

# A New Standard Contract Disclosure in College Coaching Contracts

By Martin J. Greenberg and Michael Shaw

## I. Introduction - Sexual Misconduct in College Sports

Sexual misconduct has been a serious problem in college sports, as one can tell just from the quantity of high-profile issues that have made their way into the public sphere in recent years. And the lack of interior investigation or public disclosure when investigations are actually undertaken makes it extremely likely that there are many more occurrences in which programs cover up allegations of sexual misconduct against their players or coaches. Lance Leipold's ("Leipold") contract with the University of Kansas ("Kansas"), which will be discussed later, includes a clause which allows for his termination for cause if he is found to have, either currently or in the past, engaged in sexual misconduct or failed to report the same, either at Kansas or any previous employment. Termination for cause means that the university does not have to buy out the remainder of the coach's contract upon termination. Some examples of sexual abuse allegations involving universities include:

### A. Baylor University

Baylor University ("Baylor") conducted an internal investigation in 2016 into its Title IX implementation school-wide and its football program.<sup>1</sup> It was discovered that there were serious mishandlings of sexual misconduct allegations against Baylor football players and that Baylor was slow and ineffective in implementing Title IX.<sup>2</sup> An audit of all known reports of sexual misconduct

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<sup>1</sup> AP Staff, *Key dates and developments in the Baylor assault scandal*, THE ASSOCIATED PRESS (Aug. 11, 2021) <https://apnews.com/article/sports-college-football-violence-lawsuits-sexual-assault-9fe035761dc3d1f3d42c714a87c78a10>

<sup>2</sup> *Baylor University Board of Regents Findings of Fact*, BAYLOR UNIVERSITY (last visited March 3, 2022) <https://www.baylor.edu/thefacts/doc.php/266596.pdf>

from 2012-2015 revealed that a very low number of allegations resulted in an adjudicative hearing, and even more rare was a finding of responsibility or significant sanction.<sup>3</sup> The investigation revealed that “in some cases, the University failed to take action to identify and, as needed, eliminate a potential hostile environment, prevent its recurrence, or address any effects on the individual complainant or broader campus community.”<sup>4</sup> Baylor’s administration was inadequately trained in the dynamics of sexual and gender-based harassment and violence, dating violence, domestic violence, stalking, the neurobiological impacts of trauma, the evaluation of credibility, consent and the role of alcohol as it relates to consent and alcohol-facilitated sexual assault.<sup>5</sup> Investigations into allegations were poorly conducted and the standard of preponderance of the evidence was applied inconsistently, oftentimes requiring a greater standard of proof than that.<sup>6</sup> Baylor also failed to adequately train its students, possibly leading to an underreporting of Title IX violations.<sup>7</sup> These issues ran rampant throughout the whole of Baylor, and were not even specific to the football program under the direction of the head coach, Art Briles (“Briles”). Baylor and the Athletics Department failed to take effective action in response to allegations involving misconduct by football staff.<sup>8</sup> Baylor also failed to take adequate action to respond to reports of sexual assault and dating violence leveled against its football players.<sup>9</sup> In those instances, football staff met directly with the complainant or a parent and failed to report the misconduct.<sup>10</sup> Football staff conducted their own investigations; failed to turn over reports to Baylor; denied the complainant the right to a fair, impartial, and informed investigation; and therefore denied Baylor

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

opportunities to impose appropriate disciplinary action that would have removed offenders from campus and possibly precluded future acts of sexual violence against Baylor students.<sup>11</sup> On some occasions, football players would be dismissed from the team for unspecified rules violations and then be assisted in finding a school to transfer to.<sup>12</sup> Per the investigation, there was “a cultural perception that football was above the rules.”<sup>13</sup> All disciplinary measures were taken within the football program and there was no documentation regarding any investigations the football staff conducted.<sup>14</sup> The findings of the investigation resulted in Briles being terminated, and a settlement was reached between Briles and Baylor.<sup>15</sup> Briles would coach professional football internationally as well as high school football in Texas after his dismissal from Baylor.<sup>16</sup> Briles was hired February 24, 2022 to be the offensive coordinator at Grambling State University, but resigned after just four days because of the public backlash to the hiring.<sup>17</sup>

## B. University of Louisville

The University of Louisville (“Louisville”) basketball program paid for strippers and prostitutes to dance for and have sex with both recruits and current players in the team dormitory.<sup>18</sup> They were allegedly paid for by a member of the Louisville staff, Andre McGee.<sup>19</sup> The head coach

