

# **Assembly Committee on Arts, Entertainment, Sports, Tourism & Internet Media**

**Honorable Ian C. Calderon, Chair**

## **INFORMATIONAL HEARING**

### **HOMOPHOBIA AND TRANSGENDER-PHOBIA IN SPORTS: ARE LGBT ATHLETES PLAYING ON A LEVEL FIELD?**



**Honorable Marie Waldron, Vice Chair**

#### **Members:**

**Honorable Richard Bloom  
Honorable Cheryl R. Brown  
Honorable Jimmy Gomez  
Honorable Marc Levine  
Honorable Scott Wilk**

**Monday, June 23, 2014  
2:00 p.m. – 4:00 p.m.  
State Capitol, Room 127**

#### **Staff:**

**Dana L. Mitchell, Chief Consultant  
Mercedes Flores, Associate Consultant  
Toni J. Zupan, Committee Secretary**

Cover art is complements of the Government Equalities Office within the UK Government. The Sports Charter was created in an effort to end discrimination and work to rid sports of homophobic and transphobic abuse both on the stands and in the field, so that everyone can take part in and enjoy sport. The Sports Charter logo was selected following a nationwide campaign and was designed by 10-year-old.

### **Tackling Homophobia and Transphobia in Sport**

The Charter for Action

On March 14, 2011 the UK Government, together with major sporting bodies, launched a Sports Charter calling for anyone and everyone with an interest or involvement in sport to unite in a common cause to tackle homophobia and transphobia in sports.

- 1) We believe that everyone should be able to participate in and enjoy sport – whoever they are and whatever their background.
- 2) We believe that sport is about fairness and equality, respect and dignity. Sport teaches individuals how to strive and succeed, how to cope with success and disappointment, and brings people together with a common goal.
- 3) We are committed to making these values a reality for lesbian, gay, bisexual and transgender people. We will work together, and individually, to rid sport of homophobia and transphobia.
- 4) We will make sport a welcome place for everyone – for those participating in sport, those attending sporting events and for those working or volunteering in sports at any level. We will work with all these groups to ensure they have a voice, and to challenge unacceptable behavior.

For further information on equality in sport visit  
[www.equalitystandard.org](http://www.equalitystandard.org)

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- *"Scary Dykes" and "Feminine Queens": Stereotypes and Female Collegiate Athletes* (Spring 2006) Vol.15, Issue 1 by Kerrie J. Kauer and Vikki Krane
- *Lesbians in Sport: Toward Acknowledgement, Understanding and Theory* (1996) Vol. 18, Women in Sport and Physical Activity Journal p237-246 by Vikki Krane
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## Informational Hearing

# **Homophobia & Transgender-Phobia in Sports: *Are LGBT Athletes Playing on a Level Field***

June 23, 2014 ♦ 2:00-4:00 P.M.

State Capitol, Room 127

- I. Introduction and Welcome by Chair and Members**
- II. Panel 1 - Education on LGBT Community & the Legal Environment**
  - Helen Carroll, JD, Sports Project Director, National Center for Lesbian Rights
- III. Panel 2 – Psychological Impact of Homophobia on Athletes**
  - Dr. Kristin Hancock, JFK University
- IV. Panel 3 – The Athlete's Perspective**
  - Toni Kokenis WE A.R.E. PRIDE (A.R.E. = Athletes Reaching Equality)
  - Pat Cordova-Goff – Azusa High School transgender student athlete
- V. Panel 4 -Regulators and Administrators**
  - Rick Welts - President and COO for the Golden State Warriors
  - Andy Foster, Executive Officer - California State Athletic Commission
  - Roger Blake, Executive Director - California Interscholastic Federation
- VI. Conclusion – Take Aways: Is Further Legislation or Regulation Needed?**
- VII. Public Comment**
- VIII. Closing Remarks**



## CHAPTER 85

An act to amend Section 221.5 of the Education Code, relating to pupil rights.

[ Approved by Governor August 12, 2013. Filed with  
Secretary of State, August 12, 2013. ]

### LEGISLATIVE COUNSEL'S DIGEST

AB 1266, Ammiano. Pupil rights: sex-segregated school programs and activities.

Existing law prohibits public schools from discriminating on the basis of specified characteristics, including gender, gender identity, and gender expression, and specifies various statements of legislative intent and the policies of the state in that regard. Existing law requires that participation in a particular physical education activity or sport, if required of pupils of one sex, be available to pupils of each sex.

This bill would require that a pupil be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records.

### *THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:*

#### SECTION 1.

Section 221.5 of the Education Code is amended to read:

221.5. (a) It is the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the pupil enrolled in these classes and courses.

(b) A school district may not prohibit a pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Chapter 5.6 (commencing with Section 51930) of Part 28 of Division 4 of Title 2.

(c) A school district may not require a pupil of one sex to enroll in a particular class or course, unless the same class or course is also required of a pupil of the opposite sex.

(d) A school counselor, teacher, instructor, administrator, or aide may not, on the basis of the sex of a pupil, offer vocational or school program guidance to a pupil of one sex that is different from that offered to a pupil of the opposite sex or, in counseling a pupil, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to a pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for grade 7 so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

(f) A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records.

## **CIF General provisions regarding Transgender Students**

### **300. GENERAL PROVISIONS**

#### **D. Gender Identity Participation**

Participation in interscholastic athletics is a valuable part of the educational experience for all students. All students should have the opportunity to participate in CIF activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records. The student and/or the student's school may seek review of the student's eligibility for participation in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth, should either the student or the school have questions or need guidance in making the determination, by working through the procedure set forth in the "Guidelines for Gender Identity Participation." **NOTE:** The student's school may make the initial determination whether a student may participate in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth.

(300.D. Approved February 2013 Federated Council)

September 2013

## Playing It Straight: An Analysis of Current Legal Protections to Combat Homophobia and Sexual Orientation Discrimination in Intercollegiate Athletics

Julie A. Baird

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# Playing It Straight:

## *An Analysis of Current Legal Protections to Combat Homophobia and Sexual Orientation Discrimination in Intercollegiate Athletics*

Julie A. Baird†

### I. INTRODUCTION

“We never should have let you play sports.” It is a common misconception: “if my daughter plays sports she will become a lesbian. If she is exposed to teammates or coaches who are lesbians, they will recruit her into lesbianism.” It stems from fear and ignorance. It is homophobia. It is prevalent and affects all women who participate in athletics, regardless of their sexual orientation.

This article addresses homophobia in intercollegiate athletics. Not only is it a pervasive influence in college sports, but homophobia can be devastating to an individual’s athletic or coaching career. It can affect performance and can lead to harassment, discrimination, verbal abuse, and in some cases, violence. High school and collegiate coaches, administrators, parents, and even athletes themselves, propagate the fear that leads to discrimination. For the most part, society continues to permit discrimination based on sexual orientation and in some cases even encourages it. This cycle needs to stop, and targeted legal protections are a good place to start.

This article will focus primarily on the discrimination faced by lesbians in the athletic realm. This does not mean that gay men, bisexual, or transgendered individuals do not face discrimination. Although this article will focus on the experiences of lesbian athletes, the analysis and legal conclusions reached here could apply to all individuals who identify their sexual orientation as non-heterosexual.

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† Associate, Luce, Forward, Hamilton & Scripps LLP; J.D., Boalt Hall School of Law, University of California at Berkeley, 2001; B.B.A., University of San Diego, 1997. The author would like to thank Kathryn Kendall for providing the forum and encouragement to write this article, and Laurie Simonson for her unwavering support and patience in reading countless edits. The author would also like to thank Jaime Santos, Alisa Nave, and the entire BERKELEY WOMEN’S LAW JOURNAL for their tireless work and invaluable suggestions.

Title IX has the interpretive potential to protect both coaches and student athletes from sexual orientation harassment and discrimination. This interpretation parallels the ways in which Title VII has been used to protect individuals from discrimination based on gender nonconformity.

In order for the reader to better understand discrimination in athletics, Part I of this article will provide a brief history of the development of women's participation in sports. Part II will address the prevalence of homophobia in intercollegiate athletics and will provide examples of how media representations and religious influences reinforce these homophobic attitudes. Additionally, Part II will include a discussion about how homophobia affects the ability of coaches to recruit players. Part III will analyze statutes that can be interpreted to afford protection from sexual orientation discrimination and harassment for both coaches and student athletes. Part III also compares amending current law with the possibility of enacting a new law, the Employment Nondiscrimination Act, and explains why current law is a more realistic approach to combating discrimination and harassment based on sexual orientation than enacting the new law would be. Finally, Part IV concludes by suggesting that Title IX is the best available avenue through which to address sexual orientation discrimination and harassment in intercollegiate athletics.

### A. Development of Women's Participation in Sports

From the beginning of their participation in sports, female athletes have confronted obstacles. A sphere traditionally dominated by men, athletics were thought unladylike,<sup>1</sup> and still worse, harmful to women's bodies. There were myths about the "possibility of injury to reproductive functions of female participants, which reflected a larger preoccupation with the threat of athletics to women's femininity."<sup>2</sup> In the late 1800s and early 1900s, during the first American feminist movement, women began to participate in athletic activity in increasing numbers, and organized competition commenced in both America and England.<sup>3</sup> At the same time, society stepped up its efforts to limit female involvement in sports and access to athletic facilities.<sup>4</sup> The warnings of health hazards increased with threats of "contracted vaginas," "collapsed uteri," and

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1. Dana Scarton, *The "L" Image/Women Athletes, Regardless of Sexual Lifestyle, Are Targets for Homophobes*, HOUS. CHRON., Oct. 23, 1994, available at 1994 WL 4598701 [hereinafter Scarton, *The "L" Image*].
  2. Deborah Brake & Elizabeth Catlin, *The Path of Most Resistance: The Long Road Toward Gender Equity in College Athletics*, 3 DUKE J. GENDER L. & POL'Y 51, 52 (1996).
  3. The first national women's championship at Wimbledon was held in 1884, the Ladies Golf Union was organized in 1893, the All-England Women's Field Hockey Association began in 1895, the first organized intercollegiate women's basketball game was played in 1896, and the Southern Ladies Lacrosse Club was organized in 1905. MARIAH BURTON NELSON, *THE STRONGER WOMEN GET, THE MORE MEN LOVE FOOTBALL* 13-15 (1994).
  4. See *id.* at 16.

"overexertion."<sup>5</sup> Involvement in sports meant getting sweaty, getting strong, getting aggressive—all typically unfeminine characteristics.

Despite threats and criticisms, the number of women participating in sports increased steadily.<sup>6</sup> By guaranteeing equal funding for men's and women's sports, the passage of Title IX<sup>7</sup> in 1972 opened the floodgates for women's participation in intercollegiate athletics.<sup>8</sup> As women entered the sports world in larger numbers, they slowly became a presence in this traditionally male-dominated environment. As women became stronger and more involved in athletics, and likewise became increasingly visible, a different method of discrimination and subordination arose. Rather than preventing access to athletic activity, society "scurried to redefine female athleticism as sexy or romantic, intended not for women's health, enjoyment, or empowerment, but for men's pleasure."<sup>9</sup>

### B. Masculine Construction of Sport

While women have broken, and continue to break, gender barriers, the sports arena has traditionally been a place for boys to become men. For men and boys, the playing field has always been a place to build camaraderie and respect. The pressure to be involved in athletics is intense and boys who choose not to play are ridiculed as "sissies or faggots,"<sup>10</sup> or considered "defectors from their own sex."<sup>11</sup> Society is bombarded with the images of the athletic male on television, in magazines, and on billboards.<sup>12</sup> Strength, speed, power, and aggressiveness are all characteristics coveted in sports, and are characteristics typically thought of as masculine.<sup>13</sup>

The image of the "ideal male"—strong and athletic—also demonstrates and promotes heterosexuality. Due to the conventional perception that gay men are weak and effeminate,<sup>14</sup> athleticism and homosexuality have come to be seen as mutually exclusive. Regardless of the absurdity of such beliefs, this viewpoint is pervasive among boys and

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5. *Id.*

6. *See id.* at 17.

7. 20 U.S.C. §§ 1681-1688 (1972).

8. Title IX states in part: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance . . ." Although the statute was passed in 1972, the passage of the Javits Amendment made it applicable to intercollegiate athletics in 1974. *See also* discussion *infra* p. 61-62.

9. NELSON, *supra* note 3, at 17.

10. *Id.* at 2.

11. Donald F. Sabo & Ross Runfola, *Introduction to Part Two: Male Identity and Athletics: Rites of Passage*, in JOCK: SPORTS & MALE IDENTITY 42 (Donald F. Sabo & Ross Runfola eds., 1980).

12. *See* NELSON, *supra* note 3, at 1.

13. *See generally id.* at 55-57.

14. MICHAEL A. MESSNER & DONALD F. SABO, SEX, VIOLENCE & POWER IN SPORTS: RETHINKING MASCULINITY 154 (1994).

men who participate in athletics.<sup>15</sup> Male role models—coaches, peers, fathers—at times use derogatory terms such as “sissy,” “faggot,” or “pussy,” to criticize and threaten boys and young men, and encourage traditional masculine behavior.<sup>16</sup> As one scholar concluded, boys begin to view homosexuality as the “negation of masculinity”<sup>17</sup> and therefore “come to equate masculinity with homophobia.”<sup>18</sup>

One male athlete prominent in his sport has said that the perceptions of homosexuality and effeminacy associated with certain sports was a prevailing stereotype among fellow college athletes.<sup>19</sup> Unfortunately, society has already answered for all boys the question of whether or not to even play sports—all *real* men love sports. One scenario where homophobia is played out is in the male bond that is created through participation in sports.

Many male athletes describe the relationships they form with their teammates as akin to family.<sup>20</sup> However, much of these athletes' behavior is shaped by homophobia and heterosexism. Locker room talk often revolves around (hetero)sexual conquests in which the female is considered to be an object to be acquired. For a young man to contest this type of banter is to call into question his own heterosexuality. Additionally, men are encouraged to bond with their male teammates, for it is the common blood, sweat, and tears of athletic experiences that tie them together. However, a male athlete who shows too much emotion or becomes too close to his male teammates runs the risk of being labeled a “faggot.” Strength, muscles, power, and a “boys will be boys” attitude are the keys to masculinity and thus define what it means to be a male athlete. Just as athletics are typically constructed through a masculine lens, the feminine construction of the “non-athlete” is a dominating force in the lives of women, particularly female athletes.

Girls and young women are taught not to develop athletic qualities. Or at the very least, if they have them, they should not flaunt them. “Since [athletic attributes] are linked so intimately with masculinity, women's display of those [attributes] does not mesh well with the dominant femininity that defines women as physically attractive, petite, demure, weak, and supportive rather than aggressive.”<sup>21</sup> A woman who portrays athletic characteristics calls into question her femininity. “Because competitive sports [are] such an exclusively male bastion, women

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15. *Id.* at 103.

16. *Id.* at 108.

17. *Id.* at 103 (quoting R.W. Connell, *A Very Straight Gay: Masculinity, Homosexual Experience, and the Dynamics of Gender*, 57 AM. SOC. REV. 735, 736 (1992) (emphasis omitted)).

18. *Id.*

19. *Id.* at 105.

20. MICHAEL A. MESSNER, *POWER AT PLAY: SPORTS AND THE PROBLEM OF MASCULINITY* 88-89 (1992).

21. Mikaela J. Durfur, *Gender and Sport*, in *HANDBOOK OF THE SOCIOLOGY OF GENDER* 587-88 (Janet Saltzman Chavez ed., 1999).

who play[] them [are] perceived as something less than female—women trying to be men, men-haters, or lesbians.”<sup>22</sup> Furthermore, “[a]thletic success is still equated with masculinity, and women and girls must ‘choose between being a successful girl and being a successful athlete.’”<sup>23</sup>

## II. PREVALENCE OF HOMOPHOBIA IN INTERCOLLEGIATE ATHLETICS

Classifying athletic women as unfeminine or stereotyping them as lesbians is harmful to all women in sports, regardless of their sexual orientation, because it discredits their abilities and detracts from their accomplishments. Such stereotyping shifts the focus from talent and capability to inadequacy and deviance. Labeling a female athlete as a lesbian immediately calls into question her achievements, because if she is a lesbian, then she is somehow not a real woman. These perceptions force many women in athletics to either hide their sexual orientation or flaunt heterosexuality. This added pressure takes energy, and once the “appropriate” image is attained, maintaining such an image requires constant vigilance. For many women, this is the necessary price of admission to the male-dominated athletic world. Homophobia is used as a tool to prevent women from gaining access to the benefits and opportunities of intercollegiate athletics.<sup>24</sup>

Intercollegiate athletics are big business and an enterprise in which men control the resources. Gaining power and status in an institution’s athletic administration is comparable to climbing the corporate ladder. Donna Lopiano, Executive Director of the Women’s Sports Foundation, agrees that “homophobia is a political tool used by men to keep women in their place, to maintain the power of the economic structure, to maintain control of the money where [men] want it to be, namely in football and men’s basketball.”<sup>25</sup> The lesbian label is being used “to control women’s decisions about being involved in sports and choosing a career in sports.”<sup>26</sup>

Navigating through this reality places women in a difficult situation. The road to a coaching or leadership position for women generally begins with a successful athletic career. The harmful Catch-22 is that the characteristics that lead to success in the athletic arena (such as aggressive-

22. Brake & Catlin, *supra* note 2, at 52.

23. Note, *Cheering on Women and Girls in Sports: Using Title IX to Fight Gender Role Oppression*, 110 HARV. L. REV. 1627, 1636 (1997) (quoting CATHERINE A. MCKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 120 (1987)). [hereinafter *Cheering on Women and Girls in Sports*].

24. See MESSNER & SABO, *supra* note 14 at 110; Dana Scarton, *Nervousness, Fear Part of the Game*, SEATTLE TIMES, Dec. 27, 1992, available at 1992 WL 6113902 (quoting Don Sabo, gender sociologist at D’Youville College in Buffalo, N.Y.).

25. See Scarton, *The “L” Image*, *supra* note 1.

26. Maria F. Durand, *Sexual Slurs Deter Female Athletes*, SAN ANTONIO EXPRESS-NEWS, Mar. 11, 1997, available at 1997 WL 3164487 (quoting Pat Griffin, Associate Professor of Education at the University of Massachusetts).



ness) are the same characteristics that can ultimately lead to stereotyping and discrimination.<sup>27</sup> Sex stereotyping in the corporate world, similar to that experienced in the athletic world, has been recognized in the law as an obstacle to equal employment opportunity for women.<sup>28</sup>

This contradiction influences the behavior of coaches and athletes on and off the field. It is common for a female athlete to adopt ultra-feminine behavior in order to overcome the perception that she is lesbian. "[T]hey wear makeup while competing, they dress in ultra feminine clothes when not competing, they talk about their boyfriends, whether they have them or not."<sup>29</sup> Homophobia can also turn female coaches, athletes, and colleagues against one another, since suspicion about someone else's sexual orientation will divert attention, albeit temporarily, from suspicion about one's own sexuality. This animosity caused by lesbian baiting and suspicion is harmful to all women involved in athletics.

### A. Effects of Media Portrayals

The media plays a large role in perpetuating the heterosexualization of women in athletics. In the late 1980s, the media guide for the Northwestern Louisiana State women's basketball team displayed a picture of the team wearing, in addition to their basketball uniforms, rabbit ears and fluffy tails. Under the photo, the caption read, "These Girls can Play, Boy."<sup>30</sup> This blatantly sexual depiction of the basketball team simultaneously reinforces the perception of heterosexuality and detracts from their athleticism and strength

When media images focus on athletes, "males are consistently presented in ways that emphasize their athletic strength and competence, whereas females are presented in ways that highlight their physical attractiveness and femininity."<sup>31</sup> For example, while a male athlete will generally be shown engaged in his athletic event, displaying skill and strength, the female athlete is generally shown out of the athletic arena, wearing feminine clothing and make-up.<sup>32</sup> She is often portrayed in the arms of a

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27. This dilemma is also present in the corporate world. See, e.g., *Price Waterhouse v. Hopkins*, 490 U.S. 228, 251 (1989) (recognizing that "[a]n employer who objects to aggressiveness in women but whose positions require this trait places women in an intolerable and impermissible catch-22: out of a job if they behave aggressively and out of a job if they do not.").

28. *Id.*

29. Julie Cart, *Lesbian Issue Stirs Discussion Women's Sports: Fear and Discrimination Are Common as Players Deal with a Perception of Homosexuality*, L.A. TIMES, Apr. 6, 1992, available at 1992 WL 2929756.

30. See *Cheering on Women and Girls in Sports*, *supra* note 23, at 1632.

31. Mary Jo Kane, *Gender & Sport: Setting a Course for College Athletics: Media Coverage of the Post Title IX Female Athlete: A Feminist Analysis of Sport, Gender, and Power*, 3 DUKE J. GENDER L. & POL'Y 95, 102 (1996); JENNIFER HARGREAVES, *SPORTING FEMALE: CRITICAL ISSUES IN THE HISTORY AND SOCIOLOGY OF WOMEN'S SPORT* 163 (1994).

32. Kane, *supra* note 31, at 102; HARGREAVES, *supra* note 31, at 163; see generally Durfur, *supra* note 21.

dominant male figure such as a husband, boyfriend, father, or coach, thus emphasizing her heterosexuality and/or her continued reliance on men, despite her athletic prowess.<sup>33</sup> The female athlete is often captured in passive and sexually suggestive poses, again diminishing her athleticism and accentuating her sexuality.<sup>34</sup> “When the media portray sportswomen as traditionally attractive ‘ladies,’ they do more than simply ignore or seriously undermine the athletic competence of women. They also convey the message that female athletes are ‘normal,’ that is, heterosexual.”<sup>35</sup> A prime example of this occurred during the television broadcast of the 1996 NCAA Women’s Basketball Championships.<sup>36</sup> During a half-time show there was a lengthy segment about married female basketball coaches and their families.<sup>37</sup> The biographies focused very little on their athletic and coaching accomplishments.<sup>38</sup> Instead, the viewers learned about Pat Summit, the head women’s basketball coach at the University of Tennessee, and how she enjoys nothing more than to come home from a long day and cook for her husband and son.<sup>39</sup> Rarely, if ever, do media stories of male coaches portray them as loving nothing more than doing household chores for their wives.<sup>40</sup>

## B. Religious Influence in Intercollegiate Athletics

National religious organizations that affiliate with intercollegiate athletics also help to fuel the fire of discrimination and homophobia.<sup>41</sup> Groups such as the Fellowship of Christian Athletes (FCA), Athletes in Action (AIA), and Campus Crusade for Christ are just a few of those prevalent on college campuses.<sup>42</sup> These organizations also have a presence at the Women’s Basketball Coaches Association (WBCA) conferences.<sup>43</sup> At the 1996 WBCA conference, FCA held a prayer breakfast at which the dangers of homosexuality were the topic of discussion, led by an “ex-lesbian.”<sup>44</sup> Pamphlets regarding the dangers of homosexual relationships were distributed throughout the tournament.<sup>45</sup>

33. See HARGREAVES, *supra* note 31, at 163-64.

34. Kane, *supra* note 31, at 102.

35. *Id.* at 119.

36. PAT GRIFFIN, *STRONG WOMEN, DEEP CLOSETS* 69 (1998).

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.* at 69-70.

41. See *id.* at 110-31.

42. *Id.* at 110.

43. *Id.* at 118-19.

44. *Id.* at 119.

45. *Id.* Additionally, the FCA’s Youth Protection Policy contains a section regarding the FCA Sexual Purity Statement which explicitly condemns homosexuality, Guidelines for FCA Staff which require staff and volunteers to follow the Sexual Purity Policy, and Bible verses depicting homosexuality as a “perversion.” Fellowship of Christian Athletes, at <http://www.fca.org> (last visited Jan. 31, 2002).

Athletes in Action has also had access to collegiate coaches and athletes.<sup>46</sup> During the 1996-97 women's basketball season, the University of Massachusetts played against the AIA women's touring team.<sup>47</sup> During the game, AIA volunteers fanned out into the stands and distributed material about AIA and its purpose.<sup>48</sup> The materials contained a testimonial from former Olympian Nancy Lieberman-Cline, in which she discussed how meaningless her life had been before abandoning her Jewish heritage and accepting Jesus Christ into her life.<sup>49</sup> This "meaningless life" included, among other things, a successful Olympic and collegiate basketball career and a lesbian relationship with professional tennis player, Martina Navratilova.<sup>50</sup> Lieberman-Cline is now married with children.<sup>51</sup> At half-time, the AIA team lined up on the court and Lieberman-Cline elaborated on her testimonial for the audience.<sup>52</sup> After her speech, the AIA team encouraged all the spectators at the pavilion that day to personally accept Jesus into their lives and invited them to fill out the information page included in the materials they had been given.<sup>53</sup> The AIA team also spoke privately to the members of the University's basketball team after the game.<sup>54</sup> The AIA touring schedule for that year included games with Ohio State, West Virginia, Penn State, Vermont, Rutgers, Old Dominion, North Carolina, Georgia Tech, Auburn, and Alabama—all public universities.<sup>55</sup> Not only are these actions a clear violation of the constitutional separation between church and state,<sup>56</sup> but they also send a clear message of support from these universities for Christian evangelical organizations—organizations which strongly condemn homosexuality.

### C. Effects of Homophobia on Recruiting

A team's success depends on a coach's ability to recruit the best players.<sup>57</sup> Furthermore, the success of the coach's team will ultimately determine the success of her own career.<sup>58</sup> The pressure to succeed can cause a coach to use whatever advantages she can find, even when they

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46. GRIFFIN, *supra* note 36, at 119.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at 120.

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. See generally Mike Fish, *Women in Sports: Growing Pains; The Lesbian Issue Off the Court: Sexuality Can Be Sensitive Issue in Recruiting*, ATLANTA CONST., Sept. 24, 1998, at G1, available at 1998 WL 3716865.

58. See generally *id.*

are detrimental to other coaches.<sup>59</sup> While the NCAA expressly condemns negative recruiting, spreading “information” about a female coach’s sexual orientation is a common practice.<sup>60</sup> The label of “lesbian,” correctly or incorrectly placed on a coach, can drastically affect her ability to bring in top players to her program.<sup>61</sup> For example, a list of the nation’s alleged “lesbian [basketball] programs” is rumored to circulate among high school basketball players who are prospects for collegiate teams.<sup>62</sup> While no one has confirmed the existence of this list, even the threat of its existence is enough to instill fear in many coaches.<sup>63</sup> The perception is that if a parent sends his or her daughter to a certain school, thereby subjecting her to a certain environment, she will fall victim to the lesbian boogey woman; the daughter will be preyed upon by older lesbian coaches or lesbian players on the team.<sup>64</sup>

This fear is perpetuated by high school coaches, and even by college coaches, in the course of their recruiting.<sup>65</sup> Bill Lind, a high-school girls’ basketball coach in the Pittsburgh area, estimates that seventy-five percent of his players’ parents ask him to determine the sexual orientation of a college coach if she is single and female.<sup>66</sup> Rather than addressing the inappropriateness of these inquiries, Lind complies with the parents’ requests. He justifies his actions in the following way:

[I]f there’s a woman coach, my players want to know if she is married or if she has a family. The worry is not so much that a female coach is gay. The worry is that she would condone that lifestyle, that there would be gay players on her team.<sup>67</sup>

What Lind fails to recognize is that he and other high school coaches like him play a large part in instilling that “worry” in players. In order to obtain the information he is looking for, Lind will call a coach and ask her about her “sexual preference” or “make phone calls to other coaches and

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59. See *id.*

60. GRIFFIN, *supra* note 36, at 82.

61. See *id.* One example of the detrimental effects of labeling occurred at the University of Texas. The women’s basketball coach there took a public stand in favor of “diversity.” This announcement caused the program to be labeled “pro-lesbian.” The effects on the coach’s ability to recruit were devastating. Parents became concerned about sending their daughters to a pro-lesbian team and rival universities used the stigma to their recruiting advantage. *Id.* at 74, 82. The image was tarnished even more when Sheryl Swoopes left the University of Texas early in her freshman year “reportedly because she was bothered by the presence of lesbians on the [women’s basketball] team.” Since that time, UT has been labeled a “lesbian” program, instilling fear into high school coaches and recruits. The program has fallen severely in the ranks. Fish, *supra* note 57.

62. See Cart, *supra* note 29; Michelle Kaufman, *Gay or Straight, Women Athletes Hate Stereotype Gay or Not, Women Athletes Dislike Lesbian Stereotype*, SALT LAKE TRIB., Apr. 25, 1993, at C1, available at 1993 WL 5389535.

63. Kaufman, *supra* note 62.

64. GRIFFIN, *supra* note 36, at 54–63.

65. See Scarton, *The “L” Image*, *supra* note 1.

66. *Id.*

67. *Id.*

people who are familiar with the program."<sup>68</sup> If a coach replies that the information is none of his business, Lind's response to that coach is that "if there is a 17-year-old player who is concerned about it, [I'm] going to make it [my] business."<sup>69</sup> Lind's actions promote homophobia. Rather than discussing homosexuality with his players, Lind perpetuates the perception of fear and justifies his behavior by stating that he is just looking out for the children. Unfortunately, his behavior is not unique.

Mike Flynn, coach of the Philadelphia-based Woman's Amateur Athletic Union team and operator of recruiting services stated that homosexuality is:

[P]ervasive and extensive, and you either walk away or accept it. I tell kids it's not about the coach being gay, it's about whether your teammates are and whether they are going to come after you. If you're around this for four years non-stop, there is a certain amount of pressure. It's one thing to come out, it's another to have a gauntlet of lesbians leading you down a path."<sup>70</sup>

The possibility of older players tempting younger players is not the only homophobic fear advanced.

Coaches are also targeted as potential harassers. Lesbians are seen as a threat to "normal" young female athletes.<sup>71</sup> The stereotype is that lesbians "are particularly unsuited to working with young people [and] that they recruit and molest them. . . . The truth is that women athletes are much more at risk to be raped, harassed or sexually violated by a male coach than a female coach."<sup>72</sup> Tara VanDerveer, head women's basketball coach at Stanford University, agrees that "[r]ecruiters use homophobia to stir fears among parents and high school players of predatory behavior by coaches at rival schools."<sup>73</sup> This fear and the intensely competitive recruiting process are significant factors that affect lesbian coaches in their decision to come out.<sup>74</sup>

#### D. Effects of Homophobia on Coaching Careers

College administrators use the fact that high school athletes and their parents are afraid of the presence of lesbians in their athletic programs as a tool to discriminate in their hiring, firing, and promoting decisions. Donna Lopiano, executive director of the Women's Sports Foundation, stated that:

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68. *Id.*

69. *Id.*

70. Fish, *supra* note 57.

71. GRIFFIN, *supra* note 36, at 75-76.

72. Cart, *supra* note 29 (quoting Pat Griffin).

73. Steve Wilstein, *Taboos of Homosexuality Fading Slowly from Sports*, SAN DIEGO UNION-TRIB., June 28, 1995, available at 1995 WL 5725359.

