

U.S. Department of Justice
Civil Rights Division



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March 18, 2024

Via Electronic Mail

Dr. Valerie Sheares Ashby
President
University of Maryland, Baltimore County
1000 Hilltop Circle
Baltimore, MD 21250

Re: Title IX Investigation of University of Maryland, Baltimore County

Dear President Sheares Ashby:

We write regarding the U.S. Department of Justice's (the Department) investigation into University of Maryland, Baltimore County (the University) under Title IX of the Education Amendments of 1972 (Title IX) as amended, 20 U.S.C. §§ 1681 *et seq.*, and the Department's implementing regulations, 28 C.F.R. pt. 54, which prohibit sex discrimination in education programs or activities of recipients of federal financial assistance. The Department opened its initial investigation in November 2020, in response to allegations that the University failed to comply with its obligations under Title IX to respond to reports of student sexual assault. During the course of that review, the Department received allegations that a former head coach of the University's men's and women's Swimming and Diving Team, Chad Cradock (the Head Coach), had sexually abused and discriminated against those student-athletes, and that the University knew of this sex discrimination but did not respond adequately. The Department expanded its investigation to include these allegations.

As described in detail below, the Department determined that the University did not comply with its Title IX obligations in its response to known allegations of sex discrimination in its Athletics Department. In particular, our investigation revealed that the University failed to sufficiently oversee its Athletics Department and did not devote adequate resources to its Title IX compliance efforts, which enabled the Head Coach to engage in sex-based harassment, including unwanted sexual touching of male student-athletes, as well as sex discrimination against female student-athletes, on an ongoing basis for years. From approximately 2015 to 2020, the University was on notice of allegations that these student-athletes had been subjected to a hostile environment based on sex but failed to address it adequately. As a result, many student-athletes were subjected to sex discrimination, including unwanted sexual touching and other sexual harassment, which they understood to be a condition for participating in University athletics. Although the Head Coach was placed on leave in October 2020, and later died in March 2021, the findings described

in this letter show University-wide failures well beyond the conduct of this coach that left student-athletes vulnerable to ongoing sexual harassment. As a result, the Department has concluded that the University must take affirmative steps to remedy these failures and come into compliance with Title IX.

The Department's conclusions are based on an investigation that included extensive outreach, four on-campus visits, and review of nearly 200,000 pages of documents, including over 100,000 pages related to allegations of sex discrimination within the men's and women's Swimming and Diving Team. The Department spoke with former and current students, University administrators, Athletics Department staff, and others, for a total of 70 interviews. We appreciate the University's cooperation throughout the course of the investigation.

Although the Department received information about sex discrimination in other facets of the University's programs and activities, our investigation primarily focused on allegations of sex discrimination that occurred under the Head Coach, both because of the gravity of the alleged abuse, and because of the underlying institutional failures at issue, which implicate the University's ability to prevent and respond to other sex discrimination. We believe that these investigative findings and proposed remedies will benefit all student-athletes and the University at large. The Department acknowledges the bravery of the many student-athletes who came forward to share their stories of sexual abuse and sex discrimination.

I. Legal Standards

Title IX prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. 20 U.S.C. § 1681 *et seq.* Sexual harassment is a form of sex discrimination covered by Title IX. *See, e.g., Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 649–50 (1999); *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 281 (1998). Sexual harassment can include unwelcome sexual touching, sexual assault, and other sexual misconduct. A school violates Title IX when it has notice of sexual harassment that creates a hostile educational environment “and fails adequately to respond.” *Gebser*, 524 U.S. at 290; *see also Davis*, 526 U.S. at 646–47; *Jennings v. Univ. of N. Carolina*, 482 F.3d 686, 695 (4th Cir. 2007).

“Discrimination under Title IX includes coach-on-student sexual harassment that creates a hostile environment in a school sports program.” *Jennings*, 482 F.3d at 694 (citing *Franklin v. Gwinnett County Pub. Schs.*, 503 U.S. 60, 75 (1992)). Whether a hostile environment exists “depends on a constellation of surrounding circumstances, expectations, and relationships . . . including the positions and ages of the harasser and victim, whether the harassment was frequent, severe, humiliating, or physically threatening, and whether it effectively deprived the victim of educational opportunities or benefits.” *Id.* at 696 (citing *Davis*, 526 U.S. at 650–51; *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 23 (1993)). Courts also may consider whether there is “a general atmosphere of hostility toward those” of a particular sex on an athletic team to determine whether a hostile environment based on sex exists. *Id.* Indeed, sexual harassment may create a hostile educational environment for a single individual or for a group of students in the same class, program, or larger unit. *See Davis*, 526 U.S. at 653 (holding a school district liable for harassment of a single individual and acknowledging possible liability for failing to respond “to severe, gender-based mistreatment played out on a ‘widespread level’ among students”). And where a

hostile environment based on sex exists for both men and women, liability is doubled, rather than eliminated. *See Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731, 1741 (2020).

