

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TARRAH BEYSTER
[REDACTED]
San Diego, California 92154

Plaintiff,

vs.

**THE UNIVERSITY OF
TOLEDO**
2801 W. Bancroft Street
Toledo, Ohio 43606

Defendant.

* Case No. _____

* Judge _____

* **COMPLAINT WITH JURY DEMAND**

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* * * * *

Plaintiff, Tarrah Beyster, brings this action against her former employer, the University of Toledo, and alleges as follows:

PARTIES

1. Plaintiff Tarrah Beyster (“Coach Beyster”) is an adult female resident of the State of California and former Head Softball Coach at the University of Toledo.
2. Defendant University of Toledo is a state institution of higher education located in Toledo, Ohio with its principal office at 2801 W. Bancroft Street, Toledo, Ohio 43606, and is a recipient of federal funding.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 20 U.S.C. Section 1331 for violations of Title IX of the Education Amendments Act of 1972, 20 U.S.C. section 1681, et seq.
4. The University of Toledo is an education institution receiving federal financial assistance for its education and athletic programs and is an enterprise engaged in commerce.
5. Venue is proper in this Court pursuant to 28 U.S.C. section 1391(b) on the grounds that the events giving rise to Plaintiff's claims occurred in this District and the University of Toledo resides in this District.

FACTUAL BACKGROUND

6. The University of Toledo is one of fourteen state universities in Ohio, has the third-largest public university operating budget in the state, and enrolls approximately 23,000 students.
7. Coach Beyster is informed and believes and alleges that the University receives, and at all times relevant to this complaint received, over a million dollars annually in federal educational grant funding.
8. In June 2009, the University reached out to Coach Beyster to discuss its vacant head softball coach position. Coach Beyster was originally hesitant because of the program's poor reputation, low salaries, and meager budget. Kelly Andrews ("Andrews"), the Senior Women's Administrator and Associate Athletic Director, assured Beyster she would have free reign over the program, and the budget and salaries would increase. The University offered Coach Beyster the head coach position on July 17, 2009, and she accepted the offer on August 3, 2009.
9. Coach Beyster had extensive experience in intercollegiate athletics as a player and a coach. As a player, Beyster attended Oregon State University, where she was a four-time NCAA Athletic All-American, a four-time Academic All-American, a four-time All-Pacific Coast Region Selection, a two-time All-NCAA Regional Tournament Selection, a four-time Oregon State University Female Athlete of the Year, and the state of Oregon's Female of the Year recipient in 2001, among many other awards and honors. After college, Coach Beyster played for the National Pro Fast Pitch League from 2004 through 2007. Her coaching experience includes a head coach

position at the University of Vermont, and assistant coach positions at Indiana University and Bradley University. Coach Beyster holds Bachelor of Science degree from Oregon State University, where she graduated *summa cum laude*.

10. Almost immediately upon her start at the University, Coach Beyster recognized the glaring inequalities between the men's and women's athletic programs, generally, and the softball and baseball programs, specifically.
11. Coach Beyster actively advocated for gender equity within the University's Athletic Department, but the University rebuffed her efforts. Coach Beyster raised the following requests or concerns, among others:
 - a. The University failed to grant Beyster a multi-year contract, although male coaches were provided with multi-year contracts.
 - b. Coach Beyster was one of the lowest paid head coaches at the University, and was the lowest paid head softball coach in the Mid-American Conference. Beyster never received a raise in her five seasons with the University. She had multiple discussions with Andrews about her pay, as well as the gender disparity between coaches' salaries--both within the University and throughout the MAC— even providing Andrews with an article titled “Coaches’ salaries show wide gender disparity in MAC.”
 - c. The baseball program maintained a long-term Graduate Assistant, but the softball program's Graduate Assistants were not permitted to assist longer than two years.

