

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TATUM ROBERTSON and EVE
BRENNAN, individually and on behalf of
all those similarly situated,

Plaintiffs,

v.

UNIVERSITY OF CENTRAL
OKLAHOMA and BOARD OF
REGENTS FOR THE REGIONAL
UNIVERSITY OF OKLAHOMA,

Defendants.

Case No.: 22-cv-836-HE

DEFENDANTS' ANSWER TO PLAINTIFFS' CLASS ACTION COMPLAINT

Defendants, University of Central Oklahoma (“UCO”) and Board of Regents for the Regional University of Oklahoma (“RUSO”)(collectively “Defendants”), for their Answer to Plaintiff’s Complaint, state the following:

INTRODUCTION

1. Defendants admit Plaintiffs bring this action against Defendants alleging Title IX violations, deny they have discriminated against female varsity student athletes at UCO, and deny the remaining allegations contained in ¶ 1.

2. The statement in ¶ 2 is conclusory and offers no factual basis in support of Plaintiffs’ claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 2.

3. The statement in ¶ 3 is conclusory and offers no factual basis in support of Plaintiffs’ claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 3.

4. The statement in ¶ 4 is conclusory and offers no factual basis in support of Plaintiffs’ claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 4.

JURISDICTION AND VENUE

- 5. Defendants admit the allegations in ¶ 5.
- 6. Defendants admit the allegations of ¶ 6.
- 7. Defendants admit he allegations in ¶ 7.
- 8. Defendants admit the allegations in ¶ 8.

THE PARTIES

Plaintiffs

- 9. Defendants admit the allegations in ¶ 9.
- 10. Defendants deny the allegations in ¶ 10.
- 11. Defendants deny the allegations contained in ¶ 11.
- 12. Defendants deny the allegations contained in ¶ 12.

Plaintiff Tatum Robertson

- 13. Defendants are without sufficient information to admit or deny the allegations in ¶ 13.
- 14. Defendants admit the allegations in ¶ 14.
- 15. Defendants are without sufficient information to admit or deny the allegations in ¶ 15.
- 16. Defendants deny the allegations in ¶ 16.
- 17. Defendants deny the allegations in ¶ 17.

Plaintiff Eve Brennan

- 18. Defendants are without sufficient information to admit or deny the allegations in ¶ 18.

19. Defendants admit the allegations in ¶ 19.

20. Defendants are without sufficient information to admit or deny the allegations in ¶ 20.

21. Defendants deny the allegations in ¶ 21.

22. Defendants deny the allegations in ¶ 22.

Former Plaintiff Marin Rhodes

23. This allegation relates to former Plaintiff Marin Rhodes, who has dismissed her claims against Defendants, and therefore does not require a response.

24. This allegation relates to former Plaintiff Marin Rhodes, who has dismissed her claims against Defendants, and therefore does not require a response.

25. This allegation relates to former Plaintiff Marin Rhodes, who has dismissed her claims against Defendants, and therefore does not require a response.

26. This allegation relates to former Plaintiff Marin Rhodes, who has dismissed her claims against Defendants, and therefore does not require a response.

27. This allegation relates to former Plaintiff Marin Rhodes, who has dismissed her claims against Defendants, and therefore does not require a response.

Defendants

28. Defendants admit the allegations in ¶ 28.

29. Defendants admit the allegations in ¶ 29.

30. Defendants admit RUSO is a public entity located in Oklahoma City, and does business in Edmond, Oklahoma, but deny the remaining allegations in ¶ 30.

31. Defendants admit the allegation in ¶ 31.

32. The statement in ¶ 32 is conclusory and offers no factual basis in support of Plaintiffs' claims, and therefore does not require a response.

FACTUAL ALLEGATIONS

TITLE IX BARS UCO FROM DISCRIMINATING AGAINST STUDENT-ATHLETES ON THE BASIS OF THEIR SEX.

33. ¶ 33 is an excerpt from Title IX, not a factual allegation, and therefore requires no response.

34. Defendants admit the allegation in ¶ 34.

35. Defendants admit that violations of Title IX's requirements may constitute intentional sex discrimination as stated in ¶ 35.

36. Defendants admit the allegations in ¶ 36.

37. Defendants admit the allegations in ¶ 37.

38. Defendants admit the allegations in ¶ 38.

39. Defendants admit the allegations in ¶ 39.

40. ¶ 40 states a legal conclusion, and therefore no response is required.

