

January 28, 2015

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United States Department of Education
Citigroup Center

Attn: Office for Civil Rights

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RE: Chandler Ackers, Jessy Silfer, Natalie Cafone and Dani Hemeon on behalf of themselves and others similarly situated v. The University of Iowa.

Director of Office for Civil Rights:

Please consider this a civil rights complaint filed against the University of Iowa¹ by four current female student athletes who have been subjected to the discriminatory application of policies and practices within the University of Iowa.

These practices have and will continue to result in the removal of highly qualified female coaches, including but not limited to Complainants' coach Tracey Griesbaum who was terminated on August 4, 2014. The University of Iowa's actions are thereby denying female student athletes the benefits of their student-athlete experience because of sex in violation of Title IX.

An informal investigation shows that the removals of six highly qualified female coaches from December 2008 to August 2014 resulted from discriminatory practices and decision-making because of sex at the University of Iowa by its Athletic Department under the supervision of the current Athletic Director, Gary Barta.

The key practices motivated by sex or gender stereotypes that have harmed student athletes are:

1. The University investigates and treats differently male and female student athletes who raise concerns about their athletic experience.
2. The University investigates and treats differently male and female coaches who are the object of complaints made by male and female student athletes.
3. The University engages in different practices and standards when investigating female coaches.
4. The University permits males to engage in different coaching methods and treatment of athletes than females.
5. The University generally holds female coaches to a higher or different standard than male coaches.

¹ The University of Iowa, Office of the President, 101 Jessup Hall, Iowa City, Iowa 52242-1316, Phone Number: 319-335-3549. The University of Iowa is an extension of the State of Iowa and represented by the Iowa Attorney General's Office.

6. The University has engaged in a pattern of removing highly qualified female coaches because of gender.
7. The University refuses to investigate allegations of discrimination or violations of Title IX when raised by student athletes.

Complainants allege that the University of Iowa has discriminated against them on the basis of sex by engaging in these and other practices that either are discriminatory or have discriminatory effects, in violation of Title IX of the Civil Rights Act of 1964 and its regulations. 20 U.S.C. §§ 1681-1688; 34 C.F.R. Pt. 100, App. B.

Counterintuitive Issues of Gender Bias

There are a number of seemingly counterintuitive concepts and other foundations that are therefore necessary to properly identify how gender bias is in play and harming the experience of student athletes in violation of Title IX.²

Title IX has long been used as a means to regulate the denial of facilities or scholarships or the pay of coaches. This “top down” approach has often overlooked how those differences in the distribution of resources reflect the operation of gender stereotypes or gender bias. The harm from gender biases, double standards and stereotypes are the primary source of continued inequality in collegiate athletics.

Regardless of how Title IX has been applied to deal with differences in numbers – pay, facilities, scholarships – there is no question Title IX protects female student athletes and female coaches from *gender discrimination*. In a broad sense, this protection can mean ensuring that female student athletes are entitled to the same experience as male student athletes. While that has been

² One counterintuitive set of facts might be that females (SA’s) are complaining about females (coaches) and/or that Tracey Griesbaum (female) was replaced by a female and/or that there were females in the decision-making process within administration. Therefore, with women involved how can gender bias be present and working adversely to women? These issues can easily be explained and these facts do not undermine the presence of gender bias, but either support it or at fit clearly within the pattern of how we expect gender bias or stereotype to flow within a system that has women present but is controlled by male decision-makers. For example, young female SA’s, just like their parents, can hold female leaders to a different standard than males. Therefore, complaints by one female toward another does not mean gender bias is not at work. Further, it is the reaction of administration to the complaints of young female SA’s that is the major source of gender bias, not just the fact that a complaint was made. Regarding Coach Griesbaum being replaced by a female, we all should know that stereotypes can easily result in one *type of female* being preferred over another and indeed, that concept is at the very heart of a stereotype or double standard. One minute the “softer” female is preferred and/or the “harder” female is no longer is welcome, but in each case the opposite can be true. The point is that administration is making choices about the type of woman they require, rather than the type of person. Further, when dealing with gender bias and stereotype, other females in administration can hold each other to different standards based on gender bias or react more strongly to a complaint about a woman compared to a man because of expectations about how women are supposed to care for young adults compare to men. However, it is also clear in this case that women were at best carrying water for males in positions of power and that Gary Barta and Fred Mimms (two males) were the persons with the most influence over these processes.

focused on providing them with a decent playing field or comparable coach, it is clearly more than that. It means that female student athletes should be entitled to the same level of competitiveness experienced by males and it certainly means female student athletes should not be coddled or dismissed as secondary to male student athletes based on outdated or patronizing views of the role of women. It, of course, means that female students and coaches should not be treated differently from male students or male coaches.

