

## Kirby Hocutt: A Reputation Tainted by Recent Turbulence.

By Martin J. Greenberg and Jose Oviedo

### I. Who is Kirby Hocutt?

Kirby Hocutt (“Hocutt”) is the current Director of Athletics at Texas Tech University (“Texas Tech”).<sup>1</sup> He is a Sherman, Texas native, that has served stints in the athletics departments at Kansas State (1996-97), University of Oklahoma (1998-2005), Ohio University (“Ohio”) (2005-2008), and the University of Miami (“Miami”) (2008-2011).<sup>2</sup> Hocutt earned his first opportunity as an Athletic Director at Ohio in 2005.<sup>3</sup> Then, in 2008 he was named the Athletics Director at Miami.<sup>4</sup>

Hocutt’s first stint as an Athletic Director earned him nationwide notoriety. In Hocutt's three years at Ohio, the University won 11 team championships and four head coaches were recognized as conference Coaches of the Year.<sup>5</sup> In 2006, the football team played in its first bowl game in 38 years.<sup>6</sup> In addition, Hocutt's leadership led to an increase in fundraising by more than 75 percent, while increasing season ticket sales in football by 112 percent and in men's basketball by 50 percent.<sup>7</sup>

Hocutt’s success in Ohio attracted Miami to his doorsteps. Under Hocutt's direction in 2010, Miami recorded a program-best Graduation Success Rate of 86 percent, while all 18 teams excelled in the NCAA's Academic Progress Rate Report (APR).<sup>8</sup> After taking the helm at Miami, Hocutt immediately oversaw multiple projects, including the construction of a basketball practice facility,

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<sup>1</sup> *Kirby Hocutt*, Texas Tech University, <https://texastech.com/staff-directory/kirby-hocutt/261>.

<sup>2</sup> *Id.*

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

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

<sup>5</sup> *Player Bio: Kirby Hocutt*, The University of Miami Official Athletic Site, [https://web.archive.org/web/20110708212349/http://hurricanesports.cstv.com/genrel/hocutt\\_kirby00.html](https://web.archive.org/web/20110708212349/http://hurricanesports.cstv.com/genrel/hocutt_kirby00.html).

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

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

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

as well as upgrades to the Alex Rodriguez Park at Mark Light Field, the Neil Schiff Tennis Center and Cobb Stadium.<sup>9</sup>

Now, at Texas Tech, Hocutt has once again promulgated another Division 1 athletics department into success.<sup>10</sup> Under his leadership, Texas Tech has developed into one of the nation's elite athletic programs with a top-15 showing in the 2017-18 Capital One Cup men's standings and a top-five finish for the 2018-19 academic year.<sup>11</sup> Texas Tech ranked as the top men's program in the State of Texas following both years and posted its highest two finishes of all-time in the Capital One Cup.<sup>12</sup>

Additionally, throughout his tenure at Texas Tech, Hocutt has been prominent on several national committees, such as the College Football Playoff Selection Committee ("CFP").<sup>13</sup> Hocutt was named to the CFP in 2015 and served his second year as the Committee Chairman during the 2017 season.<sup>14</sup>

Despite, all of Hocutt's professional success his reputation has taken a hit recently due to some questionable hiring decisions.<sup>15</sup> Nevertheless, Texas Tech has extended his contract.<sup>16</sup>

## **II. Hocutt's Contracts with Texas Tech**

Hocutt signed his first contract with Texas Tech in 2013. At the time his base salary was \$545,900.<sup>17</sup> Beyond, his base salary, Hocutt was eligible for performance-based bonuses.<sup>18</sup> For

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

<sup>10</sup> Kirby Hocutt, Texas Tech University, <https://texastech.com/staff-directory/kirby-hocutt/261>.

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

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

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

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

<sup>15</sup> Conner, Matthew, *Texas Tech coaching disasters beginning to taint Kirby Hocutt's legacy*, <https://wreckemred.com/2020/08/08/texas-tech-coaching-disasters-beginning-taint-kirby-hocutts-legacy/>.

<sup>16</sup> Williams, Don, *Texas Tech AD Kirby Hocutt signs extension through 2030*, Lubbock Avalanche-Journal, Aug. 26, 2022, <https://www.lubbockonline.com/story/sports/college/red-raiders/2022/08/26/texas-tech-athletics-director-kirby-hocutt-signs-extension-through-2030/65458079007/>.