Title IX's Equal Athletic Treatment and Benefit Requirements

41. In response to ¶ 41, Defendants deny anything other than what the Regulations specifically state, and the Regulations speak for themselves.

42. In response to ¶ 42, Defendants deny anything other than what the Regulations specifically state, and the Regulations speak for themselves.

43. In response to ¶ 43, Defendants deny anything other than what the Regulations specifically state, and the Regulations speak for themselves.

44. ¶ 44 states a legal conclusion and therefore no response is required.

45. ¶ 45 states a legal conclusion and therefore no response is required.

46. Defendants admit the allegations in ¶ 46.

47. Defendants admit the allegations in ¶ 47.

48. The OCR Policy Interpretation speaks for itself, and therefore no response is required to ¶ 48.

Title IX's Prohibition against Retaliation

49. ¶ 49 states a legal conclusion, and therefore no response is required.

50. ¶ 50 states a legal conclusion, and therefore no response is required.

51. ¶ 51 states a legal conclusion, and therefore no response is required.

52. ¶ 52 states a legal conclusion, and therefore no response is required.

53. ¶ 53 states a legal conclusion, and therefore no response is required.

54. ¶ 54 states a legal conclusion, and therefore no response is required.

55. ¶ 55 states a legal conclusion, and therefore no response is required.

DEFENDANTS DENY UCO HAS BEEN OR IS DISCRIMINATING AGAINST ITS FEMALE STUDENT-ATHLETES ON THE BASIS OF THEIR SEX

56. Defendants admit the allegations in ¶ 56.

57. Defendants admit the allegations in ¶ 57.

58. Defendants admit the allegations in ¶ 58.

59. Defendants deny the allegations in ¶ 59.

UCO's Violations of Title IX's Equal Athletic Treatment and Benefits Requirements

60. The statement in ¶ 60 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny Plaintiff's allegations in ¶ 60.

61. The statements in ¶ 61 are conclusory and offer no factual basis in support of the Plaintiffs' claims. Despite their conclusory nature, Defendants deny Plaintiff's allegations in ¶ 61.

62. Defendants deny the allegations in ¶ 62. UCO admits that as reported in its 2020-2021 EADA Report, its unduplicated male student athletes totaled 212 unique male student athletes. UCO admits that its men's varsity football team had 108 male student athletes and its men's varsity wrestling team had a total of 39 male student athletes. UCO admits that the change in the percentage of these two varsity sports as compared to the total of unduplicated male student athletes is immaterial.

63. Defendants deny the allegations in ¶ 63. UCO admits that as reported in its 2020-2021 EADA Report, its unduplicated female student athletes totaled 157 unique female student athletes. UCO admits that its women's cross country, indoor track and field and outdoor track and field teams had a total of 39 unduplicated female student athletes. UCO admits the number of unique female student athletes participating in the UCO track and field program is approximately 25% of the women's athletics program at UCO.

64. The statement in ¶ 64 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 64.

65. The statement in ¶ 65 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 65.

66. The statement in ¶ 66 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 66.

67. The statement in ¶ 67 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 67.

68. The statement in ¶ 68 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 68.

Accommodation of interests and abilities

69. The statement in ¶ 69 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 69.

70. Defendants admit the allegations in ¶ 70.

71. Defendants admit the difference in the participation percentages of men and women student-athletes reported in UCO's 2020-2021 EADA Report as compared to the total number of student athletes is 16.21 basis points.

72. Defendants deny the allegations in ¶ 72.

73. The statement in ¶ 73 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 73.

74. UCO lacks sufficient knowledge to either admit or deny the allegations in ¶ 74.

Provision of equipment and supplies

75. The statement in ¶ 75 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 75.

76. The statement in ¶ 76 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 76.

77. Defendants deny the allegations in ¶ 77. UCO provides each varsity team with sufficient funds to acquire appropriate apparel for each varsity student athlete each year.

78. Defendants admit UCO provides each varsity team with sufficient funds to acquire appropriate apparel for each varsity student athlete each year.

79. Defendants deny the allegations in ¶ 79. UCO provides each varsity team with sufficient funds to acquire new matching uniforms for each varsity student athlete each year. Because student athletes do not own the uniforms, UCO maintains an inventory of prior year uniforms, warm-ups and practice uniforms for each varsity team. Coaches control the distribution of uniforms to team members.

