lasting  
22 mark on the program and her teammates. She has received numerous awards,  
23 including top-10 records at CUI. She wanted to continue pushing herself to even  
24 bigger and better successes in her collegiate swim career. Her goal is to set even  
25 more records and she is close to setting the number one record at CUI for two  
26 different events. She was also in the top four in conference in one of her events  
27 and aspired to continue competing and get first place. She wanted another  
28 opportunity to qualify for the NCAA Division II nationals. She is also losing the

1 camaraderie and support system that she and her CUI teammates developed. The  
2 abrupt way that CUI broke the news after the school year ended made that loss  
3 even worse because her teammates were unable to say goodbye. She is losing her  
4 identity as a student-athlete, which she worked nearly her entire life to achieve.  
5 She is also losing the opportunity to continue learning more valuable lessons from  
6 being on a collegiate swim team, including working with teammates from diverse  
7 backgrounds and working hard to achieve goals.

8 100. Plaintiff Ward will be unable to train, practice, or receive coaching  
9 unless the CUI swimming & diving team is continued. CUI's announcement that  
10 it plans to eliminate the team harmed her ability to continue important training and  
11 maintain the physical conditioning necessary for her sport.

### 12 **Defendant CUI**

13 101. Defendant CUI is a member of the Concordia University System. It  
14 is a private Lutheran university.

15 102. Defendant CUI is a recipient of federal funds and is required to  
16 comply with Title IX and its implementing regulations.

## 17 **FACTUAL ALLEGATIONS**

### 18 **The Women's Teams**

19 103. CUI is an NCAA Division II institution. CUI's swimming & diving  
20 team primarily competes in the PCSC. CUI's tennis team primarily competes in  
21 the Pacific West Conference.

22 104. The women's swimming & diving team is comprised of 29 student-  
23 athletes who competed in 14 regular season meets (two meets were dive only) in  
24 2024-25 and the 2025 PCSC Championship. At the PCSC Championship, the  
25 women's team finished sixth and one team member won the silver medal in one-  
26 meter diving, which was CUI's first medal in the sport.

1           105. The women's tennis team at CUI is comprised of eight student-  
2 athletes who competed in 23 regular season tournaments in 2024-25, as well as the  
3 PacWest Conference Championship.

4           106. CUI holds itself out as a university committed to providing top-  
5 quality intercollegiate sports programs. The university uses this distinction as part  
6 of its efforts to recruit top student-athletes, including Plaintiffs.

7           107. Under Title IX of the Education Amendments of 1972, 20 U.S.C. §§  
8 1681, *et seq.*, and the regulations adopted pursuant to 34 C.F.R. Part 106, CUI  
9 must provide equal opportunities for male and female athletes to participate in  
10 varsity intercollegiate athletics.

11           **CUI's Announcement of its Plan to Eliminate the Women's Swimming &**  
12   **Diving and Tennis Teams**

13           108. On the morning of May 20, 2025, CUI's Associate Athletic Director  
14 – Compliance Andrea Riche emailed the members of the women's and men's  
15 swimming & diving and tennis teams, notifying them of a group Zoom meeting  
16 scheduled for that same day.

17           109. For CUI, President Michael A. Thomas, Associate Vice President of  
18 Athletics Crystal Rosenthal, and Ms. Riche were in attendance. In the Zoom  
19 meeting, President Thomas announced that CUI going to be eliminating both the  
20 women's and men's swimming & diving and tennis teams. The decision had been  
21 made well in advance of the Zoom meeting, but no one on the teams was given  
22 any prior indication that CUI intended to terminate the swimming & diving and  
23 tennis teams. President Thomas said the decision was made for financial reasons.  
24 Ms. Rosenthal and Ms. Riche also spoke, and reiterated that CUI intended to  
25 eliminate the teams due to financial reasons.

26           110. That same day, CUI publicly announced its decision to eliminate the  
27 women's and men's swimming & diving and tennis teams in a press release on its  
28 website. *CUI Announces Discontinuation of Four Athletics Programs as Part of*



1 *Strategic Restructuring*, Concordia University Irvine, May 20, 2025, 4:00 PM), at  
2 [https://cuigoldeneagles.com/news/2025/5/20/general-cui-announces-](https://cuigoldeneagles.com/news/2025/5/20/general-cui-announces-discontinuation-of-four-athletic-programs-as-part-of-strategic-restructuring.aspx?print=true)  
3 [discontinuation-of-four-athletic-programs-as-part-of-strategic-](https://cuigoldeneagles.com/news/2025/5/20/general-cui-announces-discontinuation-of-four-athletic-programs-as-part-of-strategic-restructuring.aspx?print=true)  
4 [restructuring.aspx?print=true](https://cuigoldeneagles.com/news/2025/5/20/general-cui-announces-discontinuation-of-four-athletic-programs-as-part-of-strategic-restructuring.aspx?print=true).

