

Wayne K. Caldwell (#9466)  
Aubri O. Thomas (#17331)  
BEARNSON & CALDWELL, LLC  
399 North Main, Suite 270  
Logan, Utah 84321  
Telephone: (435)752-6300  
Facsimile: (435)752-6301  
Email: wcaldwell@bearnsonlaw.com  
Email: athomas@bearnsonlaw.com  
For emails, please cc: mandreasen@bearnsonlaw.com  
*Attorneys for Plaintiff*

**If you do not respond to this document within applicable time limits, judgment could be entered against you as requested.**

---

**IN THE FIRST JUDICIAL DISTRICT COURT  
COUNTY OF CACHE, STATE OF UTAH**

---

ROBERT BLAKE ANDERSON;

Plaintiff,

vs.

UTAH STATE UNIVERSITY, MICA  
MCKINNEY, an individual, DIANA  
SABAU, an individual, and DOES I-X;

Defendants.

**COMPLAINT AND JURY DEMAND**

Civil No. \_\_\_\_\_

Judge: \_\_\_\_\_

Tier Designation: 3

---

COMES NOW ROBERT BLAKE ANDERSON (“Plaintiff” or “Anderson”), by and through counsel of record, Wayne K. Caldwell, Aubri O. Thomas, and Bearnson & Caldwell, LLC, and do hereby complain against UTAH STATE UNIVERSITY, MICA MCKINNEY, DIANA SABAU, and DOES I-X (collectively referenced as “Defendants”).

**NATURE OF ACTION**

This is a civil action for damages arising from Defendants’ breach of Anderson’s employment contract and actions related to Anderson’s termination perpetuated by Defendants against Anderson which have caused him significant damages and reputational harm.

## **PARTIES**

1. Plaintiff Robert Blake Anderson (referenced herein as “Blake”, “Anderson” or “Plaintiff”) resides in Cache County, Utah.
2. Defendant Utah State University (“USU” or the “University”) is a governmental entity located in Logan, Cache County, Utah.
3. Defendant Mica McKinney (“McKinney”) resides in Cache County, Utah.
4. Defendant Diana Sabau (“Sabau”) resides in Cache County, Utah.
5. Defendants DOES I-X constitute one or more persons or entities that may be liable for the acts or omissions complained of herein which may, as discovery reveals necessary, be added to this action.

## **JURISDICTION AND VENUE**

6. Plaintiff re-alleges and incorporates by reference all above paragraphs, as if set forth fully herein.
7. Jurisdiction is properly laid in this Court in accordance with the provisions of Utah Constitution, Article VIII, § 5 and Utah Code Ann. § 78A-5-102.
8. Venue is properly laid in this Court in accordance with Utah Code Ann. § 78B-3-307. Moreover, Plaintiff and Utah State University have contracted that this Court is a proper venue for the determination of disputes related to the contract at issue in this suit.
9. On September 16, 2024 and pursuant to Utah Code Ann. § 63G-7-401, Plaintiff delivered his Notice of Claim to Utah State University. That Notice of Claim is attached hereto as **Exhibit “A”**.



## **STATEMENT OF FACTS**

10. Plaintiff re-alleges and incorporates by reference all above paragraphs, as if set forth fully herein.

### ***Coach Anderson's Esteemed and Respected Coaching Career***

11. Until the events complained of herein that took place at USU, Coach Anderson had an unblemished and successful football coaching career, both on and off the field.

12. Coach Anderson began his career over thirty (30) years ago in 1992. Between 1992 and 2013, Coach Anderson had success in support coaching roles at Eastern New Mexico University, Howard Payne University, Trinity Valley (where he served as the offensive coordinator to help bring home the NJCAA National Championship in 1997), University of New Mexico, Middle Tennessee State University, University of Southern Mississippi (where he helped lead the team to a 12-win season in 2011 including the Conference USA Football Championship Game), and University of North Carolina at Chapel Hill.

13. From 2014-2020, Coach Anderson served as the head football coach at Arkansas State University. Anderson successfully led the team to 6 consecutive bowl games, and won two Sun Belt conference championships.

14. In December 2020, Coach Anderson was officially hired as the head coach at Utah State University. In his first season, he took what was previously a losing team and led them to an 11-3 record, ultimately winning the Mountain West championship and the LA Bowl.

15. He continued as a well-respected head coach at USU until his sudden and unwarranted termination in July 2024. Prior to his termination and the events that took place as alleged herein, he was on the “short-list” and had been selected for interviews for head coaching

positions at multiple top football programs throughout the nation, and his future was bright by all accounts.

**Coach Anderson's Contract with Utah State University**

16. On December 10, 2020, Anderson was offered the position of Head Football Coach at Utah State University. The offer letter, or Letter of Agreement, was signed by the President of USU, Noelle Cockett, and counter-signed by Anderson on December 10, 2020. *See* Letter of Agreement, attached hereto as **Exhibit “B”**.

17. Subsequently, in September 2021, Anderson and USU entered into the “Head Coach Employment Agreement” with an effective date of December 11, 2020, which more fully memorialized the terms of Anderson’s employment at USU. *See* Head Coach Employment Agreement (referred to herein as the “Original Contract”), attached hereto as **Exhibit “C”**.

18. On August 19, 2022, after a very successful first season, Anderson and USU entered into an amendment to the Original Contract -- the “First Amendment to Head Coach Employment Agreement”. *See* First Amendment to Head Coach Employment Agreement (referred to herein as the “First Amended Contract”), attached hereto as **Exhibit “D”**. The Original Contract and First Amended Contract are referred to collectively herein as the “Contract”.

19. Under the Contract, Anderson was contracted as the Head Football Coach through December 31, 2027. However, Anderson’s employment remained “at-will” subject to certain buyout requirements that are outlined in the contract if USU notified him that it was terminating him for “convenience” (as described in Section 7 of the Contract). If USU notified him terminated him “for cause” (as described in Section 6 the Contract), Anderson would not be entitled to receive any further compensation or benefits.

20. Paragraph 1.1 of the Contract defines “University Rules” as:

Any and all present or future legislation, rules, regulations, directives, student-athlete handbooks, written policies (including the policies found in USU’s Policy Library (<https://www.usu.edu/policies/>), bylaws, and constitution, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by USU, including, without limitation, by its President, Vice President and Director of Athletics, and/or Board of Trustees.

21. The Contract provides that Anderson was required to “report directly to the [Athletic] Director and shall confer with [the Athletic Director] on all administrative and technical matters.” (Paragraph 2.2). It further provides that “the Director is responsible to USU’s President for the operation, review, and period evaluation of the entire athletic program at USU, including the football program” and that therefore Anderson must “recognize[] and acknowledge[] the importance of the maintenance and observance of the principles of institutional control over every aspect of such program.” (Paragraph 2.3). To this end, Coach Anderson “shall manage and supervise the Team and shall perform such other duties in USU’s athletic program, consistent with Coach’s status as the head coach, as the [Athletic] Director may reasonably assign.” (Paragraph 2.4).

22. The Student-Athlete Handbook referenced in the Contract as included in the University Rules, at the time of the relevant events described herein, was the 2022-2023 Student-Athlete Handbook. *See* 2022-2023 Student Athlete Handbook, attached hereto as **Exhibit “E”**.

23. The 2022-2023 Student-Athlete Handbook required that upon notification of a player’s arrest, citation, or questioning by police, the following was required of Anderson in his role as head coach:

“[T]he head coach has the institutional responsibility to report the arrest/citation/etc. immediately to his/her sport supervisor so appropriate notice of the situation may be immediately forwarded to the Director of Athletics and, if necessary, the President of the University. The Director of Athletics, in consultation with the head coach and spot supervisor, will determine additional disciplinary action *based upon the individual*

*circumstances of any misconduct.* Possible action may include suspension/removal from the team, cancellation of scholarship, community service, educational initiatives, etc. The case may also be forwarded to the USU Office of Student Conduct for additional disciplinary measures.” (emphasis added).

24. Thus, according to the Contract, upon being notified of alleged student athlete misconduct, Anderson was required to notify his direct supervisor, who at the time of the events at issue was Jerry Bovee, and have knowledge of the individual circumstances sufficient to make an informed decision about disciplinary action in consultation with Mr. Bovee.

25. After the events described herein, USU has since changed the Student-Athlete Handbook to eliminate this provision.

26. Notably, the Contract also contains what is commonly referred to in the coaching business as a “**no gotchas**” clause in Paragraph 6.1, which provides that notwithstanding USU’s outlining of various violations that constitute “cause” for termination, “USU acknowledges and agrees that it does not intend to terminate this Agreement for **minor or technical violations of its terms** that are non-repetitive and/or curable and that do not damage USU or entail the risk of material penalties.”

#### **Events Surrounding Coach Anderson’s Termination**

27. On July 2, 2024, USU delivered to Coach Anderson three documents: (1) a one-page Notice of Administrative Leave, attached hereto as **Exhibit “F”**; (2) a five-page Termination Letter signed by USU President Elizabeth Cantwell and Athletic Director Diana Sabau, attached hereto as **Exhibit “G”**; and (3) a seven-page summary of the supposed “investigation” conducted by an outside law firm hired by USU, Husch Blackwell, attached hereto as **Exhibit “H”**.

28. Pursuant to his paragraph 6.2 of the Contract, Coach Anderson was given fourteen (14) days to respond to the termination letter, which he did on July 15, 2024. Coach Anderson’s

response is attached as **Exhibit “I”**, without exhibits to protect the privacy of others, including students, who were involved.

29. The entirety of USU’s purported basis for terminating Coach Anderson “for cause” can be boiled down to one, single incident involving a football player’s arrest on April 5, 2023 for an incident that was alleged to have occurred **off campus** at the player’s apartment building located at 252 East 1725 North (which he shared with another football player). The alleged incident involved the player and the mother of the player’s child who, at the time of the incident, **was not even a student at USU**.

30. Depending on which witness one believes, the former USU football player: (a) pulled the string on his girlfriend’s hoodie; or (b) held the door shut so that she could not enter his apartment as she tried to force her way in; or (c) as she maintains to this day, never laid on a hand on her at all in a manner to harm her.

31. It should be noted that, without exception, Coach Anderson has a longstanding, strongly held belief that domestic abuse and other misconduct covered by Title IX and USU policies are absolutely unacceptable no matter where they occur. Coach Anderson’s actions on this principal speak far louder than words. Coach Anderson once fired a USU staff member on the spot and had him removed from the game venue immediately after learning he had touched a female’s buttocks. Similarly, Coach Anderson, without hesitation, recommended dismissal of two USU players from the team based upon credible evidence of domestic abuse. Further, those who worked closely with him as staff members and players will attest that he had absolutely no tolerance, for any type of abuse - sexual, domestic, or otherwise - and made this very clear to all players, coaches, and staff members on a regular basis. Players who played for Coach Anderson knew that anyone who was found to have engaged in this type of behavior would be removed

from the team. Additionally, it is expected that CAPSA officials will provide testimony that Anderson sought out additional trainings from them for his players and staff to create the healthiest and safest culture possible, and that this was a high priority for him.

32. Coach Anderson also had no prior disciplinary history at any other university, prior to his termination, including no prior incidents at USU. Coach Anderson has a long-standing history and unmarked reputation for appropriately handling the reporting of player misconduct.

33. With relation to the incident at question in this litigation, Coach Anderson did not immediately become aware of the football player's arrest. The player initially concealed from Coach Anderson and members of the coaching staff that he had been arrested. Anderson has pieced together a timeline based upon text messages and subsequent discussions with those involved, which he has been able to more definitively determine even since his initial response to the termination letter by talking to the individuals involved and reviewing relevant messages/call logs.

34. Prior to his arrest even occurring, the player had approached and discussed with Coach Anderson the player's intent to enter the transfer portal. Text messages between Anderson and the player on Tuesday, April 4, 2023 show Anderson texted player "swing by and see [him] today before team mtg please" which was to discuss rumors about him entering the transfer portal. The player indicated during the conversation that ensued that he was considering entering the transfer portal because of the new defensive staff, and was going to make a final decision over the coming weekend.

35. On Wednesday, April 5, 2023, in the early morning hours, the player was arrested and taken to jail.

36. On Thursday, April 6, 2023, Coach Anderson called the player (9:50 a.m., 1 minute duration) leaving a voicemail about the player missing breakfast check.

37. One minute later, Anderson texted the player at 9:51 a.m.: “Need to hear from you... heard there was an emergency, but need you to communicate with us” regarding a rumor amongst players that the player had been unavailable due to taking the player’s child to the hospital.

38. A few minutes later, at 10:05 a.m., in a 2-minute long phone call initiated by the player, the player informed Anderson that he had missed breakfast check due to taking his child to the hospital. He said nothing about being arrested.

39. Anderson had no further discussions with the player until the following week.

40. On the morning of Wednesday, April 12, Coach Anderson heard a rumor that the player was arrested and asked the Director of Player Development to see if he could find any information confirming this, or if charges had been filed. The Director of Player Development was unable to find anything confirming the rumors in the public system. Indeed, no charges were filed at that time, and in fact no charges were filed until May 25, 2023.

41. Out of an abundance of caution, after hearing these rumors, on April 12, 2023 at 10:58 a.m., Anderson called Jerry Bovee, Interim Athletic Director, and reported to him the rumors he had heard, including that Austin Albrecht was not able to determine what, if any, charges were being filed.

42. Anderson called Mr. Bovee again at 12:06 p.m. on April 12 and left a voice message, but cannot recall the topic or content of this message.

43. Anderson called the football player in for a meeting (via text) on the evening of April 12 and confronted him about the rumors. The player confirmed that he had been arrested

after a neighbor called police over an argument he was having with the mother of his child, but that he did not know if there were any charges, or what they were going to be if there were charges at all. The player mentioned that both his roommate (who was also a football player), and his child's mother, did not understand why he was arrested.

44. The football player reported that he had been calling the court and there were still no charges filed. While in Anderson's office, the player called the mother of his child and put her on speaker phone, who, unsolicited, explained that it was just an argument and that she was not hurt. Anderson asked if she was sure he didn't hurt her (because if she said yes, Anderson would have sought to remove the player from the team). She responded she was absolutely sure and that she wanted to provide something in writing. Anderson did not ask the player to call his girlfriend, nor did he request anything in writing from her. Rather, it was her desire to provide this information with no solicitation from Coach Anderson, and she openly expressed that she had told the player and anybody else who would listen—including police—that she wanted to make her position known. Anderson was left with the impression that perhaps there was an arrest for disorderly conduct or disturbing the peace based on her account.

45. At 6:17 p.m. on April 12, Anderson called Mr. Bovee a third time and relayed what he had learned. Anderson and Mr. Bovee discussed all of the information they had at that point, and Mr. Bovee indicated that even though they did not know exactly what was going on, he would submit a report to the Office of Equity with the information they had discussed just in case. Anderson considered that report to include him because he had provided all of the information he had at that time, and Mr. Bovee confirmed he would make the report.



46. Upon information and belief, as promised, Mr. Bovee ensured that the report was submitted that same day, April 12, 2023. USU has acknowledged that Mr. Bovee's report was timely.

47. Anderson reached out to the player's roommate the evening of April 13, 2023, and met with him that evening. His purpose in meeting with the roommate was to ascertain if the roommate knew what the player was being charged with, if anything, so that appropriate action could be taken under the Student-Athlete Handbook policies, since the player did not seem to know. The player informed Anderson during that meeting that he wanted to provide a written statement. He was not asked to do so, but said he wanted to because he did not feel the situation had been handled properly by law enforcement. Later that day, still on April 14, Anderson followed up via text about the statement Anderson was expecting, asking him not to forget it. The roommate left a handwritten statement on Anderson's desk on April 14, 2023.

48. Anderson received a written statement from the alleged victim on April 13, 2023 and from the roommate on April 14, 2023. Both were immediately forwarded to Jerry Bovee upon receipt.

49. Within days of his arrest, likely sometime between April 15 and 17, the player entered the transfer portal and, per NCAA rules, the player was removed from USU's team roster.

50. Upon information and belief, the Office of Equity failed to follow up or investigate the report that was made for months, and after supposedly conducting a "safety assessment", reported zero safety concerns to the school to which the player was transferring, allowing the transfer to go through even while the report was still pending investigation. When the Office of Equity eventually inquired about the report, they failed to even contact the alleged

victim for a significant period of time after that, if at all. The Office of Equity investigation began only after USU began searching for a reason to fire Coach Anderson at the personal behest and insistence of Mica McKinney.

51. Indeed, Mica's efforts in interfering with Anderson's employment are believed to be part of a series of direct attempts to deflect attention from her own prior wrongdoings in delaying decisions and failing to follow Title IX and University policy related to serious sexual abuse allegations by one or more former player(s), which she knew about (while Anderson was unaware) and intentionally covered up for an extended period of time, including by encouraging or requiring other university officials including a former University President to delay decision making on those issues that had been raised.

**USU's Tumultuous History with the Department of Justice Prior to Coach Anderson's Tenure**

52. On October 2, 2019, well before Coach Anderson's involvement at USU, USU was put on notice by the U.S. Department of Justice that pervasive harassment had gone unaddressed by USU. This notice included findings that there was a lack of effective mechanisms for coordination and communication between the Office of Equity and the Athletics Department, and a lack of related policies and procedures.

53. The DOJ's position stated after Anderson's termination, as of August 21, 2024, "To date, the University has not developed such policies and procedures."

54. The DOJ has been conducting compliance monitoring since a settlement agreement for such was reached on almost five (5) years ago February 12, 2020 as a result of the prior non-compliance by USU. This came as the result of significant issues with USU's policies, consistency in implementation of those policies, and related issues that allowed a now-convicted serial rapist, Torrie Green, to remain on campus playing football while simultaneously engaging

in the rape and sexual assault of multiple women on campus despite multiple USU administrators' awareness that there were concerning allegations against him.

55. Since the DOJ began monitoring USU, USU has continued to struggle to come into compliance with Title IX and Federal Regulations, and to consistently implement effective policies and provide adequate and appropriate training to effectuate those policies. USU has requested and received multiple extensions in its attempts to come into compliance.

56. The DOJ expressed concerns about USU's lack of compliance repeatedly, including on March 7, 2022, April 11, 2022, February 24, 2023 (in a formal letter of non-compliance), March 29, 2023, February 15, 2024, May 6, 2024 (in a formal letter granting an extension to create and implement policies and trainings), June 20, 2024, and July 15, 2024.

57. Notably, many of these meeting dates appear to directly relate to actions attempted by USU to desperately show some semblance of USU taking the DOJ seriously immediately before the meeting occurs, in order to metaphorically get the DOJ off USU's back (e.g. new policies past February 10, 2024 regarding reporting, but without any actual training on the new policies and zero effort at effective implementation or communication regarding those changes; Firing of four (4) employees in July 2024 right before the July 15, 2024 meeting as literal scapegoats for the University's non-compliance and lack of effective and direct communication mechanisms, as has been pointed out by the DOJ in prior and subsequent communications, specifically outlining the Office of Equity's lack of compliance and effective/timely communication).

58. USU's inability to figure out how to effectively manage and implement its own policies was well known amongst employees, and efforts to provide ideas for improvement went unyielded unless forced upon them. For example, upon information and belief, it was suggested

by multiple prominent administrators that USU should implement a “respondent advisor” position to assist in ensuring due process for the respondents in Title IX cases, which would help eliminate respondent’s need to reach out to someone else they trust to tell their side of the story, such as Coach Anderson, which places such employees in a difficult position. Indeed, this idea was even submitted to the President of the University as a formal budget request, but never taken seriously.

59. Interestingly, the DOJ has asserted its position, which appears to be based off of information selectively provided by USU and/or Mica McKinney (since nobody at the DOJ ever spoke with Coach Anderson or any other Athletics Department employees who could have provided additional information that conflicted with the findings, making this information hand-picked and lacking in any actual investigation). Those DOJ findings include that Office of Equity failed in its duties and was negligent in its handling of the issues and communication with the Athletics Department. Yet, upon information and belief, nobody at the Office of Equity has been disciplined or terminated related to those issues, while four individuals in the Athletics Department were targeted, systematically and publicly terminated, and made public examples.

### **The Husch Blackwell Investigation**

60. Upon information and belief, Mica McKinney used her position as General Counsel to initiate the Husch Blackwell investigation for the sole purpose of finding a reason to fire Anderson to satisfy her personal vendetta against him. McKinney approached then-President Noelle Cockett and requested that because of favors she had done for her over the past several years of her tenure as President, President Cockett consider returning that favor by finding a reason to fire Blake Anderson.

61. To this end, McKinney personally wanted to initiate an investigation to metaphorically “dig up dirt” and find a reason to terminate Coach Anderson. When President Cockett said that they had no basis for this and it was improper, and declined to sign off on the investigation, Mica McKinney circumvented the President and improperly approached the Board of Trustees, who is required by statute to have its own counsel, the Utah Attorney General’s Office, and who McKinney is not charged with advising, and pressured the Board into signing off on the targeted investigation, without informing them that the President of the University had not signed off on her request and had, in fact, denied it.

62. Upon information and belief, McKinney frequently engaged in offering business, rather than legal, advice to the President, and also overstepped her bounds by providing legal advice and instruction to the Board of Trustees, with whom she is not in an attorney-client relationship by statute, because the Board is separately represented by its own counsel. These efforts, in many cases, were aimed at specifically targeting Anderson because she personally disliked him and wanted him removed from USU.

63. Upon information and belief, Husch Blackwell (retained to conduct a supposed “independent investigation”) was and is not an independent firm hired to conduct an “independent” investigation. Rather, USU has an pre-existing established relationship with Husch Blackwell and its attorneys to assist in multiple facets of its Title IX investigations and hearings, such that many of USU’s Office of Equity’s responsibilities have been outsourced to this out of state law firm because of USU’s inability to comply with federal requirements in conducting these hearings itself.

64. Furthermore, upon information and belief, the firm was hand selected by one or more individuals at the Office of Equity based on prior existing relationships between attorneys at Husch Blackwell and certain employees in the Office of Equity.

65. Husch Blackwell began investigating in approximately July 2023. Anderson was told they were investigating in order to improve their ongoing processes. Husch Blackwell did not even come to campus in person to conduct the investigation. Interviews were conducted via Zoom. When Anderson was interviewed many months after the fact, he was not provided with any documents (nor offered time to find such documents) to orient himself to dates, times, messages, etc., and for this reason almost all of his answers and statements were couched in the context of his best guess (e.g. “To the best of my memory” “I would guess that” “That sounds like it might be right.”).

66. Upon information and belief, USU provided confidential employment information to Husch Blackwell regarding Anderson as part of its efforts to target Anderson.

67. Ultimately, upon information and belief, Husch Blackwell provided USU with an investigative report regarding its investigations, the full contents of which USU has, to date, refused to provide to any of the terminated parties to the best of Anderson’s knowledge. However, USU did provide to Anderson with his termination letter an investigative summary that supposedly contains the summary of the issues related to Anderson himself.

68. Notably, the investigative summary itself does *not* recommend termination of Anderson’s (or anyone else’s) employment.

69. There is an additional potential problem with the investigation, which is that the Utah Private Investigator Regulation Act (PIRA) set forth in Utah Code Ann. § 53-9-102

requires that private investigators must be conducted by a licensed private investigator in the state of Utah.

70. As defined by Utah law, the definition “private investigator” includes “any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to . . . the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons . . . .”

71. With limited exceptions which do not apply here, under PIRA, it is unlawful for anyone to conduct a “private investigation” without being licensed as a private investigator in Utah. *See* Utah Code Ann. § 53-9-107(2).

72. Under PIRA, USU also had an affirmative obligation to ensure that the investigation was not conducted unlawfully:

Clients who engage the services of private investigators must be aware of their own legal responsibilities to ensure the success and legality of the investigation. Clients should perform their due diligence to verify the investigator’s licensing, expertise, and compliance with legal requirements. This process helps avoid the risk of hiring an unlicensed or illegal investigator, thereby ensuring the credibility of evidence and findings.

73. The Husch Blackwell investigators refer to themselves in the investigative summary as “investigators”, which term is used multiple times throughout the investigative summary.

74. USU’s use of an illegal private investigator to review Anderson’s and other party’s conduct means that the report is arguably inadmissible and lacks credibility, and therefore cannot serve as a valid basis for a “for cause” termination.

75. Even setting aside the legal implications of an unlawful investigation, the investigation conducted lacked consistency, reliability, and accuracy by any reasonable measure of an investigation, as there appear to be no standards at all for how the investigation was conducted. While the DOJ and the NCAA both require with very limited exceptions all interviews to be recorded electronically, there has been no indication from USU that any of the interviews conducted by Husch Blackwell were recorded. If so, none of those recordings have ever been shared. Recording is important because it protects the accuracy and reliability of the record, may act as the final arbiter of any disagreement on what was actually said, and also captures body language which otherwise is missed. One must then question – why, if these issues are so important, would a credible third party investigator not want to record the critical interviews that helped lead to its conclusions and findings?

#### **USU's Policy Changes and Trainings**

76. Anderson and other athletics department employees received annual trainings on Title IX and reporting policies.

77. Notably, Anderson also, unsolicited by USU, went above and beyond and brought CAPSA to conduct additional trainings for employees and athletes in an effort to promote a healthy football culture full of transparency and free of abuse. Upon information and belief, those CAPSA officials and employees will support Anderson's assertion that he created such an environment at USU and absolutely never condoned abuse by anybody, football player or not.

78. As noted above, after the events described herein, USU changed its Student-Athlete Handbook to eliminate the requirement for a collaborative approach to student-athlete discipline between the head coach and the Athletic Director based on the specific circumstances of each case.



79. USU Policy 340, which governs reporting procedures, was updated on February 10, 2023, approximately seven (7) weeks before the football player's arrest took place. At the time of the relevant events, USU had provided no training to Anderson on the changes to the policy, including additional information about what should be included in the report and what information should be provided for Reporting Employees. It was the preferred practice, as trained, for a group report to be submitted because this was a cleaner approach. The point that was always reiterated is that the most important thing is that a report gets made so that the Office of Equity can follow up.

80. Indeed, athletics department employees who, after Anderson's termination, have questioned the historic practices that everyone has followed and whether or not they and others have been failing at their jobs, have continued to be told that a group report is the preferred practice.

81. Finally, USU Policy 311 provides that as a matter of policy, "employees and supervisors should work collaboratively to identify where and why work performance and/or behavior is not meeting expectations, and implement viable solutions." (See USU Policy 311.1). "Unacceptable work performance [examples which include non-compliance with . . . training, policy, rules, and regulations]. . . should be addressed through progressive performance management."

82. Policy 311 also provides that "Generally, when a performance issue is first identified, it should be handled informally between the employee and their supervisor through feedback, coaching, and/or additional training."

83. Under Policy 311, only when informal efforts do not work should there be formal discipline: "When informal efforts do not correct unacceptable work performance, documented

performance improvement measures should be used, including a Letter of Expectations (LOE) or a Performance Improvement Plan (PIP). Supervisors should maintain documentation of all performance improvement measures, both formal and informal.”

84. Policy 311 continues, providing that “Disciplinary action is typically imposed on a progressive basis moving from verbal to written to a final action, including termination. Progressive steps . . . may be skipped or repeated depending on the frequency, severity, or nature of the unacceptable work performance.”

85. Anderson received no verbal or any other progressive discipline measures before his abrupt termination.

86. Upon information and belief, until Anderson’s termination (along with three (3) other employees), nobody at USU had been terminated for non-compliance with reporting requirements, even with the backdrop of USU and its administration’s extensive history of covering up student-athlete misconduct, which led to DOJ involvement at USU in the first place.

**USU’s Pretextual Reasons for Firing Coach Anderson**

87. At the outset, as a matter of federal and state law, the “Non-Title IX” USU policies he was accused of violating are not even applicable to the off-campus incident that has been used as the sole basis for his termination. Based upon the jurisdictional definitions and requirements of the law and the policies at issue, the incident was not required to be reported to the Office of Equity at all, even though it ultimately was reported out of an abundance of caution. The jurisdictional definition in the policies at issue make them inapplicable to the off-campus incident that was alleged to have occurred.

88. When new Title IX rules were issued several years ago, the regulations included a “jurisdictional definition” of the circumstances under which Title IX would apply, which is

referred to as “*Employment or Education Program or Activity*”. This definition limits the application of Title IX by requiring that an incident giving rise to the required report must have occurred either on university property, by using a school’s computers, in a situation wherein the university exercised ‘substantial control’ over the accused in the context in which the incident occurred, or in an off-campus fraternity or sorority house.

89. The below screenshot is taken directly from USU Policy 339, which mirrors verbatim the language contained in the jurisdictional definition adopted by the Department of Education Office of Civil Rights (“OCR”) when it issued the new Title IX regulations.:

**Employment or Education Program or Activity.** All operations of the University in the United States including buildings, locations, events, and University computers, internet networks, and remote learning platforms; off-campus settings in which the University has substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, including University computers and internet networks and digital platforms; off-campus buildings owned or controlled by a student organization officially recognized by the University.

90. Making the policy’s inapplicability even more clear, section 2.2 of Policy 339 provides as follows:

#### **2.2 Jurisdiction**

This policy applies to Sexual Misconduct committed against any person by an Employee, Student, or third party when the incident occurs in an Employment or Education Program or Activity in the United States. The Grievance Process and its specific jurisdictional and other requirements are set forth in the Title IX Sexual Misconduct Procedures.

91. Notably, the Termination Letter does not actually mention USU Policy 339. It only mentions Policy 340, a companion policy regarding reporting incidents of Sexual Misconduct.

92. Based upon the “Definitions” section found in 340.6, the jurisdictional limits for Policy 340, based on the definition of an “Employment or Education Program or Activity,” are exactly the same as those definitions contained in Policy 339. By its adoption of Title IX’s jurisdictional definitions in both Policy 339 and 340, USU cannot reasonably argue that Title IX applies in this case. And although USU makes no mention of Policy 339A either, which applies

to incidents committed outside of an “Employment or Education Program or Activity,” the jurisdictional definition in Policy 339A still limits its application to incidents where the incident in question is “likely to have continuing adverse effects on Students, Employees, or third parties in an Employment or Education Program or Activity,” which makes it inapplicable to the incident in question which occurred off campus between a student and a non-student.

93. Despite the fact that he was not obligated to do so, Anderson complied with USU Policy 340 regardless and a report was made as a result, as outlined *supra*.

94. Coach Anderson reported the incident and everything he knew at the time to Interim Athletic Director Mr. Bovee on April 12, who informed Anderson he would make a report (following which he did, in fact, make a report that day). Ironically, without the information provided by Anderson and reported to Mr. Bovee, there would have been no report at all, and likely, USU would have been none the wiser.

95. Anderson made no effort to delay or withhold any information in his report to Mr. Bovee, and kept Mr. Bovee fully updated, including with additional documentation he received.

96. Anderson acknowledges that he himself did not personally sit at a computer and make the incident report online. But he reported it to the interim AD, who in turn, made a timely “group report” of the incident that same day, which is specifically allowed by USU Policy. At the very least, this followed the spirit of the policy, the point of which is to ensure a report is made so that the Office of Equity can conduct follow up.

97. Interestingly, the Termination letter rebukes Anderson for not simply bypassing Mr. Bovee and sitting down to make his own report, seemingly overlooking the glaring problem that the Contract to which Anderson was bound *required* Anderson to confer with, report to, and follow Mr. Bovee’s directions with respect to all matters related to the football program. In fact,

failure to abide by directions from the Athletic Director is near the top of the list of reasons in the Contract that Anderson can be fired “for cause”.

98. The investigative summary upon which USU purports to rely for Anderson’s termination also blames Anderson for failing to immediately suspend the player who had been arrested:

Concerns about transparency also stem from the manner in which suspension protocols were described during this investigation, including by Coach Anderson. Many people described a practice of automatically suspending student athletes arrested for sexual misconduct or domestic violence, but then acknowledged upon further inquiry that Student Athlete was not suspended. Also, Coach Anderson described a different practice for such situations, which depended on the details of the information about the arrest and public image issues. ***Coach Anderson was extremely clear that his practice is to engage in “collaborative conversation” between himself and the Athletics Director about what to do upon learning a student athlete is arrested for such charges.*** Ultimately, for Student Athlete, everyone agreed that he was not suspended even though many people knew he had been arrested for domestic violence. Instead of following the Department’s typical practice, Coach Anderson chose to initiate his own investigative efforts that focused on gathering Student Athlete’s explanation about what happened and then seeking witness statements supporting his defense. And, allowing Student Athlete to continue being part of the team despite being arrested for domestic violence, could have indirectly communicated to other members of the team that such issues were not always taken seriously.

(Emphasis added).

99. Even a cursory overview of USU’s policies reveals that the investigators were so hyper-focused on finding things to blame on Anderson that they forgot to reference the policies that actually govern. For example, the “Athletics Department Guidelines” make clear that Anderson did not even have authority to suspend the player, and that only the Athletic Director could make this decision in consultation with the head coach after receiving a recommendation from the “Comprehensive Action Committee” (“CAC”):

The Athletics Department recognizes that there may be certain misdemeanor offenses or other activity by the student athletes, including repetitive offenses and/or acts, so serious that the conduct warrants *immediate suspension* from

athletic competition by the Head Coach of the sport in which the student athlete participates. Then, in that event, the Head Coach shall immediately notify the Spot Administrator, who will convene the Comprehensive Action Committee which will review the circumstances of the situation and forward a recommendation to the Director of Athletics.

100. At the time of the events described herein, Mr. Bovee was the “Sports Administrator” for the football program. So by reporting to Mr. Bovee, Anderson complied with the above-referenced Athletic Department policy.

101. In the termination letter, USU further accuses Anderson of violating his Contract: “Under the Agreement, you are responsible for promoting an atmosphere of compliance within the football program, and you are required to monitor the activities regarding compliance of all assistant coaches or other administrators involved with the program. Your failure to promote and monitor compliance with USU’s Reporting Employee Policy is a material breach of Section 5.4 of the Agreement and a basis for termination for cause.”

102. “Creating an atmosphere of compliance and monitoring compliance” is a term of art derived from NCAA Bylaws. There is a plethora of precedent from the NCAA about the meaning of this term, which certainly does not lend itself to support the outlandish and conclusory allegation that a singular incident could sustain a finding that Anderson failed to “create an atmosphere of compliance and monitor compliance.”. The following quote is taken from the NCAA’s Division I Enforcement Charging Guidelines<sup>1</sup>:

The enforcement staff takes a common-sense approach in considering the nature and scope of the violation(s) in a case, together with the institution’s specific efforts to create and maintain a positive culture of compliance. . . . If the enforcement staff believes a failure to monitor allegation is appropriate, the allegation will identify the specific context of the types of behavior(s) it believes were monitored insufficiently . . . . Even as a shared responsibility across an institution, the enforcement staff understands that universal monitoring of every NCAA rule presents a very practical or difficult challenge. Accordingly, the enforcement staff will not assume that an institution violated the NCAA

---

<sup>1</sup> <https://www.ncaa.org/sports/2018/2/8/division-i-enforcement-charging-guidelines.aspx>

Principle of Rules Compliance when one or more violations may have occurred. In fact, effective and monitoring systems are expected to detect violations, and the enforcement staff will not consider a failure to monitor allegation based only on isolated Level III violations.

103. The Termination continues on to allege that Anderson failed to perform the duties of coach in good faith by not mentioning the player's arrest during a meeting about the football program's culture. This allegation is nonsensical. There is no evidence that anybody in the meeting asked a question that would have prompted Anderson to share that information in a group setting, nor that Anderson was trying to hide anything. Rather, USU's position appears to be that Anderson had an affirmative duty to volunteer this information to the group, and that his failure to do so amounted to not being "transparent".

104. Interestingly, the investigative report actually states that this conduct "may not violate stated policy", then in the very next sentence, states "[t]hat is squarely contrary to applicable policies."

105. Notwithstanding the fact that nothing in Anderson's contract requires him to make such an affirmative disclosure, at the time of the meeting, Anderson was aware that a report had already been made. On top of that, the information was confidential, and hardly should have been the subject of a group discussion.

106. Finally, in what appears to be a "throw spaghetti at the wall and see what sticks" approach, the termination letter states that as additional grounds for termination, Anderson failed to manage the team in a manner that reflects the academic values of USU, stating that the academic progress rate ("APR") for the USU football team "does not meet USU's expectations and academic values . . . . The poor academic performance of the USU football program is unacceptable and provides a separate basis for termination under the Agreement."

107. Ironically, despite the fact that APR scores are no longer an accurate description of what they are intended to reflect due to recent changes in NCAA rules, specifically Name, Image, Likeness, when the APR scores were ultimately released shortly after Anderson's termination, USU met all necessary standards and exceeded what was expected for the year. Further, APR scores are not mentioned anywhere in Anderson's Contract as a grounds for termination for "cause."

108. After listing everything it could think of to justify its unjustified termination of Anderson for cause, and despite Anderson's comprehensive response outlining USU's mistakes, USU terminated Anderson's employment in violation of his Contract under the pretext that it was "for cause", when in fact, it was not.

**Diana Sabau's Inflammatory Public Statements**

109. During and after Anderson's termination, Diana Sabau has engaged in a public smear campaign against Anderson, in which she knowingly or recklessly makes false or misleading statements, including that former USU President Noelle Cockett initiated the investigation and that the investigation's purpose was not to target any specific individuals (directly contradicted by Noelle Cockett herself, who indicates Mica McKinney approached her asking her to consider doing the investigation as a favor, which was turned down).

110. Diana Sabau also falsely stated that Anderson made "bad choices and bad decisions", then followed up this statement by noting the Department of Justice's presence on campus since 2020 "because of crimes within the football program" and that the DOJ had renewed its relationship with USU for another year "because there has not been improvement in the culture of the football program" when the DOJ very clearly indicated that the problem lies with USU's inability to implement and effectuate policies. Additionally, Anderson was not even



present for the “crimes”, but the manner in which Sabau made these allegations allowed it to appear publicly as if he were to blame for the historical problems with the football program.

111. Sabau repeatedly used the words “Sexual Misconduct” to describe the player’s behavior and Sabau has publicly construed the circumstances as a cover up and systematic acceptance by Anderson and the football program (which he led) of such acts. Sexual Misconduct is a legally defined term of art under Title IX, but due to the public use of this term in a non-legal setting, is and has been publicly taken as a description of actual sexual violence such as sexual assault or rape.

112. Sabau was interviewed by multiple news agencies, both on video and for written articles, and appeared on talk radio, where she made similar false statements to those described above.

#### **Anderson’s Inability to Obtain Employment**

113. As a result of all of the foregoing wrongful actions by the Defendants, Anderson has been left, to date, unemployable in the industry he has worked for over thirty (30) years.