74. *Id.*

[H]omophobia is a significant employment issue. Whenever I talk to high school coaches, I hear this all the time. They are maintaining that men are in control of the hiring process and are using the fact that a woman is single to make charges that they can't prove, that she is unfit or a lesbian or whatever. And you never hear those things said about guys.<sup>75</sup>

In a study of female athletes and coaches conducted in 1988 by the NCAA, one-half of the respondents stated that homophobia was a barrier to attracting and keeping women in athletics.<sup>76</sup>

There have been few reported cases of gay or lesbian coaches who have challenged a school's decision to fire or deny a position to them based on their sexual orientation. There are a number of possible reasons for the dearth of these cases. First, many employees, including coaches, are not told why they were not hired regardless of the true underlying rationale for the decision.<sup>77</sup> Another possible reason coaches may be reluctant to challenge hiring decisions is that they are not aware of their legal rights.<sup>78</sup> Even if they are aware of their rights, those rights are limited, especially in states that do not include sexual orientation in their anti-discrimination statutes.<sup>79</sup> Additionally, coaches may not want to legally challenge a hiring decision because it would cause their perceived homosexuality to become public.<sup>80</sup> This disclosure could potentially place their future employment opportunities at risk. As long as there are no protections in place for gay and lesbian coaches, very few of these individuals will want to risk public disclosure for an almost certainly unfavorable result.

In the mid-1980s, the Supreme Court had the opportunity to address a similar issue, but denied certiorari.<sup>81</sup> In *Rowland v. Mad River Local School District*, a high school guidance counselor was suspended and not rehired solely because of her bisexuality.<sup>82</sup> A jury found that the plaintiff's disclosure of her bisexuality had no effect on her job performance and that she had experienced damages in the form of "personal humiliation, mental anguish, and lost earnings."<sup>83</sup> The trial judge held that these findings supported the plaintiff's claims of violations of her constitu-

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75. Scarton, *The "L" Image*, *supra* note 1.

76. *Id.*

77. See, e.g., *Jantz v. Muci*, 759 F. Supp. 1543 (D. Kan. 1991).

78. *Reasons Why Coaches Need to Address Homophobia in Athletics*, WomensSportsFoundation.org, at [http://www.womenssportsfoundation.org/template.../results\\_topics2.html](http://www.womenssportsfoundation.org/template.../results_topics2.html) (last visited Jan. 31, 2002).

79. *Summary of States, Cities, and Counties which Prohibit Discrimination Based on Sexual Orientation*, [lambdalegal.org](http://www.lambdalegal.org), at <http://www.lambdalegal.org/cgi-bin/iowa/states/antidiscrimi-map>. (last visited Jan. 31, 2002).

80. Scarton, *The 'L' Image*, *supra* note 1.

81. *Rowland v. Mad River Local Sch. Dist.*, 470 U.S. 1009 (1985).

82. *Id.* at 1010.

83. *Id.*

tional rights to free speech and equal protection under the First and Fourteenth Amendments of the Constitution.<sup>84</sup>

The Court of Appeals for the Sixth Circuit reversed the trial court's finding, reasoning that the plaintiff's speech was not a matter of public concern and therefore it failed to warrant constitutional protection.<sup>85</sup> Additionally, the court held that there was no Equal Protection violation because there was "no evidence of how other employees with different sexual preferences were treated."<sup>86</sup>

Justice Brennan, joined by Justice Marshall, dissented from the Supreme Court's subsequent denial of certiorari. In that dissent, Justice Brennan framed the central issue in the case as whether "a State [may] dismiss a public employee based on her bisexual status alone."<sup>87</sup> His discussion addressed the plaintiff's Equal Protection claim, by stating that "discrimination against homosexuals or bisexuals based solely on their sexual preference raises significant constitutional questions under both prongs of our settled equal protection analysis."<sup>88</sup> Justice Brennan concluded that "[b]ecause petitioner's case raises serious and unsettled constitutional questions relating to this issue of national importance, an issue that can not any longer be ignored, I respectfully dissent from the decision to deny this petition for a writ of certiorari."<sup>89</sup>

Several years later, in *Jantz v. Muci*,<sup>90</sup> a high school teacher and coach was denied full-time employment based on his "homosexual tendencies."<sup>91</sup> Jantz was not gay but was in fact married with two children.<sup>92</sup> Jantz brought an action against the principal of the school, as an individual and in his official capacity, under the Fourteenth Amendment.<sup>93</sup> The defendant moved for summary judgment for the plaintiff's failure to place material facts in issue.<sup>94</sup> The motion was denied by the district court.<sup>95</sup>

The district court broke new ground in its holding that "homosexuals and those perceived as homosexuals are a suspect class deserving of heightened scrutiny in the equal protection context."<sup>96</sup> Unfortunately, the lower court reasoned that this type of suspect classification could not

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84. *Id.*

85. *Id.* (citing *Rowland v. Mad River Local Sch. Dist.*, 730 F. 2d 444, 451 (6th Cir. 1984)).

86. *Id.* (quoting *Rowland*, 730 F. 2d at 450).

87. *Id.* at 1011.

88. *Id.* at 1014 (explaining that the fact that homosexuals constitute a significant and insular minority addresses the first prong, and discrimination based on sexual orientation may violate various constitutional rights, which addresses the second prong).

89. *Id.* at 1018.

90. 976 F.2d 623 (10th Cir. 1992).

91. *Id.* at 625.

92. *Id.* at 626.

93. *Id.* at 625.

94. *Id.*

95. *Id.*

96. *Id.* at 626. (citing *Jantz v. Muci*, 759 F. Supp. 1543, 1546-51 (D. Kan. 1991)).

have been established in 1998, the time of the actual discrimination.<sup>97</sup> Instead, the court focused on the defendant's qualified immunity defense.<sup>98</sup> Analyzing this defense under a rational basis test, the district court held that "it was clearly established in 1988 that the government could not 'discriminate [against homosexuals] for the sake of discrimination.'"<sup>99</sup> Since the school official could offer no rational basis for his hiring decision, he was not entitled to a qualified immunity defense.<sup>100</sup>

Upon review of the qualified immunity issue, the Court of Appeal reversed after conducting an examination of prior court decisions affecting homosexuals. The Court held that prior decisions indicated that "the unlawfulness of the alleged activity must be 'apparent' in light of pre-existing law before [the d]efendant can be forced to endure the burdens associated with trial."<sup>101</sup> In this examination of the case law, the court discussed both Justice Brennan's dissent from the denial of certiorari in *Rowland*,<sup>102</sup> and the differing conclusion reached soon after in *Bowers v. Hardwick*,<sup>103</sup> in determining that there was a "general state of confusion in the law at the time . . . so that any unlawfulness in Defendant's actions was not 'apparent' in 1988."<sup>104</sup> Based on this state of confusion, the appellate court concluded that the defendant was entitled to qualified immunity.<sup>105</sup> With that conclusion, the court stated in a footnote that it need not need to address whether classifications based on homosexual status were inherently suspect.<sup>106</sup>

More recently, a district court in Utah heard a case brought by a lesbian volleyball coach who was not rehired solely because of her sexual orientation.<sup>107</sup> This case was framed primarily as a First Amendment issue.<sup>108</sup> Wendy Weaver was a tenured high school faculty member who consistently received rave evaluations.<sup>109</sup> Additionally, Ms. Weaver had coached the high school girl's volleyball team to four state championships.<sup>110</sup> When one of her players asked her if she was a lesbian, Ms.

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97. *Id.*

98. *Id.*

99. *Id.* (quoting *Swift v. United States*, 649 F. Supp. 596, 602 (D.D.C. 1986)).

100. *Id.* at 626-27.

101. *Id.* at 629.

102. *Rowland v. Mad River Local Sch. Dist.*, 470 U.S. 1009, 1015-16 (1985) (asserting that the Supreme Court's failure to address "whether constitutional rights are infringed in sexual preference cases . . . [has] left the lower courts in some disarray.").

103. 478 U.S. 186, 194 (1986) (holding that homosexual sodomy was not a fundamental right under the Fourteenth Amendment).

104. *Jantz v. Muci*, 976 F.2d 623, 630 (10th Cir. 1992).

105. *Id.*

106. *Id.* at 630 n.3.

107. *Weaver v. Nebo Sch. Dist.*, 29 F. Supp. 2d 1279 (D. Utah 1998).

108. *Id.* at 1283.

109. *Id.* at 1280.

110. *Id.*



Weaver responded that she was.<sup>111</sup> That event precipitated many school administration meetings and phone calls from "adults affiliated, or formerly affiliated with the school."<sup>112</sup> Several weeks later, Ms. Weaver was informed that she would not be reassigned to the volleyball coaching position.<sup>113</sup> Ms. Weaver subsequently received a letter from the school district advising her that she could not discuss her "homosexual orientation or lifestyle" with any students, staff, or parents because of the negative impact it would have on the community.<sup>114</sup> The letter concluded with a threat of termination if the requirements were violated.<sup>115</sup>

After a lengthy First Amendment analysis, the Utah court held that the letter restricting Ms. Weaver's speech was unconstitutionally overbroad,<sup>116</sup> thereby invalidated the letter, and ordered it to be removed from her personnel file.<sup>117</sup> The court additionally held that the letter violated the Fourteenth Amendment, since other teachers and coaches were not similarly limited in their speech.<sup>118</sup> Finally, the court found that the principal's decision to not rehire Ms. Weaver constituted retaliation against her assertion of "her First Amendment rights to speak on matters of public concern."<sup>119</sup>

The court also discussed Ms. Weaver's Equal Protection claim under the Fourteenth Amendment.<sup>120</sup> Using *Romer v. Evans*<sup>121</sup> as a guideline, the court recognized that other courts have held "that government action in a civil . . . setting cannot survive a rational basis review when it is motivated by irrational fear and prejudice towards homosexuals."<sup>122</sup> The court concluded that the community's perceptions, "based on nothing more than unsupported assumptions, outdated stereotypes, and animosity," are not legitimate support for the school district's decision.<sup>123</sup> The court continued that Ms. Weaver's sexual orientation did not bear any rational relationship to her coaching ability, which had consistently proved to be outstanding.<sup>124</sup> Because the principal's decision not to rehire Ms. Weaver was based entirely on her sexual orientation and had no rela-

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111. *Id.* at 1281.

112. *Id.*

113. *Id.*

114. *Id.* at 1281-82. The school district subsequently sent a second letter limiting the requirements of the first letter to apply only within the scope of her employment. *Id.*

115. *Id.* at 1282.

116. *Id.* at 1286.

117. *Id.* at 1290-91.

118. *Id.* at 1290.

119. *Id.*

120. *Id.* at 1287.

121. 517 U.S. 620 (1996) (holding that an amendment to Colorado's state Constitution invalidating any legislative or judicial action designed to protect individuals based on sexual orientation is unconstitutional under the Fourteenth Amendment).

122. *Weaver*, 29 F. Supp. at 1288.

123. *Id.* at 1289.

124. *Id.*

tionship to her job performance, the decision was in violation of the Fourteenth Amendment.<sup>125</sup> In its opinion, the court stated, “because a community’s animus towards homosexuals can never serve as a legitimate basis for state action, the defendants’ actions based on that animus violate the Equal Protection Clause.”<sup>126</sup> The court ordered that Ms. Weaver be offered the coaching position for the 1999-2000 school year, and that the school district pay her lost wages for the previous school year.<sup>127</sup>

Despite limited court victories for a few coaches, these cases do not begin to reflect the prevalence of homophobic hiring and firing decisions made at high schools, colleges, and universities every year. In addition to the coaches who are affected by these decisions, athletes too are often targets of homophobic attitudes and judgments.

### E. The Effect of Homophobia on Athletes

Gay and lesbian students, as well as other students who are questioning their sexuality, face a reality in which attendance at particular schools will dictate their future behavior. A good example of player discrimination is the “no lesbians” policy of Penn State University’s women’s basketball coach Rene Portland.<sup>128</sup> According to former players, Portland would announce her rules on the first day of practice: “no drinking, no drugs, no lesbians.”<sup>129</sup> If she found out that anyone on her team was a lesbian, that player’s scholarship would be revoked immediately.<sup>130</sup> This policy remained in place until the early 1990s when the policy became public.<sup>131</sup> Public outrage at the “no lesbians” policy forced the university to adopt a nondiscrimination policy that covered sexual orientation.<sup>132</sup> Portland, however, was not disciplined and she remains the head women’s basketball coach at Penn State.<sup>133</sup>

Another coach who has made his homophobic views very clear is the University of Colorado’s head football coach who has been quoted as stating that “homosexuality is an abomination and sin against God.”<sup>134</sup> For collegiate athletes who view their coaches as leaders and role models,

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125. *Id.*

126. *Id.*

127. *Id.* at 1291.

128. Cart, *supra* note 29.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.* Obviously not hindered by her reputation, Portland has also served as a coach of the USA Women’s World University Games and the U.S. Junior National Team, and has served as the president of the Women’s Basketball Coaches Association. Penn State Athletics, *Meet the Coach: Rene Portland: Head Coach, Women’s Basketball Team*, GoPSUsports.com, at <http://www.gopsusports.com/basketball/people/coaches/coachProfile.cfm> (last visited Jan. 31, 2002).

134. Cart, *supra* note 29.

these types of public statements can have an incredibly detrimental effect.

Some lesbian athletes discuss the fear and lack of understanding they have felt from their heterosexual teammates: "No one wanted to room with me. . . . They thought I would hit on them or that someone might assume they were a lesbian, too. . . . It was a terrible feeling, coming from your teammates. I think it was out of ignorance."<sup>135</sup> One athlete describes being "caught in a web of silence. I was afraid that if people knew about my lesbian identity, I would lose friends, credibility, and perhaps my place on the team."<sup>136</sup>

These fears are instilled early when high school coaches, unaware that a lesbian may be in the audience, warn their players of "lesbian programs."<sup>137</sup> If these fears become strong enough, lesbian women will drop out of the sport completely.<sup>138</sup> Because of these prejudices, lesbian women are and will continue to be deprived of the opportunity to pursue their dreams and desires on the playing field unless they are afforded protection.

In 1993 a female athlete pursued protection from just this type of deprivation. In the case of *Yost v. Board of Regents, University of Maryland*,<sup>139</sup> the District Court of Maryland addressed a claim brought by a University of Maryland lesbian athlete. Yost played on the university's field hockey team for four years, the maximum amount of eligibility for an NCAA athlete.<sup>140</sup> During that time, Yost alleged that the female Assistant Athletic Director and her female field hockey coach "agreed to project for the Women's Athletic Department an image of heterosexuality. Yost further allege[d] that it was their goal to suppress any athletic student conduct, speech, appearance, assembly, and association in conflict with that image."<sup>141</sup>

While Yost was on the field hockey team, her coach asked her if she was gay.<sup>142</sup> Yost answered that she was, and she was then told by her coach "that her sexual orientation was not acceptable to the University of Maryland" and particularly that it was unacceptable to the Assistant Athletic Director.<sup>143</sup> Additionally, her coach made numerous derogatory and stereotypical remarks about Yost's sexual orientation and ordered her to conceal it from the field hockey team, the Athletic Department, and members of the public who might directly or indirectly associate Yost

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135. *Id.*

136. GRIFFIN, *supra* note 36, at 4.

137. Fish, *supra* note 57.

138. Scarton, *The "L" Image*, *supra* note 1.

139. Civ. A. No. HAR 93-471, 1993 WL 524757 (D. Md. Nov. 19, 1993).

140. *Id.* at 1-2.

141. *Id.* at 1.

142. *Id.* at 2.

143. *Id.*

with the University of Maryland. In addition [the coach] ordered Yost not to “be seen” with her girlfriend, accept rides to or from practice or class from her, or visit with her on the College Park campus for any reason.<sup>144</sup>

The coach threatened to revoke Yost’s scholarship if she did not comply with these rules.<sup>145</sup> When Yost asked for a written release to allow her to transfer to a different university, the coach refused to sign the necessary form.<sup>146</sup> During the remainder of Yost’s eligibility, her coach continually reaffirmed her position emphasizing that if Yost were to mingle with lesbian friends or join the Gay and Lesbian Student Union she would lose her position on the team and her scholarship.<sup>147</sup>

Yost claimed that her coach, as an university employee, violated her first amendment rights.<sup>148</sup> She further claimed “that the purpose of defendants in restricting her rights was to suppress any public exhibition of any lesbian athlete’s sexual orientation in order to project and preserve a false image of heterosexuality among University of Maryland female athletes.”<sup>149</sup> The court dismissed Yost’s § 1985(3) conspiracy claim because she did not belong to a protected class.<sup>150</sup> Specifically, the court stated that “homosexuals are not a class within the meaning of § 1985(3).”<sup>151</sup>

Yost also sought injunctive relief to prevent future harassment, but the court denied this request by holding that Yost failed to state a case or controversy under Article III of the Constitution.<sup>152</sup> Specifically, it held that Yost did not have standing to assert a claim because there was no assurance that the harm she experienced would continue now that she was no longer an athlete.<sup>153</sup> Yost argued that even though she was no longer an athlete at the university, she was still a student and therefore the threat of continued harm was present.<sup>154</sup> The court stated that it would “be impossible” for Yost to experience the type of injury to her constitutional rights in the future that she was alleging in her complaint since the alleged actions were directed only at female athletes.<sup>155</sup>

Yost attempted to save her request for an injunction by arguing that she had standing to request relief based on the future harm that might af-

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144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.* at 4.

151. *Id.* (quoting *DeSantis v. Pacific Tel. & Tel. Co.*, 608 F.2d 327, 333 (9th Cir. 1979)).

152. *Id.*

153. *Id.*

154. *Id.* at 5.

155. *Id.*

fect incoming lesbian athletes at the university.<sup>156</sup> In response, the court held that Yost had failed to establish her own right for injunctive relief and therefore was unable to assert a third-party claim for injunctive relief.<sup>157</sup> Implicit in *Yost* is that the choice an athlete faces, as determined by the court, is to stop playing her sport or abandon her First Amendment rights to free expression.

### III. LEGAL RECOURSE

The need for protection for both players and coaches is clear. Currently, there are fifteen states that provide protection from discrimination based on sexual orientation in public employment.<sup>158</sup> Eleven states include sexual orientation as a protected class in private employment, and seven include it in their education statutes.<sup>159</sup> Unfortunately, there are still thirty-five states where victims of sexual orientation discrimination have little recourse.

Homosexuality heightened scrutiny under the Due Process Clause of the Fifth and the Fourteenth Amendments,<sup>160</sup> nor declared a protected class under Title VII.<sup>161</sup> Therefore, no federal laws prohibit employment discrimination based on sexual orientation. Additionally, no federal statutes protect intercollegiate athletes in federally funded institutions who suffer discrimination or who are harassed because of their sexual orientation or perceived sexual orientation.<sup>162</sup>

Judicial interpretation of Title VII has been somewhat broadened. In 1989, the Supreme Court held in *Price Waterhouse v. Hopkins* that discrimination based on gender stereotyping was actionable under Title VII.<sup>163</sup> Nine years later, the Supreme Court interpreted Title VII to cover

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156. *Id.* at 6.

157. *Id.*

158. The states that prohibit discrimination based on sexual orientation in public employment are: California, Connecticut, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, Ohio (excludes public officials), Rhode Island, Vermont, and Wisconsin. Summary of States, Cities and Counties which Prohibit Discrimination Based on Sexual Orientation, at <http://www.lambdalegal.org/cgi-bin/iowa/states/antidiscrimi-map> (last visited Jan. 31, 2002).

159. States prohibiting sexual orientation discrimination in private employment are: California, Connecticut, Hawaii, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, Rhode Island, Vermont, and Wisconsin. States prohibiting discrimination based on sexual orientation in education are: California, Connecticut, Massachusetts, Minnesota, New Jersey, Vermont, and Wisconsin. *Id.*

160. *See, e.g., Bowers v. Hardwick*, 478 U.S. 186 (1986).

161. *DeSantis v. Pacific Tel. & Tel. Co.*, 608 F.2d 327, 329-30 (9th Cir. 1979). Title VII states in part: "It shall be an unlawful employment practice for an employer to fail or refuse to hire or discharge any individual . . . because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2 (1994).

162. *Montgomery v. Indep. Sch. Dist. No. 709*, 109 F. Supp. 2d 1081, 1090 (D. Minn. 2000) (stating that "Title IX prohibits only discrimination based on sex and does not extend to any other form of invidious discrimination.").

163. 490 U.S. 228, 250 (1989) (plurality opinion).

same-sex sexual harassment in *Oncale v. Sundowner Offshore Services*.<sup>164</sup> These cases and others indicate a movement, albeit slow, toward an expansion of the protections provided under Title VII. A broadened interpretation of Title VII to include sexual orientation would benefit coaches due to their employee status, but would still leave student athletes unprotected. An expanded interpretation of the “because . . . of sex” language in Title VII would, however, open the door for an expansion of the “on the basis of sex” language in Title IX, which could then be used to protect both coaches and student athletes. Under this argument, protection would be available under current law.

This section will trace the broadening of Title VII and the resulting implications for Title IX. This section will then summarize case law development under both statutes and examine how current law could be used to address sexual orientation discrimination in intercollegiate athletics. Finally, this section will address briefly the Employment Nondiscrimination Act (ENDA) and the possibility of amending current statutes to guarantee protection against sexual orientation discrimination.

#### A. Gender Nonconformity Claims Under Title VII

*Price Waterhouse v. Hopkins*<sup>165</sup> is a well known case addressing the idea of discrimination based on gender nonconformity and gender stereotyping. The plaintiff Ann Hopkins was proposed for partnership at Price Waterhouse accounting firm in 1982.<sup>166</sup> Her consideration was held over to the following year; however, the partners in her office refused to re-propose her for a partnership position.<sup>167</sup> Hopkins sued under Title VII of the Civil Rights Act of 1964 alleging sex discrimination in the firm’s partnership decisions.<sup>168</sup> The U.S. Supreme Court granted certiorari to determine the respective burdens of proof of a plaintiff and a defendant “when it has been shown that an employment decision resulted from a mixture of legitimate and illegitimate motives.”<sup>169</sup>

First, the Court held an employer must show by a preponderance of the evidence that it would have made the same decision in the absence of discrimination.<sup>170</sup> The Court then gave a lengthy discussion of the scope and purpose of Title VII.<sup>171</sup> The Court found that on its face, Title VII requires that gender be irrelevant to the hiring decision.<sup>172</sup> In other words,

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164. 523 U.S. 75, 82 (1998).

165. 490 U.S. 228 (1989).

166. *Id.* at 228.

167. *Id.*

168. *Id.*

169. *Id.* at 232.

170. *Id.* at 228.

171. *Id.* at 237-39.

172. *Id.* at 240.

the purpose of the statute was to force employers to focus on the qualifications of the applicant, rather than on one of the enumerated protected characteristics.<sup>173</sup> "In the specific context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender."<sup>174</sup> The Court stated that "we are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with that group,"<sup>175</sup> and that "Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes."<sup>176</sup> The Court discussed the "impermissible Catch-22" of requiring aggressive behavior from a woman to succeed in a job, but then using that same aggressive behavior to fire or fail to promote her.<sup>177</sup>

The Catch-22 described by the Supreme Court is the same predicament that female coaches face—strength and aggressiveness are necessary to show competence, but are then used as factors to prove deviance and unfitness to work with young people.

In an attempt to reveal Price Waterhouse's discriminatory behavior, Hopkins called Dr. Susan Fiske—a social psychologist and Associate Professor at Carnegie-Mellon University—as an expert witness to testify about comments made by partners at Price Waterhouse, both written and spoken.<sup>178</sup> These comments included descriptions of Hopkins as "macho," needing "a course at charm school," and "overcompensating for being a woman."<sup>179</sup> Dr. Fiske concluded that "Price Waterhouse was likely influenced by sex stereotyping."<sup>180</sup>

Dr. Fiske's analysis of sex stereotyping relied on the work of Rosabeth Moss Kanter in her discussion of token women in organizations.<sup>181</sup> Kanter's work explores the experience of women in a male-dominated corporate world.<sup>182</sup> She states that a "token" is often noticed for the particular traits that set her apart rather than for her job performance.<sup>183</sup> Because women are often characterized as feminine or demure—as "mothers," "madonnas," or "pets"—any deviation from that stereotype is emphasized.<sup>184</sup> At one company, Kanter found that women who were

173. *Id.* at 243 (the enumerated protected characteristics are race, color, religion, sex, and national origin).

174. *Id.* at 250.

175. *Id.* at 251.

176. *Id.* (quoting *Sprogis v. United Air Lines, Inc.*, 444 F.2d 1194, 1198 (7th Cir. 1971)).

177. *Id.*

178. *Id.* at 235-36.

179. *Id.* at 235.

180. *Id.*

181. Martha Chamallas, *Listening to Dr. Fiske: The Easy Case of Price Waterhouse v. Hopkins*, 15 Vt. L. Rev. 89, 91 (1990).

182. ROSABETH MOSS KANTER, *MEN AND WOMEN OF THE CORPORATION* (1977).

183. *Id.* at 216.

184. *Id.* at 233.

highly successful at garnering business were criticized for being “too aggressive” and “too much of a hustler.”<sup>185</sup>

The token woman can be likened to the position of women coaches and athletes in collegiate athletic organizations. Like women in the corporate world, women athletes are attempting to gain status and recognition in an environment traditionally dominated by men. Under Dr. Fiske’s analysis, it follows that female coaches and athletes are judged more critically either because of their feminine characteristics or their lack thereof.

As a plurality opinion, *Price Waterhouse* is limited in its weight of authority. The court in *Lynch v. Belden & Co.*,<sup>186</sup> relying on Justice O’Conner’s concurrence in *Price Waterhouse*, held that the decision there only applies in cases where the plaintiff has direct evidence of discrimination.<sup>187</sup> Further, in *Bruno v. City of Crown Point*,<sup>188</sup> the court held that it was not enough for the plaintiff to prove that the employer asked sex-stereotyped questions during the hiring process; in order to provide direct evidence of discrimination, the plaintiff also had to prove the employer actually relied on the answers to those questions.<sup>189</sup>

*Price Waterhouse* was a groundbreaking decision for future discrimination victims. It broadened the scope of potential liability of employers and acknowledged that classifications and stereotypes lead to discrimination. Unfortunately, it has taken years to feel the impact of the decision, for courts have been slow to apply the reasoning used in *Price Waterhouse* to similar cases.

The court in *Higgins v. New Balance Athletic Shoe, Inc.*<sup>190</sup> indicated that it may have been willing to use the reasoning from *Price Waterhouse* to address a Title VII claim brought by a male employee who experienced harassment based on his sexual orientation. Although the court upheld summary judgment in favor of the employer, it did so because the plaintiff had framed his original complaint around sexual orientation discrimination. Only on appeal did the plaintiff amend his complaint to claim discrimination based on sex.<sup>191</sup> The court explained that harassment based on sexual orientation “is a noxious practice, deserving censure and opprobrium. But we are called upon here to construe a statute as glossed by the Supreme Court, not to make a moral judgment—and we regard it as settled

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185. *Id.* at 217.

186. 882 F.2d 262 (7th Cir. 1989).

187. *Id.* But see *Waltman v. International Paper Co.*, 875 F.2d 468 (5th Cir. 1989); *Fragante v. Honolulu*, 888 F.2d 591 (9th Cir. 1989) (deferring to the plurality in *Price Waterhouse* in giving weight to indirect evidence of discrimination).

188. 950 F.2d 355 (7th Cir. 1991).

189. *Id.* at 362.

190. 194 F.3d 252 (1st Cir. 1999).

191. *Id.* at 259.



law that Title . . . VII does not proscribe harassment simply because of sexual orientation."<sup>192</sup>

Had the plaintiff originally stated his claim as discrimination based on sex, rather than sexual orientation, the outcome of *Higgins* might have been different. The court's discussion, goes so far as to state that:

[J]ust as a woman can ground an action on a claim that men discriminated against her because she did not meet stereotyped expectations of femininity, a man can ground a claim on evidence that other men discriminated against him because he did not meet stereotyped expectations of masculinity.<sup>193</sup>

The *Higgins* decision underscores the importance of the way in which a plaintiff chooses to frame the issue. In sex discrimination or harassment cases where sexual orientation is an issue, courts will frequently focus on the sexual orientation aspect and dismiss the claim on summary judgment. Because sexual orientation is not a protected class under Title VII, this is an easy and consistent way for courts to dispose of these types of cases.

An example of this phenomenon is the holding in *Mims v. Carrier Corp.*<sup>194</sup> In this case the plaintiff claimed he was harassed because of his perceived sexual orientation.<sup>195</sup> Although he was not gay, the plaintiff claimed that the defendants "suggested that he was engaging in homosexual conduct with a male co-worker"<sup>196</sup> and that the remarks were sometimes "accompanied by graphic and offensive body gestures."<sup>197</sup>

The court stated that the plaintiff's claim was not actionable, "as Fifth Circuit law does not allow a claim for discrimination based on sexual preference,"<sup>198</sup> concluding that "[n]either sexual orientation nor perceived sexual orientation constitute protected classes under the Civil Rights Act."<sup>199</sup> Although the court reached this conclusion immediately, it carried out a full Title VII analysis. In addressing whether the harassment the plaintiff endured was based on sex, the court concluded that "[t]he clear meaning of 'sex' under Title VII is not 'intercourse,' but 'gender,' and [plaintiff] does not allege that he was discriminated against because of his gender."<sup>200</sup> The court refused to acknowledge any connection between sex discrimination based on gender nonconformity and sex discrimination based on sexual orientation. Furthermore, because the court relied upon a prior Fifth Circuit decision that failed to find "effemi-

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192. *Id.*

193. *Id.* at 261 n.4 (citing *Price Waterhouse v. Hopkins*, 490 U.S. 228, 250-51 (1998)).

194. 88 F. Supp. 2d 706 (E.D. Texas 2000).

195. *Id.* at 712.

196. *Id.* at 710.

197. *Id.*

198. *Id.* at 713.

199. *Id.* at 714.

200. *Id.*

nacy” to merit protection under Title VII,<sup>201</sup> it is doubtful that the outcome would have changed even if the plaintiff had framed his complaint in terms of gender stereotyping rather than sexual orientation.