5 111. In its press release, CUI stated its plan to eliminate the teams was  
6 based on “a comprehensive evaluation of the university’s academic and athletic  
7 offerings, resource allocation, and long-term strategic priorities. University  
8 leadership, in partnership with the Department of Athletics, determined that the  
9 current model is not sustainable in the midst of increasing operational costs,  
10 facility limitations, and significant changes in the collegiate athletics landscape.”

11 *Id.*

12 112. Plaintiffs and their teammates were stunned by the announcement.  
13 Many of them had come to CUI primarily because of the opportunity to play their  
14 sports and had already been preparing for summer workouts, fall classes, and the  
15 2025-26 season. Concerned parents of some of the Plaintiffs reached out to CUI  
16 to discuss the school’s abrupt announcement of its plans to eliminate the teams and  
17 the negative impact on the athletes, but received no response.

18 113. Shortly after the May 20, 2025, meeting, CUI’s Associate Vice  
19 President of Athletics Crystal Rosenthal emailed the team members about using  
20 the transfer portal to find other schools but, for practical purposes and many  
21 athletes, it was too little and much too late. In this regard, the NCAA transfer portal  
22 for women’s swim and diving had closed weeks earlier, on April 25, 2025, and the  
23 tennis transfer portal closed less than two weeks later, on June 3, 2025. *See*  
24 [https://s3.amazonaws.com/fs.ncaa.org/Docs/eligibility\\_center/Transfer/](https://s3.amazonaws.com/fs.ncaa.org/Docs/eligibility_center/Transfer/DIUG_Windows.pdf)  
25 [DIUG\\_Windows.pdf](https://s3.amazonaws.com/fs.ncaa.org/Docs/eligibility_center/Transfer/DIUG_Windows.pdf). Though NCAA rules allowed Plaintiffs to transfer outside  
26 of the usual transfer window because of CUI’s decision, by late May, most teams  
27 at other schools had already set their full rosters and allocated their scholarships  
28 for the Fall of 2025.



1 114. Within days, Associate Vice President of Athletics Rosenthal sent an  
2 email to all of the athletes on CUI's other varsity teams casting serious question  
3 on CUI's stated rationale for cutting the swimming & diving and tennis teams and  
4 showing further disregard for the teams' members. It said:

5 I want to reassure you that your program remains secure and a vital part  
6 of our campus community. More than that, I want to emphasize the  
7 tremendous commitment the University continues to make to Golden  
8 Eagle Athletics.

9 We are currently in the midst of a major \$17.5 million construction  
10 project that includes a new 19,000-square-foot facility featuring a state-  
11 of-the-art weight room, locker rooms, and modern training room space.  
12 This facility represents the future of our athletic programs and our  
13 student-athletes.

14 In addition, the University has invested over \$8 million in upgrades to  
15 our baseball, softball and soccer/track/lacrosse facilities—including the  
16 installation of lights on each of our outdoor fields. These enhancements  
17 are not just physical improvements—they are a reflection of our beliefs  
18 in your potential and our commitment to giving you the tools and  
19 environment to succeed at the highest level.

20 Email from Ms. Rosenthal to all athletes whose teams were not included in CUI's  
21 May 20, 2025, announcement of the planned eliminations.

22 115. CUI's intentional delay in announcing its decision to terminate the  
23 women's teams deprived many of the Plaintiffs not only of the opportunity to  
24 participate in their sports at CUI, but also of any significant opportunity to transfer  
25 to other schools.

26 116. By keeping its plans a secret, CUI also denied Plaintiffs any  
27 opportunity to plan for, protect themselves against, or mitigate the sudden and  
28 devastating impacts that its intention to terminate the two women's teams would  
have on Plaintiffs' lives, sports careers, and futures.

1 117. CUI's announcement of its plan to eliminate the two women's teams  
2 was surprising and devastating to the athletes on those teams. It was also a clear  
3 violation of federal law.

4 **Title IX Bars CUI From Discriminating Against Its Female Athletes**

5 118. Title IX provides that "[n]o person in the United States shall, on the  
6 basis of sex, be excluded from participation in, be denied the benefits of, or be  
7 subjected to discrimination under any education program or activity receiving  
8 Federal financial assistance." 20 U.S.C. § 1681(a).

9 119. Applying Title IX to intercollegiate athletics, the Department of  
10 Education ("DOE") has adopted regulations requiring educational institutions  
11 receiving federal funds to "provide equal athletic opportunity for members of both  
12 sexes." 34 C.F.R. § 106.41(c). These regulations are interpreted and enforced by  
13 DOE's Office for Civil Rights ("OCR").

14 120. In 1979, OCR issued a policy interpretation of Title IX and the  
15 regulations as applied to intercollegiate athletics at 44 Fed. Reg. at 71418 (the  
16 "OCR Policy Interpretation").