- d. The baseball program kept all money it made by renting out its fields, while the softball program had to turn all field rental revenues over to the Facilities Department, even though it was the softball coaches, and not the Facilities Department, that prepared the fields for those renting it.
- e. Coach Beyster requested a new bullpen backstop because the one in place was a safety hazard. The University did not grant this request, and instead constructed a new bullpen backstop for the baseball program shortly after Beyster's request.
- f. The softball field violated NCAA requirements concerning outfield fencing and materials. The University would not pay for the renovations, so the softball program fundraised and paid for almost all of the \$103,000.00 worth of renovations over a three year period.
- g. The softball field required new dirt every two years, but the University refused to finance it even though it supplied new dirt and turf to the baseball program.
- h. The softball program shared locker rooms with the women's soccer program, resulting in male coaches from these programs to walk in the locker room while the women were meeting. On the other hand, the baseball program had its own locker room.
- i. Both the women and male coaches had locker rooms, but the University assigned the referees and umpires to use the women coaches' locker room. Male referees and umpires walked in on every female coach, and at least three female coaches were nude when a referee or umpire walked in.

12. In response to her complaints, Coach Beyster was subjected to overt and subtle retaliation, a hostile work environment, and continued discrimination, taking many forms, including:
 - a. A former Associate Athletic Director Mike Karabin called Coach Beyster “Coach Bitch” and stated the University would be “better off without softball.”
 - b. The University enforced an alleged nepotism rule to prevent Beyster from hiring Alyssa Eppler as a paid assistant, although it had not enforced the rule with other coaches and employees.
 - c. The University prohibited Coach Beyster from using Alyssa Eppler as a volunteer assistant coach, going so far as to ban her from open practices, again citing the alleged nepotism policy. The University notified Beyster of this just a few days before the first team meeting, and after Eppler spent the entire summer recruiting with Beyster.
 - d. The University conducted an investigation of Beyster, wherein Kevin West and Kelly Andrews interviewed her but did not inform her she was under investigation. Instead, they informed her they were merely having a friendly conversation. During this interview, Coach Beyster expressed her concerns that the University was discriminating against Beyster.
 - e. The University—specifically Kelly Andrews—threatened consequences if parents or players called or wrote letters expressing support of Coaches Eppler or Beyster.

- f. Money the softball program raised during fundraising was taken from the softball program's account and used for other sports.
 - g. O'Brien ignored and refused to meet with Coach Beyster, despite repeated requests.
13. On November 4, 2013, the University asked Coach Beyster to attend a "meeting" the following day. When asked about the purpose of the meeting, O'Brien said it was a follow up to the previous meeting Beyster had with Kevin West and Kelly Andrews. At this point, however, O'Brien already informed the Office of Public Safety that it intended to terminate Beyster during this scheduled meeting. When Beyster arrived to the meeting, she was met by an appointed advocate, who informed her she was actually attending a disciplinary hearing and only had five minutes to prepare. During the hearing, the University read Coach Beyster "her rights" and then subjected her to three and a half hours of questioning. Coach Beyster was not permitted to take a break or use the restroom without being accompanied by her advocate. During the hearing, Beyster learned the University had charged her with insubordination, and at the end of the hearing, the hearing officer found her guilty of the charge. The University demanded she resign or be terminated, promising to make resignation as pretty as possible. Further, the University offered to pay Coach Beyster's salary for ninety days if she resigned.
14. On November 5, 2013, Beyster submitted her forced resignation, effective ninety days from November 5.

15. Although Beyster still remained on the payroll, the University immediately suspended Beyster's email account and locked her out of her UTAD account—which allows her to monitor her paychecks and benefits.
16. After her termination, Coach Beyster was permitted to address her team for a mere thirty seconds under University supervision, even though the termination occurred during the softball season and the team was comprised of athletes Beyster personally recruited and formed relationships with.
17. During her tenure at the University, Beyster restored order and discipline to the program, broke school records in almost all of the major offensive categories, coached multiple players to All-MAC honors, led the team to consecutive MAC tournament appearances (the program's first tournament appearances since 1996), secured the most conference wins since 1997 and the most overall wins in 10 years, ranked 22nd in the nation for team GPA, and performed the most community service hours of any team.
18. Beyster was allegedly terminated for insubordination. However, male coaches and administrators have committed much more egregious offenses and have not been terminated. For example:
 - a. Lars Jorgensen, head swim coach, had a long term romantic relationship with a player. The University hired this player as an assistant coach and eventually promoted her to head coach, passing over top candidates for this position. The University did not terminate Lars Jorgensen for this conduct; rather he left to accept a position at the University of Tennessee.

