

**Women's Sports Foundation
Education Guide
SPECIAL ISSUES FOR
COACHES OF WOMEN'S
SPORTS**



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Women's Sports Foundation Education Guide Special Issues for Coaches of Women's Sports

About the Women's Sports Foundation

Founded in 1974 by Billie Jean King, the Women's Sports Foundation is a charitable educational organization dedicated to increasing the participation of girls and women in sports and fitness and creating an educated public that supports gender equity in sport. The Foundation's Participation, Education, Advocacy, Research and Leadership programs are made possible by individual and corporate contributions. The Foundation serves as a center for collecting and sharing information on girls and women in sports. The Women's Sports Foundation also encourages and produces quality academic research on the psychological, social and physiological effects of sport and fitness participation on girls and women.

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Women's Sports Foundation Education Guide

Special Issues for Coaches of Women's Sports

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Women's Sports Foundation Education Guide

Special Issues for Coaches of Women's Sports

Introduction

This guide was created at the request of the Coaches and Organizations Council of the National Advisory Board of the Women's Sports Foundation. The Council consists of representatives of national coaches organizations and national organizations offering programs for girls and women in sport. Council members were concerned that coaches were not prepared for difficult situations increasingly encountered in their work environment. Also, while many coaches with degrees in physical education are well prepared to become coaches, there are many other coaches who have no formalized training beyond coaches' clinics. While national physical education and coaches organizations are working to create a national coaching certification system, currently there is no nationally accepted system of accreditation in place. Thus, the coaching profession as a whole lacks: 1) a common foundation of knowledge, 2) a systematic approach to work behavior, and 3) an extensive professional organization of support. Therefore, coaches seek out independent coaching certification programs. More often however, coaches find they must learn on the job. Frequently, they are not prepared for the increasing challenges of their positions. In addition, many athletic departments have not formulated policies and procedures to address commonly encountered issues with parents and athletes. If educational programs, standard performance evaluations and policies and procedures regarding relationships with parents and athletes are in place, it is less likely that these situations would be encountered.

In this professional environment, it is advisable for all coaches to be members of professional coaches organizations and to regularly attend professional conferences, clinics and meetings. National coaches' associations often provide counseling benefits and hotlines and are listed at the end of this guide. Many high school coaches feel their needs are better served by state level coaches associations. The point is that every coach should seek a formal or informal network of other coaches who can be consulted whenever these situations arise.

The purpose of this guide is to help coaches prevent, respond to, and/or initiate action when faced with difficult professional situations. The format of this guide includes commonly asked questions, answers and key recommendations. Suggested sources for help and publications addressing coaching problems and issues are also listed.

This guide provides educational information and suggestions for dealing with various issues – not legal advice. It should be used as a reference and should not be interpreted as a replacement for institutional policies or practices. Please consult your attorney for assistance regarding particular situations. Educational advice and attorney referrals related to problems not covered in this publication may be obtained by calling the Gender Equity Hotline of the Women's Sports Foundation — 1-800-227-2988. All conversations will be confidential. A list of other resources also appears at the end of the guide. The Women's Sports Foundation's Web site, www.WomensSportsFoundation.org or AOL Key-word: WSF, also contains numerous resources for coaches of women's sports.

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, and 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 can 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 are there tiered levels 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, admissions strategies, etc. 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, you should ask for one. The third piece of information you need, which in the long run may be the most important, is written evaluation of your work on a yearly 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.

Key Recommendation

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 embrace these employment tools. If they are not in place at your institution, you should try to convince other coaches on the staff that they serve as a means of protection and job security and request, as an entire staff, to have them implemented.

Q2: It has come to my attention that another coach in my department is doing something unethical, i.e. breaking a governing body rule, having an affair with an athlete, slandering an opposing coach during the recruiting process, etc., and my perception is that the administration knows about it and is electing to ignore it. What should I do?