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Don Wolken, *Art Briles, Baylor reach settlement to terminate contract*, USA TODAY (Jun. 17, 2016) [HTTPS://WWW.USATODAY.COM/STORY/SPORTS/NCAAF/BIG12/2016/06/17/ART-BRILES-BAYLOR-BEARS-REACH-SETTLEMENT--TERMINATE-CONTRACT/86050856/](https://www.usatoday.com/story/sports/ncaaf/big12/2016/06/17/art-briles-baylor-bears-reach-settlement--terminate-contract/86050856/)

<sup>16</sup> Alex Malchow, *Art Briles returns to coach Italy’s Firenze Guelfi*, AMERICAN FOOTBALL, (Dec. 17, 2021), <https://www.americanfootballinternational.com/former-baylor-university-head-coach-art-briles-returns-to-coach-italys-firenze-guelfi/>

<sup>17</sup> Shehan Jeyarajah, *Art Briles resigns at Grambling State after hiring sparks outrage stemming from Baylor scandal* (Mar. 1, 2022) <https://www.cbssports.com/college-football/news/art-briles-resigns-at-grambling-state-after-hiring-sparks-outrage-stemming-from-baylor-scandal/>

<sup>18</sup> Jeff Greer, *A timeline of the Louisville basketball investigation: From 2015 to 2018*, COURIER JOURNAL (Feb. 20, 2018), <https://www.courier-journal.com/story/sports/college/louisville/2018/02/20/louisville-basketball-ncaa-investigation-timeline/1035815001/>

<sup>19</sup> *Id.*

at the time, Rick Pitino (“Pitino”), claimed that he had no idea that these occurrences were happening and refused to resign from his position, stating that doing so would be “cowardly.”<sup>20</sup> Louisville retains Pitino, but self-imposes recruiting sanctions.<sup>21</sup> The NCAA vacated all wins between December 2010 and July 2014, including their national championship in 2013 and a Final Four in 2012.<sup>22</sup> Pitino is later fired following news that the FBI was investigating programs regarding corruption in recruiting, and Louisville was named among those programs.<sup>23</sup> Pitino was out of coaching for a while before being hired at Iona College, where he is currently the men’s basketball head coach.<sup>24</sup>

### C. Florida State University

Florida State University paid \$950,000 to Erica Kinsman (“Kinsman”) to settle a lawsuit involving her Title IX complaint that alleged quarterback Jameis Winston (“Winston”) assaulted her in 2012.<sup>25</sup> Winston was never charged for any crime, nor did he receive any sort of punishment from the program.<sup>26</sup> He would go on to be taken with the first overall pick of the NFL Draft in 2015.<sup>27</sup> Winston himself would settle with Kinsman regarding her claims accusing him of sexual battery, assault, false imprisonment and intentional infliction of emotional distress.<sup>28</sup> This lawsuit by Kinsman was filed in 2015.<sup>29</sup> Winston currently plays quarterback for the New Orleans Saints.<sup>30</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Sam Draut, *Former Louisville coach Rick Pitino hired at Iona*, SPORTS ILLUSTRATED (Mar. 14, 2020), <https://www.si.com/college/louisville/basketball/pitino-hired-iona>

<sup>25</sup> *Jameis Winston, sexual assault accuser settle federal lawsuit*, ESPN (Dec. 14, 2016)

[https://www.espn.com/college-football/story/\\_/id/18281435/jameis-winston-settles-lawsuit-2012-sexual-assault-accuser](https://www.espn.com/college-football/story/_/id/18281435/jameis-winston-settles-lawsuit-2012-sexual-assault-accuser)

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Pro Football Reference, <https://www.pro-football-reference.com/players/W/WinsJa00.htm> (last visited Mar. 16, 2022).