The Fourth Circuit has recognized that athletic coaches can exercise “tremendous power” over student-athletes, “control[ing] everything: team membership, position, playing time, and scholarship eligibility,” a dynamic that renders these students particularly vulnerable to abuse, including sexual harassment. *See Jennings*, 482 F.3d at 696–97. Sexual harassment may also occur when, in a team setting, a coach uses sex-specific language aimed to humiliate, ridicule, or intimidate athletes; attempts to determine whether, with whom, and how often players have sex; and makes sexually-charged comments about student-athletes’ body parts. *See id.* at 695–96 (citing *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 65 (1986); *Ocheltree v. Scollon Prods., Inc.*, 335 F.3d 325, 331–32 (4th Cir. 2003)). While “Title IX is not a civility code” for college athletics teams, a coach may not take “advantage of the informal team setting to cross the line and engage in real sexual harassment that create[s] a hostile or abusive environment.” *Id.* at 698–99. Student-on-student sexual harassment may also create the basis for institutional liability under Title IX where a school, through an official who has authority to address the alleged harassment and to institute corrective measures, had actual notice or knowledge of the alleged harassment but fails to respond adequately. *See Doe v. Fairfax Cnty. Sch. Bd.*, 1 F.4th 257, 263–64 (4th Cir. 2021) (citing *Davis*, 526 U.S. at 646–52; *Gebser*, 524 U.S. at 290–92; *Jennings*, 482 F.3d at 695); *see also Posso v. Niagara Univ.*, 518 F. Supp. 3d 688, 696–97 (W.D.N.Y. 2021).

In sum, once on notice of allegations of conduct that may constitute sexual harassment in one of its education programs or activities—including athletics—a school must respond adequately to those allegations to ensure compliance with Title IX. Failure to investigate such conduct is an inadequate response under Title IX, particularly when the sexual harassment persists. *See Davis*, 526 U.S. at 654.

II. Investigative Findings

The University has a Division I, nationally-recognized athletics program, which includes a men’s and women’s Swimming and Diving Team. For nearly twenty years, one person served as the head coach for the over four hundred student-athletes who participated on the Swimming and Diving Team. This Head Coach also oversaw a youth swim club, various precollegiate swim camps, and aquatics facilities open to University students and staff. During his tenure, the Head Coach supervised between one and four assistant coaches at any given time, in addition to youth club coaches.

The Head Coach’s ties to the University were decades in the making. A former University student himself, the Head Coach once competed on the very team he would later coach. Under his charge, the team grew enormously, both in size and revenue. By all accounts, the Head Coach was adept at building and maintaining alumni relationships, which, in turn, supported fundraising. He boasted close personal relationships with many high-ranking University officials and senior administrators. Because of these relationships and his visibility, his image became synonymous with the University itself: he earned the nickname, “Mr. UMBC.”

As a winning coach, the Head Coach was a popular and well-respected member of the University community. With this reputation, the Head Coach enjoyed deference despite behaviors

that should have prompted the University to scrutinize the environment he created for student-athletes. The Head Coach invited students for sleepovers at his home and paid for private meals and haircuts. The Head Coach developed a close personal relationship with a male student-athlete whom the Head Coach later employed and who eventually moved into the Head Coach's home. The Head Coach used the locker room and restroom designated for student-athletes, at the same time as male student-athletes, instead of facilities designated for employees. Our investigation found that University officials' failure to intervene in these increasingly problematic behaviors allowed the Head Coach to do as he pleased without consequence, including engaging in physical sexual assaults and sex discrimination against his student-athletes.

The University's Swimming and Diving Team is made up of both male and female students, with up to 79 students on the team at a time and one head coach at the helm. Under the Head Coach, men and women practiced together, trained together, and attended swim meets and conference competitions together. Swimmers practiced in co-ed groups based on their events. In addition to the time the team spent together at practice and in competition, the Head Coach regularly held official and unofficial gatherings at his home, hosting team members, alumni, and University administrators. He also urged teammates to socialize outside of team activities, and to date romantically, leading several students to quit that the Head Coach encouraged "Swimcest."