A. It is almost always prudent to meet the problem head on and approach the offender first. The first step is to ask him/her if your concern is justified. If he/she denies the accusation, and you have no concrete proof, you have no recourse. However, it is always a good strategy to remind him/her that perception can be as damaging as reality and that he/she may want to think about how to change this perception. Also remind him/her that these kinds of issues affect how the athletic department is viewed and that the entire staff is compromised in the process. If you think it is appropriate, tell the coach that if this continues to be a perceived problem, you will need to share your concerns with a superior. That alone may create a change in 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. Encouraging the coach to stop the behavior or to self-report and ask for help would be the best remedy. If neither of these strategies work, you should try to identify a campus resource person who you can speak to 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, director of the counseling center, etc. can provide another avenue for dealing with these situations.

Key Recommendation

Too often, athletics 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 collegial relationships. That will go a long way when help is needed.

Q3: 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 he/she does not value my program or is just too busy. How can I encourage her/him 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 willingness to help, then there are probably other priorities that you do not know about.

Key Recommendation

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 on their team only. 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 and see the big picture, decide what is truly essential for their program, and determine when might be the best time to ask.

Q4: 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 the 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 continually asked if they can help. Should I rally the booster club to put pressure on the administration?

A: Every coach should try to tie their budget requests to program goals and cost effectiveness. A conversation with the athletic director (AD) on program goals is essential to be sure you are both on the same page. When you build a budget based on the program goals stated by the AD, the AD can use this information in making a case at the next level for more resources. 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, etc. The practice of tiering is permissible as long as gender equity exists within each tier (i.e., 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, revenue production, etc. 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. You should 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.

Key Recommendation

Rallying the troops to help elevate your program 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 a false sense of the decision-making power they have in your program. If the tiering is not a Title IX violation and simply a matter of institutional choice in sport emphasis and you are dissatisfied with the support of your program, look for a job at another institution that places your sport in a higher tier. But remember ... the top tier teams and their coaches will usually be faced with a lot more pressure to win.

Q5: Although I enjoy my current position, I am always investigating what other opportunities exist in the marketplace. However, it is clear that my athletic director (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 (ADs) have changed jobs several times so they should understand an employee's desire to explore the marketplace. It is important for coaches to assess if their AD thinks it is disloyal to look and apply for other jobs or is more concerned that he/she is not informed about it. It is very frustrating for an AD to get phone calls for reference checks when he/she doesn't even know that a coach is pursuing other job 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 a coach is still worried about retribution, there are two key strategies that may help in the process. 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. The second, is to 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. Also include a line that says something like, "...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. If phone contact is made, get as much information about the job as you can to assess if you are interested. If you are interested and the caller states that it is essential to talk to your immediate supervisor, ask him/her to give you one day to inform your AD before making the reference call.

PART II: ATHLETE AND PARENT ISSUES

Q6: When I was an athlete, we did whatever the coach told us to do. We never questioned his/her decisions about playing time, strategies used, etc. 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 prevent some of these problems. At the high school level, a pre-season meeting with parents or letter to parents is highly recommended. Setting up behavioral standards for athletes is essential at the high school or college level. Athletes must feel that you are approachable and willing to address their individual concerns. It must be clear that such a conversation can only take place in a meeting in your office and cannot compromise the practice or contest environment. In addition, weekly or bi-weekly meetings with each athlete that address their goals, progress, etc. should limit unanticipated problems. You should never be making decisions that you can't justify and, therefore, should not be reluctant to share that information. However, most of the problems coaches encounter when challenged about a decision revolve around time, place, and attitude of the person asking the question. Unfortunately, athletes and parents have a tendency to want answers and want them now even if it is during a practice, a game, or right after a game. In addition, athletes and parents like to gain support from other players or parents and, therefore, voice their opinions and solicit support in locker rooms and bleachers. Too often, when athletes or parents challenge a coach, they do it when they are angry.