80. Defendants admit that no UCO varsity team, whether men's or women's team, is required to wear mismatched uniforms.

81. Defendants deny the allegation that female student athletes on the women's track and field team were never given matching travel apparel. UCO provides each varsity team with sufficient funds to acquire new matching uniforms for each varsity student athlete each year. Student athletes may choose to wear their own preferred brand of shoe, apparel or equipment as opposed to the items provided and available from UCO.

82. Defendants admit that UCO provides each varsity team, men's and women's teams alike, with sufficient funds to acquire appropriate apparel for each varsity student athlete each year.

83. The statement in ¶ 83 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 83.

84. Defendants deny the allegations in ¶ 84. UCO maintains access to a throwing area that meets NCAA requirements and has access to collegiate level mats, pits and poles for student athletes.

85. UCO admits that each of its varsity teams are provided sufficient funds to obtain and maintain equipment and supplies deemed necessary for the sport.

Scheduling of games and practice times

86. The statement in ¶ 86 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 86.

87. Defendants deny the allegations in ¶ 87. UCO admits that a cross country event being planned by UCO for the Fall 2021 season had to be abandoned due to a conflicting event scheduled by another university that would draw the same competitive teams.

88. Defendants deny the allegations in ¶ 88. UCO admits all of its varsity teams have equal access to UCO weight room facilities.

89. Defendants deny the allegations in ¶ 89. UCO admits that all UCO student athletes are free to use the weight room. All use is subject to non-discriminatory scheduling based on numerous factors including class schedules, sports championship seasons, sport schedules and facility availability. During open, non-scheduled practice times, no team or individual student athlete has preference to the weight room.

90. Defendants deny the allegations in ¶ 90. UCO admits that all UCO student athletes are free to use the weight room subject to non-discriminatory scheduling. During open, non-scheduled practice times, no team or individual student athlete has preference to the weight room.

91. Defendants lack sufficient knowledge to either admit or deny the allegations in ¶ 91. UCO admits that all UCO student athletes are free to use the weight room, subject to non-discriminatory scheduling that takes into account class schedules, sports championship

seasons, sport schedules and facility availability. During open, non-scheduled practice times, no team or individual student athlete has preference to the weight room.

92. Defendants deny the allegations ¶ 92. There is no requirement that a Declaration of Playing Season under Section 17.1.3 of NCAA Bylaws be filed with the NCAA. In addition, the Declaration does not adversely affect pre-season practice. Defendants deny it caused any delay in practice.

93. Defendants admit the allegations in ¶ 93 and further admit that no UCO varsity team – men’s or women’s team – was delayed in beginning practice in the fall of 2022.

Travel and per diem allowance

94. The statement in ¶ 94 is conclusory and offers no factual basis in support of the Plaintiffs’ claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 94.

95. Defendants deny the allegations in ¶ 95. UCO admits that all UCO varsity teams, men’s and women’s alike, may travel by charter buses driven by professional drivers or vans, at the discretion of the coach.

96. Defendants deny the allegations in ¶ 96. The UCO women’s track and field team has traveled by numerous methods including charter bus, airplane, large vans, and other vehicles. UCO admits that it reserved charter buses for the UCO women’s track and field team use for three competitions in 2022; however, the reservations were either canceled by the track & field coach or unused by the coach.

97. UCO admits it does not require any varsity team to use any particular mode of transportation.

98. The statement in ¶ 98 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants lack sufficient knowledge to either admit or deny the conclusory statement.

99. Defendants admit that each varsity team, men's and women's alike, may arrange for overnight stays prior to a competitive event.

100. Defendants deny the allegations in ¶ 100. The UCO women's track and field team is permitted to stay in hotels and has stayed overnight prior to competitive events. The remaining statement in ¶ 100 is conclusory and offers no factual basis in support of Plaintiffs' claims.

101. UCO admits that each varsity team, men's and women's alike, may arrange for overnight stays prior to a competitive event. Defendants deny the remaining statement in ¶ 101, which is conclusory and offers no factual basis in support of Plaintiffs' claims.

Opportunity to receive coaching and academic tutoring

102. The statement in ¶ 102 is conclusory and offers no factual basis in support of Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 102.

103. Defendants deny that its female student athletes receive less specialized instruction than their male student athlete counterparts. UCO admits that all of its varsity programs, except women's and men's golf teams, have multiple coaches.

