



## Special Issues for Coaches of Women's Sports



## Authorship and Acknowledgments

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## **Special Issues for Coaches of Women's Sports**



# Special Issues for Coaches of Girls' and Women's Sports

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This guide provides educational information and suggestions for dealing with various issues—not legal advice. It should be used as a reference and is not to be interpreted as a replacement for institutional policies or practices. Please consult an attorney for assistance regarding particular situations. If you need further educational advice or an attorney referral, please see the Women's Sports Foundation's legal resource section—or call the Advocacy Hotline at 800.227.3988. Additional resources can be found at the end of the guide and on [www.WomensSportsFoundation.org](http://www.WomensSportsFoundation.org).

## Introduction

So, you are a coach. Fabulous! We're excited for you. You probably love working with kids, have your own deep and wide sport's story plus relish both the challenge and the competition. We also suspect you see coaching athletes as a real contribution to a person's character development—beyond the skills and physical acumen individuals acquire. Whatever your reasons for being a coach, we hope that you are thrilled and empowered with your role, most of the time.

We also know that there are events and circumstances that will really get in the way—almost making it impossible for you to have a positive season and return to coach again. We're not talking about just having a losing or lousy season, because if that was the case, half of us would routinely disappear. We are talking about the institutional and relationship problems that go with the job, but are all too rarely taught or talked about. We've been listening for decades, as the Women's Sports Foundation fields coaches calls and e-mails daily.

The purpose of this guide is to help coaches prevent, respond to or even initiate action when faced with difficult professional situations. The format includes commonly (and yes, frequently) asked questions and answers. Now and then, we've also provided a **TIP**, something to take our Theory Into Practice. Suggested resources addressing coaching problems and issues are also listed in the final section.

## Part I: Lack of Administrative Support/Direction

**Q1:** For the most part, I am left alone to conduct the day-to-day business of recruiting, practice and game coaching, as well as performing administrative tasks related to my team. I have very little interaction with the athletic director or any other administrator. I used to think that as long as my team had a respectable winning percentage, athletes remained eligible, and I didn't break any rules, my job was secure. But lately, many of my friends and colleagues have been dismissed for a variety of reasons, and the coaching environment seems unstable. **What can I do to feel more secure in my position?**

**A:** Any time you are permitted to work in a vacuum, your ability to assess organizational stability is compromised. A functional work environment should include staff meetings and ongoing interaction with the athletic director or another administrator to share information related to program philosophy, policies, work expectations, and the like. If these interactions do not take place, there are three primary pieces of information that will help you assess the security of your present work environment.

First, you have to understand the athletic department **program model and philosophy**. Are all teams viewed and treated equally (as they are in most high schools) or is there a hierarchy of support (a more common practice on the college level)? If programs are supported differently, you must find out where your team fits in the entire plan to know if it can be easily affected by factors outside of your control, such as economic changes, Title IX concerns, alumni pressure and admissions strategies. You should request a written statement of program philosophy.

Second, you should read over your job description to make certain you are fulfilling your **responsibilities**. If no job description exists, definitely ask for one.

The third piece of information you need, which may be the most important, is **written evaluation** of your work on a yearly (or seasonal) basis. It is in your best

interest to have documentation attesting to your work performance, and it serves as a measuring stick to help you know where you stand in the organization. If there is no systematic evaluation process in place, request in writing that your supervisor supply you with a written evaluation by a certain date.

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**TIP:** For many years, most coaches worked without formal job descriptions and systematic ways of being evaluated. There is still a resistance by many coaches to embracing employment policies. If they are not in place at your institution, try to convince other staff coaches that they serve as a means of protection and job security. Then request, as an entire staff (or district), to have them implemented.

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**Q2:** I have a good relationship with the athletic director and feel comfortable asking for things that will improve my program. The response is almost always positive, but the changes never seem to materialize. I can't tell if this happens because my program is not valued or the AD is just too busy. **How can I encourage my AD to be more responsive in a timely manner?**

**A:** Whenever you go to your direct supervisor with a request, you should be prepared to offer your time and energy toward seeing the project through. In other words, if you feel it is essential for the tennis courts to be resurfaced and the athletic director agrees, ask if you can help by meeting with the facilities staff to put together a proposal that includes work to be done, securing three bids and a timeline that can be presented back to the athletic director.

If the athletic director continuously rejects your budget requests or your willingness to help, there could be other priorities that you do not know about. So without becoming a nag, ask for information that would help you to understand why the answer is frequently no. If student safety is the concern (the courts are buckled and dangerous for players), try to define the concern as one of prevention.

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**TIP:** Athletic departments are very complex organizations. Even in small institutions, budgeting and policy decisions can have a tremendous affect on the high school or university at large. Very often coaches work in a vacuum and concentrate only on their team. They have a tendency to ask for the world and fail to prioritize their own requests. Athletic directors can be bombarded with all these requests and may, for survival sake, address very few of them. It is important for coaches to try to see the big picture, decide what is truly essential for their program, and determine when might be the best time to ask.

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**Q3:** When I took my current job, the program was at a sub-par level. I saw that there was a lot of potential for improvement. Over the past few years, my team has been one of the most successful programs in the department. We not only win, but also have a strong booster group. Yet, **the level of financial support of my program hasn't changed** at all, and other teams, who have not had the success we have, continue to get all the perks. The booster group has asked if they can help. **Should I rally the booster club to put pressure on the administration?**

**A:** Coaches should try to tie their budget requests to program goals and cost effectiveness. A conversation with the AD on explicit objectives is essential to determining alignment with actual costs and development. When you build a budget based on the AD's stated goals (which represent program philosophy), you stand a better chance of making your case for additional resources.

Booster clubs and sport-specific alumni groups often contribute to athletic program budgets. Parents and alumni may raise money for specific teams or for the overall athletic program. As a result, the school may have greater resources for some teams or programs. Men's sports programs typically receive more donor support because they have been around longer and men earn more than women on average in this country. As a result, the booster clubs may

provide benefits or services to the men's teams that the women's teams do not receive. This puts Title IX compliance at risk.

The most viable solution is for each institution, school district (or county office of education) is to establish an all-inclusive school-wide sports booster club policy. Then, each school site adopts its own by-laws, procedures or administrative guidelines, reflecting the intent of the administrative office. As the district and school board members are responsible for the operation of each school site, this authority (and supervision) must come from them. For more information on the school-wide sports booster club model, please see *Show Me the Money: Title IX and Booster Clubs*.

Some high schools and many universities implement a major-minor sports model that creates two or more tiered funding levels. The primary reason is economic. Very few institutions can afford a full-time coaching staff for every sport, purchasing new uniforms every season and upgrading all facilities to professional standards. The practice of tiering is permissible as long as gender equity exists within each tier (meaning the number of male and female athletic participants—not teams—within each tier are proportional to numbers of males and females in the student body). The placement of sports within tiers can be based on several factors such as tradition, facilities, conference play and, yes, revenue production. You should request a statement of the criteria used to make up the tiers. In some cases there may be flexibility within the model, but for the most part, changing a sport from one tier to the next is a complex process. Ask the athletic director to identify where your sport fits and if there is any potential to move up to the next tier. If there are no plans to elevate your sport and other sports within your tier are receiving the same level of treatment, you may have to live with a pat on the back for a job well done.

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**TIP:** If you rally the troops to help elevate your program, it could be a double-edged sword. Sometimes it creates the change you are looking for, but oftentimes it may result in management engaging in retribution or the booster group getting frustrated with their lack of power. If the tiering is not a Title IX violation but simply a matter of institutional choice in sport emphasis, you may choose to settle with the status quo. If you are dissatisfied with the support of your program, consider a job at another institution that positions your sport with great regard. But remember...the top tier teams and their coaches will usually be faced with a lot more pressure to win.