When you are faced with a situation like this, there are a few simple guidelines to follow:

- Tell the athlete or the parent that this is not the time or the place to discuss this and could they please call you tomorrow to set up a meeting.
- Never get angry and do not attempt to answer their question or respond to their criticism in any way. Maintain your composure.
- Prior to any meeting, inform the athletic director of the incident and ask for guidance. It is important that the athletic director knows what is going on before the parent calls him/her.

- Though not always required, it is often a good idea not to meet with the athlete or the parent alone. Have the assistant coach, another coach, or the athletic director present.
- 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.”
- 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 his/her name and number?”

Key Recommendation

Dealing with parents can be very complex. Many coaches make the mistake of getting too close to parents which, in essence, allows them 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.

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 real 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 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 manual. There are many resources that address this topic or visit www.WomensSportsFoundation.org for articles on this topic.

Key Recommendations

In addition to seeking out valuable resources about this topic, coaches should familiarize themselves with the sexual harassment policies included in their campus handbook. If there is a campus representative who deals with sexual harassment complaints, he/she should be invited to an athletic department staff meeting to review appropriate and inappropriate behaviors between faculty-students which would naturally apply to coaches-athletes.

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 where you may be 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.

Q8: Often, parents call me digging for information about their child. In some instance, 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 should be accessible to athletes and be willing to help them through difficult situations. 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,

whether it is a counselor, social services expert, etc. In addition, you should never provide your own personal opinions or biases or tell athletes about your own personal experiences related to the topic at hand such as drug use, abortion, eating disorders, abusive relationships, etc. If the problem is relatively minor, you can help the athlete design strategies for improving the situation. The question of whether to share information with a parent is more complex. If the problem is minor and there seems to be no eminent risk to the athlete, coach-athlete confidentiality should be maintained. However, if a parent questions the coach about an issue involving their child, if the child is a minor, the coach is 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.

Key Recommendations

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.

Q9: I have an athlete on my team who has the potential to be a great player. However, no matter how well or poorly she performs in a game, her parent criticizes every mistake made. 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 ask her/him to either change her/his strategy or not come to games?

A: The first step is for the coach to make sure that the athlete feels the same way he/she does about the parent's behavior. If so, perhaps the coach could suggest strategies the athlete could use to engage his/her parent in a discussion about the dysfunctional affect the parent's behavior is having on the athlete. If the athlete is reluctant to have that conversation, another strategy is for the coach (or the athletic department) to produce an educational brochure for all athletes' parents that addresses the challenges of competitive sport and how parents can play a positive role in helping their children deal with these challenges. Parent behaviors that exacerbate stress levels would implicitly or explicitly be included within the text of the brochure. This brochure not only helps to educate parents, but can be referenced if a coach has to confront an actual situation. If this doesn't work, a phone call may be in order.

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

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 will avoid going to bars, restaurants or other public places where they will meet their students. Don't smoke or drink excessively in public. 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 restricts your behavior in public places.

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

A: Weight management advice and its relationship to the problem of 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. Call 1-800-227-3988 for educational resources on eating disorders and dealing with the topic of weight or visit www.WomensSportsFoundation.org for articles on

these issues. In general, you should never have athletes “weigh in” or criticize an athlete for her weight. Coaches must also be cautious in prescribing any ingestible that might be perceived as a “performance enhancing substance.” Never give any athlete any pill, including vitamins. Issuance of such supplements 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. Put information on weight control and supplements into your team policies on conditioning, thereby making it a matter of creating a healthy training environment rather than a special issue.

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 a question like this, ask parents if they can say more about what their concerns are. This gives you a little time to gather your thoughts. Their answer can also provide you with some more specific information about their concerns. A general response to this question can be to tell parents that 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. Tell parents that you expect all athletes to treat each other with respect and to learn to work together as a team. 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. If your school has a non-discrimination policy that prohibits discrimination on the basis of sexual orientation, tell parents that all school athletic programs are expected to abide by this policy. 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 help to 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.