114. Anderson has diligently attempted to obtain employment since his termination to mitigate his damages. Multiple schools have expressed a high level of interest, but have stated that they are concerned about the optics due to public nature of Defendant’s aired grievances against Anderson. One school even attempted to arrange a “consultant” private contractor position wherein Anderson would provide coaching services but not appear publicly, but the school ultimately decided against this after consultation with administrators due to the risk of public backlash because of Defendants actions. This position was for a small fraction of the pay Anderson was receiving at USU, and an even smaller fraction than what his prospective pay would have been at the universities which were interested in him shortly before his termination.

115. Prior to his termination, Anderson planned on coaching on an upward trajectory for at least another ten (10) years. Anderson loves football and loved coaching, and is devastated at the impact the Defendants actions have had on him, his family, and the Cache County community.

### **FIRST CAUSE OF ACTION**

(Breach of Contract)

(Anderson v. Utah State University and DOES I-X)

116. Plaintiff re-alleges and incorporates by reference all above paragraphs, as if set forth fully herein.

117. Anderson and USU entered into the Contract described herein wherein in exchange for Anderson's coaching services, USU agreed to pay Anderson.

118. Anderson fully performed the terms of the Contract.

119. Despite Anderson's performance, USU violated the Contract in multiple ways, including but not limited to terminating Anderson's employment under the premise that it was "for cause" when there was no cause.

120. Even if USU could show a **technical** violation of a policy, a one-time, technical incident clearly falls within the "no gotchas" provision of the Contract, and does not constitute grounds to terminate Anderson for cause, especially where this would require a reading of the University Rules as having internal inconsistencies.

121. USU breached Anderson's contract in a callous, public, and defamatory manner in an effort to make a public example and scapegoat of him and simultaneously deflect its own glaring problems.

122. As a direct and proximate result of USU's breach, Anderson sustained substantial damages in an amount to be proven at trial, and in the amount of no less than Fifteen Million Dollars (\$15,000,000.00).

**SECOND CAUSE OF ACTION**

(Breach of Covenant of Good Faith and Fair Dealing)  
(Anderson v. USU and DOES I-X)

123. Plaintiffs re-allege and incorporate by reference all above paragraphs, as if such were set forth fully herein.

124. Inherent in every contract in the State of Utah exists an implied covenant of good faith and fair dealing, which includes an assurance that a party to the contract will not take measures to undermine the other contracting party's ability to appreciate the benefits of the contract.

125. USU breached the covenant of good faith and fair dealing by improperly undermining Plaintiffs' ability to receive the full benefits of the Contract.

126. As a direct and proximate result of USU's breach, Anderson sustained substantial damages in an amount to be proven at trial, and in the amount of no less than Fifteen Million Dollars (\$15,000,000.00).

**THIRD CAUSE OF ACTION**

(Defamation *Per Se*)  
(Anderson v. Sabau and DOES I-X)

127. Plaintiff re-alleges and incorporates by reference all above paragraphs, as if set forth fully herein.

128. Sabau and DOES I-X published statements about Anderson related to his conduct and termination.

129. The statements published state or imply facts that are untrue, defamatory (by calling into question Anderson's integrity and reputation and expose him to public ridicule), and not privileged.

130. The statements were published by Sabau and DOES I-X with negligence, recklessness, and actual malice, having actual knowledge that the facts or implied facts were false or serious doubts as to whether the statements were true such that they demonstrated reckless disregard for their truth or falsity.

131. Sabau and DOES I-X acted tortiously and outside the scope of their employment.

132. As a direct and proximate result of Sabau's and DOES I-X conduct, Anderson sustained damages, both general and special, in an amount to be proven at trial, and in the amount of no less than Fifteen Million Dollars (\$15,000,000.00).

#### **FOURTH CAUSE OF ACTION**

(Tortious Interference with Economic Relations)  
(Anderson v. McKinney and Sabau and DOES I-X)

133. Plaintiff re-alleges and incorporates by reference all above paragraphs, as if set forth fully herein.

134. Sabau and McKinney and DOES I-X intentionally interfered with Anderson's economic relations with USU and with prospective employers.

135. Sabau and McKinney and DOES I-X engaged in this interference by improper means.

136. Sabau and McKinney and DOES I-X acted tortiously and outside the scope of their respective employment.

137. As a direct and proximate result of Sabau's and McKinney's conduct, Anderson sustained damages, both general and special, in an amount to be proven at trial, and in the amount of no less than Fifteen Million Dollars (\$15,000,000.00).

### **TIER DESIGNATION**

138. Under Rule 8(a) and 26(c) of the Utah Rules of Civil Procedure, damages are such as to qualify this matter as a Tier 3 Action, and Plaintiff is entitled to all the rights associated therewith.

### **JURY DEMAND**

139. Plaintiff demands a trial by jury on all issues so triable.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief against Defendants as follows:

- A. For judgment against Defendants for general damages, special damages, and punitive damages in an amount to be determined at trial;
- B. For judgment against Defendants for compensatory damages and consequential damages;
- C. For judgment against Defendants equal to all costs in bringing this action;
- D. For pre-judgment and post-judgment interest, according to contract or law, whichever is greater; and
- E. For such other and further relief as this Court deems just and equitable under the circumstances.

DATED this 19th day of November, 2024.

BEARNSON & CALDWELL, LLC

/s/Wayne K. Caldwell  
Wayne K. Caldwell  
Aubri O. Thomas  
*Attorneys for Plaintiff*

# **EXHIBIT “A”**

Brad H. Bearnson  
Wayne K. Caldwell  
Aaron K. Bergman  
Wayman M. Stodart  
Aubri O. Thomas  
Arther P. Hart



Wayne K. Caldwell  
Aubri O. Thomas  
wcaldwell@bearnsonlaw.com  
athomas@bearnsonlaw.com  
cc: mandreasen@bearnsonlaw.com

### **NOTICE OF CLAIM**

#### **CERTIFIED MAIL:**

Jenelle Daley, Executive Assistant  
Utah Attorney General's Office  
350 N. State Street, Suite 230  
Salt Lake City, UT 84114  
[noticeofclaim@agutah.gov](mailto:noticeofclaim@agutah.gov)

Attorney General Sean D. Reyes  
Utah Attorney General's Office  
350 N. State Street, Suite 230  
Salt Lake City, UT 84114  
[sreyes@agutah.gov](mailto:sreyes@agutah.gov)

**RESPONSIBLE PARTIES:** Utah State University, Mica McKinney, Diana Sabau,  
Elizabeth Cantwell

**CLAIMANT:** Robert Blake Anderson

To the Above-Named Parties:

PLEASE TAKE NOTICE that a claim is hereby made against Utah State University ("USU") and employees Mica McKinney, Diana Sabau, and Elizabeth Cantwell (collectively the "Responsible Parties"), by Mr. Robert Blake Anderson ("Coach Anderson"). Pursuant to Utah Code Ann. §63G-7-401, this claim is brought in connection with the termination of Coach Anderson from USU and the Responsible Parties' actions before, during, and after that termination. You are notified as follows:

#### **BRIEF STATEMENT OF FACTS AND NATURE OF CLAIM ASSERTED**

After a successful and unblemished career at several other universities, Coach Anderson was hired by USU as the Head Football Coach of USU's football team. To memorialize the terms of his employment, Coach Anderson and USU entered into a *Head Coach Employment Agreement* with an effective date of December 11, 2020 ("Original Contract") and after the team found success under Coach Anderson's leadership, subsequently entered into an additional *First Amendment to Head Coach Employment Agreement* in August 2022 ("Amended Contract"). For simplicity's sake, hereafter, the Original Contract together with the Amended Contract are referred to as the "Contract".



The Contract provides a buyout provision such that if USU terminates Coach Anderson's employment "for convenience" rather than "for cause", USU agrees to pay liquidated damages on a specific schedule. Instead of terminating the Contract using one of the procedural options expressly outlined therein, USU breached the Contract when it terminated Coach Anderson's employment based on a false premise of a so-called "independent investigation". The purported findings and underlying procedures to reach those findings are contested, as are the propriety of USU's, Ms. McKinney's, Ms. Sabau's, and Ms. Cantwell's statements, actions and positions taken before, during, and after the investigation. There was no cause despite USU's and the Responsible Parties' public claims of such. USU's breach and the Responsible Parties' actions have resulted in damages not only under the Contract itself, but also additional damages to Coach Anderson's career and ability to earn, for which USU and the Responsible Parties are liable in both tort and contract.

#### **DESCRIPTION OF KNOWN DAMAGES INCURRED AS PRESENTLY KNOWN**

Coach Anderson intends to seek damages to compensate him for the breach of his Contract in the full amount of his Contract and benefits as well as damages to his earning potential and business opportunities related directly to the breach of the Contract and the Responsible Parties' actions, and his attorneys' fees as allowed by law. Coach Anderson claims compensatory damages, consequential damages, reputational damages and/or damage to earning capacity, and damages from the interference with his future employment through the Responsible Parties' willful misconduct, and tort damages both special and general. Although the exact damages figure has not yet been determined, damages are currently estimated to exceed Fifteen Million Dollars (\$15,000,000.00).

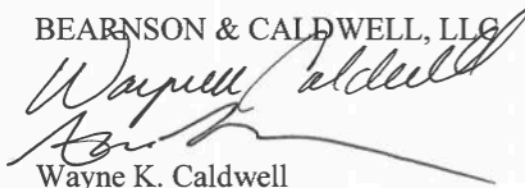
#### **CONCLUSION**

After you have had the opportunity to review the claim as set forth herein, please advise whether you have approved or denied the same in accordance with Utah Code §63G-7-401.

Please direct any further questions, comments or inquiries to the undersigned at the Logan address or telephone number at the bottom of this page.

Yours truly,

BEARNSON & CALDWELL, LLC



Wayne K. Caldwell

Aubri O. Thomas

# **EXHIBIT “B”**



December 10, 2020

Robert Blake Anderson  
2518 Rosewood Circle  
Jonesboro, AR 72401

Dear Blake:

With the recommendation and strong support of John Hartwell, USU's Vice President and Director of Athletics, I am pleased to offer you the position of Head Football Coach at Utah State University ("USU").

This offer is subject to the terms and conditions set forth in this binding offer letter. In the coming days, USU will provide you with an Employment Agreement that is consistent with the terms of this offer letter (though the Employment Agreement will provide additional detail and information regarding the material terms in this letter) and with USU's standard coaching contracts. Once executed, the Employment Agreement will supersede this offer letter.

The material terms of USU's offer of employment include the following:

1. **Term.** You will serve as Head Football Coach on a full-time basis for a period of approximately five (5) years, beginning December 11, 2020 and ending on December 31, 2025. Consistent with USU Policy 390, your employment by USU will be "at will" and, subject to the terms and conditions of an Employment Agreement, USU may terminate your employment at any time and for any lawful reason.
2. **Duties and Responsibilities.** As Head Football Coach, you will report to the Vice President and Director of Athletics and will be required to carry out all duties and responsibilities as determined by USU and as set forth in your Employment Agreement and as otherwise assigned by the Vice President and Director of Athletics. You will be subject to, and responsible for adhering to, all applicable policies of USU and the Utah System of Higher Education, all relevant state, local and federal laws, and all NCAA Bylaws, rules, and regulations. USU's policies may be found online at [www.usu.edu/policies](http://www.usu.edu/policies). You will also be subject to specific policies and procedures of the USU Athletics Department. Subject to USU and departmental hiring and employment practices, you will have the responsibility and sole authority to recommend to the Director the hiring of assistant coaches for the Team and staff members who report directly to you, with the final hiring decision made mutually by you and the Director. Also subject to the final approval of the Director, you will have the authority to manage, discipline, and terminate the employment of assistant coaches and staff members who report directly to you.
3. **Total Compensation.** As Head Coach, your total annual compensation will initially be One Million dollars (\$1,000,000), and will increase on a yearly basis as follows:

Robert Blake Anderson  
 December 10, 2020  
 Page 2 of 5

<b><u>Contract Year</u></b>	<b><u>Total Annual Compensation</u></b>
<b>Contract Year 1</b> (December 10, 2020 to December 31, 2021)	\$1,000,000 +\$ 57,692 (for Dec. 10 -Dec. 31, 2020)
<b>Contract Year 2</b> (January 1, 2022 to December 31, 2022)	\$1,025,000
<b>Contract Year 3</b> (January 1, 2023 to December 31, 2023)	\$1,050,000
<b>Contract Year 4</b> (January 1, 2024 to December 31, 2024)	\$1,075,000
<b>Contract Year 5</b> (January 1, 2025 to December 31, 2025)	\$1,100,000

Funding for your Total Annual Compensation will come from a combination of USU Athletic Department funds, private funds donated to USU and the USU Foundation, and funds generated by contracts with vendors for athletic apparel and shoes and multimedia rights agreements. USU, working with the USU Foundation and other private funding sources, as well as you and your financial advisors, will develop a mutually acceptable payment structure for payment of your Total Annual Compensation that may involve base salary payments from USU and other payments for services provided to the USU Foundation, and/or other private funding sources. All payments of this Total Annual Compensation will be dependent upon and subject to the availability of funds to USU for the purposes set forth in this letter.

4. **Incentive Payments.** In addition to the Total Compensation set forth in numbered paragraph 3 of this letter, USU will pay you incentive bonuses for certain achievements. The details of these incentive payments will be set forth in your Employment Agreement. As a general rule, your incentive bonus schedule will be commensurate with those of your peer coaches within the Mountain West Conference.

5. **Payment of Buyout to Former Employer.** USU will be responsible for any payment to your current employer that is required in connection with the termination of your employment contract with your current employer in an amount up to but not to exceed One Hundred and Fifty Thousand dollars (\$150,000). Should the Expense be taxed as Coach's income, the University will neutralize the actual tax impact to Coach resulting from the University's payment of the Expense.

6. **Staff Salary Pool.** The USU Athletic Department will annually allocate a salary pool of Two Million, Five Hundred Thousand dollars (\$2,500,000) to the football program to fund assistant football coach positions and other football operations and administrative positions. You and the Vice President and Director of Athletics will work together to reach agreement on the allocation of the funds provided for the staff salary pool.

7. **Benefits.** During the term of the Employment Agreement and consistent with USU policy and the benefits then currently provided to other similarly situated exempt, non-academic employees, USU will provide you with the following benefits: medical and dental insurance, USU contributions to an approved retirement program (based on salary paid directly by USU up to \$550,000), employer-funded life insurance and disability insurance (based on salary paid by USU), sick leave, annual leave, tuition reduction for you and eligible family members, and all other



Robert Blake Anderson  
December 10, 2020  
Page 3 of 5

benefits currently provided to exempt, non-academic employees. Information about the employment benefits offered by USU may be found online at <http://hr.usu.edu/benefits>.

8. **Courtesy Car.** You will be provided one loaned vehicle for your use for USU business purposes (referred to as a "courtesy car"). This vehicle will be provided to USU by supporters of the USU athletics program. USU will withhold all applicable federal and state taxes related to your use of this car, as required by the IRS and applicable law. You will be required to follow all USU and USU Athletic Department policies and procedures related to use of courtesy cars, including periodic reports of vehicle information. In the event the courtesy car program ends, USU will no longer be required to provide you with use of a vehicle and the parties will mutually agree on a reasonable stipend to cover automobile usage for business purposes.

9. **Moving Expenses.** USU will pay all moving expenses for your household in accordance with USU policy and state law, in an amount up to but not to exceed Twenty Thousand dollars (\$20,000). Further, pursuant to USU Athletic department policy and practice, USU will pay or reimburse, in an amount not to exceed Five Thousand dollars (\$5,000), other related transition expenses, including, if needed, provision of temporary housing. This is a taxable benefit and any amounts paid will be included in your taxable wages.

10. **Country Club Membership.** You will be entitled to membership at the Logan Country Club. Your membership will be subject to any terms and conditions imposed by the Logan Country Club, including but not limited to the right of the Logan Country Club to revoke membership. USU will not be responsible for any food minimum requirements or purchases of goods and services at the Logan Country Club. USU will withhold all applicable federal and state taxes related to providing the Country Club membership, as required by the IRS and applicable law.

11. **Tickets.** At your request you will be provided with up to twelve (12) premium-level tickets and/or access to a private box or suite (if available) for all home football contests, and up to eight (8) tickets to all away game contests. You will also be provided with access to a sufficient number of priority-level tickets to any post-season game (including, if applicable, the conference championship game) to meet your reasonable needs.

12. **Family Travel Privileges.** Your immediate family will be permitted to accompany you to any away game contests, including access to team-chartered transportation on a space available basis, at no cost to you. This is a taxable benefit and any amounts paid will be included in your taxable wages.

13. **Annual Review.** Following the conclusion of each football season, the Vice President and Director of Athletics will conduct an annual review of your performance as Head Football Coach. The schedule for this review will be established by the Vice President and Director of Athletics.

14. **Termination for Convenience (without cause).** Subject to the terms of the Employment Agreement, USU will have the right to terminate your employment for cause (to be defined pursuant to generally accepted industry standards, with USU acknowledging that its intent shall not be to include minor, technical, or immaterial violations, unless repetitive or reoccurring, for purposes of "cause"). Further, subject to the terms of the Employment Agreement, both USU and you will have the right to terminate your employment with USU for convenience (also commonly referred to as a without cause basis). In the event either USU or you terminate your employment with USU for convenience during the term of the Employment Agreement including any extension thereof, the terminating party will be responsible to pay liquidated damages in the amount of

Robert Blake Anderson  
December 10, 2020  
Page 4 of 5

seventy-five percent (75%) of the pro-rated amount of Total Compensation (as described in paragraph 3 of this letter) that USU and other third parties would be obligated to pay you had your employment not been terminated. In the event any liquidated damages are owed by you or USU, you or USU will pay the required liquidated damages over the remaining term of the Employment Agreement. If you are terminated by USU for convenience, other than earned incentives, USU will not be obligated to pay any other amounts, benefits, or damages to you. Further if you are terminated by USU for convenience, you will have an affirmative duty to mitigate your damages by actively seeking immediate athletic-related re-employment. USU will be entitled to off-set its liquidated damage obligation by any employment compensation received by you after termination of your Employment Agreement, whether from athletic-related or non-athletic related sources, and you will have an affirmative duty to disclose such sources. You will have an obligation to provide the Director with written notification prior to engaging in substantive discussions or negotiations for prospective employment with any other entity during your employment with USU.

15. **GRAMA.** USU is a governmental entity subject to Government Records and Management Act (found at Utah Code section 63G-2-101 et seq.). This means that certain records within USU's possession or control, including without limitation this offer letter and any employment agreement or amendment thereto, may be subject to public disclosure.

16. **Offer Contingent Upon Certain Verifications, a Background Check, and Execution of an Employment Agreement.** The obligations of both parties as set forth in this offer letter are contingent upon verification of your employment eligibility through procedures required by state and/or federal law. This offer of employment is also contingent upon a satisfactory response to a background check and reference checks. Finally, this offer of employment is contingent upon execution of an Employment Agreement. This letter provides only a summary of the material terms of USU's offer of employment to you. Both parties will use their best efforts and will act in good faith to negotiate and execute an Employment Agreement between USU and you by December 31, 2020.

I am very happy to present this offer for you to serve as USU's Head Football Coach. The Aggie Family is incredibly excited to welcome you to Logan. Aggies All the Way!

Please indicate your acceptance of the position as Head Football Coach by signing in the space provided below.

Sincerely,



Noelle E. Cockett  
President

Robert Blake Anderson  
December 10, 2020  
Page 5 of 5

Accepted:

DocuSigned by:  
  
Robert Blake Anderson

12/10/2020

Date

cc: Department of Athletics  
Office of General Counsel  
Department of Business and Finance  
Department of Human Resources

# **EXHIBIT “C”**





## HEAD COACH EMPLOYMENT AGREEMENT

This Head Coach Employment Agreement ("Agreement") is entered into as of December 11, 2020 ("Effective Date") by and between Utah State University ("USU"), having an office at 1445 Old Main Hill, Logan, UT 84322, and Robert Blake Anderson ("Coach"), residing at 277 South 450 East, Hyde Park, Utah 84318. USU and Coach each may be referred to herein as a "Party" or collectively as the "Parties."

WHEREAS, the Parties entered into a certain Letter of Agreement, dated December 10, 2020, and now desire to amend and replace in its entirety the Letter of Agreement with this Agreement to more fully and completely describe the employment of Coach at USU.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### 1. Definitions

1.1. "Governing Athletic Rules" shall mean any and all present or future legislation, rules, regulations, directives, written policies, bylaws and constitutions, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by the NCAA or the Conference (as defined herein) or any successor of such association or conference, or by any other athletic conference or governing body hereafter having regulatory power or authority relating to the athletic program of USU. Governing Athletic Rules also shall include any acts of Congress or the State of Utah regulating college athletics, officials, athletes, and competition.

1.2. "University Rules" shall mean any and all present or future legislation, rules, regulations, directives, student-athlete handbooks, written policies (including the policies found in USU's Policy Library (<https://www.usu.edu/policies/>), bylaws, and constitution, and official or authoritative interpretations thereof, and any and all amendments, supplements, or modifications thereto promulgated hereafter by USU, including, without limitation, by its President, Vice President and Director of Athletics, and/or Board of Trustees.

### 2. Employment

2.1. Appointment. Subject to the terms and conditions of this Agreement, USU shall employ Coach as the head coach of its football team (the "Team"). Coach represents and warrants that Coach is fully qualified to serve, and is available for employment, in this capacity. Consistent with USU Policy 390, Coach's employment is "at will" and, subject to the terms and conditions of this Agreement, may be terminated by USU at any time and for any lawful reason.

2.2. Supervision of Coach. Coach shall serve at the pleasure of USU's Vice President and Director of Athletics (the "Director") and shall report directly to the Director and shall confer with the Director or the Director's designee on all administrative and technical matters. Coach shall also confer with the Director or the Director's designee, and reach mutual agreement, before offering any assistant coach or other administrative or operations positions or athletic scholarships to Coach's current or prospective student-athletes. Coach shall also be under the general supervision of USU's President. The Director will conduct an annual review of Coach's performance as Head Coach for the Team. The specific schedule for this review will be established by the Director.

2.3. **Institutional Control.** The Parties recognize that the Director is responsible to USU's President for the operation, review, and periodic evaluation of the entire athletic program at USU, including the football program. Coach recognizes and acknowledges the importance of the maintenance and observance of the principles of institutional control over every aspect of such program. Coach agrees to recognize and respect those relationships, the organizational structure of USU, and USU's role and participation in the athletic conference in which the Team competes ("**Conference**"). As of the Effective Date, the Conference is the Mountain West Conference. Within that structure, the Director and Coach shall mutually cooperate to implement the purposes of this Agreement, and Coach shall support and comply with the Director's efforts and instructions regarding any review of the athletic program.

2.4. **Management and Supervision of Team.** Coach shall manage and supervise the Team and shall perform such other duties in USU's athletic program, consistent with Coach's status as the head coach, as the Director may reasonably assign.

2.5. **Conduct.** Coach agrees to represent USU positively in public and private forums and shall not engage in conduct or act in such a manner that reflects adversely on USU, the Team, or USU's athletic programs. Coach shall perform Coach's duties and personally comport himself/herself at all times in a manner consistent with good sportsmanship and with the high moral, ethical, and academic standards of USU and its Athletics Department.

2.6. **Background Check.** Coach agrees that his/her employment is contingent upon USU's verification of credentials and other information required by law and/or USU policies, including but not limited to a criminal background check, which may be performed at any time during the Term in accordance with USU policy. USU reserves the right to terminate this Agreement for cause, pursuant to Section 6 of this Agreement, upon discovery of conduct, whether during or prior to the Term of this Agreement, which is not consistent with Section 2.5 of this Agreement.

### 3. **Term**

3.1. **Term.** This Agreement is for a fixed-term appointment commencing on December 11, 2020 and terminating, without further notice to Coach, on December 31, 2025 ("**Term**"). Individual contract years may be referred to in this Agreement and shall have the following meaning:

<b>Contract Year</b>	<b>Dates</b>
Year 1	December 11, 2020 – December 31, 2021
Year 2	January 1, 2022 – December 31, 2022
Year 3	January 1, 2023 – December 31, 2023
Year 4	January 1, 2024 – December 31, 2024
Year 5	January 1, 2025 – December 31, 2025

3.2. **Renewal.** This Agreement is renewable solely upon an offer from USU and an acceptance by Coach, both of which must be in writing and signed by the Parties.

### 4. **Compensation**

4.1. **Salary and Benefits.** In consideration of Coach's services and satisfactory performance of all duties and responsibilities set forth in this Agreement, USU shall provide to Coach the following during the Term:

a) **Base Annual Salary.** A "Base Annual Salary" minus applicable taxes and withholdings which will be earned daily on a pro-rata basis and payable in substantially equal monthly installments, except for Year 1, in accordance with normal USU procedures at the rate set forth in the below schedule:

Contract Year	Base Annual Salary
Year 1	\$657,692 (\$57,692 for December 10-December 31, 2020 + \$600,000 for January 1, 2021-December 31, 2021)
Year 2	\$625,000
Year 3	\$650,000
Year 4	\$675,000
Year 5	\$700,000

During Year 1 the monthly payment of Base Annual Salary will fluctuate in connection with the payment of Media and Endorsement Compensation as described below in section 4.3. Coach will still be paid a total Base Annual Salary of \$657,692.

b) **Professional Employee Benefits.** Such normal employee benefits as USU provides generally to its senior administrative and professional staff, subject to the terms and conditions of any applicable employee benefit plan, program, policy or, agreement. The benefits include the following: medical and dental insurance, USU contributions to an approved retirement program, employer-funded life insurance and disability insurance, sick leave, annual leave, tuition reduction for Coach and eligible family members, and all other benefits currently provided to exempt, non-academic employees. Contributions to an approved retirement plan shall be made consistent with USU's executive compensation plan. Under USU's executive compensation plan, contributions to the approved retirement program will be based on the dollar limitation set forth in Section 401(a)(17) of the Internal Revenue Code for the applicable Plan Year. Per USU Policy 345, Coach cannot defer use of annual leave and USU will not compensate Coach for any unused leave at termination of employment.

4.2. **Incentive Compensation.** Supplemental compensation shall be paid by USU to the Coach upon achievement of the following (hereinafter, individually, referred to as "Achievement") within the Term:

Achievement	Amount
Team wins the College Football Playoff (also referred to herein as the CFP) National Championship	\$100,000
Team participates in the CFP National Championship game	\$200,000
Team participates in a CFP Semi-final bowl game	\$200,000
Team participates in a New Year's Six bowl game	\$125,000
Team participates in a non-New Year's Six bowl game	\$75,000
Team wins the Conference Championship	\$50,000
Team wins the Conference Division Championship	\$25,000
Team maintains a multi-year Academic Progress Rate (APR) of 960 or above Note: The APR report is published annually. This incentive compensation may be paid annually and will be triggered upon the publication of the multi-year APR of 960 or greater.	\$10,000
Team is ranked in the final Associated Press Poll or USA Today Coaches Poll at the end of the post-season play in the: Top 10 Top 20	\$50,000 \$25,000

Top 25 Note: This category of supplemental compensation is mutually exclusive, meaning that only one amount will be paid if the Team is ranked within the Top 25 (e.g., If the team was ranked as 14, then \$25,000 would be awarded; NOT \$25,000 for the Top 20 AND \$10,000 for the Top 25).	\$15,000
Coach is selected as the "Conference Coach of the Year" by the Conference as voted by the Conference coaches	\$15,000
Coach is selected as the national "Coach of the Year" by the Associated Press, the American Football Coaches Association, Sporting News, Home Depot, Bear Bryant, Eddie Robinson, CBS Sports, Maxwell/George Munger, Bobby Dodd, or the Walter Camp Football Foundation	\$25,000
Team wins a rival game against BYU and/or University of Utah	\$5,000 each

Each amount of the Incentive Compensation as set forth above will be "earned" upon the occurrence of the related Achievement and will be payable within thirty (30) days thereafter. By way of example only, if the Team wins the CFP National Championship, Coach shall earn the cumulative sum of \$500,000 from such an accomplishment; likewise, if the team wins the Conference Championship, Coach shall earn the cumulative sum of \$75,000 from such accomplishment.

4.3. Media Rights and Endorsement Compensation. Subject to the terms of this Agreement and to any of USU's existing radio, media, television, or endorsement Agreement, Director will use his best efforts to negotiate separate contract(s) for radio and/or television for the broadcast of "Coach's Shows" and for other endorsement rights associated with Coach. USU shall have the right to receive all proceeds from said "Coach's Shows" or endorsement agreements and will, whether or not these proceeds materialize, guarantee additional compensation ("Media Compensation") according to the following schedule:

Contract Year	Media Compensation
Year 1	\$400,000 (with the first payment made on June 30)
Year 2	\$400,000
Year 3	\$400,000
Year 4	\$400,000
Year 5	\$400,000

Media Compensation will be earned daily on a pro-rata basis and payable quarterly in substantially equal installments made on March 31, June 30, September 30, and December 31, except for Year 1. During Year 1, Media Rights and Endorsement Compensation will be paid in 3 substantially equal installments paid on June 30, September 30, December 31. See Section 5.7 for more information on the contracts and Coach's duties associated with the Media Compensation.

4.4. Payment of Buyout. The Parties recognize that Coach's contract with his former employer, Arkansas State University, requires a buyout payment to terminate Coach's previous contract with Arkansas State University. USU agrees to pay an amount of up to one hundred and fifty thousand (\$150,000) ("Buyout Payment") to fulfill said buyout payment. Coach, in consultation with his personal financial and tax advisors, shall minimize, within reasonable and prudent financial and tax practices, any tax impact associated with the Buyout Payment and shall

provide USU with direction regarding the manner and time of making the Buyout Payment funds available. Should the buyout be taxed as Coach's income, USU will provide an additional payment to Coach to neutralize the actual tax impact to Coach. Coach agrees to provide written notice and supporting documentation of any such tax impact no later than sixty (60) days following the determination of such tax impact, whereupon USU will within thirty (30) days, issue a payment to Coach to neutralize said tax impact.

4.5. Vehicle. USU will provide Coach with one loaned vehicle for Coach's use (referred to as a "courtesy car") in keeping with the following uses (in order of priority): (i) business conducted in direct support of the Team's daily operations; (ii) official travel for the Team and/or the USU, as assigned; (iii) business conducted indirectly affecting the Team, such as lunches, meetings, etc.; and (iv) personal business and family support but secondary to the primary purpose of supporting the Team operations. This courtesy car will be provided to USU by supporters of USU Athletics. USU will withhold all applicable federal and state taxes related to Coach's use of the courtesy car, as required by the Internal Revenue Service (IRS) and applicable state and federal law. Coach agrees to follow all USU and USU Athletic Department policies and procedures related to the use of courtesy cars, including compliance with the law, insurance payments, and periodic reports of vehicle information. If, for whatever reason, the courtesy car program ends, then USU will no longer be required to provide Coach with the use of a courtesy car, and the Parties will hereby agree on a stipend of \$700 to cover automobile usage for business purposes.

4.6. Moving Expenses. USU will pay the moving expenses for Coach's household in accordance with USU policy and state law, in an amount up to but not to exceed twenty thousand dollars (\$20,000). Further, pursuant to USU Athletic Department policy and practice, USU will pay or reimburse, in an amount not to exceed five thousand dollars (\$5,000), other related transition expenses, including, if needed, provision of temporary housing.

4.7. Country Club Membership. USU will ensure that the Logan Golf and Country Club grants to Coach membership for USU business purposes at a membership level equivalent to a business membership. Coach's membership will be subject to any terms and conditions imposed by the Logan Country Club, including but not limited to the right of the Logan Country Club to revoke membership. USU will not be responsible for any usage fees or costs, food minimum requirements, or purchases of goods and services at the Logan Country Club. USU will withhold all applicable federal and state taxes related to providing the Country Club membership, as required by the IRS and applicable law.

4.8. Athletic Event Tickets and Travel. If requested by Coach, USU will provide Coach with (a) up to twelve (12) premium level tickets and/or access to a private box or suite (if available) to all regular-season home Team games, (b) up to eight (8) season tickets (best available) to all regular season away Team games; and (c) a sufficient number of priority-level tickets to any post-season game (including, if applicable, the Conference championship game) to meet Coach's reasonable needs. Coach's immediate family will be permitted to accompany Coach to any away Team game (including, if applicable, the Conference championship game and any post-season game), including access to Team-chartered transportation on a space-available basis, at no cost to Coach.

4.9. Youth Athletic Camps. Coach agrees that USU has the exclusive right to operate and control youth camps on its campus using USU facilities. USU hereby authorizes Coach, personally or through a company owned by Coach, to conduct summer youth football camps and

to collect income associated therewith. Coach agrees that any such camps: (i) will be scheduled and coordinated with the Athletics Department and USU generally prior to any advertising or registration; (ii) must be covered by general liability insurance in amounts sufficient to cover the camp activities, said insurance to be acquired by Coach or Coach's company and to include USU as an additional insured; and (iii) may be conducted on USU's campus, provided that Coach enters into a written facility use agreement with USU, said agreement to include conventional terms for a third party to gain access to USU's facilities (e.g., assumption of liability, indemnification of USU, etc.). Coach agrees that the trademark, logos, and indicia of USU may only be used by Coach in connection with the camps after Coach receives the express written authorization of USU. Furthermore, Coach agrees not to use any trademark (e.g., Aggie, Big Blue, USU, etc.) in the name of any company Coach forms to administer and conduct the camps. Coach also agrees that the marketing (including website, marketing materials, etc.), camp participant supervision and instruction, general administration, and risks associated with any youth football camps will be the sole responsibility of Coach. In addition, the taxes and distribution of income (e.g., to individuals staffing camps) associated with the camps shall be the responsibility of Coach. Furthermore, Coach agrees to provide necessary camp documentation to the Director, or his designee (e.g., Associate Athletic Director of Compliance) to show compliance with NCAA rules upon Director's request. This documentation will include, but is not limited to, registration lists, discount/refund lists and explanations, employee compensation lists, and revenue/expense summaries.

4.10. **Taxable Benefits.** All compensation and benefits set forth in Sections 4.1-4.8 received by Coach, directly or indirectly, will be subject to applicable state and federal tax laws and, if appropriate, will be treated as taxable income subject to applicable withholding and other taxes.

4.11. **Source of Funds.** Funding for the compensation set forth in this Section 4 will come from a combination of USU Athletic Department funds, private funds donated to USU and the USU Foundation, and funds generated by contracts with vendors for athletic apparel and shoes and multimedia rights agreements. All payments and benefits set forth herein will be dependent upon and subject to the availability of funds to USU for the purposes set forth in this Agreement. If funding sources for USU's Athletics Department (e.g., ticket revenues, state-allocated funding, media rights contracts associated with Media Compensation, etc.) are significantly reduced or interrupted by conditions beyond the control of USU, such as war, pandemic, epidemic, natural disaster, weather, act of God, airline strike, act of terrorism, federal or state governmental restrictions (including travel or event restrictions or recommendations), restriction by the Conference, or NCAA restriction, etc., Coach acknowledges that cost reduction measures may become necessary, and, in such event, USU and Coach shall enter into good faith negotiations regarding an appropriate reduction in any of the compensation due to Coach set forth in this Section 4.

## **5. Coach's Specific Duties and Responsibilities**

5.1. **Best Efforts.** Coach shall devote Coach's full time and best efforts to the performance of Coach's duties under this Agreement, including all duties that the Director may reasonably assign, and including all duties as set forth in Coach's then-current job description on file with the Department of Athletics. In addition, Coach shall perform such other and further related duties and responsibilities as USU and/or the Director may establish from time to time at USU's reasonable discretion.



5.2. Team Welfare. Coach shall develop and implement programs and procedures with respect to the evaluation, recruitment, training, and coaching of Team student-athletes to compete successfully while assuring their welfare.

5.3. Academics. Coach shall observe and uphold all academic standards, requirements, and policies of USU and encourage Team student-athletes to perform to their highest academic potential. Coach recognizes that the primary mission of USU is to serve as an institution of higher learning and shall use his best efforts to fully cooperate with the Director, the Sr. Associate Athletic Director of Student-athlete Services, and all academic counselors or similar persons designated by USU to assist student-athletes and shall use Coach's personal best efforts to encourage and promote those efforts. In that respect, Coach recognizes that the goal of USU is that every student-athlete obtain a baccalaureate degree and agrees to support fully the attainment of this goal. It is recognized by the Parties that a student-athlete may be declared ineligible for competition for academic reasons, because USU believes the student-athlete would not be an appropriate representative of USU under University Rules (as defined herein), as a disciplinary sanction under USU's Code of Student Conduct, or because USU believes that the student-athlete is not eligible according to the rules for athletic competition specified by the Conference or the NCAA or for similar reasons.

5.4. Compliance. Coach shall undertake best reasonable efforts and is responsible to (i) know, recognize, and materially comply with all federal, state and local laws, as well as all applicable University Rules and Governing Athletic Rules, including, but not limited to, Conference rules and NCAA rules, in accordance with NCAA Bylaw 11.1.1.1; (ii) promote an atmosphere for compliance within the program supervised by Coach and monitor the activities regarding compliance of all assistant coaches and other administrators involved with the program who report directly or indirectly to Coach; (iii) supervise and undertake best reasonable efforts to ensure that Coach's assistant coaches, any other employees for whom Coach is administratively responsible and the student-athletes of the Team know, recognize and comply with all such laws, University Rules and Governing Athletic Rules; and (iv) promptly report to the Director or the Director's designee (currently Associate Athletic Director of Compliance) knowledge of any violation or potential violation of University Rules or Governing Athletic Rules by any person or entity, including, but not limited to, USU staff, students, and representatives of USU's athletic interests. Coach shall cooperate fully in the NCAA infractions process, including the investigation and adjudication of a case (see NCAA Bylaw 19.2.3). Coach understands and agrees that any individual, including Coach, who is found in violation of NCAA regulations shall be subject to disciplinary or corrective action as set forth in the provisions of the NCAA infractions process (see NCAA Bylaw 19), including suspension without pay or termination of employment. Coach shall cooperate fully with the Director or the Director's designee (currently Associate Athletic Director of Compliance) at all times. Coach, or his Director-approved designee, shall review and approve in writing all requests for expense reimbursements by assistant coaches prior to submission to USU to reasonably ensure accuracy and compliance with all such laws, University Rules and Governing Athletic Rules, and upon such satisfactory review, shall forward the same to USU with Coach's approval for payment. Coach shall at all times take reasonable action necessary to comply with and to implement the University Rules relating to substance abuse and class attendance by students subject to Coach's direct control or authority, and to exercise reasonable care in an effort to assure that all personnel and students subject to Coach's direct control or authority comply with such policies. Coach represents and warrants that Coach has read such policies and that he will remain current as to the content of such

policies. To the extent that any personnel matter is not addressed by the terms of this Agreement, University Rules will govern.