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**Q4:** Although I enjoy my current position, I am always investigating what other opportunities exist in the marketplace. However, it is clear that my AD thinks that this practice is disloyal, and I've seen it create a poor relationship between the AD and another coach. **How do I apply for other positions, yet be certain that my AD will not find out about it?**

**A:** Many athletic directors have changed jobs several times so they should understand an employee's desire to explore the marketplace. There are other times when you may need to be—because of other people and realities in your life. Then, there's the economy, putting everyone on edge about budget and program cutbacks. It is important for you to assess if the AD thinks it is disloyal to be in the search mode or if it's a desire to be informed about your intentions. It's certainly frustrating for an AD to get reference checks without knowing that a coach is pursuing other options. In many instances, coaches are hired in the middle or end of the summer, and an AD will have an easier time searching for a replacement if prepared for a potential change.

If you are worried that your job search sets you up for retribution, there are two key strategies that may help. The first is to **identify another person** at your institution who could attest to your qualifications and who is willing to serve as a confidential reference. Write the cover letter that goes along with your

application for the job, clearly stating that you do not want anyone at your institution being contacted except for the person you have listed. The second approach is to state, "...in the event that I become a serious candidate for the job, I would appreciate a phone call and **at that time I will provide the names and numbers of other key references.**" Hopefully, a potential employer will honor your wishes because it models your respect for the colleagues in your current environment. If phone contact is made, get as much information about the job as you can to assess if you are interested. If you are, and the caller states that it is essential to talk to your immediate supervisor, ask for a day to inform your AD before the reference call is made.

**Q5: Another coach in my department is doing something unethical** (breaking a governing body rule, having an affair with an athlete, slandering an opposing coach during the recruiting process), and my perception is that the administration knows about it and is ignoring it. **What should I do?**

**A:** This is tough because some "bad" coaching behaviors are unethical (breaking a rule on the number of practice hours per day), and others (like having a sexual relationship with an underage student-athlete) are felony rape. As coaches and educators (and a coach is both) our primary responsibility is to our student-athletes' well-being.

It is perhaps worthwhile to meet the problem directly and approach the offender first. Describe what your concern is and ask if it is justified. If the coach denies the accusation, and you have no concrete proof, you have little recourse. However, it is also a good strategy to remind someone that perception can be as damaging as reality and changing this perception may be required. This could obligate someone to rewind and then reset their behavior.

If you do have proof or the coach admits that the problem exists, then you must decide what would be the appropriate action based on the severity of the offense. If a student is victimized, you probably

have some evidence—whether it comes via hearsay from other students or just your intuition. It is our obligation as adults charged with a responsibility for students' well-being to report these situations. This might vary in an adult learning environment with individuals over 21.

In a less contentious circumstance, remind the coach that these issues affect how the athletic department is viewed and that the entire staff is compromised. If you think it is appropriate, tell the coach that if this continues to be a perceived problem, you will be obligated to share your concerns with an administrator. That alone could create a change in behavior. Insisting that the coach stop the behavior or self-report and ask for help would be an effective remedy.

If these strategies don't work, identify a campus resource person who you can speak with confidentially, assuming that you do not have confidence in the athletic director or another athletic administrator. Very often, a dean of students, vice principal, human resource director, compliance officer or director of the counseling center will provide another avenue for dealing with these situations.

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**TIP:** Too often, athletic departments position themselves as separate entities from the rest of the campus community. This form of isolation does not bode well when problems arise. Individual coaches should get to know other administrators, staff and faculty on campus and create professional and collegial relationships. That will go a long way when help is needed.

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## Part II: Athlete and Parent Issues

**Q6:** When I was an athlete, we did whatever the coach told us to do. We never questioned decisions about playing time or game strategies. Now **it seems that players and parents think they have a right to question or criticize almost every decision I make. What are their rights, and how can I prevent or handle such situations?**

**A:** Coaches can do a lot to head off some of these problems, and you would be wise to put in the effort up front, as much as possible. At the high school level, a pre-season meeting with parents or e-mail/letter to parents is highly recommended. Setting up clear expectations for athletes' behavior is essential at every level. Provide written documentation to the players, bring other school administrators to the meeting, and let the students know that your agreements are important. Tell athletes (and their parents) that you're approachable and willing to address their individual concerns. Conversations like this are more effective when they are planned and in your office (or a neutral space) than on the field during a game!

As a confident and competent coach, your decisions are justified by your observations and analysis. Sharing this information with players can be important. Too often, when athletes or parents challenge a coach, they do it out of anger and want answers right away. However, many of the problems coaches face reflect upon the attitude of the person asking the questions. If you totally avoid these challenges, the athletes and parents may gain momentum in the locker rooms and on the bleachers. So, saying that you are approachable and actually being approachable should be pretty appealing.

When you are faced with a situation like this, here are a few simple guidelines:

Respond with a positive tone. Tell the athlete or the parent that this is not the best time or place for discussion and they are invited to please contact you tomorrow to set up a meeting.

Avoid anger and keep away from answering their questions or criticisms in any way. Maintain your composure. The same is true of today's instant message moments on e-mail and cell phones. Don't just hit "reply." Give it (an enraged parent and your thoughtful response) a night's rest. Take the time to prepare yourself by making the time to set up a meeting.

Prior to any meeting, inform the athletic director about any specific incident and ask for guidance. It is important that the athletic director knows what is going on before the parent elevates the issue by going to the AD.

You might want to avoid meeting alone with the athlete or the parent. Having the assistant coach, another coach or the athletic director present can mellow out the tone of talk and ensure you are not being accused of inappropriate behaviors. This would be important if you are being unfairly blamed for harassment, racist or sexist comments or similar unprofessional conduct. Likewise, it would be just as important for the student and parent's protection to have an additional adult present when they are dealing with coaches who are abusive or bully.

If at any time the athlete or parent behaves in an uncivil manner or threatens you, end the meeting immediately and report it to the athletic director.

If you and the athlete or parent cannot agree, and all issues have been discussed, end the meeting by saying something like, "It does not appear that we are going to agree. I have to make the decisions that I think are right for our team." Setting this in the context of team benefits vs. personal opinions is a more effective place to close the conversation.

In the case of a parent complaint, you may want to finish by saying, "and my only suggestion is that you may want to pursue this further with my supervisor. Would you like the name and contact information?"

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**TIP:** Dealing with parents can be very complex. Many coaches make the mistake of getting too close to parents, which, in essence, allows the parents to feel like they have a certain amount of ownership in the program. Coaches should keep a respectful distance from parents and should not give them any reason to believe that they should have any say about training techniques, strategies employed, or anything else that is not directly related to the welfare of their own child.

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**Q7:** Coach-athlete relationships are being scrutinized more and more. **Charges of sexual harassment are increasing, and I find myself nervous about patting an athlete on the back or meeting with her in private.** Am I being paranoid, or is there a reason to be concerned?

**A:** There is a very real reason to be concerned. The coach-athlete relationship is a very powerful one. For decades, sport organizations allowed and even encouraged coaches to abuse that power in many ways. Unfortunately, the shift away from those practices has not been automatic, and many coaches continue to control athletes through bullying, intimidation, harassment, and romantic or sexual relationships. It is essential that you analyze your own behaviors as a coach and try to determine if the strategies you employ to motivate athletes are in their best interests and would be just as appropriate if used in any classroom. Every coach should strive for a positive coaching style that empowers athletes, avoids abuse of power and utilizes motivational techniques that do not depend on fear, humiliation or trade of affections. The whole issue of coach-athlete relationships is too broad to cover in this guidebook.

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**TIP:** Every coach should be trained to know and follow the sexual harassment policies included in their campus handbook. The school administrator responsible for sexual harassment complaints should be invited to a required seasonal athletic department staff meeting to review appropriate and inappropriate behaviors between faculty and students—as these

naturally apply to coach-athlete relationships.

Even if you feel confident that your coaching behaviors do not cross the line regarding the coach-athlete relationship, you must still protect yourself from frivolous accusations athletes may make. Unfortunately, there have been cases when athletes have lied about coaches' behavior because they wanted to get back at the coach for some other reason. Therefore, you must avoid situations in which you are alone with an athlete. Though it may seem somewhat impractical at times, you should try to keep your door ajar when meeting one-on-one with athletes, even in your own office. Never entertain athletes at your home unless it is a full-team function, you have school and/or AD permission and other representatives of the school are present.