<sup>17</sup> Berkowitz, Steve, *Some athletics director bonuses reward ordinary achievements*, USA Today Sports, March 6, 2013, <https://www.usatoday.com/story/sports/college/2013/03/06/college-athletic-director-salary-bonus/1960701/>.

<sup>18</sup> *Id.*

example, one of these bonuses was a payment equal to 6% of his base salary if the football team participated in a non-Bowl Championship Series bowl game and another in the same amount if any of the 13 specified non-revenue teams "qualify for NCAA post-season competition."<sup>19</sup> At the time, Texas Tech's football team had participated in eleven straight bowl games and its men's and women's track and field programs had completed in the NCAA indoor and outdoor championships every year since 1997.<sup>20</sup> This meant, that immediately Hocutt had an excellent chance of adding at least 12% to his compensation every year.<sup>21</sup>

Additionally, there were other bonuses available within the contract. Such as, an incentive of five percent of his base salary, if the average paid attendance for home football, men's basketball or women's basketball games was at least 95% of paid seating capacity.<sup>22</sup>

Although there were many incentives in Hocutt's first contract, the contract did include a provision which capped his bonus pay to \$150,000 a year.<sup>23</sup>

However in 2019, Hocutt signed a contract extension which included an increase in his compensation to \$1.5 million annually with 3% increases each year.<sup>24</sup> The extension began September 1, 2019, and will continue through August 31, 2027.<sup>25</sup> More recently, however, Hocutt signed another extension that will end in August of 2030.<sup>26</sup>

Hocutt's latest contract has a total base salary of \$14,575,343 over eight years.<sup>27</sup> This translates to an average annual value of a little more than \$1.82 million.<sup>28</sup> Specifically, the contract started

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

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

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

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

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

<sup>24</sup> Watson, George, *Director of Athletics Kirby Hocutt Agrees to New Contract*, Texas Tech Today, May 6, 2019, <https://today.ttu.edu/posts/2019/05/Stories/hocutt-extension>.

<sup>25</sup> *Id.*

<sup>26</sup> Williams, *supra* note 16.

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

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

on September 1, 2022, with a base salary of \$1.639 million, and annual raises of 3% each year;<sup>29</sup> ultimately, topping out at \$2.015 million in 2029-30.<sup>30</sup> The contract also includes a monthly auto allowance of \$1,500.<sup>31</sup>

Additionally, Texas Tech has also agreed to deposit \$500,000 annually into a retirement account for Hocutt.<sup>32</sup> These payments are scheduled to become payable to Hocutt four times over the course of the contract, along with another \$875,000 due if he remains on the job through August 31, 2023.<sup>33</sup> He is also due \$2 million if he remains through August 31, 2027, and ultimately, another \$1.5 million if he completes the contract term.<sup>34</sup>

This latest contract also includes provisions detailing what would happen in the events of termination, termination without cause, and resignation. Under this contract if Hocutt is terminated for cause he is effectively forfeiting all remaining compensation.<sup>35</sup> In contrast, if Hocutt is terminated without cause, the University will pay an amount equal to 80% of all base salary remaining.<sup>36</sup> However, Hocutt has a duty to mitigate damages, and this compensation will be reduced once Hocutt attains subsequent employment.<sup>37</sup> Meaning, once Hocutt obtains another job the University will reduce its payments to compensate Hocutt based on the actual market rate.<sup>38</sup> And lastly, if Hocutt were to resign and leave for another Division 1 athletic director job, he would owe the University an amount equal to 20% of the base salary remaining in the contract.<sup>39</sup>

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

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

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

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

<sup>35</sup> *Hocutt Employment Contract* Aug. 22, 2022.

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

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

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

<sup>39</sup> *Id.*

### **A. Hocutt's Latest Contract—Protective Provisions**

Hocutt's most recent contract provides some safety nets with respect to his supervisory capacity as it relates to coaches and the University's concern for student-athlete safety and wellbeing.

