

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

TO: All present, prospective, and future women students at University of California at Davis who seek to participate in and/or who are deterred from participating in intercollegiate athletics at University of California at Davis.

**THIS NOTICE AFFECTS YOUR RIGHTS.
PLEASE READ IT CAREFULLY.**

A class action settlement, which must be approved by the Court, has been reached in connection with a lawsuit against the Regents of the University of California ("University") alleging that the University of California at Davis ("UCD") has not been providing equal athletic opportunities to females as required by Title IX, a federal anti-discrimination law.

The Court has preliminarily approved the settlement and authorized this Notice. A copy of the Stipulated Judgment, which outlines the terms of the settlement, is available at: <http://www.sturdevantlaw.com/Cases.php?Case=24> and/or www.equalrights.org. It can also be obtained at the office of the Clerk of the United States District Court in Sacramento, at the address listed below.

As a class member, you may do one of two things: (1) if the settlement is satisfactory, you may do nothing and be bound by the terms and conditions of the settlement; or (2) if you object to the settlement, including the provision regarding attorneys' fees, you may submit written objections to the Court and to counsel for Plaintiffs and the Class ("Class Counsel"). Class Counsel are Equal Rights Advocates, The Sturdevant Law Firm, and Equity Legal. You may also submit comments in favor of the settlement. If you wish to object or comment, you must submit your written objections or comments to the Court Clerk and Class Counsel at the following addresses:

Clerk of the United States District Court
Eastern District of California
501 I Street, Suite 4-200
Sacramento, CA 95814
Attention: *Brust v. Regents of the University of
California*, Case No. 2:07-CV-01488

Brust Settlement
The Sturdevant Law Firm
354 Pine Street, 4th Floor
San Francisco, CA 94104

Objections or comments must be postmarked or, if not delivered by U.S. mail, file-stamped by the Court by no later than September 28, 2009. **Do not telephone the Court.**

A hearing before the Honorable Frank C. Damrell, Jr., United States District Judge, on the fairness of this settlement shall be held at the United States District Court, at the above address, on October 16, 2009 at 10:00 a.m. As a class member, you have the right to attend and be heard at this hearing. The settlement is not binding on class members until it is finally approved by the Court.

For more information about the settlement, you may contact The Sturdevant Law Firm at (415) 477-2410 or Equal Rights Advocates at (415) 621-0672.

SUMMARY OF THE PROPOSED SETTLEMENT

The proposed settlement is the result of an agreement reached by all parties to the lawsuit that was filed in 2007 by then UCD students Kelsey Brust, Jessica Bulala and Laura Ludwig on behalf of female students at UCD. The proposed settlement sets forth terms to help ensure that female students will have an equal opportunity to participate in varsity athletics at UCD, including the steps UCD will take to provide equal varsity opportunities to women at UCD, which may include the addition of women's varsity teams. The proposed settlement also creates a fund which will support the development of club sports at UCD.

The University has expressly denied and continues to deny all claims of wrongdoing or liability arising out of any of the conduct alleged in the lawsuit. The Court has not ruled on the merits of Plaintiffs' claims and does not provide herein an opinion on the claims. Nothing in this Notice is to be construed as an expression of any view or opinion by the Court concerning any of the claims, allegations, denials or defenses in the lawsuit.

EQUITABLE RELIEF

1. Female Participation Differential

Providing equal opportunity for participation in athletics is measured by reviewing the Female Participation Differential, which is the difference between the percentage of full-time female undergraduate enrollment and the percentage of female intercollegiate participation opportunities. In other words, if 55% of the students enrolled are female and 50% of the students participating in varsity athletics are female, then the Female Participation Differential would be 5%.

UCD has agreed to take the following steps in order to reduce the Female Participation Differential:

- By the academic year 2009-2010, the Female Participation Differential will be no more than 3.5%.
- By the academic year 2010-2011, the Female Participation Differential will be no more than 2.5%. If UCD does not meet this threshold, it will either 1) add a new women's varsity team to compete in academic year 2013-2014; or 2) achieve a Female Participation Differential of 2.5% by the academic year 2011-2012.
- By the academic year 2013-2014, the Female Participation Differential will be no more than 1.5%, as long as the percentage of females enrolled at UCD on November 15, 2014 is less than 58% of the total population. If the percentage of females enrolled is 58%, or higher, than the Female Participation Differential will be no more than 2.0%. If UCD does not meet this threshold, it will either 1) add a new women's varsity team to compete in academic year 2016-2017; or 2) achieve a Female Participation Differential of 1.5% or 2%, depending on which threshold, as described above, applies by the academic year 2014-2015.
- By the academic year 2016-2017, the Female Participation Differential will be no more than 1.5%. If UCD does not meet this threshold, it will either 1) add a new

women's varsity team to compete in academic year 2019-2020; or 2) achieve a Female Participation Differential of 1.5% by the academic year 2017-2018.

