

To: The Honorable Kenneth Marcus
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
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Washington, DC 20202-1100
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HONORABLE ASSISTANT SECRETARY FOR CIVIL
RIGHTS,

PLEASE NOTE THAT WE HEREBY FILE THIS FEDERAL CIVIL
RIGHTS COMPLAINT (TITLE IX) AGAINST COLUMBIA
UNIVERSITY AND BARNARD COLLEGE.

YOURS TRULY,

SPIRO PANTOZATOS
KURSAT CHRISTOFF PEKGOZ
THOMAS STRAHM

CC: Eric Dreiband, Assistant Attorney General for Civil Rights, eric.dreiband@usdoj.gov
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PROLOGUE

GENERAL. 77% of all teachers in the public education system are women.¹ Girls have higher grades than boys in all categories.² Numerous studies “have shown that stereotyping [by female teachers] can bias teachers’ assessment and grades” against boys.³ New civil rights data published by the Department of Education⁴ and the National Science Foundation⁵ makes it clear that concerns over the underrepresentation of women in STEM education are outdated. Women are the overrepresented sex among college students nationwide.⁶ They are also the majority of law students⁷ and medical students.⁸ Women are the majority of STEM students when health and medical sciences are included in the definition.⁹ Women are the majority of students at Columbia University,¹⁰ while the Barnard College is for women only.¹¹ The two institutions comprise a close partnership via shared assets and resources.¹²

WAGES. Men are beginning to face workplace discrimination due to the disparity in terms of college degree attainment. A recent study found out that women are 36% more likely than men to receive a job offer.¹³ The persistent myth that men earn more than women for the same work is fueled by flawed earnings comparisons between men and women, such as those published by the Bureau of Labor Statistics, which “do not control for many factors that

¹<https://www.edweek.org/ew/articles/2017/08/15/the-nations-teaching-force-is-still-mostly.html>

²<http://www.apa.org/news/press/releases/2014/04/girls-grades.aspx>

³ Camille Terrier, *Boys Lag Behind: How Teachers’ Gender Biases Affect Student Achievement*, November 2016, MIT Department of Economics and National Bureau of Economic Research, (“Research shows that teachers’ biases generate self-fulfilling prophecies, produce stereotype threats, affect students’ interest in a subject, and affect students’ levels of effort.” pp. 1-3 (citations omitted)

<https://seii.mit.edu/wp-content/uploads/2016/11/SEII-Discussion-Paper-2016.07-Terrier-1.pdf>.

⁴<https://www.ed.gov/news/press-releases/us-department-education-releases-2015-16-civil-rights-data-collection>

⁵<https://www.pbs.org/newshour/economy/making-sense/truth-women-stem-careers>

⁶https://nces.ed.gov/programs/digest/d16/tables/dt16_322.20.asp

⁷<https://www.nytimes.com/2016/12/16/business/dealbook/women-majority-of-us-law-students-first-time.html>

⁸https://www.washingtonpost.com/local/social-issues/women-are-now-a-majority-of-entering-medical-students-nationwide/2018/01/22/b2eb00e8-f22e-11e7-b3bf-ab90a706e175_story.html?utm_term=.3873f1eff392

⁹ <http://www.aei.org/publication/gender-gap-in-stem-women-are-majority-of-stem-grad-students-and-they-earn-a-majority-of-stem-bachelors-degrees/>

¹⁰ According to Columbia’s fact sheet, the percentage of women in Columbia (total) was 52% in 2017.

<https://www.columbia.edu/content/statistics-facts>

¹¹ There are 2,635 undergraduate students at Barnard College. Enrollment is 100% women.

<https://barnard.edu/pressroom/fact-sheet>

¹² <https://barnard.edu/about/columbia-partnership>

¹³<http://insight.movemeon.com/insight-analysis/gender/women-more-likely-to-get-hired-than-men>

can be significant in explaining earnings differences.”¹⁴ Men “are significantly more likely ... to work longer hours.” In addition, a woman’s decision to take time off for marriage and childbearing is another factor that may result in a lower salary.¹⁵ This was demonstrated in a 2005 study by the Congressional Budget Office which found “no gender gap in wages among men and women with similar family roles.”¹⁶ Furthermore, it is axiomatic that men work in more dangerous jobs and thus are more likely to suffer grievous harm: “riskier jobs get paid more.”¹⁷ Women control 60% of personal wealth and buy 85% of all customer purchases: moreover, 40% of women earn more than their husbands.”¹⁸ In 2010, *Time* reported that “single women under 30 actually earned, on average, 8% more than their male counterparts.”¹⁹

SCIENCE, TECHNOLOGY, ENGINEERING, MATH. Women comprise the majority of doctorate degrees in the health (70%), biological (53%) and behavioral (59%) sciences nationally.²⁰ Women comprise 67% of graduate enrolment at Columbia University Medical Center.²¹ Women are at a 2 to 1 advantage over men in STEM faculty hiring.²² Despite women outpacing men, affirmative action programs continue to be justified on the grounds of implicit gender bias. However, empirical evidence for systemic anti-female gender bias in science is tenuous. In fact, men may be held to a higher standard than women

¹⁴ U.S. Bureau of Labor Statistics, *Highlights of women’s earnings in 2013*, December 2014, <https://www.bls.gov/opub/reports/womens-earnings/archive/highlights-of-womens-earnings-in-2013.pdf>.

¹⁵ Ketterer, Sarah, “The ‘Wage Gap’ Myth That Won’t Die,” *Wall Street Journal*, September 30, 2015, <https://www.wsj.com/articles/the-wage-gap-myth-that-wont-die-1443654408>.

¹⁶ O’Neill and O’Neill, *What Do Wage Differentials Tell us About Labor Market Discrimination?*, National Bureau of Economic Research, March 2005, p. 33, https://www.nber.org/papers/w11240.pdf?new_window=1&mod=article_inline

¹⁷ Worstall, Tim, “Here’s Your Gender Pay Gap - Fatal Occupational Injuries,” December 21, 2016, *Forbes*, <https://www.forbes.com/sites/timworstall/2016/12/21/heres-your-gender-pay-gap-fatal-occupational-injuries/#750063c26c3e>.

¹⁸ “Statistics on the Purchasing Power of Marketing,” *girlpowermarketing*, (emphasis in original) <https://girlpowermarketing.com/statistics-purchasing-power-women/>.

¹⁹ Williams and Ceci, *supra*, , quoting, O’Neill and O’Neill, *What Do Wage Differentials Tell us About Labor Market Discrimination?*, National Bureau of Economic Research, March 2005, p. 33, https://www.nber.org/papers/w11240.pdf?new_window=1&mod=article_inline; citing, Luscombe,

“Workplace Salaries: At Last, Women on Top,” *Time*, September 1, 2010,

http://content.time.com/time/business/article/0,8599,2015274,00.html?mod=article_inline.

²⁰ Okahana, H., Feaster, K. & Allum, J. Graduate Enrollment and Degrees: 2005 to 2015. (p. 78).

²¹ Enrollment by School, Gender, and Degree Level, Fall 2017.

https://provost.columbia.edu/sites/default/files/content/Institutional%20Research/Statistical%20Abstract/opir_enrollment_gender_2017.pdf p. 2 (2017).

²² Williams, W. M. & Ceci, S. J. National hiring experiments reveal 2:1 faculty preference for women on STEM tenure track. *Proc. Natl. Acad. Sci. U.S.A.* p. 112, 5360–5365 (2015).

in order to warrant praise.²³ Studies have also suggested pro-female bias among women in peer review and in assessments of objectivity and rationality. A recent, high profile survey of women who report workplace bias was flawed because it did not include male comparison groups.²⁴ Hypervigilance towards bias increases the likelihood that one will perceive and experience negative consequences of microaggressions in the workplace.²⁵ Increased public attention and one-sided views of implicit gender bias may make workplace environments more hostile for both women and men. There is no empirical evidence to suggest female-only programs and recruitment efforts will achieve gender parity in STEM subfields such as computer science and engineering.²⁶ More gender equal societies have *less* gender parity in these fields, suggesting women choose not to enter them when they have other viable career options.²⁷ In fact, gender parity activism and gender-based affirmative action may prove counterproductive in the long term. They imply that women cannot compete with men on equal footing for funding and professional opportunities. This may contribute to implicit anti-female bias.²⁸ They may promote insecurities and contribute to “imposter syndrome”²⁹ and perceived microaggressions³⁰ in the workplace. They may also contribute to implicit anti-female gender bias to the extent that it exists among both male and female STEM faculty.³¹ Gender parity activism fosters a primarily extrinsic, rather than intrinsic, incentive structure for entering STEM. This may account for the “leaking pipeline.”³² Gender-based affirmative action in STEM and related programs are outdated, unethical and misguided. Proactive efforts should instead focus

²³ Gender Bias in Science or Biased Claims of Gender Bias? *Psychology Today*. Available at: <https://www.psychologytoday.com/blog/rabble-rouser/201707/gender-bias-in-science-or-biased-claims-gender-bias> (Accessed: 5th November 2018).