Gender bias is also not specific to a student or to a coach. Gender bias flows around *women*. It can flow differently around different women. It flows in a manner where bias that adversely affects one woman will also adversely affect another. That is true even if, on the surface, one woman *appears to benefit* from action taken against the other women because of gender bias.

To fire female coaches for using coaching methods that are *exactly the same* as methods used by male coaches is gender discrimination. This creates harm to the female coach, of course, but it undermines the right of female student athletes to receive a similar experience to male student athletes simply because of their sex and/or the sex of their coach.³

Title IX guarantees that female student athletes will not have the benefits of their participation in athletics—uniforms, scholarships, facilities and *coaching staff*—denied or removed because of gender.

This Complaint does not suggest the Complainants believe they are entitled to a *specific* coach. Coaches may voluntarily or involuntarily leave for a variety of reasons that have nothing to do with sex. However, Title IX ensures that their benefits as student athletes, including coaches, are not removed or fired because of gender or sex. Removing Women's Field Hockey Coach Tracey Griesbaum because of her gender is just as much a violation of Title IX as taking away the team's uniforms because of gender.

This removal harms female student athletes because Coach Griesbaum met the highest standard of coaching. While it is a clear detriment to the team to lose the skills and experience of Coach Griesbaum compared with her replacement (a coach without any head coaching experience), even if Coach Griesbaum was replaced someone who had *exactly* the same experience or ability, the student athletes' rights would be violated by the removal of their coach because of sex, or gender stereotypes. Further, the issue at this stage is not the degree of harm, but the *fact of harm* resulting from gender bias.⁴

³ If we fire a coach because their methods *appear* harsh or *appear* mean, or *appear* intimidating to a female student athlete because we think the female is sensitive or cannot take it or because of gender stereotypes about the female student athlete, then we are firing the coach because of the *gender*, or *sex* of the student athlete. If we fire a coach because her methods *appear* harsh or *appear* mean because we apply a double standard or gender stereotype to the female coach then we are firing the coach because of gender. In this case, we have both in play and either way, the source of the problem is gender or sex.

⁴ For example, if Pat Summit (1000 wins) is fired because she is female, or because of gender stereotypes about her methods of coaching, but she is replaced by John Calipari, the fact that the female team may still have a competitive program because of a similar skill set of the head coach does not undermine the harm done by removing coach of a female team because she is female. Of course, Tracey Griesbaum clearly has much greater head coaching experience than her replacement in this case.

Within this Complaint there is evidence of a pattern of treatment affecting several female coaches. This evidence is here because the fundamental question regarding whether the Complainant's or other SA's rights were violated concerns sex or gender. One of the primary sources of evidence showing that sex was involved is that Coach Griesbaum is simply the latest in a disturbing pattern. From 2008 to 2014, five other highly qualified female coaches were also removed or otherwise subjected to discrimination because they are female and/or because their student athletes were female.⁵ While such a pattern should not be necessary to show gender discrimination, it is evidence that is disturbing on a number of levels.⁶

There is also evidence that when females or their parents complain about strong female coaches, those complaints about that female coach result in an exaggerated response by the University. Those complaints are then investigated entirely out of proportion to the facts or the actual risk to the student athletes. This often occurs when a female student athlete or a parent uses pejorative labels at risk from stereotype without facts to support them. Labels such as "bully" or "abusive" or "intimidating."

When male student athletes are actually physically harmed by the behavior of male coaches (13 male football players put into the hospital⁷), the University not only supported the male coach who physically harmed the athletes by assuming the coach acted in good faith, but honored him by giving him coach of the year⁸.

⁵ The University may claim, for example, that they fired these coaches because they had more complaints by SA's than males. However, this is simply the operation of gender stereotypes toward female student athletes as the number of complaints for coaches of female teams and particularly female coaches of female teams will always be higher given that the players, the parents and administration place different standards on female leaders to manage or reduce the risk of minor injury or emotional injury to young females.

