



1 Dickerson, Esq. and the Respondent was represented by Charles  
2 Hilsabeck, Esq., Assistant General Counsel and Cary Groth,  
3 Athletic Director. Four days of hearings were held. The  
4 evidence of record consists of the testimony of twelve witnesses  
5 and seven exhibits.

6 The undersigned administrative hearing officer, having  
7 heard and considered the arguments of the parties and reviewed  
8 the exhibits and testimony of the witnesses does hereby make the  
9 following Findings of Fact, Conclusion of Law and Decision.  
10

11 **FINDINGS OF FACT**

12 On February 9, 2004 Respondent hired Petitioner as the Head  
13 Women's Soccer Coach for the University of Nevada, Reno. On  
14 June 15, 2007 Petitioner was reappointed to her position for the  
15 2008 fiscal year.<sup>1</sup> On or about August 28, 2007 Respondent  
16 exercised the 60-day notice provision of Petitioner's employment  
17 contract and terminated her from state service.<sup>2</sup> On September  
18 11, 2007 Petitioner filed a Whistle Blower Complaint.<sup>3</sup>

19 Prior to the commencement of the administrative hearing the  
20 undersigned administrative hearing officer issued two orders.

21 The first order, issued on November 25, 2007 denied Respondent's  
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23 <sup>1</sup> Exhibit 4, p. 71. See also, Exhibit 4, p. 73, Addendum to Employment  
24 Contract, signed by Petitioner on October 24, 2006 which provides, in part,  
25 that "Notwithstanding the provisions of the NSHE Code, including but not  
limited to sections 5.9.1 and Chapter 6, this contract may be terminated at  
any time for any reason upon 60 days written notice of termination of  
Employee; Employee has no appeal rights."

<sup>2</sup> Exhibit 4, p. 119

<sup>3</sup> Exhibit 1

1 Motion to Dismiss, granted Petitioner's request for a Discovery  
2 Conference<sup>4</sup>, and granted Petitioner's request to amend the  
3 Whistle Blower Complaint to include an alleged sexual harassment  
4 as an additional disclosure of improper governmental action. On  
5 December 10, 2007 the undersigned administrative hearing officer  
6 issued an order denying Petitioner's request to order the  
7 Respondent to cease and desist from advertising for a new Head  
8 Women's Soccer Coach while the instant Whistle Blower Complaint  
9 is pending.

10  
11 **THE WHISTLE BLOWER COMPLAINT**

12 In accordance with the requirements of NRS 284.641, the  
13 Whistle Blower Complaint described the specific allegations of  
14 alleged improper governmental action; described when and to whom  
15 the alleged improper governmental actions were disclosed; and  
16 described the reprisal or retaliatory action.

17 Petitioner described the specific factual allegations of  
18 improper governmental conduct as follows:

19 "Appellant provided specific factual  
20 allegations regarding violations of NCCA  
21 Rules/Regulations and Title IX requirements  
22 within the University of Nevada-Reno  
23 Athletics Department as well as serious  
24 violations of the University of Nevada  
25 Ethics Code as committed and/or permitted to  
occur by Director of Athletics Cary Groth,  
Executive Associate Athletics Director Cindy  
Fox, Associate Athletics Director Keith

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<sup>4</sup> A Discovery Conference was held on November 27, 2007.

1 Hackett, Mens (sic) Golf Head Coach Rich  
2 Merritt and Assistant Football Coach Cameron  
3 Norcross."<sup>5</sup>

4 Petitioner described the governmental conduct as follows:

5 "The specific factual allegations were  
6 disclosed on May 21, 2007, June 25, 2007,  
7 and August 7, 2007, in writing to Executive  
8 Associate Athletics Director Cindy Fox; and  
9 on June 25, 2007, and August 28, 2007, to  
10 Director of Athletics Groth."

11 Petitioner described the reprisal or retaliatory action as  
12 follows:

13 "On August 28, 2007 Appellant's contract  
14 with the University of Nevada-Reno was  
15 terminated on sixty (60) days notice without  
16 cause. She was told although she was a  
17 'great coach' that she was a less than  
18 perfect employee. This termination occurred  
19 one week after appellant was offered a  
20 contract extension for 2 ½ years and  
21 approximately one year after Appellant was  
22 offered a three year contract extension.  
23 The only events which occurred between the  
24 two contract offers were that Appellant  
25 coached her team to the Championship of  
Western Athletic Conference Post-Season  
Tournament, her team earning the first NCAA  
Womens (sic) Soccer Tournament berth in  
school history, and Appellant's  
Whistleblower activities. At the time of  
her termination, Appellant had the most  
successful Womens (sic) sports program at  
the University. Appellant had met all  
performance standards for her position at  
the time of her termination.

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24 <sup>5</sup> Attached to the Whistle Blower Complaint is a detailed description of the  
25 alleged NCAA violations and Title IX violations. Additionally, as discussed  
below, Petitioner was allowed to amend the Whistle Blower Complaint to  
include allegations that Petitioner disclosed that she was sexually harassed  
by Mark Fox, the Men's Basketball Coach.

1 Appellant's contract was terminated on  
2 August 28, 2007 by Director of Athletics  
3 Cary Groth, who is close friends with  
4 Assistant Athletic Director Keith Hackett  
5 and Mens (sic) Golf Coach Rich Merritt.  
6 Appellant was two weeks into the current  
7 season when her contract was terminated and  
8 is the only coach at the University of  
9 Nevada-Reno to have been terminated during  
10 an athletic season."

11 The alleged NCAA violations are described in detail in the  
12 Whistle Blower Complaint as follows:

13 "The following allegations have been brought  
14 to my attention regarding Rich Merritt, head  
15 men's golf coach.

16 New Mexico State Tournament, Oct. 16-18,  
17 2006:

18 Coach Merritt was leading the women's team  
19 as Coach Dansie was on maternity leave.  
20 Coach Merritt gave the team their full trip  
21 per diem at the beginning of the trip. He  
22 then told them that if they played well he  
23 would take them out to dinner. He ended up  
24 taking them to a nice restaurant for dinner  
25 and paid for it himself. They exceeded  
their per diem by "double dipping."

Coach Merritt likes to place side bets with  
his student-athletes. Example - - on this  
trip he bet Melanie De Leon \$10 if she would  
"huck a loogie". He also bet her another  
\$20 that she would not eat some food that a  
teammate had chewed and spit back out. She  
did both and was paid. Melanie later stated  
in front of several people that she "made a  
killing off Merritt on the New Mexico State  
trip."

Other allegations:

1 Coach Merritt is a heavy gambler. He has  
2 admitted to gambling on professional and  
3 collegiate football and basketball. He  
4 regularly hangs out at sports books. He  
5 initially frequented the former Hilton but  
6 felt it was too risky so he has changed to  
7 smaller casinos (where he is less likely to  
8 be seen.)

9 He pays men's and women's golfers well over  
10 standard babysitter pay when they sit for  
11 his kids.

12 There is apparently an NCAA rule that  
13 prohibits NCAA golf programs from paying for  
14 range balls for their golfers if it is not a  
15 "required practice." Coach Dansie addressed  
16 this rule with her athletes. Coach Merritt  
17 later told the female golfers that there is  
18 a way around the rule and if Coach Dansie  
19 does not do it for them he will.

20 Coach Merritt gave one of his personal  
21 frequent flyer airline tickets to his  
22 golfer, Chase Cooper, in May of 2007. Chase  
23 used the ticket to attend a golf tournament  
24 (US Open Qualifier) this summer. While  
25 acknowledging it was illegal, Coach Merritt  
was heard saying that nobody will find out  
about it."<sup>6</sup>

Petitioner reported the alleged NCAA violations to  
Cindy Fox on June 25, 2007. UNR investigated the allegations.  
Coach Merritt was suspended for three tournaments. There is  
also testimony that the NCAA is investigating the gambling  
allegations.

The alleged Title IX violations were described by  
Petitioner as follows:

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<sup>6</sup> Exhibit 1, p. 2

1 "Locker room - being told we cannot use it  
2 for our own home soccer games on the Friday  
3 evenings when football has a Saturday home  
4 game. We are told we cannot use it because  
5 the visiting football team has to store  
6 their equipment in there. I argue yearly  
7 about this. I lost the first two years and  
8 have won arguments the next two years on it.

9 Locker room - was sent an email this last  
10 spring telling me that we could not use our  
11 locker room for some 30+ days because the  
12 visiting baseball teams would have it when  
13 we hosted home baseball games. I once again  
14 had to argue this was completely wrong.  
15 That is 1/3 of our spring season and is  
16 during track's competitive season. The  
17 locker room is shared by soccer and track.  
18 We had to allow them access a dozen times on  
19 the weekend.

20 Locker room - track and soccer were kicked  
21 out of the locker room for 2.5 weeks this  
22 summer for football camp. I was out of  
23 town. When I returned I demanded answers as  
24 to why football did not use their own locker  
25 room when it was right next to ours. I did  
not get answers so I finally sent a formal  
complaint/memo to the administration. The  
administration (Keith Hackett and Cindy Fox)  
was not happy about it.

Keith Hackett told me we had to move our  
practice to another field because football  
wanted to change practice sites. I said no  
problem. He then told me to fill out the  
paperwork for the change. I told him I was  
not the football secretary and there was no  
way I was going to do the paperwork for  
them.

We had to train and compete daily on what I  
refer to as painted concrete. There is no  
more cushion left on Mackay Stadium. It is  
a dangerous surface for soccer players. Our  
player's legs are cut up daily from it.  
Football gets the choice of fields and

1 chooses much better surface at Wolf Pack  
2 Park. I requested football to move there  
3 (sic) practice time by 30 minutes. I would  
4 move mine by 1 hour. This would allow  
5 soccer to use the better field as well.  
6 They said no. I received no help from the  
7 administration on this.