104. Defendants admit that UCO currently employs seven full-time coaches, three part-time coaches and one graduate assistant coach for its 2022-2023 football team and employs two full-time coaches for its women's track and field team. UCO admits that its 2022-23 football team consists of approximately 100 men. UCO admits that its 2022-23 women's

track and field and cross country teams consist of approximately 24 women. A graduate assistant position for the women's track and field program is unfilled at this time. Defendants deny the remaining allegations in ¶ 104.

Assignment and compensation of coaches and tutors

105. The statement in ¶ 105 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 105.

106. Defendants deny the allegations in paragraph 106 of the Complaint. In 2021, six of the ten highest paid UCO varsity team head coaches coached women's varsity teams.

107. UCO admits that the data contained in the table is the same data provided under certification to the U.S. Department of Education.

108. In response to the allegations in ¶ 108, Defendants admit that compensation of varsity team head coaches fluctuates between sports. Defendants deny that a comparison of average compensation of men's and women's team head coaches provides a meaningful comparison of coach compensation. UCO admits that using actual compensation, six of the ten highest paid UCO varsity team head coaches coach women's varsity teams. Defendants deny the remaining allegations in paragraph 108 of the Complaint.

109. UCO admits that the data contained in the table is the same data provided under certification to the U.S. Department of Education.

110. Defendants deny the allegations in paragraph 110. UCO hires high quality, successful coaches who have coached UCO's women's varsity teams to three national championships and eight conference championships in the past 4 years.

111. The statement in ¶ 111 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 111.

112. Defendants deny the allegations in ¶ 112. UCO admits that its men's football team has one graduate assistant coach.

Provision of locker rooms, practice and competitive facilities

113. The statement in ¶ 113 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 113.

114. In response to ¶ 114, Defendants admit that each of UCO's men's varsity teams, with the exception of the men's golf team, has a locker room available on a non-exclusive basis. UCO admits that locker room facilities for men's basketball, women's basketball, men's wrestling, men's baseball, women's softball, women's volleyball, women's tennis and women's soccer teams were remodeled or completed within the past four years.

115. Defendants deny the allegations in ¶ 115. UCO provides private locker rooms for each of its women's varsity teams, except its women's golf team, to use on a non-exclusive basis. UCO admits that women's locker rooms were either built or remodeled at the same time as men's locker rooms located within the same building.

116. Defendants deny the allegations in ¶ 116. The UCO women's track and field teams have had a designated locker room since February 2020.

117. Defendants deny the allegations in ¶ 117. No UCO varsity team has exclusive use of any locker room when not in use by the team. All UCO locker rooms – men's and women's teams alike – are subject to use by visiting teams of other sports and other activities on campus when not in use by the team assigned to the locker room.

118. Defendants deny the allegation that its men's football and wrestling teams locker room facilities offer greater amenities than those provided to UCO women's varsity teams. UCO admits that its women's varsity team locker rooms are provided equivalent amenities as those provided to men's varsity team locker rooms. Defendants deny that any locker room has a kitchen or vending machines.

119. Defendants deny the allegations in ¶ 119. UCO admits that many of its women's varsity sports are provided locker room facilities that provide equivalent amenities as those described in the Complaint. UCO admits that its women's varsity track and field teams have had a locker room available since February 2020.

120. Defendants deny that its women's track and field teams are not provided designated practice space on campus. UCO admits that it may lack sufficient space to construct a collegiate level outdoor track facility on its campus and that, due to this space constraint, its women's track and field team practices at collegiate competitive level track facilities owned by Edmond Public Schools and McGuinness High School. UCO admits that its women's track and field team has access to the weight room, Chad Richison Stadium field turf, Hamilton Fieldhouse, the Sports Performance Center Annex and throwing area for on-campus training purposes.

121. UCO admits that it provides both male and female student athletes intercollegiate practice areas on its campus, except for the men's and women's golf teams and the women's rowing team.

122. Defendants deny the allegations in ¶ 122. The track facility used by the UCO women's track and field teams meets NCAA facility construction requirements to host an intercollegiate track and field event.

123. Defendants deny the allegations in ¶ 123. UCO admits that the track and field team stores team equipment in a storage container on site at the practice facility to avoid transportation of such equipment before and after each practice. Individual student athletes are not required to store their practice gear in the container, but are free to do so at their option.