17 121. The OCR Policy Interpretation sets forth three areas of compliance  
18 under Title IX as it relates to college sports: (1) effective accommodation of  
19 student interests and abilities; (2) equal athletic financial assistance; and (3) equal  
20 treatment and benefits for athletic teams.

21 122. Violation of the equality requirements of Title IX in intercollegiate  
22 athletics constitutes intentional sex discrimination.

23 123. The OCR Policy Interpretation established three different ways (the  
24 "three-part test") to measure whether CUI effectively accommodates female  
25 athletes' interests and abilities—commonly referred to as providing equal athletic  
26 participation opportunities.

27 124. CUI must meet at least one of the prongs in the three-part test to  
28 comply with Title IX:

(1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or

(2) Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex; or

(3) Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

44 Fed. Reg. at 71,418 (1979).

125. Every federal court of appeals that has considered the three-part test's validity—including the Ninth Circuit—has upheld it. *See e.g., Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 854 (9th Cir. 2014); *Mansourian v. Regents of Univ. of California*, 602 F.3d 957, 965 (9th Cir. 2010); *Portz v. St. Cloud State Univ.*, 16 F. 4th 577, 581 (8th Cir. 2021); *Pederson v. Louisiana State Univ.*, 213 F.3d 858, 879 (5th Cir. 2000); *Biediger v. Quinnipiac Univ.*, 691 F.3d 85, 92-93 (2d Cir. 2012); *Equity in Athletics, Inc. v. Dep't of Educ.*, 639 F.3d 91, 102-05 (4th Cir. 2011); *Horner v. Ky. High Sch. Athletic Ass'n*, 43 F.3d 265, 275 (6th Cir. 1994); *Roberts v. Colo. State Bd. of Agric.*, 998 F.2d 824, 828 (10th Cir. 1993); *Cohen v. Brown Univ.*, 991 F.2d 888, 898 (1st Cir. 1993); *Favia v. Indiana Univ. of Penn.*, 7 F.3d 332, 336 n. 5 (3d Cir. 1993).

### **CUI is Discriminating Against Its Female Athletes**

126. CUI has discriminated and is discriminating against its female students and varsity student-athletes in violation of Title IX by depriving them of

1 equal opportunities to participate in varsity intercollegiate athletics.

2 127. CUI has not complied and cannot comply with any part of the three-  
3 part test for equal opportunities to participate. Accordingly, it does not effectively  
4 accommodate female student-athletes' interests and abilities.

5 128. First, CUI does not provide "intercollegiate level participation  
6 opportunities for male and female students in numbers substantially proportionate  
7 to their respective enrollments." *See* 44 Fed. Reg. at 71,418.

8 129. According to the most recent data that CUI submitted and verified as  
9 accurate to the DOE, in the 2023-24 academic year, women made up 59.0% of the  
10 undergraduate population, but were only 52.5% of the varsity athletes: a 6.5% gap.  
11 Based on this data, CUI would have had to add 99 athletic opportunities for women  
12 to become substantially proportionate under Title IX.

13 130. In the 2024-25 academic year, based on the best publicly available  
14 data, women were only 51.2% of the varsity athletes. Assuming their  
15 undergraduate enrollment rate did not change (the numbers are not publicly  
16 available), the difference between the female undergraduate enrollment rate and  
17 the female athletic participation rate increased to 7.8%. Instead of adding  
18 opportunities for women, however, CUI announced its plans to *eliminate* two  
19 women's teams.

20 131. If CUI is allowed to eliminate those teams and undergraduate  
21 enrollment rates stay the same, in the 2025-26 academic year, the female  
22 participation gap in its intercollegiate athletic program will increase to 8.0%. *CUI*  
23 *will have to add 112 athletic opportunities for women to achieve substantial*  
24 *proportionality under Title IX.*

25 132. In short, under any assessment of the available data, CUI is and has  
26 been failing to provide equal participation opportunities under Title IX and would  
27 not be in compliance if the planned discontinuation of the women's swimming &  
28 diving and tennis teams occurs.