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**TIP:** While many teachers' and educational organizations are telling adults to stop touching students, that's not easily accomplished when touch is integral to athletic instruction. Is it possible to touch students in appropriate and effective ways? Absolutely.

A few suggestions will help you (and your players) define physical contact that is safe and purposeful. For some students, their experience with touch may be sadly limited to negative physicality (punishment and abuse) or sexuality. Your non-verbal contact and effective instructional touch may be a new and important experience for them.

- Explain at the beginning of the season that you trust them to be aware of and responsible for their personal safety. That includes their right to decide who touches them...where, when and why. This has important carry-over to their development. The purpose of your contact will be to move them in more skilled ways ("stretch off the opposite foot") or to help them avoid movements that are unsound ("too much torque in your knee").
- Before you begin, clearly state the purpose of the

touch. Ask for permission, even in casual ways. “I’m going to rotate your tossing arm well over your head now. Relax your shoulder a bit. Is that OK?”

- Reassure students who are not comfortable with touch that they may pull away, talk to you or just cue you (“I’ll do it.”). Let them know that you’ll use other techniques to help them achieve.
- Let students choose partners when their interactions require touching.
- Clearly prohibit your athletes from harassing or taunting others if touch is a sensitive issue for them.
- Be public about your practice. Don’t touch students when you are alone with them.
- If you touch, touch equitably. Don’t have hands-on contact with some athletes (a favored few) and avoid others altogether.

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**Q8: Often, parents call me digging for information about their child.** In some instances, the athlete has confided in me, but I feel that I would be breaching a level of confidentiality if I share that information with the parent. On the other hand, I’m not sure if telling the parent is my responsibility or if I am liable if something does happen. **How should I handle these situations?**

**A:** There are really two questions here: 1) What do I do when athletes come to me about personal problems? and 2) Do I tell the parents? Coaches are educators and should be accessible to student-athletes and willing to help them through difficult situations. If the problem is relatively minor (struggling with a bad grade), you can help the athlete design strategies for improving the situation. However, you should never advise athletes about issues outside your area of expertise. In the case of a major problem, your role is to be a good listener and help steer the athlete to the appropriate resource person, like a counselor or social services expert. In addition, avoid sharing your own opinions or biases or tell athletes about your

own personal experiences related to the topic at hand such as drug use, abortion, religion, eating disorders, abusive relationships and sexuality.

The question of whether to share information with a parent is more complex. If the problem is minor and there seems to be no imminent risk to the athlete, coach-athlete confidentiality should be maintained. However, if a parent questions you about an issue involving her or his child, if the child is a minor, you are obligated to respond. If it is a major problem, you should seek counsel from the appropriate resource person on how to handle the parent inquiry.

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**TIP:** Familiarize yourself with institutional policies that relate to student confidentiality. For example, at the high school level where most students are minors, the parent has a right to all information about his or her child. Once a student becomes an adult, the situation reverses. Many universities refer to the Buckley Amendment that, in essence, refers to students as adults and states that it is a violation of their rights to share information about them with anyone (parents included) without first acquiring written approval from the student to do so.

If you are dealing with athletes who are minors, it is a good idea to tell your athletes that while you are not going to run to their parents if issues arise that do not place the athlete at risk, you are obligated to discuss any issue if questioned by a parent.

A coach who promises to talk personally with a player and not tell her parent is risking an unhealthy relationship with the athlete. Secrecy is a privilege of friendship and not characteristic of a professional relationship with a coach.

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**Q9: The parent of one of my athletes criticizes her performance** no matter how well or how poorly she plays. In fact, her performance seems to be contingent on whether or not her parent attends the game. **Should I talk to the parent about this** and suggest an alternative strategy or request skipping the games?

**A:** The first step is for the coach to make sure that the athlete feels the same way about the parent's behavior. If so, perhaps the coach could suggest a three-way discussion about the problematic effect the parent's behavior is having for the athlete and her team. If the athlete is reluctant to have that conversation, another strategy is for the district (or the athletic department) to distribute an educational brochure for all athletes' parents, addressing the challenges of competitive sport and the role of parents. This brochure would help to educate parents, but could be referenced if you must confront a problematic parent. If the criticism to the student is coming from the stands (rather than a post-game discussion in the car) the parent's actions might impact the climate of the game. The athletic director may need to step into the situation to support the coach, the individual athlete and the whole team.

The Positive Coaching Alliance (PCA) conducts workshops (even online) for parents, teaching life lessons through sports. Its resources genuinely strengthen the parent-child relationship and would be beneficial for anyone.

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**TIP:** Taunting and trash talk have been prohibited in some professional sports, the NBA for example, yet high school and college students, along with their parents, can too quickly become part of a crowd mentality. If the negativity of one parent becomes public and turns into trash talk, know that the National Federation of High School Associations prohibits "baiting, taunting acts or words," and "any form of taunting which is intended or designed to embarrass, ridicule or demean others...on the basis of race, religion, gender or national origin."<sup>1</sup>

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**Q10: As a coach and educator, I know it is an expectation by my school, parents and athletes that I am a role model. How much should this expectation affect my personal life?** Can I smoke in public, go with friends to the local pub, attend political or advocacy functions?

**A:** A coach must understand that he or she is a public figure whose behavior will be judged by many people. As a general rule, maintaining a high standard of professional behavior in any public setting is essential. Most experienced coaches (and educators) will avoid going to bars, restaurants or other public places where they will meet their students. Smoking or drinking excessively in public are best avoided. Even something that seems less problematic (talking on a cell phone while driving with students in your car) still reflects your position as mentor in a student's eyes. As a public figure you are a role model, whether you want to be or not. The higher your visibility in the community, the more this may restrict your activities in public places.

**Q11:** There seems to be a lot more attention on certain athlete performance topics. **To what extent am I permitted to advise my athletes in the areas of weight management, natural supplement use, etc.?**

**A:** Weight management advice and its connection to eating disorders is a serious problem in women's sports. Coaches should consult with their athletic trainer, student health center or school nurse regarding appropriate ways of dealing with the issue of weight or eating disorders. In general, you should never have athletes "weigh in" or criticize an athlete for her weight. Examine our educational resources on eating disorders and dealing with the topic of weight by reviewing Obesity and Physical Activity.

Coaches must also be very cautious in prescribing any ingestible that might be perceived as a "performance-enhancing substance." Never give any athlete any pill, including routine headache tablets, supplements and vitamins. Passing out any meds or pills should be by an athletic trainer or physician. Suggesting that

athletes take a good general vitamin is acceptable, but let your school's athletic trainers, nurses and physicians do that. Putting information on weight control and supplements into the school's athletic policies on conditioning focuses on creating a healthy training environment rather than an area of concern. Several useful policies and position statements are available with our Substance Use Position Statements.

**Q12: How can I respond to parents who are concerned about the possibility that their daughter might have lesbian teammates or coaches?**

**A:** Before answering the question, ask parents if they would say more about their concerns. This gives you a little time to gather your thoughts and provide specific information about their worries. You can also tell parents that one of the benefits of playing sports is the opportunity to learn to work with people across differences and that this experience is good preparation for living and working in an increasingly diverse world. Tell parents that you expect all of your athletes to treat each other with respect and to learn to work together as a team. Women's teams often include athletes and coaches who are different from each other in many ways—race, religion, class and sexual orientation, to name a few. If your school has a non-discrimination policy that prohibits discrimination on the basis of sexual orientation, inform parents that all school athletic programs are expected to abide by this policy. Addressing Concerns About LGBT Athletes and Coaches in the Locker Room is a valuable resource. Don't tell parents that you do not have lesbians on your team or among your coaching staff as a way to relieve their concerns. This answer assumes that parents' fears about lesbians are legitimate and does not address negative stereotypes about lesbian athletes and coaches. If you know of other coaches who engage in negative recruiting (warning parents about lesbians in the programs of rival schools), propose that your school, conference or coaches association take a more active role in preventing this unethical practice. One of the strongest resources on the subject is The Positive

Approach: Recognizing, Challenging, and Eliminating Negative Recruiting Based on Actual or Perceived Sexual Orientation.