8 One of my student-athletes was told to get  
9 off a rack in the weight room by a football  
10 player because he said he had priority.

11 I reported expressed frustration by my  
12 student-athletes that they felt the weight  
13 room was closed near the end of the summer  
14 because football was done lifting. Some of  
15 my student-athletes felt the hours operated  
16 around the football team only. Football was  
17 done lifting so the weight room closed for  
18 the day...despite the posted hours stating  
19 differently.

20 15 coaches of men's sports have courtesy  
21 cars compared to 5 coaches of women's sports  
22 (16 males to 4 females). We also have a 4  
23 to 1 male/female car ratio among  
24 administrators.

25 Extended Studies complaint - some sports  
have to pay extended studies to do their  
camps. Softball and baseball do not. I  
expressed this unfair inequity dozens of  
times to Cindy Fox in my 3+ years there. I  
wrote it to Cary Groth in the letter I gave  
her on August 26, 2007. I explained that it  
has cost me over \$20,000 to use extended  
studies in my 4 years of camps while some  
coaches do not have to pay a single dollar  
to them. It was part of my negotiation.

Graeme Abel, Soccer Assistant, was the last  
employee in the department to be elevated to  
100%. He was 77% previously. I had to ask  
the administration in early July to push him  
up to 100%. They did not oblige. I did ask  
why soccer was the last sport to go full-  
time even though we were not the last sport

1 added. This was in one of the negotiation  
2 letters.

3 5 different male coaches of men's teams  
4 walked out in the middle of our practices  
5 and started training their teams or  
6 individuals. I let them know how  
7 disrespectful it was and repeatedly kicked  
8 them off. It was a huge issue that was only  
9 addressed with a "I am sure they did not  
10 mean anything by it." This was a daily  
11 occurrence for us and the administration  
12 never made a substantial effort to curtail  
13 it.

9 Keith asked me in the middle of my camp to  
10 share the field with football so they could  
11 condition. I told him that it was a PR  
12 nightmare and that I had the field reserved.  
13 If you would not ask football to do it do  
14 not ask me. Do not put me in a bad light  
15 because football/strength coach did not  
16 reserve space."<sup>7</sup>

14 On August 10, 2007, Ms. Fox sent Petitioner the following  
15 memo in response to the complaint regarding the use of the  
16 facilities filed by Petitioner against Coach Cameron Norcross<sup>8</sup>:

17 "This is in response to your memo of August  
18 7, 2007 making a complaint against Cameron  
19 Norcross, assistant football coach.

20 After receiving your memo, I asked Keith  
21 Hackett, Associate Athletic Director for  
22 facilities and game operations, which has  
23 oversight of football, to respond. After  
24 meeting with Cameron Norcross and Ken Wilson  
25 he prepared the attached response.

23 Additionally, you referred to the track staff  
24 and team in your memo, so I asked Head Coach,

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25 <sup>7</sup> Exhibit 1, pps. 3-4.

<sup>8</sup> Exhibit 4, p.103 is the formal complaint filed by Petitioner against Assistant Football Coach Cameron Norcross.

1 Shantel Twiggs for her feedback regarding the  
2 issue as well. Three student-athletes were  
3 unable to use the locker room on four  
4 separate days, but were able to access their  
5 belongings. She characterized it as an  
6 inconvenience not disrespect for her staff or  
7 student-athletes. After the camp Coach  
8 Twiggs discussed the issue with Keith  
9 Hackett. Keith accepted full responsibility  
10 and apologized for not informing the users of  
11 the locker room in advance of the camp. She  
12 felt comfortable that everything was handled  
13 properly.

14 We have also addressed the following issues:

- 15 1. Prior to summer camps we will check on  
16 facilities that may still be in use for  
17 training by Nevada student-athletes and  
18 accommodate those needs first. Please  
19 note that we share our facilities and we  
20 must work together to make the best use  
21 of all our facilities.
- 22 2. Keith has spoken to Cameron about the  
23 need to respond to emails. I am  
24 confident that he will do so.
- 25 3. If the missing equipment (cones) have  
not turned up please let me know and I  
will replace them.

It is always our intent to be responsive to  
the needs of all of our coaches and student-  
athletes."<sup>9</sup>

The alleged sexual harassment involved Head Basketball  
Coach Mark Fox. The incident occurred at a wine tasting  
fundraiser in May of 2005 at the Reno Events Center. Petitioner  
was walking with Devin Scruggs (the Women's Volleyball Coach)  
toward Mr. Fox, who was with his wife Associate Executive

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<sup>9</sup> Exhibit 4, p. 106. See also, Exhibit 4, pps. 107-112, the emails that were exchanged regarding these issues.

1 Athletic Director Cindy Fox. Mr. Fox said words to the effect  
2 of "looks like you two are on a date." Petitioner believes that  
3 since Ms. Scruggs and she are females that the words were  
4 sexually offensive.

5 Petitioner believed that Mr. Fox did not like her. She  
6 informed Ms. Groth of this and the statement Mr. Fox made to  
7 Petitioner. Ms. Groth asked Mr. Fox if he would be willing to  
8 talk to Petitioner about this matter. Mr. Fox sent the  
9 following response via email on June 26, 2006 to Petitioner:  
10

11 "Hey Terri, sorry for the delay - we just  
12 finished up camp. You know as a successful  
13 coach how crazy the days can get. Thanks  
14 for the invitation [to talk] but I'm going  
15 to decline at this time. I met with Cary  
16 and explained that I think it is best that  
17 everyone just move forward and focus on our  
18 teams."<sup>10</sup>

19 Ms. Groth also sent the following email to Petitioner on  
20 June 26, 2006:

21 "Hey, Terri,  
22 Sorry I took so long in responding... I took a  
23 break from the email all weekend.

24 Mark talked with me after he got your email  
25 and I told him I thought it would be good if  
the two of you talked. I shared with him  
that this is "not just about the DT  
[Dedrique Taylor] situation, it's about some  
issues/concerns" Terri wants to share with  
you. He really doesn't want to and feels it  
best to just move forward.

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<sup>10</sup> Exhibit 3, p. 146

1 I am sorry that it did not work out to visit  
2 with him, however, I do feel that he just  
3 wants to put the past behind and move on.  
4 If that is possible."<sup>11</sup>

5 It is unclear as to whether Petitioner described the  
6 incident as a "sexual harassment" or whether she merely told Ms.  
7 Groth that she was uncomfortable with the comments. Petitioner  
8 did not report the alleged sexual harassment to any UNR  
9 official. It was not discussed again until the Whistle Blower  
10 Complaint was filed.

11 **RESPONDENT'S RESPONSE TO THE WHISTLEBLOWER COMPLAINT**

12 Respondent asserts that it properly responded to the report  
13 of alleged NCAA violations and the alleged Title IX violations.  
14 Respondent further asserts that although Petitioner did mention  
15 the comment of Mark Fox to Ms. Groth, Petitioner never reported  
16 the incident as sexual harassment.

17 Respondent also asserts that Petitioner was not fired for  
18 disclosing allegations of improper governmental conduct.  
19 Rather, Respondent asserts that Petitioner was terminated  
20 because of (1) Petitioner's failure to follow directives; (2)  
21 lack of trust and confidence in Petitioner; and (3) Petitioner's  
22 numerous threats to resign.

23  
24 **Petitioner's Job Performance at UNR**

25  

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<sup>11</sup> Exhibit 3, p. 145

1 The testimony of the witnesses<sup>12</sup> and the exhibits admitted  
2 into evidence describe the history of the employment of  
3 Petitioner by Respondent.

4 Petitioner's Personnel Service Jacket<sup>13</sup> contains the  
5 following performance evaluations:

6 January 2004-December 2004: Commendable  
7 January 2005-December 2005: Commendable<sup>14</sup>  
8 January 2006-December 2006: Commendable

9 A Commendable rating is the second highest evaluation that  
10 a coach at UNR can receive. There was testimony that the  
11 highest rating, Excellent, is rarely given to a UNR coach.

12 There is evidence that during Petitioner's tenure as Head  
13 Women's Soccer Coach at UNR the won-loss record of the Women's  
14 Soccer team improved significantly. There is also evidence that  
15 UNR Athletic Department Officials believed that Petitioner was a  
16 "great coach". The players on the Women's Soccer team received  
17 good grades and were generally above average student-athletes.  
18 There is no indication that Petitioner violated any UNR or  
19 National Association of Intercollegiate Athletic ("NCCA") rules  
20 or regulations.  
21

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22  
23 <sup>12</sup> The testimony of the individual witnesses is discussed in detail  
hereinafter.

24 <sup>13</sup> Exhibit 2

25 <sup>14</sup> Exhibit 4, pps. 2-4 contains an unsigned Performance Evaluation for this  
period indicating that Petitioner received a Satisfactory evaluation whereas  
Exhibit 2 contains a signed Performance Evaluation with a Commendable  
evaluation. The categories are Unsatisfactory, Satisfactory, Commendable and  
Excellent.