Our investigation found that, under the guise of building team "unity," the Head Coach created an abusive environment for student-athletes. As their head coach, he exerted influence over students' day-to-day lives, with a hand in not only their athletic activities, but in every facet of their college experience, from scholarships, housing, and academics, to conduct violations and interpersonal conflicts. He demanded to know everything about the student-athletes: not just their grades and schedules, but also their family dynamics, alcohol consumption, dating and sex lives, and details about intimate health issues ranging from mental health to sexually transmitted infections. Even for issues that clearly fell within the ambit of other University offices—such as Student Conduct and Community Standards, the Counseling Center, Residential Life, and, critically, the Title IX Office¹—the Head Coach required students to go through him, and only him, rather than the offices responsible for student support. As a result, he was the funnel through which all things passed for hundreds of student-athletes throughout the course of their academic careers at the University. Many student-athletes and employees who worked under the Head Coach agreed that he demanded to be at the center of all information about his team. Though some averred he had the team's best interests in mind, others said that he weaponized information against student-athletes to sexually abuse male student-athletes and control and manipulate team dynamics in a manner that harmed female student-athletes.

A. The Men's Team

"Everyone allowed it."

Based on our investigation, the Department found that the University failed to adequately respond to allegations that the Head Coach created a sexually hostile environment for male student-athletes, and that those failures both subjected students to further harassment and rendered

¹ Because the University has housed its Title IX Coordinator in various offices of different names throughout the relevant period, we refer generally to "the Title IX Office" in this letter.

others vulnerable to it. Specifically, the Department found that numerous male student-athletes were subjected to sexual abuse and assault by the Head Coach between 2015 and 2020, the time period we focused on in this investigation.² Several of these students continued to endure this abuse even after a male student-athlete's report of sexual misconduct to the Athletics Department reached the Title IX Office in 2019. The Department further found that an unknown number of other male student-athletes experienced a sexually hostile environment while on the Swimming and Diving Team, despite notice to the University as early as 2015 that the Head Coach engaged in sexual misconduct aimed at male students.

Students' accounts of their experiences on the Swimming and Diving Team described a hypersexualized environment where their coach—on a daily basis, in plain sight, and typically when they wore only speedos—subjected male student-athletes to unwanted sexual touching, inappropriate sexual comments, and other sexual misconduct. The Head Coach kissed male student-athletes' necks, hugged them from behind, traced his fingers down their bare stomachs from their belly buttons toward their genitals, and massaged their bare skin. The Head Coach asked male students about their sex lives, including relationships with other team members, and told them about his own sex life. He asked male student-athletes if they loved him. He touched male students' genitals while taking their temperature as part of COVID-19 testing protocols. These behaviors often occurred in view and earshot of other team members and other Athletics Department staff. Several students reported to the Department their belief that Athletics Department staff were aware of the Head Coach's sexually inappropriate behavior towards student-athletes. This conduct was so prevalent and so obvious, one student told us, "There's no way no one knew."

In interviews with the Department, students detailed even more egregious conduct that occurred in private settings. The Head Coach would pull male students out of the pool during practice and ask them to come to his office to talk privately. In his office, the Head Coach gave the male students massages, including on their upper thighs and groins. He kissed their necks and bare upper thighs. He told them that he loved them, and he was happy they were on the team. In a hotel room during an away sporting event, the Head Coach, wearing only underwear, revealed details of his sex life to male students. At times, the Head Coach shared hotel rooms with international students when he accompanied them to competitions in their home countries. He also regularly entertained students in his home where he allegedly engaged in sexually inappropriate behavior directed at male student-athletes.

The Head Coach's conduct in University locker rooms and bathrooms was particularly brazen. Though he had his own office and facilities, the Head Coach routinely entered the male students' locker room while they showered. When he found some student-athletes alone, the Head Coach followed them into bathroom stalls and watched them urinate. He requested to see their penises. He fondled their genitals and showed them his own. These students reported to us that their coach's sexual behavior was unwanted and abusive.

The Head Coach's sexual harassment of male student-athletes permeated the team environment, but he more often and more severely subjected his "favorites" to this misconduct.

²The University's eventual investigation, discussed below, identified a student-athlete who reported that the Head Coach asked to see the athlete's penis as early as the 2006-07 school year.

The Head Coach had a subgroup of male athletes whom he took for haircuts, off-campus meals, and other informal gatherings, and sent late night texts of a personal nature. Some of these students stayed at the Head Coach's home over holiday breaks. Self-identified "favorites" confirmed to the Department that the Head Coach gave them additional coaching, attention, and preference for competing in certain events. Many students described a system where male student-athletes faced a perverse choice: either succumb to the Head Coach's sexual advances, which came with more coaching, more competitive opportunities, and more leniency for rule violations, or decline the Head Coach's sexual advances, and risk losing their scholarships, housing, their "swim family," and other consequences. Many students we interviewed, both male and female, noted that the Head Coach flaunted his relationship with the highest ranks of senior administration. Student-athletes took these close relationships with University leadership as a warning: if you rebuked the Head Coach's advances or reported his behavior, no one would believe you, and he could ruin your life at the University.