Q13: How can I help everyone on my team and staff, 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 to which women athletes are sometimes subjected. 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. Help team members to understand that lesbian-baiting is less about sexual orientation and more about trying to intimidate women who participate in activities, like sports, that some people think should be reserved for men. People who engage in lesbian-baiting hope to distract women athletes, spoil their concentration, or make them self-conscious about being strong and skillful athletes. 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 such hateful ways. Encourage team members to tell you if other teams or fans are lesbian-baiting them. 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. Some ways include surprising people with exactly the opposite response to the one they hope to provoke. For example, “You think I’m a lesbian? Wow, thanks.” or “No, I’m not. I know people from Lebanon, but I’m actually from _____.”

PART III: TITLE IX CONCERNS

Q14: Whenever I try to talk to other coaches about the importance of standing up for issues such as Title IX or equitable compensation and benefits, they respond as if I am being disloyal or am the person at fault, rather than the institution. How do I handle such lack of support?

A: Stress the relationship between the educational values of sport such as fairness and equitable treatment of players and the basic fairness of Title IX or fair compensation systems. Sometimes negative

responses to Title IX are the result of colleagues not being educated on the issues, rather than other coaches and teachers intentionally trying to hurt you. You need to win them over through education. One conversation will not accomplish this goal. Call the Women's Sports Foundation and ask for educational materials that will help you educate other coaches and administrators.

Q15: My school is not in compliance with Title IX. How can I get help without filing a lawsuit or putting my job in jeopardy (i.e., retaliation and subtle decisions which may disadvantage me)?

A: Title IX contains a strong prohibition against retaliation. However, there are three options to consider if you wish to avoid directly confronting the issue and the 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 is sympathetic to issues related to the rights of students or gender equity. This initiative should include a request for a Title IX self-evaluation by the institution, preferably by a faculty committee, 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 and make sure they understand that you will help by playing a behind the scenes advisory role. 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 100% convinced that you will not be filing a lawsuit and will be satisfied with half the result. Often, the OCR reaches an agreement with the school without consulting the person who files the complaint and without doing a comprehensive assessment of the institution's compliance with Title IX.

In all of these situations, you should make every effort to gather as much factual information as possible on all Title IX issues. Contact the Women's Sports Foundation for a copy of the OCR Title IX Investigator's Manual. If you fill in as much information as possible, this will make for a more accurate assessment of where your institution stands and invite a much more comprehensive evaluation on the part of the Office for Civil Rights.

Key Recommendations

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. 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 by expressing concerns in writing and, from that point forward, keep a daily diary of any actions on the part of colleagues or administrators that create a negative or accusatory climate.

Q16: Does Title IX apply to coaches as well as to athletes? If Title IX does apply to coaches, how can it help combat unequal compensation patterns?

A: The courts are split, but essentially, don't "count" on Title IX to protect your employment claims. Title IX has been interpreted by the courts to mean that athletes have a right to the same "quality" coach that the men are entitled to receive. If the men have a nationally renowned coach and the women have a "John Doe" coach, then they are not getting the same "benefit" of sports participation that men are getting. However, Title IX is very important if you get fired for speaking out on Title IX because it has a strong retaliation provision. Also, you have a First Amendment free speech claim against the school. Although Title IX does not deal directly with unequal compensation patterns, there are other laws, like Title VII of the Civil Rights Act and the Equal Pay Act, that do.

Q17: Where should Title IX comparisons be made? Do I compare my salary and program with other schools or to the same sport for men 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 offered much too frequently is, “We’re doing better than other schools.” It is also important to remember that Title IX uses a whole program v. whole program, rather than sport v. 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 fencing 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.

PART IV: COMPENSATION EQUITY

Q18: What factors are important to salary discrimination claims?

