Office of Institutional Equity and Compliance
Cope Administration Building 116
Murfreesboro, TN 37132
(615) 898-2185

MIDDLE TENNESSEE STATE UNIVERSITY

MEMORANDUM

Respondent: Mr. Chris Massaro,
Director of Athletics
From: Marian V. Wilson, PhD,
Assistant to the President for Institutional Equity
and Title IX Coordinator
Date: September 7, 2016
Re: Notice of Outcome of Investigation

The investigation of the complaint filed by Mr. Matthew Peck in the Office of Institutional Equity and Compliance is complete. Based on the information presented, there is sufficient information to support that three (3) allegations he reported do constitute a violation of MTSU Policy1:01:23, Discrimination and Harassment based on Sex.

In reviewing all 28 of the allegations reported by Mr. Peck, twenty-four (24) were reviewed for this investigation. After investigation two additional allegations were determined not to be protected category allegations, but rather, management issues that will be forwarded to University Administration for review. There are three (3) allegations that appear to be violations of MTSU Policy 1:01:23 Discrimination and Harassment based on sex (gender discriminations); No allegations were based on any other protected category. Nineteen allegations were deemed not to violate MTSU policies concerning prohibited discrimination or harassment.

The three allegations that appear to constitute MTSU Policy violations are

- Mr. Jeff Motluck (former assistant volleyball coach) was the only assistant in a Tier-1 sport who did not have a courtesy car or receive a stipend until October 2015.
- That the volleyball and soccer programs did not have access to a video/film room as did other teams which is an important component in the preparation of teams for competition.
- That the softball team's locker room is currently not adjacent to their field and is housed in the football stadium, a great distance from their playing field. Softball does not have benefit of a film/lounge space, a locker room and team space adjacent to their field comparable to baseball.

Please be advised that both you and Mr. Peck have the right to an institutional hearing regarding this matter if either of you wishes to contest the findings. The proceedings will be conducted by a hearing officer or hearing committee appointed by the university president.

If either of you request an institutional hearing, you each must send a written notice to the President within ten (10) working days of the date of receipt of this letter. If a request is not received within ten (10) working days, the President's determination is final. If you have any questions concerning this matter, please do not hesitate to contact me at (615) 898-2185.

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MIDDLE TENNESSEE STATE UNIVERSITY

Policy: 1:01:23

Misconduct, Discrimination and Harassment Based on Sex (Investigation Report)

Complainant: Mr. Matthew Peck (Former Women's Volleyball Coach)
Respondent: MTSU Department of Athletics
Investigator: Marian V. Wilson, PhD, Assistant to the President for Institutional Equity
Date: August 26, 2016

Basis for Complaint

On November 4, 2015, Mr. Matthew Peck, former Women's Head Volleyball Coach, reported to the Office of Institutional Equity and Compliance that the Department of Athletics was discriminating against female employees and student athletes on the basis of their sex in violation of MTSU Policy I:01:23, Misconduct, Discrimination and Harassment Based on Sex.

Mr. Peck reported 28 allegations of wrongful conduct to Institutional Equity and Compliance. Twenty-four (24) allegations were investigated. Four allegations raised by Mr. Peck were dismissed because, even if true, they did not allege prohibited conduct on the basis of gender or any other protected category that would give rise to a violation of MTSU Policy No. I:01:22 or I:01:23. These complaints will be forwarded to University administration for review at the conclusion of this investigation.

(Note: Given the number of allegations raised by Mr. Peck, the number of witnesses required to be interviewed, and the length of this report, as well as the need to address other matters that arose while this investigation was pending, this investigation necessarily exceeded the 60-day target set forth in MTSU Policy.)

Complaint Details

The complaints that were reported to the Office of Institutional Equity and Compliance by Mr. Peck are:

COMPLAINT 1:

Allegation: That a head coach had an affair with a former women's basketball player and an instructor in Health and Human Performance program.

Findings/Conclusion: Mr. Peck does not claim that either of these relationships were non-consensual nor is there an allegation that the coach exercised any sort of supervisory authority over either the former women's basketball player or instructor. As a result, even if the allegation

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made by Mr. Peck is true, the alleged conduct is not a violation of MTSU Policy I:01:22 or I:01:23 and was not investigated.

Recommendation: This matter will be forwarded to University administration at the conclusion of this investigation.

COMPLAINT 2:

Allegation: That Women's Basketball Head Coach, Mr. Rick Insell, remarked to another women's basketball employee while walking behind a female player, that "she's not that fat, is she? She looks like a gorilla."

Response:
Mr. Rick Insell (Head Coach, Women's Basketball)
Ms. Kim Brewton (1st Assistant Women's Basketball
Mr. Insell stated that he "absolutely did not" refer to any student athlete as fat or a gorilla. He also noted that he corrects other coaches and players if they make jokes about each other.

Ms. Kim Brewton stated that she has never heard Coach Insell make derogatory comments or name calling about any player. Further, he never allows name calling or jokes between players or coaches and corrects them if they make inappropriate comments.

Findings/Conclusion:
Mr. Insell stated that he did not make the derogatory comment about a female student athlete reported by Mr. Peck. Ms. Brewton stated that she has never heard Coach Insell call any player or coach a derogatory name and that he corrects them if it occurs. Therefore, there is no information to determine that a violation of MTSU Policy I:01:23 occurred.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 3:

Allegation: That Men's Basketball Head Coach, Mr. Kermit Davis, screamed at an athlete "are you fucking stupid?" This was stated in the presence of Ms. Turnham and Mr. Peck.

Findings/Conclusion: Mr. Peck does not identify any comments made on the basis of any protected category under MTSU Policy I: 01:22 or I:01:23. As a result, even if true, the conduct alleged by Mr. Peck is not a violation of MTSU Policy I:01:22 or I:01:23 and was not investigated.

Recommendation: This matter will be forwarded to University administration at the conclusion of this investigation.

COMPLAINT 4:

Allegation: That the former Women's Tennis Head Coach, Ms. Shelly Godwin, left MTSU because the Athletic Director (Mr. Massaro) told her there was no money for a requested increase in her salary. However, it was reported that the new male coach of the WT team was hired at the requested salary of the former female coach.

Response:
Ms. Shelley Godwin (former Head Coach, Women's Tennis)
Mr. Chris Massaro (Athletic Director)
Ms. Godwin reported that this allegation is partially true. She did ask for more money for herself and for her assistant and was told by Mr. Massaro that he would have to ask the President. On that same day, the University of Alabama called and offered Ms. Godwin an assistant coach position. Even though she had not yet heard back from Mr. Massaro about her requested pay increase, Ms. Godwin stated that she accepted the position because "I knew Middle wasn't going to provide for me." When she told Mr. Massaro that Alabama called, he told her that he was going to ask the President for a $10,000 increase for her.

Mr. Massaro reported that he did have an initial salary conversation with Ms. Godwin and offered to "stair step" her increases. He noted that when Ms. Godwin informed him that she had another offer, he planned to request a $10,000 increase for her. Further, Ms. Godwin did not indicate to him that she was leaving because of salary but rather, because it had always been her dream to coach at Alabama, which is her alma mater. Mr. Massaro noted that the new coach selected to succeed Ms. Godwin was paid $5000 more than Ms. Godwin made at the time of her departure. The new coach's salary is less than the salary that Ms. Godwin would have received if she stayed. Further, the new coach's salary was made based on the market and the direction of the program.

Findings/Conclusions: Ms. Shelley Godwin requested a salary increase for herself and her assistant. She was advised that a request would be made on her behalf. However, before the discussion occurred, Ms. Godwin accepted a position at another institution. After Ms. Godwin notified Mr. Massaro that she had been offered a position at another institution, he offered to request a $10,000 increase for her. However, Ms. Godwin left the University before Mr. Massaro could make the request. The pay of Ms. Godwin does not violate MTSU Policy No. I: 01:23 prohibiting discrimination on the basis of sex.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 5:
Allegation: That the Women's Golf Head Coach, Ms. Chris Adams was refused a raise and told there was no money and yet the women's basketball coach (who is a male) received a $50,000 raise. Additionally, when the Men's Baseball Head Coach, Mr. James McGuire, received an extended contract and a raise, then Ms. Adams got a raise after this was publicized.