**Q13: How can I help everyone on the staff and team, regardless of sexual orientation, respond effectively to lesbian-baiting or anti-gay name-calling from fans or another team?**

**A:** This is a great opportunity to help young women understand the motivations behind the lesbian-baiting that impacts all women athletes. Plan on having a team discussion and ask them to talk about their feelings when this happens, ask them what they think someone might hope to achieve by calling them lesbians, and discuss several effective ways to respond when this happens. Lesbian-baiting is typically less about sexual orientation and more about gender equity. The underlying purpose of the baiting is to intimidate women who participate in activities, like sports, that some people think should be reserved for males. People who engage in lesbian-baiting hope to distract women athletes, spoil their concentration or make them self-conscious about being strong and skillful. Encourage team members to think about why some people think being called a lesbian is an insult. Discuss some of the negative stereotypes about lesbians and how it is unfair to judge any group of people based on stereotypes. Ask them to think about how it hurts lesbian athletes and their families and friends to hear the word "lesbian" used in hateful ways. Encourage team members to tell you if other teams or fans are lesbian-baiting. You can address this with the other coach or school officials. Ask the team for examples of how they could respond directly in ways that disarm the power of lesbian-baiting. Across all areas of diversity, one pro-active response is "I need to let you know that offends me and the people at my school/on my team/in this community."

## Part III: Title IX Concerns

**Q14: I'm worried that my school is not compliant with Title IX. How do I find out if we are complying?**

**A:** Coaches are often in the best position to evaluate whether a school's athletic program is compliant with Title IX. It is important as a coach that you are familiar with what the law requires and know how to be an advocate for your team. In order to learn more about Title IX, please read *Play Fair: A Title IX Playbook for Victory*; this is a comprehensive guide that will explain all of the nuts and bolts of what compliance entails.

Next, for ideas on how to put that plan into action, check out: *Step by Step: A Practical Guide to Assessing and Achieving Gender Equity in School Sports*. This includes effective strategies on how to achieve compliance in your program.

**Q15: Where should Title IX comparisons be made? Do I compare my salary and program with other schools or to the same sport for male athletes at my institution?**

**A:** Such comparisons must be made within your own school. The relevant comparison is the benefits provided to female athletes compared to male athletes at your institution. A defense presented much too frequently is, "We're doing better than other schools." It is also important to remember that Title IX uses a whole program vs. whole program, rather than sport vs. sport, comparison. It's permitted for a school to pour resources into the women's swimming and soccer teams, and the men's basketball and tennis teams, leaving the other teams on starvation budgets. In such a scenario the women's basketball team could be getting much less than the men's basketball team and the institution considered in compliance with Title IX, as long as the men's and women's overall programs are equal.

**Q16: My school is not in compliance with Title IX. I'm really worried about retaliation and employment practices which may disadvantage me. Am I protected from retaliation if I stand up for my team?**

**A:** Title IX contains a strong prohibition against retaliation. In fact, the Supreme Court ruled in *Jackson v. Birmingham* that retaliation against coaches raising Title IX concerns is strictly prohibited under Title IX.

After you have reviewed *Play Fair: A Title IX Playbook for Victory* and *Step by Step: A Practical Guide to Assessing and Achieving Gender Equity in School Sports*, there are three short cuts to consider if you choose to avoid confronting the issue with the residual possibility of retaliation:

1. Identify a tenured faculty member within your institution of higher education, preferably on a school or university committee addressing women's issues, who is willing to raise the issue of Title IX at your institution. At the high school level, this person might be a member of the school district administrative staff who supports the rights of students and gender equity. This initiative should include a request for a Title IX self-evaluation by the institution, preferably by a school-wide task force, and the subsequent development of recommendations to bring the school into compliance.
2. Seek the assistance of a key influential parent who is willing to take on this issue. Ask the parent to play a front person role with you helping behind the scenes. Guide the parent through a process of education about the provisions of Title IX, meeting with school officials to raise concerns in a professional manner and, if necessary, meeting with school boards, trustees or elected public officials if internal meetings do not result in improvements.
3. File an anonymous grievance with the Office for Civil Rights (OCR) of the U.S. Department of Education. Do this only if you are fully convinced that you will not be filing a lawsuit and will be satisfied with a reasonable result. While the OCR might need to contact you for additional information based on your complaint, it is obligated to keep your identity confidential if you request it.

For more information about filing a complaint with the OCR, please see the 15th step in our Step by Step: A Practical Guide to Assessing and Achieving Gender Equity in School Sports.

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**TIP:** It is not uncommon for a coach to be suspected of raising Title IX issues even if others raise them. Because the law strictly prohibits retaliation, your best protection may be to raise your gender equity concerns directly and in writing in a very helpful, polite and non-threatening way. Focus on the student-athletes and their rights. Express your confidence that the institution is committed to Title IX compliance. Remember that dealing with equity issues is a lot like strategizing to win a game. If you are ever accused of raising gender equity concerns or hear of talk in that regard, make sure you protect yourself documenting and, from that point forward, keep a daily log of any actions on the part of colleagues or administrators that create a negative or accusatory climate.

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## Part IV: Compensation Equity

**Q17: Does Title IX apply to coaches as well as to athletes? Does it address unequal compensation patterns?**

**A:** In addition to its protections against retaliation of coaches, Section 86.51 of Title IX prohibits discrimination on the basis of sex in regards to employment. It specifically requires educational institutions to make employment decisions in a nondiscriminatory manner and prohibits the segregation or classification of applicants or employees in any way that could adversely affect any applicant's or employee's employment opportunities or status because of sex. This includes any decisions made with regard to rates of pay or any other form of compensation, or changes in compensation. If you feel that you are being paid less because either you are the coach of a women's team or because you are female, this could violate Title IX.

**Q18: I feel that I am being underpaid because I'm coaching a female team. What are my rights?**

**A:** Title IX protects both female and male coaches of female teams from forms of pay discrimination if they are made because of you are coaching a women's team. (See Answer 17 above).

In addition, female coaches could have additional recourses under the Equal Pay Act 1963 and Title VII of the Civil Rights Act of 1964. These two laws are concerned solely with discrimination in compensation on the basis of gender. Title VII forbids discrimination because of sex against any individual in hiring or with respect to his/her compensation, terms, condition and privileges of employment. The Equal Pay Act prohibits employers from paying employees at a rate less than employees of the opposite sex at the same establishment for equal work on jobs that require the same skill, effort, and responsibility performed under the same conditions.

In the fall of 1997, the Equal Employment Opportunity Commission (EEOC) issued an example-filled directive. Enforcement Guidance on

Sex Discrimination in the Compensation of Sports Coaches in Educational Institutions addresses coaches' compensation equity. In this directive, the EEOC interprets both Title VII and the Equal Pay Act as these laws relate to discriminatory employment situations frequently experienced by female coaches. This document provides coaches with ammunition with which to attack compensation discrimination.

**Q19: What factors are important to salary discrimination claims?**

**A:** Factors include coaching records, experience, educational degrees, graduation rates, National Collegiate Athletic Association rule compliance, coaches' contracts (length, terms, perks), and annual job reviews or evaluations. There are many reasons that the school can use (perfectly acceptable reasons) to pay someone more than someone else. Having more education or experience or being more skilled or successful are all valid reasons to receive more money.

It is important to note that it doesn't matter where the dollars come from. Even if a booster club or alumni group provides part of a coaches' salary, the courts and government agencies will "count" it as part of the compensation package. If sporting good company or the booster club gives the men's coach money, even as a stipend, that income is viewed as salary just as if the school had given him or her money.