5.5. Gifts and Ethics. All salary or compensation of Coach for performance of coaching duties shall be paid only by USU, or as expressly approved in writing by the Director. To that end, Coach will not solicit or accept gifts of cash or of substantial value or accept hospitality, from any person, including without limitation, a person who is a "representative of the athletic interests of the University" as that term is defined in Governing Athletic Rules. Coach also recognizes that Coach is a State of Utah employee and, as such, must comply with the Utah Public Officers' and Employees' Ethics Act ("Utah Ethics Act") for public officials and state employees. A material violation of this provision, as reasonably determined by USU, may subject Coach to disciplinary action, up to and including discharge. Discharge under this provision will constitute "for cause" termination under the Agreement.

5.6. Other Activities. Coach shall not undertake any business, professional, or personal activities or pursuits that would prevent Coach from devoting Coach's full time and best efforts to the performance of Coach's duties under this Agreement, that would otherwise detract from those duties in any manner, or that, in the opinion of USU, would reflect adversely upon USU or its athletic programs. To avoid entering into an agreement in conflict with a USU contract or commitment, or an agreement which would not be in USU's best interest, Coach shall submit to USU for review and approval prior to executing any agreement between Coach and a third party that relates to or impacts in any way Coach's employment at USU (including consulting or equipment agreements that relate to camps). Coach shall avoid any conflict of interest and comply with USU's Conflicts of Interest policy. Coach shall not participate in any business transactions or endorse any products or appear on any radio or, television, internet, or any other programs, which may discredit or bring undue criticism to USU or impinge upon any contractual obligations of USU or, which in USU's sole but reasonable discretion, are otherwise not in the best interests of USU or which violate University Rules or state law.

5.7. Media, Promotions and Public Relations. Coach shall perform any services relating to the media, promotions, and public relations as reasonably designated by the Director. Coach understands that, if requested by the Director or the Director's designee, Coach shall use Coach's best efforts (schedule permitting) to be available for interviews and other outside appearances. USU shall have the exclusive right to negotiate and approve all contracts associated with said media, promotions, and public relations, including all coaches shows and endorsement agreements.

a) Coach agrees that USU shall own all broadcasting and telecasting rights to all live and recorded USU coach's shows, call-in programs, post-game and pre-game interviews, highlight shows, replay shows, and other programs or promotional events (hereinafter called "Programs") that may be offered currently or in the future on media outlets, including but not limited to, radio and all forms of television, internet, satellite, cable, broadband, high definition TV, DVD, video cassette, wireless & video-on-demand. USU shall be entitled, at its option, to produce and market the Programs or negotiate with third parties for the production, distribution, and marketing of the Programs.

b) Coach agrees, if requested by the Director or the Director's designee, to provide Coach's services to and perform on the Programs and to cooperate in the production, broadcasting, and telecasting of the Programs. Coach agrees to perform all other duties as reasonably requested by USU in order for the Programs to be successful. Coach also agrees to participate, if requested and as mutually agreed, in providing content to any USU website



featuring Coach or the Team (as currently exists or may exist in the future) to either USU or USU's then-current third-party rights holder of such website.

c) Coach also agrees to, and hereby does, assign to USU or its then-current rights holder of one or more of the Programs all right, title and interest in Coach's name, nickname, initials, autograph, facsimile signature, likeness, photograph, and derivatives thereof, and Coach's picture, image, and resemblance and other indicia closely identified with Coach (collectively the "Property") during the Term of this Agreement. The assignment includes, but is not limited to, intellectual property rights under any and all trademarks and copyrights and any applications therefore which have been obtained or filed, or may be filed in the future with respect to the Property. Coach further agrees to, and hereby does, assign to USU the Property associated with all previously broadcast, recorded, or stored Programs. Nothing contained herein shall limit Coach's ability to use the Property in activities not associated with the Programs (subject to the approval provisions of Section 5.6. of this Agreement).

d) These provisions related to media, promotions, and public relations shall be subject to renegotiation at any time Coach's underlying employment agreement is renegotiated or if USU decides to produce and market one or more of the Programs itself as opposed to selling the rights to produce and market one or more of the Programs to a third party.

e) Coach and Director agree to coordinate regarding Coach's media, promotions and public relations responsibilities so that such responsibilities do not unreasonably interfere with Coach's Team and student-athlete responsibilities.

5.8. Apparel, Shoe, or Equipment Contracts. Coach agrees that USU has the exclusive right to select footwear, apparel, and/or equipment for the use of its student-athletes and staff during official practices and games. Coach recognizes that, as of the Effective Date, USU has entered into an agreement with NIKE to supply USU with athletic footwear, apparel, and/or equipment. Coach further agrees that he will not endorse any athletic footwear, apparel, and/or equipment products and will not participate in any messages or promotional appearances which contain a comparative or qualitative description of athletic footwear, apparel or equipment products without the written approval of the Director.

5.9. Other Prospective Employment. Coach agrees to provide the Director with written notice prior to engaging in substantive discussions or negotiations for prospective employment with any other entity, including specifically any institution of higher learning, search firms or a search firm representative, or with any professional athletic team. Coach shall not, under any circumstances, accept employment as a coach at any other institution of higher learning or with any professional athletic team, requiring performance of duties prior to the expiration of this Agreement, without providing such prior written notice to the Director.

5.10. Trademarks. Coach may not associate USU's name, logos, trademarks, symbols, insignias, indicia, service marks, or reputation in connection with any such arrangements, directly or indirectly, without the prior written approval of the Director and USU's Office of Trademark and Licensing Services. In the event that the Director and USU's Office of Trademark and Licensing Services give permission to Coach to use USU's name, logos, trademarks, symbols, insignias, indicia, service marks or reputation, such permission shall be non-exclusive and non-transferable, and such permission shall automatically expire upon Coach's resignation or termination from employment or upon written notice from USU.

5.11. Accounting of Income and Benefits. In accordance with NCAA and/or University rules, Coach shall provide a written detailed account (including the amount and source of all such income) to USU's President and the Director for all athletically related income and benefits

from sources outside USU whenever reasonably requested, but in no event less than annually. Sources of such income shall include, but are not limited to, the following: (i) income from annuities; (ii) non-USU sports camps, clinics, and competitions; (iii) sports commentary at non-USU athletic events; (iv) country club memberships; and (v) fees for speaking engagements, etc. The approval of such athletically related income and benefits shall be consistent with University Rules related to outside income and benefits, if any, applicable to all full-time or part-time employees.

5.12. Assistant Coaches and Team Operations Personnel. Notwithstanding any other language contained herein, unless otherwise prohibited by University Rules, Coach shall have the responsibility and the sole authority to recommend to the Director the hiring of assistant coaches for the Team, and other staff members who report directly to Coach with the final hiring decision to be made mutually by the Coach and the Director. Subject to University Rules and in consultation with and subject to the final approval of the Director, Coach may terminate Team assistant coaches and other staff members who report directly to Coach or make other employment sanction decisions regarding any Team assistant coach or such staff member. The USU Athletic Department will annually allocate a salary pool of two million five hundred thousand dollars (\$2,500,000) to the football program to fund assistant Team coach positions and other Team operations and administrative positions. Director will review the salary pool with Coach on an annual basis and will work together with Coach to reach an agreement on the allocation of such funds; however, Director retains final decision-making authority regarding all salary and budget decisions.

5.13. Game Scheduling. Subject to University Rules and Governing Athletic Rules, the Director or the Director's designee has the right to contract for and establish the schedule of USU's Team, and to negotiate the terms of the various game contracts, as well as accepting invitations for pre-season or post-season play. Coach shall be reasonably consulted by the Director or the Director's designee as to the identity of opponents, playing site, and time of play for any games hereafter scheduled. Although Coach and the Director or the Director's designee shall meet at least annually to discuss potential opponents, Coach may suggest potential opponents or discuss scheduling concerns at any time.

5.14. Athletic Conference. USU reserves the sole right to associate or disassociate with any athletic conference.

## 6. Termination by USU for Cause

6.1. Termination by USU for Cause. At all times, Coach serves at the pleasure of the Director. If the Director notifies (pursuant to Section 6.2) Coach at any time that USU is terminating this Agreement *for cause*, then no further payment or benefits shall be made to Coach as of the date of said termination outside of any earned but unpaid compensation or benefits (including, if applicable, Base Annual Salary, Media Compensation, and Incentive Compensation all of which shall be paid, if applicable, on a pro-rata basis). *For cause* termination shall be warranted based on the following conduct:

a) Failure by Coach to follow reasonable instructions from the Director after written notice and reasonable opportunity to cure has been given to the Coach by the Director, and Coach has continued such failure to follow instructions after a thirty (30) day notice period; or

b) Neglect or inattention by Coach to the duties of head coach or Coach's refusal or inability to perform such duties after written notice has been given to Coach by the

Director or as determined by the Director, and Coach has continued such neglect, inattention, refusal, or inability during a subsequent reasonable period specified by USU; or

c) Three (3) working days absence of Coach from duty without notifying the Director (see USU Policy 399) or without a legitimate basis for such absence without notification;

d) A significant or repetitive or intentional violation of Governing Athletic Rules (or a pattern of conduct which constitutes or may clearly lead to an NCAA Level I or Level II violation (NCAA Level I or II violations constitute significant violations of Governing Athletic Rules)); or

e) A significant or repetitive or intentional violation of any laws, University Rules, or Governing Athletic Rules (or a pattern of conduct which constitutes or may clearly lead to an NCAA Level I or Level II violation) by any person under Coach's supervision or direction (including, but not limited to, assistant Team coaches, Team operations personnel, and student-athletes) if Coach knew or should have known of the violation/conduct through the exercise of reasonable diligence and failed (i) to use reasonable and timely best efforts to prevent the violation/conduct; and/or (ii) to promptly report the violation/conduct to the Director; or

f) A material breach of contract terms, as reasonably determined by the Director, or

g) Any criminal conduct (excluding minor traffic violations); or

h) A significant or repetitive or intentional violation of any University Rules or other regulatory requirements applicable to higher education generally, as reasonably determined by USU; or

i) Failure to submit required reports regarding alleged crimes or violation of University Rules by student-athletes and/or an Athletics Department employee in a timely manner;

j) A significant or repetitive or intentional violation of any law of the State of Utah or the United States, including but not limited to, the Utah Ethics Act, as reasonably determined by USU; or

k) Fraud, willful misrepresentation, or dishonesty of Coach in the performance of Coach's duties or responsibilities under this Agreement as reasonably determined by USU; or

l) Fraud or dishonesty of Coach in preparing, falsifying, submitting, or altering documents or records of USU, NCAA or the Conference, or documents or records required to be prepared or maintained by law, Governing Athletic Rules or University Rules, or other documents or records pertaining to any recruit or student-athlete, including without limitation, expense reports, transcripts, eligibility forms or compliance reports, or permitting, encouraging or condoning such fraudulent or dishonest acts by any other person, as reasonably determined by USU; or

m) Failure by Coach to respond accurately, fully, and/or in a timely manner to any request or inquiry relating to the performance of Coach's duties hereunder or the performance of Coach's duties during Coach's prior employment at any other institution of higher learning propounded by USU, NCAA, the Conference or other governing body having supervision over the athletic programs of USU or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as reasonably determined by USU; or

- n) Counseling or instructing by Coach of any coach, student, or other person to fail to respond accurately and fully to any request or inquiry concerning a matter relevant to USU's athletic programs or other institution of higher learning which shall be propounded by USU, NCAA, the Conference or other governing body having supervision over the athletic programs of USU or such other institution of higher learning, or required by law, Governing Athletic Rules or University Rules, as reasonably determined by USU; or
  - o) Failure by Coach to manage the Team in a manner that reflects the academic values of USU, as reasonably determined by USU; or
  - p) Failure to promote and/or protect the safety, health, or welfare of USU student-athletes to the best of his ability, as reasonably determined by USU (USU acknowledges that notwithstanding a head football coach employing their best efforts to promote and protect the safety, health, and welfare of a program's student-athletes, injuries might occur as a by-product of the practicing and playing of football at the collegiate level); or
  - q) Soliciting, placing or accepting by Coach of a bet on any intercollegiate or professional athletic contest, or permitting, condoning or encouraging by Coach of any illegal gambling, bookmaking or illegal betting involving any intercollegiate or professional athletic contest whether through a bookmaker, a parlay card, a pool or any other method of organized gambling; or furnishing by Coach of information or data relating in any manner to football or any other sport to any individual known by Coach to be a gambler, bettor or bookmaker, or an agent of any such person, or the consorting or associating by Coach with such persons, as reasonably determined by USU; or
  - r) Use or consumption by Coach of alcoholic beverages, drugs, controlled substances, steroids, or other chemicals as to impair Coach's ability to perform Coach's duties hereunder, or failure by Coach to fully cooperate in the enforcement and implementation of any drug testing program established by USU for student-athletes, as reasonably determined by USU; or
  - s) Coach's sale, use or possession (except pursuant to a legal prescription), or Coach's permitting, encouraging or condoning by a student-athlete, assistant coach or other athletic staff member of the sale, use, or possession of any narcotics, drugs, controlled substances, steroids or other chemicals, the sale, use or possession of which by Coach, athletic staff or such student-athlete is prohibited by law or by Governing Athletic Rules or University Rules, as reasonably determined by USU; or
  - t) Failure by Coach to report promptly to the Director or his designee in writing any violations or potential violations of Governing Athletic Rules or University Rules that are known or should have been known by Coach through the exercise of reasonable diligence including, but not limited to, those by Coach, the assistant coaches, students or other persons under the direct control or supervision of Coach, as reasonably determined by USU; or
  - u) Failure by Coach to obtain prior approval for outside activities as required by Section 5.6 of this Agreement and by NCAA rules or to report accurately all sources and amounts of all income and benefits as required by NCAA and/or University Rules, as reasonably determined by USU; or
- Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in USU's reasonable judgment, brings or may bring Coach and/or USU into public disrepute, embarrassment, contempt, scandal, or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Coach as set forth in this Agreement or failure by Coach to conform Coach's personal conduct to conventional standards of good citizenship, with

such conduct offending prevailing social mores and values and/or reflecting unfavorably upon USU's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not warrant arrest by the relevant authorities.

Notwithstanding the foregoing, USU acknowledges and agrees that it does not intend to terminate this Agreement for minor or technical violations of its terms that are non-repetitive and/or curable and that do not damage USU or entail the risk of material penalties.

6.2. **Notice.** If USU terminates this Agreement for cause, it shall give written notice to Coach of its intention to terminate and the reason(s) for the contemplated action. Coach will have an opportunity to respond to the notice of intent to terminate on or before fourteen (14) days after receipt of the USU's written notice. After considering Coach's response or, in the event Coach does not respond, the expiration of the deadline for a response, USU shall notify Coach whether it will to move forward with termination, and if so the effective date of termination.

6.3. **Termination for Cause/Loss of Compensation and Benefits.** In the event this Agreement is terminated *for cause*, Coach shall NOT be entitled to receive any further compensation or benefits under this Agreement that have not been earned as of the date of termination. In no case shall USU be liable to Coach for the loss of any collateral business opportunities, or any other benefits, perquisites, income, or consequential damages suffered by Coach as a result of USU's termination of Coach's employment. In the event this Agreement is terminated by USU for cause, Coach shall repay to USU all bonuses and supplemental compensation received by Coach for the achievement of any specified milestone, objective, or exceptional achievement set forth in Section 4.2, if such achievement is subsequently vacated by USU or the NCAA, if such vacation is due, in whole or in part, to the wrongful actions of Coach, as determined by USU or the NCAA.

6.4. **NCAA Considerations.** The Parties recognized that this sub-section encompasses findings or determinations of violations during employment of Coach at USU or any other institution of higher learning. As required by NCAA Bylaw 11.2.1, Coach is hereby notified that in addition to the actions USU may take in accordance with this Agreement, Coach is also subject to disciplinary or corrective action by the NCAA as set forth in the provisions of the NCAA enforcement procedures if Coach is found by the NCAA or USU to be in violation of NCAA Bylaws. Coach agrees that USU shall be entitled to implement any such disciplinary or corrective actions imposed by the NCAA. Coach agrees that USU shall implement any such disciplinary or corrective actions imposed by the NCAA.

## **7. Termination for Convenience**

7.1. **Liquidated Damages.** Subject to the terms of this Agreement, either USU and Coach may terminate this Agreement for convenience (also commonly referred to as a without cause basis). In the event either USU or Coach terminates this Agreement for convenience during the Term, including any extension thereof, the terminating Party will be responsible to pay liquidated damages in the amount of seventy-five percent (75%) of the "Cumulative Remaining Salary," which is the pro-rated amount of the cumulative total of the Base Annual Salary and Media Compensation for all years remaining in the Term, had the Agreement not been terminated. The Cumulative Remaining Salary specifically excludes all other forms of compensation, including, but not limited to, the value of any USU benefits (health, retirement, life insurance, etc.), vehicle access, unachieved incentive compensation, youth sports camps, etc.



(a) If USU terminates this Agreement for convenience, USU will not be obligated to pay any other amounts, benefits, or damages to Coach other than the liquidated damages set forth in this Section 7.1 and any Base Annual Salary earned as of the date of termination set forth in Section 4.1, Incentive Compensation earned as of the date of termination and as set forth in Section 4.2, and Media Compensation earned as of the date of termination and as set forth in Section 4.3. Coach agrees that such liquidated damages shall fully compensate Coach for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind) and Coach shall not be entitled to any further compensation and benefits under this Agreement.

(b) If Coach terminates this Agreement for convenience, USU will not be obligated to pay any amounts, benefits, or damages to Coach other than any Base Annual Salary earned as of the date of termination and as set forth in Section 4.1, Incentive Compensation earned as of the date of termination and as set forth in Section 4.2, and Media Compensation earned as of the date of termination and as set forth in Section 4.3. Coach shall NOT be entitled to receive any further compensation or benefits under this Agreement that has not been earned as of the date of termination.

7.2. Notice. If either Party terminates this Agreement for convenience, it shall give written notice to the other Party of its intention to so terminate this Agreement. Termination shall be effective upon the receiving Party's receipt of the notice.

7.3. Re-Employment. If USU terminates the Agreement for convenience, then Coach agrees to immediately seek re-employment as a head or assistant football coach with compensation in keeping with fair market compensation rates. USU will be entitled to offset its liquidated damage obligation on a dollar-for-dollar-basis by any employment compensation received by Coach after the termination of this Agreement, whether from athletic-related or non-athletic related sources, during the otherwise unexpired Term. Under such a circumstance, Coach agrees to promptly inform USU in writing of any re-employment. If Coach fails to take reasonable steps in good faith to seek re-employment as a head or assistant football coach following receipt of written notice from USU regarding such failure, or seek compensation in keeping with fair market compensation rates, then USU may, at its discretion, withhold liquidated damages on a pro-rata basis for any period of time where Coach is deemed to not be seeking re-employment in good faith. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

7.4. Payment Schedule. If USU terminates the Agreement for convenience, then the liquidated damages set forth in Section 7.1 and qualified by the terms of re-employment set forth in Section 7.3 shall be paid to Coach in substantially equal monthly installments for a period of time equal to any remaining Term, had the Agreement not been terminated. If Coach terminates the Agreement for convenience, then the liquidated damages set forth in Section 7.1 shall be paid to USU in substantially equal monthly installments for a period of time equal to any remaining Term, had the Agreement not been terminated.

7.5. Release. If Coach is terminated by USU for convenience, then the Coach agrees that any payment obligation by USU shall be conditioned on Coach executing a comprehensive release in the form determined from time to time by USU in its reasonable and good faith discretion. Generally, the release will require the Coach, on behalf of his successors, heirs, distributees, devisees, legatees, and assigns to release and forever discharge USU and its trustees, officers, employees, directors, agents, attorneys, successors and assigns from any and all claims,

suits and/or causes of action that grow out of or are in any way related to Coach's employment with USU, other than any claim that USU has breached this Agreement. This release will include, but not be limited to, any claim that USU violated the Public Health Services Act; the Age Discrimination in Employment Act; the Older Worker's Benefit Protection Act; the Americans with Disabilities Act; Title VII of the Civil Rights Act of 1965 (as amended); the Family and Medical Leave Act; any state, federal law or local ordinance prohibiting discrimination, harassment or retaliation in employment; any claim for wrongful discharge, including in violation of public policy; claims of promissory estoppel or detrimental reliance, defamation, intentional infliction of emotional distress; or the public policy of any state; or any federal, state or local law relating to any matter contemplated by Coach. Coach understands and agrees that if the Coach fails to execute the release, Coach thereby agrees to forego any payment from USU. Coach acknowledges that Coach is an experienced person knowledgeable about the claims that might arise in the course of employment with USU and knowingly agrees that the payments upon termination provided for in this Agreement are satisfactory consideration for the release of all possible claims described in the release. For purposes of this section, any reference to Coach's "termination of employment" (or any form thereof) shall mean Coach's "separation from service" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), and Treasury Regulation Section 1.409A-1(h). The Parties' obligations in this section shall survive expiration or termination of this Agreement.

#### **8. Termination due to Disability or Death**

8.1 Notwithstanding any other provision of this Agreement, this Agreement shall terminate automatically if Coach (1) becomes totally or permanently disabled as defined by the USU's disability insurance plan; (2) becomes, in the sole judgment of the University based upon the written opinion of a licensed medical professional competent to provide such an opinion, unable to perform the essential functions of the position of Coach for a period of at least ninety (90) days; or (3) dies.

8.2 If this Agreement is terminated pursuant to the terms and conditions described in Section 8.1, all compensation and other benefits shall terminate as of the last day worked, except that Coach shall be entitled to receive any earned but unpaid Base Annual Salary as set forth in Section 4.1, Incentive Compensation as set forth in Section 4.2, Media Compensation as set forth in Section 4.3, and any disability related benefits to which he is entitled by virtue of his employment with USU. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

8.3 If this Agreement is terminated because of Coach's death, Coach's compensation and all other benefits shall terminate as of the last day worked, except that Coach's personal representative or other designated beneficiary shall be paid all earned but unpaid Base Annual Salary as set forth in Section 4.1, Incentive Compensation as set forth in Section 4.2, Media Compensation as set forth in Section 4.3, and death benefits, if any, as may be contained in any fringe benefit plan now in force or hereafter adopted by USU and due to Coach's estate or

beneficiaries thereunder. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

8.4 Nothing in this Agreement shall be deemed to be a waiver by Coach of any rights under the Americans with Disabilities Act or any subsequent amendment.

**9. Effect of Termination and Additional Termination Provisions**

9.1. Records and Information. Upon termination of this Agreement, whether for cause or for convenience, Coach agrees that all materials or articles of information, including, without limitation, personnel records, recruiting records, Team information, films, statistics, or any other material or data, furnished to Coach by USU or developed by Coach on behalf of USU or at USU's direction or for USU's use or otherwise in connection with Coach's employment hereunder are and shall remain the sole property of USU. Within seventy-two (72) hours of the expiration of the Term or its earlier termination as provided herein, Coach shall immediately cause any such materials in Coach's possession or control, including, but not limited to, all keys, credit cards, telephones, and computers (including all other technological devices) to be delivered to USU. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

9.2. Interference with Athletes and Obstruction. In the event of termination, whether for cause or for convenience, Coach agrees that Coach will not interfere with or otherwise obstruct USU's ability to transact business. If Coach materially or repeatedly violates this provision, Coach will not be entitled to any further post-termination benefits. The Parties' obligations in this section shall survive expiration or termination of this Agreement. Notwithstanding the foregoing, University acknowledges and agrees that it is not its intent hereby to control or limit a student athlete's college choice.

**10. Waiver**

10.1. In Writing. No waiver of any default in the performance of this Agreement shall be effective unless in writing and signed by the waiving party. The waiver of a particular default in the performance of this Agreement shall not constitute a waiver of any other or subsequent default. The resort to a particular remedy upon default shall not constitute a waiver of any other available remedies.

10.2. Waiver and Limitations. The financial consequences of termination of this Agreement or suspension thereunder are exclusively set forth herein. Therefore, with the sole exception of payments required by this Agreement, in any instance of termination for cause or without cause or suspension effected in accordance with the procedures established in this Agreement, neither Coach nor USU shall be entitled to receive, and each hereby waives any claim against the other and their respective officers, Board of Trustees, directors, agents, employees, successors, heirs, and personal representatives, for consequential damages allegedly sustained by reason of any alleged loss of business opportunity, loss of perquisites, loss of speaking event income, camp income or other outside income, or expectation income, or damages allegedly sustained by reason of alleged humiliation, emotional distress, defamation or loss of consortium resulting from the fact of termination, the public announcement thereof or the release by USU or Coach of information or documents which are required to be released by law. Coach acknowledges that in the event of termination of this Agreement for cause, without cause or otherwise, or suspension hereunder, Coach shall have no right to occupy the position of head



Team coach and that Coach's sole remedies are provided herein and shall not extend to injunctive relief. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

## **11. Miscellaneous**

11.1. Choice of Law and Venue. The Agreement and any dispute associated therewith that arises after expiration or termination of this Agreement will be governed by the laws of the State of Utah, without regard to conflicts of laws principles. Venue for any lawsuits, claims, or other proceedings between the Parties relating to or arising under the Agreement shall be exclusively in the State of Utah. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

11.2. Non-Discrimination. USU is committed to a learning and working environment free from discrimination, including harassment. For USU's nondiscrimination notice, see <https://equity.usu.edu/non-discrimination>.

11.3. Tax Advice. USU will not provide tax advice to Coach regarding the tax effects of this Agreement. USU encourages Coach to consult with independent tax advisors concerning the federal, state, and local tax effects of this Agreement. This Agreement is intended to comply with the requirements of Section 409A and Section 457(f) of the Internal Revenue Code and, to the maximum extent permitted by law, shall be administered, operated, and construed consistent with this intent.

11.4. Attorneys' Fees and Costs. If Coach materially breaches any terms of this Agreement, to the extent authorized by Utah law, then Coach will be responsible for payment of all reasonable attorneys' fees and costs that USU directly incurs in the course of enforcing the terms of the Agreement, including demonstrating the existence of a breach and any other contract enforcement efforts. The Parties' obligations in this section shall survive expiration or termination of this Agreement.

11.5. Government Records and Management Act. Coach acknowledges that USU is a governmental entity subject to GRAMA; that certain records within USU's possession or control, including without limitation, the Agreement, may be subject to public disclosure; and that USU's confidentiality obligations shall be subject in all respects to compliance with GRAMA. Pursuant to Section 63G-2-309 of GRAMA, any confidential information provided to USU that Coach believes should be protected from disclosure must be accompanied by a written claim of confidentiality with a concise statement of reasons supporting such claim. Notwithstanding any provision to the contrary in the Agreement, USU may disclose any information or record to the extent required by GRAMA or otherwise required by law, and to USU's employees, attorneys, accountants, consultants, and other representatives on a need to know basis; provided, that such representatives shall be subject to confidentiality obligations no less restrictive than those set forth in the Agreement.

11.6. Notice. Any payment, notice, or other communication required or permitted to be given to either Party hereto shall be in writing and shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person or via e-mail to a confirmed e-mail address for recipient during recipient's normal business hours; or (b) on the date of attempted delivery if delivered by courier, express mail service or first-class mail, registered or certified. Such notice shall be sent or delivered to the respective addresses listed in the opening clause of this Agreement. In the event of any notice provided by USU to Coach, USU shall

provide a copy of such notice to Coach's representative via e-mail as follows:  
clint.dowdle@caa.com.

11.7. Assignment. Neither Party may assign, transfer, or otherwise dispose of its rights, interests, or duties hereunder, in whole or in part, to any third party without the other Party's prior written approval.

11.8. No Third-Party Beneficiaries. The Parties do not confer any rights or remedies upon any person other than the Parties to this Agreement.

11.9. Relationship of Parties. In assuming and performing the obligations of this Agreement, the Parties are each acting as independent parties and neither shall be considered or represent itself as a joint venture, partner, agent, or employee of the other.

11.10. Amendment. Any amendment and/or supplement of this Agreement shall come into force only after a written agreement is signed by both Parties. The amendment and supplement duly executed by both Parties shall be part of this Agreement and shall have the same legal effect as this Agreement.

11.11. Merger. This Agreement embodies the entire understanding of the Parties and supersedes all previous communications, representations, or understandings, either oral or written, including the Offer Letter, between the Parties relating to the subject matter thereof.

11.12. Severability. The provisions of this Agreement are severable, and if any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling body of the law, then such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions herein.

11.13. Interpretation. Captions and headings of the sections and paragraphs of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph. Moreover, this Agreement shall not be construed against either Party as the author or drafter of the Agreement.

11.14. Counterparts and Electronic Signature. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same Employment Agreement. Both parties agree that an electronic signature of a party, whether digital or encrypted, included in this Agreement is intended to authenticate this written agreement and to have the same force and effect as a manual signature. Delivery of a copy of this Agreement bearing an original or electronic signature by electronic mail in "portable document format" ("pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

IN WITNESS THEREOF the Parties have caused this Agreement to be duly executed on their behalf by a duly authorized representative as of the Effective Date set forth above.

UTAH STATE UNIVERSITY

By: 

John Hartwell

Vice President and Director of Athletics

Date: 9/13/2021

By: 

David T. Cowley

Vice President of Business and Finance

Date: 9/14/21

ROBERT BLAKE ANDERSON

By: 

Date: 9/12/2021

# **EXHIBIT “D”**

## FIRST AMENDMENT TO HEAD COACH EMPLOYMENT AGREEMENT

THIS FIRST AMENDMENT ("Amendment") to the Head Coach Employment Agreement between Robert Blake Anderson ("Coach") and Utah State University ("USU"), dated December 11, 2020 ("Agreement"), is made and entered into as of August \_\_, 2022 ("Amendment Effective Date"), by and between USU and Coach. USU and Coach each may be referred to herein as a "Party" or collectively as the "Parties."

In consideration of the mutual covenants and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

1. Section 3.1 is replaced with the following amended Section 3.1:

3.1 Term. This Agreement is for a fixed term appointment commencing on December 11, 2020 and automatically terminating, without further notice to Coach, on December 31, 2027 ("Term"). Individual contract years may be referred to in this Agreement and shall have the following meaning:

Contract Year	Dates
Year 1	December 11, 2020 – December 31, 2021
Year 2	January 1, 2022 – December 31, 2022
Year 3	January 1, 2023 – December 31, 2023
Year 4	January 1, 2024 – December 31, 2024
Year 5	January 1, 2025 – December 31, 2025
Year 6	January 1, 2026 – December 31, 2026
Year 7	January 1, 2027 – December 31, 2027

2. The table in Section 4.1a) is replaced with the following amended table:

Contract Year	Base Annual Salary
Year 1	\$657,692 (\$57,692 for December 10-December 31, 2020 + \$600,000 for January 1, 2021-December 31, 2021)
Year 2	\$925,000
Year 3	\$975,000
Year 4	\$1,025,000
Year 5	\$1,075,000
Year 6	\$1,125,000
Year 7	\$1,175,000

3. The subtitle and first sentence of Section 4.2 of the Agreement is replaced with the following amended subtitle and first sentence:

4.2 Incentive Compensation. "Incentive Compensation" shall be paid by USU to the Coach upon achievement of the following (hereinafter, individually, referred to as "Achievement") within the Term:

4. The table in Section 4.3 is replaced with the following amended table:

Contract Year	Media Compensation
Year 1	\$400,000
Year 2	\$400,000
Year 3	\$400,000
Year 4	\$400,000
Year 5	\$400,000
Year 6	\$400,000
Year 7	\$400,000

5. Section 7.1 is replaced with the following amended Section 7.1:

**7.1 Liquidated Damages.**

(a) Subject to the terms of this Agreement, USU may terminate this Agreement for convenience (also commonly referred to as a without cause basis). If USU terminates this Agreement for convenience during the Term, including any extension thereof, then USU will be responsible to pay liquidated damages to Coach in the amount of seventy-five (75%) of the "Cumulative Remaining Salary," which is the pro-rated amount of the cumulative total of the Base Annual Salary and Media Compensation for all years remaining in the Term, had the Agreement not been terminated. The Cumulative Remaining Salary specifically excludes all other forms of compensation, including, but not limited to, the value of any USU benefits (health, retirement, life insurance, etc.), vehicle access, unachieved Incentive Compensation, youth sports camps, etc. If USU terminates this Agreement for convenience, then USU will not be obligated to pay any other amounts, benefits, or damages to Coach other than the liquidated damages set forth in this Section 7.1(a) and any Base Annual Salary earned as of the date of termination and as set forth in Section 4.1, Incentive Compensation earned as of the date of termination and as set forth in Section 4.2, and Media Compensation earned as of the date of termination and as set forth in Section 4.3. Coach agrees that such liquidated damages shall fully compensate Coach for the loss of collateral business opportunities (whether media, public relations, camps, clinics, apparel or similar contracts, sponsorships or any other supplemental or collateral compensation or benefits of any kind) and Coach shall not be entitled to any further compensation and benefits under this Agreement.

(b) Subject to the terms of this Agreement, Coach may terminate this Agreement for convenience (also commonly referred to as a without cause basis). If Coach terminates this Agreement for convenience during the Term, including any extension thereof, Coach will be responsible to pay liquidated damages in the amount set forth in the following schedule:

Notice Provided On or Before:	Amount Due:
December 31, 2022	\$2,000,000; or
December 31, 2023	\$1,700,000; or
December 31, 2024	\$1,200,000; or
December 31, 2025	\$800,000; or
December 31, 2026	\$500,000; or
December 31, 2027	\$0

If Coach terminates this Agreement for convenience, USU will not be obligated to pay any other

amounts, benefits, or damages to Coach other than any Base Annual Salary earned as of the date of termination and as set forth in Section 4.1, Incentive Compensation earned as of the date of termination and as set forth in Section 4.2, and Media Compensation earned as of the date of termination and as set forth in Section 4.3. Coach shall NOT be entitled to receive any further compensation or benefits under this Agreement that has not been earned as of the date of termination.

6. Section 7.4 of the Agreement is replaced with the following amended Section 7.4:

**7.4 Liquidated Damages Payment Timeline.**

(a) If USU terminates the Agreement for convenience, then the liquidated damages set forth in Section 7.1(a) and qualified by the terms of re-employment set forth in Section 7.3 shall be paid to Coach in substantially equal monthly installments for a period of time equal to any remaining Term, had the Agreement not been terminated.

(b) If Coach terminates the Agreement for convenience, then twenty five percent (25%) of the liquidated damages set forth in Section 7.1(b) shall be paid to USU within thirty (30) days following the date of termination and the remaining seventy five percent (75%) of the liquidated damages set forth in Section 7.1(b) shall be paid to USU in equal monthly installments over the shorter of (i) a thirty six (36) month period following the date of termination or, (ii) the period of time equal to any remaining Term, had the Agreement not been terminated.

7. All other provisions of the Agreement remain unchanged and in effect.

IN WITNESS WHEREOF, the Parties have duly executed this Amendment as of the Amendment Effective Date.

UTAH STATE UNIVERSITY

By: [Signature]  
John Hartwell

Vice President and Director of Athletics

Date: 8/5/22

By: [Signature]  
David T. Cowley

Vice President of Business and Finance

Date: 8/9/22

ROBERT BLAKE ANDERSON

By: [Signature]  
Date: 8/15/22

# **EXHIBIT “E”**





# STUDENT-ATHLETE HANDBOOK



***2022-2023***

# STUDENT-ATHLETE HANDBOOK



# STUDENT-ATHLETE HANDBOOK

## TABLE OF CONTENTS

<b>USU Athletics Mission &amp; Values</b>	4
<b>Department of Athletics Policies</b>	4
Student-Athlete Code of Conduct	4
Sexual Assault & Misconduct	6
Banned Substances	7
Hazing	8
Appeal & Grievance Procedures/Complaint Resolution Process	8
Social Networking	9
Academic Integrity	10
<b>Student-Athlete Academic Services</b>	12
Early Registration & Academic Advising	12
Adding & Dropping Classes	12
Class Attendance	13
Study Hall/Online Course Test Taking/Printing/Textbooks	14
NCAA Academic Eligibility Requirements	15
Common University Academic Policies	17
Learning & Educational Assistance Program	19
Laub Athletics-Academics Complex Computer Lab Policy	20
<b>Academic Achievement Awards</b>	21
<b>A-Game Student-Athlete Development</b>	22
<b>Student-Athlete Advisory Committee</b>	24
<b>Student-Athlete Support Services</b>	25
Media Relations/Strength & Conditioning	25
Ticket Office & Distribution/Equipment Room	26
Letter Awards	27
Sports Medicine/Athletic Trainers	28
<b>NCAA Compliance</b>	33
Unethical Conduct/Banned Substances	33
Agents/Amateurism/Gambling/Extra Benefits	34
Recruiting	35
Transfers	36
Countable Activities/ Outside Competition/Employment	37
Promotional Activities	38
Financial Aid /Summer School	39
Fifth-Year Aid	40
<b>Student-Athlete Appendices</b>	
Drug Screening & Substance Abuse Program	43
Transgender Policy	49
MW Sportsmanship Policy	56



# STUDENT-ATHLETE HANDBOOK





# STUDENT-ATHLETE HANDBOOK



## USU Athletics Mission and Values

### MISSION OF UTAH STATE UNIVERSITY ATHLETICS

*In alignment with the mission of Utah State University, we cultivate excellence in all that we do. Our mission is to guide, strengthen, and support student-athletes as they strive for excellence academically, athletically, and socially. Above all else, we develop graduates, community leaders, and lifelong friends of our university.*

### Culture and Values

Consistent with the mission of the Department of Athletics at USU, we seek to create a culture of high moral and ethical standards. Wearing the U-State logo on the field of competition creates an obligation to live by higher standards of behavior. Student-athletes represent USU, the Department of Athletics, their teams, fans, families, and themselves. This obligation is a privilege to proudly waive the USU flag. Each student-athlete should uphold the following values.

## DEPARTMENT OF ATHLETICS POLICIES

### USU STUDENT-ATHLETE CODE OF CONDUCT

The USU Student Code is the primary authority for establishing student standards of behavior and identifying administrative procedures for resolving acts of misconduct. Please refer to the student code found at <https://studentconduct.usu.edu/studentcode/article5>. It addresses academic integrity, criminal behavior, hazing, harassment and other inappropriate behaviors. Student-athletes are representatives of the Department of Athletics and USU, and expected to adhere to a higher standard of behavior both on and off campus. With the privilege of participating on an intercollegiate team comes the responsibility to conduct one's self, both on and off campus, in a manner that creates a positive image and brings credit to the University and the sport. It is important student-athletes recognize and accept this responsibility while serving as University role models within the academics and athletics communities. Therefore, it is essential to establish a set of guidelines that exceed those in the USU Student Code in order to clearly define the expectations the Department of Athletics has for student-athletes.