²⁴ Williams, J. C. The 5 Biases Pushing Women Out of STEM. *Harvard Business Review* (2015).

²⁵ Offermann, L. R. et al. See no evil: color blindness and perceptions of subtle racial discrimination in the workplace. *Cultur Divers Ethnic Minor Psychol* 20, 499–507 (2014).

²⁶ No Advances in the Last Decade in Closing the STEM Gender Gap. *Edge for Scholars* (2017).

Available at: <https://edgeforscholars.org/no-advances-in-the-last-decade-in-closing-the-stem-gender-gap/> (Accessed: 29th October 2018).

²⁷ Stoet, G. & Geary, D. C. The Gender-Equality Paradox in Science, Technology, Engineering, and Mathematics Education. *Psychol Sci* 29, 581–593 (2018).

²⁸ Moss-Racusin, C. A., Dovidio, J. F., Brescoll, V. L., Graham, M. J. & Handelsman, J. Science faculty’s subtle gender biases favor male students. *Proc. Natl. Acad. Sci. U.S.A.* 109, 16474–16479 (2012).

²⁹ Villwock, J. A., Sobin, L. B., Koester, L. A. & Harris, T. M. Impostor syndrome and burnout among American medical students: a pilot study. *Int J Med Educ* 7, 364–369 (2016).

³⁰ Microaggressions: More than Just Race. *Psychology Today*. Available at: <http://www.psychologytoday.com/blog/microaggressions-in-everyday-life/201011/microaggressions-more-just-race> (Accessed: 4th November 2018).

³¹ Moss-Racusin, C. A., Dovidio, J. F., Brescoll, V. L., Graham, M. J. & Handelsman, J. Science faculty’s subtle gender biases favor male students. *Proc. Natl. Acad. Sci. U.S.A.* 109, 16474–16479 (2012).

³²The Leaking Pipeline: Gender Disparities in Leadership in the College of Physicians and Surgeons. *Columbia Daily Spectator*. Available at: columbiaspectator.com/eye-lead/2018/04/05/ps/. (Accessed: 4th November 2018).

on ensuring equal opportunities for everyone. Efforts should also focus on improving work-life integration³³ and creating healthy work environments irrespective of gender.³⁴

BIAS IN SEXUAL HARASSMENT ADJUDICATION. According to institutions that release such data, the overwhelming majority of all persons sanctioned under Title IX theory are male.³⁵ However, despite regressive gender assumptions, men and women experience sexual victimization at very similar rates³⁶ and the majority of male victims report female perpetrators.³⁷ While this complaint does not specifically address sexual harassment issues, this imbalance is one factor to take into consideration in assessing the environment of bias against men on college campuses.

³³ Butkus, R. et al. Achieving Gender Equity in Physician Compensation and Career Advancement: A Position Paper of the American College of Physicians. *Ann. Intern. Med.* 168, 721–723 (2018).

³⁴ Cheryan, S., Ziegler, S. A., Montoya, A. K. & Jiang, L. Why are some STEM fields more gender balanced than others? *Psychol Bull* 143, 1–35 (2017).

³⁵ *Stanford University's 2018 Title IX Report:*

<https://news.stanford.edu/2018/02/27/provost-issues-campus-wide-report-title-ix-sexual-harassment-cases/>

Yale University's 2018 Title IX Report:

[https://provost.yale.edu/sites/default/files/files/FINAL%20February%202018%20Report\(1\).pdf](https://provost.yale.edu/sites/default/files/files/FINAL%20February%202018%20Report(1).pdf)

³⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4062022/>

³⁷ <https://www.sciencedirect.com/science/article/pii/S1359178916301446?via%3Dihub>

JURISDICTION

We submit this complaint unto the jurisdiction of the Washington DC: Metro Office. It is both appropriate and reasonable for OCR to pursue ideological diversity in deciding the composition of the investigative team. For example, OCR can implement a quick *voir dire* procedure to eliminate political partisanship and conflict(s) of interest.

LEGAL THEORY

The Supreme Court prohibits gender discrimination against men. In *Craig v. Boren*, the Supreme Court criticized the use of sex in a statute that prohibited vendors from denying only to males the option to purchase a higher alcohol content beer.³⁸ The Court found the statute's reliance on "broad sociological propositions by statistics ... a dubious business, and one that inevitably is in tension with the normative philosophy that underlies the Equal Protection Clause."³⁹ Original and appellate courts have proscribed sex discrimination against men as well as women,⁴⁰ and decisions have been based on different laws and statutes including Title IX, Title VI, Title VII and the Fourteenth and Fifth Amendments.⁴¹

The Supreme Court has consistently rejected "overbroad generalizations about the different talents, capacities or preferences of males and females" as a basis for sex classifications in other state and federal laws.⁴² In *Mississippi*

³⁸ *Craig v. Boren*, at p. 204.

³⁹ *Ibid.* at p. 210. "We conclude that the gender-based differential contained in Okla. Stat., Tit. 37, § 245 (1976 Supp.) constitutes a denial of the equal protection of the laws ... and reverse the judgment of the District Court." The Court allowed the vendor to "rely upon the equal protection objections of males 18-20 years of age to establish her claim of unconstitutionality of the age-sex differential." *Id.* at pp. 192-93.

⁴⁰ *Craig v. Boren*, 429 US 190, 202, 204 (1976) ("Indeed, prior cases have consistently rejected the use of sex as a decision-making factor even though the statutes in question certainly rested on far more predictive empirical relationships than this."); *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 582 US ___, 198 L. Ed. 2d 150 (2017) (invalidating a law that treated men less favorably than women in determining citizenship); *Orr v. Orr*, 440 U.S. 268 (1979) (invalidating Alabama statute that imposed alimony obligations on husbands, but not wives); *Caban v. Mohammed*, 441 U.S. 380 (1979) (invalidating New York statute that required the consent of the mother, but not the father, to permit the adoption of an illegitimate child).

⁴¹ In *Glenn v. Brumby*, 663 F. 3d 1312 (11th Cir. 2011) the Eleventh Circuit drew upon U.S. Supreme Court cases interpreting Title VII to reach its conclusion in favor of the plaintiff, even though the plaintiff chose to pursue only a remedy for the Fourteenth Amendment violation.

⁴² *United States v. Virginia*, 518 U.S. 515, 533 (1996) (denying women admission to a state military institute); see also, *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 582 US __ (2017) (invalidating law that effectively treated men less favorably than women in acquiring U.S. citizenship); *Weinberger v.*

Univ. for Women v. Hogan (Hogan),⁴³ the Supreme Court held that denying men enrollment in a nursing program was impermissible gender classification under the Equal Protection Clause of the Fourteenth Amendment.⁴⁴ Though the issue concerned an equal protection challenge,⁴⁵ the decision is helpful in evaluating whether Columbia's sex restriction for certain benefits is reasonable. In *Hogan*, the Supreme Court reasoned that a sex classification must be

...determined through reasoned analysis rather than through the mechanical application of traditional, often inaccurate, assumptions about the proper roles of men and women. Care must be taken in ascertaining whether the statutory objective itself reflects archaic and stereotypic notions. Thus, *if the statutory objective is to exclude or "protect" members of one gender because they are presumed to suffer from an inherent handicap or to be innately inferior, the objective itself is illegitimate* [italics added]⁴⁶

Mississippi Univ. for Women v. Hogan, 458 U.S. 7, 18, 724 (1982)

Circuit courts agree with this normative philosophy and expanded upon the use of Title IX to eliminate discrimination against men. The Second Circuit of Appeals has clarified that discrimination against men is unconstitutional even in the absence of malicious intent *and* even for a short period of time.⁴⁷ The Sixth Circuit of Appeals has clarified that unlawful anti-male bias can be inferred when the overwhelming majority of the impacted parties are male.⁴⁸

Wiesenfeld, 420 U. S. 636, 640-41, 653 (1975) (invalidating federal law that denied benefits to male single parents, but allowed benefits for females).