Since the Ninth Circuit’s ruling in *DeSantis v. Pacific Telephone & Telegraph Company*,<sup>202</sup> courts have been prohibiting liability under Title VII for discrimination on the basis of sexual orientation.<sup>203</sup> The court in *Rene v. MGM Grand Hotel*<sup>204</sup> stated the prevailing conception of *DeSantis*: “While societal attitudes towards homosexuality have undergone some changes since *DeSantis* was decided, Title VII has not been amended to prohibit discrimination based on sexual orientation; *DeSantis* remains good law and has been followed in other circuits.”<sup>205</sup>

In *MGM Grand Hotel*, the plaintiff was verbally and physically harassed in a sexual manner on a daily basis while employed as a butler at the MGM Grand Hotel and Casino in Las Vegas. Although the court found the treatment received by the plaintiff to be “appalling” and “disturbing,”<sup>206</sup> the opinion, following precedent, upheld summary judgment in favor of the defendant.

Despite these decisions, several recent cases have held that a claim for discrimination or harassment based on gender nonconformity or gender stereotyping can successfully withstand a summary judgement motion.

In *Ianetta v. Putnam Investments*,<sup>207</sup> the plaintiff was called “faggot” several times, treated differently from other employees by his supervisor, and eventually threatened with termination.<sup>208</sup> The plaintiff filed discrimination charges with the Massachusetts Commission Against Discrimination, and he was fired one month later.<sup>209</sup> The plaintiff sued Putnam, his former employer, for sexual harassment and retaliation in violation of Title VII.<sup>210</sup> Putnam moved to dismiss, its key argument being that “Title VII does not proscribe harassment based on sexual orientation.”<sup>211</sup> The court agreed that if the plaintiff’s only basis for his discrimination claim was sexual orientation then the case must be dis-

201. *Id.* at 713 (citing *Smith v. Liberty Mutual Ins. Co.*, 569 F.2d 325, 326 (5th Cir. 1978)).

202. 608 F.2d 327 (9th Cir. 1979) (holding that “Title VII’s prohibition of ‘sex’ discrimination applies only to discrimination on the basis of gender and should not be judicially extended to include sexual preference”).

203. Recently however, the Ninth Circuit held that *Price Waterhouse* dictates current law regarding discrimination based on sex stereotypes, not *DeSantis*. *Nichols v. Azteca Restaurant Enterprises*, 256 F.3d 864, 875 (9th Cir. 2001) (“to the extent [*DeSantis*] conflicts with *Price Waterhouse*, as we hold it does, *DeSantis* is no longer good law.”).

204. 243 F.3d 1206 (9th Cir.), *reh’g en banc granted*, 255 F.3d 1069 (9th Cir. 2001).

205. *Id.* at 1209.

206. *Id.*

207. 142 F. Supp. 2d 131, 133 (D. Mass. 2001).

208. *Id.* at 133.

209. *Id.*

210. *Id.* Plaintiff also brought charges under Massachusetts General Laws ch. 151B. *Id.*

211. *Id.*

missed.<sup>212</sup> However, the plaintiff in this case argued that his supervisor's "use of the term 'faggot' and his other actions were made because [the plaintiff] failed to conform to the male gender stereotype."<sup>213</sup> The plaintiff argued that this type of behavior amounted to discrimination on the basis of sex.<sup>214</sup> Based on these allegations, the court framed the issue as "whether a complaint based on one's failure to conform to a gender stereotype states a claim for sex discrimination under Title VII."<sup>215</sup>

Surprisingly, the *Ianetta* court did not mention *Price Waterhouse* in its decision. Rather, the court relied completely on *Oncale* to extend protection to same-sex sexual harassment victims, and on the *Higgins* holding that a man may base an action on the claim that other men have discriminated against him because he failed to meet stereotypes of masculinity.<sup>216</sup> The *Ianetta* court held that the plaintiff's claim of discrimination based on failure to meet masculine stereotypes was a claim for sex discrimination on that basis, and the court denied defendant's motion for summary judgement.<sup>217</sup>

The Northern District of Illinois issued a similar decision in 2001 in *Jones v. Pacific Rail Services*.<sup>218</sup> The plaintiff brought suit against his employer under Title VII for the employer's failure to take corrective action after the plaintiff complained that he was being harassed because "[he] did not conform to male sexual stereotypes."<sup>219</sup> The court reviewed and denied the defendant's motion to dismiss. Relying heavily on *Oncale* and analogizing to *Price Waterhouse*, the court held the plaintiff's "claim that Pacific Rail did not respond to his complaints that he was being harassed because of his alleged effeminacy is sufficient to state a claim. It remains to be seen, of course, whether [the plaintiff] actually will be able to establish that he was harassed based on his gender, but that is an issue for another day."<sup>220</sup> While the court avoided addressing the paramount question—whether the harassment due to his effeminacy was discrimination based on gender—it is clear that courts are showing an increasing willingness to allow plaintiffs to state, at a minimum, a claim of discrimination or harassment based on nonconformity with gender stereotypes under Title VII.

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212. *Id.*

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.* at 133-34 (citing *Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998) and *Higgins v. New Balance Athletic Shoe, Inc.*, 194 F.3d 252, 261 (1st Cir. 1999)).

217. *Id.* at 134.

218. No. 00 C 5776, 2001 WL 127645 (N.D. Ill. Feb. 14, 2001).

219. *Id.* at 1.

220. *Id.* at 3.

## B. Title IX

The willingness of courts to expand the interpretation of Title VII to include gender non-conformity could extend to similar language regarding gender in Title IX.<sup>221</sup> This statute is widely known as the statute that provided equality in athletic opportunities for women. However, because of the similarity between the “on the basis of sex” language in Title IX,<sup>222</sup> and the “because . . . of sex” language in Title VII,<sup>223</sup> Title IX can also be used as a vehicle to address discrimination and harassment in educational institutions that receive federal funding.<sup>224</sup>

In 1998, the U.S. Supreme Court held in *Gebser v. Lago Vista Independent School District*<sup>225</sup> that an institution receiving federal funds can be held liable under Title IX for its deliberate failure to respond to a student’s sexual harassment allegations against a teacher.<sup>226</sup> According to the Court, a Title IX violation occurs when the fund recipient (i.e., the school) has actual knowledge of teacher-student harassment and chooses to remain idle.<sup>227</sup> In order to invoke Title IX protection, there must be “an official decision by the recipient not to remedy the violation,”<sup>228</sup> and that deliberate indifference must effectively cause the discrimination.<sup>229</sup> The discrimination at issue is the fact that the victim is essentially barred from an educational opportunity or benefit in violation of Title IX.<sup>230</sup> The scope of liability under Title IX extends “only where the funding recipient has some control over the alleged harassment. A recipient cannot be directly liable for its indifference where it lacks the authority to take remedial action.”<sup>231</sup>

The *Gebser* case is important because it clarified that sexual harassment is a type of discrimination under Title IX, and that “Title IX proscribes harassment with sufficient clarity to satisfy [the] notice requirement and serve as a basis for a damages action.”<sup>232</sup>

Relying heavily on its decision in *Gebser*, one year later the U.S. Supreme Court addressed whether a school district can be held liable for deliberate indifference in responding to student-on-student sexual harassment, in *Davis v. Monroe County Board of Education*.<sup>233</sup> The ma-

221. 20 U.S.C. §§ 1681-88 (1972).

222. 20 U.S.C. § 1681(a) (1972).

223. 42 U.S.C. § 2000e-2(a) (1994).

224. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 636 (1999); *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 281-84 (1988).

225. 524 U.S. 274.

226. *Id.* at 290.

227. *Id.*

228. *Id.*

229. *Id.* at 290-91.

230. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 650 (1999).

231. *Id.* at 644.

232. *Id.* at 650 (discussing *Gebser*, 524 U.S. 274).

233. *Id.* at 629.

jority opinion discussed the plain language of Title IX and set forth the specific requirements necessary to find liability under the statute.<sup>234</sup> The fund recipient must have notice of Title IX's prohibitions,<sup>235</sup> must have control over the harasser and the environment in which the harassment occurs,<sup>236</sup> and if the recipient is not the actual harasser, its "deliberate indifference must . . . 'cause [students] to undergo' harassment or 'make [them] liable or vulnerable' to it."<sup>237</sup> Additionally, the recipient must have "actual knowledge" of the harassment, and that harassment must be "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school."<sup>238</sup> It is not necessary to show that the victim was physically denied access to an educational opportunity, only that the harassment is so severe as to undermine and detract from the victim's educational experience.<sup>239</sup> The behavior must "be serious enough to have the systemic effect of denying the victim equal access to an educational program or activity."<sup>240</sup>

In *Davis*, the petitioner was the mother of a fifth-grade student who was the victim of sexual harassment by another student.<sup>241</sup> The harassment consisted of sexual touching and sexual remarks over several months.<sup>242</sup> The victim reported the incidents to various teachers and her principal, but no action was taken.<sup>243</sup> The victim was not the only student to experience this harassment, and, at one point, the severity of the harassment drove the student to contemplate suicide.<sup>244</sup>

Since the harassment occurred during school hours and on school grounds, the Court found the misconduct to be "taking place 'under' an 'operation' of the funding recipient."<sup>245</sup> In other words, the harasser was under the school's control.<sup>246</sup> The Court found that the victim reported the incidents to various officials to no avail during a five-month period, which could show that the recipient had actual knowledge of the harassment, and that it displayed deliberate indifference.<sup>247</sup> Finally, because the victim's grades dropped substantially, the five months of harassment could be enough to show a negative effect on her ability to receive an

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234. *Id.* at 644-47.

235. *Id.* at 640.

236. *Id.* at 645.

237. *Id.* (quoting RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 1415 (1966)).

238. *Id.* at 650.

239. *Id.* at 650-51.

240. *Id.* at 652.

241. *Id.* at 633.

242. *Id.* at 633-34.

243. *Id.* at 634-35.

244. *Id.*

245. *Id.* at 646.

246. *Id.*

247. *Id.* at 654.

education.<sup>248</sup> Based on these findings, the Court reversed the Eleventh Circuit's dismissal for failure to state a claim and remanded the case for further proceedings.<sup>249</sup>

Based on the decisions in these two cases, there is statutory protection provided for students from sexual harassment by other students, and protection for students from harassment by teachers. This should then also hold true for athlete-on-athlete and coach-on-athlete harassment in collegiate settings. Title IX also provides protection for teachers from sexual harassment and discrimination from federally funded educational institutions.<sup>250</sup> Therefore, both coaches and athletes can be protected under one statute. What is left now is to broaden the "on the basis of sex" standard in Title IX to incorporate gender nonconformity, similar to interpretation of Title VII's "because . . . of sex" standard.

### C. Gender Nonconformity Claims Under Title IX

There is some indication that courts are receptive to the argument that gender nonconformity is protected under Title IX. The Minnesota case of *Montgomery v. Independent School District No. 709*<sup>251</sup> provides an example of the analysis. In *Montgomery*, the plaintiff alleged discrimination in the school board's response to his complaints of harassment.<sup>252</sup> The plaintiff asserted that he was harassed because of his gender and his perceived sexual orientation.<sup>253</sup> The abuse was severe with verbal taunts beginning in kindergarten, and physical abuse, sometimes sexual in nature, starting in sixth grade.<sup>254</sup> The harassment lasted for eleven years.<sup>255</sup> The plaintiff brought several causes of action including claims under the Minnesota Human Rights Act, the Equal Protection and Due Process Clauses of the United States Constitution, the Minnesota Constitution, and Title IX of the Education Amendments of 1972.<sup>256</sup> The plaintiff's claims other than the Title IX claim are not relevant to this article and will not be addressed here.

The plaintiff claimed that the harassment he encountered "deprived him of the ability to access significant portions of the educational environment."<sup>257</sup> In order to avoid his harassers, he remained home from school on numerous occasions; did not participate in intramural sports; stayed away from the school cafeteria and bathrooms whenever possible;

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248. *Id.*

249. *Id.*

250. *Grove City Coll. v. Bell*, 465 U.S. 555, 572 (1984).

251. 109 F. Supp. 2d 1081 (D. Minn. 2000).

252. *Id.* at 1083.

253. *Id.*

254. *Id.* at 1084.

255. *Id.* at 1083.

256. *Id.*

257. *Id.* at 1085.

and stopped riding the school bus.<sup>258</sup> The plaintiff allegedly reported the incidents of harassment to "a variety of School District officials, including teachers, bus drivers, principals, assistant principals, playground and cafeteria monitors, locker room attendants, and school counselors."<sup>259</sup> While the officials occasionally responded to these situations, their solutions were generally inconsistent and ineffective, and included removing the plaintiff from his favorite classes, forcing him to meet with his harassers, and designing a seating chart.<sup>260</sup> The plaintiff stated that the disciplinary measures often resulted in retaliatory harassment.<sup>261</sup>

The court began its Title IX analysis by stating that "to the extent that plaintiff asserts Title IX claims based on discrimination due to his sexual orientation or perceived sexual orientation, these claims are not actionable and must be dismissed."<sup>262</sup> However, the court then focused on the plaintiff's claim for gender discrimination and the fact that he was harassed "because he did not meet [the harassers'] stereotyped expectations of masculinity."<sup>263</sup>

The court stated that while the U.S. Supreme Court has held that student-on-student harassment may give rise to a cognizable claim under Title IX,<sup>264</sup> "[n]o federal court appears to have addressed . . . whether the kind of conduct to which plaintiff was subjected constitutes discrimination 'on the basis of sex' within the meaning of Title IX."<sup>265</sup> The plaintiff was abused and taunted with names like "girl," "princess," "fairy," "lesbian," "bitch," and "queen,"<sup>266</sup> which indicated that the harassers were singling out his feminine characteristics and that they believed that he did not behave as boys should.<sup>267</sup>

Because no court had addressed this issue in the context of a Title IX claim, the court focused on similar claims brought under Title VII, "noting that Title VII similarly requires that the discrimination resulting in the plaintiff's claims be based on his or her sex."<sup>268</sup> The court reasoned "that no logical rationale appears to exist for distinguishing Title VII and Title IX in connection with the issues raised here regarding the circumstances under which abusive or offensive conduct amounts to harassment 'based on sex.'"<sup>269</sup> The court then proceeded to apply a Title VII analysis, using *Oncale*, *Higgins*, and *Price Waterhouse* to reach its conclusion that the

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258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.* at 1090.

263. *Id.*

264. *See, e.g., Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 631 (1999).

265. *Montgomery*, 109 F. Supp. 2d at 1090.

266. *Id.* at 1084.

267. *Id.* at 1090.

268. *Id.* at 1090-91.

269. *Id.* at 1091-92.

plaintiff's harassment, due to his failure to meet masculine stereotypes, was a cognizable claim under Title IX.<sup>270</sup>

A similar approach was taken in the Northern District of California in *Ray v. Antioch Unified School District*.<sup>271</sup> As in *Montgomery*, the plaintiff in this case brought suit against the school district for its deliberate indifference in addressing known sexual harassment directed at plaintiff.<sup>272</sup> The plaintiff alleged that students "repeatedly threatened, insulted, taunted, and abused [him] during the school day and during school activities."<sup>273</sup> The allegation stated that "such harassment was based on the students' perception that [the p]laintiff was a homosexual, and due to the status and physical appearance of [the p]laintiff's mother, a transgendered female."<sup>274</sup> The plaintiff reported the harassment to appropriate school officials, but those officials failed to take action to stop the harassing behavior.<sup>275</sup>

Additionally, the plaintiff alleged that the school district knew or should have known that one of the harassers in particular had a history of violent behavior and therefore posed a special threat to the plaintiff.<sup>276</sup> That particular student eventually physically assaulted the plaintiff resulting in severe and permanent injury.<sup>277</sup> Due to the school district's indifference to his well-being, the plaintiff alleged that his "fright and emotional state [were] so severe and pervasive, that it effectively bar[red] [his] access to an educational opportunity or benefit" in violation of Title IX.<sup>278</sup> In response, the defendant moved for a judgment as a matter of law that Title IX "does not prohibit discrimination on the basis of homosexuality or transsexualism."<sup>279</sup>

Relying heavily on the *Davis* opinion, the court stated that funding recipients, such as schools, could be liable when they are found to be "(1) deliberately indifferent, (2) to sexual harassment, (3) of which they have actual knowledge, (4) that is so severe, pervasive, and objectively offensive, (5) that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school."<sup>280</sup> The court cited *Oncale* as a basis for finding same-sex harassment actionable under Title VII,<sup>281</sup> and *Franklin v. Gwinnett County Public Schools*<sup>282</sup> as a basis

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270. *Id.* at 1092.

271. 107 F. Supp. 2d 1165 (N.D. Cal. 2000).

272. *Id.* at 1167.

273. *Id.*

274. *Id.*

275. *Id.*

276. *Id.*

277. *Id.*

278. *Id.*

279. *Id.*

280. *Id.* at 1169 (quoting *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 650 (1999)).

281. *Id.* (citing *Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998)).

282. 503 U.S. 60 (1992).



for using Title VII jurisprudence to interpret Title IX.<sup>283</sup> Based on the facts and following U.S. Supreme Court precedent, the court denied the School Board's motion to dismiss.

Both *Montgomery* and *Ray* indicate a willingness by the lower courts to apply Title VII jurisprudence to Title IX claims. This is a significant step toward allowing more students, including student athletes and coaches, relief from discrimination and harassment due to gender nonconformity.

#### D. Problems With The Gender Nonconformity Argument

While a "gender nonconformity equals sex discrimination" argument may be ideal in some sexual orientation discrimination suits, it still would leave many potential plaintiffs without remedy.<sup>284</sup> The fundamental flaw is that the argument assumes that every gay or lesbian plaintiff acts in a stereotypical way. In other words, the assumption that every lesbian plaintiff walks, talks, and appears masculine, while every gay male plaintiff walk, talks, and acts feminine, leaves out feminine lesbians and masculine gay men. For those individuals, a gender nonconformity argument would be much more difficult to make.<sup>285</sup> When a court is faced with a woman who is or is perceived to be heterosexual, and who looks or acts masculine, it is very easy to single out gender and to find discrimination based on non-feminine appearance or behavior.<sup>286</sup> A progressive court, when faced with an appropriately framed issue, also may be able to single out gender when faced with a lesbian who looks or acts masculine.<sup>287</sup> However, even the most sympathetic court will have difficulty in separating gender discrimination from sexual orientation discrimination in the case of a lesbian who looks or acts feminine and faces discrimination solely because of her sexual orientation. If the state or jurisdiction where the feminine lesbian experiences the discrimination does not have a statute granting protection based on sexual orientation, she has no recourse.

Only in cases where the plaintiff is successful in specifying discrimination based on gender and failure to meet expected gender stereotypes

283. *Ray v. Antioch Unified Sch. Dist.*, 107 F. Supp. 2d 1165, 1169 (N.D. Cal. 2000).

284. See Anthony E. Varona & Jeffrey M. Monks, *EN/Gendering Equality: Seeking Relief Under Title VII Against Employment Discrimination Based on Sexual Orientation*, 7 WM. & MARY J. WOMEN & L. 67, 107 (2000) (arguing that because sexual orientation is not a protected class under Title VII, gay plaintiffs must show that the discrimination they experienced was the result of sex stereotyping and not anti-gay bias alone).

285. While I would argue that every lesbian and gay man is inherently challenging gender stereotypes, courts are far from recognizing this theory.

286. See, e.g., *Price Waterhouse v. Hopkins*, 490 U.S. 228, 250-51 (1989). For a discussion of this case, see *infra* Section III. A.

287. See, e.g., *Jones v. Pacific Rail Servs.*, 2001 WL 127645 (N.D. Ill. 2001) (holding that the gay plaintiff's claim that he was harassed because of his effeminate characteristics was sufficient to state a claim).

will the court address the claim.<sup>288</sup> While this may be extremely limiting for most plaintiffs, it may not be as much of a hindrance for female coaches and athletes who face discrimination as it would be for other plaintiffs. If female coaches and athletes are discriminated against because they are strong, aggressive, and confident, characteristics typically thought of as male, then a gender nonconformity argument is plausible. If certain characteristics (strength, muscles, short hair cut, assertiveness) displayed by a woman cause a presumption of lesbianism, which then leads to discrimination based on that presumption, then those characteristics are the basis of the discrimination. The characteristics at the root of the discrimination are those that fail to conform to stereotypically feminine gender norms. The woman who possesses those characteristics is seen as unfeminine—or masculine—and faces discrimination as a result.

This analysis still leaves the feminine lesbian coach or athlete without recourse. Even with a broad reading of Title VII and Title IX, there will still be lesbians who, regardless of their femininity, are denied equal access opportunities purely because of their sexual orientation. Bringing a gender nonconformity action under Title IX is by no means a perfect solution, but it may be the best avenue that is currently available.

### E. Amending Title IX

Title IX was passed in 1972.<sup>289</sup> The text of the statute is self-explanatory; the relevant section states: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .<sup>290</sup> The test for compliance with Title IX has been articulated in a regulation as a comparison of the “benefits, opportunities, and treatment afforded members of both sexes.”<sup>291</sup> The regulations define the test for “equal athletic opportunity” as whether the amount spent on athletic scholarships is on a “substantially proportional basis to the number of male and female participants in the institution’s athletic program.”<sup>292</sup> There are other factors that are also taken into consideration when determining equal athletic opportunity.<sup>293</sup>

288. *E.g.*, *DeSantis v. Pac. Tel. & Tel. Co.*, 608 F.2d 327, 332 (9th Cir. 1979); *Bianchi v. City of Philadelphia*, 2002 WL 23942 (E.D. Pa. 2002); *Ianetta v. Putnam Investments*, 142 F. Supp. 2d 131, 133 (D. Mass. 2001).

289. 20 U.S.C. § 1681(a) (1972).

290. *Id.*

291. Title IX of the Education Amendments of 1972, A Policy Interpretation: Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71,413, at 71,415 (Dec. 11, 1979) (to be codified 45 C.F.R. pt. 86).

292. Title IX of the Education Amendments of 1972, A Policy Interpretation: Title IX and Intercollegiate Athletics, 44 Fed. Reg. at 71,414.

293. The additional program factors are: the selection of sports and levels of competition available to members of both sexes; provisions of equipment and supplies; scheduling of games and practice time; travel and per diem allowances; opportunity to receive coaching and academic tutoring; as-

Since the passage of Title IX, participation by women in sports has increased dramatically.<sup>294</sup> However, this rise has taken time and litigation. In 1974, the Javits Amendment made Title IX applicable to athletics.<sup>295</sup> "In the late 1970s, President Carter's administration issued Regulations and Policy Interpretations designed to flesh out Title IX's implications for sports in college and high school."<sup>296</sup> In 1984, however, women's athletics were dealt a substantial blow by the U.S. Supreme Court. In the case of *Grove City College v. Bell*,<sup>297</sup> the Court interpreted Title IX as only extending to specific college programs that receive federal funding. Because athletic departments were not offered federal financial assistance, it follows that they would not be subject to Title IX regulations. Congress responded to the *Grove* ruling by passing the Civil Rights Restoration Act four years later.<sup>298</sup> This Act extended Title IX to all programs at educational institutions receiving any federal funding, including grants and loans made to students.<sup>299</sup> Therefore, if some students at a given school receive funding, then the school's athletic departments fall under Title IX.

In the early 1990s, Title IX gained its bite when the U.S. Supreme Court began to allow private suits for damages brought by women alleging personal harm resulting from Title IX violations.<sup>300</sup> Allowing for money damages also permitted students to maintain their claims until resolution, whereas previously there would have been a loss of standing upon the student's graduation.<sup>301</sup>

In 1994, Congress passed the Equity in Athletics Disclosure Act.<sup>302</sup> In order to comply with the Act, schools must publish information regarding the number of male and female athletes in their programs.<sup>303</sup> The Act also requires a listing of varsity teams in the athletic programs with detailed rosters of each team as of the first day of contest and total attributable expenditures to each team.<sup>304</sup> Reporting the gender of the head coach, female or male, as well as number, sex, and employment status of

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signment and compensation of coaches and tutors; provisions of locker rooms and practice and competitive facilities; provisions of medical and training services; provisions of housing and dining facilities and services; publicity; recruitment; support services. *Id.*

294. *Cheering on Women and Girls in Sports*, *supra* note 23.

295. Charles Spitz, Note, *Gender Equity in Intercollegiate Athletics as Mandated by Title IX of the Education Amendments Act of 1972: Fair or Foul?*, 21 SETON HALL LEGIS. J. 621, 632, n.20 (1997).

296. PAUL C. WEILER & GARY R. ROBERTS, *SPORTS AND THE LAW* 799 (2d ed. 1993).

297. 465 U.S. 555, 573 (1984).

298. Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, §§ 1-3, 102 Stat. 28 (1988) (codified as amended at 20 U.S.C. § 1687 (1994)); *see also* Brake & Catlin, *supra* note 2, at 59.

299. Civil Rights Restoration Act of 1987, §§ 1-3, 102 Stat. 28.

300. *Franklin v. Gwinnett County Pub. Sch.*, 503 U.S. 60 (1992) (allowing plaintiffs to recover money damages for intentional Title IX violations).

301. Brake & Catlin, *supra* note 2, at 60.

302. Equity in Athletics Disclosure Act of 1994, Pub. L. No. 103-382, § 360B, 108 Stat. 3969, 3969-71 (1994).

303. *Id.*

304. *Id.*

assistant coaches is also required.<sup>305</sup> In addition, the Act also requires reporting on total financial assistance received by male and female athletes, total revenue generated by men's and women's teams, and salary information for head coaches.<sup>306</sup> The rationale behind the Act was that "knowledge of an institution's expenditures for women's and men's athletic programs would help prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students."<sup>307</sup>

Title IX has given women a tool to demand equal access and opportunity in intercollegiate athletics. By amending Title IX to read "no person . . . shall on the basis of sex or sexual orientation be excluded from participation," the same access and opportunity could be guaranteed to lesbian and gay athletes.

While women's athletics owe much gratitude to Title IX, on the twenty-fifth anniversary of its passage, eighty percent of the college and university athletic programs governed by the statute failed to comply fully with the law.<sup>308</sup> This fact alone is troubling. Considering the low rate of compliance with the current statute, it might be unrealistic to think that if amended, Title IX would provide any real protection based on sexual orientation. However, an amended Title IX would provide a legal avenue for victims without forcing the plaintiff to fit her claim into a gender nonconformity case that may or may not be successful.

Title IX might be difficult to amend for a multitude of reasons. The original purpose of the statute was to equalize access to educational facilities for women.<sup>309</sup> Lengthy administrative guidelines have been issued to direct educational institutions to act in compliance with Title IX by balancing the number of and opportunities for female and male athletes in their programs. The goal of amending Title IX to include sexual orientation as a prohibited basis of discrimination, however, is not to have the same number of openly homosexual students as heterosexual students participating in athletics. Rather, the point of the proposed amendment is to prevent discrimination and harassment of coaches and athletes on the basis of sexual orientation. Therefore, amending Title IX to include sexual orientation may be incompatible with the original purpose of the statute because while it would work to eliminate discrimination that is an implicit barrier to equality in collegiate athletics, the number of homosexual athletes would not be a reliable measure of equal access.

The probability of successfully amending Title IX (or Title VII) to include sexual orientation can be predicted by the success, or lack of suc-

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305. *Id.*

306. *Id.*

307. *Id.* at § 360(B)(b)(8).

308. Erik Brady, *Colleges Score Low on Gender-Equity Test*, USA TODAY, Mar. 3, 1997, at C1.

309. See *Cheering on Women and Girls in Sports*, *supra* note 23, at 1634-35.

cess, of similar statutes or acts. A discouraging indicator is the repeated failures of the Employment Non-Discrimination Act to gain the support of the legislature.

## F. The Employment Non-Discrimination Act (ENDA)

There are currently no federal laws protecting individuals from employment discrimination based solely on sexual orientation.<sup>310</sup> At the same time, workplace discrimination continues to be "the most common complaint received by the American Civil Liberties Union from gays and lesbians."<sup>311</sup> The Employment Non-Discrimination Act (ENDA) is a proposed federal statute that would make it "an unlawful employment practice for an employer . . . to discriminate against any individual . . . because of such individual's sexual orientation."<sup>312</sup> The bill was first introduced in the 1970s and was reintroduced in 1996.<sup>313</sup> At the time that ENDA was introduced, Congress was also considering the Defense of Marriage Act (DOMA), a bill banning gay marriage.<sup>314</sup> Interestingly, the presence of both bills made it easier for Republicans to vote for the passage of ENDA because they could also vote in favor of DOMA and remain in good stead with their more conservative constituents.<sup>315</sup> In 1996 ENDA was passed by the House of Representatives, but failed in the Senate by one vote.<sup>316</sup> ENDA was again presented to Congress in 1999, but no vote was ever taken.<sup>317</sup> ENDA was reintroduced in July of 2001.<sup>318</sup>

The arguments used to defeat ENDA are the same arguments that might hinder the possibility of amending either Title IX or Title VII to include sexual orientation as a protected class. The least inflammatory, yet still damaging, argument against employment protection for gays and lesbians stems from the results of a survey conducted by the Simmons

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310. See, e.g., *Higgins v. New Balance Athletic Shoe, Inc.*, 194 F.3d 252, 259 (1st Cir. 1999); *Hopkins v. Baltimore Gas & Elec.*, 77 F.3d 745, 751-52 (4th Cir. 1996); *Williamson v. A.G. Edwards & Sons*, 876 F.2d 69, 70 (8th Cir. 1999).

311. *Employment Discrimination Against Gays and Lesbians*, Religious Tolerance, at [http://religioustolerance.org/hom\\_empl1.htm](http://religioustolerance.org/hom_empl1.htm) (last visited Jan. 31, 2002).

312. S. 1284, 107th Cong. § 4 (2001).

313. George S. Peek, *Recent Legislation: Where Are We Going with Federal Hate Crimes? Congress and the Politics of Sexual Orientation*, 85 MARQ. L. REV. 537, 565 (2001).

314. *Id.*

315. Kim I. Mills, *One-Vote Margin Proves First Federal Gay Civil Rights Law Is at Hand*, HUM. RTS. CAMPAIGN Q. available at <http://www.hrc.org/publications/hrcq/hrcq96fa/5.asp> (last visited Feb. 20, 2002).

316. Peek, *supra* note 313, at 565.

317. *Public Affairs and Legislation, 1999-2000 THE HUMAN RIGHTS CAMPAIGN & THE HUMAN RIGHTS CAMPAIGN FOUNDATION ANNUAL REPORT APRIL 1, 1999-MARCH 31, 2000* at 6, available at [http://www.hrc.org/pulications/annual\\_rpt/1999\\_2000/AnnualReport9900.pdf](http://www.hrc.org/pulications/annual_rpt/1999_2000/AnnualReport9900.pdf) (last visited Apr. 4, 2002).