During our interviews, students reported that several male student-athletes experienced kissing, massaging, fondling, and voyeurism daily, starting when they were first-year students and lasting for years. Seniors warned freshmen about the Head Coach. Male student-athletes concocted methods to avoid the Head Coach's touch: they walked quickly when passing him, crossed their arms over their pelvises, and avoided eye contact. They talked to each other about their discomfort with the Head Coach's sexual attention. Some considered transferring. Others had panic attacks or their athletic performance declined. Some quit the team altogether. These students endured the stigma, fear, and uncertainty of membership on a team where their coach's sexual harassment felt like an inescapable condition of participation. These student-athletes endured unwanted sexual conduct that was objectively and subjectively offensive.

Some student-athletes told us that they did not mind the Head Coach's hugs and kisses. Some student-athletes viewed him as loving and playful and were not offended by the behavior they experienced. Indeed, we spoke to students, alumni, and employees who shared positive experiences with the Head Coach, who they described as a mentor and friend, even a father figure, who changed their lives for the better. We carefully considered and in no way disregarded those perspectives, and we found these people credible. Those perspectives and experiences, however, do not alter our findings that other student-athletes experienced unwelcome conduct of a sexual nature that was both subjectively and objectively offensive and so severe and pervasive that it created a hostile educational environment. Our acknowledgment that some students had a different experience also does not diminish the gravity of the University's failure to adequately address the sexual harassment and abuse of male student-athletes that did occur during the Head Coach's tenure and under the University's watch.

The Department's investigation found that University administrators and other staff were in receipt of allegations that the Head Coach sexually harassed male students at least as early as 2015. On June 29, 2015, a staff member received a letter from unidentified students reporting that "a coach or athletic dep[artment] staff member" used a locker with a direct line of sight into the men's showers and "has been seen removing an electronic device (camera) from this locker." The letter ends, "He is a real creep and makes us students uncomfortable. Help!" Upon receiving the letter, Athletics Department staff quickly determined that the locker number referenced in the letter was registered to the Head Coach. University records show that shortly after receiving the letter, a member of the Athletics Department staff shared the letter with five other staff members. Before

alerting the University Police Department, two of those staff members opened the locker themselves, determined that it contained the Head Coach's backpack, removed the backpack from the locker, and placed it in the Head Coach's office. University police did not inspect the locker until approximately three days later, at which time, the locker was empty. Word of the letter spread quickly among University senior administration and other Athletics Department staff. A University administrator told the Department that upon learning of the allegations, he and a senior administrator went directly to the Head Coach to share the students' allegations and warn him that the University Police Department planned to search his locker for a camera. When officers returned to search the locker again on July 6, 2015, they did not find a camera in the locker and closed the criminal investigation as unfounded. As admitted by the University, the University police's delay and administrators' actions rendered the investigation unreliable and ineffective.

Despite these allegations of voyeurism, the University took no further steps to investigate, prevent the Head Coach from using the locker room with students, or otherwise ensure student safety. No one alerted the Title IX Coordinator of the allegations: not the seven Athletics Department staff members who knew about or saw the letter, the University police officers who investigated the letter, or the multiple senior administrators, including those who worked in the same office as the Title IX Coordinator. No one interviewed the male students who used the locker room, posted notices about how to report allegations of misconduct, or took any other steps to protect students using the locker room facility. Indeed, in response to students' plea for help, the University took no action beyond relying on a flawed police investigation. The Head Coach continued to use the locker room, where he sexually harassed students for over five more years.

In 2019, the University again received notice that the Head Coach had allegedly sexually harassed male students on his team. In May 2019, a male student-athlete told a member of the athletics staff that his head coach had kissed and hugged him without consent. The staff member reported the student's allegations to the Title IX Office and identified the Head Coach by name. Contemporaneous notes from the Title IX Office's conversation with the staff member show that the student also reported that other male student-athletes had similar experiences. The staff member did not, however, disclose the reporting student's name. As a "quasi-confidential employee," the University's policies permitted the staff member to withhold the reporting student's name, which the student-athlete requested because he feared retaliation by his coach and teammates. The student explicitly expressed concern that he might lose his scholarship if anyone, particularly the Head Coach, found out about his report.