⁶ The University may point out that five of these coaches were also gay. That does not undermine in the slightest that the behavior toward these women was primarily based on gender. There is a clear connection between gender stereotypes and the fact that several of these coaches were also gay women. Stereotypes have long associated male behavior positively with leadership and female behavior with being limited to nurturing or family. Each of these gay women became subject to discrimination when they were *expected to resolve the emotional concerns* of young females (investigated, pushed out or terminated because of SA complaints) and/or when they each attempted to exercise their rights to start or maintain a *family* relationship. One of the coaches adopted children, another got married and a third moved in with their partner. Therefore, on the one hand exhibiting more agentic behavior (male) is necessary for women (gay or not) to be accepted as a coach at any level. However, these women were then harmed or punished by both a) the perceived failure to step away from agentic behavior when preventing emotional upset of female students, and also b) when they intentionally sought to step away from agentic behavior by starting a family or getting married. Therefore, while Coach Griesbaum may have a separate claim for bias related to sexual orientation, it should be clear that the issues in this case are all clearly and primarily connected to gender bias, stereotypes and double standards.

⁷ <http://usatoday30.usatoday.com/sports/college/football/story/2012-06-27/iowa-rhabdo-football-players-hospitalized/55866740/1>

⁸ http://espn.go.com/blog/bigten/tag/_/name/chris-doyle

Further, when female student athletes (such as the Complainants) questioned their rights under Title IX and questioned potential discrimination or violations of their rights by males in leadership roles, their inquiries were ignored and dismissed.

Therefore, in addition to the pattern of gender discrimination toward female leaders, it is also clear that regardless of whether the *source* of the complaint is male or female, the reaction of administration to that complaint is both different and harmful.

Indeed, an exaggerated response to a female complaining about a female leader because of gender stereotypes harms not only the coach, but also the other non-complaining teammates of the few complaining females. These complaints enabled by the University interferes with the playing experience of the females on the team who *continue to approve of the coaching methods of the female coach that are proper and have allowed them to remain competitive.*

The University's stereotype-motivated reaction to a minority group of females on the team emotionally upset by the methods of the female coach *also harms the females who complained.* It enables stereotypes about them as well as the coach and completely undermines the experience of the entire team. It also does nothing to protect the females from actual abuse or harm. Finally, it also harms the male student athletes who may desire to report actual abuse or harm, but are dismissed because of gender stereotypes that associate their reporting with *being more like women than men.*

It is clear at the University of Iowa responds differently depending on whether the object of the complaint is male or female. The response is different and powered by gender stereotype. It is also clear that the response is different and powered by gender stereotype depending on whether the source of the complaint is male or female. Either situation results in harm to female coaches and female student athletes and has resulted in harm to the Complainants, their team and to all women's programs at the University of Iowa.⁹

⁹ The gender bias that filters information in response to the complaint of a student athlete toward a female coach (negatively toward the female coach) will also work in reverse or in a way that will continue to harm female students as a whole. When a female student reports allegations of sexual assault toward a male, the complaint of the student is often ignored and one reason is because that complaint is *muted* by the operation of the same gender bias that can exaggerate the concern of the female student when directed toward a female coach. This is part of why the issue of sexual assault has continued despite our agreement (as a society) that women have a right to say "no." This muted reaction to a complaint by a female against a male for sexual assault is simply on other side of the bias coin to what is causing the exaggeration of female complaints when directed at a female in a leadership role. This issue has appeared at Iowa just as it has around the nation. (See- *Iowa Athletic Department Cover-Up of Sexual Assault Investigated* The University of Iowa seems poised to join in ignominy the likes of University of Washington, University of Colorado, ASU, Hofstra and the University of Georgia, all of whom have had to defend their athletic departments in court for covering up rape and sexual assault promulgated by their football players. <http://title-ix.blogspot.com/2008/07/iowa-athletic-department-cover-up-of.html>)

Failure of the University to Investigate as Violation of Title IX

There are a number of reasons why the duty to investigate of a University receiving federal funds is vital to the underlying purpose of Title IX.

