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Panel on Title IX bias targets Fresno State in heated hearing

School president is at odds with leaders of female athletics on extent of inequality.

By E.J. Schultz - Bee Capitol Bureau

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California State University Chancellor Charles B. Reed said Tuesday that the recent \$5.85 million gender discrimination judgment against CSU Fresno was "excessive" -- a description that prompted a stinging rebuke from the former women's coach who filed the lawsuit.

At a legislative hearing Tuesday, Reed said he thought the jury "was essentially trying to punish the CSU."

Testifying later, former volleyball coach Lindy Vivas shot back: "I can only say that Chancellor Reed is 100 percent responsible for what happened in that courtroom, and I'm not sure why he's complaining."

The exchange was one of many flashpoints at the first-ever hearing of the state Senate Select Committee on Gender Discrimination and Title IX Implementation. Sen. Dean Florez, D-Shafter, asked Senate leaders to create the panel after a jury earlier this month sided with Vivas.

The committee also plans to explore gender discrimination in the University of California system. On Tuesday, three female athletes filed a Title IX lawsuit against UC Davis, claiming systemic gender discrimination in campus athletic programs.

Last week, the UC system paid a \$3.5 million settlement to a former female athletics official at UC Berkeley who claimed she was laid off because of her gender, according to a report in the Chronicle of Higher Education.

The panel's stated goal is to examine whether there is a "pattern of discriminatory behavior" in the athletic programs of the state's public universities.

As a select committee, the panel has little power -- though Florez says he intends to introduce legislation to beef up state oversight of Title IX. The federal law requires institutions receiving federal money to provide equal opportunity for women.

Vivas, who left in 2004, said the university declined to renew her contract because of her advocacy of gender equity and her perceived sexual orientation. The university has blamed her performance.

Fresno State has said it plans to appeal, but Reed on Tuesday said administrators "haven't made any decisions thus far."

Reed said six Title IX legal cases, including the Vivas case, have been brought against CSU in the last 10 years. CSU has prevailed in two of them, he said.

The focus of Tuesday's hearing was mostly on Fresno State. The university's struggle to reach Title IX compliance reaches back more than a decade. A 1992 investigation found Fresno State out of compliance and another probe is ongoing.

At one point during the five-hour hearing, Florez grilled Fresno State President John Welty over his support of former athletic director Scott Johnson.

As an employee of the athletic department, Johnson in 2000 allegedly took part in "Ugly Women Athletes Day" -- which featured posters displayed in the athletic department's business office, according to testimony in the Vivas trial.

Johnson was later promoted to full-time athletic director after a national search.

"Why in the world would you hire someone like that?" Florez asked.

Welty defended Johnson, saying that overall he "set a positive tone with regard to gender equity." He also said Johnson faced some "incredible issues and had to make some very, very difficult decisions because of the fiscal issues of the department."

Welty pointed to a recent report by a women's advocacy group that gave the university an A on its commitment to women's athletics. He also said 58 percent of the university's athletes are women, and that the softball coach, Margie Wright, is the third-highest-paid coach in the nation for the sport.

Past problems, he said, "do not reflect today's reality." But after Welty took his seat, he faced criticism from current and former coaches and administrators who said the university is still mired in gender equity problems.

Former associate athletic director Diane Milutinovich pointed to data showing the women's share of the athletic budget shrinking from 23.9 percent in 2002-03 to 19.9 percent in 2005-06. Milutinovich is suing Fresno State, claiming she was fired last year because of her advocacy for gender equity.

She said the university "artificially inflated" participation in women's equestrian and track to boost overall numbers. There are so many women on the equestrian team that members can ride only two hours a week, she said.

"These aren't real opportunities for women -- they just look that way," Milutinovich said.

Vivas testified that she tried to solve her issues with CSU officials, but "nobody wanted to listen." The CSU general counsel's office oversees Title IX complaints. Vivas called the arrangement a "conflict of interest" and said an independent officer is needed.

By all indications, university officials were stunned at the \$5.85 million verdict. Fresno State offered to settle for only \$15,000. Vivas' lawyer has said she was willing to take \$1.75 million or less.

If Fresno State does not prevail on appeal, damages will be paid from CSU's risk

management fund, which gets contributions from individual campuses in the publicly funded system. Reed indicated that it's likely that Fresno State's rates will go up as a result of the judgment. Florez has suggested that Welty resign for "blowing" taxpayer money.

Welty, after the hearing, told reporters he has no intention of leaving. "We are moving in a positive way (but) obviously there's more work to be done," he said.

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