In Article IV, Performance, of Hocutt's contract the paragraph states:

"Hocutt shall engage in (and attempt to assure every coach under his supervision is engaging in) fair, safe, and responsible treatment of student-athletes and avoid behavior, actions or activities that could, in any way, jeopardize a student-athlete's health, safety, welfare, or that could otherwise cause harm or risk causing harm to a student-athlete. [ . . . ] Hocutt understands that he is presumed to be responsible for the actions of all coaches and other administrators who report, directly or indirectly to him. [ . . . ] Hocutt agrees to adhere to the requirements of the "Responsibilities and Expectations of Coaches" memorandum, including, but not limited to all compliance and mandatory reporting requirements, as well as reporting any issues regarding student well-being, including those involving serious physical or mental health concerns or allegations of bullying, hazing, harassment, or racist behavior within the athletic program. Hocutt shall adhere to the University's policies and state and federal law regarding sexual misconduct and shall immediately report to the University's Title IX Coordinator any potential violation of such policies or laws, including but not limited to, sexual harassment, sexual assault, sexual exploitation, intimate partner violence, or stalking, involving student-athletes, staff, coaches or that is in connection with a University sponsored event."<sup>40</sup>

In Article V, Termination, A. For Cause, Hocutt can be discharged for objectionable behavior and understands that he is presumed to be responsible for the actions of all department staff that report directly or indirectly to him, when Hocutt knows or should have known of such actions.<sup>41</sup>

### **III. Analysis of Hocutt's Tenure at Texas Tech.**

The Texas Tech University Board of Regents certainly believes Hocutt is worth the money.<sup>42</sup>

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<sup>40</sup> *Hocutt Employment Contract* Aug. 22, 2022.

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

<sup>42</sup> Williams, *supra* note 16.

### **A. Analysis of Hocutt's Success: Possible Reasons for his Extensions.**

Under Hocutt's tenure at Texas Tech some programs have experienced an immense amount of success.<sup>43</sup> For example, in 2019 the men's basketball team was the national runner up and the program claimed its first Big 12 Conference Championship.<sup>44</sup> Similarly, under Hocutt, the Texas Tech baseball team reached the College World Series for the first time in 2014, and then again in 2016, 2018 and 2019.<sup>45</sup> Hocutt was responsible for hiring both of these coaches.<sup>46</sup>

Additionally, other decisions by Hocutt also appear to be successful. For example, in 2014, for the first time in its history, the University launched an athletics specific fundraising campaign.<sup>47</sup> The campaign set out to do many things, most notably it centered around enhancing athletic facilities and on investing in the athletics scholarship endowment.<sup>48</sup> This was an initiative of \$185 million to be distributed across all seventeen Texas Tech athlete teams—it was coined the Campaign for Fearless Champions.<sup>49</sup> As a result of this Campaign and time, Hocutt earned recognition as the 2018 Under Armour Athletics Director of the Year.<sup>50</sup>

Furthermore, the Campaign allowed Texas Tech to build a world class sports performance center which opened in 2017.<sup>51</sup> The facility would become the home of the Texas Tech track and field team.<sup>52</sup> Consequently, Texas Tech began dominating in track and field.<sup>53</sup> In the 2018-19 academic year, the men's track and field team claimed the NCAA Outdoor title, the first national

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<sup>43</sup> Watson, *supra* note 24.

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

<sup>45</sup> Kirby Hocutt biography, TEX. TECH OFF. OF THE PRESIDENT, <https://www.ttu.edu/administration/president/leadership/hocutt.php> (last visited Nov. 18, 2022).

<sup>46</sup> *Id.*

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

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

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

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

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

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

championship for a men's athletic program in University history.<sup>54</sup> Moreover, under Hocutt's tenure, Texas Tech athletic teams have accumulated a total of 14, Big 12 championships.<sup>55</sup>

From the field of play to the classroom, under Hocutt, Texas Tech student-athletes have significantly improved their grades.<sup>56</sup> Multiple times during his tenure, student-athletes have raised the bar and achieved the highest GPAs in University history.<sup>57</sup> Furthermore, for 11 straight terms student-athletes have averaged at least a 3.00 GPA.<sup>58</sup>

Clearly, Hocutt has had some successes at Texas Tech. However, his successes may be overshadowed by questionable hiring decisions and the possible mismanagement of the coaches within his athletic department.

### **B. Hocutt's Questionable Hiring Decisions.**

One Hocutt hire after another; what begins as excitement for Texas Tech fans often ends in utter disbelief.<sup>59</sup>

In 2011, just a month after Hocutt accepted the AD job at Texas Tech, he hired Billy Gillespie ("Gillespie") as the men's basketball coach.<sup>60</sup> Hocutt hired Gillespie despite the fact that Gillespie had recently seen his time at Kentucky end in disgrace.<sup>61</sup> He hired Gillespie despite the fact that Gillespie had multiple DUI arrests on his record.<sup>62</sup> Ultimately, Gillespie resigned his position at Texas Tech in disgrace.<sup>63</sup> In 2012, Gillespie faced a myriad of horrendous allegations.<sup>64</sup> Among these were alleged NCAA rule violations as student-athletes recalled practices being longer than

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

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Williams, *supra* note 16.