⁴³ *Mississippi Univ. for Women v. Hogan*, 458 U.S. 7, 18, 724 (1982).

⁴⁴ *Ibid.*, at pp. 720-21, quoting *Wengler v. Druggists Mutual Ins. Co.*, 446 U. S. 142, 150 (1980).

⁴⁵ *Ibid.*, at p. 730. Under the Equal Protection Clause, the discriminating entity must be a government or state actor and must show the gender classification serves "important governmental objectives and that the discriminatory means employed" are "substantially related to the achievement of those objectives." *Ibid.* at p. 724. Claims may be brought under both Title IX and for violations of equal protection under 42 USC § 1983. *Fitzgerald v. Barnstable School Committee*, 555 U.S. 246, 129 S.Ct. 788, 790 (2009)

⁴⁶ *Ibid.*, at pp. 724-725.

⁴⁷ "A defendant is not excused from liability for discrimination because the discriminatory motivation does not result from a discriminatory heart, but rather from a desire to avoid practical disadvantages that might result from unbiased action. A covered university that adopts, even temporarily, a policy of bias favoring one sex over the other in a disciplinary dispute, doing so in order to avoid liability or bad publicity, has practiced sex discrimination, notwithstanding that the motive for the discrimination did not come from ingrained or permanent bias against that particular sex" (*Doe v. Columbia University*, No. 15-1536, 2nd Circuit 2016, p. 26, footnote 11).

⁴⁸ "The statistical evidence that ostensibly shows a pattern of gender-based decision-making and external pressure on Miami University supports at the motion-to-dismiss stage a reasonable inference of gender discrimination ... nearly ninety percent of students found responsible for sexual misconduct between 2011 and 2014 have male first-names" (*Doe v. Miami University*, No. 17-3396, 6th Circuit 2018, p. 15).

The plain language of Title IX, predicated in 34 CFR §106, prohibits any institution from funding/sponsoring discriminatory scholarships, programs, fellowships and initiatives.⁴⁹ Title IX prohibits recipients from listing, soliciting, approving, sponsoring discriminatory scholarships even if they are entirely external to the University.⁵⁰ Even *listing* discriminatory scholarships is in express violation of Title IX: nothing in the language of 34 CFR §106 suggests that an institution is even allowed to *mention* a discriminatory program on its webpages.⁵¹ Title IX prohibits discrimination in terms of counselling.⁵² Title IX prohibits discrimination in terms of health benefits.⁵³ Title IX prohibits any kind of *preference* for admission in any educational entity, or its substituent chapters.⁵⁴ In determining whether discrimination occurs, Title IX requires an assessment of the *overall effect*.⁵⁵ Fraternities and sororities are exempt from Title IX, but professional clubs are not.⁵⁶

There are even narrower Title IX precedents for this complaint. For example, Michigan State University converted a women-only study space in the Michigan Union to a gender-neutral lounge, following a Title IX complaint.⁵⁷ Texas A&M University was subject to a Title IX complaint because it eliminated its last male-only dorm while preserving multiple female-only dorms.⁵⁸ The press has reported that the Department of Education is investigating Yale University,⁵⁹ the University of Southern California,⁶⁰ and Tulane University⁶¹ for similar Title IX violations. The Oregon Department of Education compelled South Eugene High School to replace the title

⁴⁹ Such is the overall intent of CFR § 106.

⁵⁰ CFR § 106.37.

⁵¹ 34 CFR §106.37(a)(2) expressly prohibits even *listing* any outside organization's offerings "in a manner which discriminates on the basis of sex. In reading 106.31(b)(6) and 106.37(a)(2) together, "significant assistance" would thus include the mere *listing* of a sex-discriminatory offering.

⁵² CFR § 106.36.

⁵³ CFR § 106.39.

⁵⁴ CFR § 106.22.

⁵⁵ CFR § 106.37.

⁵⁶ As per an internal memorandum from 1989, which makes a distinction between *social* and *professional* clubs:

<https://www2.ed.gov/about/offices/list/ocr/docs/memo-re-fraternities-and-sororities.pdf>

In a more general sense, there is a balancing effect between the fraternities and sororities of Columbia University, even if both fraternities and sororities are sex-exclusive. Columbia offers a plethora of *professional* clubs for the female majority, with no equivalent programs for the male minority. As such, the overall effect is discriminatory against men.

⁵⁷ https://www.washingtonpost.com/news/wonk/wp/2016/07/28/a-male-professor-says-this-women-only-study-lounge-is-sexist-and-illegal/?utm_term=.e559327d8b60

⁵⁸ <https://www.thecollegefix.com/post/31646/>

⁵⁹ <https://www.campusreform.org/?ID=10899>

⁶⁰ <https://www.campusreform.org/?ID=10931>

⁶¹ <https://www.breitbart.com/tech/2018/09/13/tulane-facing-education-department-investigation-for-female-only-scholarships/>

“Axemen” with “Axe” in order to promote inclusivity.⁶² In a previous Title IX precedent, the University of Southern California agreed to change the name of the “Center for Women and Men” (implying a hierarchy of victimhood) into “Relationship and Sexual Violence Prevention Services.” The gender-neutral title had a substantial, positive effect on male participation in the Center.⁶³ In a different precedent, Stanford University agreed that female-only gym training hours constitute a violation of Title IX and offered to create male-only gym training hours to create a sense of balance.⁶⁴ Tulane University has transformed a female-only institute and opened its programs to both sexes.⁶⁵ Also worth mentioning is Minnesota State University’s decision to open three female-only scholarships to both sexes.⁶⁶

Nowhere in this complaint do we infer discrimination based on disproportionate enrolment alone.⁶⁷ The fact that these scholarships and programs are endorsed as “women only” is sufficient, in and of itself, to infer disparate treatment. Such endorsement has a clearly dissuasive effect on males. This effect is akin to a German campus rejecting Jewish applicants in excess of the maximum quota⁶⁸ or state-sanctioned hate speech against non-Muslims in Saudi Arabia⁶⁹ or indeed, the “separate but equal” doctrine struck down in *Brown v. the Board of Education*. Such exclusionary language and practices create a hostile environment against prospective male applicants. As per United States policy, hostile environment can occur even in the absence of intent to harm or even if the hostility is not directed at a particular target. Nor does hostile environment require sexual intent: gender animus or hostility based on sexual stereotypes is sufficient to trigger Title IX

⁶² http://www.oregonlive.com/education/index.ssf/2018/02/eugene_officials_chop_south_eu.html

⁶³ In 2014, only 71 male students used the *Center for Women and Men* throughout the academic year. By 2016, this number had increased to 1943 male students (Resolution Letter with the University of Southern California, Docket #09-16-2128, p. 21).

⁶⁴ “The University informed OCR that it has modified the weightlifting program. It has now instituted both “men-focused” and “women-focused” weightlifting hours, which are open to all students regardless of gender. Both weightlifting sessions are open for the same amount of time two times a week” (Resolution Letter with Stanford University, Docket #09-18-2175, p. 1).

⁶⁵ “The decision to expand programming had unanimous support of the Newcomb Foundation Board and the Tulane Board of Administrators.” <https://tulanehullabaloo.com/44537/news/complaint-filed-against-nci-for-discrimination-against-men/#comment-809>

⁶⁶ <http://www.wctrib.com/news/education/4523708-rules-women-only-grants-changed-after-mans-discrimination-charge-university>

⁶⁷ The ratio of female/male enrolment is relevant only in terms of determining the “underrepresented sex.” Women are no longer the “underrepresented sex” in colleges.

⁶⁸ *The Law against Overcrowding in Schools and Universities*:
https://link.springer.com/chapter/10.1007%2F978-3-0348-9008-3_12

⁶⁹ <https://www.aljazeera.com/news/2017/09/hrw-saudi-arabia-hate-speech-target-minorities-170926082722213.html>

liability (*Dear Colleague Letter*, 2010, p. 8).⁷⁰ This includes situations in which “students are harassed for exhibiting what is perceived as a stereotypical characteristic for their sex” (*ibid*). For example, men who are subjected to negative effects on the basis of their masculinity are protected by Title IX.