Response:
Ms. Chris Adams (Head Coach, Women's Golf)
Mr. Chris Massaro (Athletic Director)
Ms. Adams reported that in May 2015, she asked for a raise and it was denied. Mr. Massaro told her there was no money but that he would look into an increase for her. In July 2015, Ms. Adams received a $3000 increase but has no knowledge whether the increase was related to the baseball coaches' contract. Ms. Adams stated that when she asked for a raise in May 2015, she had done some research on other coaches in the conference and realized that she was the third or fourth lowest paid coach. She also stated that since coming to MTSU, she has elevated her

team's standing. According to Ms. Adams, before she came to MTSU the women's golf team had no national or conference recognition. Her teams have now consistently ranked second or third in the conference and until 2014, she had only ever received the University cost of living increases. Two years ago when she asked for an increase, she was told "you need to win the conference." Last year (2015) her team won the conference and she received the $3000 increase. Ms. Adams also reported that the new Men's Golf coach had never been a head coach before and was hired at almost $30,000 ($85,000) higher than her salary.

Mr. Massaro stated that it was not true that Ms. Adams' increase was related to the baseball coaches' contract. All increases were in the same bundle that he presented to the President. This is supported by documentation from the President approving salary increases for Ms. Adams at the same time as the salary increase for the baseball coach. *(See attached document.)*

Mr. Massaro also stated that Ms. Adams has been "stair stepped" for the last few years. When she came to MTSU in 2011, her salary was $41,000. According to her employment contracts, in the summer of 2014, Ms. Adams received a raise to approximately $49,000 effective July 1, 2014 and was scheduled to receive another $5,000 raise on July 1, 2015. After winning the 2015 Conference Championship, Ms. Adams' received the $5,000 originally scheduled plus an additional $3,000 raise on July 1, 2015, that increased her salary to approximately $57,000. At that time, she was also awarded another $5,000 raise (to approximately $62,000) to take effect on July 1, 2016. *(See attached documents.)*

Mr. Massaro noted that he is trying to get Ms. Adams' salary close to the Men's Tennis coach's salary, who has achieved similar accomplishments. Further, the new Men's Golf coach was hired at a salary consistent with the status of the program as it had been in the NCAA tournament five of the last six years (five straight). Mr. Massaro stated that they needed to bring in a coach to keep the program nationally relevant. The coach selected was an Assistant Head Coach from the Atlantic Coast Conference (ACC) a Power 5 conference, and from a team that was ranked in the top five nationally.

Mr. Massaro further stated that Mr. McGuire was one of the lowest paid baseball coaches in the conference. He also noted that he was trying to get the women's basketball coach's (Rick Insell) salary near the top of the conference as he has been in post season play every year since he has been at MTSU.

Findings/Conclusion: Ms. Chris Adams was the third or fourth lowest paid coach in her conference before winning the conference championship last year and ranking near the top of the conference for five years prior to 2015. Ms. Adams received incentives in the last two years as her program advanced. A new Men's Golf coach was hired at a salary higher than Ms. Adams. The new coach came from a Power 5 program that was ranked in the top five programs nationally. The difference in salary does not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

(Note: Since the beginning of this investigation, Ms. Adams received another salary adjustment (on top of the $5,000 raise already scheduled to take effect on July 1, 2016) to $90,000 (the same salary as the Men's Golf coach). The salary increase was awarded after the Women's Golf Team won their second conference tournament in two years in the Spring of 2016.)

COMPLAINT 6:

Allegation: That the female strength and conditioning coach (Ms. Gainey) who supports Volleyball, Soccer and Softball is treated terribly. She has to train her teams around football. She was also displaced from her office when a football coach was removed from coaching and given her office. Ms. Gainey was moved to a closet that she shared with an intern. Ms. Gainey also regularly works 12+ hour days. Ms. Gainey also trained a male intern who has since been hired into a full-time position with MBB at a higher salary.

Response:

Ms. Bethany Gainey (Assistant Coach, Strength and Conditioning)

Mr. Matt Riley (Head Coach. Strength and Conditioning)

Ms. Bethany Gainey reported that she trains her athletes (volleyball, soccer and softball) around the football team and she is on campus many days between eight (8) and 12 hours. However, she noted that she is not the only strength coach who does this, others (males) do as well. Smaller sports train around football because they have the largest number of athletes.

Ms. Gainey stated that she was just one of the strength coaches who trained an intern who is now an employee with the Men's Basketball team. All strength coaches trained the intern. Further, when the fulltime strength coach for men's basketball left, the intern applied and was hired into the full-time position. This position has a higher salary. Ms. Gainey did not apply for the position.

Ms. Gainey reported that both she and a male strength coach had to move out of their office when one of the football coaches changed roles. They were moved into another area with interns. When a private office became available, the male strength coach was moved into that space. Both Ms. Gainey and her supervisor, Mr. Matt Riley, Head Strength and Conditioning Coach, reported that the male was moved first based on seniority with the department. Ms. Gainey was not as upset about being moved, but was upset with the conditions of the space that she was required to use. After about eight months, she was moved to a private office when one became available.

Findings/Conclusions: Ms. Bethany Gainey, strength coach for a number of the women's teams, works 12 plus hour days, trains her teams around football, was displaced from her office and trained a male intern who has since been hired into a full-time position at a higher salary. However, all strength coaches work long days (both male and female) when their teams (both men's and women's) are in season. Ms. Gainey and all other strength coaches trained the male intern who is now a fulltime employee with Men's Basketball. That employee earns more than Ms. Gainey. However, Ms. Gainey did not apply for that position. She also trains her teams around football as do all other coaches because they are the largest team with the most number of athletes. Ms. Gainey and a male colleague were both reassigned offices to accommodate a football staff member. The male colleague is more senior to her and got the first available space.

The conditions alleged by Mr. Peck impact Ms. Gainey, as well as, other male strength coaches and also both men's and women's teams. Ms. Gainey did not report being discriminated against for these reasons nor did she indicate that she is treated "terribly" as reported by Mr. Peck. The issues raised by Mr. Peck are largely the nature of the strength and conditioning coach profession. Based on the above, MTSU's treatment of Ms. Gainey's does not appear to be discriminatory and in violation of MTSU Policy I:01:22 or I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 7:

Allegation: That two former women's strength and conditioning coaches, both left MTSU after being forced to leave. One former strength coach left because she occasionally brought her young son to work (she was a single mother), while Ms. Turnham and Ms. Austin both have done so with their children. The second former strength coach left because of gossip regarding her personal life She was in tears when she left. Both did outstanding jobs. Mr. Peck mentioned to Ms. Turnham on several occasions that his team needed a separate women's strength and conditioning facility.

Response:

Mr. Massaro

Ms. Turnham

Neither former strength coaches could be reached for statements for this investigation. Mr. Massaro and Ms. Turnham both reported that a former strength coach did not leave because she could not bring her child to work. She had been permitted to bring her child to work in the weight room when he was a newborn and able to be in an infant seat. However, she was advised that she needed to arrange other care for her child when he began walking because the staff in the weight room were concerned about safety (for the child and student athletes) and the distraction. Ms. Turnham noted that the strength coach did arrange child care for her child and later made the decision to leave the University. She told Ms. Turnham that she was leaving because she was a single parent and needed more help so she was moving closer to her family. Ms. Turnham also reported that the other former strength coach left the University to go to another university because they were going to pay her significantly more money than MTSU.

Mr. Peck informed Ms. Turnham that he felt the women's teams needed a separate facility for strength and conditioning. Both Mr. Massaro and Ms. Turnham stated that the University made the decision in 2001 to upgrade the current strength and conditioning facility for all student athletes rather than have separate facilities for men and women. In 2014, another upgrade was made to the facilities to again make it better for all athletes. The rationale for one facility was to pool resources to have one facility that would benefit all athletes.

Findings/Conclusion: Two former Athletics Department employees both left MTSU for personal reasons, not because they were forced to leave. One former employee left the University because she wanted to move closer to her family as she needed more help with her child. She had been permitted to bring her child to work in the weight room when he was a newborn and able to be in an infant seat. However, once he began walking, it became a safety risk for the child, athletes and the University, as well as a distraction to athletes and staff for a

child to be walking around in the weight room. The second former employee left the university because another institution was going to pay her significantly more money than MTSU and not for any other reason.