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

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

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

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

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

the allowed time, and student-athletes also recall Gillespie verbally abusing them.<sup>65</sup> Amidst these allegations and following an 8-23 season, Gillespie resigned.<sup>66</sup>

Since 2020 three other coaches have left in a similar fashion.<sup>67</sup>

First, was Marlene Stollings (“Stollings”), the head coach for the women’s basketball team.<sup>68</sup> Stollings was hired in 2018 and fired in August of 2020. Stollings was fired amidst allegations of student-athlete abuse and sexual harassment.<sup>69</sup> During her tenure, a total of 12 student-athletes left the program, 8 after her first season and another 4 in her second season.<sup>70</sup> This alone should have been a clear red flag to Hocutt. Furthermore, one of Stollings’ student-athletes claimed her emotional support dog was seized at her home and never returned.<sup>71</sup> Others alleged sexual harassment by a strength and conditioning coach who quit months before the story broke.<sup>72</sup> Stollings claimed that Hocutt was aware of these issues within the program and did nothing until the story broke.<sup>73</sup> Essentially once the public was aware, Stollings was the only one that suffered the consequences, while Hocutt’s contract was extended.<sup>74</sup> Stollings sought to correct this injustice.<sup>75</sup> Hence, in October of 2020 Stollings filed a lawsuit against Texas Tech and Hocutt for

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<sup>65</sup> George, Rachel, *E-mails illuminate Gillespie's departure from Tech*, Oct. 23, 2012, <https://www.usatoday.com/story/sports/ncaab/big12/2012/10/23/billy-gillispe-ncaa-texas-tech-fired/1653211/>

<sup>66</sup> Williams, *supra* note 16.

<sup>67</sup> Peter, Josh, *Texas Tech has ‘disturbing pattern’ after losing third women’s coach in under two years*, Aug. 18, 2022, <https://www.usatoday.com/story/sports/college/2022/08/18/texas-tech-todd-petty-womens-tennis/10148591002/?gnt-cfr=1>.

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

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

<sup>70</sup> Voepel, M.A., *Texas Tech settles ex-women’s basketball coach Marlene Stollings’ lawsuit for \$740K*, ESPN (Aug. 30, 2022), [https://www.espn.com/womens-college-basketball/story/\\_/id/34489121/report-texas-tech-settles-ex-women-basketball-coach-marlene-stollings-lawsuit-740k](https://www.espn.com/womens-college-basketball/story/_/id/34489121/report-texas-tech-settles-ex-women-basketball-coach-marlene-stollings-lawsuit-740k).

<sup>71</sup> Breaux, Rob, *Texas Tech Softball Coach Quits Amid Allegations of Racial Insensitivity, Abuse*, Sept. 23, 2020, <https://kkam.com/adrian-gregory-resigns/>.

<sup>72</sup> *Id.*

<sup>73</sup> Voepel, *supra* note 71.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*



retaliation and discrimination.<sup>76</sup> That lawsuit was settled in August of 2022 for a whopping \$740,000.<sup>77</sup>

The second such case was Adrian Gregory (“Gregory”), Texas Tech’s softball coach.<sup>78</sup> Gregory stepped down in September of 2020 after six seasons with the University.<sup>79</sup> Gregory was forced to step down amidst allegations of racial insensitivity and physical abuse towards student-athletes and coaches.<sup>80</sup> Gregory has admitted that she is a tough coach.<sup>81</sup> However, she denies all allegations.<sup>82</sup> But, these allegations span all across her tenure at Texas Tech as the first such allegation against Gregory was made in June of 2014.<sup>83</sup> Gregory’s most recent student-athletes point to several instances where racial comments were made by Gregory or ignored by her.<sup>84</sup> For example, a black student-athlete was told by a white student-athlete “back of the line, Rosa [Parks]” as student-athletes lined up for batting practice.<sup>85</sup> Gregory’s assistant coaches have also alleged instances of physical abuse.<sup>86</sup> Particularly, one of her assistant coaches claimed that Gregory grabbed her arm so hard it left bruises.<sup>87</sup> In total, three instances of this type of behavior were alleged against Gregory, but, she denies them all.<sup>88</sup> Nevertheless, the allegations do not stop at alleged physical abuse, but also include alleged instances of emotional abuse.<sup>89</sup> Particularly,

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

<sup>77</sup> *Id.*

<sup>78</sup> Breaux, *supra* note 72.