# STUDENT-ATHLETE HANDBOOK



## MISCONDUCT DEFINED

Broadly defined, misconduct is any behavior that adversely affects the University community in its pursuit of educational objectives; violates the rights of others; damages property; or violates federal, state, county, municipal law or University policy. Disciplinary action associated with misconduct is based on the severity and consequences of the act. Participating in intercollegiate athletics is a privilege, not a right. Student-athletes may relinquish this privilege if a coach or other athletics administrator believes his or her conduct, or allegation against a student-athlete, have compromised the reputation of the team, the athletics program, or the University.

## DISCIPLINARY ACTION

Law enforcement authorities will handle violations of federal, state, county, or city laws. When required to investigate allegations of criminal misconduct under University nondiscrimination or sexual misconduct policies concurrent to or separate from law enforcement investigations, the University will comply with federal, state, and local jurisdiction ordinances. Any act or alleged act of misconduct may also result in discipline up to, and including, dismissal from the team and revocation of athletics financial aid. Please refer to the USU Student Code for information on university disciplinary action.

## NOTIFICATION POLICY

A student-athlete who is arrested, cited for a misdemeanor/felony, questioned by police or court personnel for any reason, or who receives a subpoena must notify his/her head coach within eight hours of the incident. Failure to do so may result in immediate removal from the team and loss of scholarship, including an end to all student-athlete amenities and facilities such as strength and conditioning, academic services, training room, training table, fueling station, etc. Upon notification, the head coach has the institutional responsibility to report the arrest/citation/etc. immediately to his/her sport supervisor so appropriate notice of the situation may be immediately forwarded to the Director of Athletics and, if necessary, the President of the University. The Director of Athletics, in consultation with the head coach and sport supervisor, will determine additional disciplinary action based upon the individual circumstances of any misconduct. Possible action may include suspension/removal from the team, cancellation of scholarship, community service, educational initiatives, etc. The case may also be forwarded to the USU Office of Student Conduct for additional disciplinary measures.





# STUDENT-ATHLETE HANDBOOK



## SEXUAL MISCONDUCT

USU Athletics does not tolerate any form of sexual misconduct, including sexual assault (penetration), sexual assault (sexual touching), sexual harassment, relationship violence (dating violence or domestic violence), and/or stalking. Individuals who engage in these behaviors may be subject to investigation and discipline through USU's Office of Equity, USU's Office of Student Conduct, and/or local law enforcement.

If an individual is found responsible for violating USU policy, that individual may receive a sanction ranging from a warning to expulsion from the University. Separate penalties can occur through the criminal process. In addition, a student-athlete may be removed or suspended from their athletic team and may lose their scholarship. For comprehensive details on USU's sexual misconduct policies, refer to

<https://www.usu.edu/equity/>.

**Sexual activity without consent is sexual assault.** A primary factor in sexual misconduct offenses is not obtaining consent. If you participate in a sexual act without the consent of the other party, you have engaged in sexual misconduct. Silence, the absence of a "no," or a prior sexual relationship does not mean the other party has consented to the sexual activity. An individual under the influence of drugs or alcohol that is at the point where they are incapacitated lacks the ability to provide consent. Your own intoxication is not an excuse to engage in sexual activity without consent.

Student-athletes should have conversations about boundaries and expectations with their partners or spouses before engaging in sexual activity or any other form of physical intimacy. It is important to be very clear with your partner about your boundaries, and to be very clear about and respect their boundaries, even if you do not like, or are frustrated by, the boundaries they have expressed.

Amorous (sexual or romantic) relationships between student-athletes and members of the Department of Athletics staff are not allowed.

## VICTIMS OF SEXUAL MISCONDUCT

If you are a victim of any form of sexual misconduct, seek help immediately. You can contact any of the following USU and community organizations to report an incident or seek advice, counseling, or medical attention. More information about University and community support and reporting resources is available at

<https://www.usu.edu/sexual-respect/>.







# STUDENT-ATHLETE HANDBOOK



## Confidential Resources (for support):

- USU Counseling & Psychological Services (CAPS): 435-797-1012
- USU Sexual Assault & Anti-Violence Information (SAAVI): 435-797-7273
- Citizens Against Physical and Sexual Abuse (CAPSA): 435-753-2500 (available 24/7, 365 days/year)
- USU Student Health & Wellness Center: 435-797-1660
- Cache Valley Hospital (sexual assault forensic exams): 435-719-9700; 2380 N 400 E, North Logan

## Non-Confidential Resources (for reporting):

- USU Office of Equity (Title IX Coordinator): 435-797-1266
- USU Police Department: 435-797-1939
- Logan Police Department: 435-716-9400

## Notice of Non-Discrimination

USU is committed to a learning and working environment free from discrimination, including harassment. For USU's non-discrimination notice, see <https://equity.usu.edu/non-discrimination>.

## BANNED SUBSTANCES, DRUGS AND ALCOHOL

Any student-athlete who is found to have consumed a substance on the NCAA's list of banned drugs shall be declared ineligible from further participation in regular-season and post-season competition. It is your responsibility to ensure that over-the-counter drugs and supplements do not contain substances listed on the NCAA banned list. The list of NCAA banned substances includes the following substances and anything chemically related to these classes: stimulants, anabolic agents, diuretics and other masking agents, street drugs, peptide hormones and analogues, anti-estrogens, and beta-2 agonists. The NCAA does not accept explanations for a positive test. Either you tested positive or you tested negative. If you are required to take any prescription medications that include a banned substance, you **MUST** inform the Athletic Training Room, so they can review whether this medication is a permissible exception to the banned substance rules. *Please contact Karl Smith in the training room at 435-797-3444 with any questions about banned substances.* The complete list of NCAA banned substances available at <http://www.ncaa.org/2018-19-ncaa-banned-drugs-list>.

In addition, all student-athletes must follow federal and state laws regarding drugs and alcohol. This includes no consumption of alcohol until the age of 21, not supplying alcohol to minors, or allowing minors to consume alcohol in your residence. Please refer to the USU Student Code for other policies, and remember that USU is a dry campus. In addition, you are not allowed to drink alcoholic beverages while on a road trip for





# STUDENT-ATHLETE HANDBOOK



practice or competition. See your specific team rules for any additional or more restrictive policies for alcohol consumption. Although marijuana and its associated substances may be legal in other states, marijuana is an NCAA banned substance and the state law in Utah does not allow sale, possession or consumption of marijuana in any form. Please see the appendix for the USU Athletics Drug Screening and Substance Abuse Program policy.

## HAZING

USU does not tolerate hazing in any form. Hazing is any situation created intentionally that causes embarrassment, harassment, or ridicule and risks emotional and/or physical harm to members of a group or team, whether new or not, regardless of the person's willingness to participate. Examples of hazing include forced consumption of alcohol, forced activities for new team members to prove their commitment to the team, or other humiliating or illegal activities. Those who participate in hazing will be subject to discipline including and up to suspension/removal from the team, and cancellation, reduction, or nonrenewal of athletic scholarship.

## APPEAL/GRIEVANCE PROCEDURES

USU has appeal/grievance procedures through which students, including student-athletes, may voice complaints against fellow students, instructors, other university employees, etc. One appeal procedure is specific to student-athletes and addresses issues relating to financial aid (cancellation or non-renewal athletic scholarship). Another appeal procedure is available when Athletics denies access to the one-time transfer exception for immediate eligibility. Hearing committees for these appeals are composed of university faculty and staff.

In addition to financial aid and transfer appeals, USU also employs a student-athlete grievance/appeal procedure designed to address student-athlete concerns. This is an internal and confidential (if possible) process for student-athletes to address complaints/issues relating to conflict with other student-athletes, coaches, or Athletics employees, and to address other athletically related complaints.

The student-athlete initiates this process by bringing the complaint to the sport administrator for his/her sport, the Senior Woman Administrator, Faculty Athletics Representative, or the Director of Athletics. The staff member who receives the complaint is responsible for keeping all information confidential (if possible) and for mediating the dispute between all parties involved. If necessary, the Athletics staff member who receives the complaint will involve the Director of Athletics, Senior Woman Administrator, the Faculty Athletics Representative, and/or another necessary university staff member to vet and resolve the issue. These senior administrators will work with the student-athlete to reach a conclusion on the complaint/issue.







# STUDENT-ATHLETE HANDBOOK



## USU SOCIAL NETWORKING POLICY

Student-athletes must be concerned with any behavior that might embarrass or misrepresent themselves, their teams, and/or USU. This includes any activities conducted online. Be conscious of any activity on social networking sites (Twitter, Instagram, Facebook, LinkedIn, Tinder, Tik Tok, Snap Chat, etc.) that might embarrass, falsely represent, or reveal confidential information about yourself, your team, and/or USU. USU supports the right to free speech, but still requires students as public representatives of the university to act responsibly. Anything you post, even on a private account may be seen by the public eye. The following social networking activities are prohibited:

- Images that are revealing or consist of individuals in compromising positions
- Postings that contain racial/gender discrimination
- Display of alcohol, banned or illegal substances, or inappropriate use of firearms
- Offensive or foul language
- Bullying or hazing activities
- Postings showing or promoting sexual misconduct or harassment
- Do not like, repost, share, etc. anything that contains or advocates the above items

Student-athletes who fail to follow these policies may face discipline including and up to suspension and removal from the team, and cancellation/reduction/nonrenewal of athletic scholarship.

**The USU Athletic Department also asks that the following points be taken into consideration:**

- Before participating in any online community, understand that anything posted online is available to anyone in the world. Any text or photo placed online is completely out of your control the moment it is placed online – even if you limit access to your site.
- To help ensure your personal safety, do not post your home address, local address, phone number(s), birth date, or other personal information.
- Exercise caution as to what information you post on your website about your whereabouts or plans. You could be opening yourself up to predators.
- Be aware of who you add as a friend to your site – some are looking to take advantage of student-athletes.





# STUDENT-ATHLETE HANDBOOK



- Potential employers, internship supervisors, graduate programs, and scholarship committees also use these sites to screen potential candidates.

***It is a privilege to participate as a student-athlete in programs offered by USU or Athletics. Your actions not only reflect upon yourself but your fellow student-athletes, your team, the Department of Athletics and the University as a whole.***

As a USU student-athlete, you must understand that any social network review the Athletics Department (or any third party on behalf of the Athletics Department) may conduct is intended to educate you and other student-athletes about potential risks to reputation associated with electronic social networks and to promote an environment that results in success for student-athletes and for our teams, on and off the field.

## ACADMIC INTEGRITY VIOLATIONS

An instructor has full autonomy to evaluate a student's academic performance in a course. If a student commits an academic violation (Section VI-1, above), the instructor may sanction the student. Application of this sanction must follow Section VI-4 procedural policy. Such sanctions may include: (1) requiring the student to rewrite a paper/assignment or to retake a test/examination; (2) adjusting the student's grade - for either an assignment/test or the course; (3) giving the student a failing grade for the course; or (4) taking actions as appropriate. Additional disciplinary action beyond instructor sanction shall be determined by the Student Conduct Officer and the University.

The penalties that the University will impose on a student for the first Academic Integrity violation are:

1. Placement on academic integrity probation after the first offense.

The penalties that the University may impose on a student for multiple or egregious academic integrity violations are:

1. Probation-continued participation in an academic program predicated upon the student satisfying certain requirements as specified in a written notice of probation.
2. Probation is for a designated period of time and includes the probability of more severe disciplinary penalties if the student does not comply with the specified requirements or is found to be committing academic integrity violations during the probationary period. The student must request termination of the probation in writing.
3. Performance of community service.
4. Suspension-temporary dismissal from an academic program or from the University for a specified time, after which the student is eligible to continue the program or return to the University. Conditions for continuance or readmission may be specified.





# STUDENT-ATHLETE HANDBOOK



5. Expulsion-permanent dismissal either from an academic program or from the University.
6. Assigning a designation with a course grade indicating an academic integrity violation involving academic integrity. Conditions for removal may be specified, but the designation remains on the student's transcript for a minimum of one year; provided however, that once the student's degree is posted to the transcript, the designation may not be removed thereafter.
7. Denial or revocation of degrees.





# STUDENT-ATHLETE HANDBOOK



## STUDENT-ATHLETE ACADEMIC SERVICES

USU is strongly committed to promoting academic and athletic achievement. The Student-Athlete Academic Services (SAAS) unit provides programming for student-athletes in the areas of academic, career, personal and social development. The goal is to support your pursuit of a degree while also preparing you for life after sports. SAAS also helps to determine that student-athletes meet and maintain NCAA, Mountain West, and USU academic eligibility standards. Each team is assigned an Academic Coordinator to assist them in meeting the eligibility standards mentioned above. The following pages provide important information pertaining to the list of services provided through SAAS.

### REGISTRATION AND ACADEMIC ADVISING

SAAS will help you understand university registration policies and procedures and will guide you through university registration expectations and timelines. **All student-athletes have early registration, allowing you to select and register for necessary courses before general registration opens for all students.** USU Athletics works to avoid scheduling of intercollegiate practices and competition that conflict with the instructional calendar, particularly during end-of-term examinations. However, competition schedules may create unavoidable conflicts.

Each student-athlete **must** meet with their major advisor to make appropriate course selections and the major advisor **must** sign the registration form. If you have any holds preventing registration, it is your responsibility to have the hold removed prior to registration.

### MAKE USE OF YOUR MAJOR ADVISOR AND CAMPUS RESOURCES

A major advisor is assigned to you upon entrance to USU during the orientation process. However, if you are unsure about selecting a major and/or a career, SAAS can help you. SAAS works cooperatively with Career Services and major advisors to help students choose an area of study that will both align with their stated goals and prepare for a career of their choice. Major advisors are highly knowledgeable about your program of study and will assist you in progressing toward your degree. It is ultimately your responsibility to utilize advisors and campus resources to identify your major and career path, to maintain NCAA eligibility within your chosen major, and to make progress toward graduation and your degree.

*\*For a complete list of Major Advisors, visit <http://usu.edu/advising/advisors>, or see your Academic Coordinator.*

### ADDING AND DROPPING COURSES

**SAAS maintains a registration hold on your account after the first week of classes through the last day to withdraw from classes every semester (excluding summer terms). This is a preventative measure to ensure you do not jeopardize**







# STUDENT-ATHLETE HANDBOOK



your NCAA eligibility. Before making a change to your schedule, you must have it approved by your Academic Coordinator so they can remove the registration hold, and inform you of eligibility and graduation plan-related considerations.

## **\*Adding a course:**

Courses may be added through the first week of class each semester without an instructor's signature. From the start of the second week of classes through the 15<sup>th</sup> day of the term, a course can be added but an instructor's signature is required. Any time after the 15<sup>th</sup> day of the term a class can be added but will require instructor signature AND a \$100 late fee per class. The late fee is the student-athlete's responsibility (athletics scholarship/stipends will NOT cover the late fee). Please remember to obtain approval from your Academic Coordinator for any changes to your schedule.

## **\*Dropping a course:**

Students may drop a course without a notation on their transcript through the first three weeks of the semester. If a class is dropped after the first three weeks, a "W" will be entered on your transcript in the same way a grade would be entered. The "W" means you have chosen to withdraw from the course. Dropping or Withdrawing from a course is not allowed after the ninth week of classes. **Instructors may drop students who fail to attend the first five days of class.** Students are responsible for dropping any class they do not plan to attend. Dropping a course requires approval from your Academic Coordinator as doing so may affect your eligibility and/or graduation plan. Student-athletes must maintain full-time status (12 or more credits) at all times. Student-athletes must consult their Academic Coordinator prior to making any scheduling changes and to have the athletic registration hold removed.

***\*All deadlines mentioned above are for full-term courses. 7-week courses have different deadlines. Consult your Academic Coordinator.***

## **CLASS ATTENDANCE**

You are expected to attend all classes. However, you will miss some classes due to team competition. In turn, you are expected to do the following:

1. Introduce yourself to each of your professors at the end of the first or second day of class and provide them with a list of potential travel dates (get a travel letter from your Academic Coordinator).
2. Sit at the front of the class and be engaged.
3. Prior to departure for competitions, faculty will receive notice of a student-athletes absence(s) via GradesFirst. **Ask for information on assignments and notes being missed, and make arrangements to complete the assignments and/or exams prior to the time you leave for competition.**
4. Read each syllabus. Professors have different policies regarding missed work and make-up deadlines.





# STUDENT-ATHLETE HANDBOOK



5. Contact your Academic Coordinator if you miss a class for any reason besides travel.
6. It is understood that sometimes there are extenuating circumstances (such as illness) in which you must miss a class. However, it is important to your academic success that you are in class AS OFTEN AS POSSIBLE. SAAS monitors class attendance and grades through communication with your instructors. Your attendance and course progress are recorded and reported to your coaches (including your head coach).

## ONLINE COURSE TEST TAKING

Many courses require that you take exams in the Testing Center, located on the south side of the Library, or through remote proctoring. *ONLINE EXAMS MAY NOT BE TAKEN IN THE LAUB COMPUTER LAB.*

## STUDY HALL

Many teams require their student-athletes to log a certain number of hours in study hall. The third-floor academic center (study center + computer lab) in the Laub Complex is where student-athletes check-in for study hall. The study hall area is a place for studying NOT socializing. You are expected to use it as a study space. Therefore, be quiet, be respectful to staff and other student-athletes, and follow all posted study hall rules. If rules are not followed, your coach will be notified and you may lose your study center privileges for the remainder of the semester or academic year.

USU Athletics will be adhering to campus COVID-19 protocol to ensure the safety of staff and student-athletes. The study hall area will be used for objective learning (mentoring) and specified tutoring sessions only. As the COVID-19 pandemic remains unpredictable, SAAS kindly asks for everyone's patience in the availability of the study hall area.

## PRINTING

Student-athletes will be able to receive free printing in the 3<sup>rd</sup> floor Laub Computer Lab.

## TEXTBOOK PICK-UP

For student-athletes on athletics book scholarship, you will pick-up your textbooks directly from the Campus Bookstore before the end of the first week of class. Many teams will have an assigned day/time to pick them up. You must have your USU ID in order to pick-up books. Print your booklist at the store entrance, pull all textbooks on the list, and check-out at the Customer Service window. **DO NOT GET CALCULATORS or iCLICKERS -- EVEN IF THEY ARE LISTED AS REQUIRED. CALCULATORS and**





# STUDENT-ATHLETE HANDBOOK



**iCLICKERS CAN BE CHECKED OUT FROM SAAS.** When checking out, identify yourself by name and sport. If you drop a class after picking up books, keep the textbook for the class you dropped and return it with your other textbooks at the END OF THE SEMESTER. If you add a class after picking up books, return and follow the same process to acquire the new textbooks only.

*NOTE: Check that you have all the items listed on the receipt provided. If it is on the receipt, then it is due back at the end of the semester.*

## TEXTBOOK RETURN

All textbooks for scholarship student-athletes are due back to SAAS (**NOT THE BOOKSTORE**) by 4:00 PM on the last day of Finals Week. If you fail to return all or some of your textbooks by this time, you OWN them. You WILL be charged for the textbook at a buy back price that will be determined by USU Campus Bookstore. No returns will be accepted after 4:00 PM on Friday of Finals Week.

Consequences of non-returned books and calculators include:

1. Hold placed on your account for registration, transcripts, and graduation until the fees are paid.
2. No textbooks for the next semester will be issued until all fees have been paid.
3. All fees must be paid to Ronda Christoffersen, (the athletics business manager) in person on the second floor of the Spectrum.

*NOTE: If there are extenuating circumstances causing you to be unable to return any or all textbooks by the above mentioned time/date, you must clear this with your Academic Coordinator prior to 4:00 PM on the Friday of Finals Week.*

## NCAA ACADEMIC ELIGIBILITY REQUIREMENTS

The NCAA, Mountain West, and USU have multiple specific criteria each student-athlete must meet in order to be eligible for practice and competition during each year. It is critical that you understand these requirements and work closely with your Academic Coordinator to ensure you are meeting them. Please refer to the information below for your eligibility requirements.

**For ALL Undergraduate student-athletes: You must be enrolled in 12\*\* credit hours at all times to practice, receive aid, and compete.**

**First Year: In order to be considered eligible:**

- You **must** pass 24 applicable credits prior to the start of your 3<sup>rd</sup> full-time semester (Fall and Spring and can include summer before and after first year if you enroll early for summer bridge)
- You **must** pass a minimum of 6 applicable credits each semester







# STUDENT-ATHLETE HANDBOOK



- *Football student-athletes must pass a minimum of 9 applicable credits in the Fall semester*
- You **must** pass 18 credit hours (do not have to be applicable) between the fall and spring semesters.

You need to have a 1.8\* USU GPA PRIOR to the start of your third full-time collegiate semester.

## **Second Year: In order to be considered eligible:**

- You **must** pass a minimum of 6 applicable credits each semester.
  - *Football student-athletes must pass a minimum of 9 applicable credits in the Fall semester.*
- You **must** pass 18 credit hours (do not have to be applicable) between the fall and spring semester.
- You need to maintain a 1.8\* USU GPA
  - You need to have a 1.9\* USU GPA PRIOR to the start of your fifth full-time collegiate semester
- You need to declare a major and meet 40% of degree progress toward that specific major PRIOR to the start of your fifth full-time collegiate semester

## **Third Year: In order to be considered eligible:**

- You **must** pass a minimum of 6 applicable credits each semester AND
  - *Football student-athletes must pass a minimum of 9 applicable credits in the Fall semester.*
- You **must** pass 18 credit hours (do not have to be applicable) between the fall and spring semester.
- You need to maintain a 1.9\* USU GPA.
  - You need to have a 2.0\* USU GPA PRIOR to the start of your seventh full-time collegiate semester.
- You must meet 60% of degree progress toward your specified major PRIOR to the start of your seventh full-time collegiate semester.

## **Fourth Year/Post-eligibility**

- You **must** pass a minimum of 6 applicable credits each semester AND
  - *Football student-athletes must pass a minimum of 9 applicable credits in the Fall semester.*
- You **must** pass 18 credit hours (do not have to be applicable) between the fall and spring semester.
- You need to maintain a 2.0\* USU GPA AND
- You must meet 80% of degree progress toward your specified major PRIOR to the start of your ninth full-time collegiate semester.







# STUDENT-ATHLETE HANDBOOK



*\*Please note that GPA requirements for specified majors could be higher than the 2.0 needed for NCAA Eligibility purposes. It is important to know your major's GPA requirements and adhere to them.*

*\*\*Please note, International students must be enrolled in 12 credit hours to be considered full time. Of those 12 credit hours, at least 9 credit hours must be in person (or broadcast). Blended and online DO NOT count as in person.*

## **NCAA PROGRESS TOWARD DEGREE PERCENTAGES**

- 40% of degree progress toward your specified major entering your 5<sup>th</sup> semester
  - 48 credits completed out of 120
- 60% of degree progress toward your specified major entering your 7<sup>th</sup> semester
  - 72 credits completed out of 120
- 80% of degree progress toward your specified major entering your 9<sup>th</sup> semester
  - 96 credits completed out of 120

**For ALL Graduate student-athletes: You must be enrolled in 9\*\*\* credit hours at all times to practice, receive aid, and compete.**

- You must pass a minimum of 6 applicable credit each semester AND
- You need to maintain a passing GPA in your respective graduate program.

*\*\*\*Please note, International students in a graduate program must be enrolled in 9 credit hours to be considered full time. Of those 9 credit hours, at least 6 credit hours must be in person (or broadcast). Blended and online DO NOT count as in person.*

## **COMMON UNIVERSITY ACADEMIC POLICIES**

- **Pass/D+, D, F Option:** If you desire a Pass ("P") instead of a regular grade in a course, you must request a pass/fail form from the Registrar's Office. The form must be signed by your major advisor and returned to the Registrar's Office by approximately week 10 of the semester (7-week semesters have different timelines). You must earn at least a "C-" in the course to be given a "P" for a grade. Otherwise you will earn a grade of a D+, D, or an F on your transcript. *Some major required courses do not allow Pass/Fail grades to satisfy graduation requirements. Consult with your major advisor to determine if pass/fail is an option for required courses.*
  - The form is called Registration Options Form and can be found at: <https://www.usu.edu/registrar/forms/registration>.
- **Repeating Courses:** Students may repeat any course at USU for which they were previously registered. You may take the same class a total of three times (the initial time and two repeats). Upon completion of the course, the





# STUDENT-ATHLETE HANDBOOK



replacement of your grade should automatically post to your transcript. *The most recent grade earned will replace all previous grades, even if the most recent grade is lower than the previously earned grade.* Note: Some majors allow a limited number of repeated courses in order to continue progress in the degree program.

- **Withdrawal from the University/Leave of Absence:** If you leave the university at any time during a semester, SAAS cannot withdraw you from your courses. It is your responsibility to complete this withdrawal with the Registrar's Office. Depending on when your courses end (i.e. if it is a 7-week course) and when you choose to withdraw, do so as soon as possible in the semester to prevent an "F" from being posted on your transcript and to receive any possible refund available. *Please note that a student-athlete on athletic scholarship will likely not receive any refund regardless of when the withdrawal is processed.*
  - The form to complete for a withdrawal is called a Leave of Absence and is available at: <https://www.usu.edu/sots/loa>.
- **Academic Standing:**
  - **Academic Warning:** A student is placed on Academic Warning if they have less than 36 attempted credits with a cumulative USU GPA below a 2.0.
    - A student remains on warning until their cumulative and semester USU GPA is above a 2.0.
    - Freshmen who were placed on warning will be put on Academic Probation if the next semester results in a cumulative and term USU GPA below a 2.0.
  - **Academic Probation:** A student is placed on Academic Probation if they have attempted 36 or more credits and their cumulative USU GPA drops below a 2.0.
    - A student remains on probation until both their term and cumulative USU GPA is above a 2.0.
  - **Academic Suspension:** A student that is on probation will be academically suspended if the next consecutive semester still results in a cumulative USU GPA below a 2.0. Once suspended, students are unable to attend USU for two semesters at which time they may reapply for admission to the University. *There are no appeals.*
- **Requesting Transcripts:** In the event you need an official transcript, you can request one (or several) by going to: <https://www.usu.edu/registrar/records/transcripts> and following the links to the appropriate transcript delivery venue of your choice. *SAAS cannot request official transcripts for you.*





# STUDENT-ATHLETE HANDBOOK



## LEARNING & EDUCATIONAL ASSISTANCE PROGRAM

### Academic Mentoring

Mentors assist student-athletes in balancing the time demands of athletics and academics during their time at USU. Mentors help student-athletes with remediation in developing study skills, tracking academic progress, planning a weekly course of action for completing tasks and mapping out assignments, as well as other areas determined by the mentor, student, and Learning Specialist. This is done with the intention of helping the student-athlete develop the skills needed to become a successful independent learner. Students may request an Academic Mentor, but they are typically assigned based on multiple factors including: test scores, GPA, education impacting disabilities, etc.

### Tutoring

Any student-athlete who desires additional support with their academics may request a tutor. Trained students offer individual and small group tutoring sessions throughout the semester. Tutors are available at no cost to the student-athlete and cover the majority of courses offered at USU. All tutoring takes place in the Jim and Carol Laub Athletics-Academic Complex, unless otherwise approved by the Learning Specialist. All tutor requests will be made through GradesFirst, no exceptions will be given. Your Student Success Advisor can assist you in requesting a tutor if you do not know how. If a tutor is available for the requested course, students should expect to be paired within 48 hours. If there is not a tutor available, we will attempt to find one, or point students in the direction of other campus resources.

### Review Sessions

Review sessions are also available throughout the semester. Trained upperclassman will conduct review sessions to help meet the needs of student-athletes. These sessions are at no cost to the student-athletes and cover a wide range of courses. Offerings depend on demand and change from semester to semester.

### Monthly Study Skill Workshops

Student-athletes with a GPA below 2.5 will attend a monthly workshop facilitated by the Learning Specialist, where they will practice skills to implement into their studying and coursework. Topics include notetaking, textbook reading, time management, test preparation, test-taking, etc.

### Learning Specialist Assistance

A Learning Specialist is available to assist student-athletes on a daily basis. If a student-athlete is concerned, and/or needs testing for a learning challenge, then they should see the Learning Specialist. Student-athletes can also set-up meetings with the Learning Specialist for assistance with study skills, note taking, time management, test anxiety, and other personalized assistance.





# STUDENT-ATHLETE HANDBOOK



## LAUB ATHLETICS-ACADEMICS COMPLEX COMPUTER LAB POLICY

- **Student-athletes are not permitted to complete online exams in the athletics computer lab.** A violation of this policy will result in a student-athlete losing privileges to utilize the computer lab.
- Food and drink are PROHIBITED in the computer lab. If you are seen with food or drink in the computer lab, a SAAS staff member will ask you to save what you are working on and ask you to leave the computer lab immediately. Each incident will be tracked and recorded. Habitual offenders may lose computer lab privileges.







# STUDENT-ATHLETE HANDBOOK



## ACADEMIC ACHIEVEMENT AWARDS

### WHITESIDES SCHOLAR-ATHLETE AWARDS

Every student-athlete who achieves a 3.2 cumulative USU GPA is invited to a formal banquet held each spring, where they are recognized and presented an award for this achievement.

### ACADEMIC TEAM AWARDS

Each year at the Whitesides awards luncheon, teams are awarded for the following:

- Outstanding team, 20 or more members
- Outstanding team, fewer than 20 members
- Most Improved Team (largest increase in team GPA from fall-to-fall)

### MOUNTAIN WEST ACADEMIC ALL-CONFERENCE

To be eligible for selection, student-athletes must have completed at least one academic term at USU while maintaining a cumulative grade point average of 3.0 or better, and have competed in at least 50% of their team's contests.

### MOUNTAIN WEST SCHOLAR-ATHLETE

To be eligible for selection, student-athletes must have completed at least one academic team at USU while maintaining a cumulative grade point average of a 3.0 or better, and have competed at least once during their season.

### JOE E. WHITESIDES SCHOLAR-ATHLETE AWARD

This award is presented to the student-athlete who, at the end of the spring semester, will exhaust his/her athletic eligibility and has the highest cumulative grade point average among those who qualify.



## ATHLETE DEVELOPMENT

### A-Game



**"Building Success in Life and Sports"**

#### **Vision**

A-Game is committed to providing comprehensive programming that cultivates a holistic student-athlete experience and prepares them for life after sports.

#### **What we believe**

Utah State Athletics has chosen some of the most intellectually and athletically talented student-athletes from across the world. We must challenge our student-athletes to maximize their potential as it pertains to personal growth, career readiness, and community engagement.

#### **Cohort based program**

Will focus on incoming freshmen and sophomore cohorts to establish a strong foundation and efficient programming. A-Game will take place in both the fall and spring semesters.

#### **A-Game canvas page**

The A-Game Canvas page will serve as an online learning educational tool for information, resources, and curriculum for A-Game programming. Student-athletes will be added to the Canvas page by Student-Athlete Academic Services. A-Game will collaborate with the USU 1010 Connections course in the fall semester to deliver programming for the freshmen cohort.

#### **Program components**

Year One: Transition/Engagement

- Will cover: Well-Being, Healthy Relationships, Fiscal Literacy I, Entrepreneurialism, Resiliency and USU Aggie Network

Year Two: Leadership/Inclusion





# STUDENT-ATHLETE HANDBOOK



- Will cover: Inclusion Communication Workshops, Leadership Workshops, Cultural Workshop and USU Network

## Year Three: Career Readiness

- Will cover: Career Conferences, Career Readiness Course, Fiscal Literacy II, Internships and USU Aggie Network

## Year Four: Aggies for Life

- Will cover: Student-Athlete Transition Workshop, Exit Survey, Employment Journey, Graduation

## USU athletics commitment

Outside of student-athlete's individual performances and team performance in athletics and academics, USU's commitment to student-athletes is demonstrated in the following areas:

### Personal Development

- Incoming student-athletes participate in USU 1010 - Connections, a course designed to aid in their transition to USU and Division I athletics.
- Returning student-athletes have the opportunity to participate in Athletic Transitions, a course designed to aid their transition from USU and athletics to life after college.
- Returning student-athletes are given the opportunity to apply and interview for the Student-Athlete Mentor (SAMs) program to receive leadership training and serve as a peer mentor.
- Every team has at least one team member who serves on the Student-Athlete Advisory Committee (SAAC).
- Many teams meet with individuals regarding mental health, nutrition, safety, sport psychology and many other topics.

### Career Development

- Student-athletes have the opportunity to meet with Career Coaches from USU's Career Services to review resumes and cover letters.
- Student-athletes are nominated to attend the NCAA Leadership Forum.
- Student-athletes are nominated to attend the NCAA Career in Sports Forum.

### Community Engagement

- Student-athletes participate in community events that include, but are not limited to: Reading Buddies, Festival of Trees and Special Olympics Basketball. Student-athletes attend numerous other events to benefit the Cache Valley community and local schools.





# STUDENT-ATHLETE HANDBOOK



- Student-athletes also collect unused toiletries to benefit a local shelter and pop tabs to assist in various charities' fundraising efforts.
- COVID-19 may limit the frequency of opportunities for community engagement. SAAS will abide by all USU and State of Utah guidelines for COVID-19 safety.

## **Name, Image and Likeness**

USU Athletics prohibits NIL activities that conflict with the student-athlete's academic (e.g. missed class) or athletic (e.g. competition) obligations or requirements.

## **STUDENT-ATHLETE ADVISORY COMMITTEE**

The Student-Athlete Advisory Committee (SAAC) provides a voice for the student-athletes. SAAC is designed for team leaders to provide insight on the student-athlete experience. The committee also offers input on rules, regulations, and policies that affect student-athletes' lives. The membership is comprised of representatives from each sport who serve as the governing body of USU student-athletes. SAAC meets monthly and provides many opportunities for student-athletes, including the following:

- Communication with staff and student leaders from USU's campus and the Athletics Department.
- NCAA and Mountain West Conference legislation voting.
- Discussion of issues surrounding the student-athlete.
- Involvement in community outreach.
- Planning USTARS, an event to recognize the athletic achievements and non-athletic talents of USU student-athletes.
- Leadership experience.

Two members of the USU SAAC will be selected to represent our student-athletes on Mountain West SAAC. These representatives are selected through the conference SAAC selection and voting process. Student-athletes will also be selected to be on Athletic Council committees and campus student organization committees.

Follow @USUSAAC and @MW\_SAAC for updates about upcoming events, service opportunities, and student-athlete accomplishments. Additional information about USU SAAC can be found at [www.utahstateaggies.com/saas/saac](http://www.utahstateaggies.com/saas/saac).







# STUDENT-ATHLETE HANDBOOK



## STUDENT-ATHLETE SUPPORT SERVICES

### THE COMMITMENT TO ATHLETICS EXCELLENCE

A wide array of support services exists to help Aggie teams and student-athletes reach their competitive potential. The information in this section provides an overview of these support services.

#### **Media Relations: 435-797-3714**

Media relations works to publicize the efforts of student-athletes, both athletically and academically, in local, regional, and national media outlets.

Media wishing to interview student-athletes are asked to work with the Media Relations staff to set up interviews. **We ask that student-athletes instruct any media that approach them to contact the USU's Media Relations team first.** Media Relations reserves the right to decline interview requests when appropriate. Please note: Media Relations will not distribute your phone number to any media, unless you have given permission to do so. If you have any questions or problems dealing with media, please contact Media Relations at the number listed above.

For the Athletics Department, Media Relations produces media guides, press releases, game programs, and newsletters, while coordinating interviews and overseeing the department's website. Media relations hosts media at home events, coordinates press box operations, compiles game statistics, and sometimes travels with USU's athletic teams. The Media Relations office is responsible for getting information about all athletic events to the media, conference offices, NCAA, and on the department website ([www.UtahStateAggies.com](http://www.UtahStateAggies.com)).

#### **Strength & Conditioning: 435-797-8031**

USU's Strength & Conditioning program is centered around the overall development of the student-athlete. Through each sport and individual training program they look to improve strength, speed, power, agility, coordination, mobility, conditioning, and decrease the risk of injuries. They also provide a program that is physically and mentally challenging to help prepare and improve sport skills. The Strength Staff is here to aid in all your athletic goals as part of the sports medicine circle and will provide programming for nutrition, recovery, and overall physical preparation.

#### **General Weight Room Rules**

1. The weight room is for varsity student-athletes only.
2. A member of the strength staff must be present for all workouts.





# STUDENT-ATHLETE HANDBOOK



3. Team and or individual training times are set with you and your sport coaches (this is not a 24-hour fitness center). Communication between you and your assigned Strength & Conditioning coach is very important.
4. When training, proper workout attire must be worn at all times. This will be set by your sport and strength coaches.
5. Gum is prohibited in the strength and conditioning facilities.

## **Ticket Office & Distribution: 435-797-0304**

The USU Athletics Department may provide up to four complimentary admissions per home contest and two to four complimentary admissions for away contests to student-athletes in the sport in which the individual participates. Complimentary admissions to away contests are provided to traveling student-athletes only. The Athletics department may provide each student-athlete who participates in or is a member of a team participating in an NCAA championship or bowl game with up to six complimentary admissions to all contests at the site at which the student (or team) participates. Student-athletes may not receive payment from any source for complimentary admissions and may not exchange or assign them for any item of value. Student-athletes may not provide their complimentary admission to an agent or any representative of an agent.

For sports with ticketed competitions, student-athletes must request complimentary admissions for their guests through the ARMS system by the announced deadline for the competition.

*ALL COMPLIMENTARY TICKET NUMBERS ARE AT THE DISCRETION OF ADMINISTRATION, COACHES, AND INDIVIDUAL TEAM RULES.*

## **Equipment Room: 435-797-1270**

There are two equipment rooms on campus: Equipment for Football, Soccer, Softball, Track and Tennis are issued from the Laub Athletics-Academics Complex. Equipment for Men's and Women's Basketball, Volleyball and Gymnastics are issued from the Spectrum Equipment Room.

- Student-athletes are financially responsible for all equipment and uniforms issued to them. Do not throw anything away. If it is worn out, return it to the equipment room for replacement.
- Do not alter or cut any part of issued equipment or uniforms. Workout and practice gear are to be used only for its intended purpose.
- Please lock your lockers, even if you are only stepping away from it for a few minutes.
- Student-athletes will be billed for replacement costs of items. Other student-athletes will have their transcripts held until the matter is resolved.