Additionally, Mr. Peck expressed to Ms. Turnham that women's teams needed a separate strength and conditioning facility. The University made the decision that rather than having two facilities for athletes, they would pool resources to have an upgraded facility for all athletes. Based on the above, MTSU's treatment of both former employees and the decision to have a singular facility for strength and conditioning does not appear to be discriminatory and in violation of MTSU Policy I:01:22 or I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 8:

Allegation: That Mr. Peck requested to have his athletes go to summer school but was only approved for one athlete in June summer school [redacted] All football returnees and men's basketball athletes were allowed to attend June summer school. Both volleyball and soccer coaches were told no. Women's basketball had none either. The head women's coach was said to have stated that he did not want his team in the June term, but the women's assistant (Kim Brewton) told Mr. Peck that wasn't true when he asked her about it.

Response:
Mr. Rick Insell
Ms. Kim Brewton (Assistant Coach, Women's Basketball)
Mr. Aston Rhoden (Head Coach, Women's Soccer)

Mr. Massaro asked all head coaches to consider sending their athletes to summer school in July rather than June unless it was absolutely necessary because of budget concerns. He noted that all teams had access to summer school in July. Men's Basketball and Football requested summer school in June for their athletes. Mr. Peck also requested that three of his volleyball athletes attend summer school in June and initially only one was approved. Later (before May and June summer school began) approval was granted for all three volleyball athletes to attend summer school in June. All three of these athletes did attend either May or June summer school.

Mr. Insell did not want his players in June summer school. He only ever requests that his athletes attend the June session if a player needs to make up a course to graduate or if they need a lab because he wants his players to have time off. Mr. Insell brought his players back on July 6, 2015. Ms. Kim Brewton, was with Mr. Insell when Mr. Peck inquired about June summer school. She noted that Mr. Insell told Mr. Peck that he was not going to bring their athletes in for June summer school because he wanted them to have time off. She stated that she never had any other conversation with Mr. Peck about summer school.

Mr. Rhoden, Head Coach for Women's Soccer, stated that he did not request to have his players attend June summer school. His players have not typically attended summer school supported by Athletics so he was not upset.

Findings/Conclusion:
Mr. Peck reported that he and the other head coaches of women's teams were denied the opportunity to have their athletes attend June summer school while the two Tier-1 men's teams were permitted to do so. Mr. Peck was not denied the opportunity to have the volleyball athletes he identified attend June summer school. Mr. Peck requested and was approved to have three athletes attend June summer school. All three of these athletes did attend either May or June summer school.

Mr. Rhoden and Mr. Insell were also not denied the opportunity to have their athletes in June summer school. Mr. Rhoden and Mr. Insell never planned for their teams to attend June summer school and therefore no discrimination occurred. Further, Ms. Brewton was in the office with Mr. Insell when Mr. Peck inquired about summer school and she never had any other discussion with him about summer school as he reported. Based on the above, MTSU's handling of summer school for student athletes in the volleyball, women's basketball, and soccer programs does not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 9:
That since Mr. Peck informed Mr. Massaro that he is a gay man, he has not had a good relationship with him. Mr. Massaro used to speak to him, stop in his office and Mr. Peck used to stop in his (Mr. Massaro's) office and talk about matches. Since he told him he is gay, he believes he has been retaliated against.

Response:
Mr. Massaro
Ms. Turnham
Mr. Massaro and Ms. Turnham met with Mr. Peck on February 2, 2015, to inform him that his performance was not satisfactory. Mr. Massaro told him that they were unhappy with his performance, that they had received complaints from players and that his team record was not good. Mr. Massaro told Mr. Peck that they wanted "to remove the toxicity from the program." He stated that during this meeting, Mr. Peck asked him if the discussion about his performance was because he is a gay man. Both Mr. Massaro and Ms. Turnham told him "No, it's because of the toxicity in the program." Mr. Massaro thought the question from Mr. Peck was odd because it was out of the blue and not related to the conversation. Further, both Mr. Massaro and Ms. Turnham were aware that Mr. Peck was a gay man before this meeting to discuss his performance.

I asked Mr. Massaro if his routine interactions with Mr. Peck had changed. He stated that the changes in interaction were because of the poor performance. He also noted that he did not typically just stop in at the Memorial Gym to see Mr. Peck. Mr. Peck used to stop into Mr. Massaro's office but Mr. Massaro reported that Mr. Peck stopped doing so after he raised concerns about Mr. Peck's performance. Mr. Massaro reported that he did stop in, as usual, at a pre-season practice and his interaction with Mr. Peck was normal.

Findings/Conclusion: Mr. Peck was not retaliated against by his supervisors once he informed them that he was a gay man. Mr. Massaro and Ms. Turnham were already aware that Mr. Peck was a gay man before he "officially" informed them. However, things did begin to change between Mr. Peck and Mr. Massaro once Mr. Massaro informed Mr. Peck that his performance was not satisfactory. The changes in interaction were because of poor performance and not because Mr. Peck is gay or for any other reason. Based on the above, MTSU's treatment of Mr. Peck does not appear to be retaliatory in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 10:

Allegation: Mr. Peck alleges that he asked University Counsel about the policy of his partner reporting to him if they got married and was told his spouse could not work with him. He reported that he feels discriminated against because there are others at the university who work with their spouses and have them report to someone else.

Response:

Ms. Heidi Zimmerman, (University Counsel)

Mr. Peck sent an email to Ms. Heidi Zimmerman, University Counsel, requesting information on the University policy for his assistant coach continuing to report to him if they got married. Ms. Zimmerman advised Mr. Peck (via email) that per the policy, if he got married, his spouse could not report to him. Mr. Peck only requested policy information and did not request an alternative option to have his spouse report through anyone else nor did he provide any other details.

Findings/Conclusion: Mr. Peck sent an email to University Counsel (Ms. Zimmerman) to ask about the policy if he and his partner (assistant coach Motluck) got married. He was informed by Ms. Zimmerman (via email) that if he and his partner got married, his spouse could not report to him. The University does have employees who are married or have familial relationships. However, the University does not permit family members to be in the direct reporting line of the other. The University makes every effort to change reporting lines for familial relationships when requested and where possible. Mr. Peck asked about university policy for married employees and was informed that if he got married, his spouse could not report to him. Mr. Peck did not request an alternative option to have his spouse report through anyone else and was not discriminated against because he planned to get married. Based on the above, Ms. Zimmerman's legal opinion provided to Mr. Peck does not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 11:

Allegation: That Ms. Vaughn (Mr. Massaro's executive secretary) cries because he hollers at her and speaks to her disrespectfully. She has asked Coach Peck what she should do.

Findings/Conclusion: Mr. Peck does not claim that Mr. Massaro's treatment of Ms. Vaughan is based on her gender or any other protected category. As a result, even if the allegation made by

Mr. Peck is true, the alleged conduct is not a violation of MTSU Policy I:01:22 or I:01:23 Title IX and was not investigated.

Recommendation: This matter will be forwarded to University administration at the conclusion of this investigation.

COMPLAINT 12:

Allegation: That two NCAA compliance violations in the department were not reported or followed-up on. One violation reported was a Title IX violation. That in June 2015, [redacted] informed Mr. Peck [redacted] Mr. Peck indicated that he informed Ms. Turnham of this in June 2015, and to his knowledge no follow-up has occurred.

Response

Mr. Win Case (Assistant Coach, Men's Basketball)
[redacted]

Ms. Diane Turnham

Mr. Darryl Simpson (Assistant Athletic Director, Compliance)

Mr. Case reported that "this allegation is a lie." He never asked [redacted] to show his recruits a good time. He also stated that no conversation ever occurred about gifts, apparel or shoes. Mr. Case stated that he would just never do the things that were reported. "I never asked [redacted] or any female to show recruits a good time." I asked him why he thought [redacted] if he had never done this. He stated that he didn't know. Mr. Case explained the on-campus recruitment process. He stated campus hosts (current players) are talked to by the head coach about a recruit's visit and told what's expected. When a recruit is on-campus for a visit, they are taken to dinner by coaches and hosts. After dinner, a recruit can go with the host to hang out with them and other players.

