



**OFFICE OF COMPLIANCE, EQUAL OPPORTUNITY  
AND AFFIRMATIVE ACTION**

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**TO:** Joel Nielsen, Athletics Director

**FROM:** Pamela Fitzgerald, Manager & Interim Title IX Coordinator, Office of Compliance, Equal Opportunity and Affirmative Action (EOAA)

**DATE:** January 8, 2016

**SUBJECT:** EOAA Investigation Summary Report:  
Lauren Kesterson, student vs. Karen Linder, former Head Softball Coach

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**Allegations:**

On December 7, 2012, Lauren Kesterson alleges she was sexually assaulted by student, Tucker Linder, son of Head Softball Coach Karen Linder. Ms. Kesterson alleges she reported the rape to Coach Linder on or about May 12-14, 2014. Ms. Kesterson alleges she was not provided any information on how to report the assault or resources that were available to her. Ms. Kesterson also alleges that Coach Linder informed her not to tell anyone about the sexual assault.

**Scope of Investigation:**

The investigation included:

- Interview with Lauren Kesterson, student on August 24, 2015
- Interview with Karen Linder, Head Softball Coach on August 26, 2015
- Review of Karen Linder's human resources training records
- Review of the online Title IX Overview training (<https://vimeo.com/100938065>)

**Investigative Review:**

As a matter of record, Ms. Erin Barton, Affirmative Action Coordinator and the original investigator of this matter resigned her employment with the university on September 22, 2015 before completing the investigation summary report. As a result of the resignation, the EOAA Manager, Pamela Fitzgerald composed this investigation report by the notes and information gathered by Ms. Barton during the course of the investigation.

#### Interview with Lauren Kesterson

On August 24, 2015, Lauren Kesterson met with EOAA investigator, Erin Barton to file a complaint regarding a sexual assault that occurred on December 7, 2012. Ms. Kesterson alleges she reported the rape to her head softball coach, Karen Linder because the person who raped her was her son, Tucker Linder who was also a Kent State student and a baseball athlete.

Ms. Kesterson alleges that Coach Linder informed her not to tell anyone about the assault and assured her she would handle it.

Ms. Kesterson states on or about May 12-14, 2014, she confided in Coach Linder that her son Tucker Linder had raped her. Kesterson states Coach Linder asked her if she wanted to press charges and she replied “no”. She was also asked by Coach Linder who knew about the sexual assault and was asked by Coach Linder not to tell anyone about the assault. Coach Linder stated at Ms. Kesterson’s request she did not tell anyone. Additionally, Ms. Kesterson states Coach Linder did not provide her with any resources or information on counseling and did not inform her she needed to report the matter to the police and/or Kent State’s Title IX Coordinator.

Ms. Kesterson stated after the alleged rape in December 2012, Coach Linder had a mandatory softball team meeting in September 2014 at her home. Coach Linder indicated in her interview on August 26, 2015, Tucker Linder was not home when the team meetings took place. Additionally, in December 2014, Ms. Kesterson stated she attended the mandatory softball team Christmas party at Coach Linder’s home in which Coach Linder confirms that Tucker Linder was not present in the home during this time.

#### Interview with Coach Linder

On August 26, 2015, EOAA investigator Erin Barton interviewed Coach Karen Linder regarding the allegations. Coach Linder was asked if she was familiar with Title IX and to describe in her own words the meaning or purpose of the university’s 5-16.2 Title IX policy. She replied, she was familiar with the policy and that “you can’t discriminate based on gender”. She was asked in her role as head softball coach, did she attend any Title IX trainings offered by the university and she replied “lots”, most recently completed an online version in July 2015 and another Title IX training a year prior. Office of Compliance, EOAA confirmed that on August 20, 2013, Coach Linder took an online training through human resources training and development office entitled “Title IX & Sexual Misconduct” and she also completed a webinar on June 27, 2015 entitled “Title IX Overview”.

Coach Linder was asked as it relates to Title IX did she know what was her role and responsibilities were as the head softball coach and she replied “stand up for women’s rights, treat everyone fairly and consistently”. Additionally, Coach Linder was asked by EOAA investigator Barton during the course of her career at the university has any students ever reported any Title IX issues to her, and if so, how did she assist them. She replied, “over a year ago, female athlete came to her because she had went to a party,

however, she does not recall the exact details.” Coach Linder stated that she was concerned and she talked to her supervisor, Janet Kittell about it. Coach Linder then took the student, [Redacted] to the women’s center to get information and resources. Coach Linder states [Redacted] did not mention the alleged perpetrator’s name. Office of Compliance, EOAA did confirm with Jennie O’Connell, Director, Office of Sexual & Relationship Violence Support Services (SRVSS) that [Redacted] came to the SRVSS office in May 2014 for resources, but did not have any information on providing information or resources to *Lauren Kesterson*.