Given the *overall effect*, no reasonable person would inquire whether it is necessary to identify any male students who have specifically applied to these programs (and who have specifically received rejections) before the United States can take corrective action against the discrimination. The Department of Education must not inquire whether any futile applications have been made to these exclusionary programs before issuing injunctive relief against them.

Supreme Court doctrine is unambiguous on this question: in the presence of clearly discriminatory practices, the victims of discrimination are not the small class of people who “subject themselves to personal rebuffs” but all persons who are negatively affected despite their “unwillingness to engage in a futile gesture.” Put in other words, the United States cannot limit itself to offering redress to men who specifically apply to programs and offerings which refer to themselves as “Women Only” (or which maintain all-female compositions despite meaningless disclaimers or ambiguous language).

If an employer should announce his policy of discrimination by a sign reading "Whites Only" on the hiring-office door, his victims would not be limited to the few who ignored the sign and subjected themselves to personal rebuffs. The same message can be communicated to potential applicants more subtly but just as clearly by an employer's actual practices - by his consistent discriminatory treatment of actual applicants, by the manner in which he publicizes vacancies, his recruitment techniques, his responses to casual or tentative inquiries, and even by the racial or ethnic composition of that part of his work force from which he has discriminatorily excluded members of minority groups. When a person's desire for a job is not translated into a formal application solely because of his unwillingness to engage in a futile gesture he is as much a victim of discrimination as is he who goes through the motions of submitting an application.

Teamsters v. United States, 431 U.S. 324, 365 (1977)⁷¹

The analogy presented herein (comparing “Whites Only” programs to “Women Only” programs) is legally binding. The Congress made little meaningful distinction between sexual discrimination and racial

⁷⁰ <https://www.bna.com/white-worker-raised-n17179891668/>

⁷¹ <https://supreme.justia.com/cases/federal/us/431/324/>

discrimination in qualifying the Civil Rights Act of 1964.⁷² Another binding Supreme Court precedent which rules out the necessity of identifying an entire class before challenging openly discriminatory policies is *Weinberger v. Wiesenfeld* (1975). In this precedent, the Supreme Court upheld a district court ruling in which a single widower was granted standing to challenge (and strike down) an openly discriminatory policy:

“Wiesenberg applied for social security benefits for himself and his son, and was told that his son could receive them but that he could not. [...] He claimed that the relevant section of the Social Security Act unfairly discriminated on the basis of sex and sought summary judgement. [...] Appellee filed this suit in February 1973, *claiming jurisdiction under 28 U.S.C. 1331, on behalf of himself and of all widowers similarly situated. [emphasis added]*. He sought a declaration that 402 (g) is unconstitutional to the extent that men and women are treated differently, an injunction restraining appellant from denying benefits under 402(g) solely on the basis of sex, and payment of past benefits [...] After the three-judge court determined that it had jurisdiction, it granted summary judgement in favor of appellee, and issued an order giving appellee the relief he sought.”

Weinberger v. Wiesenfeld, 420 U.S. 636 (1975)⁷³

There are other very real and very pressing reasons which make it not only impractical but also impossible to identify a class of grievants, or even individual male complainants. Male students/professors who raise such concerns are often silenced with extreme prejudice. Lake Ingle, a male student, was kicked out of class in Indiana University for engaging in civil disagreement with a radical feminist professor (March 2018).⁷⁴ A board member at the University of Virginia (Fred W. Scott Jr.) was forced to resign from his position because he criticized female-only programs at the University (August 2018).⁷⁵ A male professor (Rick Mehta) was fired from Acadia University because of his critique towards feminism (September 2018).⁷⁶ Catholic University of America suspended a male dean for merely questioning Julie Swetnick, who later recanted her allegations of harassment

⁷² The analogy is legally binding because Title IX, which prohibits discrimination on the basis of sex in educational institutions, uses the language of Title VI, which prohibits discrimination on the basis of race or national origin. 117 CONG. REC. 30,156 (1971).

⁷³ <https://supreme.justia.com/cases/federal/us/420/636/#tab-opinion-1951258>

⁷⁴ <http://www.foxnews.com/us/2018/03/12/college-student-kicked-out-class-for-telling-professor-there-are-only-two-genders.html>

⁷⁵ “There are no United White People College Funds or White Students' Alliances or Men Against Drunk Driving. Even at a 'tolerant university' ... especially there! Women's Initiative [sic]. We both support it. Is there a Men's Initiative???”

<https://www.insidehighered.com/quicktakes/2018/09/06/uva-center-board-member-resigns-after-explaining-why-women-didnt-want-go-shoe>

⁷⁶ <https://www.andrewlawton.ca/pro-free-speech-professor-rick-mehta-fired-by-acadia-university/>

against the Supreme Court nominee, Brett Kavanaugh (October 2018).⁷⁷ When the cost of free speech is so high and the chilling effect is so potent, it would be unreasonable to shift the burden of gathering such elusive evidence upon the complaining parties.

Another obstacle is institutional resistance. Institutions often conceal or resist the disclosure of vital civil rights data in order to avoid legal liability, making it even more impractical for a reasonable complainant to obtain such evidence. For example, Georgetown University has resisted the disclosure of such data in the past.⁷⁸ Likewise, Yale University resisted federal directives⁷⁹ and destroyed crucial information during a pending lawsuit.⁸⁰ While a student complainant was able to obtain data about Stanford's discriminatory policies in financial aid distribution, this data surfaced only accidentally and is not available on a routine basis.⁸¹ The United States can easily overcome this problem by requesting copies of internal complaints filed with Columbia University, in addition to soliciting the opinions of male students at Columbia University (for example, through polls or e-mails aimed at this demographic).

The complaint is timely because all programs listed in the complaint listed below involve ongoing and systematic gender discrimination. Moreover, we are requesting indefinite waivers on each and every allegation. DOE: OCR⁸² and DOJ: CRD⁸³ can reopen "cold" cases whenever proper (even if they were previously dismissed) and waive the deadline under a series of circumstances. Specifically, cases are reopened whenever there is compelling national interest and/or overwhelming public support behind the issue. There is indeed compelling national interest in stopping the demographic decline of men in the higher education system. An undereducated class of men are more likely to end up in criminal activity, less likely to support their dependents, and less likely to support the infrastructure of the nation.

⁷⁷<https://thehill.com/blogs/blog-briefing-room/news/409090-catholic-university-suspends-dean-over-comment-that-degraded>

⁷⁸ "Repeated attempts to obtain data on any gender inequity at Georgetown have been rebuffed or ignored by campus officials." <https://www.thecollegefix.com/georgetown-creates-task-force-to-advance-gender-equity-but-refuses-to-discuss-gender-statistics/>

⁷⁹ "Despite the Trump administration's reversal of Obama-era policies encouraging schools to use affirmative action to diversify their student bodies, Yale will continue to use race as a factor in admissions."

<https://yaledailynews.com/blog/2018/07/05/yale-to-continue-using-race-in-admissions-defying-trump-administration/>

⁸⁰ "The destruction of those notes could be a violation of federal law, legal experts say."

<https://yaledailynews.com/blog/2018/09/21/legal-experts-yale-may-have-violated-clery-act/>

⁸¹<https://www.sfchronicle.com/education/article/Stanford-University-data-glitch-exposes-truth-12396695.php>

⁸² <https://www.algemeiner.com/2018/09/07/education-dept-to-probe-whether-rutgers-university-tolerates-hostile-environment-for-jewish-students/>

⁸³ <https://www.thecrimson.com/article/2018/5/23/yir-admissions-analysis/>

Moreover, significant public support exists behind the public policy proposed herein. For example, after Yale University was placed under a similar investigation, an article by Fox News gathered 1,500+ positive comments.⁸⁴ A video by Stephanie Hamill received 1.4 million views.⁸⁵ Two articles about similar complaints (published on Campus Reform) were shared 12,000+ times on social media.⁸⁶ 61% of male students at Yale University agree (at least in part) with the operational logic the complaint, according to at least one poll conducted by Yale itself, and 26% of male students believe they were specifically victims of anti-male discrimination themselves.⁸⁷ Last but not least, according to recent poll conducted by YouGov, 69% of all Americans believe that men face discrimination to some extent. 74% of men believe that such discrimination occurs, while 63% of women agree that men face some degree of discrimination (p. 102).⁸⁸ Given such popular support, no agent of United States has the liberty to shirk his/her duty to the democratic will of the people by refusing to prosecute complaints which challenge anti-male discrimination in colleges.