While at Florida State University, Winston played football at the direction of head coach Jimbo Fisher, who currently coaches at Texas A&M.<sup>31</sup>

#### D. Penn State University

Penn State University (“Penn State”) was caught in a scandal that spanned fifteen years of covering up sexual abuse of at least ten different boys by one of its coaches.<sup>32</sup> Jerry Sandusky, the defensive coordinator for Penn State’s football team for 23 years and coach for 32 years total, was found guilty of 45 counts of sexual abuse in 2012.<sup>33</sup> Sandusky was witnessed by graduate assistant Mike McQueary sexually assaulting a young boy in a shower at Penn State.<sup>34</sup> Head football coach Joe Paterno was informed of the incident, and McQueary met with Athletic Director Tim Curley and Senior Vice President for Business and Finance (and overseer of university police), Gary Schultz, to inform them of what he witnessed.<sup>35</sup> No report was made to police or any child protection agency.<sup>36</sup> Upon the scandal going public, Joe Paterno promised to retire at the end of the 2011 season, but he was terminated hours after making that declaration.<sup>37</sup> Paterno died in January, 2012.<sup>38</sup>

#### E. University of Arkansas

Bobby Petrino (“Petrino”) had a very successful career coaching football prior to being hired to be the head coach at the University of Arkansas (“Arkansas”) in 2008.<sup>39</sup> And that success

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<sup>31</sup> Jimbo Fisher Coaching Record, <https://www.sports-reference.com/cfb/coaches/jimbo-fisher-1.html> (last visited Mar. 16, 2022).

<sup>32</sup> Bill Chappell, *Penn State Abuse Scandal: A Guide And Timeline*, NPR (Jun. 21, 2012) <https://www.npr.org/2011/11/08/142111804/penn-state-abuse-scandal-a-guide-and-timeline>

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Dan Lyons, *Bobby Petrino: What Is The Infamous College Football Coach Up To Now*, THE SPUN (May 13, 2021) <https://thespun.com/acc/louisville/bobby-petrino-coaching-career-missouri-state-fired-louisville-arkansas-scandal-affair-motorcycle-jessica-dorrell-his-son-nick-family-lamar-jackson-michael-vick>

continued at Arkansas, until one fateful motorcycle crash unveiled all the secrets that Petrino had been hiding. Petrino had not been alone on his motorcycle when it crashed, he had with him the football program's student-athlete development coordinator, Jessica Dorrell, with whom Petrino had been having an affair.<sup>40</sup> Just ten days after that crash, Athletic Director Jeff Long fired Petrino for cause.<sup>41</sup> The relationship had existed when Arkansas hired her for that position, something which was not disclosed at the time.<sup>42</sup> She was also given cash gifts.<sup>43</sup> Petrino would continue to find jobs coaching football after his dismissal from Arkansas, but never found that same level of success he had enjoyed prior to the motorcycle crash.<sup>44</sup> He currently coaches at FCS school Missouri State University.<sup>45</sup>

#### F. Louisiana State University

Former Louisiana State University ("LSU") running back Derrius Guice ("Guice") has been accused by multiple women of rape.<sup>46</sup> He allegedly also made threats against one of the victims in an attempt to keep her from speaking out about the incident.<sup>47</sup> Also named in the most recent lawsuit is former LSU head coach Ed Orgeron ("Orgeron").<sup>48</sup> Orgeron allegedly failed to report the accusations to the Title IX office or anyone else when he learned of them.<sup>49</sup> Guice was taken in the second round of the NFL Draft in 2018, but released in 2019 after allegations of domestic

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Andrea Gallo, *New Derrius Guice rape allegations emerge in updated lawsuit about LSU sexual misconduct*, THE ADVOCATE (Jun. 25, 2021) [https://www.theadvocate.com/baton\\_rouge/news/education/article\\_8539f3f8-d5e6-11eb-98a8-93ca1ca76c54.html](https://www.theadvocate.com/baton_rouge/news/education/article_8539f3f8-d5e6-11eb-98a8-93ca1ca76c54.html)

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

violence were made against him.<sup>50</sup> Ed Orgeron was let go by LSU midway through the 2021 season, less than two years after winning the national championship.<sup>51</sup>

### G. Kansas University

Also accused of sexual misconduct while at LSU is former head coach of LSU and Kansas University (“Kansas”), Les Miles (“Miles”). The Les Miles situation is likely the reason that Lance Leipold’s contract is framed the way it is.

Miles came onto the head coaching scene with Oklahoma State University (“OSU”) in 2001, reaching a bowl game in each of final three years in his four-year tenure at OSU.<sup>52</sup> His winning percentage at OSU was the school’s best in over 50 years,<sup>53</sup> and it caught the attention of LSU.