318. *Congressional Legislative Details*, Human Rights Campaign, at <http://capwiz.com/hrc/issues/bills/?bill=46908&size=full> (last visited Apr. 4, 2002).

Market Research Bureau in October of 1988.<sup>319</sup> The results of this survey indicated that homosexuals received an average annual income well above the national average, had a much higher education level than the national average, and were well represented in management and professional jobs.<sup>320</sup> Opponents of employment protections cited this information to argue that protections were not necessary because homosexuals were already economically advantaged.<sup>321</sup> What the survey failed to disclose, however, was that the data it received was from only those individuals who subscribe to one of eight leading gay newspapers.<sup>322</sup> The Simmons Market Research Bureau failed to consider that when a survey only collects data from a privileged group of individuals, the results are likely to reflect that privileged status. A more recent study conducted by Dr. Lee Badgett of the University of Massachusetts at Amherst “showed that gays earn from 11% to 27% less and lesbians earn 5% to 14% less than the national average.”<sup>323</sup>

Other popular arguments against protecting gays and lesbians through ENDA include: (a) ENDA will introduce pro-gay bias into hiring; (b) ENDA will take resources away from individuals who are protected based on characteristics that they cannot change like race; (c) ENDA would prohibit employers from disciplining employees engaging in any sexual act while on the job; (d) ENDA would give homosexuals special rights; (e) ENDA would lead to quotas for gay and lesbians; and (f) ENDA discriminates against religious groups.<sup>324</sup>

The arguments against advancing protections for homosexuals in employment (and other areas) can be reduced to two basic themes: homosexuality is not immutable and homosexuality is against the word of God.<sup>325</sup> First, opponents of ENDA justify discrimination by arguing that homosexuality is only a specific type of conduct, not an immutable characteristic.<sup>326</sup> They argue that because homosexuality is only conduct, individuals have the choice to engage in that conduct.<sup>327</sup> If an individual

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319. Ronald Alsop, *Are Gay People More Affluent Than Others? Advertisers Say Yes, Citing Surveys, But Activists Call Data Overstated*, WALL ST. J., Dec. 30, 1999, at B1; *Employment Discrimination Against Gays & Lesbians*, *supra* note 311 (evaluating research data from multiple sources including marketing firms, economics professors, and advocacy groups).

320. *Employment Discrimination Against Gays & Lesbians*, *supra* note 311.

321. *Id.*

322. *Id.*

323. *Id.*

324. *Id.*

325. The purpose here is merely to present the main arguments used to deny homosexuals employment protection, not to specifically address the merits of these arguments.

326. *Refuting the Lie of the “Gay Gene”*, NATIONAL LIBERTY JOURNAL Sept. 1999, at <http://www.liberty.edu/chancellor/nlj/September1999/america.html> (last visited Jan. 31, 2002).

327. *Id.*

chooses to conduct herself as a homosexual, than she opens herself up to discrimination.<sup>328</sup>

It is also argued that discrimination that is based on the word of God is justified by the Bible.<sup>329</sup> Because the Bible states that "a man who lies with a male"<sup>330</sup> is immoral and perverted, the government should not protect these individuals in the workplace.<sup>331</sup> This argument generally explains that by providing homosexuals with protection, the government (or whoever is providing the protection) is endorsing or even promoting a homosexual lifestyle.<sup>332</sup> The related "protect the children" argument holds that the promotion of homosexuality will demonstrate to society's children that being homosexual is an acceptable choice and a viable alternative lifestyle.<sup>333</sup> Additionally, religious arguments often link homosexuality with pedophilia.<sup>334</sup> This argument concludes that if the government promotes homosexuality (through protective laws) pedophiles will have more access to children, putting them in danger.<sup>335</sup>

As it stands now, these arguments are succeeding. Homosexuality is not a protected class under Title VII and ENDA is far from becoming a reality. Amending Title VII or Title IX to include homosexuality could meet the same strong resistance that ENDA has met. Amending Title VII and Title IX would serve to protect gay and lesbian individuals from discrimination at work and at school, in much the same way that ENDA would, and therefore might have comparable success (or failure) in passing through the legislature. Until the political and social climate becomes more tolerant and accepting, lesbian, gay, bisexual, and transgendered individuals remain in jeopardy every day.

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328. Mark D. Tooley, *ENDA: Forcing America to Subsidize Gay Behavior*, NATIONAL LIBERTY JOURNAL Mar. 1999, at <http://www.liberty.edu/chancellor/nlj/March99/politics4.html> (last visited Jan. 31, 2002).

329. THE INTERFAITH ALLIANCE FOUNDATION, CALL TO A FAITHFUL DECISION ISSUE PAPER NUMBER ONE: DISCRIMINATION AGAINST GAYS AND LESBIANS IN HOUSING, EMPLOYMENT, AND EDUCATION 5, *available at* <http://www.interfaithalliance.org/initiatives/papers/ENDA.pdf> (last visited Jan. 31, 2002). For Biblical passages on which this argument relies, see, e.g., *Leviticus* 18:22, 20:13; *Romans* 1:27, 1 *Corinthians* 6:9.

330. *Leviticus* 20:13.

331. Tooley, *supra* note 328.

332. See *id.*

333. See, e.g., VOTERS' PAMPHLET: STATE OF OREGON GENERAL ELECTION NOVEMBER 8, 1992 (Sec'y of State ed., 1992) (Oregon's Ballot Measure 9 prohibited extending anti-discrimination laws to include homosexuality and would have required schools to set standards for youth to discourage homosexuality).

334. Paul Cameron, Ph.D., *Child Molestation and Homosexuality*, Family Research Institute, at [http://www.familyresearchinst.org/FRI\\_EduPamphlet2.html](http://www.familyresearchinst.org/FRI_EduPamphlet2.html) (last visited Jan. 31, 2002).

335. *Id.*

#### IV. CONCLUSION

Women in athletics have had to overcome a long history of discrimination. When they first picked up a ball, women invaded male territory and threatened their exclusivity. Slowly women's presence became stronger, and they worked to gain access to resources and opportunities. Eventually, Title IX was passed and litigated to insure legal recourse in cases where schools or administrators were non-responsive to the growing number of female athletes and coaches. Now, as women are slowly gaining power and acceptance in the athletic arena, a new battle is being fought. Lesbian and unfeminine women, and men who fail to meet the macho male ideal, face targeting, baiting, and discrimination.

Title IX, while it has its share of inadequacies, may be the best avenue that is currently available for addressing discrimination based on sexual orientation in intercollegiate athletics. Although there has never been a successful claim of discrimination specifically based on sexual orientation under Title IX, claimants have had some success, albeit limited, in asserting claims of discrimination based on gender nonconformity. When the court is receptive to this claim, it conducts an analysis that parallels a Title VII gender nonconformity claim. The analogy is workable because both statutes contain language that prohibits discrimination because of sex.<sup>336</sup> Title IX is a desirable avenue for protection because it would be applicable to student athletes as well as coaches and administrators, whereas Title VII or ENDA would each only provide causes of action for employees—coaches, administrators, etc.

Gay men, lesbians, bisexuals, and transgendered individuals are discriminated against on a daily basis. They are denied the ability to get married, they lose custody of their children, they are harassed and beaten, they are deported, and they are fired or denied access to jobs that they need and careers that they love. This paper addresses only a small part of the inequality. But just as Title IX was a small step towards insuring equal participation by women in intercollegiate sports, so too could the statute provide a small step towards insuring equal and free participation of lesbians and gay men in intercollegiate athletics.

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336. Title IX states, "no person in the United States shall, on the basis of sex, . . . be subjected to discrimination"; Title VII states " . . . shall be made free from any discrimination based on . . . sex."



# “Scary Dykes” and “Feminine Queens”: Stereotypes and Female Collegiate Athletes

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## Abstract

*This investigation, framed in feminist and social identity perspectives, examined female athletes' interpretations and reactions to the stereotypes ascribed to women in sport. Interviews with 15 female collegiate athletes revealed that the primary stereotypes directed at them were that they were lesbian and masculine. These stereotypes seemed to emanate from the athletes' lack of conformity to hegemonic femininity (Choi, 1998; Krane, 2001a). Initially, the athletes responded to being typecast with anger and they used social mobility strategies (e.g., distancing from an athletic identity, performing femininity) to avoid negative perceptions. Both heterosexual and lesbian/bisexual athletes coped with being stereotyped and grew more comfortable with their own sexual identities and those of their teammates. This led to the development of inclusive team environments, collective esteem, and empowerment, with athletes speaking out against homonegative comments in other settings.*

To be a successful college athlete, women learn to carefully balance the many demands upon their time — class, social activities, and sport. These women also learn to negotiate the sometimes hostile climate for female athletes. Several recent studies have described the social climate of collegiate women's sport as heterosexual and homonegative (Griffin, 1998; Krane & Barber, 2005; Wellman & Blinde, 1997). The foundation for much of this negativity is stereotypes about female athletes, which create an antagonistic climate for heterosexual, lesbian, and bisexual athletes. Stereotypes foster inaccurate perceptions about female athletes, trivialize their accomplishments, and limit their social acceptance. Social identity (SI) perspective (Krane & Barber, 2003) provides one avenue for understanding the influence of stereotypes on the experiences of female athletes.

SI perspective allows us to understand the complex and fluid nature of identity, particularly for those individuals who have marginalized or subordinated identities. Because female athletes are running, swimming, jumping, and training on traditionally male terrain, women in sport often are devalued, sexualized, and discriminated against in society. The stereotypes and discrimination faced by female athletes can affect their performance, and physical and mental health (Krane, Surface, & Alexander, 2005). Further, women in sport with non-hegemonic sexualities (lesbian, bisexual, transgendered, or queer) often must acquiesce to the heteronormative environment that is sustained in college athletics and endure the consequences of heterosexist marginalization. SI perspective explains the social and cultural influences reinforcing heteronormativity and heterosexism, as well as why all women in sport have been targets for this injustice. Furthermore, the SI framework illustrates the psychological and emotional consequences of participation in such an environment.

Generally SI perspective asserts that individuals develop social identities consistent with the accepted norms and values of the social group(s) to which they belong. Then, through the process of social comparison, people evaluate their social group relative to other groups (Hogg & Abrams, 1988). Differences in social status, privilege, and power become evident. For female athletes, their marginalized status compared to male athletes is striking. Additionally, previous research showed that female student-athletes acknowledge inferior treatment compared to traditionally feminine female students (Krane, Choi, Baird, Aimar, & Kauer, 2004).

One outcome of social comparison is the development of stereotypes. Deschamps and Devos (1998) defined stereotypes as "the attribution of features shared by different members of a group without taking into account the interindividual differences" (p. 4). In other words, stereotypes are shared beliefs about characteristics associated with groups of individuals. People use stereotypes to differentiate between groups as well as to generalize characteristics across group members (Hogg & Abrams, 1988). For example, a common stereotype is that female athletes are lesbians. Such a stereotype suggests that all members of a group possess

the same qualities and that these qualities distinguish members of one group from another group. These labels require little knowledge about group members and may result in discrimination (Leyens, Yzerbyt, & Schadron, 1994). Consistent with SI perspective, people in dominant groups will be motivated to strengthen and preserve their superiority by using and legitimizing stereotypes (Leyens et al., 1994). These stereotypes then perpetuate dominant beliefs that create oppression and discrimination. For example, men's athletics are often privileged over women's sport. As such, it is in the interest of male athletes to perpetuate beliefs about their superiority and reinforce perceptions of the inferiority of female athletes. Stereotypes that are most difficult to discredit are those that are value-laden (Hogg & Abrams, 1988). Therefore, labeling female athletes as masculine or lesbian reinforces that they lack socially valued female characteristics (i.e., femininity), increasing the likelihood of social disapproval.

Derogatory statements about female athletes perpetuate the status quo and keep women in a subordinated position in sport (Wright & Clarke, 1999). Women who display characteristics such as competitiveness or assertiveness often are "dismissed" as lesbian (Wright & Clarke, 1999). Characterizing a social group with stereotypes that conflict with the values of dominant social groups leads to stigmatization (Leyens et al., 1994). The lesbian stereotype is so incendiary that fear of the label "keeps heterosexual women in their place and lesbian women closeted" (Wright & Clarke, 1999, p. 239). Thus, negative stereotypes about female sports-women keep all women in sport in subordinated positions. Additionally, stereotypes are used to justify discriminatory behavior towards a minority social group (Leyens et al., 1994). For example, unfair hiring practices, biased recruitment of athletes, and eliminating lesbian team members are justified by the stereotype that lesbians are sexual predators (Griffin, 1998).

Because of these stereotypes, heterosexual and lesbian women in sport are divided, making it more difficult to challenge male hegemony and discrimination against all sportswomen (Griffin, 1998). As Blinde, Taub, and Han (1994) found, being labeled lesbian created divisions and conflicts among some team sport

athletes. As long as female athletes are divided, it is unlikely that women in sport will come together to challenge the status quo. Therefore, the lesbian label is used as a weapon of power to stigmatize female athletes and create dissension among them. In accordance with the SI perspective, the male and heterosexual hegemony in sport purposively divides female athletes to maintain the status quo.

Yet, female athletes are not submissive dupes who accept their marginalized status; they will engage in a variety of strategies to enhance their social status and evade discrimination. One type of strategy is social mobility (Hogg & Abrams, 1988), in which female athletes will encourage the perception that they belong to a higher status social group (Hogg & Abrams, 1988). While sportswomen will not attempt to be perceived as males, they may engage in strategies to be perceived as traditionally feminine (Krane et al., 2004; Russell, 2004). For example, they may go to great lengths to present a feminine image and perform "hegemonic femininity" to distance themselves from the lesbian label (Krane, 2001a). While the term "hegemonic" classically has been ascribed to masculinity and male privilege in sport, consistent with previous research (Choi, 1998; Krane, 2001a), we use the term to denote the socially privileged form of femininity. "This hegemonic femininity is constructed within a White, heterosexual, and class-based structure, and it has strong associations with heterosexual sex and romance" (Krane et al., 2004, p. 316). Performances of hegemonic femininity include wearing make-up on the athletic field, and accentuating this traditional, White, heterosexual femininity. Furthermore, some athletes distance themselves from lesbian team members to avoid "guilt by association."

Social mobility is an individual strategy that only will change the status of individual athletes. Social change strategies, however, can improve the status of the whole subordinate social group (Hogg & Abrams, 1988). When individuals have high collective esteem (Crocker & Luhtenan, 1990), the feelings of self-worth derived from group membership, they will be more likely to attempt social change than use social mobility (Wright, 2001). Pride in one's athletic identity (i.e., collective esteem) can lead to attempts to challenge stereo-

types (Krane et al., 2004) and rebuke heterosexism and homonegativism in sport settings (Krane & Barber, 2005).

While there is little doubt that stereotypes about female athletes persist, in this research we examined how female athletes reacted to the stereotypes they encountered. Through interviews, we explored how female student-athletes contended with the often homonegative and heterosexist domain of collegiate sport. We examined the following research questions: (a) What are the stereotypes perceived by female athletes? (b) How do they react to these stereotypes? (c) What strategies do they employ to cope with stereotypes?

## Method

### Participants

Fifteen female athletes from two Midwestern Division I universities participated in this study. The athletes ranged in age from 19 to 22; there were three first year, three sophomores, four juniors, and five seniors. They competed in soccer ( $n=3$ ), track ( $n=3$ ), softball ( $n=3$ ) basketball ( $n=3$ ), golf ( $n=1$ ), volleyball ( $n=1$ ), and swimming ( $n=1$ ). All of the participants indicated having a full or partial scholarship. One woman identified as African American and the rest identified as White or Caucasian. The athletes also self-identified as heterosexual ( $n=8$ ), bisexual ( $n=3$ ), and lesbian ( $n=4$ ).

### Procedure

Approval was obtained from the Human Subjects Review Board and the Athletics Department to conduct the research. We used a snowball technique to recruit participants. First, K.K. recruited female athletes she knew and requested their participation in the study. Participants then were asked to recruit additional athletes to be interviewed. Second, trusted former athletes and graduate students who worked with athletes specifically were asked to contact lesbian and bisexual athletes for interviews. All of these key informants were given a recruitment script describing the study that they read to potential participants. Key informants also

explained that the interviewer would ask several questions regarding sexual orientation. The potential participants then were given a form to sign indicating their interest in being interviewed. They returned the interest form to the key informant who returned it to the interviewer (K.K.). Upon receiving the interest form, the interviewer contacted the potential participants by telephone or e-mail and scheduled an interview.

Participants engaged in face-to-face, semi-structured interviews (Taylor & Bogdan, 1998) that lasted 45 to 90 minutes. Prior to beginning each interview, the interviewer reviewed the interview process, reassured confidentiality, reminded participants that the interview was being audio-taped, and answered any questions the participant posed. After the participants read and signed a written consent form, the interview commenced.

We employed several techniques to enhance the credibility and trustworthiness of this study, including building rapport, bracketing, and using a critical friend (Ely, 1991). The interviewer developed rapport by discussing common collegiate sport experiences before the interview, using icebreaker questions at the beginning of the interview, and generally constructing an environment congruent with the natural way people converse (Taylor & Bogdan, 1998). Through bracketing, we acknowledged and set aside any assumptions or preconceptions we had that might have influenced our interpretation of the data (Ely, 1991). Extensive probing during the interviews assisted in bracketing and further increased the likelihood of accurately capturing the athletes' perceptions of their lived experiences (Shensul, Shensul, & LeCompte, 1999). As the critical friend, the second author acted as a sounding board and "audited the research process" (Ely, 1991). This process further ensured that the analysis represented the experiences of the athletes and not the expectations or perceptions of the researchers.

### Reflexivity

Reflexivity is a critical component of feminist research (Fonow & Cook, 1991). This involves researchers situating themselves within the research process and acknowledging their worldview. Our reflexive subjectivity reflects our similar grounding in

lesbian feminist epistemology (cf. Krane 2001b), while simultaneously recognizing our unique social standpoints. This critical paradigm combines feminist cultural studies, feminist standpoint, and queer perspectives. This paradigmatic lens guided the research design, interview process, and data analysis and interpretation.

Both researchers identify as White, middle class, lesbian women, yet these stances are far from identical. At the time of the interviews, the first author was a graduate student in sport psychology and the second author was her advisor. Further, while we both have extensive experience in collegiate women's sport as athletes, coaches, and sport psychology consultants, K.K.'s experiences were entirely post-Title IX whereas V.K.'s experiences spanned pre- and post-Title IX. We have had varied experiences with stereotyping, discrimination, and empowerment through sport. Because K.K.'s discriminatory experiences were more recent and acute, V.K.'s role as critical friend became essential. Altogether, we conscientiously balanced our personal experiences and the experiences of the participants, while remaining true to our epistemological roots.

### Data Analysis

We proceeded through several steps during the data analysis: (a) data preparation, (b) familiarization with the data, (c) open coding, (d) axial coding, and (e) identification of higher order themes. First, each interview was transcribed verbatim and read multiple times to gain familiarity with each woman's experiences. Then, during open coding we organized meaningful units of data inductively into a multitude of initial categories (Strauss & Corbin, 1998). In axial coding, we organized the categories from open coding into a hierarchical structure (Strauss & Corbin, 1998). At this stage of data analysis, we identified connections among open coded categories. Finally, we compared the data to our conceptual framework (i.e., social identity theory). We believe, as do other theorists (e.g., Fine, Weis, Wesen, & Wong, 2000; Krane, Andersen, & Streat, 1997; Smith & Deemer, 2000), that it is essential to incorporate theory into the understanding of the athletes' experiences. As Fine et al. (2000) stated, "we refrain from the naïve belief that these voices should stand on their own or

that the voices should (or do) survive without theorizing” (p. 120). Consequently and consistent with previous research (Krane & Barber, 2005), we compared our findings to the SI conceptual framework in the final interpretation of our findings.

## Results

These women strongly identified as collegiate athletes and expressed pride in their group membership, regardless of the often negative social response and stereotyping. Through the data, we show what appeared to be a developmental process toward productive coping with stereotypes and ultimately engagement in social change activities. The major themes that emerged from the data were: (a) “we’re known as the jock girls,” (b) from “it’s unfair” to “I’m okay,” and (c) transgressive experiences. While all female athletes have a particular standing in sport, they do not have an identical perspective or lens through which they perceive the sport world. Lesbian and bisexual (LB) sportswomen have a unique standpoint due to their further marginalized identity. Therefore, we distinguished between LB and heterosexual women’s experiences throughout the analysis.

### “We’re Known as the Jock Girls”

These athletes consistently identified the “jock girl” stereotype. They felt that they were perceived as lesbian or manly. Collectively, they distinguished themselves from “normal girls” because they did not fit ideological notions of femininity. This disparity between being an athlete and being feminine appeared to form the foundation for the primary stereotypes about female athletes: that they were lesbian or masculine. Although other stereotypes were acknowledged by the athletes (e.g., athletes are privileged, party girls, and muscle heads; athletes have eating disorders), due to the athletes’ predominant focus on these stereotypes, in this article we discuss only the lesbian and masculine stereotypes. (For discussion of the other stereotypes, see Kauer, 2002.)

***If you’re an athlete, you must be a lesbian.*** Without exception, the idea that female athletes are les-

bian was the first stereotype recognized by the women in this study; being labeled gay, lesbian, “lesbos” or dyke was common across a wide range of social situations. As the athletes stated: “We definitely have a stereotype of a lot of us being gay.” “We’re stereotyped as jock girls, lesbians.” “It’s if you’re an athlete, you must be a lesbian.” and people will “just flat out say ‘oh, a bunch of dykes.’” Several incidents in which athletes heard these stereotypes were recounted. Basketball player 3, who is heterosexual, described the following incident: “One night, I was at a club and a [male basketball player] came up to me, and he was like, ‘aren’t you guys like all gay, why are you guys dancing, shouldn’t you be home?’”

Softball player 1 noted that the first reaction of males who she would not date was to label her lesbian. She said, “because if you turn down a guy, then that might be their first reaction. Like, ‘oh you must be gay if you don’t like me.’” Softball player 2, a bisexual, described, if “someone’s rude to us and we make a comment back, the first thing out of their mouths are, ‘oh you stupid dyke.’... That’s their comeback [and] that’s like the most uncreative thing that you can hear.” A lesbian basketball player described the following classroom incident: Although she assumed that no one in her class knew she was in a relationship with a woman, she felt some of them assumed she was a lesbian because of her athletic identity. During class one day, the professor told a story about gay people and many people in class laughed. When she refrained from laughing a classmate blurted, “oh, go figure, it’s a women’s basketball player that doesn’t laugh at the gay joke!”

As these women described, athletes in certain sports were most likely to be labeled lesbian or manly. The stereotype about softball players was widely recognized. As a thrower stated, “it’s *always* about the softball team.” Softball player 3 conveyed that when people found out she played softball, they would respond, “not only are you an athlete, but oh, you’re a softball player.” The basketball players also revealed the widespread labeling of their team: “basketball and lesbian is always in the same sentence” (Basketball player 2). Basketball player 4 expressed,

[People from home] said I was going to turn gay because I was going to play basketball. So I think that a lot of people view female college athletes as being gay depending on which sport they're gonna play.

The frequency of hearing these types of comments was noted by several athletes. Basketball player 2 remarked, "oh, lesbian, lesbian, lesbian, she's a lesbian; I get that all the time" and the golfer stated, "that they're dykes, I hear that all the time." It also was common for people to ask the athletes about the sexual orientation of their teammates. "They automatically think you're a lesbian and they ask how many lesbians are on the team?" (Softball player 2). Softball player 3, who identified as bisexual, said, "the first question, everyone's like 'how many girls are gay?'" This athlete also noted how she was questioned about her friendships with members of the women's basketball team. She articulated, "they always ask, 'oh, you're friends with basketball players, are they hittin' on you?'" The basketball players also noted that non-athlete friends would question who was gay on their teams, or what it was like to play college basketball, assuming the women had lesbian teammates. Predictably, the fact that athletes were perceived as lesbian was widely acknowledged by each athlete in this study.

**Manly female athletes.** The other dominant stereotype acknowledged by all of the athletes was that they were considered masculine, "manly," "boyish," "butch," "tomboy," or "like a guy." Softball player 3 said that after being stereotyped as lesbians, "[the] biggest stereotype that we get, and like, we're brutes." Other athletes stated, "I think people perceive female athletes as masculine" (basketball player) and "that female athletes all wanna be guys" (track athlete). People view female athletes as "not very feminine" (Softball player 1), or "tomboyish" (Basketball player 2). "They see you as more masculine" (Basketball player 3). The volleyball player explained, "people just expect guys to be playing sports more than girls, I don't know, just some people might look down upon girls spending their time doing a guy activity."

When describing the stereotype of female athletes

as manly, the athletes consistently compared themselves to traditionally feminine college women. As Basketball player 4 noted, "I think people perceive female athletes as more masculine than regular girls." Soccer player 2 said, "we're known as the jock girls, not the sorority prissy girls." Softball player 3 said, "Normal girls that aren't into the whole, let's wear sweats to class everyday. Sometimes [they] look at you and are like, 'do you care what you look like' and stuff like that." Additionally, Volleyball player 1 said, "so what makes my volleyball team different from the ideal girl, well, we have to be aggressive and pursue the ball, push each other around, yell at each other."

**Foundation of stereotypes.** The athletes described that the lesbian and masculine stereotypes seemed to have the same foundations: athletes' lack of adherence to the norms of traditional femininity. When explaining why she is stereotyped, Basketball player 1 described "I don't think that I'm very feminine ... I've never been little miss feminine queen!" Basketball player 3 explained, female athletes are stereotyped because of "the way that they carry themselves, the way they walk, the way their hair is, their cockiness level on the playing court." Softball player 2 said a common stereotype she heard was of "gay female athletes as kind of in your face and aggressive."

A primary source of the stereotypes was the athletes' physical appearance and attire. The volleyball player stated "female athletes are degraded if they don't look the proper way: thin, shaved, and beautiful." They are seen as manly or lesbian because "they don't wear make-up" (golfer). Softball player 1 stated, "people just think you're gay because you're not wearing girly clothes, not skirts." Track athlete 2 explained that the reason the softball team was stereotyped as lesbian, was "partially because the way they wore sweat pants and a sweatshirt to class a lot." Confirming this stereotype, Softball player 3 said "that's a stereotype too, because a girl's wearing bigger clothes that they're gay," or "oh, you wear your sweats to class everyday [then you're gay]." Basketball player 2 described, "if people would see me like this [wearing basketball sweats] every day, they would be like what is wrong with that girl, is she a boy?" Softball player 3 explained, "that's always a

stereotype, you know, you see someone that looks, like, scary, that's the typical scary gay, but I don't think our team has the 'scary dykes.'"

Having short hair further evoked stereotypes about athletes. Basketball player 2 described, "if you are an athlete and you have short hair, then you are definitely a lesbian. It's what people think, I swear." She often was confronted with this stereotype when her hair was cut short. "When it was real short before — you're a lesbian — I heard that stuff all the time." She also stated that it was an automatic assumption by classmates if a basketball player has short hair that she is a lesbian. Similarly, a softball player said, "when I first got my hair cut, they're like, 'oh what's that mean, that you're gay?'" Athletes also were stereotyped based on their association with lesbian teammates:

[if] there were lesbians on your team, if you hung out or were with them, then you were [assumed to be lesbian]. I just think that people are... curious, they don't know everything about it and they want to know more about it, but ... [it's] something that you hear about everyday. (Basketball player 2)

Athletes' muscularity and strength also brought about stereotypes. Basketball player 1 believed that female athletes were labeled lesbian "because a lot of the girls are bigger and they're built and they're strong and muscular." Another basketball player described, "I would wear a tank top and [people would] see my arms, like they're really big, I just feel people would think I'm masculine." Volleyball player 1 described, "those [women] that work out more and get strong and look strong, people would describe them as manly." Basketball player 1 commented, "I used to always think of softball players as being not, not manly, in a way, but kind of, just because they were so big and powerful."

In addition, the physicality of sport prompted the lesbian and masculine stereotypes. Softball player 1 noted that the more aggressive or masculine a sport was considered, the more that sport would be labeled a "gay" sport; "masculine sports, like rugby and softball and basketball for instance, soccer even, [are stereotyped as gay]." "I think that more of the physical sports

... are looked upon as being gay.... You hear that everyone's gay on the softball team ... and the basketball team" (Golfer). She further explained that tennis players and gymnasts generally were not stereotyped as such. Paradoxically, the golfer felt that athletes in her sport were predisposed to being tagged lesbian. According to the volleyball player, athletes in sports such as basketball and softball were stereotyped because "you wear more guys kind of clothes, and you're pushing people out of the way, you're running." Interestingly, she further explained, "I think it has to do with uniforms because gymnastics, swimming, and volleyball are a tighter fit, and it has to do with non-contact." Thus, athletes in feminine-perceived sports were less likely to be stereotyped as manly or lesbian.

### **From "It's Unfair" to "I'm OK"**

The lesbian stereotype in particular evoked a host of emotional responses from the athletes. Most commonly, they became angry, bothered, and annoyed. Soccer player 2 said, "it bothers me how they automatically think you're a lesbian." Several athletes noted becoming annoyed even when the stereotype was not directed at them personally. "Being that I'm a female athlete, it's gonna affect me ... because we're talking about fellow athletes" (Track athlete 1). Basketball player 1, a heterosexual, said, "I have overheard certain things like about the lifestyle.... I know that people aren't necessarily talking about me, but you know it is kinda me because I do fit into that category [of athlete]." Track athlete 2 commented that the lesbian label bothered her because it was unfair and unwarranted.

When male basketball players assumed the members of the women's team were gay, a heterosexual basketball player reacted by saying, "it really shocked me, I didn't know that people perceived us [as lesbians]." She further explained, "it kinda hurt my feelings in a way because I don't want people to think I'm [gay] when I'm not." This athlete was particularly sensitive about being labeled lesbian because she had a relationship with a woman upon entering college and currently was dating males. She did not self-identify as a lesbian, nor want to be labeled as such.

The athletes described using various strategies to avoid being stereotyped. Because playing sports automatically garnered stereotypes, some of the athletes would disassociate themselves from their athletic identity. For example, the swimmer described that “the first couple weeks [of the academic year], I won’t wear my letter jacket to class, or I won’t wear anything with swimming on it.” She elaborated, “before you can even open your mouth, whatever assumptions they have about athletes, they now assume it about you because you have that coat on. ...I don’t want to be identified like that right away.”