[redacted]

Ms. Turnham stated that Mr. Peck informed her in June 2015, that [redacted] and Ms. Turnham told Mr. Peck that [redacted] Mr. Peck further informed Ms. Turnham that [redacted] Mr. Peck told Ms. Turnham that [redacted]

[redacted] Ms. Turnham stated that she advised Mr. Peck to contact Mr. Darryl Simpson, Assistant Athletic Director for Compliance, because these were serious allegations. Mr. Peck said "No, [redacted] Ms. Turnham told Mr. Peck, "Now that you've told me, we've got to proceed." She also told him to "talk to [redacted] and get with Darryl." She noted that she waited a week to give him time to talk to [redacted] A week later, Ms. Turnham talked to Mr. Simpson and asked him if Mr. Peck had come to see him and Mr. Simpson said no. Ms. Turnham stated that she told Mr. Simpson what had been reported to her and told Mr. Simpson to check into it. She noted that she didn't know if Mr. Simpson had followed up with Mr. Peck but they (Turnham and Simpson) discussed providing more education on host recruitment education for coaches and staff in Athletic Department meetings.

Mr. Darryl Simpson stated that he recalled Ms. Turnham informing him that Coach Case may have asked if [redacted] could be hostesses for men's basketball recruits. He did not have a conversation with Mr. Peck or Mr. Case because he was aware that [redacted] were dating basketball players at the time. He also noted that he told Ms. Turnham that coaches cannot direct [redacted] to be hostesses and asked her to get him more information. Mr. Simpson does not recall an allegation of any gifts being exchanged for hostessing. Further, he believed that the conversation about hostessing took place a few years ago and did not recall this conversation occurring in summer of 2015. Mr. Simpson also thought it was student athletes just hanging out and does not recall any discussion related to gifts in exchange for showing recruits a good time. He also did not follow up with Mr. Peck or Mr. Case because he thought the issue was one of education not an NCAA or Title IX violation.

Findings/Conclusion:
[redacted] informed Mr. Peck that [redacted] Mr. Case did not offer money or gifts to [redacted] or to anyone to show his recruits a good time. [redacted] It also appears that there were a number of [redacted] who were dating men's basketball players and there may have been some discussion with those players to "party" with recruits. Based on the above, this request from Coach Case does not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed. However, there is some concern about the process for reporting allegations of this nature and therefore, the matter will be referred to the Athletic Department administration for review and follow-up to determine if there are any possible compliance issues.

COMPLAINT 13:
Allegation: That the Athletics' Department has a policy that no women athletes can wear spandex in the weight room or training room. The Volleyball team is not allowed to wear what they play in to the weight and training rooms. They received large basketball shorts to work out

in and yet the men can be in the weight room without shirts. Mr. Peck also noted that a coach was in the weight room without a shirt as well.

Response:
Ms. Gainey
Mr. Matt Riley
Mr. Kortne Gosha (Associate Athletic Director, Facilities and Operations)
Ms. Godwin
Ms. Gainey implemented a dress code for players on her assigned teams when she arrived at the University. Her players were not permitted to wear spandex or midriffs in the weight room. If players have spandex on, they were told to put shorts on over their spandex. Men were also not permitted to wear spandex in the weight room. The only teams permitted to wear spandex are the Men's and Women's Cross Country/Track teams as they wear long spandex. Ms. Gainey noted that there had been occasions when men came into the weight room with no shirt on when they came in from running outside. Male athletes were asked to put shirts on when their coaches noticed. Ms. Gainey also informed strength coaches of other teams when it occurred if her teams were in the weight room. Ms. Gainey stated that the volleyball team was given basketball shorts this year to wear over their spandex by their coach, not by her or any of the strength coaches. In previous years, volleyball players wore running shorts to work out. I asked Ms. Gainey why players could not wear spandex and she stated that spandex is more revealing when doing exercises.

Mr. Riley stated that the strength coaches work with the head coaches to determine what players wear in working out and that the strength coaches are trying to get teams all in the same workout gear. Mr. Massaro and Ms. Turnham also noted that if an athlete wears spandex, they must wear shorts over the spandex as a health precaution to minimize perspiration on the equipment when working out.

Mr. Gosha works with every team and the equipment/apparel vendors to assure that the orders are what coaches' request. Mr. Motluck, Assistant Volleyball Coach, usually met with Mr. Gosha and the vendors to order equipment, supplies and player gear/apparel for his team. Mr. Gosha stated that his staff did not make the decision for the basketball shorts for the volleyball team, the coach did.

Findings/Conclusion:
Mr. Peck alleged that the Athletics Department has a policy that no women's teams can wear spandex in the weight or training rooms, but that male athletes can go shirtless. Mr. Peck is correct that women's teams are not permitted to wear spandex in the weight room and neither can the men's teams. All teams except cross country and track are required to wear shorts over their spandex. Cross Country and Track are permitted to wear spandex as their spandex is longer. Further, no athlete is allowed to go shirtless in the weight room. Ms. Gainey stated that there have been occasions when men have come into the weight room without a shirt but they are asked to put a shirt on immediately. Mr. Peck reported that his team was given basketball shorts to wear. In fact, the basketball shorts were decided on by the volleyball coaches and not by Ms. Gainey or any strength coach. Based on the above, MTSU's dress requirements for its weight and training rooms do not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 14:
Allegation: That women's teams (Volleyball and Soccer) cannot eat in the same dining room as football during fall training camp. They have to eat in the smaller faculty dining room. Mr. Peck stated that on one occasion, his players went into the main dining room where football was and were chased out because they tried to have an ice cream dessert. The players were told those ice creams are reserved for football. Purity purchased them for football.

Response:
Ms. Sarah Sudak (Associate Vice President for Student Affairs and Dean of Students)
Ms. Turnham
Mr. Rhoden
Ms. Sudak stated that in academic year 1999-2000, she became responsible for student athlete's fall training table. In April of every year, she meets with the head coaches of the fall teams (football, volleyball and soccer) or their designees, the Senior Associate Athletic Director (Ms. Turnham), the foodservice vendor and the facilities staff to discuss August meals and accommodations for fall camp. In July, she meets with these individuals again to propose menus and to revisit expectations, etc. Ms. Sudak stated that the soccer coach (Rhoden) always requests nothing fried, only steamed or baked foods, low-fat/no-fat foods and no desserts for his team. Football allows fried foods and desserts. Ms. Sudak and Ms. Turnham both stated that the volleyball coach never came to the planning meetings and rarely sent a designee. In the last two years, a new assistant volleyball coach was sent who did not understand what she was supposed to do. Ms. Turnham would often text or call the head volleyball coach to ask about his menu choices and he always chose the same menu as soccer. Mr. Rhoden also stated that volleyball typically had the same food as his team. He noted that a few years ago, football had food that his team did not but that issue has been addressed.

The dining spaces for women's and men's teams are separated. Football is fed in the larger dining room in the James Union Building because they are a large team. The two women's teams, both smaller, were also accommodated in the James Union Building in the faculty dining room adjacent to the larger dining room. The faculty dining room is smaller but is more modern (padded chairs, carpeted floor, hi-top and low-top seating, newly painted most every summer, granite servicing carts etc.) than the football accommodations (plastic chairs, no carpeting and long table and booth seating). In all other ways, the spaces mirror each other. Both spaces have televisions and the same food/beverages. If the football team has fried chicken and tater tots, the volleyball and soccer teams have baked chicken and baked tater tots as their entrée (because the coaches had requested no fried foods). If there are 16 items on the salad bar for football, the women's teams have the same 16 items. All food choices are prepared according to the coach's wishes. The only difference in the menus are that football is permitted to have ice cream and other desserts and the volleyball and soccer teams are not permitted desserts at the request of their coaches.

On one occasion a volleyball player was told that she could not have ice cream. This incident occurred after Ms. Turnham was informed by Ms. Sudak that a few football players had given

volleyball players ice cream after dinner in the parking lot, despite this being prohibited in their diet by their coach.

Mr. Rhoden stated that he is not uncomfortable with the smaller dining room as it forces his players to be closer and further, he is more concerned/focused on his team getting what they need to eat. Finally, Ms. Sudak and Ms. Turnham both stated that volleyball is the only team that did not have a coach in attendance at all meals with their team and that in the last two years, an assistant volleyball coach may have come to an occasional meal with the team but it was not consistent.