Under the Equal Pay Act (EPA) and Title VII, salary includes not just money, but "in kind" benefits as well, such as use of a car, health or country-club memberships, complimentary tickets to other sports events, life insurance, and discounts for children at the school. EPA and Title VII analysis also looks at the type of employment, whether one gender has long-term contracts, or any contracts, and the other gender does not, or whether one gender is routinely reviewed formally and the other gender is not. Under the EPA, jobs have to be substantially equal. Under both the EPA and Title VII, a "comparator" must always exist—someone of the opposite sex being treated better.

**Q20: What are the guidelines to determine equal pay? Do institutions have any say in determining the guidelines?** In examining equal pay, must an institution take into consideration the fact that women do not have the same opportunity to coach men that men have to coach women?

**A:** Once the minimum annual salary and expectations of all coaches of men's and women's teams are established, compensation over that amount is usually determined on the basis of five criteria: (1) educational preparation (degrees, coaching certification), (2) experience (years of coaching experience), (3) past demonstrated success (numbers of conference, regional or national championships or coaching awards), (4) scope of basic coaching duties (percentage of team recruited vs. walk-on players, local vs. national or international recruiting, supervision of large staff of assistants), and (5) assigned duties above basic coaching duties (fundraising, public speaking, teaching classes). "Marketplace" does not affect the salary of currently employed coaches but does have an impact on the salary of newly employed coaches obtained in the marketplace. So, when an educational institution employs only males as coaches of men's teams and pays these coaches more than coaches of women's teams, the institution may be placing itself in a position for current or prospective female employees to claim sex discrimination. See the Equal Employment Opportunity Commission Notice referenced above for important examples of permissible and non-permissible salary differences between coaches of men's and women's teams.

**Q21: What specific information is needed to file a complaint or a lawsuit about coaches' salaries?**

**A:** In order to address issues under Title VII or the Equal Pay Act, you will want to consider filing an administrative complaint with the Equal Employment Opportunity Commission. For information on how to file a complaint with the EEOC please review the information at [www.eeoc.gov/charge/overview\\_charge\\_filing.html](http://www.eeoc.gov/charge/overview_charge_filing.html).

Please note that certain claims have time limits for which they must be filed. Be sure to consult with the EEOC to comply with the appropriate statute of limitations so you do not lose your right to bring your claim.

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**TIP:** It is important to understand that the Equal Employment Opportunity Commission (EEOC) has a large caseload and limited resources. Therefore, if you pursue a case, you must be as helpful as possible. The more factual evidence you present, the easier it is for this agency to help you. If you do file a grievance, be sure to also ask for more resources (facilities, equipment, scholarships—the areas of fair treatment) for your athletes. Compare the overall resources afforded female athletes with male athletes, not compared to other women's teams. This is also important as it strongly ties your claim to Title IX.

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The EEOC can discover all the information you don't have. The advantage of going to the EEOC first is that if the EEOC collects a lot of information and then decides not to sue, your lawyer can do a Freedom of Information Act (FOIA) request from the EEOC, and you will have all the information necessary for a lawsuit at very little cost to you.

**Q22: If I file a grievance against my employer for salary reasons and get fired, what recourse do I have?**

**A:** Title IX, Title VII and the Equal Pay Act all contain protections against retaliation. You are better protected if you file a grievance against your employer than if you didn't file one. Retaliation may be an easier claim to prove than discrimination if there is a clear connection between your grievance and your termination. Thus, filing a complaint should actually be viewed as job security.

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**TIP:** Put your grievances in writing and keep a copy for your personal records. Be sure to keep copies of all correspondences you have with the school in regard to this matter.

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**Q23: How can I find out salaries and budgets of other coaches and sports at my school?**

**A:** For public educational institutions, coaches should go to the university archives or school district records to get budgets and salaries. Most states have “open records” or “freedom of information” laws that permit any citizen to obtain these records for the cost of duplication. These requests are called FOIA or Freedom of Information Act Requests. You can have a third party make the request for you. You do not need to give a reason for the request. Private institutions are not covered by such open records laws. However, most private colleges, like public high schools and colleges, are recipients of federal funds. These institutions must comply with the Equity in Athletics Disclosure Act, which requires annual reporting of a number of athletic program statistics, including participation, operating budgets, scholarship expenditures and coaches’ salaries. You can find that information online at <http://ope.ed.gov/athletics/GetOneInstitutionData.aspx>. Some of this data is in the aggregate and may not be helpful if you are looking for a single individual’s salary for coaching a specific sport. The only way to get this information from an educational institution that does not receive federal funds would be through the discovery process in a lawsuit.

**Q24: Can the issue of revenue (ticket sales, major gifts) preclude me from equal pay?**

**A:** Only if the school has given you and the coach of the men’s team the same resources to be able to get ticket sales. The school cannot discriminate on the basis of gender in the allocation of such resources.

**Q25: Is seniority an issue in determining equal pay?**

**A:** Yes. It is a valid reason to pay someone else more.

**Q26:** It often seems that the issue of marketplace value presents extreme problems not only for coaches of women’s teams but also for coaches of “non-revenue” men’s sports. **How does the issue**

**of marketplace value affect pay equity? Who determines marketplace value?**

**A:** There are several considerations related to marketplace. First, the employer should not be defining marketplace as the “coach of a women’s team.” Marketplace should be “basketball coach” or “volleyball coach” without regard to the gender of players. Second, while bringing in a new employee at a higher salary may be justified by the marketplace, if current employees have the same performance, expertise or experience, the gap between new employee and current employee salaries should be closed within several years. Sex discrimination in the marketplace that results in lower pay for jobs done by women will not support the marketplace value defense.

## Part V: Special Concerns of Men Coaching Women

**Q27: Do the same laws and rules that apply to women coaching women's teams apply also to men coaching women's teams?**

**A:** Yes. Title IX prohibits men from being paid less because they coach women. Under employment laws such as Title VII and the Equal Pay Act, it is a bit more difficult for men to prove discrimination than women in the area of employment. Men would have a cause of action if they can prove they are being treated differently or underpaid because of their gender (male). Typically, that is not the case; male coaches are being discriminated against because of the gender of their athletes, and thus Title IX would apply.

**Q28: How do I respond to parents who tell me that they want their daughter to play for a man because they are worried about lesbian coaches?**

**A:** It is very important that you do not feed into a homophobic stereotype even though you are trying to recruit this athlete. A clear and positive response is to cite your university or school diversity policy that relates to acceptance of all people, which probably includes a sexual orientation clause, and confirm that all athletes are welcome on your team. Using one's heterosexuality to promote the presumed safety between a male coach and a female player is unethical and is a form of negative recruiting. Please review *The Positive Approach: Recognizing, Challenging, and Eliminating Negative Recruiting Based on Actual or Perceived Sexual Orientation*. Imagine if another category of diversity (race, ethnicity or age) was cited as a reason to dismiss a person's professional worth.

**Q29: As a man who is working with young, female athletes, sometimes the players are vulnerable to the energy and passion I bring to the game. How do I make sure I have their respect rather than their special (romantic) interest?**

**A:** The position of coach is esteemed, and it is unrealistic to assume that today's young girls and women might not find themselves drawn to an older

male, one in authority over something they cherish—sports. It is also possible that the inherent connection can breed affection. It is absolutely the coach's responsibility, as the adult, educator and professional, to set clear boundaries for each and every one of his players. Favoritism is too visible by teammates and can be easily misinterpreted by adolescents who are not yet mature or sophisticated to navigate what they see and feel.

Don't use your role as coach (and the potential appeal your power generates) to coerce or manipulate your athletes. This could easily be sexual harassment and thus is illegal. Your job and your long-term professional reputation could be at risk. Bullying your athletes, under the guise of motivating them, is also not appropriate and considered conduct unbecoming a professional. Equity and coaching issues impacted by sexual harassment are crucial for you and your athletes' awareness.