# STUDENT-ATHLETE HANDBOOK



- After every game and practice, you are responsible for turning in your own gear. Do not have someone else do it for you. Remember you are financially responsible for everything issued to you.
- Student-athletes are not to come into the equipment room unless they are invited to do so by someone on the equipment staff.
- Only university issued clothing will be washed. Laundry should be turned in quickly after practice to be washed.

## LETTER AWARDS

Upon the completion of a sport's regular season, the head coach, or a designee, must access the shared google document titled *Utah State Student-Athlete Letter Awards Tracking Sheet* and submit their list of letter winners under their assigned sport tab. This list is then reviewed by the Compliance Office, Sport Administrator and Equipment Room. It is the responsibility of each head coach to inform their student-athletes of their letter winner status.

In order to be eligible for a letter award a student-athlete must compete in at least 50% of their sport's "in" season competition as determined by the head coach. If a student-athlete does not meet the 50% criteria the head coach may submit a student-athlete's name, with justification, to their sport administrator for review and potential approval of a letter award.

Student-athletes may qualify for up to three letter awards during their career. There is no charge for letter awards. The range of awards are:

- 1<sup>st</sup> year – Letter Jacket
- 2<sup>nd</sup> year – Stadium Blanket
- Graduate of USU\* – Ring

**How to Obtain Letter Awards:** Contact the Equipment Room at 435-797-3255. Letter awards for fall sports will be given out the first week of the following spring semester. Letter awards for winter sports will be given out the week before spring semester finals. Letter awards for spring sports will be given out after the conclusion of their season of play, and the head coach or their designee must coordinate with the Equipment Room regarding distribution of the awards. Coaches who choose to distribute awards at a team event must coordinate pick up of letter awards from the equipment room.

*\*Rings will not be issued through the Equipment Room. To obtain a graduation ring, the student-athlete must complete an exit interview with a designated sport administrator and have their graduation status officially posted to their transcript. The student-athlete is also responsible for replying to requests for address and ring size by any member of the athletic department staff by the deadline specified. Failure to respond by the deadline provided will result in non-receipt of ring. Rings are ordered one time per year after summer graduation and are coordinated by Student-Athlete Academic Services.*







# STUDENT-ATHLETE HANDBOOK



## Graduation Rings Requirements:

In order for a student-athlete to be eligible for a graduation ring a student athlete must meet the following requirements:

- Must spend at least one full season as an eligible member of their respective team
- Must graduate with either an undergraduate or postgraduate degree\*
- Must be on the team during the academic year of graduation\*\*

\*Students will only receive one graduation ring at the completion of their first degree at Utah State. A student who returns and receives a graduate degree or second baccalaureate will not receive another ring.

\*\*If a student-athlete graduates after they exhaust eligibility (i.e. 5<sup>th</sup> year aid OR fall sport athlete graduating in spring) a student-athlete will be honored with a graduation ring after they graduate.

Special circumstances will be reviewed on a case-by-case basis

## SPORT MEDICINE/ATHLETIC TRAINERS: 435-797-3636

It is the responsibility of the Department of Athletics and Student Health Services to provide adequate opportunity for the student-athlete to receive proper care and confidentiality. This also includes resources for those experiencing any of the following: eating disorders, mental health and/or psychological disorders. The Department of Athletics and Student Health Services work together and follow established guidelines in order to ensure each student-athlete is given the best care possible. Each case is sensitive and will be handled on an individual basis with the long-term health of the student-athlete remaining the priority.

***For complete details on all sports medicine policies and procedures, please contact the training room directly. Policies are established for, but not limited to the following areas: use of the training room, medical emergencies, drug screening, banned substances, supplements, sickle cell testing, eating disorders, psychological or mental disorders, pharmacy protocol, pregnancy, and required forms.***

## ***Medical Clearances and Insurance for Student-Athletes***

No individual will be permitted to return to varsity participation after any acute illness, operation, or after being in the care of an independent practitioner without consent of the team physician.





# STUDENT-ATHLETE HANDBOOK



If an individual is injured while participating in a supervised game, practice or scrimmage or while in transit from campus to another institution to participate in a scheduled event, Utah State will have secondary insurance responsibility. Our department is required by University regulation to investigate and determine if the injured athlete has their own policy or is covered by a policy of their parents. If such policies exist, a claim will be filed with that policy. Your assistance in supplying this basic information will greatly expedite the processing of claims. USU's athletic insurance coordinator will assist in the coordination of all insurance claims. If no policy exists, Utah State University assumes primary responsibility for authorized procedures and expenses. Utah State University Athletics' is not responsible for medical expenses that are considered general health care of the student athlete. General health care concerns are the primary focus of the Student Health Services and are available to the student athlete on the same basis as the general student. General healthcare includes but is not limited to appendicitis, tonsillitis, wisdom tooth removal, etc. The athletic training staff is available to help in the coordination and direction of all medical concerns of the student athlete.

If an individual is injured while practicing or participating in an intercollegiate program, they should, regardless of how minor, report this to the team athletic trainer. Necessary referrals will be made as required. Under no circumstances should an individual seek other care without proper referral by the team physician or the team athletic trainer. If an individual seeks such non-referred care, they should be prepared to pay for such services.

Utah State University Athletics Department will not assume liability for off-campus medical, dental treatment or hospitalization of any kind for athletic injuries without prior referral by the team physician, or in his absence, the team athletic trainer or head coach.

## ***Medical Forms***

Any participating athlete must have a complete physical by a team physician prior to any participation in his/her sport. The athlete must complete a Medical History Form, and the Physical Form. These are kept in the training room files for quick reference. Pre-existing injuries will be the responsibility of the student-athlete.

Every student-athlete at USU must have on file with the athletics training room a Parents Authorization Form or, if married, an Authorization for Athletics Insurance. These forms make it possible for the Insurance Coordinator to file claims on athletic related injuries as soon as the bills are presented.

All non-scholarship student-athletes are required to have proof of insurance before being medically cleared.





# STUDENT-ATHLETE HANDBOOK



Student-athletes who are referred to doctors for evaluation or for x-rays or other medical services must obtain an Authorization for Treatment Form, or a Referral Form must be on file with the USU athletics training staff.

## ***Athletic Training Room Policies***

The training room is a health care facility intended for the prevention, care, and rehabilitation of injuries; it is not a lounge. In order to ensure the most efficient care is given, it is necessary that you observe all athletic training room rules. These are posted for your information. Vulgar language will not be tolerated.

Everyone reports to all practices unless directed by the athletic training staff. Appropriate dress should be worn as directed by the athletic training staff. Injured athletes will be assigned rehabilitation exercises that will enhance recovery and maintain conditioning. Do not leave the practice field because of an injury or illness without the permission of the athletic training staff. The following is a list of terms used to describe what injured athletes may do during practice:

- **FULL:** student-athlete to participate in all activities.
- **AS TOLERATED:** student-athlete can participate as they feel fit. If the injury hurts or worsens, it is their responsibility to let a member of the medical staff know and their workout will be adjusted accordingly.
- **LIMITED:** indicates ability to participate on a partial level. Activities will be adjusted according to the specific injury and sport.
- **NO CONTACT:** no physical contact; may participate in speed, agility, or conditioning
- **OUT:** Unable to dress for or participate in practice or competition

Injured players must report to the training room daily for treatment. You will be expected to get as many treatments per day as scheduled by the athletic training staff. Rehab will be done in the morning or early afternoon hours before practice. Other treatment times are available by appointment. The training room will be open from 9:00 a.m. until 11:45a.m. and from 1:30 p.m. on for general treatments during the week. Injured players, unless attending classes, are expected to report for rehabilitation and treatments as directed by the sports medicine staff. An injured player will be included in the injury report until the athlete is released from daily treatment by the athletic training staff. Failure to complete the prescribed treatment will be reported to the coaches for appropriate discipline.

## ***Additional Policies***

1. Report all injuries and illnesses to the training staff, no matter how small or insignificant, as soon as possible. In case of emergency or serious illness during the night, report directly to the emergency room at Logan Regional Hospital or Cache Valley Specialty Hospital.







# STUDENT-ATHLETE HANDBOOK



2. No tobacco chewing in the entire facility, which means in the locker room, athletic training room, or weight room.
3. No cleats/spikes in athletic training room.
4. Athletes must rinse off before entering therapy pools.
5. Appropriate clothing is required in therapy pools.
6. Vulgar language will not be tolerated.

## ***Pharmacy Policies***

The athletic department is only allowed to pay for medicine related to athletic injuries. During the competitive season, the athletic department may pay for medicine for conditions that may prevent the athlete from playing and practicing.

## ***Dental Policies***

The athletic department is only allowed to pay for dental injuries (fracture, knocked out tooth, etc.) that occurred during a regularly scheduled and supervised practice or event. General dental care (cleaning, toothaches, etc.) is the responsibility of the athlete.

## ***Training Room Locations***

It is our objective to maintain your health and to prevent injuries and illness. In order to do this, USU houses four main athletics training facilities:

- Mildenberger ATC: Serves all male and female student-athletes; open all year.
- Smith Spectrum: Serves men's and women's basketball and gymnastics.
- HPER (Health, Physical Education and Recreation): Serves gymnastics
- WEC (Wayne Estes Center): Serves women's volleyball and men's and women's basketball.

## ***Medical Emergency Procedures***

In the case of an after-hours emergency call 911, after calling 911, call the Head Athletic Trainer-Mike Williams, cell (435) 881-8019, or one of the assistant athletic trainers listed below. If it is not a non-emergency after-hours then call your athletic trainer.

- John Lee: 801.712.4921
- Paul Bugnet: 801-726-0565
- Leah Dunagan: 440-552-6154
- Brady Mollner: 801.808.5899
- Kendra Gilmore: 435.994.4872
- Amanda DiEnno: 253.549.5877

If still unable to contact anyone on the athletics medical staff regarding a non-emergency, the injured student-athlete should contact their coach and go to the emergency room at either Logan Regional Hospital or Cache Valley Specialty Hospital.



# STUDENT-ATHLETE HANDBOOK

Logan Regional Hospital  
1400 North 500 East  
435-716-1000.

Cache Valley Specialty Hospital  
2380 North 400 East  
435-713-9700

At the hospital, make sure they know the injured person is a USU athlete and have them immediately contact Dr. Tye Harrison or Dr. David Liddle.

***Remember, Utah State University is financially responsible for athletic injuries occurring only in official practices and competitions sponsored by the Department of Intercollegiate Athletics. General health care is the responsibility of the student athlete.***

## ***USU Medical Disqualification***

When a student-athlete sustains an injury which is deemed career ending and is "Medically Disqualified" by the designated USU team physician, the following policies apply.

If the student-athlete is receiving an athletic scholarship, the athletic department will continue to provide scholarship funds as long as he/she stays on a reasonable established graduation track. The department will cover all medically disqualified student-athletes in this manner with the following exceptions:

- The student-athlete decides to discontinue enrollment for a semester or longer.
- The student-athlete fails to maintain progress toward degree eligibility requirements.
- The student-athlete fails to maintain the appropriate grade point average required to graduate in their degree program.
- The student-athlete is not eligible for continued enrollment by other university protocol.
- Policy extends through the competition of the fourth year.

## ***Pregnancy Policy***

Any student athlete who becomes pregnant during her athletic eligibility is encouraged to consult with the Head Athletic Trainer, Team Physician, Director of Athletics, Director of Student Health, and/or her Head Coach. The health and wellbeing of the student athlete, as well as the child, will be the top priority in any decision that is made. The student athlete's status of participation will be determined on an individual basis and in conjunction with the advice of her Obstetrician, the Team Physician, and the Head Athletic Trainer. No student-athlete will be allowed to participate when there is an increased risk to the health of the student athlete or the child.

Pregnancies occurring during the eligibility of any student athlete will not affect the grant-in-aid, scholarship, of the student athlete. Any institutional financial aid will not be





# STUDENT-ATHLETE HANDBOOK



revised or adjusted, during the period of its award, based on the athlete's ability to perform or contribute to a team's success.

## ***Drug Screening and Substance Abuse Program***

Provided in the appendices is a complete copy of the Department of Intercollegiate Athletics drug screening and substance abuse program policies and procedures, including information about the Safe Harbor Program and appeals process.

Visit: [www.utahstateaggies.com](http://www.utahstateaggies.com) for complete program details or [www.ncaa.org](http://www.ncaa.org) for prohibited substances. Please contact Mike Williams with any questions regarding banned substances at 435-797-3636 or 435-881-8019.

## **NCAA COMPLIANCE**

### **GENERAL REGULATIONS**

USU is committed to conducting its athletic programs in accordance with the NCAA rules. The following is only a summary of NCAA rules. More can be found on the USU compliance website or by talking to the Compliance Office. Remember that "Compliance Counts!" If you ever encounter a situation that could involve an NCAA rule, contact the Compliance Office immediately (435-797-9448 or 435-797-1853).

### **STUDENT-ATHLETE COMPLIANCE FORMS**

All student-athletes are required to complete compliance participation forms in the fall or when added to a roster. Forms are electronic and housed on the ARMS Roster Management Software. Compliance will send the forms to student-athletes electronically. All forms must be completed before any student-athlete can practice.

### **UNETHICAL CONDUCT**

Unethical conduct by a prospective or current student-athlete could result in immediate ineligibility for practice, competition and athletics aid. Unethical conduct by a prospective or current student-athlete or a current or former institutional staff member includes the following:

- Refusal to furnish information relevant to an investigation of possible violation(s) of NCAA regulation(s) when requested to do so by the NCAA or the individual's institution.
- Knowingly furnishing the NCAA or the individual's institution false or misleading information concerning the individual's involvement in, or knowledge of, matters relevant to a possible violation of NCAA regulations.
- Known involvement in arranging fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete.





# STUDENT-ATHLETE HANDBOOK



- Known involvement in offering or providing a prospective or an enrolled student-athlete an improper inducement or extra benefits and financial aid.

## AGENTS

Student-athletes with eligibility remaining may not enter into a written or verbal agreement to be represented by an agent who will market their athletic ability (exceptions apply in specific circumstances). In addition, agents may not provide benefits to student-athletes. USU Athletic Department policies require agents (and runners) to register with Compliance before a student-athlete may communicate or interact with that agent. Agents (and runners) may request permission to contact a student-athlete by completing an Agent Registration Form. Student-athletes should not communicate with agents until permission is given by Compliance.

## AMATEURISM

All student-athletes must be amateur athletes. A student-athlete loses his/her amateur status and will not be eligible for intercollegiate competition if he or she:

- Uses their athletic skill (directly or indirectly) for pay in any form in that sport.
- Accepts a promise of pay even if such pay is to be received following completion of intercollegiate athletics participation.
- Signs a contract or commitment of any kind to play professionally, regardless of its legal enforceability or any consideration received.
- Receives, directly or indirectly, a salary, reimbursement of expenses or any other form of financial assistance from a professional sports organization based upon athletic skill or participation except as permitted by NCAA rules and regulations.
- Enters into a professional draft or an agreement with an agent.

Outside (non-USU) competition can jeopardize a student-athlete's amateurism. All student-athletes are required to obtain written approval from the Compliance Office PRIOR to participating in any outside competition.

## GAMBLING AND BRIBERY

Student-athletes may not be involved in any type of sports gambling. This restriction applies to any level of sports including both college and professional sports.

**REMEMBER:** *RISK + REWARD = VIOLATION*

The prohibition against gambling applies to the following activities:

- Providing information to an individual in organized gambling activities.
- Soliciting or accepting bets on any intercollegiate athletics team for any item that has value (cash, shirt, dinner, etc.).





# STUDENT-ATHLETE HANDBOOK



- Participating in any gambling activity through a bookmaker, those working with a bookmaker, parlay card or any other method of organized gambling. This includes a “pool,” internet or newspaper competition and fantasy leagues.
- Accepting any “free rides” in the form of meals, gifts, etc., to alter the outcome of any contest. You are required by both the Athletics Department and the NCAA to report any individual who offers gifts, money or favors in exchange for supplying information or attempting to alter the outcome of any contest.

## EXTRA BENEFITS

An extra benefit is any special arrangement by an institutional employee or a representative of the institution’s athletics interests (aka booster) to provide a student-athlete or the student athlete’s relative or friend, a benefit not expressly authorized by NCAA legislation. Receipt of a benefit by student-athletes, their relatives, or friends is not a violation of NCAA legislation if the same benefit is generally available to the institution’s students, their relatives, friends, or to a particular segment of the student body (e.g. foreign students or minority students) determined on a basis unrelated to athletics ability or notoriety.

## WHAT DOES THE EXTRA BENEFIT RULE MEAN?

**Housing:** Each student-athlete must pay the going rate for their on or off-campus housing. There should not be any “special deals” to benefit a student-athlete. All student-athletes living off campus must pay rent regularly and cannot receive free housing. Be especially careful to avoid circumstances where you move into a home owned by the parents of a roommate. Often the NCAA considers any “special deal” received by a student-athlete to be based upon the notoriety obtained as a result of status as a student-athlete and thus an impermissible extra benefit.

**Automobiles:** Any vehicle that you drive must be titled in your name or in the name of a family member and be acquired legitimately. Boosters or other “outside sources” may not be involved in the purchase or acquisition of the vehicle. Student-athletes may not borrow a vehicle from an impermissible source.

**Boosters:** Make sure you never allow a booster or other member of the community to give you any kind of extra benefit. They may not cosign a loan, give free legal advice, give you rides in their car, let you borrow their car, buy your lunch, give you a special discount, etc. Please talk to Compliance if an individual offers you anything as some exceptions apply.

## RECRUITING BEHAVIOR AND STUDENT HOSTS FOR OFFICIAL VISITS

USU Athletics, in its role as a recruiter of quality student-athletes, is committed to policies that foster high standards of behavior during the recruiting process. All staff, coaches, student-athlete hosts and recruits will follow NCAA recruiting regulations and be accountable for applicable aspects of the USU Code of Conduct.







# STUDENT-ATHLETE HANDBOOK



Current student-athletes may be asked to act as a student host for visiting recruits. A student host must understand and follow the NCAA rules regarding official visits. Student hosts may receive a maximum of \$40.00 for each day of the visit to cover all actual costs for entertaining the recruit (and the recruit's parents, legal guardians or spouse). Entertainment must be within a 30-mile radius of campus. Suitable examples of entertainment to provide a prospect include movies, food, bowling, or campus events. Host money cannot be used to buy the recruit any souvenirs or other tangible mementos. Furthermore, the host is responsible for handling the money and may not be given to the recruit. All student hosts will be required to read and sign the Student-Athlete Host Form.

The following actions are prohibited by the USU Student Code of Conduct and NCAA recruiting rules. This list should provide guidance for appropriate behavior for recruits and student hosts during visits to USU.

- Alcohol and other drug related misconduct.
- Disorderly conduct.
- Gambling.
- Theft, damage and disregard for property.
- Hazing.
- Use of sex as a recruiting tool, utilizing a fake ID, and excessive entertainment and meals.
- Recruits may not have contact with representatives of the University's athletics interest (boosters).
- Entertainment money cannot be used to purchase souvenirs, clothes, or other tangible items.
- The institution or its representatives may not provide a vehicle for use by the recruit or the student host.

## TRANSFERS

### *Notification of Intent to Transfer*

Before a student-athlete or individuals associated with a student-athlete (former coaches, family, etc.) may communicate with coaches at other four-year institutions, that student-athlete must make an official notification of intent to transfer to the Department of Athletics. This formal declaration must be made directly to the Compliance Office in accordance with their procedures. The Compliance Office will immediately contact the head coach to ensure the student-athlete has communicated his/her desire to transfer. This starts the two-day period by which the Compliance Office is required to activate the student-athlete as "recruitable" on the NCAA Transfer Portal. A request to a coach or other administrator will not trigger an official notification.

An official notification of intent to transfer will cancel the student-athlete's athletic scholarship at the end of the current semester or, if prior to a semester, immediately. This may also trigger immediate removal from the team and an end to all student-athlete amenities such as strength and conditioning, academic services, training





# STUDENT-ATHLETE HANDBOOK



room, training table, fueling station, etc. Student-athletes will not be allowed to “shop around” with other institutions and then return to USU as student-athletes.

## *One-Time Transfer Exception*

In some circumstances, a student-athlete who transfers may be eligible to request the one-time transfer exception for immediate eligibility for competition. Student-athletes may request this exception in writing to the Compliance Office by email for specific institutions. If the request is denied, the student-athlete will be promptly notified in writing and given notice of the opportunity to appeal this decision. Appeals must be made in writing and sent to the Faculty Athletic Representative, Dr. Ed Heath. Generally, the one-time transfer exception will not be granted for transfers within the state of Utah, Mountain West Conference institutions, and future nonconference opponents in select sports. Exceptions to this policy are minimal and requests will be handled on a case-by-case basis.

## **COUNTABLE ATHLETICALLY RELATED ACTIVITIES**

During the season, student-athletes may participate in up to 20 hours per week of countable athletically related activities. Student-athletes must be given one day off per week during the season, unless there are three competitions during that week. Outside the season, student-athletes must be given at least two days off per week. Sports that are not “in season” also may not require student-athletes to practice/train during final exams and the week prior to finals. Please see the Compliance Office or Compliance website for questions on what is and is not countable.

## **OUTSIDE COMPETITION**

All student-athlete participation in outside competition must be approved in writing through the Compliance Office PRIOR to participation. Generally, student-athletes may not compete on any non-USU team or individual sporting event. However, numerous exceptions apply. If you compete in an event and win a prize/award, you may be able to receive the award. Do not accept any awards before contacting compliance first. During the academic year, you may not accept anything of value for winning an event.

## **EMPLOYMENT**

### ***Required Employment Registration***

Before beginning any long-term or short-term employment, you are required to register the employment with Compliance. Student-athletes must complete the Student-Athlete Employment form. Student-athletes must also register temporary jobs such as babysitting or doing yard work for someone.





# STUDENT-ATHLETE HANDBOOK



Employment must meet the following requirements in order for compensation to be permissible:

- You are paid for work actually performed and at the same rate as other employees with similar skills and experience.
- You are not compensated in any manner for any value or utility that you may have for an employer because of any publicity, reputation, or fame due to your athletics ability and participation.
- You submit a completed Student-Athlete Employment Form to the Compliance Office before beginning work.
- You (or your employer) may not use your name or picture to advertise, even if just advertising your particular service.

## ***Private Lessons***

Student-athletes are allowed to give private lessons and receive compensation. Any student-athlete wanting to give private lessons must obtain approval from Compliance before beginning. USU facilities may not be used when providing a private lesson for pay.

## **PROMOTIONAL ACTIVITIES**

The NCAA has strict rules about community appearances made by student-athletes. Student-athletes may not promote the sale of a commercial product or service. However, student-athletes may promote the fundraising or awareness ventures of educational institutions, charitable and nonprofit organizations. The promotional activities rules apply whenever student-athletes are asked to appear or participate in fundraising or community outreach events.

The following USU and NCAA rules apply to all promotional activities involving student-athletes:

- If someone other than the Assistant Athletics Director for Student-Athlete Academic Services or their designee contacts you about making the appearance, you must obtain written approval from the Compliance Office or designee prior to the event.
- You may not miss class for the event.
- Any money derived from the activity must go directly to the charitable or education agency.
- Student-athletes' names or pictures may not be used to promote commercial ventures of any nonprofit or for profit agency.





# STUDENT-ATHLETE HANDBOOK



- The specific activity or project in which the student-athlete participates cannot involve co-sponsorship, advertisement or promotion by a commercial agency other than through the reproduction of the sponsoring company's logo on printed materials.
- An authorized representative of the charitable or educational agency must sign a release statement that ensures the student athlete's name, image or appearance is used in a manner consistent with NCAA rules.

## FINANCIAL AID

If you are receiving any non-athletics scholarship, you are required to notify the Compliance Office and the USU Office of Financial Aid. Compliance must verify all non-athletics scholarships are permissible for student-athletes to receive.

Athletically-related financial aid may not be decreased or cancelled during the period of the award:

- On the basis of the student athlete's ability or contribution to a team's success;
- Because of an injury that prevents the recipient from participating; or
- For any other athletic reason.

Athletically related financial aid may be reduced or cancelled during the period of the award if the recipient:

- Renders themselves ineligible for intercollegiate competition.
- Fraudulently misrepresents any information on an application, National Letter of Intent or financial aid agreement.
- Engages in serious misconduct warranting substantial disciplinary penalty, including violations of team rules.
- Voluntarily withdraws from a sport at any time for personal reasons.

In all cases of reduced, cancelled or non-renewed athletics aid, the effected student-athlete has the right to appeal. All appeals must be submitted in writing to the Director of Financial Aid.

## SUMMER SCHOOL AID POLICY

Summer school funding is based on the Athletic Department's annual budget and the amount available changes with each budget cycle. Priority for summer school aid will be based on a student-athlete meeting one or more of the criteria below. Summer school aid is not a guarantee to any student-athlete and should not be expected. The amount of aid provided to a student-athlete is dependent on a student-athlete's scholarship during the academic year (i.e. full or partial scholarship). To be considered, a student-athlete must have been on athletics aid the previous academic year or the coming academic year.







# STUDENT-ATHLETE HANDBOOK



Strong consideration for summer school will be given for the following reasons (in order of importance).

1. Helping with graduation timing
2. To assist with eligibility purposes
3. Prerequisite to enter degree program
4. Increase Grade Point Average

Student-athletes must apply for summer school aid by April 1. Academic Coordinators will administer the application process. Exceptions to the deadline may be provided based on unanticipated eligibility needs.

Student-athletes need to take summer school and receipt of aid seriously. Any student-athlete who fails or receives a W notation grade may have their athletics aid reduced in the following academic year equal to the amount of tuition for the failed class. Please see the summer school application and agreement for details.

## FIFTH YEAR AID

Student-athletes who have received athletics aid in the immediate full-time term preceding the term in which athletic eligibility is exhausted, may receive Fifth-Year Aid to complete undergraduate requirements. Student-athletes need to complete a Fifth Year Aid request and have their major/program advisor indicate the undergraduate coursework remaining and which term(s) the student-athlete will enroll in those courses.

Students enrolled in a graduate or 2<sup>nd</sup> Bachelor's degree programs are not eligible for additional athletics financial aid once they have exhausted athletics eligibility. This is also true for programs pursuing Bachelor's and graduate degrees concurrently.

Fifth-Year Aid will not be granted to a student-athlete if s/he does not earn the necessary grade either in their final term to complete graduation requirements while completing athletics eligibility; or during the final term they are receiving Fifth-Year Aid, and need an additional term to repeat the class or a substitute class.

Completed Fifth-Year Aid requests (available from your Academic Coordinator), are due by May 1.





# **STUDENT-ATHLETE HANDBOOK**



# **APPENDICES**



# STUDENT-ATHLETE HANDBOOK

## UTAH STATE UNIVERSITY

### DEPARTMENT OF INTERCOLLEGIATE ATHLETICS

#### DRUG SCREENING AND SUBSTANCE ABUSE PROGRAM

**PURPOSE:** The Department of Intercollegiate Athletics believes that it has a major responsibility to ensure fair and equitable competition and to help protect the health and safety of student-athletes competing for Utah State University. The use of controlled substances and "performance enhancing" drugs represents a danger to the health and careers of student-athletes. Furthermore, the use or abuse of drugs can be injurious to student-athletes and their teammates, particularly when participating in athletic competition or practice.

Therefore, the Athletic Department has implemented a mandatory program of drug education, testing, and treatment (to include counseling/rehabilitation) to assist and benefit athletes of Utah State University. The program seeks to protect student-athletes at Utah State University from risks and dangers of drug abuse through such measures as sanctions for violations of this policy.

The goals of this policy include enhancing the health and well-being of all student-athletes and safeguarding student-athletes participating in Utah State athletic programs. Because Utah State University believes drug use can adversely affect the physical and emotional well-being of student-athletes no matter when such use should occur, drug screening tests will be conducted throughout the year either on a random or team tested basis. A signed consent form shall be considered affirmation of the student-athlete's agreement to the terms and conditions contained in this policy and shall be a legal contractual obligation of the student-athlete.

**PROHIBITED SUBSTANCES:** All student athletes are prohibited from using substances banned by the NCAA. The list of substances banned by the NCAA is available in appropriate NCAA literature, in the Athletic Training Rooms on campus, or at this link: <http://www.ncaa.org/2016-17-ncaa-banned-drugs>. In general, these substances consist of (but are not limited to) the following:

- Stimulants including but not limited to amphetamine (Adderall), cocaine, ephedrine, methamphetamine, methylphenidate (Ritalin)
- Anabolic agents
- Diuretics and other masking agents
- Street drugs including but not limited to heroin, amphetamines, phencyclidine (PCP), cocaine, barbiturates, MDMA (ectasy/molly), marijuana/THC, synthetic cannabinoids (spice, K2 etc.) or any other similar substances





# STUDENT-ATHLETE HANDBOOK



- Peptide Hormones and analogues
- Anti-estrogens
- Beta-2 Agonists
- Benzodiazepam (Librium)
- Other performance enhancing drugs
- Methaqualone (Quaalude)

Any questions concerning the list of NCAA banned substances, including questions about dietary supplements and medications, should be directed to the Athletic Training Staff. This policy does not excuse student-athletes from compliance with the University student code, local and state laws. An arrest for the use of a banned substance will result in a positive test.

- If the charges are dropped or the student athlete is found not guilty. The positive test will be revisited and changes may be made.

**MEDICAL EXCEPTIONS:** Exceptions for student-athletes that test positive because they are using a banned substance for legitimate medical reasons are possible. The student-athlete is responsible for providing a signed physician's note documenting the medical history demonstrating the need for regular use of the drug.

**USE OF TOBACCO PRODUCTS:** The use of tobacco products is discouraged, at all times, for well-known risks to health. The use of tobacco products by all student-athletes and game personnel in all sports is prohibited during practice and competition.

**DRUG TESTING PROCEDURE:** In order to participate in Athletics at Utah State, student-athletes are required to sign a "Drug Testing Consent Form" giving the Athletic Department permission to test for prohibited substances. The contracted laboratory working with the Athletic Training Staff will collect the urine or hair sample for analysis. If the student-athlete is unable to produce a valid urine sample, a hair sample may be taken. If a sample tests as positive, it will be sent to the laboratory for a confirmation test.

Team testing and random individual testing will occur periodically through the year. A minimum of 6 random tests will be done throughout the calendar year. For the random testing, official team rosters from the Compliance Office will be used to produce a computerized generated list of student-athletes. The Athletic Department also reserves the right to test a student athlete with reasonable suspicion based upon the following criteria:

- knowledge of inappropriate behavior
- change in physical attributes
- the appearance of drug use





# STUDENT-ATHLETE HANDBOOK



- drug or alcohol odor
- illegal activities
- any other activity or behavior that is contradictory to team or university values and goals
- any other reasonable suspicion based upon the totality of circumstances including a change in behavior, poor academic performance, or change in attitude

Team and random testing will be performed based upon short notice communication between the Athletic Training Staff and the selected student-athlete. Student-athletes will sign in at the testing site with a valid ID. Throughout the testing procedure, a legal "chain of custody" will be maintained to assure that no tampering with the urine or hair sample is possible.

**Failure to appear at the testing site will be treated as a positive test.** Additionally, if a student-athlete is unable to produce a specimen or produces an insufficient volume for testing, he/she will be instructed to drink 8 ounces of fluid every fifteen minutes for the remainder of the testing period. If after this time, an adequate specimen still has not been produced, a hair sample may be taken. Failure to produce a urine or hair sample will also be treated as a positive result. Any attempt to alter the integrity or validity of the collection process will be treated as a positive result.

The results of individual tests will be strictly confidential. The testing service will notify the head athletic trainer, or designated athletics representative, of the results. The Head Athletic Trainer will notify the Director of Compliance, the Head Coach and the Director of Athletics of the results. Assistant coaches may also be notified of test results at the discretion of the head coach. Other university staff may be informed only to the extent necessary for implementation of this policy.

**NEGATIVE RESULTS:** The Department of Athletics will assume that all student-athletes will test negative to the controlled substances listed until tests show conclusive results otherwise. There will be no maximum number of times each student-athlete may be tested during his or her careers.

**POSITIVE RESULT:** Any positive test will result in regular testing over the next 12 months.

## **POSITIVE RESULT: First Violation**

If a positive result is verified and confirmed, the Director of Athletics and the Head Athletic Trainer will be notified by the laboratory and in turn, he/she will notify the student-athlete. A meeting with the student-athlete will be called which will include: the







# STUDENT-ATHLETE HANDBOOK



appropriate Head Coach, Head Athletic Trainer and the Director of Athletics/designee. If the student-athlete is a minor, his/her parent or legal guardian will also be asked to participate via conference call. At this meeting, arrangements will be made for the student-athlete to be referred to the USU Wellness Center for admission into the Student-Athlete Substance Abuse Program.

**Disciplinary actions concerning athletic competition and practice will be left to the sole discretion of the appropriate Head Coach in conjunction with the Director of Athletics. The student-athlete will be required to attend mandatory counseling and educational classes through the Utah State University Wellness Center. Once the student-athlete has completed this Student-Athlete Substance Abuse Program, as determined by the Wellness Center, the student-athlete may be released from the Utah State University Counseling Program.**

The student-athlete is required to comply with the minimal guidelines set forth above. Failure to do so will result in immediate disqualification from all athletic participation and removal of all department-provided financial support. The student-athlete's head coach may impose additional penalties beyond these guidelines subject to the approval of the Director of Athletics. The Athletic Department reserves the right to further regular testing on an individual basis if it deems it necessary.

## **POSITIVE RESULT: Second Violation**

If a second positive result is verified and confirmed, the Director of Athletics and the Head Athletic Trainer will be notified by the laboratory and in turn, he/she will notify the student-athlete. A meeting with the student-athlete will be called which will include: the appropriate Head Coach, Head Athletic Trainer and the Director of Athletics/designee. If the student-athlete is a minor, his/her parent or legal guardian will also be asked to participate via conference call. At this meeting, arrangements will be made for the student-athlete to be referred to the USU Wellness Center for admission into the Student-Athlete Substance Abuse Program.

**The student-athlete will be restricted from competition for 20% of the current season. The 20% will start immediately after the second test violation. He/she will be allowed to practice during the suspension period. If the sport in which the student-athlete competes is out of season, the suspension will take place at the beginning of the next competition season. The student-athlete will be required to attend mandatory counseling and educational classes through the Utah State University Wellness Center. Once the student-athlete has completed the Student-Athlete Substance Abuse Program, as determined by the Wellness Center, the**





# STUDENT-ATHLETE HANDBOOK



**student-athlete may be released from the Utah State University Counseling Program.**

The student-athlete is required to comply with the minimal guidelines set forth above. Failure to do so will result in immediate disqualification from all athletic participation and removal of all department-provided financial support for the remainder of the student-athlete's career. The student-athlete's head coach may impose additional penalties beyond these guidelines subject to the approval of the Director of Athletics.

## **POSITIVE RESULT: Third Violation**

If a third positive result is verified and confirmed, the Director of Athletics and the Head Athletic Trainer will be notified by the laboratory and in turn, he/she will notify the student-athlete. A meeting with the student-athlete will be called which will include: the appropriate Head Coach, Head Athletic Trainer and the Director of Athletics/designee. If the student-athlete is a minor, his/her parent or legal guardian will also be asked to participate via conference call.

**The Director of Athletics and/or head coach will notify the student-athlete that he/she will be immediately removed from all further athletic participation and all athletically provided financial aid for the remainder of the student-athlete's career at Utah State University.**

All suspensions will be explained as "violation of team rules" unless made public by the student-athlete.

## **STRIKE REDUCTION:**

If a student-athlete tests positive for marijuana/THC and passes all subsequent drug tests for one year from the date of the failed test, one strike will be taken away from them. This will only apply to marijuana/THC. All other drugs will only be allowed three strikes before dismissal from the team.

**NCAA DRUG TESTING PROGRAM:** It is important to emphasize that the previously mentioned penalties apply only to the Utah State University Department of Athletics Drug Testing and Substance Abuse Program. All student-athletes are still subject to the NCAA drug testing program and any student-athletes who test positive during an NCAA drug test will face the penalties that are prescribed by that governing body as outlined in the appropriate NCAA literature. **It should be understood that an NCAA positive drug test counts as a violation in the Utah State University Program.** For additional information and resources you can access the NCAA website at







# STUDENT-ATHLETE HANDBOOK



[www.ncaa.org/health-safety](http://www.ncaa.org/health-safety) and the Dietary Supplement Resource Exchange Center (REC) website at [www.drugfreesport.com/rec](http://www.drugfreesport.com/rec).

## Safe Harbor Program

A student-athlete eligible for the Utah State University Safe Harbor Program may refer himself or herself to the Program for voluntary evaluation, testing and counseling with Student Services. A student is not eligible for the Program after he or she has been informed of an impending drug test or after having received a positive Utah State University or NCAA drug test.

Utah State University will work with the student to prepare a Safe Harbor treatment plan, which may include confidential drug testing. The student-athlete will be tested for banned substances upon entry into the Safe Harbor Program and such a positive initial test will not result in any administrative sanction except those listed in this section (the team physician may suspend the student from play or practice if medically indicated). A student will be permitted to remain in the Safe Harbor Program for a reasonable period of time, not to exceed thirty (30) days, as determined by the treatment plan. A student will not be permitted to enter the Safe Harbor Program thirty (30) days prior to NCAA or Conference postseason competition. A student-athlete will only be permitted to enter the Safe Harbor Program one time during their athletic eligibility at Utah State University.

If a student-athlete is determined to have new substance use after the initial Safe Harbor Program test (as determined by follow-up testing), or fails to comply with the Safe Harbor Program treatment plan, the student-athlete will be removed from the Safe Harbor Program and be subject to appropriate sanctions as detailed in the Utah State University program. Entering the Safe Harbor Program will not be treated as a positive test. The student-athlete will be on the next subsequent list of names for random drug testing. If they have a positive test after the thirty-day period it will count as their first offense and they will be subject to the appropriate punishment for any first time offender.

While in compliance with the Safe Harbor Program treatment plan, the student-athlete will not be included in the list of students eligible for random drug testing by Utah State University. Students in the Safe Harbor Program may still be selected for drug testing by the NCAA.

The Director of Athletics, the Head Athletic Trainer, the student-athlete's Head Coach, and the Team Physician may be informed of the student's participation in the Safe Harbor Program. The athletic trainer assigned to that sport also may be notified, if medically appropriate. The assistant coaches may be informed at the discretion of the





# STUDENT-ATHLETE HANDBOOK



head coach. Finally, other university employees may be informed only to the extent necessary for the implementation of this policy.