Findings/Conclusion:
Mr. Peck reported that his team was denied the opportunity to eat in the same dining room and have desserts the same as football for fall training camp. The larger dining room was selected for football to accommodate the size of the team (100+) and the adjacent faculty dining room was available to accommodate both the soccer and volleyball teams (30). The smaller dining room has more modern amenities and all of the same menu choices as the football team except how the menu choices were prepared and with no desserts. This is done at the request of the coaches. Further, Mr. Peck never came to planning meetings to discuss any concerns he may have had with the accommodations or the menu, and he did not attend or have a coach consistently in attendance at meals with his team. Based on the above, any differences in the dining arrangements for the women's soccer and volleyball teams do not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 15:
Allegation: That in 2010, when the MTSU Volleyball team was hosting the Sun-Belt tournament, Mr. Peck asked to put his team in a hotel the night before their game (the same as is done for football the night before each home game), and he was told no and not given any reason for his request being denied. He was able to get a manager to donate eight (8) rooms at the Quality Inn.

Response:
Mr. Massaro
Ms. Turnham
Mr. Massaro did not recall having a conversation with Mr. Peck about putting his team in a hotel during the conference. Ms. Turnham was aware that Mr. Peck's request was denied. She explained that no other team, male or female, is permitted to put their team in a hotel except football as is a consistent practice with other D-1A football programs. Further, football meets at the hotel the day before and the day of a home game as they have continuous meetings that require meeting space and AV equipment. The teams meet in their sub-units (offensive line, defensive line, special teams, etc.) and walk through game day plans. MTSU is not adequately set-up for meetings and preparations of this nature given the timeline for the two day preparations. Further, when MTSU hosts a conference tournament, one of the advantages/benefits of hosting is that the University reduces costs by not paying travel and hotel costs for the team.

Finally, despite Mr. Peck's request being denied, he put his team at the Quality Inn for a night without administration's approval or knowledge. Ms. Turnham was called by the manager of that hotel later to inform her that the rooms were not paid. However, the hotel did not bill the University for the unpaid rooms but rather counted them as corporate trade.

Findings/Conclusion:
In 2010, Mr. Peck's team hosted the conference tournament. He requested and was denied the opportunity to put his team in a hotel the night before the game (the same as is done for football before each home game). However, his team was not discriminated against because they could not stay in a hotel before their tournament. No other team, male or female, is permitted to stay in a hotel at home, except football. Football stays in a hotel as is a consistent practice with other D-1A football programs and because the University cannot accommodate the space required given the timeline for the two day preparations. It should be noted that despite Mr. Peck being denied approval for a hotel, he put his team in a local hotel without authorization and did not arrange for payment. Based on the above, MTSU's denial of Mr. Peck's request to put his team in a hotel prior to the conference tournament does not appear to be discriminatory and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 16:
Allegation: That a year ago (November 2014) the father of a recruit who had committed to play at MTSU called him and said "I heard you and Jeff are going to be fired in a few days." Mr. Peck reported that he told the parent that he didn't know anything about that and inquired where the parent heard this. He stated that the parent reported that he heard it from someone high-up in the University. Mr. Peck stated that the parent lives next door to Coach Rick Stockstill. Mr. Peck also noted that the recruit de-committed from MTSU and went to play for another team.

Response:
Mr. Massaro
Ms. Turnham
Mr. Rick Stockstill (Head Football Coach)
Mr. Massaro reported that Mr. Peck was recruiting a player who had committed to MTSU. He noted that Mr. Peck stopped recruiting the athlete and the player de-committed. Ms. Turnham reported that she did not know why the player de-committed. She thought the coaches (Peck and others) did not want the player, so they did not continue to pursue her.

Mr. Stockstill, Head Football Coach, stated that the recruit's family lives in his neighborhood and played on the High School Volleyball team with his daughter. He never told the parent that Mr. Peck and Mr. Motluck were going to be fired and never had any other personnel conversation with them or anyone. Mr. Stockstill did show the recruit and her family around campus and the recruit's father did contact him when his daughter stopped hearing from Mr. Peck. Mr. Stockstill told him that he didn't know why his daughter had not heard from the volleyball coaches. He did say that when he stops contacting football recruits, it usually means he's found someone else for that position.

Findings/Conclusion:
Mr. Peck reported that a volleyball recruit had committed to MTSU and later de-committed because her father was told that he and his assistant coach (Mr. Motluck) were going to be fired. Mr. Peck believes the recruit's family was told he would be fired by her neighbor, Mr. Rick Stockstill, MTSU head football coach. Mr. Peck is not correct that Mr. Stockstill had any conversation about him or his assistant with his neighbor. It appears that Mr. Peck stopped recruiting the athlete and she made the decision to attend another university. Further, even if the allegation made by Mr. Peck is true, the alleged conduct is not a violation of MTSU Policy 1:01:22 or 1:01:23 Title IX.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 17:
Allegation: That Ms. Allison Ness (former head trainer with women's basketball) asked not to work with women's basketball because of the way she was treated by the head coach and was told by Mr. Massaro that she either worked with women's basketball or she wouldn't have a fulltime job. Ms. Ness opted to work part-time until recently when she was able to work fulltime with another team. Another trainer with women's basketball (Ms. Alicia Grover) quit because of her treatment by the women's basketball coach. Mr. Peck reported that Ms. Grover shared with him that the women's basketball coach used to tell her to "go get me coffee" or "go get me a MT Dew."

Response:
Ms. Allison Ness (Assistant Athletic Trainer)
Ms. Alicia Grover (former Assistant Athletic Trainer)
Mr. Massaro
Ms. Turnham
Mr. Insell
Mr. Drew Shea (Head Athletic Trainer)
Ms. Ness reported that the initial reason she stopped working with women's basketball was because she was having a child. She told the coach she needed to travel less when she was pregnant and he said that he understood and tried to work with her. However, she realized that it was not going to work for her. The coach demands the trainer be available to work with the team 24/7. The message was conveyed to her by her supervisor (Mr. Drew Shea) that she needed to continue working with women's basketball or she wouldn't be able to work fulltime. She opted to go part-time and work with the women's soccer team. Ms. Ness further stated that when the trainer who succeeded her with women's basketball (Ms. Alicia Grover) left the program, Ms. Ness was offered the option to take women's basketball again (fulltime). She declined and stayed with women's soccer. I asked Ms. Ness if she declined to work with women's basketball again because she wanted to continue working part-time. She stated that it was part of the reason. Ms. Ness stated that the coach is demanding. "You have to give 110% to the team." She also felt her opinion was questioned about injuries and he would request her supervisor (Mr. Shea) look at an injury that she had already assessed. She felt her opinion was questioned because she was female. She also felt Coach Insell treated females differently than males and was harder on females including his coaches. Ms. Ness noted that the coach did lots of

nice things for her but he was rigorous. He also asked her to pick up prescriptions for him and to bring him a soda from the training room.

Ms. Grover reported that she worked for women's basketball for two (2) years and left because she "could not take it anymore." The coach made her pick up his prescriptions, make doctor's appointments for him and his family, and would also ask her to bring him water. She stated that he "yelled at me repeatedly and told me that he had never been as disappointed in a trainer as he was with me after I had only been there two weeks." When a player got a cold, she was made to feel that it was her fault. She believed that the coach felt she should have known and been able to prevent the player from getting sick. Ms. Grover stated "his treatment was the worst treatment I ever experienced" but noted "He treated everyone this way. He screamed and yelled and he did this to players." She noted that [redacted]

Mr. Massaro reported that Ms. Ness left the women's basketball program and opted to work part time because she had a baby and didn't want to be actively traveling. Ms. Turnham also stated that Ms. Ness had a baby and decided not to come back fulltime. When the baby was bigger, Ms. Ness applied for a vacant fulltime position and was hired. Mr. Massaro was not aware of Ms. Ness or any athletic trainer being asked to do personal errands for the women's basketball coach. Both Mr. Massaro and Ms. Turnham were aware that Ms. Ness and the women's basketball coach (Insell) did not always get along but were not aware of any mistreatment. Mr. Massaro stated that the women's basketball coach holds trainers accountable for the health of his players. He expects them to diagnose something quickly and he would express concern if a player was sick. Ms. Turnham stated that Ms. Grover left to work at Lipscomb University and she was not aware of any mistreatment.