1           Petitioner's tenure at UNR was not, however, without  
2 significant turmoil and controversy. As part of Petitioner's  
3 January 2005-December 2005 performance evaluation, it was  
4 indicated that the following areas required improvement on the  
5 part of Petitioner:

6           **"Must focus on ability to deal with  
7 adversity, on and off the field in a  
8 professional manner.**

- 9           ➤ **Maintain composure and poise in adverse  
10 situations.**
- 11           ➤ **Work with administration to follow  
12 proper administrative protocol when  
13 necessary.**
- 14           ➤ **Maintain a professional working  
15 relationship with those associated with  
16 institution and conference.**
- 17           ➤ **Ask for help and/or guidance when  
18 needed."**<sup>15</sup>

19           Petitioner's January 2006-December 2006 Performance  
20 Evaluation contains the following:

21           **"When faced with a challenging scenario, it  
22 is imperative to redirect energy toward a  
23 more positive outcome rather than revisiting  
24 the details of a difficult situation."**<sup>16</sup>

25           The January 2006-December 2006 performance evaluation also  
26 identified the following as areas for improvement:

27           **"Due to the increased competitiveness of the  
28 soccer program, increased communication and  
29 feedback with student athletes might be  
30 necessary.**

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31 <sup>15</sup> Exhibit 2

32 <sup>16</sup> Exhibit 2

1 Continue to focus on ability to deal with  
2 adversity, on and off the field in a  
3 professional manner.

- 4 ➤ Maintain composure and poise in adverse  
5 situations.
- 6 ➤ Work with administration to follow  
7 proper administrative protocol when  
8 necessary.
- 9 ➤ Maintain a professional working  
10 relationship with those associated with  
11 institution and conference.
- 12 ➤ Ask for help and/or guidance when  
13 needed."<sup>17</sup>

14 According to Respondent, the areas for improvement were  
15 originally identified because of Petitioner's allegedly  
16 unprofessional reaction to a tie breaking procedure used by the  
17 Western Athletic Conference (WAC) to determine seeding for the  
18 conference tournament. Respondent believed that Petitioner had  
19 acted unprofessionally toward WAC Staff. The areas for  
20 improvement were also identified based on certain evaluations of  
21 Petitioner by student-athletes. One of the evaluations was as  
22 follows:

- 23 1. "Good coach, Good recruiter. But has  
24 problems with managing team fairly and  
25 efficiently.
2. The main complaint I have is that I  
was struggling at practice this year and I  
rarely to never got feedback on what I can  
do to be better. They put the players who  
were not the stars this year on the back  
burner which was very frustrating. There  
were many practices where I barely took part  
and practice is the time where they should  
be working to improve all their athletes and

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<sup>17</sup> Exhibit 2

1 not just the star players. But on a  
2 positive note she gets the job done--  
3 Great recruiter, she brings great players to  
4 help maintain high competition standards.  
5 She is a good coach. She really understands  
6 the game and what it takes to accomplish  
7 that, but sometimes she gets to (sic) close  
8 to the problem to understand how to fix  
9 it."<sup>18</sup>

10 Another student-athlete provided the following evaluation  
11 of Petitioner:

- 12 1. "My coach was completely  
13 disrespectful not only to many players on  
14 my team, but also to other WAC coaches and  
15 to WAC board members. She also uses foul  
16 language all the team (sic), even when it  
17 is extremely unnecessary and quite frankly  
18 was an embarrassment to our entire team.  
19 The only thing I commend her for is her  
20 ability to recruit good players. Other  
21 than that, I would not commend her on any  
22 coaching techniques. I would definitely  
23 not recommend this sport program to  
24 anyone.
- 25 2. We broke the NCAA rules a few times  
by practicing every single day for a few  
weeks. We also did go over 20 hours a  
couple times as well. I think Terri  
knows alot (sic) about the game, but  
forgets that we have more than just  
soccer in our lives. Sometimes it feels  
when family problems or other hard things  
are going on outside of soccer, she  
thinks that it is not important. Other  
times her temper gets in the way and  
these things cause her to not do as well  
of a job. I think if she relaxed more,  
and learned to control her anger she  
would be a much more effective coach."<sup>19</sup>

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<sup>18</sup> Exhibit 4, p. 64

<sup>19</sup> Exhibit 4, p. 11

1           Although some student-athletes did have issues with  
2           Petitioner, many also praised Petitioner. The following is an  
3           example of a student-athlete who had a very positive experience  
4           with Petitioner:

5                     Dear Terri,  
6                     I wanted to thank you for being a wonderful  
7                     coach and for a magnificent season. I am so  
8                     glad that I can leave the program with it  
9                     going in the right direction. I can not  
10                    tell you how much that means to me. The  
11                    team is very luck (sic) to have a coach that  
12                    cares about us on and off the field. If you  
13                    ever need anything from me just let me know.

14                    I also wanted to thank you for all the  
15                    goodies at the beginning of the season.<sup>20</sup>

16           Many parents of potential student-athletes expressed  
17           concern when they learned of Petitioner's termination. The  
18           following is an example of a note from a parent:

19                    "Cindy Fox  
20                    Executive Associate Athletic Director

21                    Dear Ms. Fox:

22                    Terri Patraw's been a role model at Nevada -  
23                    on and off the Soccer field - to the student  
24                    athletes who have had the opportunity to  
25                    work with her.

                  It remains my hope that Casey, my soccer  
                  playing daughter, will have that opportunity  
                  in 2008.

                  Please ask Ms. Groth to consider the  
                  negative impact her unfortunate decision  
                  releasing Ms. Patraw already has had on

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<sup>20</sup> Exhibit 3, p. 19

1 Nevada's soccer program. Isn't she supposed  
2 to look out for student-athletes, not hurt  
3 them?

3 Why would any college bound student-athlete  
4 want to risk institutional hazards (sic)  
5 spontaneously created by institutional  
6 bureaucrats like Ms. Groth?

6 With Patraw gone, how else is the AD going  
7 to celebrate mediocrity.

7 Please do your best to turn this around.  
8 Thanks."<sup>21</sup>

#### 9 **Incidents with Assistant Basketball Coach**

10 In addition to the areas for improvement listed on the  
11 performance evaluations, there was a series of incidents  
12 involving Petitioner and Dedrique Taylor, former Assistant  
13 Basketball Coach at UNR. It appears that Petitioner had a  
14 relationship with Mr. Taylor at the same time Mr. Taylor was  
15 seeking a similar position at Arizona State University.  
16

17 On June 3, 2006, Mark Fox, UNR Head Basketball Coach,  
18 received the following anonymous e-mail from "Pack Donor":

19 Coach Fox, I am writing to offer a \$25,000  
20 donation on behalf of keeping Coach Taylor  
21 in the fold. The only stipulations are that  
22 the money is donated 100% to his salary and  
23 that he stays through the 2006-07 season. I  
24 was unaware that anything was in the works  
25 with another potential employer or I would  
have stepped up sooner. I will cut a check  
in full within 48 hours of an announcement

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<sup>21</sup> Exhibit 3, p. 63

1 that he is staying (should that be the  
2 case). You can give him the full \$25,000 in  
3 lump sum or throughout the year (however the  
4 university allows). This salary should give  
5 you two well-paid and, I believe, similarly  
6 paid assistants in Taylor and Carter.

7 I want to keep this train rolling and,  
8 having met this young man, I believe he has  
9 a lot to offer the Pack. If you need a  
10 promissory agreement prior to an  
11 announcement just respond to this email and  
12 we will work through my attorney. I want my  
13 name 100% out of this. All dealings will be  
14 through my attorney and anonymous in nature.

15 I understand this will not equal AZ State's  
16 direct offer. However, playing in the NCAA  
17 Tournament (Sweet 16 or better if Nick  
18 returns) next year vs dwelling in the cellar  
19 of the Pac 10 will more than make up for  
20 this in long range salary. He will also not  
21 have to bare the cost associated with  
22 selling one home and buying another.  
23 Considering these points the financial  
24 difference is in favor of Nevada.

25 Coach Fox, I am someone who made there (sic)  
voice loud and clear to Ms Groth that we  
wanted you around. I am just doing the same  
for a young man that I believe is valued at  
Nevada. I have heard you speak fondly of  
him.

For Coach Sendek this is another in a line  
of assistants who are backpedaling on that  
job. Larry Harris, Greg Moreland, and a  
third fellow all backed out after spending  
over a month on the job. Coaching contracts  
mean nothing if he has signed there. AZ  
State is a dead end job and these other  
coaches quickly recognized it. I am  
interested in helping Coach Taylor and the  
Wolf Pack program. Stability is how great  
programs are built.

1 Nevada basketball is better for this young  
2 man's career than a PAC 10 doormat. Taylor  
3 can be assured that it is OK to change his  
4 mind. It happens in business and sports  
5 professions all the time. Also, the timing  
6 to get the donor support was difficult with  
7 you being on vacation during this  
8 transaction.

9 Coach Fox, this donation is 100% contingent  
10 on Coach Taylor staying at Nevada through  
11 the 2006-07 basketball season. And, 100% of  
12 the \$25,000 is to be directed to his salary.  
13 If he completes the move to AZ State then  
14 the offer is off the table.

15 Please email me back at packdonor@yahoo.com  
16 if there is interest in this offer.

17 I anxiously await your response.

18 Pack Donor<sup>22</sup>

19 In addition to the above email, "Pack Donor" sent several  
20 other emails regarding the retention of Mr. Taylor. The other  
21 emails were sent to Mr. Fox and Mr. Taylor. Mr. Taylor also  
22 responded via emails.<sup>23</sup>

23 Officials from the UNR Athletic Department believed that  
24 the "Pack Donor" may have been Petitioner because of her  
25 relationship with Mr. Taylor. An investigation was conducted.  
As will be discussed hereinafter, there is testimony in this  
proceeding that it is over 99% certain that the "Pack Donor"  
emails came from Petitioner's computer. Petitioner denies that

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<sup>22</sup> Exhibit 4, pps. 191-192

<sup>23</sup> See Exhibit 4, pps. 189-190, 193, 195, 202. Coach Taylor did not stay at UNR.

1 she sent the emails. The UNR Athletic Director suggested that  
2 Petitioner receive counseling.