A: 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 give that are perfectly acceptable reasons to pay someone more than someone else. More education, more experience, more skilled, and more successful are all valid reasons to pay someone more than another.

It is important to note that it doesn’t matter where the money for your salary comes from. Even if booster clubs provide part of a coaches’ salary, the courts and government agencies will “count” it as part of the compensation package. If Nike or the booster club gives the men’s coach money, that income is viewed as salary as if the school had given him the 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, a country-club membership, complimentary tickets to other sports events, life insurance, discounts for children at the school, etc. EPA and Title VII analysis also looks at the type

of employment, whether one sex has long term contracts, or any contracts, and the other sex does not, or whether one sex is routinely reviewed formally, and another sex 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.

Q19: 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 (i.e. degrees, coaching certification, etc.), (2) experience (i.e. years of coaching experience), (3) past demonstrated success (i.e. numbers of conference, regional or national championships or coaching awards), (4) scope of basic coaching duties (i.e. % of team recruited vs. walk-on players, local vs. national or international recruiting, supervision of large staff of assistants, etc.), and (5) assigned duties above basic coaching duties (i.e. fundraising, public speaking, teaching classes, etc.). “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. 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 allege sex discrimination. See the Equal Employment Opportunity Commission Notice referenced on page 37 for important examples of permissible and non-permissible salary differences between coaches of men’s and women’s teams.

Q20: What specific information is needed to file a complaint or a lawsuit about coaches’ salaries?

A: It is important to remember that the Equal Employment Opportunity Commission (EEOC) has a very large caseload and limited resources. Therefore, it is important for the person bringing the case to be as helpful as possible. The more factual evidence you present, the easier it is for this agency

to help you. However, all that is required is for you to make a prima facie (on the surface) claim, in which some factual evidence but not necessarily all of the facts are presented. 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.

Q21: If I file a grievance against my employer for salary reasons and get fired, what recourse do I have?

A: 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. The Equal Employment Opportunity Commission (EEOC) is very interested in coaches' cases right now, but this will not last forever.

Key Recommendations

Put your grievances in writing and keep a copy for your personal records.

If you do file a grievance, be sure to also ask for more resources (i.e., facilities, equipment, scholarships, etc.) for your athletes. Compare the resources afforded female athletes versus male athlete, not compared to other women's teams. This is also important in that it strongly ties your claim to Title IX.

A coach who has suffered an "adverse employment decision" has only 180 days to file a complaint with the EEOC, 300 days in states with fair employment agencies. If you can get the EEOC to take action, this government agency can do more for you than an attorney can and they are "free." If you have a very egregious case, the Department of Justice might also be interested in stepping in (for free too), particularly if all women coaches are suffering at the educational institution. They might do a class action on your behalf.

Q22: 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. Some of these 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.

Q23: Can the issue of revenue (i.e. ticket sales) 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.

Q24: Is seniority an issue in determining equal pay?

A: YES! It is a valid reason to pay someone else more.

Q25: 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 market-

place, 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. Call 1-800-227-3988 and ask for the publication, *Creating Gender Neutral Compensation and Employment Systems for Athletic Department Personnel* for more information.

PART V: SPECIAL CONCERNS OF MEN COACHING WOMEN

Q26: Do the same laws and rules which apply to women coaching women's teams apply also to men coaching women's teams?

A: Yes. Men cannot be paid less because they coach women. Title IX has been applied to mean that female athletes have a right to the same "quality" coach that male athletes receive. Under employment laws such as Title VII and the Equal Pay Act, men have to show that they are treated differently because of their sex (male).

Q27: Often during the recruiting process, parents will tell me that they want their daughter to play for a man because they are worried about lesbian coaches who recruit a lot of lesbians on their team. How do I respond to that?

A: It is very important that you do not feed into that stereotype even though you are trying to recruit this athlete. You always have the option of saying nothing. A positive response, if it applies, could be to cite your university or school policy that relates to acceptance of all people, which includes a sexual orientation clause, and confirm that all athletes are welcome on your team.

