

*VIA ELECTRONIC MAIL ONLY*

February 19, 2019

Dr. Sue Savaglio-Jarvis  
Superintendent of Schools  
Kenosha Unified School District  
3600 52nd Street  
Kenosha, WI 53144  
ssavgli@kUSD.edu

Dan Wade  
Kenosha Unified School Board President  
dwade@kUSD.edu

Ms. Sue Valeri  
Chief of Student Leadership  
Kenosha Unified School District  
3600 52nd Street  
Kenosha, WI 53144  
svaleri@kUSD.edu

Ms. Shana Lewis  
Strang, Patteson, Renning, Lewis, & Lacy  
660 W. Washington Ave., Suite 303  
Madison, WI 53703  
slewis@strangpatteson.com

Dear Dr. Savaglio-Jarvis, Mr. Wade, Ms. Valeri, and Ms. Lewis:

The ACLU of Wisconsin and the ACLU Women's Rights Project write again to express serious concerns regarding complaints of pervasive gender discrimination, including sexual harassment, body shaming, and victim blaming, at two schools located within the Kenosha Unified School District ("KUSD"), specifically at Tremper and Bradford High Schools, and to request that the District take prompt corrective action.

First, based upon reports we have received from former KUSD employees and current parents and students, specifically at Tremper High School, it is our understanding that coaches hired by the District have engaged in impermissible sexual harassment, sex discrimination, and



Women's Rights Project  
National Office  
125 Broad Street,  
18<sup>th</sup> Floor  
New York, NY 10004  
Tel: (212) 549-2644  
Fax: (212) 549-2644  
aclu.org



body shaming of Tremper High School cheerleaders at an annual awards event. Second, we are concerned about public reports that teachers at Bradford High School are teaching students about sexual assault in a manner that inappropriately blames victims for their assaults. The District must take immediate and decisive action to address these violations and to prevent them from reoccurring.

## **Background**

### **Events Related to Tremper High School Cheerleading Awards Ceremonies**

For at least the past five (5) years, the Tremper High School cheerleading squad has held an annual banquet at the end of each season with members of the squad. There are typically at least 100 people that attend this event including family members, friends, and members of the KUSD community. Each year, the cheer coaches have distributed superlative-type awards to the members of the squad ranging from “most improved” to “hardest worker.” We received disturbing reports that, in addition to the more traditional awards, the Tremper coaches distributed three other awards to girls on the cheer squad that objectify their bodies during the 2018 banquet: the “Big Boobie [REDACTED] Award” for the cheerleader with the biggest breasts, the “String Bean Award” for the skinniest cheerleader, and the “Big Booty [REDACTED] Award” for the cheerleader with the largest buttocks. Photos and records received in response to the ACLU’s open records request confirm that the “Big Boobie [REDACTED]” and “Big Booty [REDACTED]” award were also distributed in 2017. Additionally, during the 2017 banquet, a member of the cheerleading squad with brown hair received a blonde wig as an award because she was deemed a “ditzzy girl.” One parent told the ACLU that in prior years, the coaches made comments about girls’ vaginas. In addition to these awards, parents have reported that the Tremper Cheer coaches have regularly engaged in harassing language towards the cheerleaders during practices. Students have left practice in tears, have felt shame about their bodies, and have quit the squad due to comments made by coaches.

In March 2018, the Tremper Cheer coaches distributed the Big Boobie [REDACTED], Big Booty [REDACTED], and String Bean awards to three cheerleaders in front of over 150 people. A parent reported that the coaches “laughed hysterically” when handing the Big Boobie [REDACTED] award to its recipient and made comments on the microphone about “what a feat” it was that this student could maneuver through cheer routines with her “enormous boobs.” The ACLU received video footage of the coaches handing the Big Booty [REDACTED] award to its recipient – when doing so, the coaches proclaimed in front of the crowd, “We love her butt. Everybody loves her butt.”

Parents and at least one other Tremper High School athletic coach contacted Tremper Principal, Steven Knecht, to report the incidents that arose at the March 2018 banquet. Through an open records request to KUSD, the ACLU obtained an email dated April 23, 2018 that another athletic coach sent to Mr. Knecht about the cheer banquet incident. The coach stated, "I feel that I need to tell you this for the protection of these girls . . . . I don't think it takes much to see that this is extremely degrading to women." The same coach contacted one of the cheer coaches directly about her concerns on April 24, 2018. She wrote, "The last thing these high school girls need is a fellow woman in their lives communicating to them that they are objects or that their appearance is something to be gawked at, demeaned, laughed at, or even awarded for that matter." The cheer coach responded on April 26, 2018, "I honestly don't feel that I need to explain myself about how we ran our banquet. Actually we have ran it this way for years and have never had a problem."