In keeping with the Athletics Department's strict chain of command, the staff member also informed their supervisor about the student's allegations against the Head Coach. The supervisor, in turn, shared the allegations with other administrators in the Athletics Department. None of these individuals independently reported the allegations to the Title IX Coordinator, despite their obligation to do so. At least one of these individuals, however, allegedly informed the Head Coach of the allegations against him: days after the student-athlete's conversation with the staff member, the Head Coach confronted the student about making the report, then ostracized him from the team and denied him opportunities to receive coaching.

Once in receipt of the 2019 quasi-confidential report, the Title IX Office shared the allegations with several senior administrators, including one who had tipped off the Head Coach to the University police's plan to search his locker in 2015 and another who knew of the 2015

letter. None of these University leaders disclosed the previous allegations against the Head Coach to the Title IX Office. The senior administrator who interfered with the 2015 University police investigation explicitly assured the Title IX Office they had no knowledge of any allegations concerning the Head Coach. The Title IX Office confirmed that they undertook “no investigation” into allegations that the Head Coach was engaging in unwanted sexual touching and harassment of male student-athletes because they did not have the name of the reporting student. Given the nature of the allegations—the known respondent; the power dynamic between coach and student-athlete; the reporting student’s reasonable fear of retaliation; the implication of multiple victims of sexual misconduct by a coach; and the previous accusations of sexual misconduct against the same individual—the failure to investigate the complaint was a clearly unreasonable response by the University and ultimately made many other student-athletes vulnerable to sexual harassment by their coach.

For many months following the 2019 report, the Head Coach continued to fondle, hug, kiss, and expose his genitals to male student-athletes. It was not until November 2020, when a group of male and female student-athletes came forward to athletics staff and the Title IX Office to report sex discrimination by the Head Coach, that the University took any action to investigate these allegations of sexual misconduct.

B. The Women’s Team

“He chose to protect my abuser instead of me.”

The Department found that from 2016 through 2020, female student-athletes on the Swimming and Diving Team also experienced a hostile environment based on their sex, albeit in different ways than the male student-athletes. Female student-athletes described how they trained and competed in a hyper-sexualized environment. In addition to competing on a team where the Head Coach sexually harassed their male teammates, female student-athletes were—without repercussion and sometimes violently—sexually harassed by some of their male teammates, were subjected to degrading comments about their bodies, and were asked invasive questions about their sexual relationships. Following the Head Coach’s lead, male staff and student-athletes spoke openly in practice about female student-athletes’ bodies—whether they were attractive, “bulking up” too much, had cellulite, or were “too fat to be D-1 [athletes].” Female student-athletes told us that their male teammates exposed their genitals to them during practice. The Head Coach encouraged romantic relationships among the male and female student-athletes, which gave him insight into and control over the most personal aspects of the student-athletes’ lives. Female student-athletes reported that the Head Coach regularly asked them about their sex lives and his interest in their romantic lives was extreme. One stated, “Our coaches knew everything: who you were sleeping with, what you were eating . . . it was controlling and toxic.” Several female student-athletes disclosed to the Head Coach and other athletics staff—all responsible employees under the University’s Sexual Harassment Policy—that male student-athletes had sexually assaulted them, stalked them, and subjected them to dating violence.

Students reported that the Head Coach generally disfavored female student-athletes, and that their wellness and safety was second to their male peers’. Several female student-athletes we interviewed told the Department that they struggled with mental health issues during their time on the team, including eating disorders and anxiety, which were exacerbated by body shaming and

bullying by some of their male teammates and coaches. Our investigation uncovered documentation that the Head Coach made significant efforts to help male student-athletes secure mental health services. But female student-athletes told us that he did little, if anything, to respond to their mental health needs. One female student-athlete told the Department that, after she disclosed her disordered eating habits to the Head Coach, his response was, “well I eat a whole bag of chips here and there,” and nothing more. Another female student-athlete told us that the Head Coach provided her no assistance whatsoever after she told him about her eating disorder and suicide attempt. On attending the University, one former female student-athlete said, “Going there felt like a prison for a few years.”

Students reported to the Department that the Head Coach blamed the female student-athletes for the abuse they experienced in their relationships with male teammates, and either failed to or significantly delayed reporting those allegations to the Title IX Office, choosing instead to retain control over the situation and the students involved for as long as possible. Beginning as early as 2016, University administrators, including the Title IX Office, knew that the Head Coach was not reporting incidents of sexual harassment involving student-athletes to the Title IX Office, and was instead purporting to handle such incidents himself. But the University took no action to address this misconduct. Moreover, once notified of those allegations, the Title IX Office responded in a clearly unreasonable manner, rendering female student-athletes vulnerable to further abuse by their male teammates. As a result of these institutional failures, the Department found that the female student-athletes on the Swimming and Diving Team experienced a prolonged hostile environment based on sex, including sexual harassment and dating violence, and were denied athletic and other educational opportunities because of their sex, all with the imprimatur of the Head Coach.