133. This is a continuation and expansion of CUI's abysmal record of depriving women of equal opportunities to participate in varsity athletics. Since at least 2004, CUI has deprived women of athletic participation opportunities substantially proportionate to their enrollments. The table below shows CUI's annual numbers, based on the EADA reports, except for 2024-25, as well as the projected shortfall for 2025-26 if CUI is allowed to eliminate the women's (and men's) teams.<sup>1</sup>

[Table Appears on Following Page]

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<sup>1</sup> CUI has exclusive access to its Title IX athletic participation data and has not yet disclosed that information to Plaintiffs or the public. For that reason, Plaintiffs rely in this Complaint on public EADA data that CUI has certified as accurate to the U.S. Department of Education, which courts have held is appropriate. *See, e.g., Mansourian*, 602 F.3d at 968 (finding that "EADA reports contain[ed] ample data demonstrating that [the educational institution] could not satisfy the substantial proportionality option..."). Additionally, because CUI does not have to submit its 2024-25 EADA report until December 2025, Plaintiffs used CUI's 2023-24 enrollment data as a proxy and publicly available athletic roster information for the 2024-25 academic year. *See* <https://cuigoldeneagles.com>. All of this data was analyzed and this table was created by nationally-recognized Title IX expert Dr. Donna Lopiano, <https://sportsmanagementresources.com/our-consultants/donna-lopiano>, who is filing a declaration and expert report in support of Plaintiffs' *Ex Parte* Application for a Temporary Restraining Order preserving the women's teams at CUI while this case proceeds.

Survey Year	Male Undergraduates	Female Undergraduates	Total Undergraduates	Percent Male Under Grads	Percent Female Undergraduates	Male Athletes	Female Athletes	Total Athletes	Percent Male Athletes	Percent Female Athletes	Percent Female Athlete Shortfall	Female Athlete Participant Gap	Adjusted Female Athlete Participant Gap <sup>1</sup>
2004-05 <sup>2</sup>	456	804	1260	36.2%	63.8%	83	85	168	49.4%	50.6%	13.2%	61	
2005-06	507	863	1370	37.0%	63.0%	100	96	196	51.0%	49.0%	14.0%	74	
2006-07	516	832	1348	38.3%	61.7%	110	104	214	51.4%	48.6%	13.1%	73	
2007-08	465	747	1212	38.4%	61.6%	141	135	276	51.1%	48.9%	12.7%	92	
2008-09	503	792	1295	38.8%	61.2%	150	148	298	50.3%	49.7%	11.5%	88	
2009-10 <sup>3</sup>	540	823	1363	39.6%	60.4%	136	132	268	50.7%	49.3%	11.1%	75	106
2010-11 <sup>4</sup>	582	895	1477	39.4%	60.6%	116	112	228	50.9%	49.1%	11.5%	66	90
2011-12 <sup>5</sup>	632	910	1542	41.0%	59.0%	143	127	270	53.0%	47.0%	12.0%	79	109
2012-13	618	974	1592	38.8%	61.2%	174	152	326	53.4%	46.6%	14.6%	122	
2013-14	672	1070	1742	38.6%	61.4%	218	184	402	54.2%	45.8%	15.6%	163	
2014-15	654	1099	1753	37.3%	62.7%	194	174	368	52.7%	47.3%	15.4%	152	
2015-16 <sup>6</sup>	620	1098	1718	36.1%	63.9%	193	230	423	45.6%	54.4%	9.5%	112	91
2016-17 <sup>7</sup>	651	1121	1772	36.7%	63.3%	213	285	498	42.8%	57.2%	61.0%	82	57
2017-18	622	1019	1641	37.9%	62.1%	238	317	555	42.9%	57.1%	5.0%	73	
2018-19 <sup>8</sup>	622	1037	1659	37.5%	62.5%	247	329	576	42.9%	57.1%	5.4%	83	106
2019-20 <sup>9</sup>	633	957	1590	39.8%	60.2%	237	309	546	43.4%	56.6%	3.6%	49	58
2020-21 <sup>10</sup>	596	942	1538	38.8%	61.2%	270	288	558	48.4%	51.6%	9.6%	139	136
2021-22 <sup>11</sup>	595	887	1482	40.1%	59.9%	244	262	506	48.2%	51.8%	8.1%	102	185
2022-23 <sup>12</sup>	583	891	1474	39.6%	60.4%	273	286	559	48.8%	51.2%	9.2%	131	144
2023-24 <sup>13</sup>	580	833	1413	41.0%	59.0%	297	328	625	47.5%	52.5%	6.5%	99	79
2024-25 <sup>14</sup>	580	833	1413	41.0%	59.0%	318	333	651	48.8%	51.2%	7.8%	125	
Proj. 2025-26 <sup>15</sup>	580	833	1413	41.0%	59.0%	284	296	580	49.0%	51.0%	8.0%	112	

<sup>1</sup>There were anomalies in CUI EADA data reports, specifically, years in which varsity teams are reported on the CUI athletics website and do not appear on the EADA report. For those years, I have calculated an adjusted female participation gap to include the additional website roster count male and female participants. I explain each calculation in footnotes under the table that correspond to each of these years.

<sup>2</sup>No EADA data was submitted by CUI in 2003-04. CUI was an NAIA school through 2013-14, then NCAA D-II thereafter. However, all higher education institutions that received federal financial assistance were required under the Equity in Athletics Disclosure Act to make such submissions.