**Q30: As a father, I shoulder many family and work responsibilities. I'm struggling to keep coaching and continue to have and take care of my home and children. Any advice?**

**A:** Coaching is very fulfilling, and it can also really fill time. Research shows that even in two-parent families, women handle a greater amount of the home work than men. You are, however, a role model to your female athletes and demonstrating a pattern that will impact all the people in your life: partner, family, colleagues, athletes and community. Coaching may be the most demanding of all fields in that most coaches teach full-time in addition to practices and competitions. College coaches have greater travel demands than high school coaches and additional time commitments related to recruiting. Fulfilling your personal and coaching responsibilities may take some ingenuity and consultation with your family and athletic director. There are men who are coaches who bring their children to practice and games or make arrangements to be sure that the family is taken care of on competition nights. More and more

companies understand the importance of work-site childcare (or release time for community service—coaching) to the retention of talented employees. You may wish to gather other coaches/parents in your school district to discuss and suggest solutions for childcare challenges that can be proposed to your school administration.

## Part VI: Special Concerns of Women Coaches

**Q31: My athletes have only had male coaches. They hint at the preference for male coaches.** Some of my female coaching colleagues feel a need to become “one of the boys” with regard to their coaching styles. I think that there is a woman’s style of coaching that is very healthy. **How do I deal with this issue?**

**A:** It’s a good idea to talk about coaching style and your philosophy of coaching with your athletes at the beginning of each season; not in the context of a comparison to male coaches but from the perspective of the many different kinds of coaching philosophies that exist. You should contrast your style with other styles and emphasize how you think your style empowers athletes to learn about themselves and avoids motivation through fear, humiliation or unhealthy codependency tactics. It’s important to educate athletes to question any teaching technique that is not healthy.

**Q32: As a mother, I shoulder many family and work responsibilities. I’m struggling to keep coaching and continue to have and take care of my home and children. Any advice?**

**A:** Please review what we included in Q30. Coaching is very fulfilling, and it can also really fill time. Often, due to a history of sexism in family and work life and in athletics, the expectations for women coaches can be overwhelming. Please remember that your presence for girls and your capacity to manage a confluence of roles serves as a positive and powerful model for them. That doesn’t mean doing everything, especially not by yourself.

## Part VII: Other Employment Discrimination Issues

**Q33:** I know coaches who have gone to interviews and asked directly whether they are homosexual.

However, more often, I confront more subtle forms of discrimination like finding out that an employer asked one of my references about my marital status and whether I was a homosexual. **What are my rights? What should I do in these situations?**

**A:** If you are ever asked whether you are a homosexual in an interview, whether you are or not, you should respond that such a question is inappropriate to ask either a male or female job applicant. A person's sexual preference is a private matter. If you are concerned that such a question might come up, you should find out before your interview whether the institution has a non-discrimination policy that includes sexual orientation. Then prepare yourself with an answer. "Because I feel so strongly about the professionalism of coaching, and I know that a non-discrimination policy would disallow the question, it would be inappropriate for me to answer." If the institution does have such a policy, you might add if it is against the institution's policy to ask or answer such a question. If you find out that such a question was asked about you and the institution does have a policy against such discrimination, you should make the institution's equal employment opportunity representative aware of such practice. You may wish to consult an attorney about additional options that may be dependent on state laws.

There are other hiring issues that are disallowed from the interview process, such as your plans on getting pregnant, how many years you expect to stay around, whether your spouse/partner is locally employed and how your parent's health might impact your availability. Mind your communication skills by focusing on your job attributes and interest in the position.

**Q34:** My athletic department talks a lot about diversity but does not practice what it advocates. **What can I do to make my athletic department more**

**tolerant of differences with regard to disability, ethnicity, race, sexual orientation and other categories of diversity?**

**A:** Diversity training for employees and athletes is absolutely essential for a healthy working environment and a sound educational environment for athletes. All of us are biased in some way and can benefit from diversity training. You should ask your athletic director to offer both athlete and staff diversity training programs. If your athletic director is unresponsive, you should contact the personnel office, student health center or Office of Student Affairs to inquire if such programs are offered upon request. The retention of athletes with varied backgrounds with regard to race, ethnicity, disability and sexual orientation often depends on environment of attitudes, treatment and values that you create.

**Q35:** My athletic director has asked me to look for another job because of my sexual orientation, even though I am very careful to keep my personal life separate from my private life and have no personal interactions with my students. **What should I do?**

**A:** This could be a blatant example of discrimination. The athletic director might want to fire you, but instead is setting you up to resign. Ask the AD to explain how your job performance is unsatisfactory. Insist that the AD provide specific examples. Do not resign. You do not need to fight this alone. Get a lawyer or contact one of several national organizations that provide legal advice or represent people who have been discriminated against on the basis of sexual orientation, such as the American Civil Liberties Union or the National Lesbian Rights Center. Find out if you live in a state that has enacted a non-discrimination law prohibiting discrimination on the basis of sexual orientation. Check to see if your school has a non-discrimination policy that includes sexual orientation. Even if your state or school does not have such a law or policy, recent court cases demonstrate that sexual orientation alone is not legal grounds for firing lesbian or gay teachers or coaches.

School officials who threaten lesbian and gay coaches or teachers often assume that the individual will resign rather than risk having their sexual identity become public. These administrators are often not prepared to follow up on a threat when coaches and teachers challenge the legality of being fired solely on the basis of sexual orientation. Athletic directors sometimes threaten coaches, but do not have the backing of their supervisors who are more familiar with non-discrimination laws. Decide whether or not you are prepared to make your sexual orientation public if that becomes necessary to keep your job. If you have maintained good professional ethics, you deserve to be treated accordingly. Gather the support of colleagues, friends and family. Remember that every time a lesbian or gay coach or teacher stands up against discrimination, it makes it more difficult for school administrators to fire people unfairly in the future. See a list of things you can do if you think you are being discriminated against on the basis of sexual orientation or gender identity/expression.

## Part VIII: Complaint or Lawsuit?

**Q36:** I don't know if the situation I'm encountering is a valid cause for concern. I'm interested in good information, rather than legal advice, on an issue like Title IX, sexual harassment or compensation systems. Who do I talk to?

**A:** There are many nonprofit and advocacy organizations that have "hotlines" for you to call for sound educational information. These services are very experienced at counseling you to pursue valid solutions rather than litigation. They will tell you that they are not giving legal advice and may refer you to a licensed attorney if legal advice is requested. Use of these services is considered a sound step in thinking through how you should handle your problem. Web site services also abound these days, and many will provide information, FAQs (frequently asked questions) and useful (as well as usable) case studies. There are also less-than-reliable sources online, using their political point of view to make assertions and hype inaccurate claims. See the end of this guide for the names and contact information for credible organizations.

**Q37:** What is the difference between a complaint and a lawsuit? When should I file a complaint? When should I file a lawsuit?

**A:** We suspect that no one likes to file a formal complaint or take a case to court. However, because of your particular circumstances, you may decide to you must or will pursue legal action. This is an introduction to the terminology and the process, which may help you analyze your options.

**Internal Institutional Conflict Resolution Procedure.** Typically, a complaint is an internal grievance process set up through the educational institution to remedy problems. Handling a complaint via a grievance process is good to use if you were just treated poorly, not necessarily because you are a woman or you coach women, a women's team or members of any protected class. If you are just experiencing

friction with a colleague over such things as your program going over budget, cutting too many players, academic excellence being unnoticed or an AD firing your assistant, you may wish to take advantage of this institutional internal conflict resolution procedure. The human resources or personnel department may be your best source of information. Unions, depending upon your shared role as teacher or faculty, could also provide services on your behalf.

### **External Complaint with a Governmental Agency.**

A complaint may also be filed with an external governmental agency, such as the Equal Employment Opportunity Commission (EEOC) or the Office for Civil Rights (OCR). These complaints can only be made because you suffered an adverse employment action (not hired, not promoted, demoted, pay discrimination or fired), and such action was due to discrimination against you because of your position as a member of a protected status—race, gender, ethnicity, age, disability or some other protected group. This type of complaint is called a "charge of discrimination." You are asking an agency of the government to come in and remedy discrimination. Remember that it is not enough that you were treated poorly. It is OK for employers to treat their employees poorly and to fire them for no reason at all, just not because the employee is a woman, African-American, from Cuba or even old.