Miles arrived at LSU in 2005 and would rise to national prominence as the head coach at LSU, highlighted by winning the 2007 BCS National Championship.<sup>54</sup> He would return to the title game in 2011 but LSU would lose to the University of Alabama.<sup>55</sup> LSU enjoyed a period of sustained success on the field under Miles, but he would be fired during the 2016 season after a slow start.<sup>56</sup>

Miles would take the head coaching position at Kansas in 2018, but the program never showed any positive signs and Miles would be placed on administrative leave in 2021 as allegations

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<sup>50</sup> *Id.*

<sup>51</sup> Alex Scarborough and Mark Schlabach, *Inside the unraveling of Ed Orgeron’s LSU tenure in just 21 months*, ESPN.COM (Oct. 21, 2021) [https://www.espn.com/college-football/story/\\_/id/32424787/inside-unraveling-ed-orgeron-lsu-tenure-just-21-months](https://www.espn.com/college-football/story/_/id/32424787/inside-unraveling-ed-orgeron-lsu-tenure-just-21-months)

<sup>52</sup> *Les Miles named football coach at Kansas*, KANSAS ATHLETICS (NOV. 18, 2018) <https://kuathletics.com/les-miles-named-football-coach-at-kansas/>.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Connor O’Gara, *Here’s what’s most troubling about the Les Miles sexual harassment investigation*, SATURDAY DOWN SOUTH (last visited Mar. 3, 2022) [HTTPS://WWW.SATURDAYDOWNSOUTH.COM/LSU-FOOTBALL/HERES-WHATS-MOST-TRUUBLING-LES-MILES-ALLEGATIONS-2021/](https://www.saturdaydownsouth.com/lsu-football/heres-whats-most-troubling-les-miles-allegations-2021/).

<sup>56</sup> Tom Fornelli, *LSU fires Les Miles, names Ed Orgeron interim coach*, CBS SPORTS (Sep. 25, 2016) [HTTPS://WWW.CBSSPORTS.COM/COLLEGE-FOOTBALL/NEWS/LSU-FIRES-COACH-LES-MILES-WILL-REPORTEDLY-NAME-ED-ORGERON-INTERIM-COACH/](https://www.cbssports.com/college-football/news/lsu-fires-coach-les-miles-will-reportedly-name-ed-orgeron-interim-coach/).

surrounding his tenure at LSU came to light.<sup>57</sup> Miles and Kansas would agree to mutually part ways a few days after Miles was placed on leave.<sup>58</sup>

Miles was given free reign after the 2011 season to oversee everyone in his department, and he took the opportunity to be more hands-on in recruiting student employees for the football team.<sup>59</sup> He had a certain type he wished to recruit, which were attractive, blond females.<sup>60</sup> He acted inappropriately towards multiple female students, including allegedly kissing one female on two occasions, an allegation which he denied, despite admitting to driving her around after missing a meeting with her.<sup>61</sup> Former LSU Athletic Director Joe Alleva (“Alleva”) recommended firing Miles for cause in 2013, but the university did not act on his recommendation.<sup>62</sup> The clause which would have had to be used for the for cause firing was a “catch all” clause.<sup>63</sup> In general, these provisions required Miles to comport himself at all times “in accordance with the high moral, ethical and academic standards” of the University and not participate in any “serious misconduct which brings (Miles) into public disrepute sufficient to impair (Miles)’s ability to continue in his position without adverse impact on the University’s football program or reputation.”<sup>64</sup> If the findings were made public, Alleva believed the public would be on their side<sup>65</sup>, because the

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<sup>57</sup> Chris Low, *Kansas Jayhawks place football coach Les Miles on leave after conduct at LSU investigated*, ESPN.COM (Mar. 5, 2021) [https://www.espn.com/college-football/story/\\_/id/31012734/kansas-jayhawks-place-football-coach-les-miles-administrative-leave](https://www.espn.com/college-football/story/_/id/31012734/kansas-jayhawks-place-football-coach-les-miles-administrative-leave)

<sup>58</sup> Fornelli, *supra* note 56.