Mr. Insell reported that he does not treat anyone (trainers, coaches etc.) differently based on their gender or anything else. He has asked athletic trainers to pick-up prescriptions for him and his wife. However, he noted that most times the trainers ask him if he needs anything when they are going to pick up prescriptions for athletes. He also acknowledged that he has asked them to make doctor's appointments for him and his wife. He stated that "the trainers have a straight line relationship to the physicians and can get to them quicker than anyone else." He was not aware that this was not acceptable. Mr. Insell also stated that when a trainer assesses a player's injury, he will sometimes ask for a second opinion, not because they are female but because he wants the best care for his players. He stated that Mr. Shea is responsible for all of athletic training and he will often ask him, "Drew, did you look at this?" He also sometimes asks for second opinions when the doctors look at his players. [redacted] He also had an athlete faint at her apartment and the trainer requested that the athlete come into the training room. Mr. Insell was upset with the trainer because he felt the trainer should have gone to the athlete.

I asked Mr. Insell if he treats his coaches differently based on gender or asks his female coaches to take players to dinner and then goes somewhere else with his male coaches. Mr. Insell likes

his players to relax and socialize with each other after a game and enjoy themselves. They may not always do that if he is with them. His female coaches and his director of operations (male) and media coordinator (male) will go with them to dinner. He noted that when he is in another city, he does not go anywhere alone and will usually take a male coach or staff member with him. On other occasions though, he will take a break with all of his coaches and talk about a game after a big win.

I asked Ms. Brewton if female coaches and staff are treated differently than male coaches. She said "absolutely not". She has been with Coach Insell for seven (7) years. She noted that she is the first assistant coach and that he doesn't treat male coaches differently than females. She also stated that "I have had opportunities to coach at other places but I want to be here. I wouldn't be here if I was treated badly."

I shared with Mr. Insell that there had been an allegation of him [redacted] He stated that he does have weighted basketballs but he has never asked a player to dribble in punishment. He stated that his practices are always open. A chaplain (friend of the program) and fans are always in practice because they are supporters of his women's basketball program and that just didn't happen.

Mr. Shea, Head Athletic Trainer reported that it is not an expectation for trainers to pick-up prescriptions, make doctor's appointment, or bring drinks for coaches, it is a courtesy. He also stated that when Mr. Insell asks him for a second opinion about injuries, it is not about gender. It's because he is head of the department and he's had lots of experience, not because he's male. I asked Mr. Shea if he had ever heard the concerns reported by Ms. Ness and Ms. Grover. He stated that Ms. Ness was more open about her concern in working with Mr. Insell and that he (Insell) was demanding. He also noted that when Ms. Ness requested to work part time, he told her that women's basketball was a sport that needed a fulltime trainer and that she could not be fulltime for another sport because there were no other fulltime positions available at the time. Later, he was able to get a fulltime trainer for women's soccer because it is a high injury sport and Ms. Ness was hired for that position. Mr. Shea noted that Ms. Grover never discussed these reported concerns with him. He didn't feel it was always the best situation for her with women's basketball but thought she left the University because she wanted to be closer to Nashville. He noted that "the coach can be demanding and expects a lot." However, he does not believe it's about gender. "The coach just wants the best care for his players.

Findings/Conclusion:
Mr. Peck reported that two former women's basketball athletic trainers, Ms. Allison Ness and Ms. Alicia Groves, were discriminated against and mistreated by the WBB head coach, Mr. Insell. After investigation, both former trainers had concerns with Mr. Insell but were not discriminated against because they are female (all trainers for WBB are female). Based on the above, the reported concerns do not appear to be on the basis of gender and in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed. However, the reported concerns will be forwarded to University administration at the conclusion of this investigation.

COMPLAINT 18:

Allegation: That Volleyball is the only Tier-1 sport without a fulltime trainer. The team has always had graduate students for trainers. Volleyball is also the only Tier-1 sport that has no fulltime sports information director ("SID") and they have had 5-6 interns in the last seven years who are assigned two or three other sports. The interns then get jobs and leave, and Volleyball has to start over again with someone new. Volleyball is the only Tier-1 sport with no director of operations. Baseball is not a Tier-1 sport and they have a director of operations.

Response:
Mr. Massaro
Ms. Turnham
Mr. Gosha
Mr. Shea

Mr. Massaro reported that Mr. Peck never asked for a director of operations and is the only team in the conference that travels with a SID for volleyball. Additionally, the graduate SID was supervised by professional staff. They also had more TV time than any other volleyball team in the conference (every home game). Further, Mr. Massaro agreed to the structure of Mr. Peck's office and staffing as Mr. Peck requested. Mr. Massaro also noted that baseball has a volunteer director of operations who does not receive any compensation from the University.

Ms. Turnham stated that the Athletics Department only had three fulltime trainers and they were assigned to teams with the highest risk for injury. All other teams had graduate assistant trainers who are fully certified in athletic training. Ms. Turnham noted that women's soccer now has a fulltime trainer. Ms. Turnham stated that she was also not aware that Mr. Peck asked for a director of operations. He requested a second assistant coach and his request was approved. Mr. Gosha stated that football, men's basketball and women's basketball all share an SID with other sports.

Mr. Shea stated that Mr. Peck is correct that volleyball is the only Tier-1 sport without a fulltime trainer. Football, men's basketball and women's basketball are Tier-1 sports that have fulltime trainers because they are the teams at the highest risk for injuries. He noted that women's soccer is not a Tier-1 sport but has a fulltime trainer because it is also a sport at a higher risk for injury than volleyball and needs a fulltime trainer.

Findings/Conclusion

Mr. Peck is correct that volleyball is the only Tier-1 sport without a fulltime trainer, a fulltime SID and a director of operations. Mr. Peck was not assigned a fulltime trainer because his team is at lower risk for injuries compared to the other Tier-1 teams. The Athletic Department made a personnel decision based on the safety and potential risk of injuries for all athletes and teams and determined that soccer (another women's sport) was at a higher risk for injury than volleyball and assigned the fulltime resource to that program.

Mr. Peck never requested a director of operations. He has compared the volleyball program's lack of a director of operations to the baseball program. However, the director of operations for baseball is a volunteer and receives no compensation from the University.

Although the SID was an intern and not a professional staff person, Mr. Peck had the only volleyball team in the conference that travelled to all games with an SID. Mr. Peck's team was not discriminated against and did not suffer any adverse action because his program was assigned a graduate SID and not a professional staff person as the graduate student was supervised by a professional SID. Based on the above, the staff assigned to the women's volleyball program do not appear to have been assigned on the basis of gender in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 19:

Allegation: That courtesy cars are provided to Tier 1 assistant coaches. All other Tier 1 sports receive courtesy cars or a stipend (FB, MBB and WBB). The Volleyball assistant coach never received an offer of a courtesy car or stipend until one month ago (October). Additionally, no other assistant coaches in women's sports have courtesy cars or stipends.

Response:

Mr. Massaro

Mr. Massaro stated that Mr. Peck's statement is correct. Mr. Peck never requested a stipend for his assistant coach and previously, the head coach for baseball (Peterson) asked to have his car awarded to his assistant baseball coach (Mr. McGuire). Once Mr. McGuire became the head coach, his assistant coach did not receive a car stipend. Mr. Massaro also noted that Mr. Motluck received the stipend in October unrequested by Mr. Peck. Mr. Cahill, Assistant Coach for women's soccer also received a car stipend around the same time that Mr. Motluck received his stipend.

Findings/Conclusions

Mr. Peck is correct that his assistant coach was the only assistant in a Tier-1 sport who did not have a courtesy car or receive a stipend until October 2015. However, Mr. Peck is not correct that no other assistant coaches received courtesy cars as Mr. Cahill, assistant coach for women's soccer also received a stipend at the same time Mr. Motluck received a stipend. Although Mr. Peck did not request a courtesy car for his assistant coach, he should have been offered a car or stipend the same as other Tier-1 assistant coaches. This had the effect of being discriminatory.

Recommendations: None. This matter has been remedied. The assistant volleyball coach has been provided either a courtesy car or a car stipend.