<sup>3</sup>2009-10 data did not include women's water polo (15) or men's water polo (30). Adjusted gap calculation:  $(166M/.396M\text{Enr.}\%)-(166M+147F)=106$

<sup>4</sup>2010-11 data did not include women's water polo (17) or men's water polo (25). Adjusted gap calculation:  $(141M/.394M\text{Enr.}\%)-(141M+127F)=90$

<sup>5</sup>2011-12 data did not include women's water polo (17) or men's water polo (33). Adjusted gap calculation:  $(176M/.41M\text{Enr.}\%)-(176M+144F)=109$

<sup>6</sup>2015-16 data did not include women's stunt (21). Adjusted gap calculation:  $(193M/.361M\text{Enr.}\%)-(193M+251F)=91$

<sup>7</sup>2016-17 data did not include women's stunt (25). Adjusted gap calculation:  $(213M/.367M\text{Enr.}\%)-(213M+310F)=57$

<sup>8</sup>2018-19 data did not include women's lacrosse (20) or men's lacrosse (26). Adjusted gap calculation:  $(273M/.375M\text{Enr.}\%)-(273M+349F)=106$

<sup>9</sup>2019-20 data did not include women's lacrosse (14) or men's lacrosse (15). Adjusted gap calculation:  $(252M/.398M\text{Enr.}\%)-(252M+323F)=58$

<sup>10</sup>2020-21 data did not include women's stunt (33), women's lacrosse (13) or men's lacrosse (28). Adjusted gap calculation:  $(298M/.388M\text{Enr.}\%)-(298M+334F)=136$

<sup>11</sup>2021-22 data did not include women's stunt (34), women's lacrosse (17) or men's lacrosse (37). Adjusted gap calculation:  $(334M/.401M\text{Enr.}\%)-(334M+313F)=185$

<sup>12</sup>2022-23 data did not include women's stunt (33), women's lacrosse (15) or men's lacrosse (41). Adjusted gap calculation:  $(314M/.396M\text{Enr.}\%)-(314M+334F)=144$

<sup>13</sup>2023-24 data did not include women's lacrosse (20). Adjusted gap calculation:  $(297M/.41M\text{Enr.}\%)-(297M+348F)=79$

<sup>14</sup>No EADA enrollment or athlete participation data was available for 2024-25 because that year's EADA report is not due until the fall of 2025. Therefore I used 2023-24 enrollment as a proxy and used publicly available athletics website 24-25 roster counts (see Table 1). Note that the website counts include women's lacrosse, never before reported on any CUI EADA report.

<sup>15</sup>Projected 2025-26 participation assuming enrollment and athletic participation constant at 2024-25 levels except less 11 male tennis and 23 male swimming participants and less 8 female tennis and 29 female swimming participants. Computation:  $(284M/.41M\text{Enr.}\%)-(284M+296F)=112$

1 134. CUI does not meet the second part of the three-part test either. It  
2 cannot show a history and continuing practice of program expansion that is  
3 demonstrably responsive to the developing interest and abilities of the members of  
4 the female sex.

5 135. The planned elimination of the women's swimming & diving and  
6 tennis teams, without more, precludes CUI from satisfying part two of the three-  
7 part test. It simply cannot demonstrate a history and continuing practice of  
8 expanding opportunities for women while it is decreasing opportunities for women  
9 by cutting established teams.

10 136. In fact, since 2007-08, the only women's teams CUI has added and  
11 did not subsequently eliminate are beach volleyball, water polo, and stunt. CUI  
12 added swimming & diving in 2008-09, which it now intends to eliminate, along  
13 with tennis. CUI also eliminated its women's golf team in 2008.

14 137. Finally, CUI cannot satisfy the third part of the three-part test: that the  
15 interests and abilities of the female athletes are fully and effectively  
16 accommodated by the present program. Again, the planned elimination of the  
17 women's swimming & diving and tennis teams prevents CUI from doing so.

### 18 **INJUNCTIVE RELIEF**

19 138. Plaintiffs are entitled to preliminary and permanent injunctive relief  
20 that requires CUI to (a) preserve the women's swimming & diving and tennis  
21 teams—and all other women's teams—until CUI is and will be providing women  
22 with the equal opportunities to participate in varsity intercollegiate athletics that  
23 Title IX requires, and (b) develop and implement a plan that ensures CUI is and  
24 will be will be providing women with those opportunities as quickly as possible.

25 139. Failure to grant the requested injunctive relief will mean that CUI's  
26 sizeable Title IX violations will continue and worsen, with more women being  
27 deprived of equal opportunities to participate in varsity sports, and CUI's compliance  
28 with Title IX even further down the road.



