

GREENEBAUM DOLL & McDONALD PLLC

INTERNAL MEMORANDUM

March 29, 2001

TO: Louis Stout, Commissioner
Brigid DeVries, Executive Assistant
Commissioner

FROM: Danny C. Reeves, Legal Counsel

RE: Beechwood High School, Title IX Submissions

On November 21, 2000, the KHSAA's Title IX Final Audit Report was issued for Beechwood High School. While there were no major deficiencies noted, the school was asked to provide additional information with respect to seven separate areas that were either not clear from the school's submissions or from the actual audit conducted on January 10, 2000.

On January 6, 2001, the school responded to this request for additional information. As discussed below, the school provided some of the information sought. However, in other areas, the request was either overlooked or ignored. In one area, the school was asked to review its submissions and supplement all forms where information was inadvertently omitted. As you know, this same request was made with several schools (in fact, some were fined for failing to include all relevant information). While all other schools attempted to comply with this request, Beechwood did not. Instead, Beechwood responded by stating, "no mention was made of any additional information being needed or of any information inadvertently omitted, so no new information is being submitted."

Accordingly, I have reviewed the file and have outlined below the forms which have missing information.

1. **(Supplemental Information Regarding Student Surveys)** The school was asked to provide additional information regarding student survey responses and also provide the specific number of students responding to each area of interest. The school responded by providing some information. However, it either did not or could not provide specific numbers of students responding to each category. The school simply ignored this request by the KHSAA. The school should be advised that its response is deficient. *It should be asked why it did not provide the specific information requested. Based on the school's response, additional action may be appropriate.*

2. **(Were Cheerleaders Included In The Numbers Calculation?)** The school has confirmed that cheerleaders were not included in the initial calculation. Accordingly, no other information is needed at this time regarding the accuracy of this calculation.

3. **(Supplemental Information Regarding Girls' Basketball Games)** The school was asked to state whether the information provided on form T-11 regarding the scheduling of girls'

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basketball games was accurate. In addition, the school was asked whether the information supplied previously was based on coaches' opinions, as opposed to the opinions of students. Finally, the school was asked to provide information regarding the game days for 2000/2001. In response, the school failed to provide the schedule of games requested. Further, the school has indicated that it has been unable to schedule more games on prime times because of the reluctance of other schools in the area to agree to this modification. However, *it has not identified the schools that refuse to make the necessary changes*. Likewise, the school simply failed to respond to the other items of information requested. While some of this information can be obtained from other sources, the KHSAA should assess whether the school's has responded in good faith to this inquiry. *Again, the school should be asked why it did not provide the specific information requested. Based on the school's response, additional action may be appropriate.*

4. **(Cheerleading/Publicity)** The school indicates that it addressed this problem last spring and that its cheerleaders (apparently one group, although that is unclear) perform at all football games, but only at home girls' and boys' basketball games. Further, the school has ignored the KHSAA's request to address this issue in a supplemental Corrective Action Plan. Therefore, the KHSAA should again assess the good faith nature of the school's response. *Again, the school should be asked why it did not provide the specific information requested. Based on the school's response, additional action may be appropriate.*

5. **(Supplemental Information Regarding Awards)** The school was asked to confirm whether the information supplied in its original submission was accurate. Further, the school was asked to outline in writing the type and value of awards given to all student athletes. The school has adequately responded to this inquiry.

6. **(Missing Information)** The school was asked to review its prior submission and supplement all forms containing missing information or information inadvertently omitted. The school responded as follows: *"No mention was made of any additional information needed or of any information inadvertently omitted, so no new information is being submitted."* Accordingly, I have again reviewed the entire file in order to identify forms that contain missing or inadequate information. Those items are the following:

T-61 (student survey) The school has not identified the number of students selecting "other" in response to question 2, 3 or 4. Also, the school has not provided any information in response to questions 5-9.

T-2 and T-3 (Test Two and Test Three) The school's response of "NA" is insufficient. Even if the school believes it complies with the first prong of the opportunities test, it may not meet this test in future years. Therefore, compliance would be necessary under another prong. Accordingly, the information requested should be provided.

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T-4 (Level of Competition) The total number of male and female participants should be about the same as outlined on form T-1. However, the school indicates there are 197 female and 249 male participants on T-4, but 218 female and 272 male participants on T-1. The school has not attempted to explain this difference.

T-33 (Publicity) The girls' basketball individual chart indicates that the team would like cheerleaders to perform at home games (See Girls' Basketball/T-32). This information is missing from T-33. Also, the response at the bottom of the page (response to last three questions) that "all coaches said no or left blank" is insufficient.