## **Appeal Process**

Student-athletes who test positive under the terms of the Intercollegiate Athletics Drug Screening and Substance Abuse Policy will be entitled to a hearing with the Director of Athletics or his/her designee prior to the imposition of any sanction. Requests for such a hearing must be made within forty-eight (48) hours of notification of a positive test result. If the forty-eight hour request period ends on a weekend, the request must be made by noon on the next business day. Requests must be in writing and received by the Director of Athletics.

The student-athlete may have an advisor or other representative present if the student so desires. However, the student-athlete must present his or her own case. The meeting should take place no more than seventy-two (72) hours after the written request is received. Either the student-athlete or the other parties involved may request an extension of time to the Director of Athletics, who will consider whether to grant the extension upon a showing of good cause. These proceedings shall include an opportunity for the student-athlete to present evidence, as well as to review the results of the drug test. The proceedings shall be confidential. The decision by the Director of Athletics or his/her designee regarding the sanction to be imposed shall be final.





# STUDENT-ATHLETE HANDBOOK



## ***Transgender Policy***

In August 2011, the NCAA approved a policy for inclusion of transgender student-athletes in intercollegiate competition. Information from the NCAA Guideline on Inclusion of Transgender Student-Athletes was used as a framework for the USU Intercollegiate Athletics policy. The Athletics Department is dedicated to diversity and inclusion and to providing safe and equitable opportunities for all student-athletes. This policy was created to fairly and effectively address intercollegiate athletic participation by transgender student-athletes as well as to provide information and education to all student-athletes, parents, coaches, staff, administrators and community members.

This policy will be reviewed annually and as needed. At the time of review, it will be updated to reflect the most current research-based information. The complete policy is included in the appendix as the "Transgender Policy" document.

"Gender variant" refers to individuals whose behaviors/interests fall outside what is considered typical for their assigned gender at birth. These people are often not transgender, but they may not conform to gender stereotypes in their appearance, clothing, physical characteristics, interests or activities.

## **NCAA Guiding Principles**

1. Participation in intercollegiate athletics is a valuable part of the education experience for all students.
2. Transgender student-athletes should have equal opportunity to participate in sports.
3. The integrity of women's sports should be preserved.
4. Policies governing sports should be based on sound medical knowledge and scientific validity.
5. Policies governing the participation of transgender students in sports should be fair in light of the tremendous variation among individuals in strength, size, musculature, and ability.
6. Policies governing sports should be objective, workable and practicable. They should also be written, available and equitably enforced.
7. The legitimate privacy interests of all student-athletes should be protected.
8. The medical privacy of transgender students should be preserved.
9. Athletics administrators, staff, parents of athletes, and student-athletes should have access to sound and effective educational resources and training related to the participation of transgender and gender-variant students in athletics.





# STUDENT-ATHLETE HANDBOOK



10. Policies governing the inclusion of transgender students in athletics should comply with state and federal laws protecting students from discrimination based on sex, disability, and gender identity and expression.

## **NCAA Bylaws related to mixed teams and hormonal treatment**

Two areas of NCAA regulations can be impacted by transgender student-athlete participation: mixed team status and use of banned substances.

A mixed team is a varsity intercollegiate sports team on which at least one individual of each gender competes. (*Revised: 5/8/06*). NCAA Bylaw 18.02.2 for purposes of meeting the required minimums set forth in Bylaws 18.2.3 and 18.2.4, a mixed team shall be counted as one team. A mixed team shall count toward the minimum sponsorship percentage for men's championships.

- NCAA rules state that a male participating in competition on a female team makes the team a "mixed team." The mixed team can be used for sports sponsorship numbers (provided other conditions, such as being an acceptable NCAA sport, outlined in Bylaw 20.9 (Division I), 20.10 (Division II) and 20.11 (Division III) are met) and counts toward the mixed/men's team minimums within the membership sports-sponsorship requirements. Such a team is ineligible for a women's NCAA championship but is eligible for a men's NCAA championship.
- A female on a men's team does not impact the sports sponsorship in the application of the rule. The team still counts toward the mixed/men's numbers. Such a team is eligible for a men's NCAA championship.
- Once a team is classified as a mixed team, it retains that status through the remainder of the academic year without exception.
- The decision to re-classify a team as a mixed team is at the sole discretion of USU Intercollegiate Athletics Department.

NCAA Bylaw 31.2.3 identifies testosterone as a banned substance, and provides for a medical exception review for demonstrated need for use of a banned medication. It is the responsibility of the NCAA institution to submit the request for a medical exception (see. [www.ncaa.org/drugtesting](http://www.ncaa.org/drugtesting)) for testosterone treatment prior to the student-athlete competing while undergoing treatment. In the case of testosterone suppression, the institution must submit written documentation to the NCAA of the year of treatment and ongoing monitoring of testosterone suppression.

## **NCAA Policy on Transgender Student-Athlete Participation**

The following policies clarify participation of transgender student-athletes undergoing hormonal treatment for gender transition:

1. A trans male (FTM) student-athlete who has received a medical exception for treatment with testosterone for a diagnosed Gender Identity Disorder or gender







# STUDENT-ATHLETE HANDBOOK



dysphoria and/or Transsexualism, for purposes of NCAA competition may compete on a men's team, but is no longer eligible to compete on a women's team without changing that team status to a mixed team.

2. A trans female (MTF) student-athletes being treated with testosterone suppression medication for Gender Identity Disorder or gender dysphoria and/or Transsexualism, for the purposes of NCAA competition may continue to compete on a men's team but may not compete on a women's team without changing it to a mixed team status until completing one calendar year of testosterone suppression treatment<sup>2</sup>.

Any transgender student-athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.

- A trans male (FTM) student-athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
- A trans female (MTF) transgender student-athlete who is not taking hormone treatments related to gender transition may not compete on a women's team but may participate on a men's team.

## Student-Athlete Responsibilities

In order to avoid challenges to a transgender student-athlete's participation during a sport season; a student-athlete who has completed, plans to initiate, or is in the process of taking hormones as part of a gender transition should submit the request to participate on a sports team in writing to the Director of Athletics upon admission or when the decision to undergo hormonal treatment is made.

1. The request should include a letter from the student's physician documenting the student-athlete's intention to transition or the student's transition status if the process has already been initiated. This letter should identify the prescribed hormonal treatment for the student's gender transition and documentation of the student's testosterone levels, if relevant.
2. In any case where a student athlete is taking hormone treatment related to gender transition, that treatment must be monitored by a physician and USU Intercollegiate Athletics must receive regular reports about the student-athlete's eligibility according to this policy.





# STUDENT-ATHLETE HANDBOOK



## USU Responsibilities

The Director of Athletics will meet with the student-athlete to review eligibility requirements and procedure for approval of transgender participation.

1. If hormone treatment is involved in the student-athlete's transition, the Director of Athletics should notify the NCAA of the student's request to participate with a medical exception request (see [www.ncaa.org/drugtesting](http://www.ncaa.org/drugtesting)).
2. The student-athlete is encouraged to meet with someone who can offer support and advice through the process, if desired. Should the student-athletes want help in finding such a person, they will be directed to contact the Counseling Center or the Student Health Center.
3. To assist in education and development for intercollegiate athletics, a Transgender Participation Committee has been established at USU. Members of the committee include representation from the following departments: Athletics Department, Sports Medicine, Office of General Counsel, Counseling Center, Athletics Academics and Compliance and the Student-Athlete Advisory Committee.
  - a. This committee was created to assist in education and development of policy and practice for intercollegiate athletes.
  - b. The committee is advisory only in nature. Specific issues dealing with individual student-athletes will go through already defined athletic and administrative processes.
    - i. The athletic department may request committee input on issues as they arise.
4. All discussions among involved parties and required written supporting documentation should be kept confidential, unless the student-athlete makes a specific request otherwise. All information about an individual student's transgender identity and medical information, including physician's information provided pursuant to this policy shall be maintained confidentially.
  - a. If a student-athlete makes a specific request that his/her information **not** be confidential, this should be as a written request and should include a signed release of information.







# STUDENT-ATHLETE HANDBOOK



## Additional Guidelines for Transgender Student-Athlete Inclusion

The following additional guidelines will assist the athletics department, coaches, teams, and student-athletes in creating an environment in which all student-athletes are safe and fairly treated.

### Facilities Access

1. Changing areas, toilets, and showers: Transgender student-athletes are able to use the locker room, shower, and toilet facilities in accordance with the student-athletes gender identity. If requested by a transgender student-athlete, the USU Athletic Department will work to provide private, separate changing, showering, and toilet facilities for the student-athletes use, but transgender student-athletes are not required to use separate facilities. In addition, the athletics department will also work to provide private, enclosed changing areas, showers, and toilets for use by any student-athlete who requests them.
2. Competition at another school: If a transgender student-athlete requires a particular accommodation to ensure access to appropriate changing, showering, or bathroom facilities, the athletic department administrator, and/or coaches, in consultation with the transgender student-athlete, will notify their counterparts at other schools prior to competitions to ensure the student-athlete has access to facilities that are comfortable and safe. This notification should maintain the student's confidentiality. Under no circumstances should a student-athlete's identity as a transgender person be disclosed without the student's express permission.
3. Hotel rooms: Transgender student-athletes generally should be assigned to share hotel rooms based on their gender identity, with recognition that any student who needs extra privacy should be accommodated whenever possible.

### Language

1. Preferred names: In all cases, teammates, coaches and all others in the school will refer to transgender student-athletes by the student-athlete's preferred name.
2. Pronouns: Similarly, in all cases, pronoun references to transgender student-athletes will reflect the student-athletes gender identity and pronoun preferences.

### Dress Codes and Team Uniforms

1. Dress codes: Transgender student-athletes should be permitted to dress with appropriate formality in ways that suit their gender identity.
  - a. Dress codes for athletic teams when traveling or during a game day at school should be gender neutral.
  - b. Instead of requiring a girls' or women's team to wear dresses or skirts, for example, ask the team members to wear clothes that are clean, neat, well





# STUDENT-ATHLETE HANDBOOK



cared for and appropriately “dressy” for representing their school and team.

2. Uniforms: All team members should have access to uniforms that are appropriate for their sport and that they feel comfortable wearing. No student should be required to wear a gendered uniform that conflicts with the student’s gender identity.

## Education

1. Athletic department: All members of the athletic department should receive information and education about transgender identities, institutional and conference non-discrimination policies, the use of preferred names and pronouns, and expectations for creating a respectful team and school climate for all students, including transgender and gender-variant students.
2. Opposing teams/universities: Without violating a transgender student’s confidentiality or privacy, athletic administrators and coaches will communicate with their counterparts at other schools prior to competitions in which a transgender student-athlete is participating about expectations for treatment of transgender student-athletes on and off the field. This does not require “outing” or otherwise identifying a particular student-athlete as transgender, but rather establishing general expectations for the treatment of all student-athletes, including those who may be transgender.

## Media

1. Training: All intercollegiate athletics representatives (sports information departments and personnel, athletics administrators, team members, and coaches) who are authorized to speak with the media will receive information about appropriate terminology, use of names and pronouns, and school and athletics conference policies regarding the participation of transgender student-athletes on school sports teams.
2. Confidentiality: Protecting the privacy of transgender student-athletes must be a top priority for all athletics department and affiliated school personnel, particularly when in the presence of the media. All medical information shall be kept confidential in accordance with applicable state, local, and federal privacy laws.

## Enforcement and Non-Retaliation

1. Enforcement: Any member of an athletics department who has been found to have violated this policy by threatening to withhold athletic opportunity of harassing any student on the basis of their gender identity or expression, or by breaching medical confidentiality, will be subject to disciplinary action, up to and including discharge or expulsion from the school. The athletics department will take appropriate remedial action to correct the situation. Any member of the





# STUDENT-ATHLETE HANDBOOK



athletics department who becomes aware of conduct that violates this policy should report the conduct to the appropriate official such as the Director of Athletics.

2. Retaliation: Retaliation is specifically forbidden against anyone who complains about discrimination based on gender identity or expression, even if the person was in error. The athletics department will take steps to prevent any retaliation against any person who makes such a complaint.

## References

<sup>1</sup>NCAA Inclusion of Transgender Student-Athletes, NCAA Office of Inclusion, August 2011.

<sup>2</sup>Recent research indicates that most salient physical changes likely to affect athletic performance occur during the first year of hormone treatment making a longer waiting period unnecessary. Goorin, Louis, and Mathijs Bunck, "Transsexual and Competitive Sports," *European Journal of Endocrinology* 151 (2004): 425-429. Available online at <http://www.eje.org/cgi/reprint/151/4/425.pdf>.





# STUDENT-ATHLETE HANDBOOK



## MOUNTAIN WEST SPORTSMANSHIP INITIATIVE

### Code of Conduct Statement for Student-Athletes

The Mountain West Student-Athlete Advisory Committee (SAAC) believes the most important aspects of sport are good ethics and positive sportsmanship. It is very pleased the Mountain West Conference has undertaken an initiative to enhance this philosophy. We need your commitment to make this effort a success.

The SAAC believes that, in order for an institution to convey a message of good ethics and positive sportsmanship, it must have the involvement and the participation of those individuals most involved in athletics on campus. While this includes (but is not limited to) the President, athletic administrators, coaches, and fans, the most important individuals are we the student-athletes. It is our behaviors that can shape the perception of our teams and institutions by the public, the media and our opponents.

Good ethics and positive sportsmanship are philosophies that must be displayed both on and off the playing field. Good sportsmanship on the field enhances the student-athlete image off the field. Not only should student-athletes be good citizens, they should show a general concern for others. We must take a leadership role to compete at the highest levels, always endeavoring for victory, but doing so with grace, class, dignity, and respect.

Please join us in supporting the Mountain West Conference's Sportsmanship Initiative. Such an initiative will help maintain the Mountain West's reputation as one of the premier athletic conferences in the country. Best of luck with the coming season and we look forward to crossing paths with you in and on the courses, fields, courts, pools, and tracks.



# **EXHIBIT “F”**

**Memorandum**

**Date:** July 2, 2024  
**To:** Blake Anderson, Head Coach, USU Football  
**From:** Diana Sabau, Vice President and Director of Athletics  
**C:** Becca Seamons, Human Resources

**Subject:** Administrative Leave

---

This memo serves as notice that you are being placed on paid administrative leave effective July 2, 2024 in connection USU's notice to you that it intends to terminate your employment and the corresponding Employment Agreement. As stated in the notice letter, you have 14 days to respond to USU's notice of intent to terminate. During this time, you will remain on paid administrative leave.

While on administrative leave, you should not have any contact with other USU employees without my prior approval. This includes verbal, written or physical contact. You are not to send USU related emails, make or take USU related phone calls, or communicate via any USU communications channels while on administrative leave, without my prior approval. Please provide all keys to facilities to Ronda Christopherson and do not access any Athletics facilities or contact any of your work colleagues while you are on leave.

You should remain available during normal university business hours (M-F 8 AM to 5 PM) to be contacted or to come in for meetings, as requested. If you are not available during normal business hours, you must request an appropriate form of leave (if applicable). Any leave approved prior to being placed on administrative leave, will be applied as the approved form of leave.

The University expressly forbids anyone to take any form of retaliatory action against any member of the USU community who in good faith voices concerns, seeks advice, files a complaint or grievance, seeks the aid of Human Resources, testifies or participates in investigations, compliance reviews, proceedings or hearings, or opposes actual or perceived violations of Utah State University's policy or unlawful acts.

If you have any questions, please contact the USU Human Resources office.



# **EXHIBIT “G”**



**Athletics**  
**Utah State University**

VIA IN-PERSON DELIVERY AND EMAIL

July 2, 2024

Blake Anderson  
277 South 450 East  
Hyde Park, Utah 84318  
rba@usu.edu

*RE: Employment with Utah State University*

Dear Coach Anderson:

Consistent with section 6.2 of the Head Coach Employment Agreement entered between you and Utah State University (USU) effective December 11, 2020, and as amended (the "Agreement"), I am writing today to notify you of USU's intent to terminate for cause your employment with USU and the associated Head Coach Employment Agreement.

**Contractual Bases for Termination for Cause**

Under the Agreement, termination for cause is warranted for the following reasons, among others:

- A material breach of contract terms, as reasonably determined by the Director (*see* Agreement, Section 6.1(f)); and/or
- A significant or repetitive or intentional violation of any University Rules or other regulatory requirements applicable to higher education generally, as reasonably determined by USU (*see* Agreement, Section 6.1(h)); and/or
- A significant or repetitive or intentional violation of any University Rules by any person under Head Coach's ("Coach") supervision or direction if Coach knew or should have known of the violation through the exercise of reasonable diligence and failed to use reasonable and timely best efforts to prevent the violation and/or to promptly report the violation (*see* Agreement, Section 6.1(e)); and/or
- Failure to submit required reports regarding alleged crimes or violation of University Rules by student-athletes and/or an Athletics Department employee in a timely manner (*see* Agreement, Section 6.1 (i)); and/or
- Failure by Coach to manage the Team in a manner that reflects the academic values of USU, as reasonably determined by USU (*see* Agreement, Section 6.1(o)); and/or
- Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in USU's reasonable judgment, brings or may bring Coach and/or USU into public disrepute, embarrassment, contempt, scandal, or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Coach as set forth in this



Agreement or failure by Coach to conform Coach's personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon USU's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not warrant arrest by the relevant authorities (*see* Agreement, Section 6.1).

In the event the Agreement is terminated for cause, you are not entitled to receive any further compensation or benefits under the Agreement as of the date of termination. *See* Agreement, Section 6.3. And, as you agreed in the Agreement, in no case shall USU be liable to you for the loss of any collateral business opportunities or any other benefits, perquisites, income, or consequential damages you may allege you have suffered due to USU's termination of your employment. *See* Agreement, Section 6.3.

### **Reasons for Termination for Cause**

#### **1. Failure to Submit a Required Report Regarding an Alleged Crime and Violation of USU Policy.**

As summarized in the attached Investigation Findings and Conclusions issued by Husch Blackwell, during the Spring Semester of 2023 you were notified directly that a student athlete in your program had been arrested for sexual misconduct. Contrary to USU Policy 340, you failed to report this information to USU's Title IX Coordinator. This is a significant violation of USU Policy 340<sup>1</sup> and a basis for termination under the Agreement.<sup>2</sup> As set forth in USU Policy and USU's annual trainings, failure to comply with USU's policy on reporting sexual misconduct warrants corrective action up to and including termination. *See* USU Policy 340, Section 2.1.4. The Agreement requires you to comply with all University Rules and clearly indicates that failure to submit required reports regarding a student athlete's violation of University Rules is a basis for termination. *See* Agreement, Sections 5.4 and 6.1(h) & (i).

---

<sup>1</sup> USU Policy 340 requires Reporting Employees to report information they receive about potential misconduct within 24 hours of receiving the information. Specifically, USU Policy 340 states: "Reporting Employees must submit Incident Reports using the online form at [equity.usu.edu](https://equity.usu.edu) and must include all known information disclosed to the Reporting Employee, including:

- The name of the person who experienced the Sexual Misconduct;
- The name of the person who reported the Sexual Misconduct to the Reporting Employee, if different from the person who experienced it;
- The name of the person(s) alleged to have engaged in Sexual Misconduct;
- The name of any witnesses or individuals who have information about the incident(s);
- The date, time, and location of the alleged incident(s);
- The nature of the incident(s);
- A description of the incident(s);
- All documentation the Reporting Employee has received related to the incident (including all written notes);
- The date the incident was reported to the Reporting Employee; and,
- All other relevant information known to the Reporting Employee."

<sup>2</sup> While you excused your failure by asserting that you were not aware that you needed to do so, this is not a legitimate defense. Under the Agreement, you are responsible to know, recognize, and materially comply with applicable University Rules. *See* Agreement, Section 5.4. Moreover, as found by the Investigative Report, USU has provided consistent and regular training to you and the football staff on USU's sexual misconduct policies, including reporting obligations under USU Policy 340. You completed this training on August 19, 2022 and August 1, 2023. In addition, the football staff received supplemental training on Addressing Victim Blaming on April 12, 2022. You also attended Sexual Misconduct Consistent Messaging Training on September 9, 2022 and August 29, 2023. The Consistent Messaging training clearly stated that "Reporting Employees are required to report anything they learn about sexual misconduct to the USU Title IX Coordinator." You also received tailored, one-on-one training from the Office of Equity in April 2022. Additionally, CAPSA provided training on domestic violence on May 22, 2023.

While failing to report sexual misconduct alone is a basis for termination, your violations of USU Policy 340 were far more egregious. As outlined in the Investigation Findings and Conclusions, you acknowledged that in addition to failing to report sexual misconduct, you took it upon yourself to investigate the matter and interviewed not only the student athlete but also the potential victim and a witness to the event that led to the student athlete's arrest and solicited written statements from these witnesses. In doing so you violated multiple sections of USU Policy 340. This action violated your duty to report.<sup>3</sup> This action also violated your obligation not to inquire beyond the disclosure and conduct an investigation and your obligation to notify disclosing parties of your Reporting Employee reporting obligations. See USU Policy 340, Section 2.1.2. These significant violations are material failures to comply and a basis for termination for cause under the Agreement. See Agreement, Section 6.1 (f), (h) & (i).

As Athletic Director, I find that your actions were not only significant violations and material failures to comply with USU's policies but wholly unprofessional, inappropriate, and counter to the expectations for USU leaders. In carrying out this action, you interfered with the role and responsibilities of the Title IX Coordinator and did so while a criminal action was pending. Undertaking this investigation undermined the goals of Policy 340 and USU's commitment to addressing sexual misconduct. This is unacceptable and amplifies USU's bases for terminating your employment.

## **2. Significant Violation of University Rules by An Employee Under Your Supervision.**

In addition, concerning the arrest at issue, the Investigation Findings and Conclusions notes evidence that at least two football staff members disclosed the student athlete's arrest to you, and did not file a timely report as required by USU Policy 340.<sup>4</sup> These staff members were under your direct supervision, and there was no evidence that you made any effort to advise them to file the required reports or otherwise prevent their noncompliance with USU Policy 340. See Investigation Findings and Conclusions. Under the Agreement, you are responsible for promoting an atmosphere of compliance within the football program, and you are required to monitor the activities regarding compliance of all assistant coaches or other administrators involved with the program. Your failure to promote and monitor compliance with USU's Reporting Employee Policy is a material breach of Section 5.4 of the Agreement and a basis for termination for cause. See Agreement, Section 6.1(e).

## **3. Failing to Perform the Duties of Coach in Good Faith**

The Investigation Findings and Conclusions found that, rather than following the department's typical protocols for suspending student-athletes when they are arrested for sexual misconduct, you chose to initiate your own investigative efforts focused on gathering the student-athlete's explanation about the events surrounding the arrest and then sought witness statements supporting the student athlete's defense. Additionally, the report raised concerns about inconsistent treatment of student-athletes and a demonstrated resistance to making disclosures of negative information about student-athletes outside the Athletic Department. Further, the Investigation Findings and Conclusions found that the failure to take action against the student-athlete could have indirectly communicated to other football team members that such issues were not always taken seriously.

---

<sup>3</sup> While the Investigation Findings and Conclusions did not find that failure to report the witness statements supported a separate and additional violation of Policy 340 (because you had already failed to report), your failure to share first-hand information about an incident of sexual misconduct elevates the significance of your failure to report.

<sup>4</sup> One employee ultimately filed a report, but the report was not timely.



Your failure both to take consistent action against individuals arrested for sexual misconduct and to handle the arrest of a student-athlete for domestic violence in a transparent manner is a substantial failure to perform your duties in good faith. It has and is likely to result in a loss of trust in the USU Athletic Department and the Football program and to bring further public disrepute, contempt, and ridicule upon USU. This is a basis for cause to terminate under the Agreement. *See* Agreement, Section 6.1.

The significance of the violations summarized above is compounded when considered in the broader context of USU's extensive efforts to improve its prevention and response to issues of sexual misconduct. More specifically, these violations fly in the face of USU's substantial efforts to address concerns that the USU football program has a hostile climate towards individuals who report sexual misconduct and concerns that the football program fails to hold student-athletes and others accountable for sexual misconduct.

#### **4. Failure to Manage the Team in a Manner that Reflects the Academic Values of USU.**

Separately, the USU Athletics Department has recently been made aware that you have not been managing the team in a manner that reflects the academic values of USU. As a result, the academic progress rate ("APR") for the USU football team does not meet USU's expectations and academic values. I have addressed this issue with you, and already communicated to you that your failure to directly engage and actively collaborate with academic support services and to track and enforce academic performance standards of your student athletes has put your student-athletes and the Athletics Department at risk of both ineligibility and public embarrassment and disrepute. The poor academic performance of the USU football program is unacceptable and provides a separate basis for termination under the Agreement. *See* Agreement, Sections 6.1 and 6.1(p).

#### **Opportunity to Respond**

This letter constitutes notice of intent to terminate ("Notice of Intent to Terminate"), as required by Section 6.2 of the Agreement. Consistent with Section 11.6 of the Agreement, a copy of this Notice of Intent to Terminate has been sent to your designated representative, Clint Dowdle. Consistent with the terms of the Agreement, you have an opportunity to respond to this Notice of Intent to Terminate. *See* Agreement, Section 6.2. You must submit your response to me in writing on or before July 16, which is fourteen (14) days of your receipt of this Notice of Intent to Terminate. To ensure timely receipt and attention to your response, I request that you deliver your response to me via email. While this action is pending, you will be put on administrative leave. A separate communication will outline the expectations for you while you are on administrative leave.

Please know that we do not take this action lightly. As the leader of USU Athletics, I have a responsibility to the student athletes in our programs and to the entire USU campus community to ensure our work and sport environments are welcoming and free from sexual misconduct, to protect the eligibility and ability of our student athletes to compete at the highest level, to ensure our compliance with University Rules and state and federal regulations, to ensure USU's actions engender a positive reputation for USU's student athletes and its NCAA sport programs, and to hold accountable any individuals who put these commitments and the university's interests at risk.

Sincerely,

A handwritten signature in blue ink that reads "Diana Sabau". The signature is fluid and cursive, with the last name "Sabau" being more prominent.

Diana Sabau  
Vice President and  
Director of Athletics

A handwritten signature in blue ink that reads "Elizabeth R. Cantwell". The signature is cursive, with the first name "Elizabeth" and the last name "Cantwell" being clearly legible.

Elizabeth R. Cantwell  
President

cc: Clint Dowdle, Coach's Designated Representative  
Mica McKinney, General Counsel  
Cody Carmichael, Title IX Coordinator

Encl.



# **EXHIBIT “H”**

## UTAH STATE UNIVERSITY CONFIDENTIAL INVESTIGATIVE FINDINGS AND CONCLUSIONS

TO: Elizabeth R. Cantwell, Ph.D.  
President

Diana Sabau  
Vice President and Athletics Director

FROM: Peter Land, Investigator  
Kristine Zayko, Investigator

RE: USU Reporting Policy – Blake Anderson

DATE: July 1, 2024

Utah State University (the “University” or “USU”) retained Husch Blackwell to conduct an independent review of whether USU employees complied with the University’s Interim University Policy 340: Required Reporting of Sexual Misconduct (“Policy 340” or the “Policy”)<sup>1</sup> and its associated procedures in an Office of Equity matter. Specifically, the University asked the Investigators to investigate: (1) which employees learned of allegations of sexual misconduct and/or criminal conduct by a USU football player (referred to herein as “Student Athlete”) during the Spring of 2023; (2) how the employees learned about the allegations; (3) when they learned about any allegations; and (4) whom they told about these allegations. The University also asked the Investigators to investigate relevant employees’ understanding of Athletics’ and USU reporting policies and requirements.

As outlined below, our investigation resulted in the following findings regarding Coach Blake Anderson, who is the head coach of the football team:

- Coach Anderson learned of domestic violence allegations and the arrest of Student Athlete during the Spring 2023 but failed to disclose such information to the Office of Equity or other University administrators outside of the Athletics Department.
- Coach Anderson engaged in investigative efforts himself regarding the domestic violence arrest, including meeting with and collecting written statements from witnesses.
- Coach Anderson delayed decisions about suspension of Student Athlete while he engaged in investigative efforts.

---

<sup>1</sup> The University’s website explains that Interim Policy 340 has adopted and implemented on an interim status while the policy is approved through the standard policy adoption process. The policy, which was effective February 10, 2023, is effective and governs the conduct of all covered individuals.

July 1, 2024  
Page 2

- Coach Anderson failed to disclose that he had engaged in his own investigative efforts about the domestic violence arrest, nor did he share documents he gathered during those efforts, with the Office of Equity or other University administrators outside of the Athletics Department, including during meetings regarding climate issues within the football program around the time of the arrest.

As a result and explained more below, Coach Anderson violated Policy 340 by failing to report information to the Office of Equity, engaging in an investigation within the Athletics Department rather than the Office of Equity, and failing to provide all relevant information to the Office of Equity for its investigation, including documents he obtained from witnesses. He also undermined the University's goal of responding diligently to issues of sexual misconduct by delaying suspension of this student athlete and failing to disclose the arrest information with other University administrators while discussing climate issues within the football program.

## **I. Investigation Process and Policy Overview**

The Investigators identified dozens of individuals with potential knowledge about the matter under review. The University's Information Technology department conducted searches of USU email accounts for those individuals based on search terms provided by the Investigators. A forensic expert retained by the University also captured emails, texts, and other electronic data from certain employee cell phones and searched that electronic data using parameters provided by the Investigators. In addition to reviewing email and other electronic data, the Investigators gathered and reviewed Office of Equity documents, relevant police records, witness notes, and other records. Ten people were interviewed, including football team coaches, athletic department personnel, and student affairs employees; several witnesses were interviewed multiple times.

Review of records from the Office of Equity's review that preceded this investigation revealed that the Office of Equity received an Incident Report ("IR") from the Interim VP for Student Affairs indicating that, in a meeting with Jerry Bovee (Interim Athletics Director) and another athletics department employee, it was learned that Student Athlete had been arrested for domestic violence. The IR was submitted the same day as the meeting on behalf of all three USU employees present at that meeting. The Office of Equity opened a case and, based on facts alleged, conducted a safety assessment of Student Athlete, which appropriately determined that Student Athlete did not pose any threat to the campus community. The Office of Equity also gathered records from relevant USU offices and local law enforcement. During its safety assessment, the Office of Equity also learned that Student Athlete had entered the NCAA Transfer Portal within two weeks of the arrest.

During our investigation, witnesses provided conflicting information about Athletics Department practices when a student athlete is arrested. The Student-Athlete Handbook (2022-2023) addresses student athlete arrests and provides that the Director of Athletics and head coach determine whether immediate disciplinary action should be implemented, including possible suspension/removal from the team. Mr. Bovee said that, for a sexual assault or other felony arrest, the student athlete is immediately suspended from team activities until additional information is

July 1, 2024  
Page 3

gathered. Mr. Bovee explained that the decision regarding suspension is made by the Athletics Director, head coach, and relevant sports administrator. Other witnesses said that, if a student athlete is arrested, the head coach usually meets with the student athlete and either suspends or dismisses the student athlete from the team. Coach Anderson reported that when a student athlete is arrested, he conducts a “collaborative conversation” with the Athletics Director to determine an appropriate response, which may include placement in some form of “interim status” until they gather more information.

We also gathered information related to USU Policy 340, which applies to all coaches and athletic director levels as “Reporting Employees” who are required to report all information they receive concerning incidents of Sexual Misconduct to the Title IX Coordinator.<sup>2</sup> Section 2.1.1 of the Policy provides that “All Reporting Employees must submit an Incident Report with information about Sexual Misconduct to the Title IX Coordinator within 24 hours of receiving the disclosure.” Such reports must be submitted via an online system and include: relevant names (alleged victim, accused, witnesses, and person who shared information with reporter); details of what allegedly happened (date, time, location, and full description of conduct that allegedly occurred); the date a Reporting Employee learned of the information; and “all documentation the Reporting Employee has received related to the incident (including all written notes).” A single incident report can be submitted on behalf of multiple Reporting Employees, as long as each person provides “all information” known to them.

In relation to these reporting obligations, Coach Anderson confirmed that he knew Athletics Department staff are expected to report potential criminal conduct to the head coach, who tells the Athletics Director. If the matter involves Title IX issues, Coach Anderson said his practice is to call the Office of Equity immediately following his call to the Athletics Director. Mr. Bovee similarly confirmed his understanding that reports of sexual assault should be made to the Office of Equity and Office of Student Conduct, and reported that, in such instances, his practice is to personally follow up with a call to the Office of Equity or the Office of General Counsel.

## **II. Information about Student Athlete’s Arrest**

Witnesses reported varying accounts of their knowledge of the basic information contained in the incident report to the Office of Equity, including: when and how people initially learned Student Athlete had been arrested; initial reactions taken in response to learning of the arrest; and why Student Athlete was not suspended or otherwise disengaged from the team until he notified Athletics Department personnel of his decision to enter the transfer portal. The most significant information regarding these issues came from Coach Anderson and Mr. Bovee, who were the primary personnel involved in responding to news of the arrest. For those reasons, key information from each of them is summarized here.

---

<sup>2</sup> The Policy defines Sexual Misconduct to include relationship violence, sexual harassment, sexual assault, and sex-based stalking.



July 1, 2024  
Page 4

## A. Coach Anderson

Coach Anderson's description of the sequence in which he learned of Student Athlete's arrest, took steps in response, and communicated with others thereafter was generally consistent and direct. Also, after reviewing documents relating to the arrest information in Spring 2023, Coach Anderson provided a reasonably specific chronology of relevant events during a two-week period following the arrest. Coach Anderson reported that he learned from the football team's Director of Player Development that Student Athlete had been arrested for domestic abuse without further details.<sup>3</sup> That same day, Coach Anderson met with Student Athlete, who told him of the arrest but said he had not done anything wrong and that his girlfriend<sup>4</sup> would support him.

Coach Anderson shared this information with Mr. Bovee. He then talked to Student Athlete's girlfriend the next day and, after she said nothing violent had occurred, asked her to prepare a written statement. Coach Anderson also spoke with Student Athlete's roommate (another football player) who witnessed the incident and similarly indicated nothing violent had occurred; Coach Anderson asked the roommate to provide a written statement as well. Coach Anderson reported that he discussed all the information he had received from these discussions with Mr. Bovee and shared the written statements he received from each witness, and that Mr. Bovee suggested they first try to determine if Student Athlete was being "targeted" before taking any further action. Coach Anderson did not want to suspend Student Athlete if he had not done anything wrong, so he and Mr. Bovee decided to investigate and obtain more facts before taking further action. He further explained his thought process, saying, "We are on a fact-finding mission here; we will act once we have information to act upon." Coach Anderson believed Mr. Bovee was attempting to gather additional information about the charges from the police and prosecutor. When Student Athlete entered the transfer portal approximately one week after Coach Anderson learned of the arrest, Coach Anderson said that led him to no longer be on the team and stopped further consideration of the issue.

When asked if he reported the arrest to the Office of Equity, Coach Anderson said he did not because he was not aware he needed to do so given that the altercation occurred off campus and was "dealt with by the authorities." He speculated that other Athletics Department personnel may have filed a group report to the Office of Equity, but he did not recall anyone telling him they planned to do so. When asked if Mr. Bovee told him they needed to report the arrest to the Office of Equity, Coach Anderson said he did not recall that being discussed during their conversations.

---

<sup>3</sup> The investigation gathered information that another coach indicated that he learned of the arrest within days of it occurring and told Coach Anderson about it and that Student Athlete would be coming to talk with Coach Anderson.

<sup>4</sup> It is not clear whether Student Athlete and the woman involved were in a relationship at the time of their altercation. For the purposes of this summary, she will be referred to as Student Athlete's girlfriend but not identified by name for privacy reasons.

July 1, 2024  
Page 5

## **B. Mr. Bovee**

After describing varying ways in which he thought he learned about Student Athlete's arrest, Mr. Bovee reported that Coach Anderson told him about it and that he shared that information with the Interim VP of Student Affairs. Mr. Bovee recalled that Coach Anderson said Student Athlete had been arrested for abusing his girlfriend, and that he told Coach Anderson that they would need to file a report with the Office of Equity. Mr. Bovee said that Coach Anderson told him about receiving "differing viewpoints" about the underlying incident and that Coach Anderson would be gathering additional information. Mr. Bovee reported that Coach Anderson provided him copies of statements from another football player and Student Athlete's girlfriend.

With respect to consideration of suspending Student Athlete upon learning of the arrest, Mr. Bovee initially said he thought there had been a suspension because that would be "fairly standard." He subsequently stated that there was no suspension. He offered various reasons for the lack of suspension including that "spring ball" had ended so there was no reason to suspend (that proved not to be accurate), and that there was "nothing imminent to worry about" and he planned to discuss the matter with the Office of Equity and in-house counsel. He confirmed, however, that he never had any such discussions. He did not recall talking with Coach Anderson about delaying a decision about suspension until after they had investigated and learned more information. When asked if the Athletics Department typically conducts its own investigation if a student athlete is accused of wrongdoing, Mr. Bovee said he would usually discuss such situations with in-house counsel or the Director of the Office of Equity, but he did not recall doing so with respect to Student Athlete. Mr. Bovee also recalled that Coach Anderson had questioned whether they should be "quick to judge" or "go slow" with respect to a suspension decision given the statement from Student Athlete's girlfriend. Mr. Bovee also shared that he attended meetings arranged by other University administrators outside of the Athletics Department in the weeks surrounding learning of the arrest, which were convened to discuss "climate and football." He provided notes recording that the first discussion addressed the football program's core values and items to be discussed with the team, including consent and respect. He also attended a second meeting about climate issues two weeks later that included Coach Anderson and other administrators. Mr. Bovee did not share that Student Athlete had been arrested in either meeting.

## **III. Findings and Conclusions**

Based on review of all information collected, our investigation found that Coach Anderson failed to adhere to the terms and spirit of reporting obligations attendant to student-athlete arrests for charges involving sexual misconduct or domestic violence in multiple ways.

First, Coach Anderson confirmed that he learned about Student Athlete's arrest for domestic violence and acknowledged that he never reported that arrest to the Office of Equity, stating that he was not aware he needed to do so given that the altercation occurred off campus and was "dealt with by the authorities." The evidence gathered during the investigation, including Coach



July 1, 2024  
Page 6

Anderson's own statements, demonstrates that Coach Anderson failed to fulfill his reporting obligations under Policy 340.