Think of the EEOC and OCR as being like the police. Their job is to make sure that no one is breaking the law in an employment context. Unfortunately, they don't have enough money to track down all complaints, and they are often overworked. Remember that EEOC and OCR investigators probably wanted to work for those agencies because they wanted to make the world a better place, free of discrimination. If you can find an intersection that gets them interested, they can be very helpful. They have investigated too many cases of people trying to get something from the system without good cause: someone that didn't show up prepared to work for a month, got fired and then filed a claim with the EEOC

claiming they got fired because of their gender, age or ethnicity. The best and easiest way to file a complaint with OCR is to use its electronic complaint form.

**Lawsuit.** The step beyond filing a complaint is a lawsuit. A lawsuit must be filed by a person or by several persons who are directly affected by the discrimination. A lawsuit may be brought by you, personally, into the court. Or a governmental body may decide to prosecute. If the EEOC files the lawsuit, you do not have to pay for it, but you also don't have a lot of control over the case. If you bring the lawsuit, you pay the fees associated with bringing the suit.

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**TIP:** Try to arrange a meeting with EEOC representatives in person if you are going to file a complaint. Cooperate as much as possible with the investigator and always recognize that you have to be a good advocate for yourself. Be prepared for this meeting—with plenty of documentation and anecdotes that support your contentions.

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**Q38: I have a good case but prefer not to go to court. I'd rather take non-legal action. But I want advice on where I stand and whether I have as good a case as I think. Do I call an attorney?**

**A:** Yes. You will feel much more comfortable moving forward through political or institutional channels if you know you are on solid legal ground should the issues or decisions you are concerned about become critical enough to contemplate a lawsuit. Only attorneys are qualified to give legal advice. And, one attorney's advice might not be correct or even what's best for you. Additionally, a court has the potential to take certain actions, such as issuing a temporary restraining order or a preliminary injunction, which the federal government agencies do not. Having the school immediately undertake a certain action or refrain from taking an action may be an important consideration.

**Q39: How much do I have to spend to talk to an attorney to determine if I even have a case?**

**A:** Probably nothing. There are nonprofit organizations that exist to provide free legal advice or services that will refer you to attorneys who will provide a pro-bono half-hour consultation to determine if you have a cause of action (see end of guide for contact information). Even if you call an attorney yourself, most law firms will provide a gratis 30-minute consultation without starting their "fee clocks." For a referral to an attorney in your area, please contact the Foundation's Advocacy Hotline at 800.227.3988 or [Advocacy@WomensSportsFoundation.org](mailto:Advocacy@WomensSportsFoundation.org)

**Q40: Is it possible to find an attorney who will take me on a "contingency" basis—for no fee?**

**A:** Yes, but you must remember that if an attorney takes a case on a contingency basis, you want the lawyer to take the risk rather than you. If you win the case, a significant amount of your "winnings" will go back to the attorney who took the risk. This is only fair. If you pay for the attorney, all the "winnings" go to you, and you just pay attorney's fees.

Attorneys are hesitant about taking cases on contingency because if the case goes all the way to trial, they will spend many hours and weekends working for you with a high risk of losing even the very best cases. There is no such thing as a "slam dunk" in any litigation situation.

Even if an attorney takes a case on a contingency basis, this usually means that there will be a waiver of fees pending a positive outcome. There are other non-fee "out-of-pocket" costs associated with filing a lawsuit that may not be waived. So remember that you will probably be asked to pay copying, filing and other fees you end up going to court.

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**TIP:** Find an attorney to take the case for a limited purpose (such as, through the EEOC process and the writing of a demand letter but not if it goes to litigation). This approach makes it less risky for an

attorney who might be more willing to take the case on a contingency basis—paid only if you win. If the school is responsive to a demand letter, the entire award goes to you, and you won't have to share it with the attorney. If you (1) are confident about your claim, (2) have supporting documents and witnesses, and (3) have talked to more than one attorney and they are all “drooling over you,” you may wish to pay for the attorney (instead of agreeing to a contingency fee) so you won't have to share the award. But remember, lawyer's fees during litigation can run into hundreds of thousands of dollars.

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**Q41: Who can I trust to help me?**

**A:** It is important for you to discern people's willingness and expertise in supporting your action plans. Three categories of individuals will all become part of your network.

**Institutional Employees.** In general, if you have a complaint about institutional policy or actions taken by an employee of an institution, it is important to remember that the institution will always act to protect itself against litigation and act in its best interests, which may not be your best interest. Therefore, it is unwise to place a great deal of trust in anyone who is employed by the institution such as the Equal Employment Opportunity Director or the Title IX Compliance Officer. However, these individuals are also likely to know the law and be concerned with institutional liability. If they are given a copy of the Equal Employment Opportunity Commission's (EEOC) guidelines on coaches' compensation and benefits, they may be more receptive than athletic directors. They will be more likely to respect EEOC policy statements and directives, while many athletic directors think they can ignore such dictates.

**Lawyers.** You can always trust YOUR lawyer or any lawyers you privately interview (no one else in the room) to take your case (not your school's lawyers!) to keep anything you tell them confidential. No matter what, this information will remain confidential, even if

someone asks you what you told the lawyer or what the lawyer told you. No one can compel you to reveal conversations with a lawyer, even a judge.

**Plaintiffs Lawyers and Defense Lawyers.** There are plaintiff's lawyers and defense lawyers. When involved in an employment dispute, search out a plaintiff's employment lawyer. The Women's Sports Foundation, Trial Lawyers for Public Justice, the National Women's Law Center and other nonprofit organizations that specialize in gender equity advice will refer you to the right type of attorney after they are informed of your situation.

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**TIP:** Whenever you speak to an attorney, whether you end up hiring one to represent you, ask the attorney what he or she thinks. Pay close attention to the questions the attorney asks. The depth and direction of questions can be as informative as the prospective attorney's answers to your questions. Write down everything that's said and take a little time to analyze what you've learned. Experience in employment, sport, gender and school-based cases (a specialist) will provide a track record well worth your study.

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**Q42: If filing a lawsuit, should I go to a state or federal court?**

**A:** Some states have state laws that protect against gender discrimination. For example, the Minnesota Department of Human Rights will represent a citizen for free if he or she has a valid complaint. If you're filing a lawsuit, you'll probably have a lawyer, and the lawyer will make the decision of which court to file in. If you're suing under the Equal Pay Act (EPA) or Title VII, you will have to go to the Equal Employment Opportunity Commission (EEOC) first, and the EEOC will generally tell you first if there is a state agency that will handle your claim.

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**TIP:** Remember, for a Title VII Equal Employment Act claim, you only have 180 days (300 days in states with fair employment agencies) after an employer

gives you “an adverse employment action” to file your claim. You cannot skip this step and go to court. You must go through this procedural step before you go to court anyway, so, no matter where you live, the EEOC is a good place to start. If you suspect discrimination, it’s also best to act promptly. Note: The 180-day rule does not apply to EPA claims, because you do not have to suffer an adverse employment action. In other words, nothing has to “happen” before you can sue—the fact that you’re getting paid less is enough to get the ball rolling. The EEOC Web site will provide the most current and accurate information.

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Title VII, Title IX and the EPA are all federal laws under which most people sue in federal court. If there are state laws that also cover discrimination, they are usually tacked on, but such suits are typically duplicative. Florida, for example, has a state Title IX law that actually gives athletes more protection than the federal law. Sometimes lawyers will decide to use the state remedies exclusively, because they know the federal judges and their tendencies based on rulings made in similar cases.