The complaint seeks to eliminate gender discrimination against men without jeopardizing the civil rights of women. When injunctive relief is granted, the female majority will still be able to compete with the male minority on equal footing.

⁸⁴ Please refer to p. 102 in the survey.

⁸⁴ https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/7dh1943i0z/econTabReport.pdf

⁸⁵ <https://www.facebook.com/Americanvoicesthedailycaller/videos/683586881973534/>

⁸⁶ <https://www.campusreform.org/?ID=11249> && <https://www.campusreform.org/?ID=10899>

⁸⁷ <https://yaledailynews.com/blog/2018/09/16/mens-rights-move-in-on-yale/>

⁸⁸ https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/7dh1943i0z/econTabReport.pdf

LIST OF EXCLUSIONARY PROGRAMS

This list includes some exclusionary programs and scholarships, external or internal, active as of December 2018. The list is neither exhaustive nor final: OCR should request information regarding *all* women-only spaces, scholarships, fellowships, initiatives, departments, programs, lectureships, committees, groups, and events that are currently active at Columbia University and Barnard College.⁸⁹ Title IX also prohibits discrimination in programs which are externally funded if these programs use campus space or receive any other form of institutional endorsement. There are no male-only programs at Columbia University and/or Barnard College. The two institutions form a close partnership via shared assets and resources.⁹⁰

1. **Barnard College** violates Title IX because it excludes men from admission.⁹¹ Nothing in the plain language of Title IX allows for such an exemption.⁹²
 - a. Insofar as Barnard College is an institute of higher education, it is not allowed to discriminate on the basis of sex in admissions. The limited exemptions listed in 34 CFR §106.12/13 are inapplicable.⁹³ Nor does CFR §106.15(e) exempt Barnard College from Title IX.⁹⁴

⁸⁹ “The compliance review regulations afford OCR broad discretion to determine the substantive issues for investigation and the number and frequency of the investigations” (Case Processing Manual, p. 20). OCR must use its discretion in a manner which maximizes its opposition to civil rights violations against men, consistent with the intentionality of Supreme Court doctrine. If OCR chooses to narrow the scope of its discretion, OCR must state the reasons behind the decision. Please note that OCR is already using its discretion to launch compliance reviews against institutions that allegedly engage in discrimination against women. Therefore, OCR’s refusal to launch compliance reviews to combat discrimination against men (while launching such reviews to combat alleged discrimination against women) may be actionable under Title IX.

⁹⁰ <https://barnard.edu/about/columbia-partnership>

⁹¹ <https://admissions.barnard.edu/apply-barnard/faq>

⁹² CFR § 106.21.

⁹³ CFR §106.12 allows exemptions for religious schools, but Barnard is a secular college. 34 CFR §106.13 allows exemptions for military and merchant marine education, also inapplicable.

⁹⁴ CFR §106.15(e) exempts “public institutions of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.” However, Barnard College is not a public college. Moreover, even if this exemption were valid, it needs to be counterweighed against *Allegations 1b-1f* listed in this complaint. Last but not least, *even if* the exemption is valid and applicable to Barnard, CFR §106.15(e) itself goes against Supreme Court doctrine (*Mississippi Univ. for Women v. Hogan*, 458 U.S. 7, 18, 724 (1982)). Whenever there is conflict between the ambiguous language of the Code of Federal Regulations and the clear precepts of Supreme Court doctrine, the latter must prevail.

- b. 34 CFR §106 allows for single-sex schools *if and only if* the parent institution offers a comparable school for the other sex.⁹⁵
- c. The Department of Education must take into consideration the intertwined history of Barnard College and Columbia University in evaluating this allegation. Columbia University was originally male-only, and Barnard College was originally created as a sister organization to Columbia. But the historical circumstances have changed. Columbia University has been coeducational since 1987, with women being the majority of students on campus today. Barnard College is still female-only. This creates an irrational and invidious imbalance.
- d. The Department of Education must also take into account the fact that female-only institutions across the United States outnumber male-only institutions,⁹⁶ even though women outnumber men in academia.⁹⁷ Therefore, for the purposes of pursuing national balance, it would be appropriate to open Barnard College to both sexes (or create an equivalent college for men).
- e. Barnard College is not a wholly independent recipient but an affiliate of Columbia University. Therefore, it must be analyzed as if it were any other educational program under Columbia University. Even if the Department were to decide that Barnard College's admission policy does not violate Title IX *in and of itself*, Columbia University violates Title IX by endorsing

⁹⁵ "The Title IX statute exempts from its coverage the admissions practices of non-vocational elementary and secondary schools. Accordingly, the regulations do not prohibit recipients from adopting single-sex admissions policies in non-vocational elementary and secondary schools. See 34 CFR 106.15(d). However, the regulations specifically provide that an LEA *may exclude any person from admission to a non-vocational elementary or secondary school on the basis of sex only if such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.* (34 CFR 106.35(b)). [.....] For example, school districts may not establish a single-sex school for one sex that provides the district's only performing arts curriculum. Students of the other sex also must have access to a comparable school with that curriculum. *It has been our longstanding interpretation, policy, and practice to require that the comparable school must also be single-sex.*"

<https://www2.ed.gov/about/offices/list/ocr/t9-guidelines-ss.html>

⁹⁶ The Women's College Coalition lists thirty-seven (37) female-only colleges.

<https://www.womenscolleges.org/our-members>

In contrast, there are only four (4) male-only colleges across the nation.

<https://www.niche.com/blog/all-male-colleges-only-4-remain/>

⁹⁷ <https://nces.ed.gov/pubs2017/2017072.pdf>

Barnard's policy of discrimination.⁹⁸ As such, *even if* the Department were to decide that Barnard College itself does not violate Title IX, it would still be necessary to compel Columbia University to sever financial and reputational ties with Barnard College.

- f. Last but not least, Barnard College has altered its admission policy to admit biological men who identify as women.⁹⁹ There is no rational basis for Barnard College to admit biological men who identify as women, while denying admission to biological men who identify as men. Such a capricious distinction conflicts with the mandates of the Second Circuit and the Supreme Court.

2. Barnard College: Women's, Gender & Sexuality Studies Department violates Title IX.¹⁰⁰ We propose the following criteria for analysis.

- a. The name is discriminatory.
- b. There is no Men's Studies program at Columbia University.¹⁰¹
- c. This program is offered by Barnard College, which itself violates Title IX.
- d. The mission statement and learning objectives stipulate "feminism," which means that any individual who does not subscribe to feminist ideology would not be welcome at this program.¹⁰² This creates an unlawful chilling effect upon the First Amendment rights of prospective students/scholars/professors.
- e. The program's emphasis on feminism augments an inference of bias. "Feminism" is defined as "organized activity on behalf of women's rights and interests."¹⁰³ Moreover, women who strongly identify as feminists are more likely to sacrifice men in ethical dilemmas, according to sociological studies on the subject.¹⁰⁴

⁹⁸ CFR § 106.37(a) and CFR § 106.31(b)(6).

⁹⁹ <https://barnard.edu/admissions/transgender-policy>

¹⁰⁰ <https://womensstudies.barnard.edu/>

¹⁰¹ The creation of a Men's Studies program is not a hypothetical request and there are many intellectuals and activists who would be interested in teaching gender issues from this perspective. These activists believe their perspectives are distinct enough to constitute a separate branch, instead of integration into current Women's Studies curriculum. I can submit a preliminary curriculum and a list of potential hires, if required.

¹⁰² <https://womensstudies.barnard.edu/about>

¹⁰³ <https://www.merriam-webster.com/dictionary/feminism>

¹⁰⁴ See, e.g., van Breen, Jolien A et al. "Subliminal Gender Stereotypes: Who Can Resist?" *Personality & social psychology bulletin* 146167218771895. To quote: "We found that subliminal exposure to

- f. Men are severely underrepresented among the professoriate (2/32).^{105,106} There are no male students, since Barnard College does not accept men.
- g. The curriculum is entirely preoccupied with women. The word “man” does not even appear among course offerings.¹⁰⁷

3. Barnard College: Athena Center for Leadership Studies violates Title IX.¹⁰⁸

- a. This program is offered by Barnard College, which itself violates Title IX.
- b. There is no equivalent program for men.
- c. All members of the leadership council are women.¹⁰⁹ All staff members are women.¹¹⁰ Men are underrepresented among scholars (3/23).¹¹¹
- d. The Center offers discriminatory internships and fellowships.
 - i. **The Athena Scholars Program** is discriminatory since it is only open to Barnard students.
 - ii. All fellowships/internships listed by the Athena Center are discriminatory.¹¹² These are: Athena Summer Fellowship, Williams Program for Women in Politics, Silberstein Non-Profit Leadership Summer Fellowship, Athena Harriman Summer Fellowship, Global Summer Fellowship.