PART VI: SPECIAL CONCERNS OF WOMEN COACHES

Q28: 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.

Q29: As a mother, I shoulder the majority of family responsibilities. I'm struggling to keep coaching and continue to have and take care of my children. Any advice?

A: Research shows that even though women are advancing in all fields, the time they spend on family responsibilities has not changed significantly. Coaching may be the most demanding of all fields in that most coaches teach full-time in addition to practices and competitions occurring during times when children need to be at home. College coaches have greater travel demands than high school coaches and additional time commitments related to recruiting. Fulfilling your family and coaching responsibilities may take some ingenuity and consultation with your family and athletic director. There are mothers who are coaches who bring their children to practice and games or make arrangements with their families to be sure that the family is taken care of on competition nights. More and more companies understand the importance of work site childcare to the retention of talented employees. You may wish to gather other coach/mothers in your school district to discuss and suggest solutions for childcare challenges that can be proposed to your school administration.

PART VII: OTHER EMPLOYMENT DISCRIMINATION ISSUES

Q30: 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 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. If the institution does have such a policy, you might add that 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.

Q31: My athletic department talks a lot about diversity but does not practice what it preaches. What can I do to make my athletic department more tolerant of differences with regard to race, ethnicity and sexual orientation?

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 nurse's 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 and sexual orientation often times depends on environment of attitudes, treatment, and values that you create.

Q32: Are there standard rules on salary discrimination based on revenue vs. non-revenue producing sports or marketplace value?

A: Yes. Every coach should read a copy of the federal government's Equal Employment Opportunity Commission (EEOC) guidelines: Enforcement Guidance on Sex Discrimination in the Compensation of Sports Coaches in Educational Institutions. EEOC NOTICE Number 915.002 Date 10/29/97. You can obtain a copy on the EEOC Web site, www.eeoc.gov/docs/coaches/txt. The guidelines address the application of the Equal Pay Act and

Title VII to sex discrimination in the compensation of sport coaches in educational institutions. Numerous instances of legal and illegal disparities are covered with specific examples given in the cases of coaches of men's and women's athletic teams.

PART VIII: COMPLAINT OR LAWSUIT

Q33: I don't know if the situation I'm encountering is a valid cause for concern. I'm interested in good information on an issue like Title IX, sexual harassment, compensation systems, etc., rather than legal advice. Who do I talk to?

A: There are many nonprofit organizations that have "hotlines" or that you can call for good educational information. These services are very experienced at counseling geared toward pursuing political solutions rather than litigation. They will tell you that they are not giving legal advice and will always 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 a problem. See the end of this guide for the names and telephone numbers of such organizations.

Q34: What is the difference between a complaint and a lawsuit? When should I file a complaint? When should I file a lawsuit?

A: *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 being over budget, too many players on your team failing academically, players aren't getting recognized for doing well academically, or firing your assistant coach, you may wish to take advantage of this institutional internal conflict resolution procedure.

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). 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, handicap, 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 very poorly. It is OK for employers to treat their employees poorly, and to fire them for no reason at all, or any reason EXCEPT if the reason is because you’re a woman, African-American, from Cuba, old, etc.

Think of the EEOC as being like the police. Their job is to make sure that no one is breaking the law in an employment context, rather than violating criminal law. Unfortunately, they don’t have enough money to track down all complaints, and they are overworked. Remember that EEOC investigators all wanted to work for the EEOC because they wanted to make the world a better place, free of discrimination. If you can find the button that gets them interested they can be very helpful. Why do you need to “sell” them on your case? Unfortunately, they have investigated too many cases of people trying to get something from the system without good cause: people that didn’t show up at work sober for a month, got fired, and then filed a claim with the EEOC claiming they got fired because they were female, Asian, old or disabled.

Key Recommendation

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.

Lawsuit. 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.