124. Defendants deny the allegations in ¶ 124. UCO admits that its women's outdoor track and field team has access to an outdoor intercollegiate level facility with lights. Practice times at the facility are subject to mutually agreeable times between UCO and Edmond Public Schools. UCO admits that all outdoor athletic facilities used by men's and women's varsity sports teams on its campus have lights.

125. Defendants deny the allegations in ¶ 125. UCO admits that for the Spring 2022 season, Edmond Public Schools removed nets around the throwing ring for facility maintenance purposes. UCO purchased and installed the necessary equipment on its campus in order to provide the student athletes practice facilities for the remainder of the 2022 season.

126. Defendants deny the allegations in ¶ 126. The women's indoor and outdoor track and field student athletes had access to high jump and pole vault pits for the entire 2021-2022 season at an alternate facility when not available at the Edmond Public Schools facility.

127. Defendants deny the allegations in ¶ 127. UCO admits it had multiple competitors in High Jump during the 2020-2021 indoor and outdoor season, including a National Qualifier competing in High Jump during the 2020-2021 indoor season.

128. Defendants deny the allegations in ¶ 128. UCO admits that its women's indoor track and field team is permitted to practice in the UCO Hamilton Field House when weather does not permit outdoor practice. Because Hamilton Field House is shared with multiple women's and men's sports, any team must coordinate use of the facility with other indoor teams or, if the team chooses to practice during times previously reserved by another sport, that team must share the space with the other team. Defendants deny the allegation that the track and field team is required to clean the facility before they can start practice.

129. UCO admits that it does not have an indoor space that can accommodate indoor weight throws.

130. Defendants deny the allegations in ¶ 130. UCO has constructed an outdoor throwing practice area that provides student athletes the opportunity to practice. The driveway adjacent to the practice area is not open to public vehicular traffic and is only used by UCO maintenance personnel.

131. Defendants deny the allegations in ¶ 131. UCO admits that its indoor hitting facility is adjacent to the track and field practice throwing area. UCO denies that it is common practice for men's baseball student athletes to walk through the throwing practice area during track and field practice.

132. UCO admits it provides competitive facilities on campus for each varsity sport except men's golf, women's golf, women's rowing and women's track and field.

133. UCO admits that the turf field at the Chad Richison Stadium was replaced during Summer 2022. UCO admits that the UCO Sports Performance Center, which was completed in 2018, includes a weight room, team meeting rooms, tutoring space, and athletic training facilities that are available to all student athletes on a non-discriminatory basis. UCO admits the facilities are used regularly by the women's cross country and track and field teams. UCO admits that expanded visitor seating, visitor concessions, and a water feature at the stadium were completed in August 2022.

134. Defendants deny the allegations in ¶ 134. UCO admits that in addition to women's golf team, the UCO women's rowing team practices and trains at a facility that is not located on the UCO Edmond campus.

135. UCO admits that due to land constraints, it does not have adequate space on campus to construct an intercollegiate level track facility. UCO admits that all student athletes have access to the Sports Performance Center weight room and the Chad Richison Stadium field turf. UCO admits that it leases a facility that meets NCAA facility construction requirements for hosting intercollegiate track and field events from Edmond Public Schools.

136. Defendants deny the allegations in ¶ 136. UCO admits that it has previously hosted annual indoor track meets at the University of Oklahoma indoor track facility.

137. Defendants deny the allegations in ¶ 137. UCO provides its women's softball, women's soccer and women's rowing teams with competitive facilities that are equivalent to or better than the facilities available to the men's football team.

138. Defendants deny the allegations in ¶ 138. UCO admits that there are three intercollegiate level track and field facilities within five to ten minutes from the UCO campus.

UCO admits that its women's track and field team has attended competitions in Missouri, Kansas and Oklahoma and has sponsored competitions in Oklahoma. UCO admits that all varsity sports teams, men's and women's alike, have a mix of home and away competitions.

Provision of medical and training services

139. The statement in ¶ 139 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 139.

140. Defendants deny the allegations in ¶ 140. UCO admits that athletic trainers are available for any varsity team practice on a non-discriminatory basis. UCO further admits that all full-time coaches are required to maintain current certification in first aid, cardiopulmonary resuscitation ("CPR") and automatic external defibrillator ("AED") use in accordance with NCAA Division II Sport Safety Training requirements.