COMPLAINT 20:

Allegation: That neither the soccer nor women's volleyball programs have a film room. Along with Tennis (men's and women's), Golf (men's and women's), and Softball they have to use a classroom when it's available. Volleyball was promised a video room but it never happened.

Response:
Mr. Massaro
Ms. Turnham
Mr. Gosha
Mr. Massaro does not know who promised Mr. Peck a video room, he did not. He, Ms. Turnham and Mr. Gosha all noted that the AMG (Memorial Gym) is currently shared space with HHP (Health and Human Performance program). Mr. Massaro and Ms. Turnham both noted that men's golf and women's golf have space to review the analytics and mechanics of their performance at the off-site facility where the team competes. Men's tennis, women's tennis, and women's softball do not have dedicated space at this time to review these same type of analytics and mechanics of their performance.

Mr. Gosha stated that volleyball was not promised a video room. However, when HHP moves out in summer 2016, space will be converted to a film/lounge space for volleyball and soccer.

Findings/Conclusions:
Mr. Peck is correct that neither the soccer nor women's volleyball programs have a film room. They have to use a classroom when it's available. He is also correct that men's tennis, women's tennis, and women's softball do not have dedicated space to review video. Men's and women's golf do have dedicated space to review their performance. Currently, volleyball and soccer are housed in the AMG (Memorial Gym) which is shared space with the Health and Human Performance program. Reviewing film is an important component in the preparation of teams for competition. Space was not available in the AMG, and no other dedicated space was identified for film review on a consistent basis. Therefore, although not intentional, volleyball and soccer may have lost some competitive advantage and therefore suffered an adverse action.

Recommendation: It is the intention of the Athletic Department to dedicate space for film review and lounge space for both of these teams in the summer of 2017. That space has been identified and will be prepared for film review for both volleyball and soccer. Institutional Equity & Compliance will monitor compliance with this remedy.

COMPLAINT 21:
Allegation: That the women's tennis team was moved to the basement of the AMG which requires them to have a 3-4-minute walk to the tennis courts while the men's tennis team is in an area where the courts are right outside their door.

Response:
Mr. Massaro
Ms. Turnham
Ms. Godwin
Both Mr. Massaro and Ms. Turnham stated that when Ms. Godwin was hired as the women's tennis coach, the team was relocated to a "nicer, bigger space" which is in the basement of the AMG. Ms. Godwin reported that when she arrived at MTSU, Mr. Massaro gave her resources to renovate her team locker room. She stated that the short distance to the courts was never an issue. Players could go right through Murphy Center and not be outside when walking to the courts.

Findings/Conclusion:
Mr. Peck is correct that the women's tennis team locker room is in the basement of the AMG which requires these athletes to have a 3-4-minute walk to the tennis courts while the men's tennis team is in an area with courts right outside their door. Ms. Godwin received resources to upgrade her team locker room in the AMG when she arrived and did not have concern with its location. During the course of this investigation, I reviewed all athletic facilities and noted that the women's tennis locker room is not as close in proximity to their courts. However, the women's tennis team did not lose any advantage because of the locker room location. Based on the above, the location of the women's tennis locker room does not appear to be have been based on gender in violation of MTSU Policy I:01:23.

Recommendation: It is recommended that this matter be closed
(Note: The Athletic Department had planned to relocate the women's tennis team locker room to Murphy Center prior to the beginning of this investigation. A new space has been identified near the men's tennis team that is in close proximity to the tennis courts.)

COMPLAINT 22:
Allegation: That the AMG has not had an upgrade in the 12 years Mr. Peck has been at the university while the football stadium and Murphy Center have both been upgraded. Mr. Peck requested to at least have the doors painted and this has not happened. He has purchased eight of the bleachers in the AMG and Ms. Turnham purchased two since they could not get them from the Athletics Department. During the Murphy Center renovations, these bleachers were moved and used by other teams and when they were returned, they were nicked up by cleats. The bleachers were used by football, baseball and men's basketball.

Response:
Mr. Massaro
Ms. Turnham
Mr. Gosha
Mr. Massaro reported that there have been a number of renovations to the AMG. It was renovated in 2004 but he agrees that the doors need to be repainted. There have also been upgrades since then to the HVAC, curtains and lights in that facility. He noted that Mr. Peck wanted to have permanent pull out bleachers. Mr. Massaro resisted permanent bleachers because the space is shared with HHP and because he believes that the current portable bleachers provide a competitive advantage to the volleyball team. The portable bleachers are close to the court which allows fans to be close and can create an intimidating environment for opponents. Mr. Massaro further noted that permanent bleachers would interfere with HHP badminton courts. Mr. Massaro and Ms. Turnham also noted that Mr. Peck offered to buy the portable bleachers out of his camp money. Ms. Turnham stated that the portable bleachers have been used as seating for other sports and that Mr. Peck was asked before they were moved. She stated that he wasn't thrilled but had agreed.

Mr. Massaro also stated that the football facility was upgraded twice for the health and safety of players. The football stadium was also upgraded to be revenue generating as it includes outdoor suites and a club level. Revenues from these upgrades go to the Blue Raider Athletic Association which benefits all sports. The Murphy Center was upgraded as a University project.

Mr. Gosha reported that the AMG receives an enhancement every summer. Typically, $30,000-$40,000 is invested each year in the AMG either in repair or renovation. Mr. Peck did ask for the telescopic bleachers and the request was denied. In 2011, before Mr. Gosha was responsible for facilities and operations, there were renovations to the building. He noted that every year the volleyball court is skimmed and repainted which costs about $8,000. In 2014, the offices, doors and rails were repainted which cost $15,000-20,000.

Findings/Conclusion:
Mr. Peck is not correct that the AMG has had no upgrades in 12 years. There have been a number of renovations to the AMG. It was renovated in 2004 and since then, had regular upgrades to the HVAC, curtains and lights. Annually, $30,000-$40,000 is invested in the AMG either in repair or renovation. Every year the volleyball court is skimmed and repainted which costs about $8,000 and in 2014, the offices, doors and rails were repainted which cost $15,000-20,000. Mr. Peck did ask for the telescopic bleachers and the request was denied because the space is shared with Health and Human Performance and because the Athletic Director believes there is a competitive advantage to having the portable bleachers on the court. The athletic facility maintenance does not appear to be discriminatory on the basis of gender in violation of MTSU Policy No. I: 01:23.

Recommendation: It is recommended that this matter be closed.

COMPLAINT 23:
Allegation: That baseball has a new stadium, yet softball was put on hold for years. They used to have to change in the parking lot adjacent to the field. Now their locker room is across campus at the football stadium, while baseball's locker room is adjacent to their field

Response:
Mr. Massaro
Mr. Massaro stated that this is not correct. The new softball stadium was built in 2005 and the baseball complex was not completed until 2009. He also noted that MTSU partnered with the City of Murfreesboro to pay for the lights in the baseball complex as well as the new soccer and track stadium. Mr. Massaro noted that it is correct that the softball team's locker room is under the football stadium.

Findings/Conclusion:
Mr. Peck is not correct that baseball has a new stadium and softball was put on hold for years. The softball stadium was completed in 2005 and baseball was completed in 2009. He is correct that the softball team's locker room is currently not adjacent to their field and is housed in the football stadium, a great distance from their playing field. Most players dress at their apartment before coming to the field because they live closer to the field than their locker room. Despite the fact that the baseball complex had external contributions, softball is at a disadvantage compared to baseball, both non-Tier-1 sports, in terms of facilities. Softball does not have the benefit of a film/lounge space, a locker room and team space adjacent to their field comparable to baseball. Although not intentional, these disadvantages appear to have a disparate impact on the Softball team on the basis of sex.

Recommendations:
A new women's softball facility has been included in the new University Master Plan. When constructed, this facility will resolve the concerns noted above.

COMPLAINT 24:
Allegation: That two or three years ago, Mr. Massaro authorized a football showcase on the soccer field and did not notify the soccer coach who was planning to have practice. The soccer team was informed that football pays the bills.

Response:
Mr. Massaro
Mr. Gosha
Mr. Rhoden
Mr. Massaro stated that the football showcase did occur and that the decision to host the showcase on the soccer field was discussed with the soccer coach and that team went to another field. He told the soccer players that the soccer team facilities belong to the University.