**Q43: What is a realistic idea of what to expect when filing a complaint or lawsuit with regard to how long it will take to complete a lawsuit, costs, mental anguish, etc.?**

**A:** The timeline could be years, the cost may be huge, a lot or nothing at all, and emotionally, you will go through agony. And this is justice? To give you an example, the Vicki Dugan case took almost three years and \$500,000 in attorney’s fees. In her words, “from the beginning of my career at OSU, my job was funded to fail. Not only was I paid less than male coaches in similar jobs at OSU, the school did not invest in my program to make my team competitive in the conference. Unlike other teams in the Pac-10, we lacked resources, assistant coaches, and scholarships to attract top-notch players. Then, when I exercised my right to free speech by cooperating with federal investigators conducting a review of OSU’s Title IX compliance, the school threatened to drop women’s

softball altogether. Later, I was fired and replaced by a male coach.”<sup>2</sup> She won, so the other side had to pay her attorney’s fees on top of her damages. The bottom line is you cannot wait for the lawsuit to be over in order to get on with your life. You have to live through it.

**Q44: How can I get help? Who do I call? When should I talk with an attorney?**

**A:** Most attorneys will meet once to talk about taking the case. It’s like recruiting—you are both checking each other out. Make sure you feel comfortable with this person. Depending on the type of fee agreement you make with the attorney, you might have to pay an attorney for an hour’s advice. Get the best attorney you can for an hour and record this conversation with the attorney’s consent. Tell your attorney everything—you want an honest evaluation. If you file with your university’s grievance policy or the EEOC on your own, use every word from your attorney.

**Q45: Should I record (or how should I document) my conversations with the athletic director?**

**A:** Coaches should not record conversations with their athletic directors because surreptitious taping is illegal in many states. Taping also puts people on the defensive and doesn’t make for good relations in general. Many juries frown on taping conversations—it makes the employee look as if he or she has something to hide. However, every time you have a conversation with your supervisor about your job, you should write a letter or e-mail confirming the contents of the conversation. Just make it a habit. If you do it in the good times, when you and the AD are buddy-buddy, your boss won’t get flustered that you do it when you’re having a conflict. It can be a very reinforcing communication: “Thanks for taking the time to talk. Your advice was really appreciated...” Do not “editorialize” in this e-mail or fight about what was said. This note should read like a secretary taking notes at a board meeting. On the following page is a reasonable sample of what we mean.

*Dear Dr. A Count,*

*Thank you for speaking with me this afternoon about next year's soccer team. We discussed our final win-loss record and how I would need to win three more games next season to get a merit pay increase. I also requested increasing my salary if I completed my master's degree next spring, and you agreed that was in keeping with the salary schedule. You confirmed the new men's coach would not be paid more than I would be paid, even from outside resources. I also relayed my concern that the women I coach receive far fewer scholarships (over 30%), less equipment and poorer facilities than male athletes. The fact that you recognized these issues and projected solutions by the year 2012 was appreciated. However, I know you understood my position that this is far too long for our students to wait. I requested and am looking forward to receiving a copy of the school's gender equity plan. Thank you for agreeing to provide this in the next week.*

*Coach Claire Itty*

You get the picture. Then when you finish your master's degree and win three more games, you will have justification for a salary increase based on what you were told by your supervisor. Remember that this record-keeping is all just part of the regular course of business. If you want to write a letter or e-mail that argues a point and is other than a record of what occurred, it should be contained in a second (and separate) communication.

## Part IX: Where to Find Help

American Alliance for Health, Physical Education,  
Recreation and Dance (AAPHERD)  
[www.aahperd.org](http://www.aahperd.org)  
800.213.7193

American Association of University Women  
[www.aauw.org](http://www.aauw.org)  
202.785.7700

American Civil Liberties Union  
[www.aclu.org](http://www.aclu.org)  
212.549.2500

Feminist Majority Foundation  
<http://feminist.org>  
703.522.2214 (VA)  
310.556.2500 (CA)

Gay and Lesbian Athletic Foundation  
[glaf.org](http://glaf.org)  
617.588.0600

Human Kinetics  
[www.humankinetics.com](http://www.humankinetics.com)  
800.747.4457

National Association for Girls and Women in Sport  
[www.aahperd.org/nagws](http://www.aahperd.org/nagws)  
800.213.7193

National Association for Sport and Physical Education  
[www.aahperd.org/naspe](http://www.aahperd.org/naspe)  
800.213.7193

National Center for Lesbian Rights  
[www.nclrights.org](http://www.nclrights.org)  
415.392.6257

National Federation of State High School Associations  
[www.nfhs.org](http://www.nfhs.org)  
317.972.6900

National High School Coaches Association  
[www.nhsca.com](http://www.nhsca.com)  
610.923.0900

National Women's Law Center  
[www.nwlc.org](http://www.nwlc.org)  
202.588.5180

Positive Coaching Alliance  
[www.positivecoach.org](http://www.positivecoach.org)  
866.725.0024

Trial Lawyers for Public Justice  
[www.tlpj.org](http://www.tlpj.org)  
202.797.8600

Women's Sports Foundation  
[www.WomensSportsFoundation.org](http://www.WomensSportsFoundation.org)  
800.227.3988

Women's Sports Foundation's It Takes a Team!  
(ITAT) project  
[www.WomensSportsFoundation.org/ITAT](http://www.WomensSportsFoundation.org/ITAT)

## Part X: Resources for Coaches

Enforcement Guidance on Sex Discrimination in the Compensation of Sports Coaches in Educational Institutions. EEOC Notice Number 915.002 Date 10/29/97 <http://www.eeoc.gov/policy/docs/coaches.html>

Women's Sports Foundation. Grade Your School  
[www.WomensSportsFoundation.org/GradeYourSchool](http://www.WomensSportsFoundation.org/GradeYourSchool)

Women's Sports Foundation. It Take A Team:  
Eliminating Homophobia in Sports  
[www.WomensSportsFoundation.org/ITAT](http://www.WomensSportsFoundation.org/ITAT)

Women's Sports Foundation. (2009). Play Fair: A Title IX Playbook for Victory  
[www.WomensSportsFoundation.org/PlayFair](http://www.WomensSportsFoundation.org/PlayFair)

Women's Sports Foundation. (2009). Step by Step:  
A Practical Guide to Assessing and Achieving Gender Equity in School Sports  
[www.WomensSportsFoundation.org/StepByStep](http://www.WomensSportsFoundation.org/StepByStep)

Women's Sports Foundation. (2007). Who's Playing  
College Sports: Trends in Participation  
[www.WomensSportsFoundation.org/WhosPlaying](http://www.WomensSportsFoundation.org/WhosPlaying)

Women's Sports Foundation. The Women's Sports  
Foundation Education and Prevention Policy: Sexual Harassment and Relationships between Coaches and Athletes  
[www.WomensSportsFoundation.org/HarassmentPosition](http://www.WomensSportsFoundation.org/HarassmentPosition)

## Endnotes

- 1 National Federation of State High School Associations. (2009-10). NASHSF Handbook [Section 5 Noncontact Unsportsmanlike Conduct by Players]. Indianapolis, IN: National Federation of State High School Associations
- 2 Simons, Wanda M. (2002, 05). LAF reader's theater. Retrieved May 18, 2009, from AAUW Web site: [www.aauw-ca.org/assets/resources/ReadersTheater.pdf](http://www.aauw-ca.org/assets/resources/ReadersTheater.pdf)

## About the Women's Sports Foundation

The Women's Sports Foundation—the leading authority on the participation of women and girls in sports—advocates for equality, educates the public, conducts research, and offers grants to promote sports and physical activity for girls and women.

Founded by Billie Jean King in 1974, the Women's Sports Foundation builds on her legacy as a champion athlete, advocate of social justice, and agent of change. We strive for gender equity and fight discrimination in all aspects of athletics.

Our work shapes public attitude about women's sports and athletes, builds capacities for organizations that get girls active, provides equal opportunities for girls and women, and supports physically and emotionally healthy lifestyles.

The Women's Sports Foundation is recognized worldwide for its leadership, vision, strength, expertise, and influence.

For more information, please call the Women's Sports Foundation at 800.227.3988 or visit [www.WomensSportsFoundation.org](http://www.WomensSportsFoundation.org).



**Women's Sports Foundation**  
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