141. Defendants deny the allegations in ¶ 141. UCO athletic trainers are available for any varsity team practice on a non-discriminatory basis.

142. Defendants deny the allegations in ¶ 142. UCO athletic trainers are available for any varsity team practice on a non-discriminatory basis. UCO admits that each varsity sport is required to have medical supplies available at each practice and competition. Defendants deny the allegation that men's teams are exempt from this requirement.

Publicity

143. The statement in ¶ 143 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 143.

144. Defendants deny the allegations in ¶ 144. UCO publicizes all varsity sports on a non-discriminatory basis.

145. Defendants deny the allegations in ¶ 145. UCO admits that it maintains official Athletics Department social media accounts on several platforms. UCO admits that posts to the Athletics Department social media accounts are made for each varsity team on a non-discriminatory basis. UCO admits that each varsity team is permitted to create its own social media accounts and posts to individual team accounts are prepared and posted by the coaching staff, graduate assistants, and/or student athletes of each individual program. UCO admits that some teams post more regularly to their team accounts than other teams.

146. Defendants deny the allegations in ¶ 146. UCO admits that posts to the official UCO Athletics Department social media accounts are made for each varsity team on a non-discriminatory basis.

147. Defendants deny the allegations is ¶ 147. UCO admits that it provides photographers for each varsity team on a non-discriminatory basis for roster and team photos. UCO admits that the Assistant Athletic Director of Media Relations coordinates a media day with photo services.

Recruiting

148. The statement in ¶ 148 is conclusory and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 148.

149. Defendants deny the allegations in ¶ 149. UCO admits that each varsity team is provided a budget based on nondiscriminatory factors.

150. Defendants admit the table produced in ¶ 150 represents the data submitted by UCO to the U. S. Department of Education.

151. Defendants admit that the calculations in ¶ 151 appear to be accurately performed using data from the chart associated with year 2020. Defendants deny that its student athlete recruiting expenses are based on any discriminatory intent.

152. Because there is no description of the time period over which the averages alleged in ¶ 152 were calculated, Defendants can neither admit nor deny the allegations in ¶ 152.

Plaintiffs' allegations of retaliation

153. Defendants deny the allegations in ¶ 153.

154. Defendants admit that UCO's Athletics Director Stan Wagnon and UCO Coordinator of Compliance Sheridan Leake met with members of the women's cross country, indoor track and field and outdoor track and field teams to discuss several aspects of the teams' operations on February 9, 2022, including team issues with the current coach.

155. Defendants admit that the women's track and field and cross country teams were discontinued at the end of the Spring 2000 semester. UCO admits that its women's cross country team was added back beginning in Fall 2003. UCO admits that its women's track and field teams were added back in Spring 2010. Defendants deny the allegation that AD Wagnon stated the teams were not wanted and Defendants further deny the allegation that UCO's track and field and cross country teams have been treated as though they were not wanted.

156. Defendants deny the allegations in ¶ 156.

157. Defendants admit that UCO considered hiring an outside consultant to investigate the women's track and field and cross country teams' complaints about the then-

current head coach and other concerns raised by certain members of the women's track and field team.

158. Defendants deny the allegations in ¶ 158. UCO admits communications took place between the track and field student athletes and former coach Brennan, Assistant AD Melissa Paul and the Student Athlete Advisory Committee during the time period referenced in ¶ 158.

159. Defendants admit UCO received a letter from Plaintiff's counsel on May 16, 2022. The content of the letter speaks for itself.

160. Defendants admit UCO sent a response to Plaintiff's counsel on May 19, 2022. The content of the letter will speak for itself.

161. Defendants admit UCO sent a response to Plaintiff's counsel on June 14, 2022. Defendants deny that the letter contained any false information.

162. Defendants deny the allegations in ¶ 162. UCO admits it terminated Ms. Brennan for cause on June 17, 2022. Defendants deny such termination was in retaliation for non-coaching related concerns raised by student athletes. Defendants deny the female students were without a coach during the Summer 2022. The assistant coach, who had been coaching the cross country team without Coach Brennan's assistance prior to her termination, took on more responsibility in the interim while head coach candidates were interviewed and evaluated during the summer of 2022. Defendants deny the allegation the teams were in disarray.