Mr. Gosha stated that Mr. Rhoden was informed within 72 hours of the showcase and had time to notify his team. He stated that Mr. Massaro told the players that all athletic facilities are shared spaces.

Mr. Rhoden stated that football had an event that was scheduled on the soccer field. Mr. Gosha and Mr. Matusek (director of football operations) happened to see him in the hallway and told him that the showcase was happening. Mr. Rhoden noted that the lines for the showcase were already on the field when he saw Mr. Gosha and Mr. Matusek. His players were upset and went to see Mr. Massaro without telling Mr. Rhoden. They told Mr. Rhoden that the meeting was not amiable and he asked why they went. His team was upset for him. Mr. Rhoden stated that the showcase occurred during the renovation of the football stadium so this issue really began in January as all teams were required to have their schedules for spring confirmed in December. However, there was no communication with him before he happened to run into Mr. Gosha and Mr. Matusek in the hallway.

Findings/Conclusion
Mr. Peck is correct that a few years ago, Mr. Massaro authorized a football showcase on the soccer field. He is not correct that the coach was not notified. Mr. Rhoden was notified, however, he was not notified in a formal and perhaps timely manner. He happened to pass the Associate Athletic Director for Operations and the Director of Football Operations in the hallway and was informed that the football showcase was scheduled. The women's soccer athletes were upset about their field being scheduled for football and were informed that all athletic spaces are shared spaces. Despite the short notice, the women's soccer team was able to practice at another location and was not adversely affected by the showcase occurring on the soccer field. No violation of MTSU Policy No. I: 01:23 occurred.

Recommendations: It is recommended that this matter be closed.

COMPLAINT 25:

Allegation: That two years ago the women's tennis team made the conference tournament and the coach was told she had to drive her team to the tournament in a van. She was very upset and shared this with Mr. Peck. He told her that she should not drive the van and to talk to Mr. Massaro and Ms. Turnham. The administration finally relented and let her take a bus. The tournament was at Old Dominion, 680 miles from Murfreesboro.

Response:

Ms. Turnham

Ms. Godwin

Ms. Turnham stated that when the women's tennis team made the conference tournament, they had planned to fly to the tournament but then added a game at the University of Tennessee. Since they changed their schedule, the University plane was not available to fly to Old Dominion University.

Ms. Godwin stated that she looked at costs for flights and for a bus to the conference tournament and was told by the former Associate Athletic Director for Operations that these options were too expensive even though she had the money in her budget. He told her and her assistant to drive a van. Her administrative staff (Senior Associate Athletic Director and others) found out a day before she traveled and helped her get a bus. Ms. Godwin stated that "it worked out but was unnecessary frustration." Ms. Godwin stated that her team was never discriminated against and she only ever had two issues at MTSU, her pay and the bus.

Findings/Conclusion:

Mr. Peck is correct that two years ago, the coach of the women's tennis team was advised by the former Associate Athletic Director for Operations and Facilities, that because of costs, she needed to drive a van to the conference tournament (680 miles) instead of taking a bus or flight despite having the resources in her budget. The team administrator was informed before that occurred and a bus was arranged in time for travel. Despite the frustration for the coach, the women's tennis team was not adversely affected by the initial request to drive a van to the tournament. No violation of MTSU Policy No. I: 01:23 occurred.

Recommendations: It is recommended that this matter be closed.

COMPLAINT 26:

Allegation: That Mr. Peck requested to use the rooms that are available to the Department of Athletics at the Embassy Suites for recruits or other teams and was told "No, those rooms are only for football and men's basketball." This was told to Mr. Peck and Roxanne Forth (secretary) by then-Associate Athletic Director Marco Born.

Response:

Mr. Massaro

Ms. Turnham

Mr. Gosha

Mr. Massaro and Ms. Turnham were not aware what the former Associate Athletic Director for Operations told Mr. Peck about the Embassy Suites. They stated that football, men's basketball,

and women's basketball recruits stay at the Embassy Suites as part of their corporate sponsor trade agreement as space is available. These teams may also be denied if the hotel does not have space available. Volleyball has access to the Doubletree as part of a separate corporate sponsor trade agreement. Doubletree like Embassy Suites is a full service hotel.

Findings/Conclusion:
Mr. Peck did request to use the rooms available to the Department of Athletics at the Embassy Suites for recruits and his request was denied. The Department of Athletics has corporate trade agreements at a number of hotels in Murfreesboro. Mr. Peck was denied space at the Embassy Suites, as are other teams. Mr. Peck had the opportunity to use the Doubletree Hotel, another full service hotel, for his recruits. This hotel has a history of taking good care of MTSU athletes. Mr. Peck's volleyball program did not suffer a disadvantage because his recruits could not stay at the Embassy Suites. No violation of MTSU Policy I: 01:23 occurred.

Recommendations: It is recommended that this matter be closed.

COMPLAINT 27:
Allegation: That Associate Athletic Director of Operations and Facilities, Mr. Gosha has made derogatory comments. In August 2015, he was in the football equipment room with student workers and made the comment, "that's so gay" and the assistant volleyball coach was outside the door. He reported that the room got silent and then everyone started laughing. He also reported that Mr. Gosha used the "N word". He reportedly said "nigga please" and that there were two or three students in the equipment room. [redacted]

Response:
Mr. Gosha
Mr. Gosha stated that he absolutely did not make a "gay" comment. He did note that the equipment room is a place where students don't have filters and they may have made the statement but he was not aware that it was made and he did not hear it. Mr. Gosha stated that he did not use the "N" word. He doesn't use the word, not with friends or family. Students don't use that word around him and it is written in the student handbook that he gives them. Further, even players don't say that word in front of him. [redacted]

Findings/Conclusion:
There is no information to support the allegation that Mr. Gosha made or heard derogatory comments related to sexual orientation or race in the equipment room with student staff, and Mr. Gosha denied making any such comments. [redacted] No violation of MTSU Policy I: 01:23 occurred.

Recommendations: It is recommended that this matter be closed.

COMPLAINT 28:

Allegation: That Ms. Grajewski and Mr. Motluck, Volleyball Assistant Coaches, are feeling persecuted/retaliated against since Mr. Peck was terminated. Mr. Peck reported that Ms. Grajewski told him that Mr. Massaro told her that she would be fine and that if another coach came in, she had a contract and they would find another role for her. Mr. Motluck was told by Mr. Massaro that he was not being terminated and that he was fine through December 3, 2015. Mr. Motluck asked Mr. Massaro why he didn't have a contract the same as Ms. Grajewski since there were no allegations that he had been made aware of about him. Mr. Massaro told Mr. Motluck that he would check on this. (Note: Mr. Motluck has since received a contract through June 30, 2016.)

Additionally, the Assistant Coaches are concerned because the lock on the equipment room has been changed since Mr. Peck's termination and neither Grajewski nor Motluck has a key. Ms. Turnham has a key and she was not at the morning meeting so they could not get equipment or do their job.

Findings/Conclusion:

Even if true, the facts alleged do not indicate any action in violation of Title IX or based on any other protected category. As a result, this allegation was not investigated.

Conclusions

Mr. Peck reported 28 allegations of misconduct that he believed were either gender discrimination, sexual harassment or racial harassment. Four of the allegations were either personnel matters or management issues that were not reviewed for this investigation and will be forwarded to MTSU Athletic Department administration. These appear as items 1, 3, 11 and 28 in this report.

Twenty-four (24) allegations were reviewed for this investigation. After investigation two additional allegations were determined not to be Title IX or protected category allegations, but rather, management issues that will be forwarded for review. These items are 16 and 17. There are three (3) allegations that appear to be violations of MTSU Policy 1:01:23 Discrimination and Harassment based on sex (gender discriminations); items 19, 20 and 23. No allegations were based on any other protected category. Nineteen allegations are deemed not to violate MTSU policies concerning prohibited discrimination or harassment.

President's Determination

✓ I concur with the conclusions and refer this matter to the Assistant Vice President of Human Resources for remedy/sanction.

_____ I do not concur with the conclusions and request further review.

_____ Other

_____

_____

_____ 9/3/16

Dr. Sidney A. McPhee, President **Date**