In an April 28, 2018 email to the cheer coaches, Mr. Knecht stated that Tremper had received complaints about the awards from four different people and that he would launch an investigation into the allegations. After persistent follow up from one parent, Mr. Knecht reported he could find no evidence of wrongdoing on the part of the coaches. Mr. Knecht did not provide this parent with any justification for his finding nor did he indicate to the parent which school policies or procedures he relied upon in conducting the alleged investigation. When the parent insisted Mr. Knecht had missed something, he responded that the awards "were meant to be funny" and the coaches were "just joking around."

Parents also put the KUSD administration on notice about this event. Ms. Sue Valeri, Chief of Student Leadership, met with a parent who reported the actions of the coaches in April 2018. During this meeting, Ms. Valeri reiterated what Mr. Knecht stated. The District has not once provided complaining parents with written correspondence explaining its decision-making.

Records reveal that a KUSD Human Resources official met with the lead cheer coach on May 8, 2018 to discuss the incident at the cheer banquet. In a letter dated May 11, 2018, she directed the coach to write apology letters to each student who received a "gag award." She also directed the coach to submit her resignation by June 14, 2018. She stated that if the coach planned to advise the replacement coach in the following year, "Steven [Knecht] will need to make a determination to what extent you will be allowed to interact with students. We are advising that the interaction be minimum and your role remains largely behind the scene."

The ACLU obtained an August 14, 2018 memo from Mr. Knecht to Ms. Valeri and Dr. Savaglio-Jarvis, the Superintendent of Schools. That memo recounts the meeting between the Human Resources official and the head coach from May, 2018. The memo states that although the head coach sent apology emails, she declined to resign. The memo also states that Mr. Knecht told the head coach that “she was welcome back as a co-coach” with her supposed replacement. She has continued to directly coach the members of the cheerleading squad throughout the 2018-2019 school year.

Unfortunately, this awards event is not an isolated incident: The objectifying awards are just one example of a broader culture of body shaming, victim blaming, and harassment throughout KUSD. As described in the ACLU’s July 3, 2018 letter, KUSD teachers and administrators have selectively enforced the dress code against female students in a manner that reinforces invidious stereotypes. Both the awards ceremony and the selective enforcement of the dress code against female students send the message to girls that their worth lies in their physical appearance – not their academic or athletic abilities.

#### *Events Related to the Bradford High School Health Curriculum*

Female students are also taught that they are at fault when they face sexual harassment or violence.

Most recently, on December 17, 2018, students at Bradford High School were instructed to watch a movie as a part of their health curriculum in which a college freshman, Melissa, is drugged and raped by a fraternity brother. The students were then told to fill out a worksheet that asked, “What could have Melissa done differently to have avoided her sexual assault (provide at least 4 examples)?” This question squarely places the blame for a sexual assault on the victim, rather than the perpetrator who drugged and raped her. Under no circumstance should students be taught that the onus is on *them* to avoid being sexually assaulted.

Multiple parents submitted complaints to KUSD officials regarding the inappropriate class assignment. In a public statement, KUSD stated, “Bradford was asked to promptly remove this assignment from use. The district will be doing a comprehensive review of the health curriculum covering relationships and dating violence, consent and sexual assault to avoid future incidents.” It is our understanding that KUSD has yet to inform students and families about the results of its “comprehensive review,” the steps it has taken (if any) to remedy the harmful victim-blaming lesson, and its plans to reform its health curriculum moving forward.

## Title IX, Wisconsin Pupil Nondiscrimination Law, and Equal Protection Clause Concerns

As the ACLU has outlined in a prior demand letter to KUSD, we are deeply concerned with the District's ongoing, impermissible treatment of female students. As a recipient of federal funds, KUSD must comply with Title IX of the Education Amendments of 1972 ("Title IX"), which prohibits sex discrimination—including sexual harassment—in education programs that receive federal funds.<sup>1</sup> A school or school district violates Title IX when it receives notice that a teacher has engaged in sexually harassing behavior against a student, and it reacts in a manner that is deliberately indifferent.<sup>2</sup> Sexual harassment under Title IX includes not just physical sexual acts, but also verbal or nonverbal conduct that creates a hostile environment that denies or limits a student's ability to participate in or benefit from a school program or activity, such as a sports team.<sup>3</sup> Wisconsin's Pupil Nondiscrimination Law contains similar prohibitions.<sup>4</sup> Similarly, the Equal Protection Clause of the U.S. Constitution provides public school students with the right to be free from severe or pervasive sexual harassment that unreasonably interferes with educational activities.<sup>5</sup>

KUSD officials were provided with actual notice that Tremper cheer coaches were engaging in repeated harassing behavior that created a hostile environment for students. Despite receiving this notice, KUSD officials failed to take any meaningful corrective action. As a result, the cheer coaches have continued to give out sexually objectifying awards and make other inappropriate remarks to members of the squad. Numerous members of the Tremper cheer squad have left practice in tears and quit the team because of the emotional distress they experienced as a result of the coaches'

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<sup>1</sup> 20 U.S.C. § 1681(a); *Franklin v. Gwinnett*, 503 U.S. 60, 75 (1992) (holding sexual harassment by a coach against a student constitutes a form of sex discrimination prohibited by Title IX).