4. Barnard Center for Research on Women violates Title IX.¹¹³

- a. This program is offered by Barnard College, which itself violates Title IX.

stereotypes (vs. counter-stereotypes) led *women who identify relatively strongly with feminists*, but less strongly with women, to (a) persist in a math task, (b) show increased willingness to sacrifice men in a Moral Choice Dilemma task, and (c) show implicit in-group bias on an evaluative priming task” (abstract). The moral dilemma involves loss of life: “In four scenarios, participants are asked to sacrifice a man to save several others (of unspecified gender), and in four other scenarios they are asked to sacrifice a woman.”

¹⁰⁵ <https://womensstudies.barnard.edu/faculty>

¹⁰⁶ While disproportionate enrolment does not violate Title IX per se, it can augment an inference of discrimination when taken into consideration in conjunction with other factors.

¹⁰⁷ <http://catalog.barnard.edu/barnard-college/courses-instruction/womens-gender-sexuality-studies/#coursestext>

¹⁰⁸ <https://athenacenter.barnard.edu/>

¹⁰⁹ <https://athenacenter.barnard.edu/leadership-council>

¹¹⁰ <https://athenacenter.barnard.edu/athenacenterstaff>

¹¹¹ <https://athenacenter.barnard.edu/scholars>

¹¹² <https://athenacenter.barnard.edu/fellowships>

¹¹³ <http://bcrw.barnard.edu/>

- b. The name is discriminatory. Moreover, there is no equivalent program for men.
- c. The mission statement and learning objectives stipulate “feminism,” which means that any individual who does not subscribe to feminist ideology cannot attend this program (nor teach at the program).¹¹⁴ This creates an unlawful chilling effect upon the First Amendment rights of prospective students/scholars.
- d. Men are severely underrepresented among the academics (3/77).¹¹⁵
- e. The curriculum is entirely preoccupied with women.¹¹⁶

5. **Barnard College** violates Title IX by offering a wide variety of high school pre-college programs.¹¹⁷

- a. Since Barnard College violates Title IX, these outreach programs also violate Title IX. OCR must issue injunctive relief to ensure that these pre-college programs are available to both sexes.

6. **Columbia University** violates Title IX by expressing an unlawful affirmative action preference for women in terms of employment/recruitment. To quote: “Columbia’s programs include ... (1) equal opportunity, nondiscrimination and affirmative action policies which the University has established, implemented, and disseminated; (2) diagnostic procedures which allow the University to determine employment patterns and compare them to the composition of the relevant labor pool; and (3) action-oriented programs designed to assure that **women**, minorities, veterans and those with disabilities are being employed at a rate to be expected given their availability in the relevant labor pool.”¹¹⁸ Columbia’s affirmative action plan must be rewritten without any references to sex.

7. **Columbia University** violates Title IX by endorsing/listing an external program (HERC) which discriminates on the basis of sex.

- a. Men are underrepresented among HERC staff (2/21).¹¹⁹

¹¹⁴ <http://bcrw.barnard.edu/home/about/>

¹¹⁵ <http://bcrw.barnard.edu/home/about/#people>

¹¹⁶ <http://bcrw.barnard.edu/projects/transnationalfeminisms/>

¹¹⁷ <https://barnard.edu/precollegeprograms/how-to-apply>

¹¹⁸ <https://eoaa.columbia.edu/affirmative-action>

¹¹⁹ <https://member.hercjobs.org/about/herc-staff?Execute=1>

- b. HERC only discusses women when it is discussing sex-specific problems.¹²⁰
- c. HERC is employed for the purposes of fulfilling Columbia's affirmative action plan, which is discriminatory against men (as per Allegation 6).

8. Columbia Institute for Research on Women, Gender, and Sexuality violates Title IX.¹²¹ We propose the following criteria for analysis.

- a. The name refers to women, but not men.
- b. There is no equivalent Men's Studies program at Columbia University.¹²²
- c. The mission statement and learning objectives stipulate "feminism," which means that any individual who does not subscribe to feminist ideology is not welcome to attend this program (nor teach at the program).¹²³ This creates an unlawful chilling effect upon the First Amendment rights of prospective students/scholars.
- d. The program's emphasis on feminism augments an inference of bias. "Feminism" is defined as "organized activity on behalf of women's rights and interests."¹²⁴ Moreover, women who strongly identify as feminists are more likely to sacrifice men in ethical dilemmas, according to sociological studies on the subject.¹²⁵

¹²⁰ "Women in academic couples report that their partners' employment statuses and opportunities are important to their own career decisions. Not only do *women* more often than men perceive a loss in professional mobility as a result of their academic partnerships (54% for women versus 41% for men), but they actively refuse job offers if their partner cannot find a satisfactory position."

<https://member.hercjobs.org/myherc/join/prospective-faqs>

¹²¹ <http://irwgs.columbia.edu/>

¹²² The creation of a Men's Studies program is not a hypothetical request and there are many intellectuals and activists who would be interested in teaching gender issues from this perspective. These activists believe their perspectives are distinct enough to constitute a separate branch, instead of integration into current Women's Studies curriculum. I can submit a preliminary curriculum and a list of potential hires, if required.

¹²³ "At present, Institute faculty provide feminist and queer instruction and critical pedagogy leading to an undergraduate major, concentrations of several varieties, and a graduate certification program."

<http://irwgs.columbia.edu/about/history/>

¹²⁴ <https://www.merriam-webster.com/dictionary/feminism>

¹²⁵ See, e.g., van Breen, Jolien A et al. "Subliminal Gender Stereotypes: Who Can Resist?" *Personality & social psychology bulletin* 146167218771895. To quote: "We found that subliminal exposure to stereotypes (vs. counter-stereotypes) led *women who identify relatively strongly with feminists*, but less strongly with women, to (a) persist in a math task, (b) show increased willingness to sacrifice men in a Moral Choice Dilemma task, and (c) show implicit in-group bias on an evaluative priming task" (abstract). The moral dilemma involves loss of life: "In four scenarios, participants are asked to sacrifice a man to

- e. Men are severely underrepresented among the professoriate (2/37).¹²⁶
- f. The external programs endorsed by IRWGS also discriminate against men on a *prima facie* basis.¹²⁷ Columbia University must sever all financial and reputational ties (i.e. logo, name) with these discriminatory programs.
 - i. *Barnard Center for Research on Women*
 - ii. *Center for Gender + Sexuality in Columbia Law School*
 - iii. *Sexuality, Women & Gender Project*
 - iv. *Women's, Gender, Sexuality Studies Council*
- g. The curriculum is entirely preoccupied with women. All past offerings were about “women” or “feminism.” There are no sex-specific courses which would attract a male audience, heterosexual men in particular.¹²⁸

9. Columbia Women's Heart Center violates Title IX.¹²⁹

- a. The name refers to women only.
- b. There is little rational basis for Columbia University to devote sex-specific emphasis/funding to women's cardiological issues. Men are twice more likely to have heart attacks through life than women.¹³⁰ Also, men are more susceptible to heart diseases than women.¹³¹
- c. Columbia University does not offer any male-only or male-specific centers which might create an overall balancing effect.¹³²

10. Columbia Women's Lung Health Center violates Title IX.¹³³

- a. The name refers to women only.

save several others (of unspecified gender), and in four other scenarios they are asked to sacrifice a woman.”

¹²⁶ <http://irwgs.columbia.edu/people/#core>

¹²⁷ <http://irwgs.columbia.edu/about/student-groups-affiliate-centersinstitutions/>

¹²⁸ <http://irwgs.columbia.edu/courses/past-courses/>

¹²⁹ <https://www.columbiadoctors.org/specialties/cardiology-cardiac-surgery/our-centers-programs/womens-heart-center>

¹³⁰ <https://www.health.harvard.edu/heart-health/throughout-life-heart-attacks-are-twice-as-common-in-men-than-women>

¹³¹ <https://www.telegraph.co.uk/men/active/mens-health/11723374/Why-do-men-suffer-more-heart-problems-than-women.html>

¹³² To be specific, Columbia does offer Urology and Gynaceology departments, which are both sex-specific and which have an overall balancing effect. But there is no “Men's Heart Center” or “Men's Counselling” or, say, “Trauma Clinic for Male Veterans.”

