

Ms. Stephanie Morse, JD

October 13, 2016

Sent via Certified Mail

Dr. Bernard Franklin, Chief Inclusion Officer
The National Collegiate Athletic Association
700 W. Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Dear Dr. Franklin,

I am writing to file a formal complaint on behalf of student-athletes, coaches, administrators, and other student and faculty members at Brigham Young University (BYU) located in Provo, Utah regarding violations of the policies of the NCAA Office of Inclusion. This complaint is being made by FreeBYU, an organization dedicated to promoting and defending religious freedom at BYU. I will detail the violations made by BYU below. I have also included the ABA compliant filed by FreeBYU on October 12, 2015 as documentation that evidences BYU's discrimination.

The Office of Inclusion (“the Office”) at the NCAA claims to be “committed to diversity, inclusion and gender equity among its student-athletes, coaches and administrators.”¹ Furthermore, the Office states that the goal of the Office is to “establish and maintain an inclusive culture that fosters equitable participation for student-athletes and career opportunities for coaches and administrators from diverse backgrounds.”² The Office pledges to “provide or enable programming and education, which sustains foundations of a diverse and inclusive culture across dimensions of diversity including but not limited to age, race, sex, class, national origin, creed, educational background, disability, gender expression, geographical location, income, marital status, parental status, sexual orientation and work experiences.”³

In 2012 the Office released a publication entitled “Champions of Respect: Inclusion of of LGBTQ Student-Athletes and Staff in NCAA Programs.” On page 3 of that document it states that “universities have an ethical responsibility to ensure that institutionally sponsored programs protect the rights of every student to participate in a safe and respectful climate in

¹ NCAA Inclusion Statement, NCAA. Retrieved September 16, 2016 from <http://www.ncaa.org/about/resources/inclusion/ncaa-inclusion-statement>

² *Ibid.*

³ *Ibid.*

which she or he can achieve personal educational goals.”⁴ In advocating for inclusion, the publication stresses that:

Athletics participation provides students with educational opportunities to learn about diverse groups of people and develop values that prepare them for work and life in an increasingly diverse world. The experiences of competing with and against others of different races, cultures, religions, sexual orientations and gender identities/expressions provides student-athletes with opportunities to broaden their understanding of their place in an increasingly diverse society.⁵

BYU actively discriminates against students, faculty, coaches, administrators and other staff who were formerly affiliated with the Church of Jesus Christ of Latter-day Saints (LDS Church), violating the Office’s prohibition of discrimination on the basis of creed. For those students who choose to follow their religious conscience and disaffiliate from the LDS Church, BYU precludes their admission and expels current students. Current students are also evicted from their housing if they live in BYU-contracted housing, as most of them are required to. BYU also refuses to hire and terminates the employment of faculty and other staff at BYU who disaffiliate from the LDS Church. These practices burden religious, academic, and intellectual freedom at BYU.

This standard of expelling students or precluding admission, as well as the practice of terminating or refusing to hire staff who disaffiliate from the LDS Church, undermines the Office’s mission to foster an inclusive culture and negatively impacts the learning environment at BYU.

Furthermore, BYU actively discriminates against members of the LGBTQ community in violation of the Office’s handbook, Inclusion’s Best Practices, which states failing to address LGBTQ inclusion “can perpetuate a climate where LGBT student-athletes, coaches, and administrators hide their identities to avoid discrimination or harassment.”⁶

Rather than fostering an environment of fairness or respect, BYU discriminates against members of the LGBTQ community by forbidding “homosexual behavior” which it defines as “not only sexual relations between members of the same sex, but all forms of physical intimacy that give expression to homosexual feelings.”⁷ This means that a heterosexual couple may hold hands and kiss while these behaviors would bring discipline to a student or staff member who engaged in them within a same-sex relationship.

In addition to directly discriminating against LGBTQ students and staff, BYU also fails to implement recommended inclusion practices. The most alarming failure is BYU’s refusal to “treat all student-athletes and staff fairly and respectfully, regardless of their sexual orientation

⁴ Champions of Respect- Inclusion of LGBTQ Student-Athletes and Staff in NCAA Programs, pg 3, National Collegiate Athletic Association. Retrieved October 4, 2016 from <http://www.ncaapublications.com/productdownloads/CRLGBTQ.pdf>

⁵ *Ibid.*

⁶ Inclusions Best Practices pg 7, National Collegiate Athletic Association. Retrieved September 16, 2016 from <http://www.ncaa.org/sites/default/files/InclusionsBestPractices.pdf>.

⁷ University Policies, Church Educational System Honor Code, Brigham Young University. Retrieved September 16, 2016 from <https://policy.byu.edu/view/index.php?p=26>

or gender identity/expression.”⁸ BYU treats LGBTQ student-athletes and staff unfairly by holding them to different standards of behavior and by formally punishing them for behavior that is permitted for heterosexual and cisgender students and staff.

In a 2014 letter included in the Office’s handbook, you, Dr. Franklin, stated:

As we seek to establish, maintain and enhance intercollegiate athletics departments that foster equitable participation experiences for student-athletes; and provide access to career opportunities supportive of the retention and advancement of coaches and administrators from diverse backgrounds we must stand together.

We ask that you stand with us as we endeavor to promote the goals that you and the Office of Inclusion have put forth. We formally ask that you acknowledge the discriminatory practices of BYU and require that the university implement policies and practices that promote inclusion and religious freedom.

Please respond to this complaint by letter or email to acknowledge receipt and inform us of your pertinent actions going forward.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Morse".

Stephanie Morse

stephanie.n.morse@gmail.com

⁸ *Supra*, n6.