3 This was not the only issue involving Petitioner and Mr.  
4 Taylor. On June 19, 2006, Mr. Taylor sent an email to Ms. Groth  
5 requesting that Petitioner cease all communication with him.<sup>24</sup>  
6 Ms. Groth contacted the UNR Police Department. On June 21,  
7 2006, Petitioner discussed the Taylor matter with a UNR Police  
8 representative. Petitioner was asked to have no further contact  
9 with Mr. Taylor, and Mr. Taylor was asked via a telephone call  
10 that he should also have no contact with Petitioner.<sup>25</sup>  
11

12 The meeting with the UNR Police Department was memorialized  
13 in a June 21, 2006 memo signed by Kevin Youngflesh.<sup>26</sup> The memo  
14 provides as follows:

15 "On June 21, 2006 at about 1600 hours,  
16 Athletic Director Cary Groth came to the  
17 Police Department with Coach Terri Patraw.  
18 AD Groth waited in the break room while  
19 Associate Director Renwick and I spoke with  
20 Coach Patraw in the conference room.

19 I thanked Coach Patraw for coming down to  
20 the Police Department and informed her that  
21 I was not investigating any crime or  
22 criminal activity, but was attempting to  
23 mediate prior to the situation becoming a  
24 criminal matter.

---

24 <sup>24</sup> Exhibit 4, p. 230

25 <sup>25</sup> Exhibit 3, p 108 is an email from Mr. Taylor dated March 7, 2007 "recanting  
all accusations towards Ms. Patraw."

<sup>26</sup> Exhibit 4, pps. 33-34

1 I told Coach Patraw that former UNR Coach  
2 Dedrique Taylor did not want any further  
3 contact with her. I advised her that any e-  
4 mail, text message, letter, phone call, or  
5 other contact may be considered stalking or  
6 harassing in nature and lead to criminal  
7 prosecution. Coach Patraw stated she fully  
8 understood and had no intention of  
9 communicating with Coach Taylor.

10 Coach Patraw went on to explain that she was  
11 not engaged in any type of stalking  
12 behavior, but that communication between her  
13 and Coach Taylor was mutual. Coach Patraw  
14 stated that on May 22, 2006 between 1200 and  
15 1400 hours, she received a phone call from  
16 Coach Taylor where he was threatening her.  
17 Coach Patraw stated that Coach Taylor stated  
18 several times, "It's all on you", and used a  
19 tone where she felt he was threatening her  
20 not to say anything about the "dirt" she had  
21 on him.

22 Coach Patraw explained that she was in a  
23 relationship with Coach Taylor at the same  
24 time he had a girlfriend. She said she did  
25 not know about Coach Taylor's girlfriend at  
the time they were dating and believes Coach  
Taylor is afraid she will disclose his  
infidelities to his girlfriend. Coach  
Patraw said she also had knowledge of Coach  
Taylor violating NCAA rules and believes he  
is also afraid of her disclosing the  
violations to the University.

I provided Coach Patraw with my business  
card and suggested she call me if she had  
any contact with Coach Taylor. She  
requested that I also ask Coach Taylor to  
have no contact with her.

At about 1635 hours on June 21, 2006, I  
contacted Coach Taylor via telephone. I  
advised him that I relayed his request to  
Coach Patraw to have no further  
communication. He stated that was not a

1                   problem and he assured me that he would not  
2                   be communicating with Coach Patraw.

3                   On August 28, 2006, Ms. Groth sent the following memo to  
4                   Petitioner:

5                   I feel that it is appropriate to notify you,  
6                   in writing how disappointed I am that you  
7                   have disregarded my directive regarding the  
8                   issue involving Dedrique Taylor.

9                   My directive, simply put, was that there was  
10                  to be no further discussion regarding this  
11                  matter nor was this situation to continue to  
12                  disrupt our athletics operation.

13                 Additionally, you and I spoke about the  
14                 possibility that the "anonymous donor"  
15                 email, addressed to me, was generated from  
16                 your computer. While there is not absolute  
17                 proof, the probability is high, that the  
18                 email did come from your computer. You have  
19                 denied sending the email, however, I am  
20                 hopeful that if you did have anything to do  
21                 with the email, that you would refrain from  
22                 such inappropriate behavior in the future.

23                 Any further discussion regarding this issue  
24                 will be considered insubordination and may  
25                 necessitate disciplinary action."<sup>27</sup>

26                 Respondent asserts that Petitioner did not put the Dedrique  
27                 Taylor matter behind her. Respondent cites a May 22, 2007 email  
28                 sent to Cindy Fox, Associate Executive Athletic Director<sup>28</sup> where  
29                 the Dedrique Taylor matter was brought up as well. Respondent

---

30 <sup>27</sup> Exhibit 4, p. 38. Petitioner contends that the memo was meant to instruct  
31 her not to bring up the issue of the alleged NCCA violations committed by Mr.  
32 Taylor. Respondent denies it had anything to do with alleged NCAA  
33 violations.

34 <sup>28</sup> Exhibit 4, p. 69

1 also contends that Petitioner had verbal conversations regarding  
2 Mr. Taylor after she was instructed not to discuss the matters  
3 further.

#### 4 **Threatened Resignations and Salary Discussions**

5 Respondent alleges that Petitioner threatened to resign  
6 from her position on numerous occasions. Some of the threatened  
7 resignations related to Petitioner's belief that she was not  
8 properly compensated as the Head Women's Soccer Coach.

9 The record indicates that the first threatened resignation  
10 occurred during the controversy involving Dedrique Taylor. On  
11 July 7, 2006, Petitioner sent an email to Ms. Fox providing, in  
12 part, as follows:  
13

14 "We cannot keep putting this off. You need  
15 time to hire a new coach. You have a month  
16 to get someone here. This is a great job  
17 with a fantastically talented team. The  
18 schedule is set through 2008 and includes  
19 home games with Big Ten and Pac 10 teams.  
20 We are almost finished with 2007 recruiting  
21 so the future is well taken care of.  
22 Organizationally things could not be in  
23 better shape. And, the team is the nicest  
24 group of people I have ever coached."<sup>29</sup>

25 Beginning in the late spring of 2007, Petitioner again  
began to threaten to resign. The threats were based on her  
belief that she was not fairly compensated by UNR. According to

---

<sup>29</sup> Exhibit 4, p. 240

1 the testimony of Ms. Fox, on May 18, 2007 she tried to talk  
2 through things with Petitioner, including her threat to resign.

3 On June 22, 2007, Petitioner sent a text mail to Ms. Fox as  
4 follows:

5 "The gardner contract just made for  
6 wonderful employee morale-the least  
7 successful coach in the dept gets a 5 yr  
8 extension and a raise larger than mine-ur  
9 most successful coach-mind boggling. She  
10 has had one winning season in 5 years! U  
11 will have my resignation Monday am. Sorry  
12 but I cannot believe the way I have been  
13 treated here. Why is it that everyone  
14 respects me and the job I have done but u  
15 and cary? I hope you will let me tell cary  
16 myself? Thank you?"<sup>30</sup>

17 Associate Athletic Director Keith Hackett prepared a memo  
18 regarding a conversation he had with Petitioner on June 25,  
19 2007. That memo provides, in pertinent part, as follows:

20 "She began by asking me if I had seen the  
21 press release from the Board of Regents  
22 meeting that afternoon regarding the  
23 contract extension of Coach Mark Fox and my  
24 reply was that no I had not. She then  
25 continued to talk in a very angry manner  
about a raise and a contract extension that  
Women's Softball Coach Michelle Gardner had  
just received. Again, my response was that  
I had not seen the release and was not aware  
of Coach Gardner's contract situation. I  
noticed that Coach Patraw had a letter in  
her hand and she went on to explain to me  
that that she was going to resign in protest  
over what she had read in the press release.  
She continued to complain about Coach

---

<sup>30</sup> Exhibit 4, p. 136

1 Gardner and how she had not earned anything  
2 that she was getting and that she (Coach  
3 Patraw) deserved more then she was receiving  
4 for the success of her program. She was  
5 visibly shaken and upset and was ready to  
6 tender her resignation at that moment. Her  
7 language was profanity laced during the  
8 entirety of our conversation."<sup>31</sup>

9 Also, on June 25, 2007 Petitioner delivered the following  
10 letter to Ms. Fox:

11 "To Cary Groth and Cindy Fox:

12 Please accept this as my letter of resignation as Head  
13 Soccer Coach at the University of Nevada effective  
14 August 1, 2007 (my last 'working' day). I will  
15 fulfill my camp obligations throughout July as that is  
16 money I have earned. Thank you for the opportunity at  
17 Nevada. Please advise when I can tell my team and  
18 release an accurate account of why I am leaving."<sup>32</sup>

19 Ms. Fox testified that she talked Petitioner out of  
20 resigning and assisted Petitioner in drafting a letter to Ms.  
21 Groth expressing her concerns with her salary. Petitioner did  
22 send a letter addressed to Ms. Groth on June 25, 2007 addressing  
23 her salary concerns. That letter included the following  
24 language:

25 "Cary, I want you to know that these issues  
are so important to me that if we cannot  
agree on my value I plan to resign effective  
August 1. This is not a threat; rather it  
is an honest assessment of where I am at. I  
cannot sit back and watch coaches who are  
not successfully performing their duties  
earn a higher salary then me. I have to

---

<sup>31</sup> Exhibit 4, p. 74

<sup>32</sup> Exhibit 4, p. 77

1 respect the person I see in the mirror  
2 everyday. Thank you for your time. I would  
3 welcome the opportunity to meet with you and  
4 Cindy."<sup>33</sup>

5 In July of 2007, Petitioner sent Ms. Fox an undated lengthy  
6 letter detailing her salary concerns. The letter contained this  
7 paragraph:

8 "Can you honestly look in the mirror and  
9 justify giving Gardner a larger raise (or  
10 any raise at all) than me this year? Can  
11 you really both sleep at night knowing that  
12 you are paying these poor leaders/mentors  
13 substantially more than me? One  
14 administrator heard that Shantel made more  
15 than me and they doubled over laughing. I  
16 finally had to tell them to stop. I feel  
17 for you when the truth about my resignation  
18 becomes public and you have to answer these  
19 questions. But I am not falling on a sword  
20 after I have been so degraded here."<sup>34</sup>

21 On July 30, 2007, Ms. Fox received another letter from  
22 Petitioner. That letter contained the following paragraph:

23 "While it may not matter to you who your  
24 coaches are this is a potentially life-  
25 changing situation for me and it may affect  
26 20 student-athletes. I have expressed my  
27 concerns for 2 years and further emphasized  
28 my frustrations in the spring to no avail.  
29 I am at a crossroads right now... I am not  
30 content with Cary's decision to hold my  
31 current salary or the way I have been  
32 treated. I am also aware she will not be  
33 back for another week. Where do we go from  
34 here? I need to get my ducks in a row,  
35 personally. And, out of respect for the  
36 soccer student-athletes it is only fair to

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<sup>33</sup> Exhibit 4, p.84

<sup>34</sup> Exhibit 4, p. 88

1 make sure any potential transition goes as  
2 smoothly as possible."<sup>35</sup>

3 On August 21, 2007, Petitioner had a meeting with Ms. Fox  
4 and Ms. Groth regarding a contract extension. The terms of the  
5 potential extension were as follows:

6 "Term: 2.5 year: January 1, 2008 - June  
7 30, 2010

8 Salary: Base: \$62,000  
9 Annual adjustments: C.O.L.A. and  
10 merit

11 Incentives: Post season (NCAA): up to 50% of  
12 monthly base per round.

13 WAC coach of the year: \$1000

14 Minimum Performance Standards:

- 15 • Academic
- 16 • Competitive
- 17 • Behavior
- 18 • Community"<sup>36</sup>

19 The negotiations were not successful. On August 22, 2007,  
20 Petitioner sent an email to Ms. Fox stating, "Plan for my  
21 resignation."<sup>37</sup> On August 24, 2007, Petitioner sent a text  
22 message to Ms. Fox as follows:

23 "Just so we r clear I meant my email. We  
24 just need to sort the logistics on Monday.  
25 Thank u for disrespecting me again. U r  
kidding if u think I am going to work 4 less  
than big sky coaches. Cary has no interest

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<sup>35</sup> Exhibit 4, p. 99

<sup>36</sup> Exhibit 4, p. 113

<sup>37</sup> Exhibit 4, p. 115

1 in winning. I will finish my wknd  
2 obligations? will finish cleaning out my  
3 office by Sunday evening? letter of res and  
4 keys will be on my desk? heading out of  
5 town Tuesday so have kc let me know if she  
6 needs anything from me b4 i leave. I am  
7 sorry but i am done running uphill again the  
8 wind: thk u 4 the opportunit"<sup>38</sup>

6 Ms. Fox testified that she text messaged Petitioner on  
7 August 25, 2007 accepting Petitioner's resignation. However,  
8 UNR employees have three days to rescind the resignation and on  
9 August 26, 2007 Petitioner did send a letter to Ms. Groth  
10 rescinding her resignation.<sup>39</sup>

11 There is testimony that Ms. Groth and Ms. Fox told  
12 Petitioner on numerous occasions that she is not to compare her  
13 salary with coaches in other sports. According to Respondent,  
14 Petitioner continued to make such comparisons despite the  
15 directives not to make such comparisons.

#### 16 **Petitioner's Termination**

17 Ms. Groth and Petitioner met on August 28, 2007.  
18 Petitioner was given her 60-day notice of termination.  
19 Petitioner asked Ms. Groth if she would consider the timing of  
20 the termination and let Petitioner coach through the competitive  
21 season. Ms. Groth considered the request for several hours and  
22 determined that the 60-day notice of termination would stand.  
23

24  
25  

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<sup>38</sup> Exhibit 4, p. 136

<sup>39</sup> Exhibit 4, p. 116

1 Respondent asserts that the decision to terminate  
2 Petitioner was not because of her reports of improper  
3 governmental action. According to Respondent, the termination  
4 was for several, legitimate business reasons:

5 "Patraw had a pattern and history of  
6 inability to adhere to directives. This is  
7 demonstrated by her annual evaluations, the  
8 Dedrique Taylor issue, and her refusal to  
9 stop comparing her salary demands to coaches  
10 in other sports, among others. Patraw's  
11 threats of resignation, continual  
12 dissatisfaction with her job and  
13 compensation, and her challenges to  
14 administrative decisions resulted in a loss  
15 of trust in her and the conclusion that she  
16 would not be able to work within the  
17 Athletic Department in the future. As a  
18 result, it was decided to accept her  
19 resignation text to Cindy Fox on August 24,  
20 2007 and when Patraw decided to withdraw  
21 resignation on August 26, Groth decided to  
22 terminate Patraw under the 60 day notice  
23 provision in her contract."<sup>40</sup>

16  
17 **THE WITNESSES**

18 After opening arguments, Petitioner called Dr. Janet  
19 Vreeland as the first witness. Ms. Vreeland was the Interim  
20 Provost for UNR in August of 2007. She testified that in late  
21 August of 2007 the Athletics Department asked for assistance  
22 regarding the employment of Petitioner. She indicated that the  
23 Athletics Department told her that Petitioner was constantly  
24

25  

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<sup>40</sup> Respondent's Pre-Trial Statement, p. 9

1 complaining about her salary and threatened to resign on  
2 numerous occasions. She was told that the Athletics Department  
3 wanted to exercise the 60-day notice provision in Petitioner's  
4 employment contract. She told representatives of the Athletics  
5 Department that it would be fine if the notice provision was  
6 exercised. She told Ms. Groth and Ms. Fox that they should talk  
7 to Gena Jones, Assistant Vice President of Human Resources.

8  
9 The next witness called by Petitioner was Gena Jones,  
10 Assistant Vice President of Human Resources for Respondent. Ms.  
11 Jones stated that she was contacted by Ms. Groth on August 27,  
12 2007. She was told that over the previous weekend Petitioner  
13 threatened to resign several times. Ms. Jones explained that  
14 UNR policy allows an individual to rescind a resignation within  
15 three days. She indicated that Petitioner had, in fact,  
16 rescinded her resignation.

17 Ms. Jones testified that Ms. Groth indicated that she  
18 wanted to terminate Petitioner because of the threatened  
19 resignations. Ms. Jones also stated that Ms. Groth told her  
20 that Petitioner had reported NCAA violations.

21 Ms. Jones attended the meeting on August 28, 2007 whereby  
22 Petitioner was told that the 60-day notice provision in her  
23 contract was being exercised.<sup>41</sup> Ms. Jones indicated that  
24

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25 <sup>41</sup> Exhibit 4, p. 120 is the notes of the meeting prepared by Ms. Jones.

1 Petitioner stated at that meeting that she should be protected  
2 as a "Whistle blower".

3 The next witness called by Petitioner was Dr. Jean Perry,  
4 Special Assistant to President of UNR, Athletics, Academics and  
5 Compliance. She testified that during 2006-2007 there were 19  
6 reported violations of NCAA rules and 24 or 25 investigations of  
7 potential NCAA violations. She testified that the violations  
8 involving the Men's Golf Coach were handled in a normal fashion.  
9

10 The next witness called by Petitioner was Sandra  
11 Niedergall, Director of Compliance, NCAA Rules and Regulations.  
12 She testified that she became aware of the allegations regarding  
13 the Men's Golf Coach on June 25, 2007. She testified that Cindy  
14 Fox informed her of the allegations. She testified that a  
15 normal investigation of alleged NCAA violations was conducted.

16 The next witness called by Petitioner was Keith Hackett,  
17 Associate Athletic Director, Facilities and Operations. He  
18 discussed a memo he prepared on September 23, 2007<sup>42</sup> after  
19 Petitioner was terminated. Mr. Hackett testified that on June  
20 25, 2007 he went to the Wolf Pack Ticket Office. He saw  
21 Petitioner. Petitioner was visibly upset. She complained that  
22 the Women's Softball Coach had just received a raise and that  
23 Petitioner felt that she deserved more money than the Women's  
24

---

25 <sup>42</sup> Exhibit 4, p. 74

1 Softball Coach. Mr. Hackett did not recall telling Petitioner  
2 that the Women's Track Coach makes more than she does because  
3 she is African-American.

4 The next witness called by Petitioner was Antoinette  
5 Majinovich, at the time of her testimony, Acting Women's Soccer  
6 Coach. Ms. Majinovich testified that she did not know the  
7 reason Petitioner was terminated. She testified that she never  
8 spoke to Petitioner about Petitioner's desire to resign.

9 The next witness was Graeme Abel, Assistant Women's Soccer  
10 Coach. He testified that he did not know anything about  
11 Petitioner's termination. He was aware of the alleged  
12 violations of Title IX.

13 The next witness called by Petitioner was Cary Groth, UNR  
14 Athletic Director. She testified that she did not hire  
15 Petitioner. She indicated that Petitioner's performance on the  
16 field was good. She testified that Cindy Fox made her aware of  
17 the alleged NCAA violations. She was not aware of any Title IX  
18 violations although she was aware of some issues regarding the  
19 use of facilities. She was aware of the comments made by Mark  
20 Fox but indicated that they were never reported as sexual  
21 harassment. She indicated that Petitioner should have coffee  
22 with Mr. Fox, but Mr. Fox declined the offer.  
23  
24  
25

1 She testified that after the investigation of the alleged  
2 violations of NCAA rules by the Men's Golf Coach, he was  
3 suspended for three matches.<sup>43</sup>

4 Ms. Groth testified that she decided to terminate  
5 Petitioner because of (1) her failure to follow directives; (2)  
6 the lack of trust and confidence in her; and (3) the numerous  
7 threats to resign.