1           140. Additionally, failure to grant the requested injunctive relief will cause  
2 irreparable harm to the Plaintiffs and the proposed class members by allowing CUI's  
3 discrimination against them to persist and by forever denying them an equal  
4 opportunity to participate in varsity intercollegiate athletics at CUI. Many athletes are  
5 considering whether to abandon their education at CUI due to these cuts.

6           141. If CUI is not restrained from eliminating women's varsity swimming  
7 & diving and tennis teams, Plaintiffs and members of these teams will never again  
8 have the opportunity to participate in this valuable educational experience at  
9 CUI—one that provides academic, physical, psychological, social, and even  
10 economic benefits. For those who are seniors, it likely spells the end of their  
11 athletic careers.

12           142. There is no adequate after-the-fact remedy at law for these harms.

13           143. If the Court were to act quickly, the athletes on the women's varsity  
14 swimming & diving and tennis teams would be able to prepare for and participate  
15 in competition during the 2025-26 season. Sadly, several will likely follow through  
16 with their transfer plans, as they had little time to decide, but many student-athletes  
17 will have their rights and their teams preserved.

18           144. As more time passes, if the teams are not preserved, it will become  
19 increasingly difficult—if not impossible—for the teams and athletes to train and  
20 prepare adequately for the next season.

21           145. The continuing, irreparable harm caused by CUI's discriminatory  
22 actions far outweighs any possible harm that granting the injunctive relief might  
23 cause CUI.

24           146. Preliminarily enjoining CUI from eliminating the varsity women's  
25 swimming & diving and tennis teams—and all other women's teams—would  
26 merely ensure continuation of the status quo during this litigation, because these  
27 athletes have limited (if any) opportunities to pursue their interests and abilities  
28 elsewhere.



1 147. CUI will suffer no harm by continuing the women's swimming &  
2 diving and tennis teams, other than the monetary cost of the teams CUI has already  
3 borne for many years.

4 148. The permanent harm caused to Plaintiffs by CUI's discrimination is  
5 irreparable and can never be adequately compensated with money. This harm far  
6 outweighs any monetary cost incurred by CUI to continue the women's swimming  
7 & diving and tennis teams or to add athletic opportunities for women.

8 149. Importantly, CUI could choose to allocate its budget and athletic  
9 opportunities more equitably merely by shifting its longstanding favoritism toward  
10 men to a more equal allocation between men and women.

11 150. Meanwhile, CUI will gain public relations and enrollment advantages  
12 by coming into compliance with Title IX and by offering more opportunities for  
13 its female students.

14 151. The injunctive relief that Plaintiffs request will promote the public  
15 interest by increasing educational opportunities for female students, decreasing sex  
16 discrimination against female student-athletes and potential student-athletes in  
17 CUI's intercollegiate athletic program, and requiring CUI to comply with federal  
18 law.

19 152. Congress decided that ending such discrimination is in the public  
20 interest when it enacted Title IX. It has reaffirmed that public interest over the past  
21 53 years by defeating every attempt to weaken the athletic equality requirements  
22 of Title IX. Equal opportunity for all students—male and female—is at the core of  
23 this case, is at the core of American values, and is clearly in the public interest.

24 153. Underlining and reinforcing that established public interest, the  
25 President of the United States issued an Executive Order entitled "Saving College  
26 Sports" on July 24, 2025, that emphasizes the need "to protect non-revenue sports,  
27 including many women's sports, that comprise the backbone of intercollegiate  
28 athletics, drive American superiority at the Olympics and other international

1 competitions, and catalyze hundreds of thousands of student-athletes to fuel  
2 American success in myriad ways.” Exec. Order No. 14322, 90 FR 35821 (July  
3 24, 2025). Section 2 (a) of the Executive Order specifically provides, “It is the  
4 policy of the executive branch that opportunities for scholarships and collegiate  
5 athletic competition in women’s and non-revenue sports must be preserved and,  
6 where possible, expanded...” *Id.* Section 2 (b) states, “It is the policy of the  
7 executive branch that any revenue-sharing permitted between universities and  
8 collegiate athletes should be designed and implemented in a manner that preserves  
9 or expands scholarships and collegiate athletic opportunities in women’s and non-  
10 revenue sports.” *Id.*

11 154. CUI’s elimination of the women’s swimming & diving and tennis  
12 teams violates these policies and Title IX.

### 13 CLASS ALLEGATIONS

14 155. Plaintiffs bring this action on behalf of themselves and a class of all  
15 those similarly situated, pursuant to Federal Rule of Civil Procedure 23(a) and  
16 (b)(2).

17 156. Plaintiffs seek to represent a class of all present and future women  
18 students and potential students at CUI interested in participating on women’s  
19 varsity intercollegiate athletic teams that CUI does not currently offer or has  
20 announced it intends to eliminate, including women’s varsity swimming & diving  
21 and tennis teams.