Q35: 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 entertain a lawsuit. Only attorneys are qualified to give legal advice. Additionally, a court has the potential to take certain actions such as issuing a temporary restraining order or a preliminary injunction that 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.

Q36: How much do I have to spend to talk to an attorney to even see if I 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 phone numbers). Even if you call an attorney yourself, most law firms will provide a gratis 30-minute consultation without starting their “fee clocks.”

Q37: 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 him/her 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 will not be waived. So remember that you will probably be asked to pay copying, filing and other fees of between \$3,000 and \$5,000 if you end up going to court.

Key Recommendations

Find an attorney to take the case for a limited purpose (i.e. 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 and he/she will be more willing to take the case on a contingency basis (i.e. attorney is paid only if you win).

Pay for an attorney to do a specific job for you, such as handling your EEOC complaint and your demand letter. Most attorneys should be able to do this easily for under \$5,000. 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.

Q38: Who can I trust to help me?

A: *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 to 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) new 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 when 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 and no matter what, if someone asks you what you told the lawyer or what the lawyer told you, this information

will remain confidential. No one can compel you to reveal conversations with a lawyer, even a judge.

Plaintiffs Lawyers and Defense Lawyers. There are plaintiffs lawyers and defense lawyers. When involved in an employment dispute, for instance, be sure to call 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.

Key Recommendation

Whenever you speak to an attorney, whether you end up hiring him or her to represent you, ask the attorney what he or she thinks. Pay close attention to the questions the attorney asks. Write down everything he or she says.

Q39: 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 they will generally tell you if there is a state agency that will handle your claim first.

Key Recommendation

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. 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.

Title VII, 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. Many lawyers believe that the most important piece of information you have about a case is who your judge is.

Q40: 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 none 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. 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.

Q41: 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, then pay an attorney for an hour's advice. Get the very best attorney you can for an hour (approximately \$250.00) and tape record this conversation with the attorney's consent. Tell your attorney everything—you want his or her honest evaluation. If you file with your university's grievance policy or the EEOC on your own, use every word from your attorney.

Q42: Should I record 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 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 his/her dander up when you're having conflict. It can be a very nice letter: "Thanks for taking the time to talk. Your advice was really appreciated..." Do not "editorialize" in this letter or fight about what was said. This letter should read like the secretary taking notes at a board meeting. For example:

*Dear Ms. Peters,
Thank you for speaking with me this afternoon about next year's employment. We discussed the win-loss record of my team and how I would need to win 3 more games a year to get a raise. We also discussed the possibility of increasing my salary if I finished my master's degree. I appreciate the fact that you said that the new men's coach would never be paid more than I would be paid, even from outside resources. [This one actually happened, but she didn't have it written down, and the AD later denied it.] We also discussed the fact that the women that I coach receive far fewer scholarships, less equipment, and poorer facilities than male athletes. The fact that you recognize these issues and thought that this situation would be remedied by the year 2045 was appreciated. But I know you understood my position that this was too long into the future. I requested and I am looking forward to receiving a copy of the gender equity plan. Thank you for agreeing to provide this..."*

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 that argues a point and is other than a record of what occurred, it should be contained in a second letter.

Q43: My athletic director has asked me to look for another job. He/she says that my sexual orientation has become a problem, even though I am very careful to keep my personal life separate from my private life and have no personal interactions with my students.

A: This is an example of blatant discrimination. Your athletic director is firing you and hoping you will resign to make it easier on her/him. Ask her/him to explain how your job performance is unsatisfactory. Insist that he provide specific examples. Do not resign. You do not need to fight this alone. Get a lawyer or contact one of several national organizations whose purpose is to provide legal advice or to represent people who have been discriminated against on the basis of sexual orientation. The American Civil Liberties Union or The National Lesbian Rights Center are two such organizations and both have Web sites. 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. Recently, a lesbian high school teacher/coach in Utah won a lawsuit when her school district insisted that she not discuss her personal life in school or in the community.