Second, the evidence gathered during the investigation also supports a finding that Coach Anderson breached Section 2.1.2 of Policy 340, which prohibits Reporting Employees from conducting their own investigation of sexual misconduct allegations. Coach Anderson acknowledged that, after he learned about Student Athlete's arrest, he engaged in investigation efforts by meeting individually with Student Athlete, his girlfriend, and his roommate to discuss the arrest and underlying incident. Based on those meetings, Coach Anderson solicited written statements from each witness describing their recollection of events, which he subsequently forwarded to Mr. Bovee. Coach Anderson told the Investigators that he did not know what to do about Student Athlete's arrest because he did not want to suspend him if he had not done anything wrong. He explained that he and Mr. Bovee decided to investigate and obtain more facts (which Coach Anderson described as a "fact-finding mission") before taking further action. Consistent with University policy, the Office of Equity should have been engaged for any investigation, not Athletics Department personnel.

Third, Coach Anderson failed to ensure that the witness statements he gathered were forwarded to the Office of Equity, which violates the spirit of Policy 340's requirements that all relevant documents be provided to the Office of Equity. This failure also undermines the Policy's goal that the Office of Equity have all information needed to assess an incident under investigation.

Coach Anderson's failure to engage the Office of Equity or share pertinent information with them is particularly troubling given extensive training about USU Policy 340 provided to Athletics Department personnel. Witnesses consistently reported that the Office of Equity meets with Athletics Department administrators monthly and reminds them about their reporting obligations and that all Athletics Department employees are required to participate in annual training, which is conducted in-person. New and returning student athletes are also required to participate in training annually. The Office of Equity also conducts individual team trainings in the fall, while the Sexual Assault & Anti-Violence Information Office conducts trainings in the spring. Coaches also occasionally participate in CAPSA training (a local nonprofit domestic violence, sexual abuse, and rape recovery center). USU records confirmed Athletics Department employee and student athlete participation in training and education activities regarding reporting obligations for issues of sexual misconduct during each of the last three years.

Furthermore, there are some related problems stemming from Coach Anderson's failure to share anything about Student Athlete's arrest with other administrators outside of the Athletics Department. Within a couple weeks of learning of the arrest, Coach Anderson did not disclose that Student Athlete had been arrested for domestic violence during a meeting with other University administrators that focused on the need for Athletics Department personnel to help the University manage ongoing monitoring of climate issues within the football program (relating to sexual misconduct issues). This raises general concerns about transparency from Athletics Department personnel and the team that Coach Anderson oversaw regarding such issues, as

July 1, 2024  
Page 7

Student Athlete was a star player, recently arrested, yet not discussed when similar climate concerns were squarely addressed. The failure to discuss what appears to be an obviously relevant factor relating to football team climate regarding domestic violence may not violate any stated policy, but it reflects what appears to be an effort to address such issues “in house,” within the Athletic Department. That is squarely contrary to applicable policies and the mission of the University.

Concerns about transparency also stem from the manner in which suspension protocols were described during this investigation, including by Coach Anderson. Many people described a practice of automatically suspending student athletes arrested for sexual misconduct or domestic violence, but then acknowledged upon further inquiry that Student Athlete was not suspended. Also, Coach Anderson described a different practice for such situations, which depended on the details of information about the arrest and public image issues. Coach Anderson was extremely clear that his practice is to engage in “collaborative conversation” between himself and the Athletics Director about what to do upon learning a student athlete is arrested for such charges. Ultimately, for Student Athlete, everyone agreed that he was not suspended even though many people knew he had been arrested for domestic violence. Instead of following the Department’s typical practice, Coach Anderson chose to initiate his own investigative efforts that focused on gathering Student Athlete’s explanation about what happened and then seeking witness statements supporting his defense. And, allowing Student Athlete to continue being part of the team despite being arrested for domestic violence, could have indirectly communicated to other members of the team that such issues were not always taken seriously.

While our investigation focused more squarely on the USU 340 Policy regarding employee obligations to report student-athlete arrests for sexual misconduct or violence to the Office of Equity, the information described here regarding suspension protocols and specific treatment of Student Athlete involve similar issues relating to what amounted to resistance to make timely disclosures of negative information about Student Athletes outside of the Athletic Department. As the leader of the football team, Coach Anderson’s contributions to such actions instead of promoting open communication with appropriate USU offices were troublesome and inconsistent with University policies and expectations for the handling of such matters.

# **EXHIBIT “I”**

# **COACH BLAKE ANDERSON'S RESPONSE TO UTAH STATE UNIVERSITY'S NOTICE OF INTENT TO TERMINATE HIS EMPLOYMENT**

## **INTRODUCTION**

Like any university in the United States whose head football coach has a contract that is consistent with industry standards, Utah State University (“USU”) can fire Coach Blake Anderson (“Coach Anderson”) at any time for any reason, or no reason at all. But if USU decides to terminate his employment “for convenience,” as opposed to “for cause,” then USU must fulfill its promise to pay Coach Anderson an agreed upon sum of money, which is set forth in his Employment Agreement and generally referred to as his “buyout.” In this case, that amount is roughly \$4.5 million.

At some time prior to August 2023, USU set in motion a sham “investigation”<sup>1</sup> with the intention of firing Coach Anderson for “cause” over an incident that occurred in April 2023. In doing so, USU followed a trend that started when the former head football coach at the University of Kansas, David Beaty, was fired for “cause,” followed by other notable examples where schools unsuccessfully attempted to manufacture grounds to fire head coaches to avoid paying them multimillion dollar “buyouts.” As one legal scholar, published extensively on this subject recently said:

“For many years, dirty laundry was aired in the backroom rather than the courtroom. There now seems to be a trend where coaches are not afraid to have

---

<sup>1</sup> Worse yet, the investigation summary provided by USU suggests the investigation may have violated UT Code §53-9-102 (2023), which prohibits persons from conducting private investigations in Utah who are not licensed to do so, with limited exceptions that do not appear to be applicable here.

their principles adjudicated and to let the court determine whether they were justly terminated.”<sup>2</sup>

With no known exceptions, schools which tried to stiff their head coach suffered months or years of bad publicity and eventually paid as much or more in settlements, attorneys’ fees, and expenses than they would have paid at the outset had they not turned against and tried to fleece their once-adored head coach. *E.g.*, *Beaty v. University of Kansas* (\$2.55 million settlement); *Ollie v. University of Connecticut* (\$11.2 million arbitration award); *Bielema v. Razorback Foundation* (\$3.5 million settlement); *Brannen v. University of Cincinnati* (\$2.75 million settlement).

USU’s negligence in not seeking to understand the limitations of its own policies, violating every standard that governs professional investigations, and grasping at straws to find “cause” has resulted in:

- (a) USU making false allegations in Coach Anderson’s Termination Letter that are contrary to indisputable evidence;
- (b) Firing three other USU employees who also did nothing wrong;
- (c) USU providing Coach Anderson and Jerry Bovee (Mr. Bovee) with inconsistent, contradictory statements about material findings in USU’s year-long investigation;
- (d) USU’s General Counsel mistakenly sending a text to Amy Crosbie (Ms. Crosbie) that was intended for Athletic Director Diana Sabau (AD Sabau) telling Ms. Crosbie to sign her own termination letter (with no prior notice that she was about to be fired);
- (e) USU relying on alleged violations of USU policies which, on their face, are wholly inapplicable to the single off campus incident involved here and, therefore, did not require any reporting by anyone;

---

<sup>2</sup> <https://scholarship.law.marquette.edu/sportslaw/vol17/iss1/8/> (Martin J. Greenberg, Marquette University Sports Law).



- (f) USU falsely accusing – or at least implying – that Coach Anderson and other USU employees were guilty of covering up “Sexual Misconduct” in violation of Title IX in a highly inflammatory news release that served no purpose other than to falsely portray these loyal employees in a negative light; and
- (g) USU’s lawyers/investigators having to explain why they should not be charged with violating the Utah Private Investigator Regulation Act.

As further discussed below, considering the indisputable evidence, the plain language in the policies USU claims were violated, and the termination language in Coach Anderson’s contract, USU’s attempt to terminate Coach Anderson for “cause” may be the worst blunder by a major university in the history of college sports.

The complete and accurate account of events set forth herein establishes that Coach Anderson responded promptly, professionally, and thoroughly in addressing the incident at issue. He did nothing that would even arguably justify the termination of his employment. USU either needs to reconsider its position and apologize to Coach Anderson or prepare itself for a lawsuit it cannot possibly win.

## THE TERMINATION OF COACH ANDERSON’S EMPLOYMENT

On July 2, 2024, USU issued a false, misleading, and defamatory press release – thinly disguised as a commitment to Title IX:



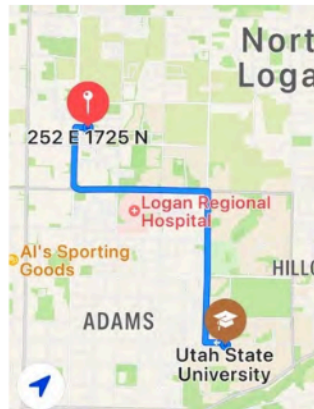
The same day, USU delivered to Coach Anderson a one-page Notice of Administrative Leave; a five-page Termination Letter signed by USU President Elizabeth Cantwell and AD Sabau; and a seven-page summary of the investigation conducted by an outside law firm retained by USU. The foregoing documents are attached hereto as Exhibits A-C. Pursuant to paragraph 6.2 of his Employment Agreement, Coach Anderson submits this Response to USU's Termination Letter.

### **THE UNDERLYING INCIDENT**

Notwithstanding USU's public characterization of this matter as involving Title IX and "sexual misconduct," nothing could be further from the truth. The single incident involved here does not implicate Title IX at all, and neither the Termination Letter nor the investigation summary even mention an alleged violation of the Title IX regulations, perhaps because the single incident at issue did not involve "sexual misconduct."

Yet, USU has repeatedly used that term, even going so far as to falsely state in its Termination Letter that the football player involved here "was arrested for Sexual Misconduct" when every single police and court record about this incident shows otherwise. USU's mischaracterization of the underlying incident in its press release was the first in a string of false and misleading statements that form the basis for the indefensible employment decisions made by USU in the past two weeks.

Contrary to USU's public mischaracterization, the single underlying incident involved a football player who was arrested on April 5, 2023, for an incident involving the mother of his child who, at the time, was not a student at USU. The incident occurred outside an off-campus apartment building located at 252 East 1725 North in Logan, Utah where the student-athlete shared an apartment with a teammate. This apartment building is far from the USU campus.



Depending on which witness one believes, the former USU football player: (a) pulled the string on his girlfriend's hoodie, leaving a mark on her neck; or (b) held the door shut so she could not enter his apartment; or (c) as she says, never laid a hand on her. *See Witness Statements, Exhibits D-E.*<sup>3</sup>

Without exception, domestic abuse and other misconduct covered by Title IX and USU policies are unacceptable no matter where they occur, and Coach Anderson's actions in this regard speak louder than words. For example, Coach Anderson once fired a USU staff member on the spot and had him removed from the game venue immediately after learning he had touched a female's buttocks. Similarly, Coach Anderson did not hesitate to promptly recommend the dismissal of two USU players from the team based on credible evidence of domestic abuse. Consistent with his record of intolerance for any form of conduct that would violate Title IX, Coach Anderson handled this matter "by the book."

As further explained below, the player initially concealed from Coach Anderson and members of his coaching staff that he had been arrested and then concealed from them what he had been arrested for – if he even knew. Within days, as the player had discussed with Coach Anderson

---

<sup>3</sup> The police and court records related to this arrest are collectively attached as Exhibit F.

*prior to the arrest*, the player entered the transfer portal. In doing so, per NCAA rules, the player was removed from the team roster.<sup>4</sup>

Coach Anderson eventually learned that the player's arrest was for charges related to "domestic abuse" – not for disorderly conduct or some other lesser offense – and promptly provided all the relevant information he had learned to Interim AD Jerry Bovee. In turn, Mr. Bovee shared the information with Executive Associate Athletics Director Amy Crosbie, which was standard operating procedure in the AD's office, and promptly made a timely report with USU's Equity Office.<sup>5</sup> Shortly thereafter, following a "safety assessment" by the Equity Office, the player arrested transferred to another DI university. That's what USU's twelve-month investigation was all about – nothing more.

**RESPONSE TO USU'S FIRST PRETEXTUAL REASON  
FOR FIRING COACH ANDERSON**

*(Alleged Violation of USU's "Non-Title IX" Policies 339 and 340)*

***THE POLICIES COACH ANDERSON IS ACCUSED OF VIOLATING ARE NOT  
APPLICABLE TO THE UNDERLYING INCIDENT***

The Termination Letter emphasizes that Coach Anderson received Title IX training at various times, implying that he should have known what his obligations were regarding the reporting of potential Title IX violations and violations of USU's "Sexual Misconduct" policies. (Termination Letter, p. 2, n.2). Coach Anderson does not dispute that assertion, but respectfully suggests that

---

<sup>4</sup> Contrary to a statement in the investigation summary, this young man was not considered a "star player." *Investigation Summary* (Anderson), p. 7. Even if he had been, however, it would have made no difference to Coach Anderson in how he handled the situation.

<sup>5</sup> USU has acknowledged in one of the two versions of its investigation summary that Mr. Bovee's report was "timely."

AD Sabau and President Cantwell should take a closer look at the USU policies they claim he violated.

As a matter of federal and state law, and consistent with Coach Anderson's recollection of the training he received, the "Non-Title IX" USU policies he has been accused of violating are not applicable to the off-campus incident that forms the basis for his termination. USU's investigation summary says that Coach Anderson made the following statement during one of his interviews: *"When asked if he reported the arrest to the Office of Equity, Coach Anderson said he did not because he was not aware he needed to do so given that the altercation occurred off campus and was 'dealt with by the authorities.'"* Investigation Summary (Anderson), p. 4. Ironically, Coach Anderson was right about that.

Under both federal and state law, the jurisdictional definition in each of those policies makes them inapplicable to the off-campus incident involved here. As explained in the following discussion, the jurisdictional limitations in USU's "Non-Title IX" policies are not even debatable. None of the USU policies Coach Anderson supposedly violated required him or anyone else to report anything to the Equity Office.

When the new Title IX rules were issued a few years ago, the regulations included a "jurisdictional definition" of the circumstances under which Title IX would be applicable, which is referred to as *"Employment or Education Program or Activity."* Paraphrasing, this definition limited the applicability of Title IX by requiring that the incident giving rise to a required report must have occurred either on university property, by using a school's computers, in a situation where the university exercised "substantial control" over the accused in the context in which the incident occurred, or in an off-campus fraternity or sorority house.



**Employment or Education Program or Activity.** All operations of the University in the United States including buildings, locations, events, and University computers, internet networks, and remote learning platforms; off-campus settings in which the University has substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, including University computers and internet networks and digital platforms; off-campus buildings owned or controlled by a student organization officially recognized by the University.

The screenshot above shows the actual words in the jurisdictional definition adopted by the Department of Education Office of Civil Rights (“OCR”) when issuing the new Title IX regulations. However, the screenshot above wasn’t taken from the Title IX regulations. Instead, the screenshot was taken from page 8 of USU’s “Non-Title IX Sexual Misconduct” policy (USU Policy 339) that Coach Anderson is accused of violating. To make it even more clear that Policy 339 does not apply to the underlying incident, section 2.2 in Policy 339 explicitly states:

## 2.2 Jurisdiction

This policy applies to Sexual Misconduct committed against any person by an Employee, Student, or third party when the incident occurs in an Employment or Education Program or Activity in the United States. The Grievance Process and its specific jurisdictional and other requirements are set forth in the Title IX Sexual Misconduct Procedures.

Eliminating any doubt about the limitations of Policy 339, USU’s online “Policy Library” lists Policy 339 as “Interim University Policy 339: Title IX Sexual Misconduct in an Employment or Education Program or Activity.”

Importantly, the Termination letter doesn’t even mention USU Policy 339. Instead, the only policy violation alleged by USU refers to Policy 340, a companion policy that deals with reporting incidents that fall within the scope of Policy 339. The Termination Letter mentioned Policy 340 thirteen times.

Therefore, it is important to examine that policy as well to see what it says about the breadth of Policy 340 from a jurisdictional perspective. Policy 340 appears in the online link to USU’s Title IX-related policies. One need only look at the “Definitions” section in that policy, which is found in 340.6. The jurisdictional limits on Policy 340, based on the definition of an “*Employment*

or *Education Program or Activity*” are exactly the same as the definition set forth on page 8 of Policy 339, which is shown above. Policy 340.6 says:

### **340.6 DEFINITIONS**

**Employment or Education Program or Activity.** All operations of the University in the United States including buildings, locations, events, and University computers, internet networks, and remote learning platforms; off-campus settings in which the University has substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, including University computers and internet networks and digital platforms; off-campus buildings owned or controlled by a student organization officially recognized by the University.

By adopting Title IX’s jurisdictional definition verbatim in both Policy 339 and 340, USU made both Policy 339 and 340 inarguably inapplicable to the underlying incident. As noted above, however, only Policy 340 is relevant here given that USU never mentioned Policy 339 or any other USU policies in the Termination Letter.<sup>6</sup>

There is a wealth of online guidance and commentary about what “Employment or Education Program or Activity” means in the context of Title IX. That jurisdictional definition cannot mean one thing in the context of Title IX and something entirely different in USU’s “Non-Title IX” policies.

Citing guidance from OCR, Title IX experts at Nixon & Peabody explained the meaning of the jurisdictional definition USU embedded in all the policies it has now accused multiple people of violating:

“OCR reminds schools that the regulations apply to reports of Title IX sexual harassment in education programs and activities in the United States, including in the following settings: (1) buildings or locations that are part of the school's operations, including remote learning platforms; (2) off-campus settings where the

---

<sup>6</sup> Although Policy 339A may apply to an incident committed outside an “Employment or Education Program or Activity,” the jurisdictional statement in that policy still limits its application to situations where the incident is “likely to have continuing adverse effects on Students, Employees, or third parties in an Employment or Education Program or Activity,” thus making it inapplicable to this single incident between a student and a non-student.

school exercised substantial control over the respondent and context in which the alleged harassment occurred; and (3) off-campus buildings owned or controlled by a student organization officially recognized by the college or university, such as a building owned by a recognized fraternity or sorority. OCR also emphasizes that schools must address behaviors over computer and internet networks, digital platforms, or computer hardware or software owned or used in the school's operations. OCR recommends that schools should include examples of their on-campus and off-campus programs and activities in their policies, trainings, and student-oriented communications.

***An institution must dismiss a formal complaint if the alleged conduct did not occur in its education program or activity.*** While OCR notes that schools have the discretion to apply distinct procedures to non-Title IX sexual misconduct, schools must still understand and adhere to their jurisdictions' legislative and judicial requirements.<sup>7</sup>

The underlying incident didn't occur on campus or at an off-campus fraternity or sorority house, so that part of the jurisdictional definition doesn't cover this incident. This incident did not involve any USU computers, nor could USU say with a straight face that it had "substantial control" over the player who was arrested in the context in which the incident occurred.

"Substantial control comes into play under the new Title IX rules with respect to the requirement that sexual harassment be "in the program or activity" of an educational institution for the conduct to fall within Title IX jurisdiction. The new regulations do not define the terms "substantial control" or the "context" of harassment, but those terms have long been in the lexicon of Title IX litigators. Here are some principles we can glean from that case law:

- Substantial control has been found over social media communications when the harassing messages originated on or within the immediate vicinity of the university, offending messages were posted using the University's network,

---

<sup>7</sup> HIGHER EDUCATION ALERTS: OCR issues Title IX Q&A guidance – a resource in an evolving landscape; It's time to assess your "education program or activity" subject to the new Title IX rules, Nixon & Peabody, June 22, 2020-22.

and harassment concerned events occurring on campus and targeting University students.

- A University has been found to have substantial control over conduct at an off-campus fraternity house where the University devoted significant resources to the promotion and oversight of fraternities, considered the fraternity a University organization, appointed a University instructor as the fraternity's director, and has the authority to sanction chapters for conduct that occurs at the off-campus private fraternity houses. *Note: This dovetails nicely with the new rules, which explicitly say that conduct at a building owned or operated by an officially recognized student organizations, such as fraternities and sororities, fall within the definition of sexual harassment.*
- Alternatively, when conduct occurs at a school in another district or off school grounds entirely, courts have been less likely to find that the school had sufficient control over the harasser or the context of the harassment."<sup>8</sup>

As explained by one of the nation's leading Title IX training institutions:

If an incident of sexual harassment between two students in a private hotel room occurs in a context related to a school-sponsored activity, such as a school field trip or travel with a school athletics team, the school would need to consider whether it exercised substantial control over the context in which the sexual harassment occurred. The preamble adds that a school may have substantial control over an incident that occurred in a student's home, such as where "a teacher employed by a school visits a student's home ostensibly to give the student a book but in reality to instigate sexual activity with the student."<sup>9</sup>

In summary, the plain language in the jurisdictional definition in the above-referenced OSU policies is clear and unambiguous. No matter how long USU might torture those words to make them say something different, they won't.<sup>10</sup> This allegation is a non-starter. USU should admit its

---

<sup>8</sup> *Title IX Insights, Why your next Title IX claim may feel like a lawsuit*, Franczek (May 20, 2020).

<sup>9</sup> McGrath Training Solutions (June 14, 2023).

<sup>10</sup> Even if the words in the jurisdictional definition were ambiguous, that would be of no help to USU. *See, e.g., In re Estate of Orris*, 622 P.2d 337, 339 (Utah 1980) (language of an ambiguous instrument should be construed most strictly against the party who drafted the instrument).

mistake and concede that it cannot fire Coach Anderson based on the policies which, on their face, did not apply to the off-campus incident involved here.

***WHILE NOT REQUIRED TO DO SO, COACH ANDERSON NONETHELESS COMPLIED WITH USU POLICIES 339 AND 340***

While Coach Anderson had no obligation to report anything as a matter of university policy, this Response conclusively shows that Coach Anderson made a complete, timely report to the Interim AD, who in turn made an appropriate, timely “group report” to USU’s Equity Office. This Response further establishes that, contrary to the assertion in the Termination Letter and investigation summary, Coach Anderson did not conduct his own “Title IX investigation” before a report was made to the Equity Office. Instead, Coach Anderson had no knowledge that an arrest had occurred for several days, then spent just over a day attempting to find out what his player was arrested for and why *to determine whether any report was required*. The evidence shows beyond question that Coach Anderson satisfied the requirements of all USU policies – including the inapplicable ones which USU mistakenly relied on in terminating his employment.

Oddly, USU’s investigation summary is void of any specific dates regarding key events. What’s shown below is a verified timeline of those events, as evidenced by the above-referenced police and court records (Exhibit F) and Coach Anderson’s Declaration (Exhibit G):

**TUESDAY, 4/4 COACH ANDERSON SENDS TEXT MESSAGE TO PLAYER**  
says “come see me” to discuss transfer portal rumors.

**TUESDAY, 4/4 COACH ANDERSON SENDS TEXT MESSAGE TO PLAYER**  
says “in QB room”; player comes to quarterback room and tells Coach Anderson he was considering entering the transfer portal because of the new defensive staff and says he will make a final decision over the weekend.

**WEDNESDAY, 4/5: PLAYER ARRESTED AND TAKEN TO JAIL.**

**THURSDAY, 4/6:** COACH ANDERSON CALLS PLAYER (9:50am 1min) leaves a voicemail about player missing breakfast check.

**THURSDAY, 4/6:** COACH ANDERSON SENDS TEXT MESSAGE TO PLAYER (9:51am) “need to communicate better about emergencies” regarding the rumor that he had been unavailable due to taking his child to the hospital.

**THURSDAY, 4/6:** PLAYER CALLS COACH ANDERSON (10:05am 2min) player says he had missed breakfast check due to taking the child to the hospital; says nothing about being arrested.

**SATURDAY-MONDAY, 4/8-10:** NO FURTHER CONTACT FROM PLAYER EASTER WEEKEND & MONDAY

**TUESDAY, 4/11:** Coach Anderson learns of rumor that player was arrested; asks his Director of Player Development to track down any information in terms of charges (no police or court records online reflecting player’s arrest); Coach Anderson calls player that afternoon and tells player he needs to meet with him; player meets with Coach Anderson and admits to being arrested due to an argument with the mother of his child; Coach Anderson asks player what he was charged with, and player says he doesn’t know; player says he was arrested because the argument was in front of his apartment and a neighbor had called the police; player also says his roommate-teammate and the girl did not press or file charges and did not understand why he was arrested and that the player had called the police department every day to find out what, if anything, he had been charged with but wasn’t able to find out; but nothing had been officially filed yet; Coach Anderson is left with the impression the player was arrested for disorderly conduct; Coach Anderson tells Director of Player Development to check with both HPPD & LPD to see if they have a record of what player was arrested for; Director of Player Development reports back to Coach Anderson that he was unable to obtain any more information about the charges, if any, as none had been filed.

**WEDNESDAY, 4/12:** COACH ANDERSON CALLS INTERIM AD JERRY BOVEE (10:58am 8min) reported everything he knew about the player being arrested; told Interim AD he was still unsure of what it was or if charges would be filed and that he would keep him posted.

**WEDNESDAY, 4/12:** COACH ANDERSON CALLS INTERIM AD JERRY BOVEE (12:06pm 2min) left a voicemail saying he needed to update him.



**WEDNESDAY, 4/12:** COACH ANDERSON CALLS INTERIM AD JERRY BOVEE (6:17pm 11min) discussed all the information Coach Anderson had at that point. Interim AD tells Coach Anderson he would make a “group report” to the Equity Office to be on the safe side even though they weren’t sure what they were dealing with. (Coach Anderson believes the report was made later that day).

**THURSDAY, 4/13:** COACH ANDERSON MEETS WITH PLAYER AGAIN player says no charges have been filed and he still doesn’t know what he was arrested for; player says he is going to get written statements from his child’s mother and roommate showing he did nothing that justified being arrested.

**THURSDAY, 4/13:** COACH ANDERSON RECEIVES STATEMENTS AND FORWARDS THEM TO INTERIM AD JERRY BOVEE

**FRIDAY-MONDAY, 4/15-17 (specific date unknown):** player enters his name in the transfer portal (April 15 was the first day the portal window was open) and is automatically dropped from the team roster per policy.

As shown in the timeline above, Coach Anderson reported the incident to Interim AD Jerry Bovee on April 12<sup>th</sup> who told Coach Anderson he would take care of making a report to the Equity Office, which he did in a “timely” manner. Coach Anderson did not receive the two handwritten witness statements until the next day, at which time he immediately provided them to the Interim AD. Contrary to the allegations in AD Sabau’s Termination Letter, Coach Anderson did not withhold or delay reporting *any* information to the Interim AD.

In AD Sabau’s Termination Letter, she falsely claimed that Coach Anderson had a duty to personally report his knowledge of the player’s arrest by submitting an Incident Report “using the online form at equity.usu.edu.”<sup>11</sup>

USU Policy 340 requires Reporting Employees to report information they receive about potential misconduct within 24 hours of receiving the information. Specifically, USU Policy 340 states: ‘Reporting Employees must submit Incident

---

<sup>11</sup> Termination Letter, p. 2, n. 1.

Reports using the online form at equity.usu.edu and must include all known information disclosed to the Reporting Employee. . . .”

Coach Anderson acknowledges he did not report the incident online but reported it to the Interim AD, who in turn made a timely “group report” of the incident. Notwithstanding AD Sabau’s assertion in the Termination Letter that Coach Anderson had to make his own online report, USU’s outside lawyers said *just the opposite* in their investigation summary, in accordance with USU’s Reporting Employee Policy §2.1.1. According to USU’s outside lawyers, as stated in the referenced policy section, there is no such requirement for each Reporting Employee to make a report using USU’s online portal:

“A single incident report can be submitted on behalf of multiple Reporting Employees, as long as each person provides ‘all information’ known to them.”<sup>12</sup>

Furthermore, in chastising Coach Anderson for not bypassing the Interim AD and sitting down at a desktop computer to make his own report, AD Sabau has apparently overlooked Coach Anderson’s Employment Agreement, which *required* Coach Anderson to confer with, report to, and follow the AD’s directions with respect to *all matters* related to the football program. There is no carve-out in Coach Anderson’s contract that allows him to bypass the chain of the command for Title IX matters.

This affirmative obligation to confer with, and report to, the AD is spelled out in clear, unmistakable language in Coach Anderson’s Employment Agreement. What’s more, failing to confer with, report to, or follow directions from the AD is near the top of the list of reasons in his contract that would allow USU to fire him for “cause.” In short, AD Sabau’s opinion about what Coach Anderson should have done conflicts with both: (a) what USU’s lawyers said in the

---

<sup>12</sup> *Investigation Summary* (Anderson), p. 3.

investigation summary; and (b) the plainly stated requirements imposed on Coach Anderson in his contract.

Not content with just falsely blaming Coach Anderson for allegedly violating USU policies that don't apply, USU's outside counsel also raked Coach Anderson over the coals in their investigation summary for not immediately suspending the player who had been arrested:

Concerns about transparency also stem from the manner in which suspension protocols were described during this investigation, including by Coach Anderson. Many people described a practice of automatically suspending student athletes arrested for sexual misconduct or domestic violence, but then acknowledged upon further inquiry that Student Athlete was not suspended. Also, Coach Anderson described a different practice for such situations, which depended on the details of information about the arrest and public image issues. Coach Anderson was extremely clear that his practice is to engage in "collaborative conversation" between himself and the Athletics Director about what to do upon learning a student athlete is arrested for such charges. Ultimately, for Student Athlete, everyone agreed that he was not suspended even though many people knew he had been arrested for domestic violence. Instead of following the Department's typical practice, Coach Anderson chose to initiate his own investigative efforts that focused on gathering Student Athlete's explanation about what happened and then seeking witness statements supporting his defense. And, allowing Student Athlete to continue being part of the team despite being arrested for domestic violence, could have indirectly communicated to other members of the team that such issues were not always taken seriously.

A careful review of this quote from the investigation summary would cause one to wonder whether the outside "investigators" even bothered to read any of USU's policies. For instance, if the lawyers from the outside law firm had read the "Athletics Department Guidelines," they would have known that Coach Anderson did not even have the authority to suspend the player and that only the AD could take such action after receiving a recommendation from the "Comprehensive Action Committee" ("CAC"):

"The Athletics Department recognizes that there may be certain misdemeanor offenses or other activity by the student athletes, including repetitive offenses

and/or acts, so serious that the conduct warrants *immediate suspension* from athletic competition by the Head Coach of the sport in which the student athlete participates. *Then, in that event, the Head Coach shall immediately notify the Sport Administrator, who will convene the Comprehensive Action Committee will review the circumstances of the situation and forward a recommendation to the Director of Athletics.*” (emphasis added).

Appendix F

## UTAH STATE UNIVERSITY ATHLETICS

### Athletics Department Guidelines

As a student athlete at Utah State University, you become highly visible and recognizable among the student population, giving up a portion of your privacy in exchange for the opportunity to compete for USU nationwide and achieve a level of fame. Whether you are on or off campus, in your hometown, in the game, in the stands, in class or socializing, you always represent yourself, your community, your team and your university. Your language and actions have an effect on the athletics department—not just yourself. If you remember and apply this principle, you will be very successful at USU. All student athletes at Utah State University, including you, are held to standards set in the Code of Policy and Procedures for students at Utah State University. Included are specific policies and procedures concerning academic honesty, discipline and grievance/appeals processes. You are students first and athletes second. You are responsible for compliance to the university, conference and NCAA rules and regulations and must follow department and team regulations. A student at Utah State University is a member of two communities—civil and educational. Regulations of both communities are applicable to you, the student athlete.

#### Conduct and Behavior

USU athletes must remember at all times to conduct themselves both on and off campus in a manner that brings respect and high regard to the University.

#### Discipline and Procedure

All student athletes are expected to conduct themselves with the dignity of a Utah State Aggie. However, in order to address a problem when it arises, the following recommendations have been adopted:

#### UTAH STATE UNIVERSITY ATHLETICS

##### A. Serious Crimes Policy

It shall be the policy of Utah State University Department of Athletics, (hereinafter “Athletics Department”) that upon notification that a student athlete has been arrested for a State or Federal law or is arrested for a DUI offense as defined by Utah law, said student athlete shall be immediately suspended from athletic competition. The student athlete is required to notify his/her head coach of the felony arrest as soon as possible. In turn, the head coach must notify the Sport Administrator, who will then forward the information to the Director of Athletics.

##### B. Misdemeanors

Discipline for misdemeanor offenses other than DUI offenses described in Section A herein shall be the responsibility of the Head Coach in the sport in which the student athlete participates, except as set forth in Section C hereafter. The Head Coach may impose such conditions, limitations or discipline, if any, as he or she deems proportionate to the individual case, except as set forth in Section C hereafter. However, if the student athlete is arrested, the Head Coach should notify the Sport Administrator immediately and further disciplinary actions may be taken, subject to the circumstances. Further it should be understood that the Comprehensive Action Committee may find and convene on Misdemeanor offenses and implement further disciplinary action.

##### C. Other extreme acts of behavior detrimental to the tradition of college athletics at Utah State University.

The Athletics Department recognizes that there may be certain misdemeanor offenses or other activity by the student athletes, including repetitive offenses and/or acts, so serious that the conduct warrants immediate suspension from athletic competition by the Head Coach of the sport in which the student athlete participates. Then, in that event, the Head Coach shall immediately notify the Sport Administrator, who will convene the Comprehensive Action Committee will review the circumstances of the situation and forward a recommendation to the Director of Athletics.

#### UTAH STATE UNIVERSITY ATHLETICS

##### D. Notification Policy

A student athlete arrested for any crime shall report such arrest to the Head Coach, or an Assistant Coach, of the sport in which the student athlete participates. Upon notification from any source of the arrest of a student athlete for any crime, the Head Coach of the sport in which the student athlete participates has the institutional responsibility to report such arrest immediately to the Sport Administrator of that sport after it becomes known to the Head Coach in order that appropriate notice of such situation can be forwarded to the Director of Athletics and the President of the University. Consistent with this notification policy, all Assistant Coaches and other team staff members of the Utah State Department of Athletics have an institutional responsibility to report the arrest of a student athlete to the Head Coach and/or Sport Administrator of the sport in which the student athlete participates immediately after notice of such an arrest becomes

At the time of the incident, Mr. Bovee was the “Sports Administrator” for football. Therefore, Coach Anderson complied with the above-referenced Athletic Department policy by promptly notifying Mr. Bovee about the arrest of one of his players.

Remarkably, that’s not the end of the ridiculous assertions in the Termination Letter and investigation summary. On page 3 of the Termination Letter, AD Sabau continues to shoot arrows at a rock wall by making the following assertions:

**2. Significant Violation of University Rules by An Employee Under Your Supervision.**

In addition, concerning the arrest at issue, the Investigation Findings and Conclusions notes evidence that at least two football staff members disclosed the student athlete’s arrest to you, and did not file a timely report as required by USU Policy 340.<sup>4</sup> These staff members were under your direct supervision, and there was no evidence that you made any effort to advise them to file the required reports or otherwise prevent their noncompliance with USU Policy 340. See Investigation Findings and Conclusions. Under the Agreement, you are responsible for promoting an atmosphere of compliance within the football program, and you are required to monitor the activities regarding compliance of all assistant coaches or other administrators involved with the program. Your failure to promote and monitor compliance with USU’s Reporting Employee Policy is a material breach of Section 5.4 of the Agreement and a basis for termination for cause. See Agreement, Section 6.1(e).

In collegiate sports, “creating an atmosphere of compliance and monitoring compliance” is a term of art that derives from the NCAA Bylaws. Although Coach Anderson’s contract does not limit this obligation to compliance with NCAA rules, there is a wealth of precedent and guidance from the NCAA about that this term of art means:

“The enforcement staff takes a common-sense approach in considering the nature and scope of the violation(s) in a case, together with the institution's specific efforts to create and maintain a positive culture of compliance. . . . If the enforcement staff believes a failure to monitor allegation is appropriate, the allegation will identify the specific context of the types of behavior(s) it believes were monitored insufficiently. . . . Even as a shared responsibility across an institution, the enforcement staff understands that universal monitoring of every NCAA rule presents a very practical or difficult challenge. Accordingly, the enforcement staff will not assume that an institution violated the NCAA Principle of Rules Compliance when one or more violations may have occurred. In fact, effective compliance and monitoring systems are expected to detect violations, and the



enforcement staff will not consider a failure to monitor allegation based only on isolated Level III violations.”<sup>13</sup>

None of the precedents or NCAA guidance support the proposition that conclusory allegations based on a single incident could sustain a charge of failing to “create an atmosphere of compliance and monitor compliance.” Continuing with her parade of baseless accusations, AD Sabau makes yet another one:

### **3. Failing to Perform the Duties of Coach in Good Faith**

The Investigation Findings and Conclusions found that, rather than following the department’s typical protocols for suspending student-athletes when they are arrested for sexual misconduct, you chose to initiate your own investigative efforts focused on gathering the student-athlete’s explanation about the events surrounding the arrest and then sought witness statements supporting the student athlete’s defense. Additionally, the report raised concerns about inconsistent treatment of student-athletes and a demonstrated resistance to making disclosures of negative information about student-athletes outside the Athletic Department. Further, the Investigation Findings and Conclusions found that the failure to take action against the student-athlete could have indirectly communicated to other football team members that such issues were not always taken seriously.

Your failure both to take consistent action against individuals arrested for sexual misconduct and to handle the arrest of a student-athlete for domestic violence in a transparent manner is a substantial failure to perform your duties in good faith. It has and is likely to result in a loss of trust in the USU Athletic Department and the Football program and to bring further public disrepute, contempt, and ridicule upon USU. This is a basis for cause to terminate under the Agreement. See Agreement, Section 6.1.

By suggesting that Coach Anderson can be fired for “cause” because he didn’t mention the player’s arrest during a meeting about the football program’s culture, AD Sabau and the USU outside counsel have reached new heights of absurdity. The USU outside lawyers don’t allege that anyone asked Coach Anderson a question that would have prompted him to share that information during the group meeting or that he was trying to hide something. With no basis, they suggest

---

<sup>13</sup> <https://www.ncaa.org/sports/2018/2/8/division-i-enforcement-charging-guidelines.aspx>.



