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Opinion/Cohen and Hurley: Title IX at Brown: A Missed Opportunity for True Excellence

Amy Cohen and Karen Hurley Special to The Journal

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An Open Letter to the Brown Administration

We are the original plaintiffs of the 1992 Cohen v Brown lawsuit. While until now we have been publicly silent, we have been following the recent legal actions on this case closely and continuing our work for equity. With a new settlement now proposed, we write to express our deep disappointment in what we have discovered: that your commitment to gender equity only goes as far as the letter of the lawsuit. Almost 30 years have passed since we successfully challenged a prior administration for violating Title IX, a federal statute that prohibits gender discrimination. As a result of those efforts, certain structural requirements in the form of a consent decree were put in place to preserve and protect the rights of women at Brown for which we fought vigorously. Yet now, almost three decades later, we watch history repeat itself through strikingly similar actions against equity under this administration's supervision.

In 1998, after six years and nearly \$3 million of litigation in which Brown unsuccessfully claimed that budget cuts forced the elimination of four teams with a combined budget of \$78,000, we hoped Brown had learned its lesson. When Brown reinstated our two sports to varsity status, and added more women's teams without eliminating any men's varsity teams, we convinced ourselves that Brown had embraced the idea of becoming a leader in gender equity, setting a precedent nationwide for more universities, high schools and recreation programs to follow suit. When the opening language on Brown's current website states, "We are a community guided by shared values, an unyielding dedication to diversity, equity and inclusion and a fundamental commitment to supporting one another," we believed today's Brown community to be different. And, when we saw Brown Athletics' mission statement "In the spirit of a university that provides its students with educational opportunities both broad and deep ... the athletic program strives in providing equitable opportunities for women and minorities," we felt our collective voices had been heard.

Sadly, your recent decision to eliminate 11 varsity sports “in pursuit of athletic excellence” demonstrated that all of our beliefs about the integrity of the institution’s goals were unfounded. The decision to eliminate these teams was made at a time when the country is experiencing a broad-based reckoning encompassing prejudice, unconscious bias, equal opportunities and possibilities to change past injustices. It was announced in the middle of a worldwide pandemic, when athletics around the world have been on hold. The decision directly affected more than 150 student-athletes and 7 coaches. When, under tremendous pressure, you reinstated men’s track, field and cross-country twelve days later, you had eliminated twice as many opportunities for women as for men. In other words, when given the opportunity to demonstrate your new values, you failed.

Equally insulting was your attempt during this process to obfuscate the truth under the premise that adding or maintaining women’s opportunities comes at the expense of men. This argument is used time and again at universities across the country. Allow us to clarify: we have remained steadfast supporters of Brown University, Brown Athletics, and Brown Men’s Athletics, while also advocating for women. Our work in support of women’s teams did not (and still does not) equate to reducing opportunities for men. This is a false choice, meant to pit one group against another. To the contrary, we are all fighting for the same things: equality, recognition, inclusion, access, and opportunities. This is not a zero-sum game.

The elimination of these teams has progressed from a breach of compliance to a substantially more damaging breach of trust. This administration has failed at every turn (the exclusive and secretive decision-making process, the end result, and every offensive email in between) to apply the very standards you have said define the University’s culture. You claim to have taken gender equity, racial diversity and inclusion into consideration in your structural decisions but the “pestilential thing” emails made clear that those were superficial conversations about how to avoid further legal action and bad press, and not based on any true commitment. You have shown a disregard for transparency and accountability in your decision-making and lost the trust of prospective and current students and a vast alumni community, the collective intelligence of whom has been severely underestimated. In last week’s settlement you agreed to return two of the five eliminated women’s teams to varsity status in exchange for a dissolution of the consent decree. You celebrated the 2024 expiration of the agreement, but there are no victors here. While you celebrate, there is important legislation without a moral champion. Title

IX is now almost 50 years old. Two generations of women have benefited from increased opportunities both on and off the field as a result of its reach and impact. Yet, almost 90% of

public and private institutions have yet to reach full compliance. We will no longer be silent. We are riled up, and urge the Brown administration to:

- Publish a clear plan towards sustained gender equity through 2024 and beyond, including meeting the requirements of Title IX (which dictates athletic opportunities be equal to student body representation, a higher standard than the 2.25% cushion provided to you in the consent decree)
- Build in transparency by creating an advisory board of male and female athletes and alumni to participate in the athletics decision-making process
- Install a trusted leader to oversee these efforts

We look to our institutions for protection. When we demand change, we do it for the generations that come after us. This is a tremendous opportunity: to be a leader, to be a standard bearer for gender equity in an authentic way, to show that you understand what it means to “do the right thing”, and to prove that your statements on diversity, equity and inclusion are not merely words but can also be substantiated in action.

We will be watching, just as all of the other [Amy] Cohens of the world will be watching too.

This letter was signed by Amy Cohen, Brown class of 1992; Karen (McDonald) Hurley, '93; Lisa (Stern) Kaplowitz, '95; Darcy Shearer, '95; and Jennifer (Hsu) Todd '95.