¹³³ <http://columbiasurgery.org/womens-lung-health-center>

- b. The plain language is discriminatory: “The Women’s Lung and Health Center is focused on providing the best and most efficient care for *women* with lung diseases.”
- c. There is no rational basis for Columbia University to fund/endorse a Lung Health Center for women, but not for men. The website admits that women constitute less than 50% of all lung cancer patients.¹³⁴ While the website claims that women are increasingly more susceptible to a pulmonary disease called COPD,¹³⁵ studies on the topic have shown that women constitute 53% of COPD fatalities.¹³⁶ This minor imbalance is not sufficient to justify a Lung Health Center *exclusively* devoted to women.
- d. Columbia University does not offer any male-only or male-specific centers which might create an overall balancing effect.

11. Columbia Women’s Program (Psychiatry) violates Title IX.¹³⁷

- a. The name refers to women only.
- b. The plain language is discriminatory: “our mission is to address the mental health needs of *women* across the life cycle.”
- c. There is no rational basis for Columbia University to fund/endorse a Psychiatry Program just for women. While the website lists some specific psychiatric conditions which disproportionately affect women, Columbia University does not offer any male-specific health programs for psychiatric/psychological conditions which disproportionately affect men. Moreover, men are more likely to die by suicide, a phenomenon related to chronic depression.¹³⁸

¹³⁴ “Women make up a little under 50% of lung cancer patients overall.”

<http://columbiasurgery.org/womens-lung-health-center>

¹³⁵ “The number of women developing chronic obstructive pulmonary disease, or COPD, has risen rapidly in the last few decades.”

<http://columbiasurgery.org/womens-lung-health-center>

¹³⁶ “And women now account for roughly 53 percent of all deaths attributed to COPD in this country.” (p. 3).

<https://www.lung.org/assets/documents/research/rise-of-copd-in-women-full.pdf>

¹³⁷<https://www.columbiadoctors.org/specialties/psychiatry-psychology/our-services/womens-program>

¹³⁸<https://www.forbes.com/sites/alicegwalton/2012/09/24/the-gender-inequality-of-suicide-why-are-men-at-such-high-risk/#256bec2d3ba8>

12. Columbia Women Faculty in the Department of Psychiatry violates Title IX.¹³⁹

- a. The name is discriminatory.
- b. The plain language is discriminatory, as is the overall effect. “The over-arching goal of the *Women Faculty Group (WFG)* is to help *women* faculty at Columbia Psychiatry develop their careers and address *gender-specific* challenges often encountered by *women* in academic medicine.” While “meetings are open to all faculty” in theory, this disclaimer is meaningless because they focus on “topics particularly relevant to women faculty.”
- c. All listed members are women.¹⁴⁰
- d. Columbia University does not offer any similar male-only or male-specific programs.

13. Columbia Women in Business violates Title IX.¹⁴¹

- a. The name is discriminatory.
- b. The plain language makes it clear that this program is for women only.¹⁴²
- c. Columbia Business School is a sponsor.¹⁴³
- d. There is no equivalent program for men in Columbia University. Nor does Columbia offer support programs for men in the specific disciplines wherein they are underrepresented.
- e. Columbia University does not offer any equivalent male-only or male-specific programs.

14. Columbia Women’s Business Society violates Title IX.¹⁴⁴

- a. The name is discriminatory.
- b. The plain language makes it clear that this program is “specifically for women.”¹⁴⁵ Likewise, all participants are women.

¹³⁹ <https://www.columbiapsychiatry.org/faculty/faculty-affairs/faculty-affairs-offices-committees/women-faculty-department-psychiatry>

¹⁴⁰ <https://www.columbiapsychiatry.org/faculty/faculty-affairs/faculty-affairs-offices-committees/women-faculty-department-psychiatry>

¹⁴¹ <https://www.cbswomen.org/>

¹⁴² <https://www.cbswomen.org/our-mission>

¹⁴³ <https://www.cbswomen.org/sponsors>

¹⁴⁴ <http://columbiawomensbusinesssociety.org/>

¹⁴⁵ <http://columbiawomensbusinesssociety.org/mission/>

- c. There is no equivalent program for men in Columbia University. Nor does Columbia offer support programs for men in the specific disciplines wherein they are underrepresented.

15. Columbia Center for Gender & Sexuality Law violates Title IX.¹⁴⁶
The *overall effect* is hostile against men.

- a. All faculty are women (10/10).¹⁴⁷
- b. Despite the misleadingly neutral title, a quick analysis of their research interests makes it clear that men are categorically excluded. Only women and LGBT groups are mentioned. There are frequent references to “feminism,” which is a sex-specific ideology defined as “organized activity on behalf of women’s rights and interests.”
- c. The programs offer curricula which exclude men (heterosexual men in particular). All colloquia and symposia are about women, with the occasional focus on LGBT groups.¹⁴⁸
- d. **The Sexuality and Gender Law Clinic** is a very similar subprogram. The clinic advocates for the equality and safety of “*women* and lesbians, gay men, bisexuals, and transgender individuals.” Heterosexual men are specifically excluded for no rational reason, as if they are incapable of suffering any injustice or discrimination. Men do face discrimination in all walks of life: for example, they receive heavier penalties than women (for equivalent offences) in the criminal justice system.¹⁴⁹

16. Columbia College Women violates Title IX.¹⁵⁰

- a. The name is discriminatory.
- b. All members are women and the mission statement is discriminatory.¹⁵¹

¹⁴⁶ <https://www.law.columbia.edu/gender-sexuality/>

¹⁴⁷ <https://www.law.columbia.edu/gender-sexuality/faculty>

¹⁴⁸ <https://www.law.columbia.edu/gender-sexuality/events>

¹⁴⁹ Starr, Sonja B., Estimating Gender Disparities in Federal Criminal Cases (August 29, 2012). University of Michigan Law and Economics Research Paper, No. 12-018. Available at SSRN: <https://ssrn.com/abstract=2144002>

¹⁵⁰ <https://www.college.columbia.edu/alumni/connect/ccw>

¹⁵¹ “The mission of Columbia College Women (CCW) is to connect *alumnae* to the College, to one another and to *women* at large at Columbia University; provide enriching experiences and benefits that support alumnae throughout their lives, in both personal and professional endeavors; and create an engaged and dynamic community that strengthens the voices and leadership of *women* at Columbia University.” *Ibid.*

- c. Columbia also offers a gender-neutral alumni organization,¹⁵² but there is no equivalent male-only organization which might balance a female-only organization for alumnae. This is especially important now that men are the minority.
- d. This program receives substantial reputational and financial assistance from Columbia University, including using campus space and the Columbia logo (in addition to other benefits).¹⁵³

17. Women in Science at Columbia violates Title IX.¹⁵⁴ Moreover, women are already overrepresented in STEM graduate degrees when health and medical sciences are included in the definition, and they earn the majority of STEM bachelor's degrees.¹⁵⁵

- a. The name is discriminatory.
- b. All board members are women (14/14).¹⁵⁶
- c. All past members were women (52/52).¹⁵⁷
- d. All scholarship winners have been women.¹⁵⁸
 - i. *Lisa Carnoy Excellence in Leadership Award*
 - ii. *WISC Achievement Award*
- e. While the program has an anti-discrimination clause,¹⁵⁹ this clause is hollow and illusory.¹⁶⁰
- f. Columbia University does not offer any equivalent male-only or male-specific programs.

¹⁵² <https://www.college.columbia.edu/alumni/>

¹⁵³ "The mission of Columbia College Women (CCW) is to connect *alumnae* to the College, to one another and to *women* at large at Columbia University; provide enriching experiences and benefits that support alumnae throughout their lives, in both personal and professional endeavors; and create an engaged and dynamic community that strengthens the voices and leadership of *women* at Columbia University." *Ibid.*

¹⁵⁴ <https://womeninscienceatcolumbia.org/>

¹⁵⁵ https://www.washingtonpost.com/local/social-issues/women-are-now-a-majority-of-entering-medical-students-nationwide/2018/01/22/b2eb00e8-f22e-11e7-b3bf-ab90a706e175_story.html?utm_term=.3873f1eff392

¹⁵⁶ <https://womeninscienceatcolumbia.org/people/current-board-members/>

¹⁵⁷ <https://womeninscienceatcolumbia.org/people/past-leadership-2/>

¹⁵⁸ <https://womeninscienceatcolumbia.org/people/wisc-awards-2/>

¹⁵⁹ "We welcome any supporters of women in science, and this includes men."