<sup>2</sup> *Gebser v. Lago Vista Indep. Sch. Dist.*, 534 U.S. 274, 290-91 (1998)

<sup>3</sup> *See, e.g., Jennings v. University of North Carolina*, 482 F.3d 686, 691, 695 (4th Cir. 2007) (holding plaintiff proffered sufficient facts for a jury to find that a coach created a hostile sexual environment in violation of Title IX where the coach made "sexually charged comments in a team setting, even if not directed specifically to the plaintiff," including "comments about players' bodies that portrayed them as sexual objects"); Department of Education, Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 66 Fed. Reg. 5512 (Jan 19, 2001), <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>.

<sup>4</sup> Wis. Stat. § 118.13(1) ("[N]o person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex.").

<sup>5</sup> *Jennings*, 482 F.3d at 701; *see also Fitzgerald v. Barnstable School Committee*, 555 U.S. 246 (2009) (holding that students facing sexual harassment in schools can seek concurrent relief under both Title IX and § 1983, asserting violations of the Equal Protection Clause).

inappropriate comments and actions. KUSD has thus violated Title IX by acting with deliberate indifference to complaints that female students were subject to a hostile environment that denied or limited their ability to participate on the cheerleading team. KUSD's inaction also violates Wisconsin's Pupil Nondiscrimination Law and the Equal Protection Clause.

Similarly, KUSD officials have been provided with actual notice that Bradford High School health teachers forced students to watch a movie about sexual assault and fill out a worksheet asking how the sexual assault victim could have avoided being assaulted. Numerous parents lodged complaints that the worksheet taught their children the harmful message that girls are at fault if they are assaulted. Unless KUSD takes prompt and effective action to correct this violation and prevent it from reoccurring, it would violate Title IX, Wisconsin's Pupil Nondiscrimination Law, and the Equal Protection Clause. The ACLU appreciates KUSD's commitment to a "comprehensive review" of its health curriculum, yet KUSD must inform all students and families about the results of its review, the steps it has taken (if any) to remedy the harmful victim-blaming lesson, and its plans to reform its health curriculum moving forward.

### **Conclusion**

For the aforementioned reasons, the ACLU has serious concerns that KUSD is enabling sexual harassment in its schools in violation of Title IX, Wisconsin's Pupil Nondiscrimination Law, and the Equal Protection Clause of the United States Constitution. The incidents described all reveal a culture in which female students are objectified and sexualized, rather than valued for their intellect or athleticism. Further, these students are taught that any harassment they suffer is a result of the clothing they wear or their failure to adequately fight back, rather than a perpetrator's inappropriate behavior.

Accordingly, we demand KUSD take immediate action to address these incidents. We urge KUSD to institute appropriate discipline against the staff involved with the Tremper High School cheer awards and the Tremper and KUSD administrators who failed to take adequate corrective action after receiving complaints about the incidents. KUSD should institute robust, mandatory anti-harassment training for all District employees, including teachers, coaches, and administrative staff. We urge KUSD to release written guidelines prohibiting school officials from commenting on students' physical appearances or making other remarks about their bodies or sexuality. We also urge KUSD to release the results of its "comprehensive review" of the health curriculum and to require all schools to implement a new sex education curriculum that emphasizes healthy relationships, affirmative consent, and sexual assault prevention, without placing any blame on victims

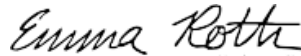
who are sexually assaulted. Finally, KUSD should provide written notice to all students and parents in the District informing them of these remedial steps.

Thank you for your prompt attention to this matter. We would appreciate a response to this letter by Friday, March 1, 2019 describing the steps KUSD plans to take to remedy the hostile environment in its schools. We will continue to explore all available legal remedies to ensure KUSD establishes a safe and equitable learning environment for all students.

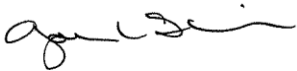
Sincerely,



Asma Kadri  
Staff Attorney  
ACLU of Wisconsin  
207 E. Buffalo St. #325  
Milwaukee WI 53202



Emma Roth  
Equal Justice Works Fellow  
ACLU Women's Rights Project  
125 Broad Street, 18<sup>th</sup> Flo.  
New York, NY 10004



Galen Sherwin  
Senior Staff Attorney  
ACLU Women's Rights Project  
125 Broad St., 18<sup>th</sup> Fl.  
New York, NY 10004