During Coach Linder’s interview on August 26, 2015, she stated that [Redacted] came to her first and said she was assaulted then on a separate occasion. Lauren Kesterson came to Coach Linder and indicated she had been assaulted and that she did not want to tell Coach Linder who had assaulted her. Lauren Kesterson denies this and states it was Coach Linder who asked her, “was it my son?” Coach Linder states she asked Lauren Kesterson if she wanted to report it, and she replied “she did not want to report it to anyone”. Ms. Lauren Kesterson states Coach Linder assured her and her mother that, she (Coach Linder), would handle the situation.

Coach Linder acknowledged having one or two phone conversations with Ms. Kesterson’s mother to check and see how [Redacted] doing. Coach Linder states she did not inform Lauren Kesterson, as an employee of the university she (Coach Linder) was a mandated reporter under Title IX. Further Coach Linder did not inform Ms. Kesterson that she had a duty to report the alleged sexual assault to the Title IX coordinator. Coach Linder states she thought since Ms. Kesterson did not want anyone to know, she thought she could keep it confidential. Coach Linder states she felt she was in a no-win situation.

#### **Applicable Policies:**

University policy 5-16.2(2)(a)(b) defines gender/sexual harassment as:

Gender/sexual harassment. Sexual harassment is a form of unlawful gender discrimination and is defined as unfavorable or unwelcome treatment, made without consent and based on a person's gender or sex, that is severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's employment or academic performance or creates an intimidating, hostile or offensive working, academic or university environment. Sexual harassment includes, but is not limited to:

- (a) Verbal and/or physical behavior including, but not limited to: sexually explicit jokes, insults, and taunts; obscene gestures; offensive pictorial, written, and electronic communications; and unwelcome touching.
- (b) Any of the conduct described in paragraphs (C)(1) to (C)(5) of this rule used by an individual implicitly or explicitly as the basis for employment, administrative, or academic decisions (including submission to or rejection of any such conduct), is considered sexual harassment.

University policy 5-16.2(7)(d)(1)(2)(3) outlines the reporting requirements as follows:

All employees of the university are required to report all instances of gender/sexual harassment, sexual misconduct, stalking, and intimate partner violence to the Title IX coordinator or a deputy coordinator, except as excluded below. All other members of the university community are encouraged to report any gender discrimination, gender/sexual harassment, sexual misconduct, stalking, or intimate partner violence that they experience, witness, or of which they are made aware.

(1) University medical services. If a victim of sexual misconduct informs university medical services, the medical personnel are not required to report details of incidents to the Title IX coordinator/deputy if doing so would violate patient confidentiality. However, a duty may exist to report such incident to the appropriate law enforcement agency.

(2) University psychological services. If a victim of sexual misconduct seeks the services of any psychological service of the university, the services' licensed counselors and their unlicensed trainees are not required to report details of incidents to the Title IX coordinator/deputy if doing so would violate patient confidentiality. However, a duty may exist to report such incident to the appropriate law enforcement agency.

(3) The Ohio Revised Code requires all felony crimes, which includes most cases of sexual assault and some cases of intimate partner violence, to be reported to the appropriate law enforcement agency. Due to this law, university employees (with the exclusion of licensed counselors and unlicensed counselor trainees acting in their capacity as such) are required to report to the appropriate law enforcement agency information brought to their attention concerning such occurrences.

### **Findings:**

In reviewing the investigation file and the notes of this matter, there is no evidence to suggest that at the time Coach Linder received knowledge of Ms. Lauren Kesterson's alleged Title IX sexual assault in May 2014 that she reported it to the Title IX Coordinator or anyone in her chain of command. It's not clear whether or not Ms. Kesterson asked that the alleged sexual assault be kept confidential or if Coach Linder instructed her not to tell anyone. Nonetheless, Coach Linder is an employee of the university and it's expected and required that all reports of unlawful discrimination and gender-based harassment is reported to the proper office for tracking purposes and follow-up. This failure to report the allegation is a violation to the above-mentioned policies. The Title IX trainings offered by the university specify that all employees are required to report Title IX issues to the Title IX coordinator or deputy coordinator and Coach Linder failed to do so in this matter. Additionally, the online and webinar Title IX trainings Coach Linder participated in on August 20, 2013 and June 27, 2015 covered how an employee of the university should respond, refer and report a Title IX issue when

such claim is reported to them as well as if there is reasonable belief the incident occurred.

The Office of Compliance, Equal Opportunity and Affirmative Action would typically recommend sanctions to the hiring authority to evaluate and consider in cases where a university policy has been violated but since Coach Linder resigned her employment on or about August 28, 2015, this office deems this action acceptable.

This concludes the internal investigation by the Office of Compliance, Equal Opportunity and Affirmative Action.

cc: Willis Walker, Interim Vice President for Human Resources  
David Ochmann, Associate Vice President and Deputy General Counsel  
Courtney E. Calhoun, Director, Office of Compliance, Equal Opportunity & Affirmative Action  
Lauren Kesterson, Complainant  
Karen Linder, Respondent