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Parties Announce Settlement of UC Davis Title IX Athletics Discrimination Suit Brought by Former Students

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Following is an announcement of a settlement agreement pertaining to all remaining aspects of the Mansourian case:

The University of California and former UC Davis students and women wrestlers Arezou Mansourian, Christine Ng, and Lauren Mancuso announced today that they have reached an agreement to settle the issues remaining after the findings made by a federal judge last August in the liability phase of trial in the case. The court rejected their claim against four university employees (all now retired), holding that the employees did not violate the Equal Protection Clause or were entitled to qualified immunity in their handling of plaintiffs' requests relating to women's wrestling. The claim against them was dismissed. However, the court found that the university violated Title IX of the Education Amendments of 1972 by not sufficiently expanding intercollegiate athletic opportunities for female students at UC Davis between 1998 and 2005, the years that plaintiffs were in attendance.

The damages phase of the trial on the Title IX claim was scheduled to start on March 5. The parties chose instead to resolve all remaining issues, including any possible appeals, with payment by the university of \$1.35 million to plaintiffs' counsel for attorneys' fees and costs incurred during the lengthy case.

The university, on behalf of the Davis campus, defended the Title IX claim under prong two of the three-part test for compliance, which required it to show both a history and continuing practice of expansion of its intercollegiate athletic program for women. Judge Frank C. Damrell Jr., who presided over the trial, was highly complimentary of UC Davis in his [findings](#), noting that the campus "has a strong history of supporting women's participation in athletics."

UC Davis "acknowledged its obligation to comply with Title IX even when there was virtually no enforcement [by the Office of Civil Rights] in the 1980s and early 1990s," Damrell wrote.

Referencing the addition of women's cross-country, lacrosse, water polo, crew, indoor track and field, and golf, Damrell found that UC Davis had a history of expanding its women's program, and did so during challenging economic times.

However, "despite its best intentions to the contrary," he found that the university did not meet its burden of proof under prong two because there was no net gain in the number of participation opportunities during the time period in issue.

The primary basis for the Title IX finding was the decision to discontinue women's JV water polo and lacrosse in 2001, based on the recommendation of the coaches for those teams, because of lack of viable competition.

The judge found that while this was a "legitimate, non-discriminatory" reason to drop the teams, in order to show a practice of expansion, those opportunities should have been replaced with others at the time.

The campus did continue to add participation opportunities for women by adding field hockey as a varsity sport, but the focus of the suit was on the time period before field hockey was added.

Damrell noted that "the issues raised regarding UC Davis' non-compliance with Title IX are difficult, particularly in light of the dearth of guidance in this area of the law."

Campus counsel Steve Drown agreed. "Prior to this decision, there was almost no precedent on prong two compliance even though that test was established by the Office for Civil Rights back in 1979," Drown said.

Between 1996 and 2006, UC Davis added more varsity sports for women than any other comparable school. It now complies with Title IX under prong one, which measures the proportionality between the percentage of women undergraduates and the percentage of female student-athletes.

Individual UC Davis defendants were fully vindicated on the claims brought against them by the plaintiffs, which related to women's wrestling. The defendants were Larry Vanderhoef, who was chancellor at the time; Robert Franks, then the associate vice chancellor for student affairs; Greg Warzecka, athletic director; and Pam Gill-Fisher, who was senior associate athletic director. The claims against a fifth UC Davis defendant, Larry Swanson, were dismissed by plaintiffs prior to trial.

Damrell held that Davis "was not required to provide a separate women's wrestling team because the undisputed evidence demonstrates that there was not a reasonable expectation of intercollegiate competition for such a team."

The judge rejected plaintiffs' argument that Warzecka and Gill-Fisher "removed" Mansourian and Ng from the wrestling team in the fall of 2000, finding that decision was made by Mike Burch, the former coach of the

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men's wrestling team.

The judge also rejected plaintiffs' argument that they should not have had to compete against males for a place on the men's team. Damrell wrote: "Plaintiffs were not cut from the men's team because of their sex. Rather, plaintiffs were cut, first by Burch and then by Zalesky, because, like the other male student-athletes that did not make the roster, they could not compete at the Division I, Pac-10 level in intercollegiate men's wrestling."

Damrell's ruling on the Title IX claim was not based in any way on wrestling issues.

Christine Grant, one of the nation's most respected Title IX experts, testified on behalf of UC Davis and the individuals sued. This was the first time in her long career that Grant testified in support of a school, rather than the students who were suing.

No money was paid to the plaintiffs in the settlement. The university was going to have to pay part of their attorneys' fees in any event, because of the finding on the Title IX claim. The agreed-upon amount was significantly less than the university may have been ordered to pay if the issue was decided by the court.

The case has been litigated for more than eight years, due to earlier rulings in favor of the defense that were overturned by the Court of Appeal.



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