22 157. Each of the named Plaintiffs is a member of the proposed class and  
23 has been injured by CUI’s sex discrimination in CUI’s varsity athletic program.  
24 The announced intention to eliminate CUI’s women’s varsity swimming & diving  
25 and tennis teams will exacerbate the discrimination by eliminating female athletic  
26 participation opportunities at CUI.

27 158. Because Title IX requires a program-wide comparison of the sex-  
28 segregated men’s and women’s athletic programs, the Title IX issues in this action

1 are inherently class-based.

2 159. The proposed class meets the “numerosity” requirement of Federal  
3 Rule of Civil Procedure 23(a)(1) because there are over 250 female student-  
4 athletes at CUI each academic year and joinder of them all is impracticable.

5 160. The proposed class also meets those requirements because joinder of  
6 all class members and all persons harmed by CUI’s ongoing sex discrimination in  
7 CUI’s varsity intercollegiate athletic program is not just impracticable, but  
8 impossible.

9 161. The proposed class is known to exist, but the members of the class will  
10 change during this litigation because of the nature of college enrollment and athletic  
11 participation. Students at CUI generally aim to graduate four years after they  
12 matriculate. Athletes are often eligible to participate in their sport for only four  
13 years. Accordingly, the members of the class harmed by CUI’s discrimination will  
14 change as each outgoing class of students graduates and another incoming class of  
15 students enrolls at CUI.

16 162. Not all members of the plaintiff class are currently identifiable  
17 because the class includes prospective and future students who will enroll at CUI  
18 during this litigation or who will be deterred from enrolling because of CUI’s  
19 failure to provide athletic participation opportunities for female student-athletes,  
20 including the sports in which they want to participate.

21 163. Not all members of the plaintiff class are currently identifiable  
22 because the class includes not only women’s swimmers, divers, and tennis players,  
23 but also all present, prospective, and future female students who want to participate  
24 in other varsity intercollegiate sports that are not offered at CUI.

25 164. Plaintiffs are not aware of CUI having surveyed its present or  
26 prospective student body to assess athletic interests and abilities.

27 165. Moreover, because CUI recruits high school students and transfer  
28 students from around the world, CUI could increase and thus realize athletic

1 participation opportunities for female students by starting virtually any new  
2 women's varsity sports team and then recruiting women to enroll and participate.

3 166. It is unknown how many present, prospective, or future female  
4 student-athletes would enroll at CUI or would participate in athletics at the  
5 university if it stopped discriminating against women. The hundreds of additional  
6 student-athletes who might be recruited, apply, or participate in CUI's varsity  
7 intercollegiate athletic program if CUI added the necessary athletic opportunities  
8 to provide equal opportunities for women are too numerous to make joinder  
9 practicable.

10 167. Joinder is impracticable because the class includes members whose  
11 identities are not currently known. There are present female students at CUI who  
12 cannot currently be identified by Plaintiffs, but who would participate in varsity  
13 athletics at CUI if it did not intentionally discriminate in the operation of its athletic  
14 program or if it offered the sports or events in which they want to participate.

15 168. Joinder is impracticable because the class includes unknown and  
16 unidentifiable prospective and future students who will enroll at CUI during this  
17 litigation or who will be deterred from enrolling at CUI because of the sex  
18 discrimination in the school's varsity intercollegiate athletic program.

19 169. The proposed class satisfies the "commonality" requirement of Federal  
20 Rule of Civil Procedure 23(a)(2) because there are many questions of law and fact  
21 common to the proposed class, including whether CUI is providing women with  
22 equal opportunities to participate in varsity intercollegiate athletics.

23 170. Plaintiffs satisfy the "typicality" requirement of Federal Rule of Civil  
24 Procedure 23(a)(3) because their claims are typical of those of the proposed class.  
25 They all have been denied, are continuing to be denied, or will be denied equal  
26 opportunities to participate in varsity intercollegiate athletics because of CUI's  
27 ongoing sex discrimination.  
28

171. Plaintiffs want the Court to prohibit CUI from eliminating women's varsity intercollegiate athletic opportunities and to require CUI to preserve the women's swimming & diving and tennis teams and comply with Title IX.

172. Plaintiffs are members of the proposed class and will fairly and adequately represent the interests of the class pursuant to Federal Rules of Civil Procedure 23(a)(4). They intend to prosecute this action vigorously to secure fair and adequate injunctive relief for the entire class and have retained counsel with significant experience and success prosecuting Title IX class actions against universities.

173. The proposed class satisfies Federal Rule of Civil Procedure 23(b)(2) because CUI has acted or refused to act on grounds generally applicable to the class, so that final injunctive or corresponding declaratory relief is appropriate with respect to the class as a whole.

174. Undersigned counsel have devoted substantial time to identifying and investigating the potential claims in this action, have developed detailed knowledge of the facts and the applicable law, and have sufficient resources to commit to representing this putative class as interim counsel under Federal Rule of Civil Procedure 23(g)(3) until such time as this Court determines whether to certify the action as a class action.