Athletics Department staff we interviewed corroborated these students’ experiences. In exit surveys numerous student-athletes—both men and women—explicitly reported that the Head Coach favored the men’s team over the women’s and that he was inappropriately involved in student-athletes’ personal lives. Athletics Department supervisors were responsible for reviewing these surveys but took no action for several years in response to these warnings, instead bestowing the Head Coach with entirely positive employee performance reviews year after year.

The Department also uncovered patterns of dating violence and multiple sexual assaults perpetrated by male student-athletes against female student-athletes during the period investigated. On more than one occasion, when female student-athletes attempted to end their relationships, their male partners stalked them and threatened self-harm if they ended the relationship or refused sexual advances. Rather than take action to report such conduct to the Title IX Office, however, the Head Coach and other athletics staff created a permissive environment for such conduct.

From 2016 through 2020, multiple female student-athletes experienced dating violence and sexual harassment at the hands of their male teammates. Athletics staff confirmed to the Department that they knew of these instances of sexual harassment but did not report them to the Title IX Office, as they were required to do. Instead, they told only the Head Coach, as he had directed them to do. Female students also reported the dating violence and sexual harassment to the Head Coach, and in response, the Head Coach improperly attempted to “mediate,” rather than report to the Title IX Office. The “mediation” extended and exacerbated the hostile environment. One female student-athlete told the Department that the Head Coach required her to meet in-person

with her ex-boyfriend who had sexually harassed and assaulted her, and then blamed her for his conduct. An Athletics staff member admitted knowing about the sexual harassment between these athletes and seeing the female student-athlete cry throughout practice while her ex-boyfriend participated, but the staff member took no further action, explaining, “I didn’t know I was a mandated reporter.”

At least two University administrators and other staff knew that male student-athletes sexually harassed female student-athletes on the team and that the Head Coach tried to address these situations himself. These employees also did not report the sexual harassment to the Title IX Office, despite their own mandatory reporting obligations. Instead, some of these administrators and staff facilitated mental health support for the male student-athletes, overlooking the needs of female student-athletes who were involved.

Once the Title IX Office learned of these allegations of sexual harassment, its own response was inadequate and further harmed the female student-athletes. In one circumstance, the Title IX Office delayed outreach to a female student-athlete, whose schoolwork, athletic career, and overall college experience suffered because of the harassment. Several female student-athletes told the Department that seeing male student-athletes whose conduct had been reported to the Title IX Office continue to practice with the team and face no consequences caused them to distrust the Title IX process. Further, in two instances, the Title IX Office learned of the Head Coach’s “mediation” of sexual harassment and failure to report, but never addressed this misconduct or otherwise attended to the culture of non-reporting that he fostered among his team and staff. Indeed, despite the Head Coach’s known disregard for the Title IX process, the University at one point invited the Head Coach to serve as a member of the Title IX Board of Review. As a result, the Head Coach continued his practices unabated, rendering female student-athletes on the team vulnerable to continued sexual harassment by their male teammates.

During the winter of 2019, the Head Coach and other Athletics Department staff learned of an additional instance of dating violence by a male student-athlete against his female teammate, and again failed to report it to the Title IX Office. The abuse escalated over many months, and in the Fall of 2020, the male student-athlete physically assaulted the female student-athlete in his off-campus apartment. Teammates who overheard the violent attack went first to the Head Coach, as he had instructed them to do. The Head Coach directed the student-athletes to not report the incident to the Title IX Office, claiming that when the Title IX Office was involved the last time, it was detrimental to the team. The Head Coach expressed sympathy and concern for the male student-athlete’s mental health and, once again, sought support services for him, but not for the female student-athlete. The Head Coach did not report to the Title IX Office. Instead, he required the female student-athlete to return to practice alongside her abuser, with bruises and other physical evidence of the violent assault. This sent a terrifying but galvanizing message to the other female student-athletes on the team. As one student stated, “it became clear he would rather let a woman die than report up one of his favorites.”

In the face of their coach’s disregard for their teammate’s safety, both male and female student-athletes worked together to coordinate reports to the Title IX Office beginning in October 2020. Their reports detailed a history of sexual harassment by male student-athletes against their female teammates over several years. The student-athletes told the Title IX Office about the many instances in which they had gone to their coaches to report sexual harassment, and nothing was

done to address the conduct. Some also reported that the Head Coach himself had sexually harassed male student-athletes on the team for years. And they reported that the Head Coach had required them to lie about testing positive for COVID-19 to avoid pandemic protocols. This was a tipping point. Shortly after receiving this wave of reports, the University began to investigate some of the allegations described above.