8 Ms. Groth described the anonymous emails regarding former  
9 Assistant Basketball Coach Dedrique Taylor, Petitioner's  
10 constant complaints that she was paid less than certain coaches  
11 in other sports, and her constant threats of resignation. She  
12 described the series of meetings in late August of 2007, which  
13 culminated in the exercise of the 60-day notice provision in  
14 Petitioner's contract.

15 The next witness called by Petitioner was Cindy Fox,  
16 Executive Assistant Athletic Director. Ms. Fox testified that  
17 she was Petitioner's supervisor as well as her mentor. She  
18 testified that she counseled Petitioner on numerous occasions  
19 that she should not compare her salary with coaches in different  
20 sports but that Petitioner continued to do so.

21 Ms. Fox also testified regarding the numerous times  
22 Petitioner threatened to resign. She also discussed the May 2005  
23  
24

---

25 <sup>43</sup> She testified that she recommended a two match suspension but the President of UNR decided that a three match suspension was appropriate.

1 wine tasting event where Mark Fox, the husband of Ms. Fox, told  
2 Petitioner and another female coach "you two look like you are  
3 on a date." Ms. Fox does not recall if she ever discussed that  
4 comment with Petitioner.

5 Ms. Fox also described how she responded to the alleged  
6 violations of Title IX. She investigated the allegations and  
7 made sure that the Women's teams had appropriate access to the  
8 fields and Women's locker room.

9 The next witness was Jody Dansie, previously the Women's  
10 Golf Coach and currently Admissions and Records Coordinator.  
11 Ms. Dansie testified that she told Petitioner about the NCAA  
12 violations involving the Men's Golf Coach. She did not report  
13 the allegations but was aware that Petitioner did report them.

14 The next witness was the Petitioner. Petitioner testified  
15 that she was hired by Chris Ault, the former Athletic Director  
16 at \$45,000 per year. She believed she was an excellent coach.  
17 She built a successful program. Prior to her employment, UNR  
18 never had a winning Women's soccer record. She testified that  
19 she previously coached at Arizona State University.

20 Petitioner testified that she was offered a new contract by  
21 Ms. Groth with a \$10,000 increase in salary. She believed this  
22 was not indicative of a coach with behavior issues.

23 Petitioner testified that when Ms. Groth indicated that she  
24 intended to exercise the 60-day notice provision in Petitioner's  
25

1 employment contract, she asked that the matter be tabled until  
2 after the season. Ms. Groth thought about waiting until the end  
3 of the season but decided not to wait and terminated her.

4         Petitioner testified at length concerning what she believed  
5 to be unfair treatment relating to her contract. She strongly  
6 believed that she was underpaid when compared with other Women's  
7 Soccer coaches and less successful coaches in other sports.

8         Petitioner also discussed the comments of Mark Fox at the  
9 May 2005 wine tasting, the reporting of the alleged NCAA  
10 violations, and the reporting of the alleged Title IX  
11 violations.  
12

13         With respect to the comments of Mr. Fox, Petitioner  
14 believed that they were harassing and showed a lack of respect  
15 toward women coaches at UNR. Petitioner said the comments  
16 included the word "lesbians".

17         Petitioner testified that Jody Dansie told her about the  
18 violations committed by the Men's Golf. She believed it was her  
19 responsibility to report any NCAA violations that she had  
20 knowledge of.

21         She testified that the women athletes at UNR always had  
22 issues with the use of the facilities. She testified that she  
23 has fought with the Athletic Department on this issue for many  
24 years.  
25

1 Respondent called, Steven Zink, Vice President of  
2 Information Technology for UNR, to testify concerning the  
3 anonymous "Pack Donor" emails. He testified that he was asked  
4 to investigate the emails. He explained how he conducted the  
5 investigation. He concluded that there is a 99% certainty that  
6 the emails came from Petitioner's computer.

7 Sandra Niedergall was called back as a witness to explain  
8 that the investigation of the NCAA violations was done in the  
9 normal course of business.

10 Respondent than called Devin Scruggs, Women's Volleyball  
11 Coach. Ms. Scruggs described the comment by Mark Fox at the  
12 2005 wine tasting. Ms. Scruggs was with Petitioner when Mr. Fox  
13 said, "you two look like you are on a date." She briefly  
14 discussed the comment with Petitioner but has not discussed the  
15 comment since that time. She did not believe the comment to be  
16 sexual harassment. She did not recall the use of the word  
17 "lesbians".

18 Ms. Fox then was called back to the stand. She testified  
19 that she never told Petitioner not to make the report of the  
20 NCAA violations. In fact, she testified that it was  
21 Petitioner's job to report any NCAA violations. She also  
22 testified that she told Petitioner on numerous occasions only to  
23 compare her salary with other similarly situated Women's soccer  
24 coaches.  
25

1 Ms. Groth was called back as a witness. She testified  
2 concerning an allegation by Petitioner that Dedrique Taylor  
3 committed NCAA violations while a coach at UNR. She testified  
4 that no one at UNR is aware of what those violations may be and  
5 that Mr. Taylor has no knowledge as to what those violations may  
6 be. Ms. Groth reiterated that she did not believe that  
7 Petitioner ever reported a sexual harassment claim against Mark  
8 Fox. Ms. Groth stated that she believed that Petitioner felt  
9 that Ms. Fox did not like her, not that he committed any acts of  
10 sexual harassment.  
11

12 Thereafter, the parties presented closing arguments and the  
13 matter was submitted for decision.  
14  
15

16 **CONCLUSIONS OF LAW**

17 Petitioner's Whistle Blower Complaint was timely filed and  
18 the determination of the merits of the Whistle Blower Complaint  
19 is properly within the jurisdiction of the undersigned  
20 administrative hearing officer.  
21

22 NRS 281.611 to NRS 281.671 addresses disclosure of improper  
23 governmental action and provides for the initiation of Whistle  
24 Blower Complaints. NRS 281.611 provides as follows:

- 25 1) "Improper governmental action" means  
any action taken by a state officer or  
employee or local governmental officer

1 or employee in the performance of his  
2 official duties, whether or not the  
3 action is within the scope of his  
4 employment, which is:

- 5 a) In violation of any state law or  
6 regulation;
  - 7 b) If the officer or employee is a  
8 local governmental officer or  
9 employee, in violation of an  
10 ordinance of the local government;
  - 11 c) An abuse of authority;
  - 12 d) Of substantial and specific danger  
13 to the public health or safety; or
  - 14 e) A gross waste of public money.
- 15 2) "Local government" means a county in  
16 this State, an incorporated city in  
17 this State and Carson City.
- 18 3) "Local governmental employee" means any  
19 person who performs public duties under  
20 the direction and control of a local  
21 governmental officer for compensation  
22 paid by or through a local government.
- 23 4) "Local governmental officer" means a  
24 person elected or appointed to a  
25 position with a local government power,  
trust or duty, including:
- a) Actions taken in an official  
capacity, which involves a  
substantial and material exercise  
of administrative discretion in  
the formulation of local  
governmental policy;
  - b) The expenditure of money of a  
local government; and
  - c) The enforcement of laws and  
regulations of the State or a  
local government.
- 5) "Reprisal or retaliatory" action  
includes:
- a) The denial of adequate personnel  
to perform duties;
  - b) Frequent replacement of members of  
the staff;
  - c) Frequent and undesirable changes  
in the location of an office;
  - d) The refusal to assign meaningful  
work;

- 1 e) The issuance of letters of  
2 reprimand or evaluations of poor  
3 performance;  
4 f) A demotion;  
5 g) A reduction in pay;  
6 h) The denial of a promotion;  
7 i) A suspension;  
8 j) A dismissal;  
9 k) A transfer;  
10 l) Frequent changes in working hours  
11 or workdays;  
12 m) If the employee is licensed or  
13 certified by an occupational  
14 licensing board, the filing with  
15 that board, by or on behalf of the  
16 employer, a complaint concerning  
17 the employee, if such action is  
18 taken, in whole or in part,  
19 because the state officer or  
20 employee or local governmental  
21 officer or employee disclosed  
22 information concerning improper  
23 governmental action.
- 24 6) "State employee" means any person  
25 performs public duties under the  
direction and control of a state  
officer for compensation paid by or  
through the State.
- 7) "State officer" means any person  
elected or appointed to a position  
with the State which involves the  
exercise of a state power, trust or  
duty, including:
- (a) Actions taken in an official  
capacity which involve a  
substantial and material  
exercise of administrative  
discretion in the formulation of  
a state policy;
- (b) The expenditure of state money;  
and;
- (c) The enforcement of laws and  
regulations of the State.

Pursuant to NAC 281.315(4) the procedures for the hearing  
on the Whistle Blower Complaint are as follows:

- 1 a) The opening statement for the state  
2 officer or employee.
- 3 b) The opening statement for the employer,  
4 unless reserved.
- 5 c) Presentation of the state officer's or  
6 employee's case, followed by cross-  
7 examination. The state officer or  
8 employee must establish that:
- 9 1. He was a state officer or employee  
10 on the date of the alleged  
11 reprisal or retaliatory action;
  - 12 2. He disclosed information  
13 concerning improper governmental  
14 action; and
  - 15 3. The alleged reprisal or  
16 retaliatory action was taken  
17 against him within 2 years after  
18 the date he disclosed the  
19 information concerning improper  
20 governmental action.
- 21 d) If the state officer or employee  
22 establishes the facts set forth in  
23 paragraph (c), presentation of the  
24 employer's case, followed by cross-  
25 examination, to establish that the  
employer did not engage in the  
alleged reprisal or retaliatory  
action of that the action was taken  
for a legitimate business purpose  
and was not the result of the  
disclosure of information concerning  
improper governmental action by the  
state officer or employee.
- e) If the employer establishes a  
legitimate business purpose for the  
alleged reprisal or retaliatory  
action, the state officer or  
employee may introduce evidence,  
followed by cross-examination, to  
demonstrate that the stated business  
purpose is a pretext for the  
reprisal or retaliatory action.
- f) The parties may respectively offer  
rebutting testimony only, unless the  
hearing officer permits additional  
evidence upon the direct cause.
- g) The argument for the state officer

1 or employee.