- A coach or student athlete only has 180 days to determine whether to file a complaint on issues that are often beyond the knowledge of the coach or student or dependent on the University to educate the coach or student about their rights under Title IX.
- Even with standard training, as discrimination has become more subtle or bias more implicit, it is often difficult for a female coach or student athlete to identify how gender bias has affected them.
- Most coaches and students will ask the University to investigate as their goal is not to file complaints or seek lawyers, but just to fix the problem. Permitting these internal remedies to run their course causes delays and risks the 180 days running.
- Often only the University has immediate access to information – including statistics, the substance of complaints, protocol, coaching methods, and witnesses – necessary to review the matter and provide a remedy.¹⁰
- The Office of Civil Rights also has limited resources to investigate discrimination claims and as a matter of policy should require that a University conduct an investigation as part of its obligations under Title IX or risk creating evidence of knowledge or intent.¹¹

¹⁰ In addition to access to the same social science cited throughout this Complaint and knowledge of stereotypes generally, the University itself has access to experts on its own faculty including:

- <http://clas.uiowa.edu/sociology/people/kevin-t-leicht> (Kevin Leicht's interests include sociology of work, organizations and organization theory, social stratification, and political sociology. His current research is examining gender inequality among professionals;
- <http://clas.uiowa.edu/sociology/people/michael-lovaglia> (Current research projects involve power in exchange networks, group process effects on IQ scores, the effects of emotions on status processes, and explaining why more women than men now attend colleges and universities. A new project, Best Schools for Athletes, investigates how schools can promote athletic and academic excellence without compromising either goal.)
- <http://clas.uiowa.edu/sociology/people/sarah-harkness> (Her research and teaching interests include: social psychology, inequality, gender and intersectionality, health, and quantitative methods.)
- <http://clas.uiowa.edu/sociology/people/karen-heimer> (Karen Heimer conducts research and teaches in the areas of gender and violence, criminal punishment, and criminology. She is currently conducting research on gender differences in violent victimization and offending, as well as on gender, race and imprisonment in the United States.)

¹¹ Evidence that an employer failed to investigate in light of actual or constructive knowledge of discrimination can be evidence of discrimination. See *Chauffeurs, Teamsters and Helpers, Local Union No. 238 v. Iowa Civil Rights Commission*, 394 N.W.2d 375, 381 (1986); *Davis v. National Railroad Passenger Corporation*, 733 F. Supp. 2d 474, 487 (Del. 2010); *Coley v. Consolidated Rail Corp.* 561 F.Supp 645, 651 (E. D. Mich 1982); *Dunn v. Wash. Cnty. Hosp.*, 429 F.3d 689, 692 (7th Cir.2005).

- The refusal of a University that is accepting federal funds to investigate good faith concerns of discrimination toward a coach or a program places women at high risk of continued discrimination and/or interferes with remedies, which should be itself a direct violation of Title IX.

These Complainants have asked the University of Iowa on no less than three separate occasions from August 2014 to November 2014, to investigate what happened to Coach Griesbaum, to determine if gender was a factor in her removal and to inquire about their rights under Title IX. The University has not only refused to investigate, it has responded in what can only be described as a patronizing manner. The athletic director has used emotional arguments such as “your coach will be fine,” and have tried to influence the players by providing them iPads. The University has also suggested they cannot help them while “Tracey Griesbaum may be suing the University,” and tried to dissuade them from appealing to another authority by telling them their complaints are not protected under Title IX.

The four Complainants are asking the Office for Civil Rights to intervene and investigate the patterns of gender discrimination that resulted in the removal of not only Tracey Griesbaum, but a series of strong female coaches.¹²

Complainants ask that the Office for Civil Rights investigate how the response to player complaints (male and female) has placed not only a number of female coaches at risk, but threatens to undermine the competitive experience of those female student athletes who remain at the University of Iowa.

The above-named Complainants therefore file this Office for Civil Rights Complaint on behalf of themselves and all other similarly situated student athletes.

Context for Details and Witnesses Identified in Complaint

The information in this Complaint has been collected through a variety of sources. Complainants are fact witnesses for their experiences on the team, for their efforts to obtain an investigation from the University of Iowa and certain other observed differences in treatment such as the attempt to provide iPads to the Field Hockey team as a bribe in response to their first attempt to ask the University of Iowa for an investigation. The Complainants are also witnesses to the expectations and desire to have access to coaching methods that are comparable to that of male student athletes and the harm that results from the removal of Tracey Griesbaum because of her gender.

The vast bulk of other information is in the possession of the witnesses to these events that are either obvious from the context provided or that are indicated in footnotes or in the witness list attached to this complaint.

¹² The need to investigate the pattern prior to Tracey Griesbaum is required because a) it provides strong evidence that *gender or sex* was behind the removal of their coach and a severe risk in this Administration, b) the pattern of removing strong females has now affected the current and long term experience of females at Iowa by inducing fear and into all women’s sports and c) the level of sanction or remedy necessary to repair undo the harm may depend on the depth of the violation or problem.