III. Institutional Response

When the student-athletes submitted their complaints in Fall of 2020, the University's Title IX policies and practices were already under scrutiny. A 2018 lawsuit had alleged that the University and campus and local police departments mishandled female students' sexual assault complaints against members of the University's athletics teams. Campus-wide protests followed, and the University launched the *Retriever Courage Initiative*, which focused on its response to sexual violence and misconduct. As part of this initiative, the University retained a third-party consultant and formed committees of faculty, staff, and students to assess campus practices for responding to and preventing sexual harassment, including sexual assault.

In 2019, both the internal committees and external consultants had identified several areas of concern in the University's response to sexual harassment, some of which continued to undermine the University's eventual response to allegations involving the Swimming and Diving Team. First, the University's choice to locate its Title IX Coordinator within its Office of the General Counsel had shaped student perception that the Title IX Coordinator was an extension of the University's counsel, whose main purpose was to defend the University against liability, rather than to address students' complaints of sex discrimination. Second, the Title IX Office lacked the resources necessary to perform its mandated functions. In particular, the Title IX Office staff needed more training on supporting students who had experienced trauma due to sexual harassment and other sex discrimination, and the University provided insufficient formalized support services to students involved in the Title IX process. Third, the Title IX Office had no centralized repository for complaints or access to a data management system and did not analyze available data to identify trends or deficiencies in the University's response to sexual harassment. Beyond the Title IX Office, responsible employees received inconsistent training on their reporting obligations and various University departments failed to appropriately coordinate and share information with the Title IX Office. Together, these deficiencies led students to perceive that the Title IX Office was ill-equipped to address their complaints of sex discrimination, particularly those involving sexual assault and misconduct. Each committee, as well as the consultants, recommended that the University take corrective action. In September 2019, the University informed its community that it was making changes in response to these assessments, including moving its Title IX Office out of the Office of the General Counsel and into the newly-created Office for Equity and Inclusion, which was tasked with coordinating the University's compliance with Title IX.

More than a year later, in the Fall of 2020, student-athletes came forward to complain about the Head Coach, first about violations of COVID-19 protocols. Students told the Department that once he was put on leave for directing athletes not to report COVID-19 symptoms, they felt safe to report the rampant sex discrimination they had experienced for years. The Title IX Office still lacked sufficient staff to both support these students and investigate their claims, so the University retained outside investigators. The University placed the Head Coach on leave, then banned him

from campus pending the Title IX investigation, and ultimately permitted him to retire in December 2020.

In March 2021, five days after receiving an amended notice of allegations, the Head Coach died by suicide. Student-athletes were traumatized by his death in myriad ways; some students grieved the death of a mentor and coach, others were triggered by the eulogizing of their abuser and faced accusations from their teammates that it was their reports to the Title IX Office that led to the death of their coach. The University provided some counseling options, but students told the Department that the counselors were not sufficiently available, specialized, or supportive of their experiences of sexual harassment. Lacking sufficient institutional support to address the student need for supportive measures, several Title IX Office staff members resigned, and the investigation was prolonged. When the University finally provided a draft version of the investigative report to the complainants, it failed to redact the report, revealing witness names and statements to all complainants rather than only those who had a right to that information. According to student-athletes, this worsened dynamics on a team already struggling with widespread sex discrimination and the Head Coach's death. All told, the external investigation took twenty months to complete, during which time complainants and witnesses felt stigmatized and unsupported.

The University's response to the Head Coach's abuse was not sufficient to identify and remedy the panoply of issues presented by these events. The investigation was overly narrow in scope, in terms of the time period investigated, witnesses pursued, and documents reviewed. For example, the University did not investigate allegations that the Head Coach, who oversaw a youth program on campus, may have also abused minors, even though the University had names of potential witnesses. The investigators' emails were overly legalistic, which witnesses found intimidating and said deterred them from responding to outreach. Despite objectively challenging conditions—namely, the Head Coach's death and the COVID-19 pandemic—the University's delays in completing the investigations were clearly unreasonable. Moreover, the investigation was limited to the Head Coach's conduct, and did not examine the many institutional factors that allowed this abuse of power to occur, including why employees disregarded their obligation as mandatory reporters to report the behavior to the Title IX Office and failed to otherwise exercise their authority to protect students when they knew of potential abuse by a colleague. Officials tasked with reforming the University's Title IX practices told the Department that they have not read the external investigator's Investigative Report though it was issued in July 2022.