<sup>59</sup> Connor O’Gara, *Here’s what’s most troubling about the Les Miles sexual harassment investigation*, SATURDAY DOWN SOUTH (last visited Mar. 3, 2022) [HTTPS://WWW.SATURDAYDOWNSOUTH.COM/LSU-FOOTBALL/HERES-WHATS-MOST-TRUUBLING-LES-MILES-ALLEGATIONS-2021/](https://www.saturdaydownsouth.com/lsu-football/heres-whats-most-troubling-les-miles-allegations-2021/).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*



allegations would bring an adverse impact on LSU's reputation. Instead, Miles was let go in 2016 because of below-par on-field performance.<sup>66</sup>

Miles was hired at Kansas in 2018.<sup>67</sup> There was apparently an intensive background check performed, but they did not uncover any red flags which would keep Kansas from hiring him.<sup>68</sup> Kansas claimed to have been clueless about the allegations until LSU's in-house report was released in 2021 and they responded by placing Miles on leave before parting ways shortly after.<sup>69</sup> There were questions asked about the hiring process because the Athletic Director at Kansas, Jeff Long, had been friends with Les Miles when both were at Michigan from 1988-1994.<sup>70</sup> However, a source claims that the hiring was not a result of their friendship and that their background check may have been a failure because the investigation was already ongoing during the hiring process and LSU employees and school officials (Alleva in particular) could not comment on the actions being investigated.<sup>71</sup>

## II. Lance Leipold

Leipold was announced as the new Kansas head football coach on April 30, 2021.<sup>72</sup> Leipold's Agreement is for a six-year term commencing April 29, 2021 and ending April 28, 2027.<sup>73</sup> For the term of the contract it was estimated that he would receive \$16.5 million with a yearly average

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<sup>66</sup> *Id.*

<sup>67</sup> Dennis Dodd, *Kansas insists it vetted ex-LSU coach Les Miles properly with no red flags on hiring background checks*, CBS SPORTS (Mar. 7, 2021) <https://www.cbssports.com/college-football/news/kansas-insists-it-vetted-ex-lsu-coach-les-miles-properly-with-no-red-flags-on-hiring-background-checks/>.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Lance Leipold Bio, KANSAS ATHLETICS (last visited Mar. 3, 2022) <https://kuathletics.com/coach/lance-leipold/>.

<sup>73</sup> Employment Agreement, KANSAS ATHLETICS (last visited Mar. 3, 2022) [https://kuathletics.com/wp-content/uploads/2021/05/Lance-Leipold-KU-FB-Head-Coach-Executed-Contract\\_Redacted.pdf](https://kuathletics.com/wp-content/uploads/2021/05/Lance-Leipold-KU-FB-Head-Coach-Executed-Contract_Redacted.pdf).

compensation of \$2.75 million composed of base salary and professional services compensation along with royalties for license or publicity rights.<sup>74</sup>

Leipold had previously won six D-III national championships as the head coach at the University of Wisconsin-Whitewater, his alma mater.<sup>75</sup> He then enjoyed a successful six years at the University of Buffalo, including three bowl game appearances and two bowl game wins, prior to being hired at Kansas as the successor to Les Miles.<sup>76</sup>

Representations and warranties are not new to college coaching contracts. See my article on representations and warranties on Greenberg's Coaching Corner ([MJG.6314.pdf \(marquette.edu\)](#)). Most college coaching contracts will have some form of representations including: (a) that the coach has never been convicted of any misdemeanor or felony in any jurisdiction; (b) that the coach has never been disciplined, sanctioned, or reprimanded by NCAA or any other athletic conference; (c) coach has never provided an improper benefit as defined by the rules and regulations of the NCAA to any student athlete at any time; (d) that to the best of coach's knowledge while serving as the coach or assistant coach they did not violate any rules or regulations of the NCAA or any other athletic conference; (e) that while serving as coordinator or assistant coach for a football program they were not sanctioned or disciplined by the NCAA or any other athletic conference;. (f) Representations as made in coach's bio, a copy of which is attached, are true and accurate; (g) the coach has never engaged in any other action or misconduct that would reflect adversely on the good name or reputation of the university.<sup>77</sup>

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<sup>74</sup> Benton Smith, *Lance Leipold signed 6-year contract with KU worth \$16.5 million*, KUSPORTS.COM (May 2, 2021) <http://www2.kusports.com/news/2021/may/02/lance-leipold-signed-6-year-contract-ku-worth-165-/>

<sup>75</sup> Lance Leipold Bio, KANSAS ATHLETICS (last visited Mar. 3, 2022) <https://kuathletics.com/coach/lance-leipold/>.