As another strategy to avert stereotypes, some athletes emphasized their heterosexuality. Basketball player 3 often went out of her way to talk about her boyfriend and acknowledge that she was in serious relationship with a male: “I don’t want people to think that when I’m not. And you don’t want that reputation.... I’m afraid that people won’t talk to me and people will talk about me behind my back. I like to let people know that I’m with [my boyfriend].”

Being perceived as feminine also enhanced perceptions of heterosexuality and reduced stereotyping. Basketball player 2 stated, “I don’t want to be perceived as this boyish athlete or who doesn’t have an ounce of estrogen in her.” To emphasize femininity, some of the athletes “wear make-up like almost everyday,” “get my nails done,” and carefully chose what they wear. Volleyball player 1 described why her teammates wore make-up and bows in their hair for volleyball matches:

[My teammates] don’t want to be perceived as a man, they don’t want to be perceived as this masculine girl that plays a sport, and that goes along with them trying to look female at all times, like whether it be on the court or off the court, they never want to look bad. ... It’s almost like a cover up, because they are aggressive and you can see it in all of them. And to cover that up on the outside, they try to be more feminine by wearing more make up or being more involved in looks or how they dress.

This athlete also explained that although she played several sports in high school, she specifically chose to

play volleyball in college because “being athletic and feminine at the same time was really important to me and volleyball was one of the most feminine sports.”

The lesbian and bisexual athletes engaged additional strategies to avert stereotyping by concealing their sexual identity. Basketball player 1 said,

I used to hide it all the time.... It’s not something that I’d [talk about].... “If somebody were to ask, I would say no, I would deny it.... I never talked about it, I kinda just forgot about that part for a while because I wanted to be accepted.”

Now she is open with her teammates who are accepting of her sexual orientation. Basketball player 4 expressed how she acted around homonegative teammates, “I tried to get them to perceive me as being normal and not that [being gay] isn’t normal, but...” Softball 1 said, “I’m gonna give [people] information that sounds like I’m like everyone else [i.e., heterosexual], so that it can be limit free, and you know, treat me like a normal person, so I do it all the time.” Softball player 1 described how she talked about her living situation in the “softball house”:

I would say I live with six girls, I wouldn’t say that I just live with one.... I won’t say this is one of my roommates, I won’t say stuff like that just because I know how they’ll think.... If someone were to ask me if I have a boyfriend, I’ll tell them ‘no, I don’t have time.’

To conceal their LB identity, the athletes used vague language, lied about being heterosexual, or limited personal information they shared with people. Additionally, all of the women, at some point in their college careers, used the concealing strategy of talking about men or commenting on attractive males. Basketball player 4 described “if there’s a guy around, and [my friends] were like, ‘oh, he’s hot!’ I would agree with them.” Similarly, when confronted by her parents, Softball player 3 explained, “I was totally like, lying to their face about datin’ someone” and “but I was just gonna lie to them anyway, and tell them no way.”



Eventually, all but one of the LB athletes in this study became comfortable in her team environment and used concealing strategies predominantly in other contexts. Ultimately, many of the athletes, LB and heterosexual, simply became accustomed to hearing and coping with the lesbian label. As Softball player 1 commented, "it's on a daily basis that you have to deal with it," and "I think that all female athletes have to deal with it at one point or another." With this repetition came immunity. Soccer player 2, a heterosexual senior, expressed, "it's not affecting me anymore. At first, it was a little bit of concern of mine, but I don't really care anymore, I am a jock, so it's okay." As a senior, Basketball player 2 stated, "now I kinda laugh it off and be like okay, they're immature, they don't know. It's just the guys that are homophobic." Softball player 1, a lesbian, said,

I've been here for four years. I've dealt with the [lesbian stereotype]. I know what to do, I know how to react or I know how not to react. So experience, how you feel about yourself, all that stuff determines how you might react.... If you're secure with yourself, then the stereotypes are going to be there no matter what, and it's pretty much how you deal with them. And I deal with them alright; I don't really let it get to me. I know who I am and it doesn't matter, it doesn't matter what anyone else thinks.... If you are gay, then you have to be secure with that, and if you're not gay you have to be really secure with that.

It seems that with familiarity, maturity, and self-acceptance, the athletes better coped with stereotypes.

An interesting pattern emerged when considering the athletes' reactions to being stereotyped. Initially, most athletes, heterosexual and LB, became angry by the automatic labeling of all female athletes and some athletes used overt strategies to avoid being labeled. Yet, over time they learned to ignore negative comments, the heterosexual athletes became more comfortable with their LB teammates, and all the athletes became more comfortable with their own sexual identities. These developmental changes influenced how they coped with being stereotyped.

## Transgressive Experiences

Most of the athletes expressed many individual and collective benefits associated with their athletic experiences that ultimately assisted in coping with the labeling. Sport became a place where the athletes could transgress feminine and heteronormative social conventions. They embraced the psychological characteristics and skills learned through sport and their team environments became more accepting of individuals with diverse sexual identities.

The athletes described the individual benefits as becoming "mentally strong," developing a strong work ethic, increasing their self-esteem, and learning to overcome obstacles and be "disciplined and responsible." These qualities extended beyond sport. As Basketball player 1 said,

I've learned a lot of life skills that I can use when I get out of college and when I'm done playing sports, you know it's not all about basketball, it's the way you handle adversity. You learn a lot of things, you learn how to manage your time, you learn how you need to treat people, you need to respect everyone on your team.

Other athletes noted, "[swimming has] given me the confidence to know that I can do a lot of things" and "I think that basketball will help me so much in the long run, like getting through everything, showing myself that I can go to extreme limits." Basketball player 3 stated,

It's been a great experience, I wouldn't change it for the world, I've been through bad times and good times and I think playing basketball led me in the right direction to where I'm getting good grades and I'm meeting so many people and I love that.

Softball player 1 believed the biggest asset gained through sport was:

my independence, because ultimately, whether you're on a team or not, it takes you day in and day out to go and do things and get things done. And I mean you're your own trainer,

you're your own motivator, and I think that's something that some other females might not have.

The swimmer stated, "it's been the utmost positive experience I can possibly have, I am so blessed to have the opportunity to have met the people that I have met through collegiate athletics." Track athlete 1 described her sport experiences as,

I just look at it as being an opportunity of a lifetime for me.... To go to a Division I school and to be an athlete, it's a privilege.... It's just an experience that I don't take for granted and a lot of people would kill to be in my place and just love what I do.

All of the athletes expressed their love of sport and the significant effect it had on their life. The athletes also conveyed their pride in being a female athlete. This feeling was evident in comments such as: "I think it takes special people to do athletic stuff" (Soccer player 2) and "I have a lot of respect for all the female athletes on campus" (Track athlete 2). The swimmer said, "I think it's a great experience, like being an athlete in general is an awesome experience." Basketball player 2 said, "Being a female athlete is just awesome. There's nothing else that I can describe about it, it's just the best thing that's ever happened to me."

Some participants acknowledged that being an athlete was challenging, but well worth the effort. Ironically, they also expressed being "thankful" for their sport experience, in spite of the stereotyping and discrimination they endured. For example, Track athlete 1 said, "[I am] just thankful everyday that I get the opportunity that I do." Other athletes clearly noted the juxtaposition of the benefits and difficulties:

I've been really fortunate, just to get a scholarship to play in college for four years it's been really fun I've loved it. It's a lot of pressure and a lot of work, but that's how I like it. I could not see myself not playing. (Golfer)

It's one of the best experiences I've ever had, I've learned so much from it. It's extremely difficult being a student athlete and dealing with people stereotyping you. (Soccer player 2)

The athletes acknowledged that they were aware of the stereotypes directed towards them, but believed that being a student athlete resulted in more positive than negative experiences and outcomes.

An unexpected, and pleasantly surprising, finding was the broader transgressive outcomes of their college sport experiences. Both LB and heterosexual athletes invoked social justice actions, although they employed different tactics. A circular relationship emerged in which the LB athletes were open about their sexual orientation with their teammates, their heterosexual teammates learned to accept them, which increased the LBs self-acceptance and created an environment in which LBs felt comfortable being open about their sexual identity. As Basketball player 1 said, "because we're all open and honest about it, everyone just kind of accepts it." Softball player 2, a bisexual, explained that on her team, "you can be yourself, like, there is so much diversity," and "[teammates] accept you for who and what you are." Similarly, Basketball player 1 said, "I am kind of taken back by how good everybody has reacted to me on the team, it's almost like it doesn't matter."

The softball players stated that athletes' sexual orientation was discussed openly within their team. "Since freshman year and we know who we are and it doesn't matter to them, our sexual orientation, we're us" (Softball player 3). As Softball player 1, a lesbian, said, "gay and lesbian, like that lifestyle is on every team, and you're gonna be faced with that if you decided to play college sports. When I was a senior and junior, and whenever, we would talk about it." The life lessons inherent in openly acknowledging various sexual identities became apparent in the reactions of the heterosexual athletes. For many of these heterosexual athletes, it was the first experience they had with an individual known to be LB. Basketball player 2 explained, "I was homophobic, but I think just being around them, being socialized I guess, really just helped me become more comfortable with it. It just taught me that there's differences with different people." She added,

I mean my freshman year, I didn't want anything to do with [lesbian teammates], and [now] I find myself defending them. It's not even an issue any more. I mean it helped that I had [lesbian] teammates, just opened my eyes, and

you'd be like there are people that are gay in this world and I'm from a farm town, you don't get that there.

She also went on to say, "basketball has changed my life. It's just really helped me grow up and deal with issues like lesbians or gays." Other athletes described similar experiences. Volleyball player 1 acknowledged becoming more aware of the challenges faced by lesbian athletes: "you're around someone so much and you get to know them, and then they would have to put that [being lesbian] aside." The golfer expressed,

My freshman year, one of the seniors was gay, and she was pretty much up front about it and it was fine. Like she talked about it, and it wasn't like she was trying to hide it, wasn't like she was being weird about it, and we just always talked about it, and we would make jokes about things and she didn't even care. She would joke right back, and so it was cool like that.

As the previous quotes showed, some of the heterosexual athletes appeared to become quite compassionate. Other athletes, however, seemed to become more tolerant, but not necessarily as perceptive about acknowledging diverse sexual identities. For example, Basketball player 3 said, "who cares if they are gay, it doesn't matter." Track athlete 1 stated, "first of all, why does it make a difference if they are lesbian or if they are not.... It just bothers me that you wanna label people just because of something that they do, and that really irritates me." When people would make derogatory comments about her LB teammates, Basketball player 3 would defend them by saying, "it's none of your business," "who cares," or "that's not true, you don't know them and who cares if they are gay, it doesn't matter." Basketball player 4, the only athlete who described her current teammates as homonegative, said that she often finds herself defending other lesbian teammates. "I just try to explain to [a homonegative teammate] that it's not a big deal and that it doesn't matter and she's still the same person." While these athletes were being proactive in addressing derogatory comments, their responses also revealed the limits of their tolerance. Suggesting that one's sexual identity

"doesn't matter" or is simply a matter of certain behaviors reflects their heteronormative bias: they tolerated their LB teammates, but did not truly appreciate the significance of their sexual identity.

In summary, all of the athletes realized that they were stereotyped, most commonly as lesbian or masculine. These perceptions seemed to emanate from the athletes' lack of conformity to hegemonic, White, heterosexual femininity. Initially, the athletes responded to being typecast with anger and they used several strategies (e.g., distancing from an athletic identity, performing femininity) to avoid negative perceptions. Eventually, the athletes became used to being stereotyped and grew more comfortable with their own sexual identities and those of their LB teammates, leading to the creation of accepting or tolerant team environments and speaking out against homonegative comments in other settings. On one hand, the sport setting may be perceived as a vehicle for transgressive social action; getting to know athletes who were LB helped the heterosexual athletes become more accepting of their LB teammates. Yet, on the other hand, some of the heterosexual athletes did not fully appreciate the scope of LB sexual identities.

## Discussion

The fact that the athletes identified being stereotyped as masculine or lesbian is hardly unique to this study. Sport has long been considered a masculine domain (e.g., Messner, 1988) and we know that female athletes have been labeled social deviants because they do not conform with heterosexual femininity (e.g., Blinde & Taub, 1992; Krane et al., 2004). Emphasizing traits perceived as feminine and reinforcing a heterosexual social identity are common methods to enhance social status and minimize discrimination in female athletes (e.g., Krane et al., 2004). That the LB athletes concealed their sexual identities in some situations also was consistent with previous research (Fusco, 1998; Griffin, 1998; Krane, 1997). Where this research departs from previous studies is in the data about how athletes coped with being stereotyped, and the outcomes of their learning to cope with social adversity.

By employing a lesbian feminist perspective, we framed the experiences of the LB and heterosexual athletes in their lived reality. Social identity perspective then provided a framework for understanding the social psychological nuances within these experiences: stereotypes emerged through social comparison, emotional reactions to the stereotypes were tied to self-acceptance or comfort with one's social identities, and over time social change resulted. In other words, as Krane and Barber (2005) noted, SI perspective provides an essential explanation about why the athletes acted as they did. Overall, the athletes' experiences were largely consistent with SI perspective predictions. Yet, unique stories also emerged (e.g., the athlete who previously had a relationship with a woman but who currently identified as heterosexual more stridently resisted the lesbian stereotype than the other athletes). Because identity, emotion, and behavior are tied to context, according to SI perspective, the similarity in the athletes' experiences should not be surprising. All but one of the participants attended the same university; the athlete who competed at another school was the only one to describe her current team climate as homonegative.

As found in previous research (Krane et al., 2004; Russell, 2004), these athletes constantly negotiated their social identities as athletes in conjunction with social expectations. They were empowered through sport and developed valued qualities, yet these qualities also conflicted with hegemonic femininity. This socially perceived lack of compliance with hegemonic feminine expectations appeared to form the foundation to withstand the barrage of stereotyping the athletes endured. Consistent with previous research, when female athletes did not perform hegemonic femininity they faced stigmatization (e.g., Kolnes, 1995; Sisjord, 1997). The athletes in this study had high collective esteem, yet constantly they were reminded of their otherness. Social comparison processes reinforced their marginalized social stance as female athletes.

Perhaps most interesting in this study, we uncovered a process through which these athletes capitalized on the collective esteem derived from sport and compelled them towards social change efforts. Wright (2001) explained that the more strongly an individual identifies with a social group, the greater the impetus

for social change action. He defined identification as "the degree to which a group holds enduring psychological significance for the individual, or as the degree to which the group is included in the self" (p. 415). As these athletes spent more time with their teammates in the team environment and as their collective esteem and empowerment from sport were enhanced, their psychological identification as athletes also intensified. Ostensibly, this strong identification negated the need for social mobility through concealing their athletic identity or performing femininity. Instead, it provided the initiative to challenge stereotypes.

Unlike previous published research about lesbians in sport (e.g., Blinde & Taub, 1992; Griffin, 1998; Krane, 1997), all but one of the athletes in this study described accepting team settings. Although initially the LB athletes were uncomfortable in their team environments, changes occurred during their tenure with their team. It is important to recognize that all of the athletes were the brunt of heterosexist and homonegative stigmatization, regardless of their sexual identity. Initially, many of the athletes felt the stereotyping was unfair and even unfounded. Then they began to learn that some of their teammates or other athletes they knew were lesbian and bisexual. This realization was particularly enlightening since many of the heterosexual athletes did not previously know anyone who was openly LB. As shown in previous research, people who know someone who is gay, lesbian, bisexual, or transgendered tend to be more open-minded about this social group (Herek, 1997). This exposure appears to have affected the heterosexual athletes in this study. Concurrently, all the athletes developed better ways to cope with being stereotyped and they appeared to become more comfortable with their own sexual identities. All of these circumstances merged to create a hospitable team climate in which teammates openly discussed their varied sexual identities and in which they were able to learn from one another.

While this study illustrated how these athletes transgressed social norms and that social change was taking place within individual athletic teams, it is difficult to predict if this will lead to broader social change within women's sport. However, we hope that these athletes' individual and collective actions are a step toward social

transformation. Very likely, their enhanced understanding about diverse sexual identities will color their future experiences with heterosexism and homonegativism (cf. Herek, 1997). Consistent with female athletes in other studies (e.g., Krane et al., 2004; McDermott, 2000), these women described gaining qualities that will be advantageous beyond sport. As individuals perceive they have agency to enact change (i.e., they can control and execute the behaviors that will lead to change),

they will attempt social change. The athletes described gaining mental toughness and self-assurance, learning to cope with adversity, and learning important life lessons through their sport participation. Likely, these attributes will fortify perceptions of agency and empower future social change actions (Wright, 2001). Providing opportunities for these important life lessons in sport are essential as we strive to ensure accepting and supportive sport climates for all women. ■

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## **Lesbians in Sport: Toward Acknowledgment, Understanding, and Theory**

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The purpose of this paper is to lay a conceptual foundation for understanding and studying lesbians in sport. To begin to understand lesbians in sport, it is necessary to critically examine the socialization process. Lesbians are socialized within a homonegative and heterosexist society, where they learn homonegative attitudes. The sport environment is even more hostile toward lesbians, thus escalating the negative impact of homonegativism experienced by lesbians in sport compared to nonsport lesbians. These reactions to homonegativism will be manifested through individuals' mental states (e.g., low self-esteem, low confidence, low satisfaction, high stress) or behaviors (e.g., poor sport performance, substance abuse). However, through exposure to positive social support and successful role models, a positive lesbian identity will be developed. The goals of this framework are to consolidate previous empirical literature about lesbians and apply it to sport and to encourage further conceptualization about lesbians in sport.

Key words: socialization, homophobia, homonegativism

It is often assumed that there are many lesbians involved in sport, yet as a topic of academic pursuit, lesbians in sport virtually have been ignored. Perhaps, as Pat Griffin (1992) suggests, authorities in sport feel that denying the existence of lesbians will "protect the image" of women's sport. However, it is not the "image" that should be of concern, but the reaction of others to that image. Lesbians in sport are not a problem; how lesbians are treated and discrimination toward all female athletes are problems. As lesbian discrimination is documented (e.g., Cahn, 1994; Nelson, 1991, 1994b), and the adverse affects of participation in an environment that perpetuates negative attitudes toward nonheterosexuals is understood, the need to develop and implement interventions to encourage parity will become apparent.

When addressing issues related to lesbian athletes, one must address the issues of heterosexism and homophobia in sport. *Heterosexism* is "an ideological system that denies, denigrates, and stigmatizes any nonheterosexual form of behavior, identity, relationship, or community" (Herek, 1992, p. 89). It is the belief

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that heterosexuality is the only acceptable mode of social interactions and sexuality. *Homophobia* typically has been defined as the irrational fear and intolerance of lesbians and gay men. However, researchers have expressed discontentment with the term homophobia to describe discrimination against lesbians and gay males (e.g., Haaga, 1991; Herek, 1984; Kitzinger, 1987). Rather, *homonegativism* is a more inclusive term (Hudson & Ricketts, 1980), describing purposeful, not irrational, negative attitudes and behaviors toward nonheterosexuals. Homonegativism incorporates the social context in which negative attitudes toward nonheterosexuals develop and are maintained, and ties discrimination based on sexual orientation with discrimination based on race, sex, and other individual characteristics. Homonegativism may be exhibited externally or internally. *External homonegativism* is reflected in cultural beliefs and actions that sustain and promote negative images of nonheterosexuals. *Internal homonegativism* is an individual's reaction to these culturally perpetuated negative beliefs. In sport, external homonegativism has social and political functions; it is used to limit opportunities for women, intimidate women, and trivialize their accomplishments (Griffin, 1992; Lenskyj, 1990; Peper, 1994).

The purpose of this paper is to describe a conceptual framework for understanding and studying the experiences of lesbians in sport. The concepts presented are specific to lesbians and may not reflect the experiences of gay males in sport. The framework is derived from the empirical literature about lesbians and incorporates issues related to homonegativism, socialization, and the sport environment. Further, this framework is based on a feminist analysis of sport (cf., Krane, 1994) in which gender is considered a socially constructed set of relationships. Based on previous feminist sport literature (e.g., Birrell, 1988; Krane, 1994; Lenskyj, 1990), this feminist foundation for examining the experiences of lesbians in sport is predicated on the following assumptions:

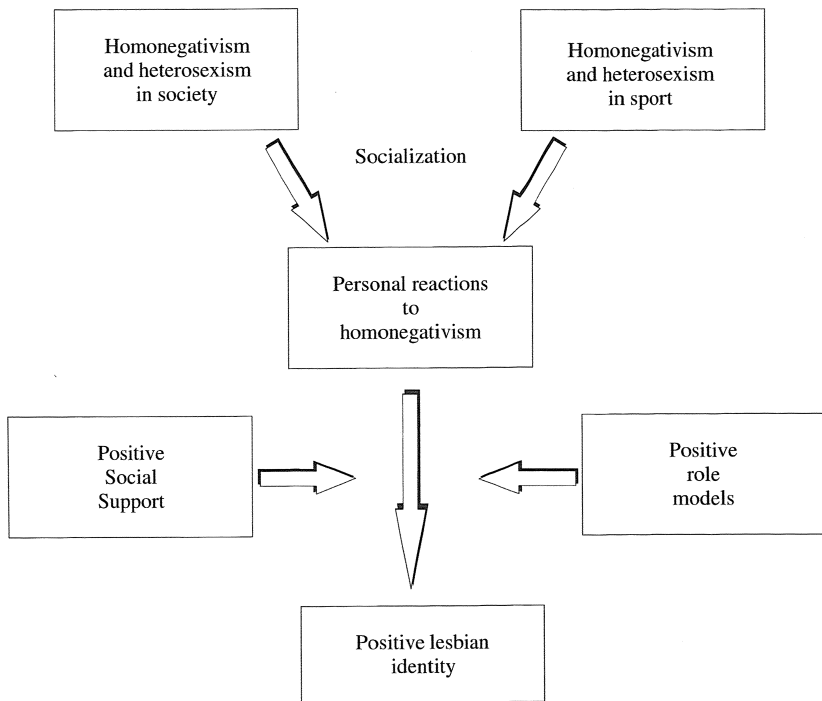
1. Sport is a patriarchal institution and is considered a masculine domain in our society (Bryson, 1987; Griffin, 1994; Lenskyj, 1990; Messner, 1988).
2. Negative perceptions of lesbians are perpetuated in the sport environment (Blinde & Taub, 1992a, 1992b; Griffin, 1992).
3. The institution of sport promotes compulsory heterosexuality (i.e., expectations and acceptance of heterosexuality as the only appropriate sexual orientation) (Lenskyj, 1990).
4. The previous conditions lead to the creation and maintenance of a hostile sport environment for lesbians.

The intent of this framework is to consolidate existing literature about lesbians, apply this information in sport, and encourage future study about lesbians in sport.

### Conceptual Framework

Figure 1 contains the proposed conceptual framework for understanding and studying the experiences of lesbians in sport. First, it shows socially sanctioned heterosexism and homonegativism in society at large and in sport. These beliefs then are transmitted through the socialization process. Next, as Figure 1 shows, these conditions will lead lesbians in sport to become conditioned to, accept, and react to these homonegative attitudes (Neisen, 1993). I suggest that all lesbians in sport will have some negative reactions to homonegativism, largely due to social-





**Figure 1 — A conceptual model for studying lesbians in sport.**

ization and participation in heterosexist and homonegative sport environments. An important aspect of this model is the belief that participation in hostile sport environments compound the homonegativism experienced in society at large. As such, homonegative sport experiences escalate the negative impact of homonegativism experienced by lesbians in sport compared to nonsport lesbians. These reactions to homonegativism will be manifested through individuals' mental states (e.g., low self-esteem, low confidence, low satisfaction, high stress) or behavior (e.g., poor sport performance, substance abuse). However, exposure to positive role models and accepting social support will lead lesbians in sport toward developing a positive self-identity (Gonsiorek & Rudolph, 1991). Each component of this model will be examined in more detail in the remainder of this paper.

### **Socialization of Homonegativism in Society**

Homonegative beliefs result from "a complex interrelationship of experiential learning, individual psychological defenses, and sociocultural and historical factors" (Remafedi, 1987, p. 224); these beliefs are learned through socialization in a heterosexist and homonegative environment (Reiter, 1991). Socialization is the process through which individuals learn the accepted norms, values, and behaviors of a social group or culture (Kramer, 1991). Through this process, individuals internalize, or acknowledge as socially sanctioned, the rules of the socializing group. While indi-

viduals may or may not internalize societal rules and values, they learn that there are pressures to conform to these standards (Kramer, 1991). Thus, the socialization process serves as a form of social control in which individuals learn to regulate their behavior consistent with societal expectations due to fear of retribution for acting contrary to social norms (Kramer, 1991). The socializing agents that promote this procedure include parents, peers, schools, religious organizations, and mass media (Duckitt, 1992; Kielwasser & Wolf, 1994; Ollenburger & Moore, 1992). Pressure to conform to socially acceptable behaviors (i.e., heterosexuality) comes from each of these socializing agents.

One potential outcome of socialization is learning prejudiced beliefs (Duckitt, 1992). At an early age, individuals in our society learn religious and societal taboos against nonheterosexuality. Gregory Herek (1991) summarized several national polls about Americans' attitudes toward lesbians and gay males. In general, peoples' attitudes toward nonheterosexuals indicate a lack of acceptance, prejudiced beliefs, and discrimination. In education, accurate and positive information about lesbians is typically nonexistent or is marginalized under the heading "controversial issues" (Kielwasser & Wolf, 1994). The portrayal of lesbians, or lack thereof, by the media also has a strong impact on the maintenance and perpetuation of homonegative attitudes. Media portrayals often depict lesbian characters as unhappy, maladjusted, or in stereotypical representations (Fejes & Petrich, 1993). Overall, negative stereotypes of lesbians in our society are widespread and are reinforced through many major socializing agents.

### **Socialization of Homonegativism in Sport**

Sport is another social institution that manifests and perpetuates negative images about lesbians. As Lenskyj (1992) describes, sport is hostile toward all women, and even more so for lesbians. A hostile environment toward lesbians is created when antilebian jokes and comments are common (Friskopp & Silverstein, 1995). This type of atmosphere is exacerbated when homonegativism is tolerated and accepted by people in powerful positions (e.g., coaches, administrators). In sport, sexist and homonegative practices are common and often are not punished. Additionally, concerns about athletes' femininity, or the lack thereof, further reinforce and magnify homonegativism (Griffin, 1994).

For women in sport, "to be athletic is equated with masculinity and masculine women are labeled as lesbian. Therefore, athletic women are stereotyped as lesbian" (Woods, 1992, p. 91). This "lesbian label" has been used to discourage women in sport (Griffin, 1992). Invoking the lesbian label is tantamount to discrediting all of women's sport, insinuating that successful athletic performances are due to "unnatural advantages" (i.e., "real" women cannot be good athletes). Homonegative reactions to lesbians are used not only to control lesbians in sport but also to control all women in sport. The tremendous stigma associated with being labeled lesbian leads many women in sport to fear association with it (Griffin, 1994). Subsequently, as long as females fear stigmatization and reprisal because of sport accomplishments, they will not be free to fully test their skills and achieve their potential.

Examples of homonegativism in sport are abundant. Lesbian coaches are discriminated against in employment (Lenskyj, 1990; Theberge & Birrell, 1994). Athletes have been removed from athletic teams because they are lesbian (Brownworth,

1994; Nelson, 1994a). Lesbians may face sexual harassment in sport environments (Lenskyj, 1990). Martina Navratilova, the only candid lesbian professional athlete, has been shunned by corporate America and is patently overlooked by most marketing agents (Muscatine, 1991). The Ladies Professional Golf Association (LPGA) has gone to great lengths to promote an expressed heterosexual image through provocative calendars and highlighting the golfers' husbands and children in promotional materials (Nelson, 1991). "Negative recruiting" (dissuading young athletes from attending rival universities through rumors that the coach or athletes on the team are lesbians) is becoming a common tactic (Young, 1995). Finally, one of the most blatant examples of homonegativism occurred when a well-known women's basketball coach publicly stated that she will not allow lesbians on her team (Lederman, 1991; Young, 1995). Although clearly discriminatory, this coach was hardly punished by her athletic department, the university, or the NCAA.

The lack of retribution for discrimination against lesbians reinforces that homonegativism is acceptable behavior in sport. It also creates an environment filled with fear and distrust, and ultimately results in a hostile atmosphere toward lesbians in sport. Overall, the overt discriminatory actions against lesbians, the negative labels and stereotypes, and the silence concerning these actions and prejudices create a hostile environment for lesbians in sport. Participation in such a hostile sport environment compounds the homonegativism experienced in society at large, thus increasing the likelihood that lesbians in sport will have negative personal reactions to this homonegativism.

### **Personal Reactions to Homonegativism**

Personal reactions to homonegativism may include negative attitudes, beliefs, and emotions toward nonheterosexuality in oneself and in other persons (Shildo, 1994). Because of the hostility toward lesbians experienced in most sport environments, it is difficult to imagine lesbians in sport who will not be negatively affected by homonegativism to some degree. Typically, lesbians will learn culturally sanctioned anti-gay and lesbian prejudice before they realize their own sexual orientation (Gonsiorek & Rudolph, 1991). For this reason, negative reactions to homonegativism (or what commonly is considered "internalized homonegativism," Shildo, 1994) has been considered a normal step in the developmental process of self-acceptance for lesbians (Pharr, 1988; Sophie, 1987). In some cases, lesbians may not realize that they harbor these reactions to homonegativism. These people may have developed defense mechanisms that become so engrained in their lifestyle that they do not notice their personal reactions to external homonegativism.

A common personal manifestation of homonegativism is "covering" or "passing," in which one attempts to hide her sexual orientation from others in order to avert potential external homonegativism. This type of behavior will lead to a discrepancy between one's personal and public lives (Herek, 1991) and cause an individual to deny and silence one part of the individual's self-identity. Maintaining this pretense can become very stressful, especially when one lives in fear of discovery (Savin-Williams, 1994). Lesbians who are passing or covering may experience feelings that they are living a lie, distancing themselves from others, maintaining only superficial interactions with others (Herek, 1991), and isolating themselves from other individuals who may be supportive (Berger, 1992). Lesbians in sport experiencing personal reactions to homonegativism may divert much

energy away from sport performances and toward hiding or denying their lesbian identity to avoid discrimination.

Many additional negative manifestations due to homonegativism have been described: depression, feelings of inferiority, self-defeating behaviors, decreases in self-esteem, under- or overachievement, physical or mental health problems, alcohol and drug abuse, distrust, loneliness, self-hatred, shame, anger, and development of defensive strategies (Dempsey, 1994; Gonsiorek, 1988; Margolies, Becker, & Jackson-Brewer, 1987; Neisen, 1993; Pharr, 1988; Remafedi, 1990). Other examples of personal reactions to homonegativism include tolerance of discrimination against lesbians, discomfort with obvious or open lesbians, and possessing negative images of lesbians (Gonsiorek, 1988). The most extreme consequence of external homonegativism is suicide. Although comprising 10% of the population, lesbians and gay males make up almost one third of all teen suicides and are two to three times more likely to attempt suicide than their heterosexual peers (American Association of Physicians for Human Rights, cited in Kielwasser & Wolf, 1994; Savin-Williams, 1994). These statistics are an alarming testimonial to the human cost of homonegativism in our society.