163. Defendants deny the allegations in ¶ 163. UCO admits that AD Wagnon communicated to the members of the track and field and cross country teams that Coach M. Brennan had been terminated for cause and that a search would be conducted for a new head

coach with the intent to complete the search and have a new coach in place prior to the start of the Fall 2022 semester. UCO admits Jeremy Rogers and Melissa Paul were in attendance.

164. Defendants deny the allegations in ¶ 164. UCO admits that Mr. Rogers, Director of Compliance, described options for student athletes available under NCAA rules.

165. Defendants deny the allegation in ¶ 165 that the opportunities, treatment and/or benefits provided to the UCO women's cross country and track and field teams require improvement. UCO admits the June 21 Zoom meeting focused on issues of coaching and student athlete participation options following the termination of coach Brennan, including each student athlete's ability to remain at UCO under a new coach as well as transfer options if they chose to leave UCO.

166. Defendants deny the allegations in ¶ 166. UCO admits that it terminated coach Brennan for cause and denies such termination was in retaliation for student athletes voicing concerns, other than their concerns specifically related to actions of Coach Brennan.

167. Defendants deny the allegations in ¶ 167. UCO admits that many individuals including current and former women's cross country and track and field student athletes and others with connections to the program have renewed confidence and are optimistic about opportunities under a new coach.

168. Defendants lack sufficient knowledge to either admit or deny the allegations in ¶ 168. UCO admits that many women's track and field student athletes have renewed confidence and are optimistic about opportunities under a new coach.

169. Defendants admit that it hired Gus Schmader as its new women's track and field and cross country coach after a nationwide search for qualified candidates. UCO admits Mr. Schmader was the most qualified applicant following the nationwide search.

170. Defendants deny the allegations in ¶ 170. Defendants deny that UCO failed to file any required paperwork with the NCAA regarding any of its varsity teams, including women's track and field, and denies the allegation that there is a NCAA requirement to file paperwork with the NCAA as a prerequisite to starting practice. UCO admits that prior to the start of the Championship season, track and field student athletes could participate in out-of-season countable athletically related activities beginning August 26, 2022. UCO further admits that for dual sport Track and Field student athletes that also participate in Cross Country, their first date of permissible practice during the championship segment was August 15, 2022.

171. Defendants deny the allegations in ¶ 171. Defendants deny that UCO failed to file any required paperwork with the NCAA regarding any of its varsity teams, including women's track and field, and denies the allegation that there is a NCAA requirement to file paperwork with the NCAA as a prerequisite to starting practice. UCO admits that prior to the start of the Championship season, track and field student athletes may participate in out-of-season countable athletically related activities starting beginning August 26, 2022. UCO further admits that for dual sport Track and Field student athletes that also participate in Cross Country, their first date of permissible practice during the championship segment was August 15, 2022.

172. Defendants deny the allegations in ¶ 172. UCO specifically denies the allegation that the season start date was in any way related to student athlete concerns and denies the allegation that the start date discriminates against any student athlete or program.

173. Defendants deny the allegations in ¶ 173. UCO admits that its new head coach for women's track and field is qualified to coach field throwing events. No other individual was offered a throwing coach position in April 2022.

174. The statement in ¶ 174 is conclusory and/or legal argument and offers no factual basis in support of the Plaintiffs' claims. Despite its conclusory nature, Defendants deny the allegations in ¶ 174.

175. Defendants deny the allegations in ¶ 175.

CLASS ALLEGATIONS

176. In response to ¶176, Defendants deny that class treatment is warranted or appropriate, but admit that Plaintiffs purport to bring this case as a class action.

177. Defendants deny the allegations in ¶177 as untrue, except to admit that Plaintiffs purport to represent a class of all current and future female varsity student-athletes at UCO. Defendants deny that class treatment is warranted or appropriate.

178. Defendants deny the allegations in ¶178 as untrue, except to admit that Plaintiffs purport to represent a class of all current and future female varsity student-athletes at UCO. Defendants deny that class treatment is warranted or appropriate.

179. Defendants deny the allegations in ¶179.

180. Defendants deny the allegations in ¶180.

181. Defendants deny the allegations in ¶181.

182. Defendants deny the allegations in ¶ 182.

183. Defendants deny the allegations in ¶ 183.

184. Defendants deny the allegations in ¶ 184.

185. Defendants deny the allegations in ¶ 185.

186. Defendants deny the allegations in ¶ 186.

187. Defendants deny the allegations in ¶ 187.

188. Defendants deny that UCO has, or is continuing to violate Title IX. Defendants are without sufficient information to admit or deny the remaining allegations in ¶ 188.