<https://womeninscienceatcolumbia.org/faqs/>

¹⁶⁰ This disclaimer is both false (given the fact that the program is 100% female) and irrational: why should men be obligated to join an organization which supports women in science, as opposed to an organization which advances their own interests? The burden is upon Columbia administration to create similar programs for men in the fields wherein they are underrepresented, or compel such discriminatory programs to become gender-neutral. In the absence of such intervention, the *overall effect* will remain discriminatory against the male minority. As discussed in the prologue, women are the majority of STEM students.

18. Columbia Womxn in Computer Science violates Title IX.¹⁶¹

- a. The name is discriminatory.
- b. All members are women (26/26).¹⁶²
- c. The program claims to promote gender equality, but only welcomes men who “support the advancement of womxn in computer science.”
- d. Columbia University does not offer any equivalent male-only or male-specific programs.

19. Women’s Insights on the Art of Negotiation is an upcoming conference which will violate Title IX.¹⁶³

- a. The name is discriminatory.
- b. The mission statement is clearly discriminatory, i.e. “a community for women to come together, support each other, and advance their skills in negotiation.”
- c. Columbia University is a partner/sponsor (substantial assistance).¹⁶⁴
- d. Columbia University does not offer/endorse any equivalent programs for men.

20. Women for Women Columbia violates Title IX.¹⁶⁵

- a. The name is discriminatory.
- b. The mission statement is discriminatory.¹⁶⁶
- c. All participants are women.¹⁶⁷
- d. The program is sponsored by Columbia Mailman School of Public Health (substantial assistance).
- e. Columbia University does not offer/endorse any equivalent programs for men.

21. Columbia Women in Energy (WIE) violates Title IX.¹⁶⁸

- a. The name is discriminatory.
- b. The mission statement is discriminatory. “The objective of Columbia’s WIE program is to provide support to *female* Columbia students entering energy and energy-

¹⁶¹ <https://cuwics.github.io/>

¹⁶² *Ibid.*

¹⁶³ <https://www.winsummit.com/>

¹⁶⁴ *Ibid.*

¹⁶⁵ <https://www.mailman.columbia.edu/research/office-diversity-culture-and-inclusion/women-4-women-keeping-inclusive-and-global-perspective>

¹⁶⁶ *Ibid.*

¹⁶⁷ https://www.mailman.columbia.edu/sites/default/files/jpg/w4w_3.jpg

¹⁶⁸ <https://gridalternatives.org/regions/new-york-tri-state/news/columbia-universitys-women-energy-wie-build-grid-tri-state>

related fields, with the broader goal of increasing the presence and leadership of *women* in the energy sector.”

- c. All participants are women.¹⁶⁹
- d. Columbia University does not offer/endorse any equivalent programs for men.

22. Columbia Emerging Women in Leadership (CEWL) violates Title IX.¹⁷⁰

- a. The name is discriminatory.
- b. The mission statement is discriminatory: “...providing space for emerging *women* leaders ... to explore issues relating to the specific needs of women in the public health workforce as well as to providing targeted, *women-centered* leadership development and skill-building opportunities.”
- c. All participants are women.¹⁷¹
- d. Columbia University does not offer/endorse any equivalent programs for men.

23. Columbia University violates Title IX by listing/endorsing a discriminatory program: *2019 Early Career Women Faculty Leadership Development Seminar*.

- a. The program is discriminatory, as is clear from the context (**Attachment A**).
- b. Columbia University does not offer/endorse/circulate any equivalent scholarships for men.
- c. Injunctive relief could consist of prohibiting Columbia University from disseminating information about such discriminatory programs, offering/circulating equivalent programs for men only, or transforming the discriminatory programs into gender-neutral programs.

24. Columbia University violates Title IX by listing/endorsing a discriminatory program: *L’Oreal USA for Women in Science Fellowship*.

- a. The program is discriminatory, as is clear from the context (**Attachment B**).
- b. Columbia University does not offer/endorse/circulate any equivalent scholarships for men.

¹⁶⁹ *Ibid.*

¹⁷⁰ <https://mailman-columbia.campuslabs.com/engage/organization/columbia-emerging-women-s-leadership>

¹⁷¹ *Ibid.*

- c. Injunctive relief could consist of prohibiting Columbia University from disseminating information about such discriminatory programs, offering/circulating equivalent programs for men only, or transforming the discriminatory programs into gender-neutral programs.

25. Columbia University violates Title IX by listing/endorsing a discriminatory program: *Johnson & Johnson WiSTEM2D Scholars Award*.

- a. The program is discriminatory, as is clear from the context (**Attachment C**).
- b. Columbia University does not offer/endorse/circulate any equivalent scholarships for men.
- c. Injunctive relief could consist of prohibiting Columbia University from disseminating information about such discriminatory programs, offering/circulating equivalent programs for men only, or transforming the discriminatory programs into gender-neutral programs.

INJUNCTIVE RELIEF

This complaint requests the following injunctive relief, in any reasonable combination thereof:

- The removal of discriminatory language, whenever proper.
- The elimination of affirmative action practices for women, whenever proper.
- The elimination of discriminatory programs within a reasonable time period, whenever proper.
- The conversion of discriminatory programs into gender-neutral programs within a reasonable time period, whenever proper. If such conversion occurs, the names of the programs must be changed into gender-neutral titles, and the programs must begin to actively recruit male students and professors. There is Title IX precedent for such conversion.¹⁷²
- The creation of male-specific or male-focused programs and/or scholarships and/or research centres to offset the balance, whenever proper. There is Title IX precedent for the creation of such programs.¹⁷³
- Any other form of injunctive relief, whenever proper (such as a future ban on all such programs).

¹⁷² In a previous OCR precedent, the University of Southern California agreed to change the name of the Center for Women and Men (implying a hierarchy of victimhood) into *Relationship and Sexual Violence Prevention Services* (#09-16-2128). The name change had a substantial, positive effect on male participation in the Center.

¹⁷³ “Stanford University informed OCR that it has modified the weightlifting program. It has now instituted both “men-focused” and “women-focused” weightlifting hours, which are open to all students regardless of gender. Both weightlifting sessions are open for the same amount of time two times a week. The University submitted documentation to OCR on March 9, 2018 showing their response to the Stanford Daily newspaper article regarding the women’s only weightlifting hours” (#09-18-2175).

ADDENDUM
(LIST OF DISCRIMINATORY PROGRAMS)

1. Barnard College (*admissions policy*)
2. Barnard Women's, Gender, Sexuality Studies (*overall effect*)
3. Barnard College: Athena Center for Leadership Studies
 - a. Athena Scholars Program
 - b. Athena Summer Fellowship, Williams Program for Women in Politics, Silberstein Summer Fellowship, Athena Harriman Summer Fellowship, Global Summer Fellowship (non-exhaustive)
4. Barnard Center for Research on Women
5. Barnard College: high school programs
6. Columbia University (*affirmative action preferences*)
7. Columbia University (*endorsement of HERC*)
8. Columbia Institute for Research on Women, Gender, and Sexuality (*overall effect*)
9. Columbia Women's Heart Center
10. Columbia Women's Lung Health Center
11. Columbia Women's Program (Psychiatry)
12. Columbia Women Faculty in the Department of Psychiatry
13. Columbia Women in Business
14. Columbia Women's Business Society
15. Columbia Center for Gender & Sexuality Law
16. Columbia College Women
17. Women in Science at Columbia
18. Columbia Womxn in Computer Science
19. WIN
20. Women for Women Columbia
21. Columbia Women in Energy
22. Columbia Emerging Women's Leadership
23. 2019 Early Career Women Faculty Leadership Development Seminar (external, endorsement/listing)
24. L'Oreal USA for Women in Science Fellowship (external, endorsement/listing)
25. Johnson & Johnson WiSTEM2D Scholars Award Program (external, endorsement/listing)