In sport, personal reactions to homonegativism may include decreased athletic performance, distrust of teammates, and socially isolating oneself from the team. The homonegative atmosphere of many athletic environments may result in a lesbian sleeping with men or making derogatory comments about lesbians in order to remove any suspicion that she is a lesbian (Nelson, 1991). Since these actions are clearly incongruent with the athlete's self-identity, she then has to live with the psychological and emotional ramifications of such actions.

Certainly, continual exposure to prejudice and discrimination by members of oppressed or stigmatized groups will have social and psychological consequences (Crocker & Major, 1989; Pharr, 1988). People in any oppressed and marginalized group need to address issues of self-esteem and self-worth (Crocker & Major, 1989; Pharr, 1988). Lesbians in sport are bombarded by messages that to be a lesbian is bad or unacceptable. The constancy of this message can slowly erode a lesbian's belief in herself and lead to beliefs that she is less deserving or less capable because she is a lesbian. This lack of self-esteem has important implications when considering one's personal satisfaction and performances in sport or any other domain.

### **Developing a Positive Lesbian Identity**

Lesbians who successfully work through their personal reactions to external homonegativism will adopt a positive lesbian identity (Gonsiorek & Rudolph, 1991). Troiden (1988) describes this as *identity commitment*, when a lesbian determines that it is easier and more comfortable to live as a lesbian rather than attempting to pass as a heterosexual. The individual now perceives her lesbian identity as an essential component of her complete self-identity. As Barbara Slater (1988) explains, "In a well functioning person, a gay male or lesbian orientation encompasses sexuality, self-estimate, commitment to others, leisure time, friendship patterns, community involvement, and so on" (p. 229). At this level, being a lesbian serves as a component of one's identity, rather than a behavior that occurs only in certain situations.

Individuals who are able to counter their negative personal reactions to homonegativism, do so within a positive, supportive environment, especially with

the social support of other lesbians (Gonsiorek & Rudolf, 1991). Positive contacts with the lesbian community, individual lesbians, and supportive heterosexuals facilitate positive identity formation and minimize feelings of alienation (Dempsey, 1994). In order to discredit the negative socialization about lesbians, it is necessary to learn about, and see, lesbians who do not fit the societal stereotypes (Sophie, 1987). In this way, a strong lesbian, or lesbian positive, social support system is beneficial. Although rare, this support can be generated in sport. Athletic teams that acknowledge and embrace diversity among team members are much more likely to develop a positive atmosphere and free the participants to focus their energies on their sport performances. Administrators and coaches who refuse to submit to homophobic practices and encourage acceptance among team members will provide the foundation for such an environment to develop.

Positive role models also are essential to developing a positive lesbian identity. The absence of role models can increase feelings of isolation and loneliness (Friskopp & Silverstein, 1995), whereas the presence of role models can be very comforting and informative. Although public role models (e.g., Martina Navratilova) may be helpful, few openly lesbian athletes, coaches, or administrators are visible. Thus, many people may look to lesbians in sport they know personally as role models. These people may be administrators, coaches, or athletes known or assumed to be lesbian. Often these role models may be peers (Friskopp & Silverstein, 1995). As lesbians are observed successfully coping with the challenges of being a lesbian in sport, they provide optimism and confidence for others.

Another important aspect of developing a positive lesbian identity includes self-disclosure to significant people in one's life (Sophie, 1987). "*Coming out* is the process of disclosing one's sexual orientation" (Rhodes, 1995, p. 67). Often, the experience of sharing one's lesbian identity with others will involve an improved sense of self, self-confidence, self-pride, and self-understanding (Rhodes, 1995). Coming out to others may be very empowering, yet it also may be quite threatening. There is an element of vulnerability in self-disclosure, and it may involve subjecting oneself to potential harassment and discrimination (Rhodes, 1995). The reactions of those to whom one discloses are very important in the coming-out process. Negative reactions may lead to increased stress and decreased self-esteem, and positive reactions from others will enhance self-acceptance and self-esteem. Overall, positive reactions from those to whom one comes out, a supportive social environment, and exposure to positive role-models will encourage the development of a positive lesbian identity.

## Conclusion

To begin to understand lesbians in sport, it is necessary to critically examine the socialization process. Lesbians are socialized within a homophobic and heterosexist society, and they learn and develop homophobic attitudes as well. The sport environment further promotes and sustains homophobic attitudes and behaviors. This homonegativism in society and sport will lead lesbians in sport to learn and react to negative attitudes towards themselves and others who may be lesbian. To enhance the likelihood of the development of a positive lesbian identity in athletic lesbians, it is necessary to expose them to a lesbian positive environment in which social support is abundant and positive role models are visible. Currently, this type of sport environment appears to be rare; few examples of sup-

portive climates and positive role models for lesbians are seen in competitive sport settings. Rather, traditional sport creates an environment that makes it unlikely that a positive lesbian athletic identity will develop.

It is a challenge to encourage and to develop positive and safe environments for lesbians in sport. As Robin Vealey (1994) suggested, we need to "transform the silence" about lesbians in sport. Rather than simply suggesting that we need to address issues related to lesbians in sport (i.e., break the silence), a positive and accepting approach to the study of lesbians is needed. Research on lesbians is only a first step toward eradicating homonegativism in sport. The model of lesbians in sport described in this paper is a beginning. I hope that this research will result in increasing dialogue and research about lesbians in sport. Inquiry about their experiences will enhance the understanding of the sport environment as a whole. For sport psychologists seeking to foster the experiences of all athletes, eradicating discrimination and prejudice, including homonegativism, should be a fundamental goal (Krane, 1995). The first step in eradicating homonegativism is to acknowledge its pervasive influence in women's sport. Understanding the experiences of lesbian administrators, coaches, and athletes, as well as the impact of those experiences, can then lead to the development of appropriate strategies for combating homonegativism in collegiate sports.

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# **What is the T in LGBT? Supporting Transgender Athletes Through Sport Psychology**

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Being an out trans-athlete I've learned that you have to [be] mentally tougher than all of your competitors, and willing to sacrifice more and work harder to accomplish the same thing as your competitors. I guess that should make my accomplishments mean even more to me but I find it to be a double edged sword in that my accomplishments do mean something but I work and drive myself into the ground mentally and physically for track, and yet I am still seen as a nobody in track and field not because I can't throw but because I'm trans. There are days where I wonder if it is worth [it,] since being an elite athlete you sacrifice your life no matter your identity but when for me I closet my identity again. I continue to live in skin I can't even look at in the mirror to throw [sic]. People have asked me if it is worth it or why I sacrifice my identity. That answer is relatively simple. I love to throw.

...I decided to not transition so I could graduate doing everything I wanted to accomplish. Once I graduated and I had two years before the next Olympic trials, I started working with a great coach and knew I had a chance and I just couldn't give up on that shot of possibly making the Olympic team... When I made the decision I made it for my love of sport, and the sport I have dedicated my whole life for. I ruined relationships and lost friendships as well as lost my identity all for track. ...I wish there was a feasible way to be me and be an athlete all at the same time but I don't see there being a chance, especially being able to compete at the same level I am competing at. I've lost who I am, I can only see a woman when I am even at my best of passing, despite only feeling like a man. I did this all to compete to be the best at something and accomplish something not many people trans or non trans can say they have accomplished. (Corbyn, 2009, ¶ 2)

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Corbyn describes himself as “an out FTM<sup>1</sup> elite athlete. I am pre-hormones, pre-surgery in order for me to continue competing as a woman” (Corbyn, 2009). While his experiences are not representative of all transgender athletes’ experiences, they certainly speak to the turbulent terrain transgender athletes navigate in the United States. As evidenced by the recent public openness of Kye Allums, a transgender man competing on a women’s college basketball team (Zeigler, 2010a), the increasing visibility of transgender athletes and athletes with transgender histories implores the attention of sport scholars. Yet, the field of sport psychology, as well as individual consultants, is unlikely to be prepared to work with athletes with alternative gender identities. Dialogue about gender identity and transgender athletes in sport psychology is nearly nonexistent. In their review of the history of research on lesbian, gay, bisexual, and transgender (LGBT) issues in sport psychology, Krane, Waldron, Kauer, and Semerjian (2010) found no articles focused on transgender athletes. Instead, transgender athletes tend to be lumped in with other sexual minorities under the LGBT umbrella. While there are some common experiences among LGBT individuals, issues surrounding gender identity differ from those related to sexual orientation. In sport psychology, our lack of attention to gender identity and the gaping holes in our literature and education programs leaves the field wholly unprepared to provide compassionate, competent, and appropriate services for transgender athletes. Further, children as young as six years old are recognizing their nonconforming gender status (Rosin, 2008) and by middle school students are identifying as transgender (Grossman & D’Augelli, 2006). Needless to say, it won’t be long before open and proud transgender youth become more visible in sport. Scholars such as Jodi Cohen (2007) recognize that there are *trans* athletes competing at all levels of sport, “though most remain hidden and silenced” (p. 1).

The presence of transgender athletes in sport compels questioning many hegemonic beliefs and practices. For example, as an institution, sport constructs and reinforces perceptions of *natural differences* between males and females that long have influenced the allocation of resources, status, and privileges conferred upon male and female athletes (Messner, 2002). That is, sport reinforces the notion that innate differences exist between the sexes (Travers, 2006), such as males are larger and stronger and hence better athletes than females. Females are perceived as more graceful and flexible and better suited to excel at different sports than males (Choi, 2000; Messner, 2002). The customary gender segregation of most sport settings, often beginning at an early age, reinforces the notion that boys and girls, women and men, are essentially different from one another (Messner). These beliefs and practices are grounded in a binary categorization of sex. This binary assumes that females and males are categorically different and that individuals are either male or female (Kane, 1995; Theberge, 1998). Individuals falling somewhere between these dichotomous categories often face social repercussions and discrimination in sport (Krane, 2008). Strict adherence to this binary has resulted in the erasure and stigmatization of transgender individuals (Cavanaugh & Sykes, 2006; Teetzel, 2006). Yet, transgender athletes do exist and they are competing on sport teams or could be joining teams if sport were more welcoming and accepting. Sport psychologists should be at the forefront of creating safe and receptive climates for gender nonconforming athletes.

The purpose of this article is to provide a starting place for sport psychologists eager to learn more about working with transgender athletes and their teammates

and coaches. Our goal is to raise awareness, understanding, and compassion for a group of people in sport facing very large obstacles. We will define concepts necessary for communicating about the experiences of transgender people, discuss common myths and stereotypes about them, and offer strategies for creating more hospitable sport settings.

## What is Sex, Gender, and Transgender?

Before pursuing discussion of issues surrounding transgender individuals, it is important to clarify distinctions among related concepts. Sex and gender often are used synonymously in popular language. However, they have very different meanings and should not be used interchangeably. *Sex* signifies the biological, physiological, and anatomical make-up of an individual and categorizes people as males and females. Overall, sex encompasses an individual's chromosomal configuration, hormonal disposition, external and internal reproductive organs, and secondary sex characteristics. While multiple combinations of genetic and physiological composition are reflected in a wide array of physical bodies, people are pigeonholed as either female or male by the medical community. Typically male sex is defined by XY chromosomes, larger amount of testosterone than estrogen, presence of testes and a penis, and secondary characteristics such as facial hair and deepened voice. Female sex is defined by XX chromosomes; larger amounts of estrogen than testosterone; presence of a vagina, uterus, and ovaries; and secondary sex characteristics such as breast growth and menarche.

*Gender* has been defined as socially constructed and refers to how individuals present themselves through attire, physical appearance, and mannerisms; individuals are labeled as masculine or feminine (Brown & Rounsley, 1996). Masculinity is characterized by strength, stoicism, and steadfastness; whereas femininity is characterized by weakness, emotionality, grace, and vulnerability (Choi, 2000; Messner, 2002). These categories are culturally constructed, meaning that they have a specific definition created in, and reinforced by, sociocultural forces at a specific historical moment (Butler, 1990). While the exact nature of behaviors associated with femininity and masculinity change over time, there is a common social understanding of what is socially acceptable in any given context or historical time. Through socialization, boys and girls "learn to move, speak, dress, and behave in the way the culture deems appropriate for a male or female" (Brown & Rounsley, 1996, p. 21). They learn to do their gender properly (Butler, 1990).

In most sport settings, sex and gender are understood as dichotomous categories. That is, only two options exist: male and masculine or female and feminine. To understand one category, you must know it as *not* the other (Delphy, 2003). To be male is to be *not* female, to be masculine is to be *not* feminine. Defining these categories as opposites reinforces these binaries or that there are only two categories of sex (male and female) and two categories of gender (feminine and masculine).

*Gender identity* is one's self-expression of gender or the internal sense an individual has of "being either male, female, something other, or in between" (Cho, Laub, Wall, Daley, & Joslin, 2004, p. 5). Gender identity is not always consistent with biological sex and cannot be deduced by the way a person dresses, moves, or looks (Brown & Rounsley, 1996). Gender identity is distinct from sexual orienta-

tion. Cho and colleagues define *sexual orientation* as one's emotional and sexual attraction to another person. The way that people move, speak, dress, and act is their *gender expression*. Wearing make-up, for example, typically is perceived as an expression of femininity.

Most people's sex, gender, gender identity, and gender expression align predictably, yet this is not always the case. Individuals with incongruence between their inner feelings of self-gender and the gender assigned to them at birth are transgender (Diamond, 2002; Mayer et al., 2008). Burdge (2007) further notes that transgender people feel that their genetic make-up, anatomy, and/or secondary sex characteristics do not correspond with their sense of self. Often, transgender is considered an umbrella term including anyone who challenges the boundaries of sex and gender (Feinburg, 1996; Plante, 2006). *Trans* people often resist gender categorization and they may situate themselves "within the broad matrix of socially constructed gender" (Plante, p. 84). Some transgender individuals will pursue sex reassignment surgery (SRS) and change their physical anatomy to match their gender identity. Yet not all transgender people do so. Individuals who have completed sex reassignment surgery (SRS), currently are taking hormones, and legally have changed gender are *transsexual* (Semerjian & Cohen, 2006) whereas people with atypical gender expression may identify as transgender.

It also is important to recognize individuals who are gender nonconforming or what Travers (2006) refers to as *gender transformers*. These individuals oppose the gender binary and "view bodily alteration as either unnecessary for the expression of non-dichotomous gender identities, or alter their bodies to match an inner sense of identity without attempting to conform to traditional gender identity norms" (p. 434). Individuals who are gender transformers sometimes identify as *genderqueer*. Furthermore, intersex often becomes conflated with transgender. While there may be overlap in intersex and trans identities, it is important to distinguish between them, especially in sport contexts. *Intersex* people are born with both male and female anatomy and physiology (Fausto-Sterling, 2000b). In the past, while still infants, parents and doctors generally assigned a sex to the child. In some cases, the child was surgically manipulated to appear more male-like or female-like (MacKenzie, Huntington, & Gilmour, 2009). As the child gets older, a wide range of hormonal, anatomical, and physiological changes can take place which may or may not match the assigned sex. Regardless, the child is socialized as female and feminine or as male and masculine (Namaste, 2000).

In this paper, we distinguish among transgender, transsexual, and intersex people. While transsexual, transgender, and intersex individuals all have been neglected in sport psychology, they also may face different challenges in sport. Transsexuals who have completed SRS differ from transgender people in a number of ways that will affect their involvement in sport. Of existing policies regarding trans people, most address only transsexuals. Trans people whose gender identity and biological sex are not congruent, and who do not want to have SRS, have not begun the process toward SRS, or who are in the early phase toward SRS (i.e., have begun taking hormones) are excluded from most sport policies related to transgender athletes. Similarly, intersex individuals rarely are mentioned in this dialogue, yet they are affected by sport policies.

## Trans Issues in Sport

In the only known study of its kind, Semerjian and Cohen (2006) interviewed four transgender athletes. These athletes noted a number of barriers and challenges related to their sport experiences. For example, one athlete spoke of sport as a “place of discomfort” where teammates purposely used the incorrect pronoun to refer to the trans athlete and often called her names. These athletes highlighted their discomfort in locker rooms and the efforts needed to appropriately perform gender in sport settings. Interestingly, one athlete, a figure skater, described sport as a safe space away from the harassment he experienced in school. Importantly, Semerjian and Cohen highlighted the individuality of each person’s experiences and argued that there is no singular trans experience, but rather a variety of trans experiences. In addition, the female-to-male (FTM) trans athletes felt that sport influenced their gender identity, reinforcing the importance of having supportive sport experiences.

### Transgender Mythbusting

The inclusion of trans people in sport challenges a number of long-standing traditions and beliefs. For instance, the segregation of female and male athletes as well as perceptions related to gendered athletic ability leave little space for trans athletes. As Morgan Dickens, a former college athlete, stated, “The clear delineation between male and female in the sporting world doesn’t leave room for someone like me” (quoted in Griffin & Carroll, 2010a, p. 49). We believe an important first step in creating more welcoming climates for trans athletes is to recognize and counter common falsehoods and misinformation about them.

**Fair Play.** Inevitably, dialogue about transgender people in sport turns to issues of fair play, especially related to male-to-female trans people (e.g., Coggon, Hammond, & Holm, 2008; Teetzel, 2006). It generally is presumed that to be born male implies innate athletic advantages that “unlevel” the playing field for female-born athletes. This point was driven home when opponents protested Michele Dumaresq’s participation in elite downhill mountain biking. When Dumaresq won the 2006 Canadian downhill mountain-biking championship, Danika Schroeter took to the podium, in second place, wearing a t-shirt on which she wrote in magic marker “100 Per Cent Pure Woman Champ 2006” (McIlroy, 2007). Dumaresq was a licensed member of the Canadian Cycling Association and had undergone SRS ten years before that race.

A common sentiment in the fair play rhetoric is that transsexuals retain many physiological advantages that many males have over female athletes, such as more muscle mass. However, the body goes through numerous and dramatic changes as its hormones are altered. Research supports that postsurgical transsexuals have a physiological profile comparable to individuals in their desired sex. For example, Gooren and Bunck (2004) compared muscle mass pre- and posthormone therapy in female-to-male (FTM) and male-to-female (MTF) individuals. The reduction of muscle mass in MTF individuals after testosterone deprivation (postsex reassignment surgery) resulted in a large overlap with FTM individuals’ pretestosterone therapy muscle mass. This overlap was great enough for the authors to suggest that it is justifiable for MTF athletes to compete with other female athletes.

In addition, Elbers et al. (1999) found that postoperative MTF individuals had increased body fat, which was positioned in the same patterns as is found in other females, one year after beginning hormone therapy. Muscularity, measured at the thigh, also decreased. Lapauw et al. (2008) compared body composition and bone parameters in MTF transsexuals three years postoperative to age- and height-matched nontrans men. The results showed the transsexual women had less muscle mass and strength, more body fat, and less bone mineral content and bone areal density (i.e., bone size) compared with the nontrans males. These findings imply that the MTF body types were more similar to female bodies than male bodies. Altogether, these studies support that MTF transsexual athletes have no physiological advantage over other female athletes.

Another common argument regarding fair play is that testosterone treatments unfairly benefit FTM transsexuals (Teetzel, 2006). Generally, individuals with XY chromosomes produce higher levels of androgens than individuals with XX chromosomes, and therefore men have been presumed to be stronger than women because of their higher blood testosterone levels. Concern about excessive testosterone levels in FTM athletes is unfounded. The levels of testosterone created through the hormone therapy of a transsexual man would be similar to an average adult male and significantly less than the levels seen in men using testosterone as an illegal doping agent (Ljungqvist & Genel, 2005; Teetzel, 2006). Gooren and Bunck (2004) supported this fact in their comparison of pre- and postoperative MTF and FTM transsexuals. Their findings revealed that testosterone therapy in FTM individuals resulted in increased muscle mass levels comparable to MTF pretestosterone deprivation; the testosterone levels in transsexual males did not exceed the levels of testosterone in preoperative males. The testosterone dosing recommendations for transsexual males are such that "blood levels should be close to the normal mid-male value" (Moore, Wisniewski, & Dobs, 2003, p. 3770). Further, Bhasin et al. (2001) found a dose-response relationship between blood testosterone levels and performance on muscle volume, blood hemoglobin levels, and leg press performance in men, implicating current (not previous) testosterone levels as the major factor determining strength and muscle mass. These findings point to the conclusion that postsurgical FTM transsexuals gain no extraordinary benefit from their testosterone therapy. Reeser (2005) provides a particularly empathic perspective when expressing that identifying as transgender is not done to gain any cultural reward or personal athletic advantage. Rather, transsexual individuals are seeking personal harmony between body and mind.

***Becoming Transsexual.*** One concern often voiced is that by allowing trans athletes to participate in sport, some males will undergo SRS so that they can compete against women. This fallacy is grounded in the premise that male-born athletes have an innate advantage when competing against female-born athletes. To dispel this myth, we explore the process of becoming transsexual and how this process may affect sport participation.

The World Professional Association for Transgender Health's (WPATH) Standards of Care, previously called the Harry Benjamin Standards of Care (Meyer et al., 2001), have been adopted by the medical community. These standards identify a series of benchmarks supporting the preparedness of an individual to undergo SRS. According to these guidelines, before trans individuals interested in hormone

therapy and/or SRS could seek medical intervention, they had to obtain a psychological diagnosis of gender identity disorder (GID). As described in the *Diagnostic and Statistical Manual of Mental Disorders-IV-TR* (DSM-IV-TR), individuals are considered to have GID when demonstrating a deep cross-gender identification and unremitting discomfort with their body (American Psychiatric Association, 2000). (For additional information about the diagnosis of GID, see Vitale, 2005). This medicalization of trans experiences is controversial as it considers that they have a psychological illness, GID, that needs surgical intervention. Extensive consideration of the ethics and controversy of the standards of care is beyond the scope of this paper. Yet, it is important to point out the commitment needed to pursue SRS. As Bowman and Goldberg (2006) explained,

SRS is a multidisciplinary endeavour drawing on plastic surgery, urology, gynecology, reproductive endocrinology, and otolaryngology. Some SRS procedures (e.g., breast augmentation, mastectomy, hysterectomy, and oophorectomy) involve relatively minor modification of surgical procedures routinely performed for the non-transgender population.... Genital reassignment surgery is a more complex procedure with multiple trans-specific considerations. (p. 136)

Complete sex reassignment involves personal, legal, and biological change. The surgeries (often more than one is needed) are invasive, painful, and can require long rehabilitation. Preparation for surgery also is extensive as guided by the standards of care. Not only is psychological assessment and a diagnosis of GID required before medical intervention begins, trans people also must undergo 12 months of continuous hormonal therapy and 12 months of successful, continuous, full time *real-life experience* (i.e., living full-time in one's gender of choice). Throughout this time, they also continue psychological therapy. The rationale for such psychological supervision is the very real consequence that changes due to hormone therapy and surgery are not reversible (Ettner, Monstrey, & Eyler, 2007; Hembree et al., 2009). The standards of care also advocate that before breast or chest surgery, at least one mental health professional, who specializes in transgender health, should approve that the individual is eligible and ready for SRS. Two mental health professionals must approve eligibility before gonadal removal or genital surgery (Bowman & Goldberg, 2006).

Presumably, individuals with only sport motivation to change their sex will not go to such lengths to gain entrée into women's sport events. Consider the transition process in relationship to sport for a female-to-male trans athlete who wants to begin competing as a male. To be accepted as a male, he would have to pass through the stages dictated by the standards of care: a minimum of 12 months of hormone therapy and real life experience, *top* (i.e., chest/breast) and *bottom* (e.g., hysterectomy, genital reconstruction) surgeries, both followed by necessary rehabilitation. Then, the athlete would have to regain competitive conditioning. For male-to-female transsexuals, Spehr (2007) explained that after vaginoplasty, patients typically begin walking after two to three days and they can leave the hospital within three to five days. However, it could take up to 19 months before the ability to walk normally is regained (the range reported was 5–19 months). In other words, a transsexual athlete could lose a year of training. Carlson (2005) quoted a trans athlete as stating, "No one goes through years of hormone therapy, massive surgery and this permanent life change on a whim, just to compete" (p. S40).

Since most sport teams are specific for females or males, there is no space for athletes who are transitioning (i.e., who are between male and female) to continue participating in competitive sport; thus, there would be a break in competitive experience. In all, the popular desire to “protect” sportswomen from men “switching sides” speaks to an unlikely scenario.

## The Trans Disadvantage

An alternative perspective is to consider the challenges and disadvantages that trans athletes must overcome to compete. On top of typical competitive stress, these athletes have the added stress of being different in a context that is not very welcoming to different types of people (Krane, 2008). Sport is an unfriendly site for many people. Little boys are ridiculed for dropping the ball or dancing, while little girls are ridiculed for playing football or winning games against boys. This scorn often is triggered by gender incongruence: children and adolescents are belittled for perceived cross-gender behavior.

Transgender individuals are one of the most discriminated against social groups in society today (Stryker, 2006). Many trans people face daily verbal harassment from strangers, peers, teachers, coworkers, and even family members (Sausa, 2005). In schools, gender-related bullying is very common (Cho et al., 2004; Roberts, 2008). Boys who fail to do boy-appropriate things well are called sissies and may be beaten up, and girls who fail to do girl-appropriate things are shunned. For youth who identify as transgender, the bullying can be even worse. For example, a trans athlete interviewed by Semerjian and Cohen (2006) presented his story of being bullied in school. The school administration blamed the trans person for the bullying and simply suggested that he wear gender appropriate clothing to school. In addition, the mother of Keelin Godsey, an NCAA All-American track and field athlete, described that due to relentless taunting and cruelty from classmates, Keelin (then Kelly) “was so bullied in high school she attended just 28 days one year” (Grossfeld, 2006, ¶ 3).

A survey of 295 transgender youth in middle and high school revealed that most of them reported a hostile climate toward them at school (Greytak, Kosciw, & Diaz, 2009). Most of these trans students reported experiencing verbal harassment and over half of them were victimized with physical harassment (e.g., being pushed, punched, or kicked). School staff were reported to rarely intervene when these incidents occurred and one third of the trans students heard teachers make negative comments regarding students’ gender expression. In sport, trans athletes often receive excessive scrutiny and further bigotry. For example, Cohen and Semerjian (2008) examined a situation of a trans ice hockey player: after competing a whole season with her women’s team, USA Hockey banned this MTF transsexual athlete from competing in the Women’s Hockey National Tournament even though the athlete submitted relevant medical documents from three physicians. Even in venues such as the Gay Games (Krane & Waldron, 2000) and lesbian sport leagues (Travers, 2006), trans athletes have faced bias. Lesbian softball players voiced concern about competing against MTF athletes due to safety issues (e.g., she will have a larger physique and be stronger than other players) and trepidation about changing the atmosphere of a *women-only space* (Travers). The level of fear and concern among trans athletes is reflected in what Michele Dumaresq refers to as



“stealth” transgender athletes or those who keep secret their trans status because they are worried about some sort of backlash (Billman, 2004). All this points to the difficulties, overt or expected, that trans athletes face. Seemingly, it would take a high level of resilience to cope with these stressors and be competitive in sport, putting trans athletes at a distinct disadvantage compared with nontrans athletes.

## How Sport Has Problematicized Trans Athletes

Although seemingly obvious, determining an individual's sex is far more complicated than generally considered. Anatomy, chromosomes, genes, hormones and identity are not always congruent. Thus, when considering all possible permutations, sex becomes much more complex and less readily apparent. In fact some scholars have proposed that there are at least 5 distinct sexes (Fausto-Sterling, 1993). In an update to this proposal, Fausto-Sterling (2000) emphasized that gender variations are not so clear-cut (i.e., fitting into distinct categories, no matter how many). Instead she explained that “male and female, masculine and feminine, cannot be parsed as some kind of continuum. Rather, sex and gender are best conceptualized as points in a multidimensional space” (p. 22).

Individuals with deviations from XX or XY genetic make-up may have XXY, XO, XYY, XXYY, XX males, and XXX females (Blackless et al., 2000). Further, some children are born with ambiguous external genitalia. These individuals may be genetically XX or XY but both male and female genitalia develop. For example, some intersex people may have male external genitalia while developing female internal organs whereas others may have a vagina and undescended testes (Looy & Bouma, 2005).

The problematic nature of sex becomes evident through attempts by elite sport organizations to ensure that all elite female athletes truly were female. Sex testing<sup>2</sup> of international female competitors was a mandatory practice from 1966 through 1999. Initially, sex verification included visual testing (i.e., visual inspection of naked athletes). Then the Barr Body test and the polymerase chain reaction (PCR) test were implemented, to eliminate the humiliation of visual inspection. The Barr test could detect X chromosomes in female cells. “The presence of a Barr body ‘confirmed’ female sex, whereas its absence suggested that the competitor was a male” (Puffer, 2002, p. 1543). The PCR test detected the presence of Y chromosomal material (Genel, 2000). Each successive test was considered an *improvement* in gender testing as it assessed more *precise* components of sex. However, as the tests became more sophisticated, they were more likely to identify individuals with chromosomal abnormalities. Often sex testing has uncovered intersex individuals who may not have even known that they were intersex. Not only were these athletes—who were socialized, lived, and trained as females all their lives—informed of their genetic distinction, they often had conditions that made athletic success even more difficult. Some females with atypical genetic make-up have androgen insensitivity syndrome (AIS) whereby these individuals are genetic XY, but their bodies cannot use testosterone and they develop ambiguous or strictly female reproductive organs. Ironically, these athletes, due to failing their sex test, have been disqualified from international competition to ensure fair play even through their abnormality resulted in a competitive disadvantage. As Reeser (2005) noted, “The attempt to rely on genetic testing methods of sex determination had opened

up a veritable Pandora's box of problems for both athletes and officials" (p. 696). Simply, there are too many possible genetic variations, even if relatively rare, to attempt to make blanket statements about what is sex and who is allowed to compete. The utility of these tests have long been questioned and mandatory testing was discontinued just before the 2000 Olympics.