T-40 (Girls' Track/ Housing and Dining) No response to question concerning whether special housing arrangements are ever made for athletes.

T-40 (Girls' Tennis/ Housing and Dining) No response to question concerning post-game meals.

T-5, T-11, T-28, T-32, T-34 (Swimming Boys & Girls) Copies provided are illegible.

T-39 (Tutoring) The team chart for tutoring indicates "NA" while individual team submissions for fast pitch softball and girls' basketball indicate students receive tutoring (T-38).

7. **(Coaches' Salaries)** The school has responded to the KHSAA's request by stating that its coaches are paid in accordance with Bylaw 27, section 3 b. In essence, the school was given the opportunity to correct what was believed to be inaccurate information based on information obtained in Bishop v. KHSAA, et al. In that litigation, information was supplied indicating that the football coach received additional income from private parties. His affidavit indicates that, during 1994-95, Coach Yeagle was paid \$4,256 for coaching responsibilities and that he was given \$9,000 by private individuals, a portion of which was distributed to assistant coaches. Therefore, I question whether this procedure continued and was simply not reported on the school's Title IX report. *I suggest that the school be asked to clarify its response to specifically state whether it has ever allowed coaches of any sport to be compensated by outside sources such as booster clubs. The school should be required to provide details regarding all such arrangements.*

In summary, follow-up action will be required regarding items 1, 3, 4, 6 and 7 listed above.

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
DIVISION II
CASE NO. 98-CI-02580

JOSHUA K. BISHOP

PLAINTIFF

V.

AFFIDAVIT OF COACH MICHAEL YEAGLE

BEECHWOOD INDEPENDENT SCHOOL DISTRICT, ET AL.

DEFENDANTS

* * * * *

Affiant, Michael Yeagle, duly sworn, states as follows:

1. I am the head football coach at Beechwood School and have held that position for eight years. I am also a teacher at the Beechwood School and have held that position for fourteen years.

2. I am a full-time employee of the Beechwood Board of Education.

3. During the 1994-95 school year, the Beechwood Board of Education paid me \$27,005.00 for my base teaching salary, \$4,256.00 for my coaching responsibilities, and \$45.00 for work on curriculum adjustment, for a total salary of \$31,306.00.

4. During that year, I was given \$9,000.00 by private individuals. This money was a gift and was paid to me directly. I distributed approximately \$4,500.00 of this amount to my assistant coaches.

Further, affiant sayeth naught.

4/27/99

Date Sent: Wednesday, October 24, 2001 7:40 AM
From: "The Egans" <wildcat1@fuse.net>
To: <lstout@khsaa.org>,
<craig.true@us.pwcglobal.com>,
<gwilhoit@kde.state.ky.us>
Cc: "Harold & Lessa" <lessap@gte.net>
Subject: FWD: Christian Science Monitor Story

For the record. Also under deposition we found out that they have many more coaches for baseball than the two they indicate on the KHSAA forms. One, Rick Sullivan, gets paid as a bus driver, not a coach, (hence baseball team gets bus transportation because he drives a route the rest of the year then during baseball season he transports the teams - softball car pools) therefore their logic is they don't have to include him as a coach on the forms because he is a volunteer coach and a paid bus driver. He is a coach and even wears the uniform. One of the plethora of Boone County school districts many attempts at circumventing the system and falsifying state documents in my belief. Also nor prime time girls basketball games because it's a problem with scheduling for everyone in our area - they didn't know how to answer why the three high schools in our district didn't at least play each other on Friday nights. Oh, the coach doesn't want it - I never knew coaches were allowed to decide what federal laws they would comply with and which ones they wouldn't. The football team gets their locker room ALL year - oh no, I mean it becomes a conditioning room after football season but only football players use it - that's right. So it's 3 athletic locker rooms for boys to one for the girls. Also, the KHSAA asks how many bus trips the teams take on the form but not the number of buses - for instance varsity football takes 3 per game, JV 2, Freshman 1. I feel sorry for you to ever have to try to get the truth since it has now cost us \$20K and we have to depose people under oath to get the real facts. Good luck and god bless.

Kim Egan

----- Original Message -----

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Sent: Wednesday, October 24, 2001 7:20 AM
Subject: Christian Science Monitor Story

> Sorry about the baseball new lights part. That he got incorrect. He saw

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the

- > lights on the baseball field "on" after being told that "they didn't work"
- > so I guess he took that to mean they were new.
- > <http://www.csmonitor.com/2001/1024/p12s1-alsp.html>
- >

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