<sup>76</sup> *Id.*

<sup>77</sup> Martin J. Greenberg and Samuel Watkins, *Representations and Warranties in College Coaching Contracts*, GREENBERG'S COACHING CORNER, <https://law.marquette.edu/assets/sports-law/pdf/MJG.6314.pdf>

Kansas included in Leipold's contract a clause that would allow for his termination for cause relative to sexual misconduct, whether at Kansas or at a previous university:<sup>78</sup>

14. Representations and Warranties Regarding Prior Conduct

A. Head Coach hereby represents and warrants that the following statements are true and correct:

1. In the last fifteen (15) years, Head Coach has not been accused of sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination.
2. In the last fifteen (15) years, Head Coach has not retaliated or been accused of retaliation against any student, coworker, supervisor, or other person for making a complaint of sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination.
3. In the last fifteen (15) years, Head Coach has not engaged in any form of sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination.
4. In the past fifteen (15) years, Head Coach has not been found guilty or otherwise responsible for sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination.
5. Head Coach will fully and timely participate in all University required training on the subjects of sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination.
6. Head Coach has not entered into any type of settlement agreement related to allegations of sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination against Head Coach, and Head Coach has no knowledge that any prior employer of Head Coach has entered into any type of settlement agreement relating to claims that Head Coach either engaged in sexual harassment, sexual assault, or other forms of sexual misconduct or discrimination or that Head Coach did not respond appropriately to allegations of sexual harassment, sexual assault or other forms of sexual misconduct or discrimination made against employees or student-athletes for which Head Coach had supervisory or other responsibilities.
7. In the past fifteen (15) years, Head Coach has not engaged in or failed to report to appropriate institutional or regulatory officials conduct by employees or student-athletes for which Head Coach had supervisory or other responsibility that involves violations of rules or regulations related to academic integrity.
8. In the past fifteen (15) years, Head Coach has not engaged in conduct or failed to report to appropriate institutional or regulatory officials conduct by employees or student-athletes for which Head Coach had supervisory or other responsibility that would constitute a crime

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<sup>78</sup> Employment Agreement, KANSAS ATHLETICS (last visited Mar. 3, 2022) [https://kuathletics.com/wp-content/uploads/2021/05/Lance-Leipold-KU-FB-Head-Coach-Executed-Contract\\_Redacted.pdf](https://kuathletics.com/wp-content/uploads/2021/05/Lance-Leipold-KU-FB-Head-Coach-Executed-Contract_Redacted.pdf).

involving moral turpitude, violence, dishonesty or a crime of any type wherein the victim was a student, including a student-athlete.

- B. Head Coach agrees that if the statements made above are false, Athletics, in its sole discretion, may terminate this Agreement upon written notice to Head Coach pursuant to Section 13, unless the circumstances of such conduct have been disclosed to Athletics and the University and Athletics has retained Head Coach's services after full disclosure of the prior conduct.<sup>79</sup>

In an article by Greg Echlin (*KU Added Legal Safeguards in New Head Football Coach's Contract, Hoping to Avoid Les Miles Repeat*), I was quoted as saying, "I have never seen anything as stringent as what I looked at as the quote-unquote "Les Miles" clause."<sup>80</sup> Kansas has covered all bases, and Kansas Administration has covered the waterfront with respect to sexual misconduct or sexual harassment behavior.<sup>81</sup> Hopefully this new contract will set a trend for future coaching contracts.<sup>82</sup>

However, we need to go one contractual step further, there needs to be representations and warranties in coaching contracts with respect to a coach's actual or alleged mental or physical abuse which has become a real problem in college athletics.

Michael Shaw is a third-year law student at Marquette University and will be graduating in May of 2022 with a J.D. and a Sports Law Certificate. He earned a bachelor's degree at Marquette University, double majoring in History and Criminology & Law Studies. Outside of school, his internships have been in the areas of personal injury and estate planning, but he spend most of his free time watching whatever sports he can find.

Thank you to my paralegal, Danelle Welzig, for her assistance in editing this article.

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<sup>79</sup> *Id.*

<sup>80</sup> Echlin, Greg, *KU Added Legal Safeguards in New Head Football Coach's Contract, Hoping to Avoid Les Miles Repeat*, KCUR (Jul. 14, 2021) <https://www.kcur.org/sports/2021-07-13/ku-added-legal-safeguards-in-new-head-football-coachs-contract-hoping-to-avoid-les-miles-repeat>.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*