The recent cases of Santhi Soundarajan and Caster Semenya highlight the complexity of assessing sex in sport. After 2000, sex testing only occurred if a sport governing body was given reason to believe an athlete's sex was in question. Both of these women were singled out for testing because of their nonfeminine or too masculine physical appearance. After winning the silver medal in the 800m race at the Asian Games in 2006, Soundarajan was ordered to undergo sex testing. She failed the test, and was disqualified because she had AIS. Similarly, after winning the 800m race at the 2009 world championships, Semenya was required to submit to sex tests. Reports leaked to the media described Semenya to be intersex; presumably she has external female genitalia, internal testes, no ovaries, and testosterone levels three times that of the average female (Hurst, 2009; Levy, 2009). Both of these athletes lived as females and considered themselves as females; yet their possible intersexuality created an uproar in the sport community. Notably, concern about intersex athletes in men's sport have not arisen.

## Sport Policies Regarding Transgender Athletes

I was really worried about coming out as transgender to anyone else because I knew there weren't any policies. I was so afraid that my school would ban me from my sport and that was the only thing I had at the time. I finally decided to come out my senior year of college because I was going down a slippery slope and I didn't think I could pull myself out if I didn't come out."—A transgender former college athlete (quoted in Griffin & Carroll, 2010b, ¶1)

Until recently, there has been little regard for transgender, transsexual, and intersex athletes. However, in a surprising move, the International Olympic Committee took the lead in addressing these athletes and in 2004 they adopted the Stockholm Consensus (Sykes, 2006). This policy provides specific guidelines for the inclusion of transsexual athletes in international competition. The Stockholm Consensus is deeply rooted in the medical discourse about transsexual individuals and only applies to athletes who have had SRS. Transsexual athletes can compete in events sanctioned by the IOC if they have completed surgical gonadectomy and external anatomical changes, have completed at least two years of hormone therapy, and are legally recognized in their new gender category (IOC, 2004). Since the IOC accepted the Stockholm Consensus, many other athletic governing bodies adopted similar policies.

There are several concerns about this policy. Excluded from participation are athletes who do not wish to have surgery, cannot afford surgery, identify outside of the gender binary, or perceive their gender identity to be too fluid to have surgery. Many transgender people are content with their bodies as they are (Queen & Schimel, 1997), and undergoing SRS just to compete in sport would be out of the question for them. Further, given that hormones seem to be related to the body changes most relevant to sport performance, whether one has a penis or vagina

does not seem important. SRS is a very costly surgery and typically is not covered by insurance (in the US). In addition, competing athletes may not want to take time away from training for SRS and rehabilitation. Thus, the requirement to have SRS is controversial.

More recently and in response to the Semenya case, the IOC convened an expert medical panel to make recommendations concerning intersex female athletes with hyperandrogenism (i.e., excessive production of testosterone). This resulted in the IOC Medical Commission making the following recommendation: "A female recognised in law should be eligible to compete in female competitions provided that she has androgen levels below the male range (as shown by the serum concentration of testosterone) or, if within the male range, she has an androgen resistance such that she derives no competitive advantage from such levels" (IOC, 2011). As noted by the National Institutes of Health in the U.S., the average range for testosterone levels for adult males is 300–1,200 ng/dL while for females it is 30–95 ng/dL (ng/dL = nanograms per deciliter; Cooper, 2011). Eligibility decisions will be made on a case-by-case basis and if testosterone levels are considered too high, medical intervention may be required to maintain athletic eligibility. Already this policy has been adopted by other international sport organizations such as the International Association of Athletics Federations (IAAF; IAAF, 2011).

In 2007, the National Collegiate Athletics Association (NCAA), the governing body for college sports in the US, published a paper describing their "Position Regarding Transgender Student-Athlete Participation." In this, they noted that transgender student athletes are not prohibited from competing and that trans athletes "must compete in the gender classification that matches their state classification" (p. 1). That the NCAA is attempting to address the needs of trans athletes is applauded. Regardless of gender identity and expression, transitioning athletes can remain on their teams as long as they do not begin any bodily transformation (e.g., taking hormones). The state of Washington Interscholastic Activities Association (WIAA) developed a ground breaking policy which includes, "All students should have the opportunity to participate in WIAA activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records" (WIAA, 2009–2010, p. 47). This statement allows any athlete to compete as the gender with which she or he identifies, regardless of anatomy and without mandating legal or surgical status. This is perhaps the most inclusive policy for trans competitors and serves as a model for secondary schools and colleges.

## Practical Implications for Sport Psychologists

GW has been supportive during this transition. This means a lot. I didn't choose to be born in this body and feel the way I do. I decided to transition, that is change my name and pronouns because it bothered me to hide who I am, and I am trying to help myself and others to be who they are. I told my teammates first, and they, including my coaches, have supported me. My teammates have embraced me as the big brother of the team. They have been my family, and I love them all. (Kye Allums, trans basketball college player, quoted in Zeigler, 2010b, ¶ 4)

For a trans athlete, strong social support and having sensitive teammates and coaches is indispensable. And, sport psychologists are uniquely positioned to assist

athletes in understanding and supporting trans teammates (Barber & Krane, 2005). To help teams become more welcoming for trans athletes, sport psychologists can engage in what Krane et al. (2010) described as “queering sport psychology.” This process involves disrupting common gendered and heterosexist beliefs and practices. “To queer sport psychology is... to establish alternative practices and structures that value all sexual and gender identities” (Krane et al., 2010, p. 154). Queering includes proactively embracing diversity through envisioning difference as strength and transforming learning environments, including sport (Kauer & Krane, 2010). Breaking the silence around gender identity in sport and normalizing inclusion of diverse gender identities will change sport settings. While policy changes may be slow to occur, there are a variety of things individual sport psychologists can do to help teams create more supportive climates.

A starting point is to make transgender athletes visible, which can lead to a dismantling of the gendered foundations of sport. By talking about, and being inclusive of, transgender athletes, the traditional gender binary in sport will be challenged. Sport psychologists can, for example, discuss issues relating to transgender athletes when they are in the news. Seizing the opportunity to talk with athletes about transgender people and debunking myths about trans athletes can provide meaningful and educational discussions. Telling stories about situations encountered by trans athletes will help team members better understand the challenges trans athletes face and may encourage compassionate responses. Griffin and Carroll (2010b) advocate listening to transgender athletes and learning from their experiences. Trans athletes’ stories underscore

the necessity of developing sound policies and practices that enable transgender student-athletes to play the sports they love in an environment where their gender identity and expression are accepted as one more aspect of the diversity typical of school and college sports teams. (§13)

If athletes have questions or want more information, the sport psychologist can refer them to several helpful websites (e.g., [transathlete.blogspot.com](http://transathlete.blogspot.com), [gender-spectrum.org](http://gender-spectrum.org), [outsports.com](http://outsports.com)) or suggest that they watch the video *100% Woman*, a documentary about trans Canadian downhill mountain bike champion Michelle Dumaresq, which can be accessed on-line ([www.logotv.com](http://www.logotv.com)).

The Transgender Law Center recommends to simply “treat trans individuals as you would want to be treated” (Ten Tips). This age old adage is certainly meaningful in this context. A sport psychologist might ask athletes to put themselves in the position of a trans athlete or to imagine how they may feel telling their teammates about an intimate aspect of their own lives. Asking athletes to consider how their lives would be different if they were transgender also may lead them toward greater understanding of the challenges facing trans athletes. Discussions like these can help athletes develop compassionate attitudes toward trans teammates.

Quite often, people who are supportive of trans issues may not be sure how to engage in conversation about and with trans people. Therefore, it is important for sport psychologists to provide coaches and athletes with the tools they need for compassionate interaction with trans athletes. First and foremost, trans athletes should be referred to by their preferred name and the pronoun corresponding with their gender identity (Ten Tips; Wamsley, 2008). In addition, sport psychologists

can encourage athletes to remain open to a variety of gender identities and the wide array of transgender subjectivities. As Wamsley reminds us, avoid making “assumptions about how gender variant people feel about their bodies, not to treat people in general categories – for example – not all gender variant people want sex change operations” (2008, p. 16).

Anticipating potential issues that trans athletes may face, can avert difficult situations. For example, some trans athletes may be uncomfortable with some team uniforms. Allowing all athletes access to “uniforms that are appropriate for their sport and that they feel comfortable wearing” (Griffin & Carroll, 2010a, p. 33) will provide trans athletes alternatives and may enhance their comfort on teams. Locker rooms also can harbor many challenges. While sport psychologists may not have direct control over such issues, they can be prepared to discuss potential situations and provide guidance to coaches and administrators who do make policy. Griffin and Carroll (2010a) recommend that trans athletes should be able to use the locker room that corresponds with their gender identity and that locker rooms should include private changing and showering areas. Trans athletes should not be required to be separated from their teammates, but the option should be available.

Another approach to creating and supporting sport teams that are compassionate toward trans athletes is to apply *inclusive excellence* (Kauer & Krane, 2010). This approach places valuing diversity as a central team goal that will help the team be more successful. When teams value acceptance of diverse teammates, inclusion of a trans athlete may not be disruptive to the team atmosphere, rather it may be seen as an extension of what they already do. While athletes may want to learn more about the trans athlete, it is likely they will not be disrespectful. Sport psychologists can guide compassionate and productive dialogue among team members (cf. Kauer & Krane).

While proactively creating inclusive environments is important, sport psychologists also should consider that an athlete already on a team may come out as trans, begin transitioning, or change their outward identity and appearance. Being aware of relevant policies about antiharassment, nondiscrimination, and transgender participation in sport (Griffin & Carroll, 2010a) will provide an important foundation for addressing any problems that may arise. In this situation, being prepared to educate athletes, coaches, and parents is essential. It is likely that members of a sport community may not understand what transgender or gender identity is. Teammates may need guidance concerning appropriate language as well as information about trans bodies and sport performance. Sport psychologists can lead team discussions about inclusion and support for trans athletes, how supporting the trans athlete can benefit the whole team (cf. Kauer & Krane, 2010), and what it means for the team to support a trans athlete. The sport psychologist also can be prepared to assist athletes struggling with the notion of having a transgender teammate by having a list of campus resources regarding transgender issues. Needless to say, trans athletes’ privacy should be guarded and they should be consulted regarding how much personal information they are comfortable revealing. If a trans athlete is willing, having a session in which the athlete answers teammates’ questions could be especially beneficial.

The role of the sport psychologist can be pivotal toward compassionate inclusion of trans athletes. Proactively creating inclusive sport atmospheres that value diversity will pave the way for acceptance of trans athletes. When sport psycholo-

gists understand the myths and truths about trans athletes, they can assist in creating compassionate team settings. We consider the creation of safe and compassionate sport settings for all athletes, including trans athletes, an ethical responsibility of sport psychologists. Being inclusive provides educational opportunities for all team members. It also provides a foundation for providing safe, compassionate sport climates for athletes with any gender identity.

## Note

1. FTM is shorthand for female-to-male, which is a term used to identify a “person who was female bodied at birth and who identifies as male, lives as a man, or identifies as masculine” (PLAN, 2011, p. 8).
2. Although this process often is referred to as gender testing or gender verification, the process truly is aimed at determining sex via anatomical, hormonal, and genetic markers; therefore sex testing is the most precise term.

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## Chapter 5. Sexual Orientation and Gender Identity: Inclusion and Prejudice

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### Chapter Objectives

In this chapter, you will learn:

1. To develop the appropriate language for talking about transgender athletes (e.g., define and distinguish among sex, gender, gender identity, gender expression, affirmed female and cisgender).
2. To understand the bodily changes a transsexual athlete may undergo and the effects of these changes can have on athletic performance.
3. To be able to describe heteronormativity, homonegativism, and transnegativism, and articulate why they are problematic.
4. To describe the characteristics of a sport climate in which athletes are likely to feel comfortable expressing any sexual or gender identity compared to climates in which athletes may feel the need to conceal diverse identities.
5. To define allies and ally programs, and to identify examples of them.

### Introduction

*As a volunteer with the city recreation center, you are working the desk during registration for the summer youth t-ball program. It is a fairly simple routine: have a parent or legal guardian complete the registration form, check that everything is filled in completely and correctly, look at a birth certificate or passport to see that the age matches the registration form, collect the fee, and file the form. Though, it's been busy and you have registered about 30 children in the past*

*hour. As you are quickly glancing at one child's birth certificate, the gender is different than how the child appears. Thinking that you must be getting tired, you slow down and read more carefully. Sex: male – which does not match the vision of the young girl in front of you. You think to yourself, there must be some mistake. "I'm sorry, did you hand me your son's birth certificate by accident"? Dad responds, "no, my daughter is transgender; she is a girl." Now you wonder, how do I proceed?*

As we learn more about transgender children and the parents who support their child's gender inclinations, the above example will present itself more often. Some sport organizations are being proactive and developing guidelines and policies for inclusion of transgender athletes in youth sport programs. However, before diving into policy decisions, it is prudent to understand the facts and dispel misinformation and stereotypes about transgender athletes. Let's begin by focusing on pre-pubescent children. Consider two six-year-old t-ball players. Both are in the same uniform, are about the same height and weight, and have similar skills, yet one is a girl and the other a boy. Given similar size and ability, there seems to be no reason that they cannot be on the same team. Within sport, however, there is a strong tradition of separating boys and girls, starting at very young ages, onto different teams and leagues. This example begins to point out how sex and gender differences are socially constructed. Physically (size and skill), young children do not differ based on sex. While there may be a wide range of height, weight, and skill among 6 year olds, for example, there is as much variability within a sex as between the sexes. However, social conventions in sport mandate that they be divided by sex (i.e., girls teams and boys teams), which leads to social expectations that boys and girls will differ.

Because humans are made up of physical, cultural, social, and behavioral elements, social scientists use different terms to refer to these aspects of us. That is, "males and females have a

recognisable and distinct chromosomal, hormonal, physiological and anatomical make up (i.e., **sex**), and corresponding culturally shaped **gender** (i.e., masculinity and femininity) and **gender expression** (i.e., the display of gender through dress, movement, speech and action)” (Krane & Symons, in press). For most people, sex, gender, and gender expression align predictably; for example, one is female, feminine, and expresses herself as female. Though, some children recognize at a very early age that their body (sex) does not match what is a comfortable gender and gender expression (Stieglitz, 2010). These children are **transgender**; their gender identity is incongruent with their physical sex and their **gender expression** is what is considered **gender non-conforming** (Enke, 2012). In other words, their mannerisms, hair style, speech, and/or attire are unconventional for someone of their sex (e.g., a male who wears a dress and acts in a feminine manner). **Gender identity** refers to an internal sense of being female, male, both female and male, neither female nor male, or transgender (Enke, 2012). Transgender people (sometimes referred to as “trans”) have a gender identity that differs from the sex assigned at birth.

Equipped with a better understanding of language and terminology, the remainder of this chapter will focus on the experiences of transgender athletes, both children and adults. We also will explore how people with varied sexual orientations are treated in women’s sport as well as the impact of prejudice based on gender identity and sexual orientation. Finally the effects of accepting and affirming sport climates will be highlighted.

*“To be a part of a team has taught me more about people's differences than anything else has. Teams that operate more on inclusion always have a better chance to succeed. In the end, we all want to be athletes that are respected. It is my hope that ... we can spread the word on*

*celebrating our differences off the field, so we can all enjoy winning on the field."* Abby

Wambach, United States women's national soccer team

### ***Transgender Youth Sport Participants***

When considering youth sport, should it matter what sex one was assigned at birth? Or should sport administrators recognize a child's gender identity when registering her or him for a girls' or boys' team? What would you do if faced with the example at the beginning of the chapter? When talking about prepubescent children, there are no physical reasons that support banning a transgender child from participating with **cisgender**<sup>1</sup> children (whose gender identity is the same as their birth sex; Gender Spectrum, 2013). In preadolescent children,

hormonal levels do not differ significantly between the sexes. Therefore, no hormonally-based advantage or disadvantage between girls and boys exists. Prior to puberty, boys do not have any physical advantages over girls because of their physiology. Gender segregation in children's sports is purely social. It is not based on any significant physiological differences. (Transgender Law & Policy Institute, 2009, p. 2)

Only bias and discrimination support separating trans youth from their cisgender peers.

Alternatively, there are myriad benefits of supporting inclusive sport for trans youth.

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<sup>1</sup> I use the term cisgender instead of non-transgender because non-transgender implies that being transgender is abnormal while non-transgender is normal. Further, use of cisgender reminds us that all people have a gender identity, not only people who navigate a non-conventional gender identity.

### Jazz

Jazz appears to be a typical nine year old who loves playing soccer. As her skills have excelled, she set out to join the local all-girls' travel team in the Florida Youth Soccer Association (FYSA).

Though, Jazz was born a male and has the physical body of a young boy. When she was three years old, she was diagnosed with gender identity disorder (GID; the formal psychological diagnosis when gender identity and the sex assigned at birth do not match). At age five, Jazz began living as a girl. Now she looks and acts like any other girl her age and, by all accounts, she is happy and well-adjusted.

When administrators realized that Jazz' birth certificate and passport both indicated her gender as male, the FYSA refused to allow her to join the girls' team. Over the next two years, Jazz's parents appealed to every administrative level in the FYSA. Eventually, the complaint was brought in front of the US Soccer Federation board of directors, who unanimously supported Jazz's right to participate on the girls' team. The USSF subsequently developed a task force to learn more about transgender athletes. This resulted in the development of an inclusive policy that applies to soccer players at all age groups and competitive levels within USA Soccer (except the national and Olympic teams, which must abide by international rules). The policy is a "self-determination policy"; players self-identify their gender. Should there be a challenge concerning a player's gender, it is acted upon by a US Soccer-appointed committee and is not addressed at the local club, state or regional level (Torre & Epstein, 2012; Woog, 2013).

Some transgender children recognize their non-conforming gender identity as young as 2 or 3 years of age (Stieglitz, 2010). When these children are forced to live contrary to their gender identity, they often become very unhappy, distant, angry, and depressed (e.g., Edwards-Stout, 2012). As they get older, they may engage in self-harming behaviors (e.g., cutting) and/or substance abuse, have behavioral and emotional problems, and/or attempt suicide (Edwards-Stout, 2012; Spack et al., 2012; Wallien & Cohen-Kettenis, 2008).

When families are supportive of children's unconventional gender expression and recognize them as transgender, the children are far happier and well adjusted (e.g., Drescher & Bynr, 2012; Edwards-Stout, 2012). As in the t-ball example, the parents recognize the child consistent with the expressed gender identity and support participation in activities consistent with that gender identity. Yet, even with supportive families, transgender youth are vulnerable to harassment and discrimination by other adults as well as by peers. For example, in 2013, the parents of transgender children have had to fight to allow their children to use the school bathroom associated with the child's gender

identity (Banda, 2013), attend a school dance in clothes consistent with her gender identity (Tony Zamazal, 2013), and participate on the sport team consistent with her gender identity (Woog, 2013). Trans youth and adolescents also may experience high rates of harassment from peers at school (D'Augelli, Grossman, & Starks, 2006; Grossman & D'Augelli 2006). Yet, when there are supportive adults -- teachers or administrators -- who intervene and stop harassment, transgender children feel safe and all students have a better experience (McGuire, Anderson, Toomey, & Russell, 2010). When transgender youth have social support, high self-esteem, and a high sense of personal mastery, they are resilient and are less affected by negative experiences (Grossman, D'Augelli, & Frank, 2011). Sport has the potential to support transgender children and help them achieve high self-esteem and personal mastery as well as educate cisgender children and their parents.

### ***Post-pubescent and Adult Transgender Athletes***

As we have established, prior to puberty, there are no sex differences between boys and girls that should prevent inclusion of transgender children from playing on a sport team consistent with the expressed gender identity. But, what happens after puberty – is it fair to let a transgender female participate in a girls' league? To begin to answer this question, we must distinguish between transgender and transsexual people as well as delve into some basic physiology and endocrinology (the study of hormones).

After puberty, hormonal changes in bodies generally lead most boys to grow taller and bigger than most girls. Boys also develop more musculature, strength, and speed compared to most girls. Because the average post-pubescent boy is bigger and stronger than the average post-pubescent girl, our society assumes that all males will have a competitive advantage and be better athletes. As such, questions arise, in particular, if a transgender female (who was born with

a male body) wants to compete on a female team. While transgender people may not make any changes to their bodies, someone who is **transsexual** wants to “live and be accepted as a member of the other gender” (Edwards-Leeper & Spack, 2012, p. 322). They plan to, have begun, or completed making changes to their body chemistry and/or anatomy to bring their physicality in alignment with their gender identity (Krane & Symons, in press). Once a transsexual person decides to make changes to the body, she or he enters a period called **transitioning**. During this time, that person may change outward gender expression by, for example, altering hair style, changing the type of clothes worn, and becoming more masculine or feminine (Krane & Symons, in press). Also at this time, hormone therapy often begins. **Affirmed males** (i.e., female sex assigned at birth; also called a trans-man or female-to-male, FTM) will begin taking testosterone, which will lead to gains in lean body mass, muscle mass, strength, and bone density and loss of body fat (Van Caenegem et al., 2012). These athletes also will gain facial hair and other secondary sex characteristics of males (Reeser, 2005). **Affirmed females** (i.e., male sex assigned at birth; also called a trans-woman or a male-to-female, MTF) will undergo hormone therapy that suppresses testosterone and increases estrogen in their bodies. Affirmed female athletes will experience a decline in lean body mass, muscle mass, strength, bone mineral content, and bone density, and gain body fat (Lapauw, 2008; Mueller et al., 2011). It is generally accepted that after one year, affirmed male and affirmed female athletes on hormone therapy will have body physiology consistent with their desired sex. Additionally, some transsexual people will choose to have **sex reassignment surgery (SRS)**, in which changes are made to their anatomy and outward appearance. The process of SRS may include multiple surgeries in which changes are made to the breasts and genitals as well as cosmetic procedures. Prior to SRS, medical standards of care require transsexuals to undergo at least one year of



hormone therapy (Coleman et al., 2011). Thus, by the time a transsexual athlete completes SRS and related rehabilitation, her or his body (anatomically and physiologically) is similar to cisgender females or males. Research consistently supports that post-operative transsexuals have no advantage over cisgender athletes and should be able to compete as their current sex (e.g., Ljungqvist, & Genel, 2005; Lucas-Carr & Krane, 2011).

Returning to the issue of transgender and transsexual sport participation, if a post-pubescent athlete has completed SRS or has been on hormone therapy for one year, that athlete should be allowed to compete as his or her current sex. Many sport policies support similar stances, including those by the National Collegiate Athletic Association (NCAA; 2009) and International Olympic Committee <sup>2</sup>(2003). Rules often mandate that a post-pubescent affirmed female athlete (who has not made any body changes) at highly competitive levels participate as the sex assigned at birth (i.e., as a male); affirmed male athletes typically can compete in either gender category (Krane, in press). Some high school associations, however, allow athletes to compete in the sex category consistent with their gender identity (Lovett, 2013).

#### Taylor Edelman

In 2013, Taylor Edelmann graduated from Purchase College where he played varsity volleyball – on both the women’s and men’s teams. Taylor identifies as transgender. At four years of age, Taylor questioned his body: he wanted to know why he didn’t look like his brothers. He didn’t understand what he was feeling until his first year of high school when Taylor learned about transgender people while doing research online. At that time, he did not tell anyone and volleyball became his sanctuary. In college, Taylor continued to play volleyball on the women’s team. After his first semester, he began telling friends that he was transgender and he then told his parents, all of whom were accepting and supportive.

Although volleyball had been his release in the past, now that he came to terms with his gender identity, Taylor felt out of place on the women’s team. "I had fun playing (on the women's team), but at the same time, I did feel like an outsider... I felt like I was infiltrating a female space" (DeFrancesco, 2013, ¶ 31). At the end of the summer, Taylor began taking testosterone and within six months, his voice deepened, facial hair appeared, and body fat shifted.

Taylor e-mailed the men’s volleyball coach about his transition and in the winter of 2012, he joined the men’s team. The transition to the men’s game was challenging. The pace was faster and Taylor was not able to score kills with the ease he had while on the women’s team. So Taylor focused on strength workouts and gained 30 pounds of muscle to improve his game. After his junior year season, his teammates voted him as team captain (DeFrancesco, 2013; Zeigler, 2013).

Another consideration regarding transgender athletes is the use of a puberty blocking

<sup>2</sup> The IOC policy allows eligibility two years after sex reassignment surgery and continued hormone therapy whereas the NCAA allows eligibility after one year of hormone therapy.

intervention. Medical intervention can delay puberty so that transgender youth can avoid bodily changes that may be highly distressing for them (e.g., developing breasts for an affirmed boy) and to delay introducing cross-sex steroids and potential surgeries until the child is able to fully understand their implications which may include infertility (Edwards-Leeper & Spack, 2012). If an affirmed female (i.e., biological male) has puberty suppressed, she will not gain any of the sport advantages connected to increased testosterone that her cisgender male peers gain, and one may argue, she should be eligible to compete with other girls her age.

In summary, research supports that:

- Prior to puberty, male and female children have similar bodies; young boys do not have any sport-related advantages over young girls.
- After one year of hormone therapy, a transsexual athlete is similar to cisgender peers and has no sex related advantages or disadvantages.
- Post-operative transsexuals have body chemistry (and concomitant strength) that is similar to their cisgender peers and have no sex related advantages or disadvantages.
- Children undergoing puberty suppression have no hormone-related sport advantages over cisgender peers.

All of this suggests that transgender youth or those undergoing a puberty suppression intervention should be able to compete on a team consistent with their gender identity. By one year after beginning hormone therapy or SRS, transsexual athletes can compete fairly with their affirmed gender.

### ***Sexual Orientation and Women's Sport***

*As a junior high school basketball player, Susan was ecstatic when she learned that the coach of*

*State University wanted to meet with her and her parents. Now she is listening intently to Coach Smith as she explains, “We have a family atmosphere on our team. We welcome players’ boyfriends at our events. I recruit young ladies, not women of an alternate lifestyle. Other schools, like University of State, may accept that on their team, but we maintain a high level of decorum and our athletes are exceptional people.”*

The above scenario is common in women’s sport. In the past, discrimination against women, especially lesbian women, in sport was the norm. Today, we see wide ranging levels of acceptance. On one hand, more athletes than ever before now openly reveal lesbian identities. On the other hand, we also see flagrant discrimination. In the above scenario, why might a coach talk like this to recruits? What is the hidden message? Through veiled, and sometimes blatant, language, some coaches engage in **negative recruiting**, which is

an unethical recruitment strategy within women’s collegiate sports, essentially attempting to give their own programs an un-fair advantage based on perpetuating stereotypes, myths, and misconceptions. By implying to a recruit, that a rival college or university’s coach is gay, or that an opposing team is “full of lesbians,” school recruiters use this tactic to prey on unsubstantiated fears, one of which is that a gay coach or gay players might negatively influence the sexual orientation of potential recruits. (Women’s Sport Foundation, 2011, p. 1)

Negative recruiting is unethical and contrary to NCAA policy; yet it also is a common form of bias based on sexual orientation specifically aimed at college coaches (Kauer, 2009; Ionnatta & Kane, 2006; Krane & Barber, 2005). The goal is to discourage athletes from attending rival programs by supposedly besmirching the rival coaches or athletes by labeling them as lesbians.

Negative recruiting is an attack based on one’s (perceived) sexual orientation and sexual

identity. **Sexual orientation** refers to one's emotional and sexual attractions. Typically, in Western societies, sexual orientation is designated as heterosexual, or attraction to people of the "opposite" sex/gender; lesbian or gay, attraction to people of the same-sex/gender; or as bisexual which includes an attraction to both men and women (Krane & Symons, in press). **Sexual identity** reflects a person's sense of self based on sexual orientation as well as feeling connected to a community of others who share this orientation (APA, 2008). Negative recruiting also is grounded in negative stereotypes about lesbians in sport and plays upon the fears of some athletes and parents who would rather not intermingle with lesbian sportswomen (athletes or coaches).

Stereotypes about lesbians in sport are plentiful! You may hear that most female athletes are lesbian or playing certain sports will make a girl a lesbian. There also are misplaced concerns that lesbians in the locker room will make unwanted passes at teammates or ogle them in a sexual manner. In truth, yes, there are lesbian athletes and coaches, just like we are in every other corridor of life. However, the other notions listed above are false. Still, these stereotypes affect coaches' and athletes' beliefs and actions. For example, Nikki, a water polo player at Cal State Monterey Bay, shared her story on the website GO! Athletes (<http://goathletes.org>):

As a gay water polo player, I did everything I could to hide my sexuality from my teammates, especially in a sport that is so physical. I desperately did not want them to know the secret that I was hiding, because I didn't want them to think I was touching them inappropriately or looking at them in the locker room.

Until relatively recently, most lesbian and bisexual athletes chose to conceal their identity and, as evident from Nikki's story, this hiding still occurs. When athletes feel compelled to

### Jennifer Harris

Jennifer Harris dreamed of going to Penn State and playing basketball for Coach Rene Portland. During a recruiting visit, Jennifer recalled, "I mentioned that I'd already visited Virginia and liked it a lot. She said that if that was the case, I probably wouldn't like Penn State because "at Virginia they date women, and at Penn State they date men." It was a strange thing to say, but at the time I was so focused on becoming a part of such a respected basketball program that her comment didn't really register with me. Penn State offered me an athletic scholarship, and I accepted" (Blatt, 2006).

Jennifer only played for Penn State for two years. During that time, Coach Portland accused her of being a lesbian; on two occasions Jennifer was accused of dating a teammate. Both times, Jennifer truthfully responded that they were friends. Coach Portland made it clear that this was unacceptable on her team and threatened to kick Jennifer off the team if she found out Jennifer was a lesbian.

During her sophomore year, Jennifer became a starter and significantly contributed to the team's success. Still, Coach Portland continued to question Jennifer and also began focusing on her appearance; Jennifer was told "to dress in more feminine clothing and wear her hair in a more feminine style instead of the cornrows Harris preferred" (Osborne, 2007, p. 482).

Soon after, Jennifer lost her starting position. "Because Coach Portland thought that I was gay, I was treated in a very demeaning manner ... Coach Portland created an offensive, hostile and intimidating learning environment for players she believed were gay. She created divisiveness on the team by instructing players not to associate with other players she believed to be gay, or they would be kicked off the team also" (NCLR, 2005). Eventually Jennifer was kicked off the team.

Although Portland's ill treatment of lesbian players spanned decades (in 1986 Portland was quoted stating she had a "no-alcohol, no-drugs, no-lesbians" policy"), Jennifer Harris was the first to stand up to the Coach. "I struggled with whether I should just walk away and try to forget what happened. I finally realized that I could never put this incident behind me as long as other students were being subjected to the same sort of humiliation and discrimination I experienced from Coach Portland. In the end, I knew I had to speak out" (Buzinski, 2005).