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

<sup>80</sup> *Id.*

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

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

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Raskin, Alex, *Texas Tech softball coach created a 'toxic' atmosphere, issued performance contracts for weight loss and oversaw three baptisms, reveals internal review after her resignation*, DAILYMAIL (Oct. 2, 2020), <https://www.dailymail.co.uk/news/article-8799927/Texas-Tech-softball-coach-created-toxic-atmosphere-oversaw-three-baptisms.html>.

student-athletes were coerced into signing contracts that forced them to lose weight.<sup>90</sup> The student-athletes were told that if they did not sign the contracts they would be off the team.<sup>91</sup> These contracts dictated that if the student-athletes did not lose weight they would be forced to run more during practice.<sup>92</sup> This is particularly concerning especially when it comes to young women who often face self-esteem issues. Student-athletes even alleged instances of coercive baptisms.<sup>93</sup> If Hocutt and Texas Tech were aware of all these issues, they should have intervened much earlier.

The third and most recent coach to face similar allegations is Todd Petty (“Petty”), the women’s tennis coach.<sup>94</sup> In 2022, Petty’s former student-athletes reported alleged physical and emotional abuse.<sup>95</sup> Student-athletes reported being over-worked, sexualized, discriminated against, screamed at and punished.<sup>96</sup> Texas Tech has yet to release the details found in this latest investigation.<sup>97</sup> Nevertheless, further allegations against Petty included that he would shout loud expletives at student-athletes as he invaded their personal space.<sup>98</sup>

After all these incidents Hocutt and Texas Tech often made a public apology.<sup>99</sup> This is not enough. Recently, Texas Tech student-athletes have stated they often feel more comfortable speaking to the press than to the administration at Texas Tech.<sup>100</sup> Statements such as these along with the recent incidents are concerning. Texas Tech and Hocutt have seemingly forgotten that

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Peter, *supra* note 68.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Pidgeon, Jaxie, *A Closer look at the pattern of TTU women’s head coaches leaving*, EVERYTHING LUBBOCK, <https://www.everythinglubbock.com/news/local-news/a-closer-look-at-the-pattern-of-ttu-womens-head-coaches-leaving/> (Aug. 23, 2022, 5:08 AM).

<sup>98</sup> *Id.*

<sup>99</sup> Hays, Graham, *Texas Tech AD Kirby Hocutt apologizes to players: 'We have failed them'*, ESPN, (Aug. 7, 2020), [https://www.espn.com/womens-college-basketball/story/\\_/id/29616714/texas-tech-ad-kirby-hocutt-apologizes-players-failed-them](https://www.espn.com/womens-college-basketball/story/_/id/29616714/texas-tech-ad-kirby-hocutt-apologizes-players-failed-them).

<sup>100</sup> Pidgeon, *supra* note 99.

there is more to athletics than winning. The culture Hocutt has created seems to prioritize public success (i.e., athletic, and academic success) above the emotional and physical well-being of student-athletes. However, above all else, the responsibility of the Athletic Director is to, first, ensure the safety of all student-athletes and, second, to uphold the reputation of the University. Under Hocutt's administration, not only has Texas Tech's reputation been tainted, but more importantly, all too often student-athletes are endangered.

Moreover, it is not enough that Hocutt took action after the allegations were brought to light. Instead, Hocutt should have been more proactive. He should have been paying closer attention to his athletic programs. In other words, he should have been sufficiently aware of how his hires were mistreating the young adults in their care. Unfortunately, either he was completely unaware or simply failed to remediate the student-athletes' complaints.

Despite clear failures, Texas Tech has extended Hocutt's contract for another eight years.<sup>101</sup> With this extension the University has essentially reinforced the theme that athletic success is more important than the student-athlete's well-being.

### **C. Analysis of Stollings' Legal Complaint against Texas Tech and Kirby Hocutt**

In October of 2020, Stollings sued Texas Tech and Hocutt soon after her termination in the United States District Court, Northern District of Texas-Lubbock Division. In her complaint she alleged a myriad of charges against Texas Tech and Hocutt.