## **COUNT I**

### **Title IX Unequal Allocation of Athletic Participation Opportunities (By the Plaintiffs and Plaintiff Class)**

175. Plaintiffs reallege and incorporate by reference the preceding paragraphs as if fully set forth herein.

176. Plaintiffs bring this claim on behalf of themselves and those similarly situated as a class action as set forth in the Class Allegations.

177. CUI determines the number of athletic participation opportunities that it will provide to male and female students by choosing which sports it will offer to each sex and deciding how many athletes it will allow to participate on each team.

1 178. CUI fails to provide female students with an equal opportunity to  
2 participate in varsity intercollegiate athletics in violation of Title IX and 34 C.F.R.  
3 § 106.41(c)(1).

4 179. CUI fails to comply with each part of the three-part test, described  
5 above, to demonstrate compliance with the requirements of Title IX.

6 180. CUI does not provide female students with varsity intercollegiate  
7 athletic participation opportunities in numbers substantially proportionate to  
8 female undergraduate enrollment.

9 181. CUI has announced its plan to eliminate two fully rostered varsity  
10 teams that have female participants with the interest and ability to play.

11 182. CUI cannot show a history or continuing progress of program  
12 expansion for women. Instead, if it follows through with its intention to eliminate  
13 the women's swimming & diving and tennis teams, CUI will be contracting its  
14 program for women.

15 183. CUI is not fully and effectively accommodating women's interests and  
16 abilities in its varsity intercollegiate athletic program.

17 184. Plaintiffs have the interest and ability to participate in women's  
18 varsity swimming & diving and tennis.

19 185. High school students (the source of CUI's incoming, prospective, and  
20 future students) also have the interest and ability to participate in women's varsity  
21 swimming & diving and tennis.

22 186. Competition exists in women's swimming & diving and tennis  
23 because each is a major NCAA sport and CUI has offered the sports for many  
24 years—as have other schools in the NCAA.

25 187. CUI will continue and exacerbate its existing pattern and practice of  
26 sex discrimination in the allocation of athletic participation opportunities if it is  
27 not restrained from eliminating female athletic participation opportunities,  
28 including in women's swimming & diving and tennis.

1           188. Plaintiffs seek a declaration that CUI engaged in discrimination on  
2 the basis of sex by failing to offer female students equal opportunities to participate  
3 in intercollegiate athletics at CUI.

4           189. Plaintiffs seek expedited preliminary and permanent injunctive relief  
5 requiring CUI to stop discriminating in the operation of its intercollegiate athletics  
6 program and to continue the women's swimming & diving and tennis teams at  
7 CUI in the 2025-26 academic year and beyond.

8           190. As a result of CUI's discriminatory actions, Plaintiffs and the  
9 proposed class members have been denied their civil right to receive equal  
10 opportunities to participate in varsity intercollegiate athletics free of sex  
11 discrimination.

12           191. Plaintiffs and the proposed class members have also been denied the  
13 educational, economic, physical, psychological, and social benefits of athletic  
14 participation. They have also been and are being treated as second-class citizens,  
15 which has stigmatizing effects.

16           192. If CUI is not restrained from eliminating the women's swimming &  
17 diving and tennis teams, these athletes will forever lose the opportunity to  
18 participate in intercollegiate sports at CUI—an opportunity that can last for a  
19 limited time, but provides a lifetime of educational, economic, physical,  
20 psychological, and social benefits.

21           193. As such, Plaintiffs and all members of the equal athletic participation  
22 class are entitled to the relief requested herein.

23 //

24  
25 //

26  
27 //  
28



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that this Court:

A. Certify this case as a class action on behalf of all present and future women students and potential students at CUI who participate, seek to participate, and/or are deterred from participating in varsity intercollegiate athletics at CUI; appoint Plaintiffs as class representatives; and appoint Plaintiffs' counsel as class counsel;

B. Enter an order declaring that CUI has engaged in a past and continuing pattern and practice of discrimination against female students on the basis of sex in the operation of its varsity intercollegiate athletics program, in violation of Title IX and the regulations promulgated thereunder;

C. Issue preliminary and permanent injunctions barring CUI from discriminating against female students on the basis of sex in its athletics program and prohibiting CUI from eliminating the women's varsity swimming & diving and tennis teams—or any other women's varsity teams—unless and until CUI is and will be in compliance with Title IX.

D. Maintain jurisdiction over this action to monitor CUI's compliance with this Court's orders;

E. Award Plaintiffs their reasonable attorneys' fees and expenses pursuant to 42 U.S.C. § 1988; and

F. Order such other and further relief as the Court deems appropriate.

Dated: August 13, 2025

Respectfully submitted,



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