Plaintiffs' purpose in agreeing to the time frames set forth in this section is to maximize the potential to add women's participation opportunities.

2. Fund to Support Female Athlete Development

As part of the settlement, the University will pay \$110,000 as a fund to a non-profit organization to be chosen by Plaintiffs. The Fund shall be used solely to support club sports at UCD. Subject to that limitation, Plaintiffs have the sole discretion to determine how the Fund will be expended. Plaintiffs have exercised that discretion and determined that the Fund will be used for the development of women athletes through the UCD club sports programs.

Distribution of monies from the Fund will be pursuant to a process determined by Plaintiffs in conjunction with the non-profit organization. Any administrative fees or costs required to administer the Fund, will be paid out of the fund. Monies distributed from the Fund are in addition to any monies otherwise allocated to the club sports teams by UCD and may not be used as a basis for denying budget requests or otherwise be determinative of club sports teams budgets.

3. Addition of Women's Varsity Teams

UCD will continue to implement the addition of a women's varsity field hockey team to commence competition in the 2009-2010 academic year. UCD will support the addition of field hockey by providing sufficient funding to the women's varsity field hockey team to ensure recruitment, competition, development, and with the understanding that scholarships are phased in under standard UCD practice with respect to all new varsity teams. UCD will also ensure equitable treatment of the team, as required by law.

UCD will also continue to support a women's field hockey club team, as long as there is continued sufficient student interest. The field hockey club team will not have preferential status in regard to funding or other aspects over other club sports.

If any female varsity team is added to UCD pursuant to, or during the settlement period, that team will also receive the support described herein for the varsity field hockey team.

4. Selection Process for Addition of Women's Varsity Teams

If UCD adds any additional female varsity teams pursuant to or during the settlement period, the selection process for choosing the female varsity team to be added will consist of, at least, the following steps:

- UCD shall notify female undergraduates, including but not limited to those who are participating in club sports, of the opportunity to learn about the Selection Process.
- A student will remain on the Sports Selection Advisory Committee.

- UCD shall advise any individual or team seeking varsity status of the existence of prior applications submitted by that team, if any, for that sport, and provide a copy of the prior applications upon request.
- UCD will provide the criteria to applicants and will follow the provided criteria in selecting a team.
- If UCD uses different criteria as the basis for the Selection Process than it is currently using, at any time throughout the duration of the settlement period, it will inform Class Counsel.

5. *Squad Sizes of Women's Varsity Teams*

If any UCD women's varsity team has a squad size which is 15% over the NCAA Division I average squad size reported that year for that sport, UCD's Title IX Compliance Officer will investigate the size of that team and report conclusions in his/her annual Title IX Compliance Report. The Title IX Compliance Officer may consider alternative squad size models in his/her investigation. UCD will not require any coach to carry a minimum number of participants on a team, aside from NCAA requirements.

MONITORING OF SETTLEMENT

The Court shall maintain continuing jurisdiction over this lawsuit for the length of the settlement period, which is until the end of academic year 2019-2020, for the purpose of overseeing and enforcing the terms of the settlement. The parties have agreed that UCD will provide information and reports to Class Counsel as more fully set forth in the Stipulated Judgment.

INDIVIDUAL DAMAGES AND ATTORNEYS' FEES AND EXPENSES

Subject to Court approval, the Regents will pay \$8,000 to Plaintiffs Kelsey Brust, Laura Ludwig and Jessica Bulala. Subject to Court approval, the University has also agreed to pay reasonable attorney's fees and costs to Class Counsel as part of the settlement. The amount agreed upon is \$460,000.

RELEASES BY THE CLASS

The terms set forth above resolve all of Plaintiffs' class-based claims covered by the Stipulated Judgment. The Stipulated Judgment resolves all class member claims for injunctive relief based upon the same predicate facts asserted in the Complaint until expiration of the Court's jurisdiction through the end of the academic year 2019-2020. Class members do not release any individual claims for damages.

Date: _____

The Honorable Frank C. Damrell, Jr.
United States District Court