In the first count she asserted a breach of contract action against Texas Tech due to her termination.<sup>102</sup> She asserted that her contract was to finish in March of 2024 unless it was terminated for cause, and she further asserted she was not terminated for cause under the terms

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<sup>101</sup> Williams, *supra* note 16.

<sup>102</sup> See Stollings v. Texas Tech University, Complaint, Civil Action No. 5:20-cv-250.

and provisions of the contract.<sup>103</sup> Therefore, the University had breached their contractual obligation.<sup>104</sup>

Second, Stollings alleged that Hocutt and Texas Tech committed fraud by inducing her into her contract with misrepresentations and false promises in which they swore to abide by the terms, duties and obligations of the contract, but did not.<sup>105</sup> Stollings' third count suggests alleged fraud against Hocutt and Texas Tech.<sup>106</sup> However, in this third allegation she alleges that they committed fraud when they promised her that the women's basketball program would be treated in a manner equivalent to the men's basketball program, and alleges that these statements that induced into her agreement were ultimately false.<sup>107</sup> Because she relied on these promises to enter into her contract, Stollings considers these promises fraudulent.<sup>108</sup> Stollings' fourth count is similar to her second and third; wherein she alleged that Hocutt and Texas Tech made many false promises that ultimately induced her into signing her contract.<sup>109</sup> She asserted that they misrepresented how she could or would be fired under the contract.<sup>110</sup>

Stollings' fifth and sixth counts were defamation allegations against Hocutt. Stollings alleged that Hocutt continuously lied about her professional capacity.<sup>111</sup> Specifically, her complaint states that "Hocutt made multiple malicious, knowingly reckless and false statements concerning Coach Stollings in her personal and professional capacity."<sup>112</sup> Stollings further asserted that Hocutt knowingly lied to protect his own job and deflect the blame to her.<sup>113</sup>

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<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

Stollings' other remaining counts alleged she was discriminated against by Hocutt and Texas Tech based on her gender.<sup>114</sup> Stollings asserted that Texas Tech was in violation of Title IX and that Hocutt and Texas Tech had violated her constitutional right to be free from unlawful sex based discrimination in her place of employment.<sup>115</sup>

Additionally, Stollings alleged not only was Texas Tech aware of the sex-based discrimination against her, but they were also aware of her alleged "wrongdoings." In her complaint Stollings asserted that "Mr. Hocutt was susceptible to significant scrutiny as a result of [the] allegations ... [therefore] he undertook to cover ... and hide ... disciplinary [and] unlawful ... issues for student athletes ... to avoid discipline such as suspensions and missing athletic competitions for various offenses."<sup>116</sup>

All in all, Stollings' complaint should worry the Texas Tech community. First because if there was not a hint of truth to her complaint then Texas Tech would not have settled. There are an abundance of quotes, stories, and allegations within the complaint that are deeply troubling. Stollings did not simply allege that she was discriminated against, she alleged that Texas Tech routinely discriminates against women by failing to adhere to the minimum standards required by Title IX. Furthermore, her allegations, that Hocutt and Texas Tech generally swept unlawful violations by student-athlete under the rug so as to avoid suspensions or scandals, suggest a culture where the appearance of success is much more important than the reality of it. Ultimately, if even just half of her allegations were true, then Texas Tech and Hocutt have their work cut out for them before the University can truly prosper.

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<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

#### **IV. Conclusion**

Considering Hocutt's latest contract extension and the history of abuse and mismanagement throughout his tenure, Texas Tech, as well as all universities, must maintain a zero tolerance for abuse. So often administrators will know of alleged physical, mental, or sexual abuse perpetrated by coaches upon student-athletes without taking action. These are actions that cannot be swept under the carpet, they must be acted upon immediately. An athletic director's duty to protect his selected coaches should be less than the duty to protect the student-athletes health, safety, and wellbeing. Administrators who tolerate and coverup abuse allegations need to see the firing line.

Jose Oviedo is currently a second-year law student at Marquette University and a 2024 Sports Law Certificate Candidate. Jose is a recipient of the distinguished Thomas More Scholarship and a member of both the Marquette Sports Law Review and Marquette Sports Law Society. Prior to Marquette Law School, Jose attended Florida International University where he earned a bachelor's degree in organizational behavior psychology along with a minor in law and ethics. Outside of the classroom Jose has been able to pursue other interests. Particularly, Jose enjoyed his time playing collegiate baseball and organizing community events for young adults with disabilities. In the spring of 2024, Jose will graduate with a J.D. from Marquette University Law School.