2 h) The argument for the employer.

3 i) The closing argument for the state  
4 officer or employee.

5 j) Submission of the appeal for  
6 decision.

7 In *Simonian v. University and Community College System of*  
8 *Nevada*, 122 Nev. 187, 128 P.3d 1057 (2006) the Nevada Supreme  
9 Court held as follows:

10 The hearing officer must determine whether  
11 "the action taken was a reprisal or  
12 retaliatory action, [and] may issue an order  
13 directing the proper person to desist and  
14 refrain from engaging in such action."  
15 [Citing and quoting NRS 281.641(2)]

16 Nowhere in NRS Chapter 281 does it  
17 specifically authorize hearing officers to  
18 independently determine whether the  
19 government has actually undertaken "improper  
20 governmental action" or to remedy such  
21 conduct.

22 Thus, with respect to an NRS 281.641(1)  
23 reprisal/retaliatory claim, the hearing  
24 officer must only determine whether a state  
25 employee has engaged in protected activity,  
i.e., had disclosed information concerning  
alleged conduct that might constitute  
"improper governmental action." As a  
result, the hearing officer's determination  
regarding whether Simonian's allegations  
proved correct was unauthorized. ID. At  
1064.

26 Thus pursuant to NRS 284.611, NAC 281.315(4) and *Simonian*,  
27 *supra*, Petitioner must demonstrate that she was engaged in  
28 protected activity, that she was subsequently discharged from  
29 employment, and that there was a causal connection between her

1 activity and the discharge. If it is determined that Petitioner  
2 met this burden, the Respondent must then demonstrate that there  
3 was a legitimate, non-retaliatory reason for the discharge. If  
4 Respondent is able to introduce such evidence, the burden shifts  
5 to the Petitioner to demonstrate that the legitimate reason was  
6 a mere pretext for the reprisal or retaliatory action. The  
7 overall burden, however, rests with the Petitioner to show that  
8 but for the disclosure of improper action, she would not have  
9 been discharged. Further, in accordance with *Simonian, supra*,  
10 the hearing officer is not authorized to make a determination as  
11 to whether the allegations concerning "improper governmental  
12 action" were correct. Rather, the hearing officer only need  
13 determine whether the Petitioner has engaged in protective  
14 activity, that is, that she has disclosed information that **might**  
15 constitute "improper governmental action."  
16

17 For Petitioner to prevail, she must, therefore show, by  
18 substantial evidence, that she (1) disclosed information that  
19 might constitute "improper governmental action, as defined in  
20 NRS 281.611 and (2) that she suffered a reprisal or retaliatory  
21 action, as defined in NRS 284.611(5) because of her disclosure  
22 of improper governmental action.  
23

24 Substantial evidence has been defined as that evidence  
25 which a reasonable mind might accept as adequate to support a  
conclusion. *Richardson v. Perales*, 402 U.S. 389 (1971); *State*

1 Emp. Security v. Hilton Hotels, 106 Nev. 606, 792 P.2d 497,  
2 (1986).

3 Evidence sufficient to support an administrative decision  
4 is not equated with the preponderance of the evidence, as there  
5 may be cases wherein two conflicting views may each be supported  
6 by substantial evidence. Robinson Transp. Co. v. P.S.C., 159  
7 N.W. 2d 636 (Wisc. 1968).

8 In this proceeding, Petitioner alleges that the alleged  
9 "improper governmental action" that she disclosed was (1) sexual  
10 harassment by the UNR Men's Basketball Coach; (2) violations of  
11 Title IX and (3) NCAA violations by the Men's Golf coach.

12 Petitioner further alleges that she was terminated because of  
13 the disclosure of the alleged "improper governmental action."

14 Thus, it is the responsibility of the undersigned  
15 administrative hearing officer to determine whether there were  
16 disclosures of improper governmental action and whether there is  
17 a causal connection between her termination and her disclosures  
18 of improper governmental action.  
19

20 **DISCLOSURES OF IMPROPER GOVERNMENTAL ACTION**

21 **Sexual Harassment**

22 The substantial, reliable and probative evidence  
23 establishes that in June of 2005 Men's Head Basketball Coach  
24 Mark Fox saw Petitioner and the UNR Women's Volleyball Coach (a  
25 female) at a wine tasting event.

1           The substantial, reliable and probative evidence  
2 establishes that at the 2005 wine tasting event Mark Fox told  
3 Petitioner and the Volleyball Coach words to the effect "you two  
4 look like you are on a date."

5           The substantial, reliable and probative evidence  
6 establishes that in June of 2006, Athletic Director Cary Groth  
7 became aware that Petitioner believed that Mark Fox had made an  
8 inappropriate comment and that he did not like Petitioner.

9           The substantial, reliable and probative evidence  
10 establishes that Ms. Groth suggested that Mr. Fox and Petitioner  
11 meet for coffee to discuss Petitioner's concerns.  
12

13           The substantial, reliable and probative evidence  
14 establishes that Mr. Fox declined to have coffee with  
15 Petitioner.

16           The substantial, reliable and probative evidence  
17 establishes that the filing of a report with the proper  
18 university authorities of sexual harassment would constitute the  
19 disclosure of "improper governmental action" for purposes of NRS  
20 281.611(1) (c), abuse of authority.

21           In this proceeding, however there is no evidence that  
22 Petitioner ever filed a report of sexual harassment, or a sexual  
23 harassment complaint. The mere statement to Ms. Groth that Mr.  
24 Fox made an inappropriate comment to her and the Women's  
25

1 Volleyball Coach is not, in and of itself, a "disclosure of  
2 improper governmental action".

3 NAC 281.315(4) (c) requires that the Petitioner establish  
4 that she disclosed information concerning improper governmental  
5 action. Since the evidence does not establish that Petitioner  
6 filed a report or complaint of sexual harassment, Petitioner's  
7 allegation regarding reprisal or retaliation for disclosing  
8 sexual harassment should be, and is hereby, dismissed.

9  
10 **Title XI Violations**

11 The substantial, reliable and probative evidence  
12 establishes that Petitioner reported issues with the use of the  
13 Women's locker.

14 The substantial, reliable and probative evidence further  
15 establishes that Petitioner reported issues with the use of  
16 facilities for Women's Soccer practice.

17 The substantial, reliable and probative evidence further  
18 establishes that the UNR Athletic Department investigated the  
19 issues reported by Petitioner and attempted to rectify the  
20 problems associated with the use of the locker room and practice  
21 field.

22 It is unclear whether these alleged violations constitute  
23 "Title IX" violations. Pursuant to *Simonian, supra*, however,  
24 Petitioner need only disclose conduct that "might constitute"  
25 improper governmental action. Under this standard, the

1 substantial, reliable and probative evidence establishes that  
2 Petitioner's written complaint filed on August 7, 2007<sup>44</sup>  
3 regarding the use of the Women's locker room and a variety of  
4 emails concerning the use of the Women's locker room and the use  
5 of practice facilities constitute the disclosure of information  
6 that "might" be considered improper governmental action for  
7 purposes of NRS 281.611(1) (c), abuse of authority.  
8

9 Thus, the reporting of the issues regarding the use of the  
10 locker room and practice field satisfy the first requirement of  
11 the Whistle Blower Law, i.e., that the state employee "disclosed  
12 information concerning improper governmental action". (NAC  
13 281.315(4) (c) (2).

#### 14 **NCAA Violations**

15 The substantial, reliable and probative evidence  
16 establishes that on or about June 25, 2007, Petitioner reported  
17 alleged violations of the NCAA rules and regulations by the  
18 Men's Golf Coach.

19 The substantial, reliable and probative evidence  
20 establishes that UNR officials appropriately investigated the  
21 allegations and found that the Men's golf Coach did violate  
22 certain rules and regulations of the NCAA.  
23  
24

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25 <sup>44</sup> Exhibit 4, p. 106

1 The substantial, reliable and probative evidence  
2 establishes that the Men's Golf Coach was suspended by UNR for  
3 three matches for NCAA violations.<sup>45</sup>

4 The substantial, reliable and probative evidence  
5 establishes that pursuant to *Simonian, supra*, the reporting of  
6 alleged NCAA violations "might" be considered the disclosure of  
7 improper governmental action for purposes of NRS 281.611 (1)  
8 (c), abuse of authority.

9 Thus, the reporting of the alleged NCAA violations by  
10 Petitioner satisfies the first requirement of the Whistle Blower  
11 Law, i.e., that the state employee "disclosed information  
12 concerning improper governmental action." (NAC 281.315(4) (c)  
13 (2).

14  
15 **REPRISALS OR RETALIATORY ACTIONS**

16 The substantial, reliable and probative evidence  
17 establishes in the summer of 2007 she disclosed information  
18 regarding activities that "might" be considered improper  
19 governmental information for purposes of NRS 281.611(1) (c).

20 The substantial, reliable and probative evidence  
21 establishes that on or about August 28, 2007 Respondent  
22 exercised the 60-day notice provision in Petitioner's employment  
23 contract.

24  
25  

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<sup>45</sup> There is testimony that the NCAA is now investigating the actions of the Men's Golf Coach.