Coach Anderson had an affirmative duty to volunteer information, and by not doing so, Coach Anderson wasn't being "transparent." In turn, AD Sabau attempts to manipulate that "finding" into a breach of Coach Anderson's contractual duty to act in "good faith." Before addressing these baseless allegations, we should first review what the USU outside lawyers wrote in the section of the investigation summary entitled "Findings and Conclusions":

"[T]here are some related problems stemming from Coach Anderson's failure to share anything about Student Athlete's arrest with other administrators outside of the Athletics Department. Within a couple weeks of learning of the arrest, **Coach Anderson did not disclose that Student Athlete had been arrested for domestic violence during a meeting with other University administrators** that focused on the need for Athletics Department personnel to help the University manage ongoing monitoring of climate issues within the football program (relating to sexual misconduct issues). **This raises general concerns about transparency from Athletics Department personnel** and the team that Coach Anderson oversaw regarding such issues, as Student Athlete was a star player, recently arrested, yet not discussed when similar climate concerns were squarely addressed. The failure to discuss what appears to be an obviously relevant factor relating to football team climate regarding domestic violence **may not violate any stated policy**, but it reflects what appears to be an effort to address such issues "in house," within the Athletic Department. **That is squarely contrary to applicable policies** and the mission of the University.

Wait, what? . . . The summary says the failure to discuss the player's arrest at the culture meeting "*may not violate stated policy*." The very next sentence says "*[t]hat is squarely contrary to applicable policies*." That makes about as much sense as anything else written by USU's self-styled "investigators."

Setting aside for the moment that Coach Anderson's contract doesn't require him to be as transparent as a tall-building lawyer from Chicago thinks he should be, there was a good, logical reason for Coach Anderson not to bring up this subject during the "culture meeting." By then, Coach Anderson knew that the matter had been turned over to the

Equity Office for handling. Under those circumstances, talking about the incident in front of a group of people he hardly knew did not seem like the “right thing to do.”

Coach Anderson was exercising good leadership and seasoned judgment by not volunteering confidential information about the incident during the meeting. And for doing so, AD Sabau thinks he should be fired for not acting in good faith?

But it gets even worse as one reads further:

Many people described a practice of automatically suspending student athletes arrested for sexual misconduct or domestic violence, but then acknowledged upon further inquiry that Student Athlete was not suspended. Also, Coach Anderson described a different practice for such situations, which depended on the details of information about the arrest and public image issues. **Coach Anderson was extremely clear that his practice is to engage in “collaborative conversation” between himself and the Athletics Director about what to do upon learning a student athlete is arrested for such charges.** Ultimately, for Student Athlete, everyone agreed that he was not suspended even though many people knew he had been arrested for domestic violence.”

At this point, we’ve lost count of the number of things the USU lawyers got wrong. As discussed above, if USU’s outside lawyers had bothered to read the above-referenced Athletics Department Guidelines, they would have known that Coach Anderson didn’t have the authority to suspend student-athletes who had been arrested. The Guidelines inarguably vest the AD with the authority to make that decision based on a recommendation by the CAC.

As noted above, the investigation is short on specific facts and long on psychoanalysis. Similarly, the rest of what AD Sabau relied on are not “findings.” The opinions of two Chicago lawyers don’t constitute evidence or “findings” upon which a termination decision can be made.

Nor would their pontification about culture, transparency, or suspensions be admissible in a court of law. Their commentary is just “sound and fury, signifying nothing.”<sup>14</sup>

By now, some readers of this Response are probably saying to themselves: “Could this possibly get any worse for USU?” As implausible as it may sound, yes it could. Just keep reading.

### ***USU’S INVESTIGATION AND REPORTING FELL FAR SHORT OF PROFESSIONAL STANDARDS FOR CONDUCTING INVESTIGATIONS***

At the risk of sounding critical, and while not accusing anyone of wrongdoing, we feel compelled to begin this discussion about professional investigation standards by making some observations about a matter that could have a serious impact on the decisions USU is about to make regarding Coach Anderson. Like most states, Utah has laws regulating private investigations and the people who may conduct private investigations in Utah. To protect citizens' rights and ensure ethical standards, all but a few states regulate private investigators, who operate under a complex set of laws that dictate their actions, responsibilities, and limitations. These laws vary from state to state, but the licensing process for private investigators typically involves a background check, proof of insurance, a written examination, character references, and an application fee.

In Utah, the Private Investigator Regulation Act (“PIRA”) provides extensive regulations that govern investigations done by private investigators in Utah. Of relevance here is PIRA’s<sup>15</sup> definition of “private investigator:”

---

<sup>14</sup> *Macbeth*, Act 5, scene 5, lines 16–27 (William Shakespeare).

<sup>15</sup> UT §53-9-102 (2023).

- (a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:
- (i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;
  - (ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;
  - (iii) the credibility of witnesses or other persons;
  - (iv) the whereabouts of missing persons or owners of abandoned property;
  - (v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;
  - (vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;
  - (vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;
  - (viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or
  - (ix) serving civil process.

The nature of the investigative work done here fits squarely within (a)ii and iii. The PIRA exempts certain people from the definition shown above:<sup>16</sup>

- (b) "Private investigator or private detective" does not include:
- (i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;
  - (ii) an employee of an attorney licensed to practice law in this state; or
  - (iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

Unless, covered by one of the exemptions in the Act, PIRA<sup>17</sup> makes it unlawful for anyone to conduct a "private investigation" without being licensed as a private investigator in Utah.<sup>18</sup>

- (2) Unless licensed under this chapter, a person may not:
- (a) act or assume to act as, or represent himself to be:
    - (i) a licensee; or
    - (ii) a private investigator or private detective as defined in Section 53-9-102 or conduct any investigation as described in the definition of private investigator or private detective; or

Utah law allows a private investigator licensed in another state to do investigative work in Utah if the investigation originated in the investigator's home state, there is a reciprocity agreement between Utah and that state, the investigator's work in Utah lasts no longer than sixty (60) days,

---

<sup>16</sup> "'Employee' means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor." UT § 53-9-102 (13) (2023).

<sup>17</sup> UT §53-9-107(2) (2023).

<sup>18</sup> A violation of this section of PIRA is a class A misdemeanor. UT §53-9-119 (2023).

and other requirements are met related to the other state’s licensing standards.<sup>19</sup> This reciprocity exemption obviously doesn’t apply to a twelve-month investigation in Utah.

When the General Counsel (“GC”) of a state university decides that the university should retain a professional investigator to do an investigation on the university’s behalf, the first order of business is to review state law to determine what licensing requirements exist that may limit the university’s choices on who it can retain to conduct the investigation. As explained below, it appears that USU’s GC may have overlooked this critical first step. If so, USU’s GC can’t pass the blame to H&B for not being aware of Utah’s licensing requirements. It was the GC’s obligation to check as well:

Clients who engage the services of private investigators must be aware of their own legal responsibilities to ensure the success and legality of the investigation. Clients should perform their due diligence to verify the investigator's licensing, expertise, and compliance with legal requirements. This process helps avoid the risk of hiring an unlicensed or illegal investigator, thereby ensuring the credibility of evidence and findings.<sup>20</sup>

Husch Blackwell (“H&B”) is a large law firm with twenty (20) offices throughout the United States. H&B’s website says the firm has “all the talent and intellectual firepower of the largest law firms in the country.” We don’t know when USU retained the H&B law firm to conduct this investigation, but we are certain that USU retained H&B for that purpose not later than November 2023, when two lawyers from H&B first interviewed Coach Anderson in Logan, Utah.

---

<sup>19</sup> UT §53-9-110.5 (2023).

<sup>20</sup> *Navigating the Legal Landscape of Private Investigations*, Universal Investigations Agency, Inc. (LinkedIn).

Peter Land and Kristine Zayko, the two lawyers who conducted the investigation, are based in H&B's Chicago office. Neither of them are admitted to practice law in Utah, which would not be required for lawyers who were retained by USU to provide legal analysis and advice on this or any other situation. But here, we know that Mr. Land and Ms. Zayko were retained to conduct an investigation that falls within the scope of PIRA.

How do we know? Because Mr. Land and Ms. Zayko identified themselves in the heading of the investigation summary as "Investigators" and used that term seven other times when referring to themselves.

## **HUSCH BLACKWELL**

### UTAH STATE UNIVERSITY CONFIDENTIAL INVESTIGATIVE FINDINGS AND CONCLUSIONS

TO: Elizabeth R. Cantwell, Ph.D.  
President  
  
Diana Sabau  
Vice President and Athletics Director

FROM: Peter Land, Investigator  
Kristine Zayko, Investigator

RE: USU Reporting Policy – Blake Anderson

DATE: July 1, 2024

Neither Mr. Land nor Ms. Zayko fall within any of the statutory exemptions that would excuse them from Utah's private investigator licensing requirements. While PIRA contains an exemption for employees of lawyers licensed to practice law in Utah, it does not otherwise exempt lawyers or even employees of lawyers who are not licensed to practice law in Utah.



Is that a problem? Not for us, but it could be for USU. As one commentator observed about the perils of using an unlicensed private investigator in a state with licensing requirements like those in Utah:

“[I]f whatever you are collecting may end up in court and may end up getting thrown out because it would not be collected by a licensed professional, you might want to think twice.”<sup>21</sup>

Elaborating on this downside of using unlicensed investigators in states with strict licensing regulations, another commentator said:

“When an unlicensed investigator is used to collect evidence, there is a risk that the evidence may not be admissible in court. This is because courts have the discretion to exclude evidence that is obtained illegally or through unethical means. If the evidence collected by an unlicensed investigator is not admissible, it could weaken or even destroy your case.”<sup>22</sup>

Of course, we may be raising an issue that is “much ado about nothing.”<sup>23</sup> Perhaps USU and H&B received a special exemption from the Governor last year or used some legislative loophole that’s not available online. That seems unlikely, however.

One could argue that it’s none of our business whether USU and its outside lawyers did or didn’t comply with the PIRA. Maybe so, but absent some explanation for an exemption that’s not visible to the outside world, we felt compelled to point out that, if H&B’s lawyers and USU failed to comply with the requirements of PIRA, that failure: (a) could jeopardize USU’s ability to present any evidence in a court of law; and (b) would speak volumes about the countless, careless mistakes

---

<sup>21</sup> Debt.org.

<sup>22</sup> <https://aldescoinvestigations.com/the-risks-of-hiring-unlicensed-private-investigators/>.

<sup>23</sup> *Much Ado About Nothing*, Act 4 scene 1 line 281 (William Shakespeare).

that seemed to have plagued USU's investigation from the very beginning. That said, if we have overlooked something despite our careful research, or if USU has some exculpatory explanation for why its outside lawyers weren't required to be licensed as Utah private investigators, we hope USU's lawyers will enlighten us.

Licenses aside, the investigation conducted by the H&B lawyers, and the resulting report upon which AD Sabau relies, violate nearly every commonly accepted standard for conducting professional investigations. None of the so-called "findings" of their investigation would withstand scrutiny for two minutes in a court of law.

Having been the target of an investigation by the Department of Justice ("DOJ"), USU should be familiar with how professional investigations are conducted. After all, every DOJ investigation is conducted pursuant to written standards, and those standards don't vary from one investigation to the next. Likewise, the U.S. Office of Inspector General has similar high standards that govern every one of its investigations. As far as we can tell, USU has no standards.

One of DOJ/OIG standards requires that interviews be recorded electronically. There are several reasons why that's important when interviewing of witnesses in high-stakes disputes. The importance of recording witness interviews in cases such as this one is based on the following:

- A recording protects against false or disputed claims about the interrogation tactics used or the accuracy of any statements attributed to the witness.
- Recording interviews in civil cases can help ensure the justice system is fair by improving the reliability of evidence. It can also help protect the innocent and hold the guilty accountable.
- A recorded version of an interview can be the final arbiter of any disagreement about what was said.
- Video recordings can capture body language, demeanor, and energy, which can provide more insight into the credibility of a witness.

For those reasons, interviews conducted by DOJ official are electronically recorded:

**3.8 Electronic recordings of interviews.** Electronic recording of the live, word-for-word statements of all interviewees, including accused employees, is the best way to avoid interpretive errors in recounting statements. Except in covert operations, all recordings should be done with the full knowledge of everyone involved, with a lead-in statement by the primary investigator announcing the date, time, and location of the interview as well as the names and titles of everyone present.

With very rare exceptions, even the NCAA requires that every interview conducted by the enforcement staff be audio-recorded and that a transcript of the audio recording be provided to the interviewee – even in insignificant, low level cases.<sup>24</sup> Recognizing that the enforcement staff’s typed notes about what was said in an interview may be far from accurate, section 1-5-2 of the NCAA’s Division I Internal Operating Procedures sets forth a detailed procedure for how to document interviews that were not recorded or where the recording device malfunctioned:

**Nonrecorded Interviews.** When an interview is not recorded, or if the recording device malfunctions, the enforcement staff shall prepare a written interview summary of the information and, to the extent possible, attempt to obtain a signed affirmation of its accuracy from the interviewee. The interviewee will be permitted to make nonsubstantive corrections to the memorandum before affirming its accuracy. If an interviewee wants to make additions or corrections that materially alter the substance of the memorandum, he or she may do so and the new information shall be treated as a separate interview. In order to obtain the interviewee's signature, the enforcement staff may provide a copy of the unsigned interview summary to the interviewee and his or her counsel provided the interviewee agrees not to release the summary to a third party. After the summary is signed, the interviewee and his or her counsel, upon request, may make or receive a signed copy. The substance of an unrecorded interview for which a signed affirmation was not obtained may be considered by the NCAA Committee on

---

<sup>24</sup> NCAA ENFORCEMENT: DIVISION I INTERNAL OPERATING PROCEDURES, 1-5-1, p. 4. (audio recording required unless witness objects or enforcement staff believes that an audio recording would “inhibit the interviewee.”).

*Infractions to the extent the Committee on Infractions determines the information to be reliable.* (emphasis added).

For reasons known only to the H&B “investigators,” they decided to depart from standard investigative protocol and *not record any of the ten people they interviewed*, some of whom “were interviewed multiple times.” *Summary of Investigation* (Anderson), p. 2. While we cannot be certain that none of the interviews were recorded, at least three witnesses who were interviewed have no recollection of seeing any evidence they were being recorded or being told their interview was being recorded. With that in mind, we feel confident that the interviews – or at least the most critical ones – were not recorded.

There is no apparent reason why the USU “investigation” would be an exception to this standard investigative protocol, which begs the question: why did the H&B lawyers decide not to record all the interviews? Just an oversight? Probably not, considering the amount of money at stake. To save money? Again, considering the high-stakes nature of this investigation and the potential to ruin the reputation of a good man, that explanation also seems highly unlikely. As further discussed below, the more plausible explanation is that USU wanted the investigators’ notes to be the only source of information about what a witness said, thus allowing H&B to develop a written report that would align with USU’s pre-determined outcome.

While H&B’s decision not to record the interviews casts doubt on the credibility of their report, there are several other reasons why their report won’t hold water. The following examples should suffice to illustrate this point.

Coach Anderson’s counsel has obtained a copy of the investigation summary that was provided to former Interim AD, Mr. Bovee. That summary is materially different than the investigation summary that was provided to Coach Anderson. Among other things, the investigation summary given to Mr. Bovee squarely contradicts a statement made by AD Sabau in

Coach Anderson's Termination Letter. Remarkably, however, that contradictory statement was omitted from the investigation summary given to Coach Anderson. This contradiction is not insignificant. To the contrary, it involves one of the most important facts in the investigation: *the timeliness of the report that was made to USU's Equity Office*. Coach Anderson's Termination Letter says the report USU claims was required was filed by another employee (presumably Mr. Bovee), but that the report was *not timely*:

**2. Significant Violation of University Rules by An Employee Under Your Supervision.**

In addition, concerning the arrest at issue, the Investigation Findings and Conclusions notes evidence that at least two football staff members disclosed the student athlete's arrest to you, and did not file a timely report as required by USU Policy 340.<sup>4</sup> These staff members were under your direct supervision, and there was no evidence that you made any effort to advise them to file the required reports or otherwise prevent their noncompliance with USU Policy 340. See Investigation Findings and Conclusions. Under the Agreement, you are responsible for promoting an atmosphere of compliance within the football program, and you are required to monitor the activities regarding compliance of all assistant coaches or other administrators involved with the program. Your failure to promote and monitor compliance with USU's Reporting Employee Policy is a material breach of Section 5.4 of the Agreement and a basis for termination for cause. See Agreement, Section 6.1(e).

<sup>3</sup> While the Investigation Findings and Conclusions did not find that failure to report the witness statements supported a separate and additional violation of Policy 340 (because you had already failed to report), your failure to share first-hand information about an incident of sexual misconduct elevates the significance of your failure to report.

<sup>4</sup> One employee ultimately filed a report, but the report was not timely.

In contrast to footnote 4 in Coach Anderson's Termination Letter, as shown above, the investigation summary given to Mr. Bovee says just the opposite about the timeliness of the report:

As outlined below, our investigation resulted in the following findings regarding Mr. Jerry Bovee, who served as the Interim Athletic Director during the relevant time period:

- Mr. Bovee learned about domestic violence allegations and the arrest of Student Athlete during the Spring 2023 but did not report such information immediately to the Office of Equity.
- Mr. Bovee disclosed such information to student affairs personnel who did file a timely report with the Office of Equity, but that report lacked all relevant information known to Mr. Bovee.
- Mr. Bovee never disclosed to the Office of Equity all relevant information known to him about Student Athlete's arrest.

What's more if Mr. Bovee reported the incident to "student affairs personnel," who then filed a timely report, it necessarily follows that Coach Anderson's report was also timely – in fact, even

more timely than the report made by the Interim AD to the “student affairs personnel” and the subsequent report they made to the Equity Office. It can’t be both ways. Either it was timely or it wasn’t. Yet USU wants to portray the facts one way for Coach Anderson and in the opposite way for Mr. Bovee.

But that’s not all. The investigation summary given to Mr. Bovee also illustrates how far USU is willing to go by taking positions that fly in the face of logic, common sense, and principles of fairness. For example, if Mr. Bovee allegedly failed to include in his report “*all relevant information known to him*” (which he could only have acquired from Coach Anderson), how is Coach Anderson to blame for his supervisor’s alleged failure to include all that information in his report? But H&B’s investigation summary would have you believe that Coach Anderson is somehow at fault for what they allege (without any detail) the Interim AD didn’t include in his report. Once again, H&B has tailored its narrative of the evidence to fit different personnel objectives that would otherwise be impossible for USU to carry out based on one set of facts.

Finally, without explanation, we note that the lawyers/investigators never interviewed the football player whose arrest started this whole ordeal. The player has been available and willing to talk with lawyers and would corroborate Coach Anderson’s recollection of events. However, nobody representing USU ever contacted him to get his side of the story. The inexplicable decision not to interview the player is yet another departure from widely accepted professional standards for conducting investigations.

While all these mistakes make USU look bad, what happened in this investigation isn’t the result of the university hiring bad lawyers. To the contrary, USU hired two excellent lawyers who are both very experienced and have excellent reputations. Therefore, the ridiculous length of this cringe-worthy investigation and the number of significant mistakes that appear to have been made



by the “investigators” might seem puzzling. If this investigation was supposed to be an objective, professional search for the truth, how did this top-talent legal firepower get so many things wrong?

Let’s not kid ourselves; it was never USU’s intention to have their lawyers engage in an objective, professional search for the truth. This investigation was nothing but a “search and destroy” mission. When a university AD brings in outside lawyers to assist with a problem they see in the workplace (*e.g.*, such as a head coach not winning enough or not winning fast enough), everyone involved in carrying out the mission will throw fairness and objectivity out the window. The AD identifies the target or targets, and the outside lawyers are nothing but mercenaries. Their job is to do whatever it takes to eliminate the target(s) with minimal financial harm to the university while portraying their work as a fair and thorough review of some pretextual issue, all for the purpose of protecting some fake noble objective.<sup>25</sup>

In contrast to the standards established by DOJ and OIG, those traits are considered a requirement by most ADs and GCs when selecting lawyers to do an investigation involving university athletics. They’re not looking for lawyers who can be objective and free of bias in favor of the university. They want their lawyers to be biased and embrace the notion that whoever the AD wants to get rid of must be guilty of something.

By those standards, the H&B lawyers were fully qualified for this assignment. They fully understood the AD and CG wanted to get rid of Coach Anderson. The problem was the H&B

---

<sup>25</sup> These “search and destroy” missions usually don’t end well for the AD. Once the recently departed head coach files a lawsuit, e-discovery commences, and all the university’s digital communications start floating to the surface with rest of its dirty laundry, a typical pattern emerges: (a) the “investigation” begins to look more like a “hit job,” (b) with great embarrassment, the university ends up writing a large “buyout” check to the head coach they tried to stiff, and (c) the AD wipes egg off their face while they start looking for their next job.

lawyers couldn't find anything solid enough to work with – even after taking twelve months to turn over every rock.

Yet, that didn't deter AD Sabau. With no ammunition to make a case about violations of policies that didn't even apply, AD Sabau decided to pull the trigger anyway while adding a second unsubstantiated charge to justify her termination decision. By doing so, AD Sabau seems intent on becoming the first AD in collegiate sports history to terminate, or even discipline, a head coach *because of his player's APR scores*.<sup>26</sup>

**RESPONSE TO USU'S ALTERNATIVE PRETEXTUAL REASON  
FOR FIRING COACH ANDERSON**  
*(Alleged Failure to Improve APR Scores)*

It is common knowledge among lawyers who represent head coaches and ADs in buyout disputes that a termination letter which includes multiple grounds for termination for “cause” is a clear signal that the university doesn't have confidence in *any* of its grounds for termination. That's especially true where, as here, the alternative grounds for termination would look frivolous even to USU loyalists and critics of Coach Anderson.

The final enumerated paragraph of the Termination Letter is the legal equivalent of Frankenstein's monster, and yet another example of USU failing to recognize its own policy standards:

4. Failure to Manage the Team in a Manner that Reflects the Academic Values of USU. Separately, the USU Athletics Department has recently been made aware that you have not been managing the team in a manner that reflects the academic values of USU. As a result, the academic progress rate (“APR”) for the USU football team does not meet USU's expectations and academic values. I have addressed this issue

---

<sup>26</sup> Apparently hoping to distance themselves from this desperate straw-grabbing, USU's outside lawyers sidelined themselves on this manufactured charge, not once mentioning APR scores in their investigation summary.

with you, and already communicated to you that your failure to directly engage and actively collaborate with academic support services and to track and enforce academic performance standards of your student athletes has put your student-athletes and the Athletics Department at risk of both ineligibility and public embarrassment and disrepute. The poor academic performance of the USU football program is unacceptable and provides a separate basis for termination under the Agreement. See Agreement, Sections 6.1 and 6.1(p).

The title “Academic Progress Rate” (“APR”) is not an accurate description of the information it reflects. APR scores are calculated by assigning points for *both* academic eligibility *and* retention of student athletes. Retention scores are now effectively fluid, and have been over the last several years, given Covid-19 accommodations and the ever-changing NCAA transfer and waiver policies. Thus, APR scores include information not only outside the scope of USU’s “academic policies,” but are subject to immediate modification. In fact, APR scores alone could merit numerous pages of discussion of their origin, purpose, calculation methods, evolution, proposed changes and overall usefulness (or lack thereof) except that lengthy discussion would have as much relevance to this Response as the mention of APR does in the Termination Letter – none.

USU accuses Coach Anderson of “failure to manage the Team in a manner that reflects the academic values of USU, as *reasonably* determined by USU.” (emphasis added). USU then attempts to use the team’s APR score as the sole indicator of this alleged failure. This approach fails to establish cause for Coach Anderson’s termination for several reasons.

First, there is no mention of APR scores in Coach Anderson’s contract, not even once. Some college football coach contracts contain provisions directly related to APR scores, but those contracts don’t mention APR scores as one of the grounds for terminating a head coach for “cause.”

The only time APR scores are mentioned in a head coach's contract are when the school wants to incentivize its head coach to improve his team's scores.



If USU was as concerned about APR scores as the Termination Letter suggests, it could have amended Coach Anderson's contract and joined the growing number of schools which provide head coaches with incentive bonuses based on improvements in APR scores. But as expected, USU never put its money where its mouth is now.

Second, because Coach Anderson's obligation to USU regarding the "academic performance" of his players is rooted in USU's "academic values," one must review the applicable USU academic policies to assess the credibility of this novel theory for terminating a head coach. None of USU's academic policies for students – even for student-athletes - mention APR scores, which makes them irrelevant as a matter of law to Coach Anderson's contractual obligations.

USU's current policies regarding academic standing for all students and for student athletics eligibility are published in the current USU catalog:

## **Good Standing**

An undergraduate student is considered by the University to be in *good standing* when their institution GPA is 2.00 or higher. At the end of a semester, one of the following actions will be taken for students who began the term in good standing:

## **Academic Standing for Student Athletics Eligibility**

Student athletes are considered, for purposes of athletics eligibility and NCAA or NJCAA intercollegiate competition, to be in good standing if they meet the applicable NCAA or NJCAA grade point average rule and are able to register for classes and attend during the next subsequent regular academic semester.

Instead, USU's academic policy specifically limits the application of any NCAA benchmarks or scores to the "grade point average rule." The NCAA has set out the Division I minimum grade-point average requirements in its By-Laws:

14.4.3.3 Fulfillment of Minimum Grade-Point Average Requirements. A student-athlete who is entering the second year of collegiate enrollment shall present a cumulative minimum grade point average (based on a maximum 4.000) that equals at least 90 percent of the institution's overall cumulative grade-point average required for graduation. A student-athlete who is entering the third year of collegiate enrollment shall present a cumulative minimum grade-point average (based on a maximum of 4.000) that equals 95 percent of the institution's overall cumulative minimum grade-point average required for graduation. A student-athlete who is entering the fourth or later year of collegiate enrollment shall present a cumulative minimum grade-point average (based on a maximum of 4.000) that equals 100 percent of the institution's overall cumulative grade-point average required for graduation. If the institution does not have an overall grade-point

average required for graduation, it is permissible to use the lowest grade-point average required for any of the institution's degree programs in determining the cumulative minimum grade-point average. The minimum grade-point average must be computed pursuant to institutional policies applicable to all students. (Adopted: 1/10/92 effective 8/1/92, Revised: 10/31/02 effective 8/1/03, 4/15/09)

As reported by USU in press releases and on its website, Coach Anderson's football teams have exceeded USU's minimum grade point average and have consistently been in good standing by always satisfying the NCAA's "grade point average rule." USU has also reported that the football team's collective average GPA has consistently been well-above the minimum during Coach Anderson's tenure, ranging from 2.8 to 2.92. After boasting about the academic performance of the Aggie's football team for the past several years, it's difficult to understand why USU now wants to fire its head football coach on grounds that he didn't perform some magic to make his players smarter.

That, of course, begs the question: what did the AD expect Coach Anderson to do that he failed to do? The Termination Letter doesn't say.

To fire Coach Anderson based on his team's APR scores, the AD can't just toss about some words about academic value. She must come forward with evidence to show that Coach Anderson failed to take actions which he should reasonably have known were necessary to improve his team's APR scores – or failed to follow a directive to do something she told him to do – *and* that his failure to do so was the proximate cause of his team's failure to achieve higher APR scores.

First, Coach Anderson never failed to follow any directive from the AD about APR scores or anything else. Second, as evidenced by the Declaration of Austin Albrecht, (Exhibit H), Coach Anderson closely monitored his players' academic performance, and constantly emphasized to his players the importance of academics and graduating on time.



So how is it that Coach Anderson is somehow to blame for a drop in his team's APR scores? The AD hasn't explained that yet, but we trust she's still giving it some thought.

Additionally, several of Coach Anderson's student-athletes have won accolades and awards for accomplishments that include exemplary academic performance. Each time, USU published news of the honors. Some examples include the following:

- Announced in January 2024, four football players were named to the 2023 College Sports Communicators Academic All-District Team. To qualify for this honor, a football player must have a 3.5 or better GPA and have played a substantial role in their team's games during the season.

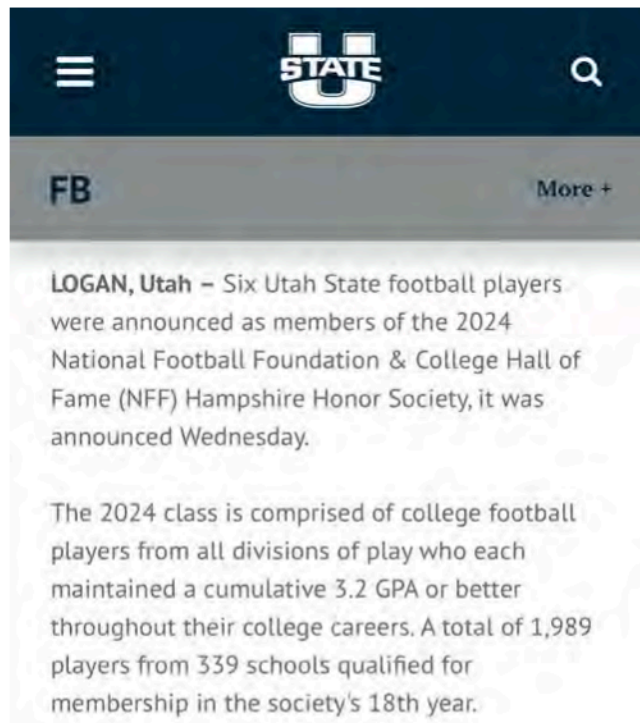


- Several football players have been honored at the Joe E. and Elma Whitesides Scholar-Athlete Luncheon each year. An athlete must have a cumulative GPA of 3.2 or higher or

have posted a 3.2 GPA during the prior two (2) semesters. Coach Anderson had 33 players receive this honor in 2024 and 28 in years 2022 and 2023, respectively.



- Six (6) of Coach Anderson's players were named to The National Football Foundation and College Hall of Fame's Hampshire Honor Society in 2024, a school record. To qualify, a football player must maintain a 3.2 GPA or better throughout his college career.



- Thirty-five (35) of the ninety-four (94) USU recipients of the Academic All-Mountain West Honors in 2024 were football players. In 2023, 25 football players received the honor with 18 receiving it in 2022. To be eligible for selection, a student-athlete must have completed one academic term at the member institution while maintaining a 3.0 GPA or better and be a starter or significant contributor to their athletic team.



Coach Anderson’s student-athletes have not only met, but have exceeded, the academic performance requirements under any interpretation of USU’s academic policies; therefore, USU simply cannot rely on APR scores or the academic performance record of the football team to terminate Coach Anderson’s contract for “cause.”

Despite the complete irrelevance of APR scores here, USU next awkwardly attempts to trigger another “cause” provision based on APR scores by stating that Coach Anderson’s alleged failure to comply with the academic requirements of USU puts the team and athletic department “at risk of public embarrassment and disrepute.” The contract paragraph at issue here reads:

Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in USU’s reasonable judgment, brings or may bring Coach and/or USU into public disrepute, embarrassment, contempt, scandal, or ridicule or which constitutes a substantial failure to perform in good faith the duties required

of Coach as set forth in this Agreement or failure by Coach to conform Coach's personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon USU's reputation and overall primary mission and objectives, including, but not limited to, acts of dishonesty, misrepresentation, fraud or violence that may or may not warrant arrest by the relevant authorities. (Agreement 6.1(p))

Perhaps USU believes that merely quoting terms that appear in a paragraph somehow invokes its applicability. But this attempt also fails. The fact is, even if Coach Anderson's APR scores are not satisfactory to USU, they fall within the NCAA's acceptable parameters in accordance with current policies. Coach Anderson faces no sanction by the NCAA and cannot be sanctioned based on his current APR score. Any alternative is purely speculative and not sufficient to arise to the level of "cause."

In any event, given the public embarrassment and ridicule which USU has unleashed on itself by making highly defamatory statements about Coach Anderson, the university's pretextual concerns about APR scores damaging its reputation are likely to pale in comparison to the concerns it will soon have about: (a) the self-inflicted harm to USU's reputation created by poor leadership and terrible decisions; (b) what to do about the senior officials who created this fiasco by making those decisions; and (c) the difficulty of finding a head football coach who would be willing to risk his career and reputation by working for those kinds of people.

**USU CANNOT MEET ITS BURDEN OF PROVING GROUNDS THAT  
JUSTIFY TERMINATION FOR "CAUSE"**

In *Beckman v Cybertary Franchising LLC*, 424 P3d 1016 Utah App. (2018), the Utah Court of Appeals held that where, as here, the specific grounds are spelled out in the contract, the employer has the burden of proving those specific behaviors or failures to justify terminating an employment agreement for "cause." As here, the Court observed that only a proven violation of those specific contract terms can justify terminating an employee for "cause":

The contract language "established a standard that is sufficiently definite to allow a fact-finder to determine whether [Cybertary] had [cause] to support the termination of [Beckman's] employment." . . . *See id.*; *Janoff v. Gentle Dental, P.C.*, 163 Or. App. 159, 986 P.2d 1278, 1280–81 (1999) (seeing "no reason to treat [an employment] contract differently from every other contract, including [a] plaintiff's right to a judicial determination of all factual issues related to whether" the enumerated grounds for termination were satisfied).

The decision in *Beckman* makes clear that, even if USU could prove that Coach Anderson had violated some USU policy or was somehow responsible for a drop in his team's APR scores – which it cannot – that would still not be enough to justify terminating his employment for "cause." Instead, USU has the burden of proving that Coach Anderson engaged in conduct that constituted a breach of one or more of the specific subsections in section 6.1 of his Employment Agreement. In other words, Coach Anderson doesn't have to prove anything. USU has the burden of proving a breach of the specific grounds set forth in his contract and must do so with credible *evidence* – not with an investigator's opinion, speculation about remote possibilities, or investigative reports that point to completely opposite conclusions. The Termination Letter spells out the specific subsections in section 6.1 that Coach Anderson allegedly violated:

**Contractual Bases for Termination for Cause**

Under the Agreement, termination for cause is warranted for the following reasons, among others:

- A material breach of contract terms, as reasonably determined by the Director (see Agreement, Section 6.1(f)); and/or
- A significant or repetitive or intentional violation of any University Rules or other regulatory requirements applicable to higher education generally, as reasonably determined by USU (see Agreement, Section 6.1(h)); and/or
- A significant or repetitive or intentional violation of any University Rules by any person under Head Coach's ("Coach") supervision or direction if Coach knew or should have known of the violation through the exercise of reasonable diligence and failed to use reasonable and timely best efforts to prevent the violation and/or to promptly report the violation (see Agreement, Section 6.1(e)); and/or
- Failure to submit required reports regarding alleged crimes or violation of University Rules by student-athletes and/or an Athletics Department employee in a timely manner (see Agreement, Section 6.1(i)); and/or
- Failure by Coach to manage the Team in a manner that reflects the academic values of USU, as reasonably determined by USU (see Agreement, Section 6.1(o)); and/or
- Commission of or participation in by Coach of any act, situation, or occurrence or any conduct which, in USU's reasonable judgment, brings or may bring Coach and/or USU into public disrepute, embarrassment, contempt, scandal, or ridicule or which constitutes a substantial failure to perform in good faith the duties required of Coach as set forth in this

7400 Old Main Hill | Logan, UT 84322-7400 | (435) 797-1850 | [utahstateaggies.com](http://utahstateaggies.com)



Agreement or failure by Coach to conform Coach's personal conduct to conventional standards of good citizenship, with such conduct offending prevailing social mores and values and/or reflecting unfavorably upon USU's reputation and overall primary mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not warrant arrest by the relevant authorities (see Agreement, Section 6.1).

AD Sabau mistakenly seems to think that she has unfettered discretion to decide whether an alleged breach of Coach Anderson's contract is "material." She is wrong about that, however. Her views on the evidence must be objectively reasonable, and that could well be something a Cache County jury will have to evaluate.

The other alleged grounds for termination for "cause" will not hold up in court for all kinds of reasons. As shown above, AD Sabau claims that Coach Anderson is guilty of doing things that could subject USU to "public disrepute, embarrassment, contempt, scandal, or ridicule" and that his behavior was inconsistent with "conventional standards of good citizenship," "offend[ed] prevailing social mores and values," and/or "reflect[ed] unfavorably upon USU's reputation and overall primary mission and objectives." After taking twelve months looking for dirt on Coach Anderson, the investigators' summary of their findings contains nothing of the sort.

With respect to the allegation that Coach Anderson breached his contract by not "manag[ing] the football team in a manner that reflects the academic values of USU," we thoroughly discredited that assertion in the previous section of this Response. As shown previously, this alleged basis for termination is so far off the good faith chart that it would most likely be sanctionable if asserted in a court of law.

Notably, USU's Termination Letter fails to address, or even mention, the most significant provision in Coach Anderson's Employment Agreement affecting USU's ability to fire him for "cause." Lawyers who represent coaches sometimes refer to this protective contract provision as a "no gotchas" clause.

By including such a clause in the coach's contract, the university agrees that it will not attempt to fire the coach for "cause" for "minor or technical violations" of his Employment Agreement



that are “non-repetitive and/or curable” and do not “damage USU or entail the risk of material penalties”:

**Notwithstanding the foregoing, USU acknowledges and agrees that it does not intend to terminate this Agreement for minor or technical violations of its terms that are non-repetitive and/or curable and that do not damage USU or entail the risk of material penalties.**

It’s not surprising that USU failed to address or even mention the “no gotchas” provision in Coach Anderson’s contract. By just ignoring it, USU was spared the impossible task of explaining why the language in that provision wouldn’t bar USU from using *any* of its allegations as to fire Coach Anderson for “cause.”

Perhaps with the absurd allegation about APR scores, every allegation in the Termination Letter is “technical, non-repetitive and/or curable.” Moreover, even if the alleged violations hadn’t been torn to shreds in this Response, none of them could possibly “damage USU or entail the risk of material penalties.” As noted earlier, any potential damage to USU resulting from the school’s colossal blunders will be 100% self-inflicted.

## **CONCLUSION**

The Termination Letter’s laundry list of alleged “morality and good citizenship grounds” calls to mind a quote attributed to the 18<sup>th</sup> century French writer, historian, and philosopher, Voltaire, who famously said: “*Throw enough mud at the wall, and some of it will stick.*”

As noted earlier, however, USU’s approach to terminating Coach Anderson has been more like shooting arrows at a rock wall. After seeing every arrow in USU’s quiver get shattered or fall to the ground, the university’s senior leadership and Board of Trustees should carefully and thoughtfully consider USU’s position before deciding to move forward.

For the reasons set forth in this Response, USU owes Coach Anderson not only the full amount of his “buyout” but also a retraction of its defamatory press release and a public apology.

Thomas A. Mars  
MARS LAW FIRM  
5500 Pinnacle Point Drive,  
Rogers, AR 72758

Kathryn E. Platt  
BRADY & PLATT, PLC  
P.O. Box 9298  
Fayetteville, AR 72703

*Attorneys for Coach Blake Anderson*

### **CERTIFICATE OF SERVICE**

I, Thomas A. Mars, hereby certify that a true and accurate copy of this Response was delivered to USU AD Sabau via e-mail on July 15, 2024, per the AD's directions, with a copy to USU's General Counsel, Mica McKinney.

By: /s/ Thomas Mars