School officials who threaten lesbian and gay coaches or teachers often assume that the coach/teacher 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 their 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.

PART IX. WHERE TO FIND HELP

American Association of University Women
www.aauw.org
202-728-4642

American Civil Liberties Union
212-549-2500
www.aclu.org

American Volleyball Coaches Association
www.avca.org
719-576-7777

National Association for Girls and Women in Sport
www.nagws@aapherd.org
800-213-7193

National Association for Sport and Physical
Education
www.naspe@aapherd.org
800-213-7193

National Center for Lesbian Rights
415-392-6257
www.nclrights.org

National Fast Pitch Coaches Association
www.nfca.org
573-875-3033

National Women's Law Center
www.nwlc.org
202-588-5180

Trial Lawyers for Public Justice
www.tlpj.org
510-622-8150

Women's Basketball Coaches Association
www.wbca.org
770-279-8027

Women's Sports Foundation
www.WomensSportsFoundation.org
800-227-3988

PART X. RESOURCES

Equal Employment Opportunity Commission. (1997). *Enforcement Guidance on Sex Discrimination in the Compensation of Sports Coaches in Educational Institutions*. EEOC Notice No. 915.002 (10/29/97). See also www.eeoc.gov/docs/coaches/txt.

Women's Sports Foundation. (2000). *Creating Gender Neutral Coaches' Employment and Compensation Systems*.

Women's Sports Foundation. (2000). *Playing Fair: A Guide to Title IX*.

Women's Sports Foundation. (1997). *Title IX: An Educational Resource Kit*.

Women's Sports Foundation. (1997). *The Women's Sports Foundation Gender Equity Report Card: A Survey of Athletic Opportunity in American Higher Education*.

Women's Sports Foundation. (1997). *The Women's Sports Foundation Report on Title IX, Athletics and the Office for Civil Rights: An Examination of Letters of Findings Issued by the Office for Civil Rights in the post-Civil Rights Restoration Act Era*.

Women's Sports Foundation. (1996). *Eliminating Homophobia: Resources for Use in Women's Sports and Fitness*.

Women's Sports Foundation. (1994). *Prevention of Sexual Harassment in Athletic Settings*.

WE NEED YOUR VOICE AND YOUR SUPPORT!

The Women's Sports Foundation is a charitable educational organization dedicated to increasing the participation of girls and women in sports and fitness and creating an educated public that supports gender equity in sport.

The Foundation works tirelessly to increase:

- ◆ **Participation** opportunities for girls and women
- ◆ **Education** of the general public about the benefits of sports for girls and women and the achievements of female athletes
- ◆ **Advocacy** for gender equality
- ◆ **Research** on the issues surrounding women's athletics
- ◆ **Leadership** opportunities for women in sport-related careers

With your help, we can continue these programs!

The Foundation exists to serve every parent, teacher, athlete, coach, fan, marketer and media representative who is interested in advancing the progress of girls and women in sports.

Annually, we award grants to more than 700 groups and individuals, answer over 100,000 inquiries, distribute more than two million educational publications and serve more than one million people through events and outreach projects.

BY MAKING A CONTRIBUTION:

You join thousands of active individuals who are committed to supporting and addressing the issues affecting girls and women in sports and fitness.

And, you'll enjoy these valuable benefits:

- ◆ A subscription to *The Women's Sports Experience*, the Foundation's newsletter with the latest news and information on women's sports and fitness
- ◆ A subscription to *SportsTalk*, a special newsletter for our young athlete and family members
- ◆ The opportunity to vote for the Women's Sports Foundation Sportswoman of the Year Awards
- ◆ Invitations to become actively involved in Foundation initiatives

Call us at **1-800-227-3988** or visit our Web site, **www.WomensSportsFoundation.org** or **AOL Keyword: WSF**, to contribute or find out more about the Women's Sports Foundation!



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