189. Defendants deny the allegations in ¶ 189.

190. Defendants deny the allegations in ¶ 190.

191. Defendants deny the allegations in ¶ 191.

192. Defendants deny the allegations in ¶ 192.

193. Defendants are without sufficient information to admit or deny the allegations in ¶ 193.

Count I – Title IX: Unequal Treatment and Benefits

194. In response to ¶ 194, Defendants incorporate their answers to all of the preceding allegations as if fully set forth herein.

195. In response to ¶ 195, Defendants deny class action is warranted or appropriate, but admit Plaintiffs purport to bring this case as a class action.

196. Defendants admit the allegations in ¶ 196.

197. In response to ¶ 197, Defendants deny Plaintiffs have accurately characterized the requirements of Title IX to this case, and further states that the cited laws and regulations speak for themselves.

198. Defendants deny the allegations in ¶ 198.

199. Defendants deny the allegations in ¶ 199.

200. Defendants deny the allegations in ¶ 200.

Count II – Title IX Retaliation

201. Defendants deny the allegations in ¶ 201.

202. In response to ¶ 202, Defendants incorporate their answers to all of the preceding allegations as if fully set forth herein.

203. In response to ¶ 203, Defendants deny Plaintiffs have accurately characterized the requirements of Title IX to this case, and further states that the cited laws and regulations speak for themselves.

204. Defendants admit Plaintiffs met with UCO's AD, but denies the remaining allegations in ¶ 204.

205. Defendants deny the allegations in ¶ 205.

206. Defendants deny the allegations in ¶ 206.

207. Defendants deny the allegations in ¶ 207.

208. Defendants deny the allegations in ¶ 208.

209. Defendants deny the allegations in ¶ 209.

In response to Plaintiffs' Prayer for Relief, Defendants deny Plaintiffs are entitled to any of the requested relief.

DEFENDANTS' AFFIRMATIVE AND OTHER DEFENSES

1. Defendants did not discriminate or retaliate against Plaintiffs.
2. Plaintiffs failed to mitigate their damages.
3. All actions by Defendants regarding Plaintiffs were non-discriminatory, done in good faith and done for legitimate business reasons.
4. Plaintiffs have failed to state a claim upon which relief can be granted.
5. Plaintiffs' claims are barred in whole or in part by qualified immunity.
6. At all times, Defendants acted properly, and their actions were justified.
7. Eleventh Amendment immunity as to the State of Oklahoma and its agencies.
8. Sovereign immunity pursuant to the Tenth Amendment to the U.S. Constitution.
9. Plaintiffs' claims are barred in whole or in part by the applicable statute of limitations.
10. Plaintiffs lack standing to assert all or some of their claims as they suffered no cognizable injury from any alleged violation.
11. Plaintiffs' claims, in whole or in part, are barred by the doctrines of estoppel, laches and/or unclean hands.
12. At all times relevant to this lawsuit, Defendants acted in good faith with regard to Plaintiffs and had reasonable grounds for believing their actions were not in violation of any law and were in compliance with applicable legal requirements, including regulatory guidance issued by the U.S. Department of Education.

13. Plaintiffs claims are barred because any damages suffered by Plaintiffs were not proximately caused by Defendants.

14. Applicable law does not permit Plaintiffs to recover future damages.

15. Applicable law does not permit Plaintiffs to recover consequential, incidental of other monetary damages or non-equitable relief.

16. Preliminary and/or permanent injunctive relief is not appropriate.

17. Any alleged injuries suffered by Plaintiffs were not foreseeable.

18. To the extent that Plaintiffs pursue unfounded claims and claims for which they rely upon facts known to be untrue, and intentionally present facts in a misleading fashion to the Court that are frivolous at best, Defendants will pursue costs and fees from Plaintiffs.

19. Defendants reserve the right to amend and supplement these defenses as discovery ensues.

Wherefore, Defendants pray that Judgment be rendered in favor of Defendants, that Plaintiffs take nothing by way of their Complaint, and that Defendants be awarded their costs incurred, as well as such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Dixie L. Coffey

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November 2022, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. I further that a true and correct copy of the foregoing document was sent via the ECF System to counsel of record who are registered participants.

/s/Dixie L. Coffey

Dixie L. Coffey