- b. The University hired Kevin Hadsell as the track and cross country coach knowing that he had an intimate relationship with a student athlete and fathered a child with her. While at the University, Hadsell was accused of having a sexual relationship with a student athlete, using alcohol in inappropriate and illegal settings, and driving his team while intoxicated. Several media outlets reported the Athletic Department received an anonymous tip regarding this behavior in 2012. The University took no action until 2013, when his victim came forward to report his inappropriate conduct. The University allowed Hadsell to resign.
- c. Mike Karabin, the University's Deputy Athletic Director, was arrested for driving under the influence, and was accused of having an affair with and sexually harassing a subordinate. Despite this, Karabin continued in his position until he retired in 2012.

COUNT ONE

**Unlawful Retaliation and Discrimination
in Violation of Title IX of the Education Amendment Act of 1972,
20 U.S.C. Section 1681 et seq.**

- 19. Coach Beyster incorporates by reference Paragraphs 1 through 18 as though fully set forth herein.
- 20. Title IX prohibits exclusion from participation in, denial of benefits of, or discrimination under any education or athletic activity receiving federal financial assistance.
- 21. At all times relevant herein, the University received federal assistance for its educational and athletic programs.

22. Title IX also prohibits employment discrimination on the basis of sex at educational institutions receiving financial assistance.
23. Title IX requires that schools provide equal opportunities in athletics for members of both sexes. Schools can demonstrate fairness in athletic opportunities and compliance with Title IX in part by demonstrating substantially proportionate athletic opportunities for male and female athletes and also by showing a history and continuing practice of expanding opportunities for the underrepresented sex.
24. Title IX mandates that funds are distributed equitably to men's and women's athletic programs.
25. Title IX also mandates equal treatment in the hiring and assignment of coaches in athletic programs. The assessment of equal treatment looks to equivalence for men's and women's coaches in training, experience, and other professional qualifications.
26. Since Congress enacted Title IX to prevent use of federal dollars to support discretionary practices, reporting incidents of discrimination is integral to Title IX enforcement. Accordingly, persons who complain about sex discrimination and inequitable treatment of men's and women's athletic programs have protection against retaliation and are provided a private right of action as part of the Title IX enforcement scheme.

27. Title IX prohibits retaliation against individuals who engage in protected activity, including good faith complaints of sex discrimination, opposing illegal practices under Title IX, reporting to any enforcement agency, opposing discrimination through internal school communications, and voicing concerns to superiors at the education institution.
28. Beyster engaged in activity protected by Title IX, including, but not limited to: advocating for gender equity within the University's Athletic Department; complaining about gender disparities between the salaries and contract terms of the coaches; and voicing concerns related to inequalities between the men's and women's athletic programs, generally, and the softball and baseball programs, specifically.
29. The University deliberately and intentionally subjected Coach Beyster to adverse employment actions, including termination of her employment, because Beyster engaged in activities protected by Title IX.
30. The University's stated reasons for terminating Coach Beyster's employment were a pretext for the unlawful retaliation.
31. There was a causal connection between the University's adverse actions against Coach Beyster and her protected activity.
32. The University's unlawful conduct was proximate cause of Coach Beyster's loss of employment, negative impact on her future employability and earning potential, and other economic losses including loss of compensation which losses continue.

Wherefore, Coach Beyster prays for:

- a. A judgment awarding Plaintiff back pay and front pay;
- b. A judgment awarding Plaintiff compensatory damages;
- c. A judgment awarding Plaintiff punitive damages;
- d. An order reinstating her employment with the University;
- e. An award to Plaintiff for her attorneys' fees, costs, and pre-judgment and post-judgment interest; and
- f. Such other and further relief as the Court may deem appropriate.

Respectfully submitted,

s/Amy L. Zawacki
Amy L. Zawacki
John D. Franklin
Attorneys for Plaintiff

PLAINTIFF DEMANDS TRIAL BY JURY.

s/Amy L. Zawacki
Amy L. Zawacki