1 NRS 281.611(5) (j) provides that a dismissal from state  
2 service would be considered a prohibited retaliation or reprisal  
3 for disclosure of improper governmental action.

4 Thus, the undersigned administrative hearing officer must  
5 determine whether Petitioner was terminated for disclosure of  
6 improper governmental action or if there was a legitimate, non-  
7 retaliatory reason for Petitioner's dismissal.

8 Respondent contends that Petitioner was terminated for (1)  
9 Petitioner's failure to follow directives; (2) the lack of trust  
10 and confidence in Petitioner; and (3) Petitioner's numerous  
11 threats to resign.  
12

13  
14  
15 **Failure to Follow Directives**

16 The substantial, reliable and probative evidence  
17 establishes that Petitioner was told on numerous occasions not  
18 to compare her salary with coaches in other sports.

19 The substantial, reliable and probative evidence  
20 establishes that Petitioner continued to compare her salary with  
21 other coaches after being told not to.

22 The substantial, reliable and probative evidence  
23 establishes that Petitioner was instructed not to discuss or  
24 bring up the issues regarding former UNR Assistant Basketball  
25 Coach Dedrique Taylor.

1           The substantial, reliable and probative evidence  
2 establishes that Petitioner continued to bring up the issues  
3 regarding Dedrique Taylor.

4           The substantial, reliable and probative evidence,  
5 therefore, establishes that Petitioner did have a history of  
6 failing to follow directives.

7           **Lack of Trust and Confidence**

8           The substantial, reliable and probative evidence  
9 establishes that Petitioner had a relationship with Dedrique  
10 Taylor and did not want Mr. Taylor to leave UNR for Arizona  
11 State University.

12           The substantial, reliable and probative evidence  
13 establishes that there is a 99% probability that Petitioner sent  
14 several anonymous emails signed "Pack Donor" offering to pay Mr.  
15 Taylor \$25,000 if he stayed at UNR.

16           The substantial, reliable and probative evidence  
17 establishes that the sending of these anonymous emails was  
18 highly improper and in the opinion of the undersigned  
19 administrative hearing officer could have been grounds for  
20 termination at the time it was determined that there was a 99%  
21 probability that Petitioner sent the emails.

22           The substantial, reliable and probative evidence further  
23 establishes that Petitioner continually expressed  
24  
25

1 dissatisfaction with her job to many individuals within the  
2 Athletics Department.

3 The substantial, reliable and probative evidence also  
4 establishes that Petitioner continually complained that other,  
5 "less successful coaches", received higher salaries than she  
6 did.

7 The substantial, reliable and probative evidence  
8 establishes that Respondent was justified in losing confidence  
9 in Petitioner after it became clear that she sent the emails,  
10 continually complained about her salary and complained about the  
11 salaries of other coaches.

### 12 **Threats to Resign**

13 The substantial, reliable and probative evidence  
14 establishes that on May 22, 2007 Petitioner sent an email to  
15 Associate Athletic Director Cindy Fox indicating that she would  
16 be prepared to resign in the fall.

17 The substantial, reliable and probative evidence  
18 establishes that Petitioner sent a text message to Cindy Fox on  
19 June 22, 2007 wherein she threatened to resign.

20 The substantial, reliable and probative evidence  
21 establishes that on June 25, 2007 Petitioner told Associate  
22 Athletic Director Keith Hackett that she was going to resign.

23 The substantial, reliable and probative evidence  
24 establishes that on June 25, 2007 Petitioner gave Associate  
25

1 Athletic Director Cindy Fox a letter of resignation, which was  
2 later rescinded.

3         The substantial, reliable and probative evidence  
4 establishes that on July 30, 2007 Ms. Fox received a letter from  
5 Petitioner indicating that she was preparing to resign.

6         The substantial, reliable and probative evidence  
7 establishes that at a meeting on August 21, 2007 Petitioner  
8 alluded to her potential resignation.

9         The substantial, reliable and probative evidence  
10 establishes that in August of 2007 Petitioner and Ms. Fox  
11 exchanged a series of emails wherein Petitioner indicated that  
12 Ms. Fox should "plan for her resignation."  
13

14         The substantial reliable and probative evidence establishes  
15 that on August 24, 2007 Petitioner text messaged her resignation  
16 to Ms. Fox.

17         The substantial, reliable and probative evidence  
18 establishes that on August 25, 2007 Ms. Fox accepted the  
19 resignation of Petitioner.

20         The substantial, reliable and probative evidence  
21 establishes that Petitioner rescinded her resignation on August  
22 26, 2007.

23         The substantial, reliable and probative evidence  
24 establishes that UNR policy allows an employee to rescind a  
25 resignation within three days of the resignation.

1 The substantial, reliable and probative evidence  
2 establishes that Athletic Director Cary Groth gave Petitioner  
3 her 60-day notice of termination on August 28, 2007.

4 Petitioner asserts that the numerous threats to resign were  
5 merely a negotiating tactic to obtain a new contract with a  
6 higher salary. It is the opinion of the undersigned  
7 administrative hearing officer however, that the number of  
8 threats to resign and the constant complaints about her salary  
9 were more than a mere "negotiating tactic". These threats and  
10 complaints were an indication that Petitioner was extremely  
11 unhappy as the Head Women's Soccer Coach at UNR. Furthermore,  
12 these threats, complaints and other indications of Petitioner's  
13 unhappiness began to have a severe negative impact on the UNR  
14 Athletics Department.

16 Thus, it is the opinion of the undersigned administrative  
17 hearing officer that Petitioner had failed to properly follow  
18 directions from her supervisors when told not to compare her  
19 salary with coaches in other sports<sup>46</sup> and to drop the "Dedrique  
20 Taylor" matter.

21 Additionally, it is the opinion of the undersigned  
22 administrative hearing officer that the UNR Athletic Department  
23

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24  
25 <sup>46</sup> In fact, a significant part of the administrative hearing involved  
Petitioner's continued assertions that she was being treated unfairly because  
coaches in other sports were paid more money than she was and were not nearly  
as successful.

1 had valid reasons to lose trust in Petitioner when it became  
2 apparent that Petitioner sent the anonymous emails and when she  
3 continually complained about her salary.

4       Lastly, it is the opinion of the undersigned administrative  
5 hearing officer that the constant threats to resign began to  
6 have a significant negative impact on the UNR Athletics  
7 Department.

8       Given the totality of circumstances it cannot be said that  
9 Respondent's assertion that Petitioner was terminated for (1)  
10 failure to follow directions, (2) loss of trust and (3) constant  
11 threats to resign were a pretext for her termination for  
12 disclosing improper governmental action.  
13

14       Rather, it appears to the undersigned administrative  
15 hearing officer, based on a review of the extensive written  
16 record and the demeanor of the numerous witnesses, that  
17 Petitioner was terminated because of the reasons discussed by  
18 Ms. Groth; that is, that Petitioner consistently failed to  
19 follow the directions of her supervisors, Ms. Fox and Ms. Groth,  
20 that Ms. Groth lost confidence in Petitioner after the anonymous  
21 emails were sent, and that Petitioner's constant threats of  
22 resignation and complaints about her salary had a negative  
23 impact on the Athletics Department.  
24

25       Furthermore, UNR promptly investigated the alleged  
violations of NCCA rules by the Men's Golf Coach. The evidence

1 clearly shows that UNR investigates numerous allegations of NCCA  
2 violations over the course of a year. Thus it does not seem  
3 reasonable to conclude that Petitioner would suffer any reprisal  
4 or retaliatory actions for disclosing NCAA violations.

5 Additionally, Ms. Fox quickly addressed the issue of alleged  
6 Title IX violations when brought to her attention and thus, once  
7 again it does not seem reasonable to conclude that Petitioner  
8 would suffer reprisals or retaliation for disclosing alleged  
9 violations of Title IX.

10  
11 Petitioner correctly points out that it is highly unusual  
12 to terminate a coach (particularly a coach with a successful  
13 won-loss record) just prior to the beginning of the season.  
14 While this may be highly unusual, it is not the job of the  
15 administrative hearing officer to manage the affairs of the UNR  
16 Athletics Department. Rather, it is the responsibility of the  
17 undersigned administrative hearing officer to determine whether  
18 Petitioner was terminated for disclosing improper governmental  
19 actions. In this case, the evidence supports the conclusion  
20 that Petitioner was terminated for the reasons described by  
21 Respondent and thus, the undersigned administrative hearing  
22 officer finds that the Whistle Blower Complaint should be  
23 dismissed.  
24  
25

**DECISION**

1 Based on the foregoing,

2 It is hereby ordered, adjudged and decreed that Petitioner  
3 failed to show by substantial, reliable and probative evidence  
4 that she was terminated from state service for disclosing  
5 improper governmental action; and

6 That the Whistle Blower Complaint on file herein is hereby  
7 **Dismissed.**

8  
9 DATED: March 6, 2008

10  
11  
12 

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**Bill Kockenmeister**  
**Administrative Hearing Officer**

13 **CERTIFICATE OF SERVICE**

14  
15 Pursuant to NRCP 5(b) I hereby certify that I have, on the  
16 5<sup>th</sup> day of March 2008, mailed the foregoing document to"

17  
18 Ashley O'Neill  
19 Department of Personnel  
20 209 E. Musser St.  
Carson City, Nevada 89701  
Fax: 775-684-0124

21 Jeff Dickerson  
22 9655 Gateway Dr.  
Suite B  
Reno, Nevada 89521

23 Charles Hilsabeck  
24 Assistant General Counsel  
University of Nevada, Reno  
2601 Enterprise Road  
25 Reno, Nevada 89512  
Fax: 775-784-1127

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Bill Kockenmeister