And so, despite numerous lawsuits, outside consultants, a campus-wide Title IX review, and two re-brandings of the Title IX Office, our investigation found that the University has yet to take the necessary steps to reform how it responds to sex discrimination, including sexual harassment. For example, in 2019, students and the University's external consultants recommended the University hire a victim support coordinator. The University has not done so. That person could have been a vital resource to the numerous student-athletes who sought assistance in 2020 and may have helped prevent excessive turnover in Title IX Office personnel. And despite the consultants' recommendation that the University ensure the Title IX Office's independence from the Office of the General Counsel, that office continued to lend its staff to the Title IX Office when the University was unable to hire replacements, heightening student distrust of the University and that office. At the time the Department concluded its investigation, the University was still attempting to fill longstanding vacancies in the Title IX Office.

The University has not adequately addressed the needs of student-athletes who experienced sexual harassment and sex discrimination. The University has again rebranded the Office of Equity and Inclusion as the Office of Equity and Civil Rights. As part of those efforts, the University conducted outreach to campus stakeholders on Title IX issues but did not engage with the Swimming and Diving Team that was the subject of the Department's investigation. As a result, many student-athletes who competed under the Head Coach and endured the hostile environment he created have now graduated or left the University with the perception that their experience did not matter. These students deserved better.

Based on our investigation, we determined that the Athletics Department remains ill-equipped to address the unique vulnerabilities of student-athletes to sexual harassment and sex discrimination. Athletics Department staff need more training on Title IX, particularly because they spend time with students in locations where students may be vulnerable to abuse, such as locker rooms and hotels. Coaches and other athletics staff are often privy to interpersonal issues among student-athletes, but some athletics staff we interviewed failed to understand even the most rudimentary requirements of their reporting obligations. Further, the Athletics Department's chain-of-command culture demands reform, training, and accountability. One staff member told us that he would still report sex discrimination issues to the Athletic Director, rather than the Title IX Coordinator, inconsistent with his reporting obligations. These persistent institutional challenges necessitate the remedies described below.

As the Department worked to conclude this investigation, it learned that students from another athletics team—this time a club team—alleged widespread sex discrimination against their coach and assistant coach, in a story that evoked the same one detailed in this letter. The allegations included claims that a student reported to an Athletics Department staff member that her coach sexually harassed her and that a staff member made a quasi-confidential report to the Title IX Office. And yet, according to Title IX Office staff, the University took no action to investigate that complaint. When the Title IX Office opened an investigation into a later complaint, we understand that it learned of allegations that this head coach subjected male students to inappropriate sexual conduct. As a result of the delayed response, these students may have experienced an ongoing hostile environment created by their coaches. At the time we concluded this investigation, the University's external investigation was ongoing and, therefore, the Department made no conclusions about these allegations. Nonetheless, the Department has proposed a Settlement Agreement that will broadly impact the University's Title IX compliance moving forward. Under that proposed Settlement Agreement, the University must promptly and appropriately investigate allegations of sex discrimination and undertake significant Title IX-related reforms to ensure that students can participate in the University's athletics program free from sex discrimination.

IV. Remedies

We appreciate the University's assurance that it is committed to fully resolving these violations through a comprehensive Settlement Agreement. We look forward to working with the University as it promptly implements necessary reforms, including remedies that will enhance the strength, accountability, and independence of the University's Title IX Office; expand training to improve the University's response to sex discrimination and prevention efforts; and provide

targeted support to ensure the safety and well-being of student-athletes. We also acknowledge the University's commitment to provide financial relief to certain student-athletes, subject to its state-mandated approval process.

V. Conclusion

Our investigation revealed an enduring hostile environment based on sex in the Athletics Department that affected many student-athletes, both male and female. But we are aware only of the students who spoke to us, whose experiences were detailed in University documents, or who brought their cases to the Title IX Office, despite being discouraged by their coaches or disparaged by their teammates. These students' experiences revealed profound systemwide problems in the University's response to allegations of sex discrimination that persisted for years. The Department acknowledges that there are students who graduated or transferred who likely shared the experiences of sexual abuse and harassment detailed in this letter, or otherwise experienced sex discrimination during their time at the University, but who not have the opportunity to tell their story. The Department remains available to speak to any student who would like to share their perspective.

The Department appreciates the University's cooperation throughout the investigation. We look forward to working together to implement reforms that bring the University into compliance with Title IX. If you have any questions, please contact Aria Vaughan at 202-598-9629, Megan Abbot at 202-598-5049, Zahraa Zalzal at 202-716-4325, or Sarah Marquardt at 410-209-4801.

Sincerely,



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