Represented by The National Center for Lesbian Rights, Harris filed a law suit for discrimination based on race, gender, and sexual orientation. The parties ultimately came to a confidential settlement and shortly afterwards Rene Portland retired from coaching (NCLR, 2005).

conceal lesbian and bisexual identities (i.e., they perceive it is not safe to come out), stereotypes, accusations, labeling, and discriminatory treatment are fueled. It is much easier to aim bigotry at an invisible and unknown entity than at someone you know and like. No longer is it unusual to read about a high profile female athlete acknowledging that she is lesbian. In today's media world, these women rarely make a big announcement; rather within an interview or in social media they may nonchalantly mention a partner or their sexuality. For example, Rutgers' athletic director Julie Hermann included the following on her official bio on the athletics department website: "Hermann and her partner Dr. Leslie Danehy are the proud parents of a seven-year old son, Aidan" ("[Julie Hermann...](#)", 2013) and Meleana Shim of the National Women's Soccer League, described herself as lesbian on her Athlete Ally

profile ([“Meleana Shim”, 2013](#)). But not long ago, and in some places still today, being a lesbian, or even talking about it, is taboo and fraught with bigotry. The story of Coach Rene Portland and Penn State Basketball (see sidebar) exemplifies the worst in women’s sport.

There are many signs that society in general has become much more accepting and inclusive of lesbian, gay, bisexual, and transgender (LGBT) people (e.g., the normalness of lesbian and gay characters on television shows and increasing approval of same sex marriage). The Gay, Lesbian, and Straight Education Network (GLSEN) National School Climate Survey (which has been documenting middle and high school climates for LGBT students since 1999), for the first time, showed “decreases in negative indicators of school climate (biased remarks and victimization) and continued increases in most LGBT-related school resources and supports” (GLSEN, 2011, p. xvii-xviii). While this is promising, at the same time sport seems to lag behind when it comes to reducing prejudice against lesbian and bisexual athletes. The same GLSEN data, looking at only LGBT student-athletes, showed high levels of bullying and harassment in school sports and open hostility towards athletes who are not heterosexual (GLSEN, 2013). In many places, high school locker rooms are perceived as unsafe and areas where bullying is common (Birkett, Espelage, & Koenig, 2009; GLSEN, 2011).

Negative treatment, discrimination, and bigotry towards lesbian and bisexual athletes are referred to as **homonegativism**. Although often used, I prefer not to use the term homophobia (defined as an irrational fear of LGBT people). When beliefs are irrational, they tend to be treated as an illness or something one cannot control. Homonegativism, however, is purposeful, and use of this term holds people accountable for their attitudes and behaviors towards LGBT sportspeople. Hostility “based on gender identity and aimed at trans people, is **trans prejudice** or **transnegativism**” (Krane & Symons, in press). Homo- and transnegativism are overtly

discriminatory actions. More often, in today's social climate, sport settings may be considered heteronormative. **"Heteronormativity"** reflects an ever-present cultural bias in favour of heterosexuality and the omission of other forms of sexuality" (Krane & Symons, in press). These climates often are referred to as "don't ask, don't tell" – the former US military policy in which being LGBT was accepted as long it was not obvious (through one's speech or actions). Heteronormativity creates an air of superficial acceptance. That is, explicit discrimination is not present, yet LGBT people are expected to conform to heterosexual expectations or not talk about or "act" as if they are not heterosexual. While seemingly innocuous, heteronormative sport environments can be very frustrating or stressful for LGBT athletes.

### ***Consequences of Heteronormativity, Homonegativism, and Transnegativism***

*"I feel like there are a lot of gay women in soccer ... But not very many of us openly talk about it. ... I think the silence sends a message that it's not okay to be a lesbian in sports, or that it's a taboo topic. ... Whenever I hear the statistics about kids killing themselves because of their sexuality, or they're being bullied at school, it makes me want to do something about it."* (Meleana Shim, midfielder, National Women's Soccer League; quoted in Ziegler, 2013)

Sadly, lesbian, bisexual, and transgender youth commit suicide at a higher rate than their heterosexual peers (Haas et al., 2013; Zhao, Montoro, Igartua, & Thombs, 2010). Experiences of discrimination, continued harassment, and bullying often underscore suicidal ideation and attempts. This negative treatment also may be associated with depression, stress and anxiety, and decreased self-confidence and self-esteem (Krane, Surface, & Alexander, 2005; Mustanski, Garofalo, & Emerson, 2010; Russell, Ryan, Toomey, Diaz, & Sanchez, 2011). Some athletes may turn to alcohol or forms of substance abuse or engage in cutting or self-injury in reaction to

experienced discrimination.

Much homonegativism and transnegativism is aimed at gender nonconformity. Research consistently supports that gender nonconformity is related to high levels of harassment (e.g., D'Augelli, Grossman, & Starks, 2006; Grossman, D'Augelli, & Frank, 2011). What this means is that athletes who do not adhere to valued gender-role expectations (i.e., girls must appear and act feminine) are most at risk of negative treatment. This finding illustrates how sexual orientation and gender expression often are confounded. When female athletes appear or act too masculine, they are labeled lesbian. Needless to say, this creates a conundrum for most female athletes, especially those in sports where there is a lot of physical contact or where being muscular and powerful is an asset. Regardless of actual sexual orientation or gender identity, being perceived as different regarding gender role expectations puts many sportswomen at risk of homo- or transnegativism and the concomitant psychological and emotional consequences. Further, athletes who are questioning their sexuality may have more negative reactions to bullying and harassment aimed at sexual orientation (Espelage et al., 2008). Often, these athletes have not talked about their feelings with others. They may question their feelings, fear disclosure, or be embarrassed as they are working to understand their identity. As such, they have not developed social support networks that can assist in coping with the negative treatment. Once LBT athletes come out (tell others of their sexual identity), they are able to seek out allies and support.



Further, living with constant discrimination, or fear of it, can impact negatively sport performance and participation (Krane et al., 2005). Harassment by teammates or coaches can lead to low motivation which can result in burnout or lead some athletes to drop out of sport (see sidebar). Fear of harassment will lead some LBT athletes to

**Tony Bias**  
 Tony Bias was a high school basketball player in California. At age 15, Tony came out as transgender and gave up his dream of playing professional basketball. Bullies often targeted Tony calling him “he-she.” To avoid more abuse, he simply quit the sport rather than try out for the boys’ team. *“I miss it so much, to be who I am, I’ve had to give up something that’s really big in my life.”*  
 (GLAAD, 2013; Lovett, 2013)

conceal their identities, which can be very stressful. Imagine hanging out with teammates and trying not to use pronouns for the person you are dating or not disclosing where you went over the weekend. Being focused on concealing one’s sexual identity, being harassed, or working to avoid harassment will distract athletes and divert mental energy away from athletic performance. Further, high stress can interfere with athletic skill performance. Team dynamics also will suffer on teams with homonegative and transnegative climates. Cliques or divisiveness may form. Some players may fear becoming a target, in which case they will not challenge discriminatory actions and these athletes may feel guilty or experience other negative emotional reactions. In all, heteronormativity, homonegativism, and transnegativism create unhealthy and unproductive sport environments.

### ***Accepting and Affirming Sport Climates***

*There are not many athletes who are out. And I think it's something that's important. It felt important to me. ...I guess it seems like a weight off my shoulders, because I've been playing a lot better than I've ever played before. I think I'm just enjoying myself and I'm happy.* (Megan Rapinoe, United States women's national soccer team, Olympic Gold medallist, 2012, quoted in Buzinski, 2012, ¶ 2)

More and more, athletes are coming out to teammates and their teammates are responding positively (e.g., Fink, Burton, Farrell, & Parker, 2012; Kauer & Krane, 2006; Stoelting, 2011). Not surprisingly, upon joining a team LBT athletes often will judge the team climate before disclosing their sexual or gender identities. When coaches are LBT inclusive, there are already openly LBT teammates, or there is at least one ally in the athletic administration, climates are perceived as safe and players are more likely to come out (Fink et al., 2012; Stoelting, 2011). Additionally, some athletes who already are open about their sexuality are not going to change and will continue to be open upon joining a new team. For example, openly lesbian high school athletes will not want to become closeted for a college coach.

In interviews about why lesbian athletes decided to come out to their teammates, the athletes noted that they did not want to hide an important part of their identity (Stoelting, 2011). Also, given the amount of time one spends with teammates, these athletes wanted to “be real” with teammates and they did not want to lie to their friends. When athletes can be open about their sexual identity, positive things happen within the team as well (Kauer & Krane, 2006). Teammates learn about each others’ experiences. Previous biases and stereotypes are challenged and changed. All athletes begin to challenge discrimination aimed at their teammates. Also, diverse identities become normalized. That is, regardless of whether one is heterosexual, lesbian, bisexual, or transgender, all sexual and gender identities are treated in a similar respectful manner. People talk about who they are dating or attracted to, no matter the gender of that person. Everyone’s partners are included in social activities, and it just seems normal.

Learning about the struggles other people have gone through can lead to better understanding and a desire to challenge discrimination. This is the foundation for the current ***Ally Movement*** in sport, which includes programs created by heterosexual **allies** (advocates) with the

goals of creating social change and social justice in sport, fighting discrimination based on sexual and gender identity, and making sport safe for LGBT athletes (Kauer & Krane, in press).

As Heather O'Reilly, US National Team and Professional soccer player, eloquently expressed,

Through sports, we learn so much about ourselves, others, and what it means to be part of a team. One of my biggest takeaways from team sports is that everyone brings different gifts and tools to the table, which is awesome! Diversity should be accepted, respected and celebrated. That's why I am an athlete ally. Because at the end of the day, we aren't so different after all. We all want to play, compete and live while being ourselves. I want women's soccer and the entire sports community to be a landscape of inclusion. (quoted on [www.athleteally.org](http://www.athleteally.org))

Websites such as *Go! Athletes* ([goathletes.org](http://goathletes.org)) provide LGBT athletes support and role models. Here they can get peer support, read the stories of other LGBT athletes, and even submit their own stories. Importantly, other websites also provide support and crisis intervention that were

#### Ally Programs

It Gets Better Campaign (<http://www.itgetsbetter.org/>)

Athlete Ally (<http://www.athleteally.com/>)

You Can Play Project (<http://youcanplayproject.org>)

Break the Silence (<http://www.freedomsounds.org/index.html>)

Step Up! Speak Out! (<http://www.caaws.ca/stepupsspeakout/e/index.cfm>)

AllKye (<http://www.imenough.org/>)

not easily available for LGBT athletes of earlier generations (e.g., the Trevor Project, <http://www.thetrevorproject.org/>; It Gets Better, <http://www.itgetsbetter.org/>).

Prior to the emergence of

these ally programs, several educational programs led the way in fighting LGBT discrimination in sport. In 1996, the Women's Sport Foundation, with the assistance of Martina Navratilova, launched the *It Takes a Team* program and spearheaded the campaign against homonegativism in

sport. Unfortunately, *It Takes a Team* became a victim of budget cuts in 2009. However, Pat Griffin, who was the director of the program its final 5 years, continued her advocacy with *Changing the Game: The GLSEN Sports Project* ([sports.glsen.org](http://sports.glsen.org)), which debuted in 2011 under Griffin's leadership. *The Sports Project*, as described on the GLESEN website, "is an education and advocacy program focused on addressing LGBT issues in K-12 school-based athletic and physical education programs." Another pioneering program is the [National Center for Lesbian Rights \(NCLR\) Sports Project](#). Beginning in 2001 with Helen Carroll as the project director, *The Sports Project* provides legal support and engages in litigation and policy work to fight LGBT discrimination in sport. The GLSEN and NCLR programs still are at the forefront of fighting discrimination and providing educational materials.

Sport should be a place where athletes can learn skills, have fun, and enjoy the camaraderie of the team. There are many social and health benefits of participation as well as life lessons to be learned on the field and in the gym. Homonegativism and transnegativism unfairly rob some athletes of these benefits. The good news is that the resources mentioned in this section provide support for LGBT athletes so they do not need to feel alone and vulnerable. All of these programs also provide educational materials for coaches and parents who want to support their athletes and create safe, supportive, and inclusive sport settings. The emergence of these programs also makes it chic to now support LGBT people in sport. Athlete leaders are expected to step up and intervene when they hear trans- or homonegative language or see prejudiced actions. And, there are public service announcements that educate us on how to approach our peers when they use unacceptable language (e.g., see [thinkB4youspeak.com](http://thinkB4youspeak.com)). Compassion and inclusion are becoming the new normal in sport.

## *Chapter Summary*

Inclusive sport settings recognize the needs of transgender and transsexual athletes as well as discourage discrimination. To do so, it is important to be able to understand athletes' gender identity and their physicality. Pre-pubescent youth have similar bodies regardless of gender or gender identity. Athletes who chose to take hormones to change their physical bodies will have hormone levels and concomitant physicality similar to their cisgender teammates after one year of continued hormone therapy. It also is important to recognize that some athletes may have puberty suppressed, in which case their bodies will not undergo any hormonal and related changes that their peers will experience. Perhaps most important to consider is the psychological and social consequences of inclusion or exclusion from sport and the effects of transnegativism within a team. Safe and inclusive sport for transgender athletes provides them opportunities to develop skills, friendships, and life lessons that all athletes gain.

Historically, sport has been unwelcoming towards lesbian and bisexual female athletes. Today, we see a wide range of climates: some are highly inclusive, others highly homonegative, and many are somewhere in between. In homonegative sport settings, overtly prejudicial actions are aimed at lesbian and bisexual athletes. In heteronormative settings, bias is more subtle and a "don't ask, don't tell" environment is created (i.e., we'll accept you if you don't act lesbian/bisexual). Heteronormative, homonegative, and transnegative sport can lead to increased stress, anxiety, and depression; decreased self-esteem; decreased sport performance; and increased thoughts of, or attempts at, suicide. LBT and heterosexual coaches and athletes can participate in one of many ally programs that will help reduce discrimination, educate athletes, gain support, and create inclusive sport settings. Creating affirming and inclusive team environments will be educational and beneficial for all team members.

### Discussion Questions

1. Should an affirmed female athlete be able to compete on the girls' middle school basketball team? Provide a rationale for why or why not.
2. Create a policy for a high school athletics department regarding transgender participation on sport teams. Because parents are likely to have lots of questions, also include the justification for why this policy is fair.
3. What is negative recruiting and why do some coaches engage in this action? If you were a high school athlete being negatively recruited, how might you respond?
4. As the parent of an LGBT college athlete, you have heard that the coach often uses homonegative language. Discuss the potential consequences of the coach's actions and why this behavior concerns you.
5. How can you encourage your team or a university team to participate in an ally program? Select a program and develop the steps needed to get full team involvement.

### Learning Activities

1. See the *Resources for Supporting Transgender Student Athletes* on the GLSEN Sports Project webpage (<http://sports.glsen.org/resources/resources-for-supporting-transgender-student-athletes/>). Develop a list of 8-10 strategies that administrators, coaches, and athletes can use to create a trans-inclusive sport climate.
2. Complete *The School Athletic Climate Check List* that is on the GLSEN Sports Project website (<http://sports.glsen.org/the-school-athletic-climate-check-list/>). Think about a team you are on currently or have recently played for as you mark your responses. For any items you marked "don't know" or "no," look at the other resources on this website and develop strategies that can

turn these into yeses.

3. Go to the LGBT Issues in Sport Blog

(<http://stream.goodwin.drexel.edu/lgbtsportresearchnet/>). Read through the entries on the first page. Follow at least one story all the way through. Consider the concepts discussed in this chapter and apply them to what you learn in the blog entries:

- a. Describe any examples of homo- or transnegativism.
- b. Describe any actions of allies.
- c. What are the consequences of these prejudiced or supportive actions?
- d. What are your reactions to the stories/issues communicated in the blog?

### **Learning Activities - Media Exercises**

1. Watch the video of the ESPNW interview with Brittney Griner

(<http://espn.go.com/video/clip?id=9309516>). Then answer the following questions:

- a. How does Griner talk about her gender identity?
- b. Describe the atmosphere at Baylor for athletes like Griner?
- c. What did you learn about Griner's coming out experiences?
- d. What are some of her negative experiences related to sexual orientation?  
Gender identity?
- e. How would you describe Griner's attitude toward her critics? Did she always feel this way?
- f. Would you consider Griner a role model for young athletes? Why or why not?

2. Watch the video slideshow in which Jeff Sheng talks about his photography project, *Fearless* (<http://www.fearlessproject.org/#p=-1&a=0&at=0>). Then answer the following questions:
  - a. Why did Sheng begin this project? What was his initial goal? Did he achieve it?
  - b. What is the point or message that Sheng is trying to convey by photographing openly LGBT athletes?
  - c. What might audience members learn by viewing *Fearless*?
  - d. Go to the “Share Your Story” section of the website and listen to stories of the athletes. What is your reaction to their stories? How do their experiences compare to your own?



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ON THE TEAM: EQUAL OPPORTUNITY FOR TRANSGENDER STUDENT ATHLETES

# ON THE TEAM:

## EQUAL OPPORTUNITY FOR TRANSGENDER STUDENT ATHLETES

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**OCTOBER 4, 2010**



# ON THE TEAM:

## EQUAL OPPORTUNITY FOR TRANSGENDER STUDENT ATHLETES

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## ABOUT THE REPORT

The purpose of this report is to provide guidance to high school and collegiate athletic programs about how to ensure transgender student athletes fair, respectful, and legal access to school sports teams. In October 2009 the National Center for Lesbian Rights and It Takes A Team!, an Initiative of the Women's Sports Foundation, co-sponsored a national think tank entitled "Equal Opportunities for Transgender student athletes." Think Tank participants included leaders from the National Collegiate Athletic Association and the National High School Federation, transgender student athletes, and an impressive array of experts on transgender issues from a range of disciplines—law, medicine, advocacy, and athletics. The think tank goals were to develop model policies and identify best practices for high school and collegiate athletic programs to ensure the full inclusion of transgender student athletes.

This think tank report includes best practice and policy recommendations for high school and collegiate athletic programs about providing transgender student athletes with equal opportunities to participate in school-based sports programs. In addition to specific policy recommendations for both high school and college athletics, the report provides guidance for implementing these policies to ensure the safety, privacy, and dignity of transgender student athletes as well as their teammates. Specific best practice recommendations are provided for athletic administrators, coaches, student athletes, parents, and the media.



### LEA ROBINSON

ASSISTANT DIRECTOR OF MULTICULTURAL AFFAIRS,  
LGBTQ OUTREACH, COLUMBIA UNIVERSITY  
(FORMER COACH AND ATHLETE)

**“ During my coaching career, there was little discussion of the existence of transgender student athletes and few resources for those student athletes that did identify as transgender. In my own experience, the few students that I did suspect may have identified as transgender weren’t really able to come out in those settings because of a lack of support within their athletic communities as well as a real lack of resources, education, and safe spaces. I believe that the implementation of supportive policies would signify a commitment to the support and acceptance of transgender-identified student athletes and coaches, and aid in creating more spaces for dialogue and education within the culture of athletics regarding issues and challenges facing transgender student athletes. Those policies will also give transgender student athletes and coaches the guidance, support, encouragement, and sense of safety they need to pursue what can sometimes be a very difficult journey. ”**

## ABOUT THE AUTHORS



### DR. PAT GRIFFIN

Dr. Pat Griffin is the former Director of It Takes A Team! Education Campaign for Lesbian, Gay, Bisexual and Transgender Issues in Sport, an initiative of the Women's Sports Foundation. Dr. Griffin is a Professor Emerita in the Social Justice Education Program at the University of Massachusetts Amherst. She is author of *Strong Women, Deep Closets: Lesbians and Homophobia*

in Sports and co-editor of *Teaching for Diversity and Social Justice: A Sourcebook for Teachers and Trainers*. For the past 25 years, Dr. Griffin has led seminars on diversity issues including lesbian, gay, bisexual, and transgender issues in athletics at numerous colleges and universities, as well as at coaches and athletic administrators' association meetings throughout the United States and Canada. Dr. Griffin has discussed homophobia in sports on ESPN's *Outside the Lines*, HBO's *Real Sports* and ABC Sports. In 2007 she was selected as one of the Top 100 Sport Educators by the International Sport Institute. She played basketball and field hockey and swam at the University of Maryland. She coached high school basketball and field hockey in Silver Spring, Maryland and

coached swimming and diving at the University of Massachusetts Amherst.

A Women's Sports Foundation initiative, It Takes A Team! Education Campaign for Lesbian, Gay, Bisexual, and Transgender Issues in Sport is an education project focused on eliminating homophobia as a barrier to all women and men participating in sport. It Takes A Team! provides practical educational information and resources to athletic administrators, coaches, parents, and athletes at the high school and college levels to make sport safe and welcoming for all. These resources are available at [www.ittakesateam.org](http://www.ittakesateam.org).



### HELEN J. CARROLL

Helen J. Carroll is the Director of the National Center for Lesbian Rights' Sports Project, which aims to ensure that lesbian, gay, bisexual, and transgender players, coaches, and administrators receive fair and equal treatment—free of discrimination. She joined NCLR in 2001 after spending 30 years as an athlete, coach, and collegiate athletic director. Carroll is well-known in the sports world as an acclaimed National Championship Basketball Coach from the University of North Carolina-Asheville. She was a National Collegiate Athletic

Association (NCAA) and National Association of Intercollegiate Athletics (NAIA) Athletic Director at Mills College for twelve years, and now devotes all her efforts to helping the sports world recognize that the inclusion of people who are lesbian, gay, bisexual, and/or transgender diversifies and strengthens the sport experience. Carroll works closely with major national sport organizations including the Women's Sports Foundation and the NCAA. She has been a featured speaker on panels with Nike, ESPN's *Outside the Lines*, *The New York Times*, and many others. Her work appears in Dr. Dee Mosbacher's and Fawn Yacker's award-winning film, *Training Rules*, Dr. Pat Griffin's book, *Strong Women, Deep Closets* and *The Outsports Revolution* by authors Jim Buzinski and Cyd Ziegler Jr. Carroll was recently named to the list of Most Powerful Lesbians in Sport by *Curve Magazine*.

The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. The mission of the Sports Project is to create and ensure a sports culture where individuals may fully participate, free from sexual orientation and gender identity discrimination.

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# INTRODUCTION

## INTRODUCTION

An increasing number of high school- and college-aged young people are identifying as transgender (or trans), meaning that their internal sense of their gender identity is different from the gender they were assigned at birth.<sup>1</sup> These students challenge many parents and educators to rethink our understanding of gender as universally fixed at birth. Educators and parents must be open to this challenge if we are to create educational institutions that value and meet the needs of all students. Once we recognize that transgender young people are part of school communities across the United States, educational leaders have a responsibility to ensure that these students have access to equal opportunities in all academic and extracurricular activities in a safe and respectful school environment.



**STEPHANIE BRILL**  
EXECUTIVE DIRECTOR, GENDER SPECTRUM

**“ There are more and more transgender children today who, even at young ages, are allowed to live their lives in alignment with who they are. As it becomes common medical procedure to allow these children to transition in childhood, athletic policies need to reflect this change in the landscape of student athletes. ”**

Some transgender students, like their non-transgender peers, enjoy athletic competition and want to be part of a school sports team. Transgender young people have the same right to participate and benefit from the positive aspects of athletics as other students do. School athletic leaders, in response to this interest, must identify effective and fair policies to ensure that transgender students have an equal opportunity to participate on school sports teams.

School athletic programs are widely accepted as integral parts of the high school and college experience. The benefits of school athletic participation include many positive effects on physical, social, and emotional well-being. Playing sports can provide student athletes with important lessons about self-discipline, teamwork, success, and failure—as well as the joy and shared excitement that being a member of a sports team can bring.

Additionally, participation in high school athletics shows that a student is well-rounded and can improve a student's chances of acceptance into college. For some students, playing on high school teams leads to future careers in athletics as competitors, coaches, administrators, and athletic trainers. All students, including those who are transgender, deserve access to these benefits.

Though the needs of transgender students in high school and college have received some attention in recent years, this issue has not been adequately addressed in the context of athletics. Few high school or collegiate athletic programs, administrators, or coaches are prepared to fairly, systematically,

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<sup>1</sup> For a more complete list of definitions and terms related to transgender people, refer to Appendix A.

and effectively address a transgender student's interest in participating in athletics. The majority of school athletic programs have no policy governing the inclusion of transgender student athletes, and most coaches are unprepared to accommodate a transgender student who wants to play on a sports team. In fact, most school athletic programs are unprepared to address even basic accommodations such as knowing what pronouns or names to use when referring to a transgender student, where a transgender student should change clothes for practice or competition, or what bathroom or shower that student should use.

In response to this need, the National Center for Lesbian Rights Sports Project and the Women's Sports Foundation initiative It Takes A Team! convened a national think tank in October 2009 entitled "Equal Opportunities for Transgender student athletes." Think tank participants included leaders from the National Collegiate Athletic Association (NCAA) and the National High School Federation, transgender student athletes, and an impressive array of experts on transgender issues from a range of disciplines—law, medicine, advocacy, and athletics.

Think tank participants were committed to a set of guiding principles based on the core values of inclusion, fairness, and equal opportunity in sport. The think tank goals were to develop model policies and identify best practices for high school and collegiate athletic programs to ensure the full inclusion of transgender student athletes.

Think tank participants were also keenly aware of the advantages of adopting uniform national policies for the participation of high school and college transgender athletes. By adopting a single national policy for all high schools and a single national policy for intercollegiate athletics, educators can ensure that student athletes and teams will not run into problems due to inconsistent rules for state eligibility, conference and tournament eligibility, and national competitive tournaments. The adoption of a single national standard for high schools and a single national standard for colleges would also enable an easier transition for high school transgender student athletes moving to another state, or for transgender student athletes in college to transfer to a program in another state.

This report reflects the best thinking of the think tank participants, based on current medical knowledge and legal protections for transgender people, about how to ensure equal opportunities for transgender student athletes. The purpose of this report is to provide leaders in education and athletics with the information they need to make effective policy decisions about the participation of transgender student athletes in high school and college athletic programs. This report is intended for everyone involved with high school or collegiate athletics including college presidents, school board members, high school state athletic association leaders, school principals and district superintendents, intercollegiate athletic conference commissioners, and sport governing organization leaders. It is also intended for individual athletic directors, coaches, student athletes, and parents.

Part One of the report provides an overview of issues related to providing equal opportunities for transgender student athletes. Part Two describes model policies for the inclusion of high school and college transgender student athletes. Part Three recommends best practices for the inclusion of transgender student athletes. Part Four lists additional resources for addressing transgender issues in athletics. Part Five includes an appendix of definitions of key terms, information about the legal rights of transgender people in the United States, and a list of the think tank participants.



# PART ONE:

## OVERVIEW

## PART ONE: OVERVIEW

This section of the report provides an overview of issues related to providing equal opportunities for transgender student athletes by addressing the following questions:

- **What Does Transgender Mean?**
- **Why Must We Address Transgender Issues in Athletics? Why Focus on High School and College Athletics?**
- **Should the Participation of Transgender Student Athletes Raise Concerns About Competitive Equity?**
- **What Are the Benefits of Adopting Fair and Inclusive Policies?**
- **What Are Harmful Effects of Failing to Adopt Fair and Inclusive Policies?**

### What Does Transgender Mean?

“Transgender” describes an individual whose gender identity (one’s internal psychological identification as a boy/man or girl/woman) does not match the person’s sex at birth. For example, a male-to-female (MTF) transgender person is someone who was born with a male body, but who identifies as a girl or a woman. A female-to-male (FTM) transgender person is someone who was born with a female body, but who identifies as a boy or a man.<sup>2</sup>

Some transgender people choose to share the fact that they are transgender with others. Other transgender people prefer to keep the fact that they transgender private.

It is important that other people recognize and respect the transgender person’s identification as a man or a woman. In order to feel comfortable and to express their gender identity to other people, transgender people may take a variety of steps: changing their names and self-referencing pronouns to better match their gender identity; choosing clothes, hairstyles, or other aspects of self-presentation that reflect their gender identity; and generally living, and presenting themselves to others, consistently with their gender identity. Some, but not all, transgender people take hormones or undergo surgical procedures to change their bodies to better reflect their gender identity.

Some people are confused by the difference between transgender people and people who have intersex conditions. The key feature of being transgender is having a psychological identification as a man or a woman that differs from the person’s sex at birth. Apart from having a gender identity that is different than their bodies, transgender people are not born with physical characteristics that distinguish them from others. In contrast, people with intersex conditions (which may also be called a “Differences of Sex Development”), are born with physically mixed or atypical bodies

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<sup>2</sup> Gender Spectrum, “A Word About Words,” available online at [http://www.genderspectrum.org/images/stories/Resources/Family/A\\_Word\\_About\\_Words.pdf](http://www.genderspectrum.org/images/stories/Resources/Family/A_Word_About_Words.pdf).

with respect to sexual characteristics such as chromosomes, internal reproductive organs and genitalia, and external genitalia.<sup>3</sup> An estimated one in 2,000 people are born with an anatomy or chromosome pattern that doesn't seem to fit typical definitions of male or female. The conditions that cause these variations are sometimes grouped under the terms "intersex" or "DSD" (Differences of Sex Development).<sup>4</sup>

Most people with intersex conditions clearly identify as male or female and do not have any confusion or ambiguity about their gender identities. In fact, most intersex conditions are not visible, and many intersex people are unaware of having an intersex condition unless it is discovered during medical procedures. Though there may be some similar issues related to sports participation between transgender and intersex individuals, there are also significant differences. This report will focus on the participation of transgender people in sports.

### Why Must We Address Transgender Issues in School Athletic Programs?

Educators must address transgender issues in athletics for several reasons. First and foremost, core values of equal opportunity and inclusion demand that educational leaders adopt thoughtful and effective policies that enable all students to participate fully in school athletic programs. Over the course of many years, schools have learned and continue to appreciate the value and necessity of accommodating the sport participation interests of students of color, girls and women, students with disabilities, and lesbian, gay, and bisexual students. These are all issues of basic fairness and equity that demand the expansion of our thinking about equal opportunity in sports. The right of transgender students to participate in sports calls for similar considerations of fairness and equal access.

Additionally, as more states, localities, and schools add gender identity and expression to their non-

#### PARENT OF HIGH SCHOOL STUDENT ATHLETE

**“ When my daughter transitioned at the age of 14, at the beginning of her eighth-grade year, we were told that a school administrator had contacted the state association for us. The answer I got then was that she could only compete in girls intramural sports. By the time she was ready to enter high school as a freshmen, she was no longer willing to settle. She wanted the right to compete at any level in the gender role she identified with. ”**

discrimination policies, and as more courts hold that sex discrimination laws protect transgender people, transgender students and their parents are increasingly empowered to insist that athletic programs accommodate transgender students (see Part Five: Appendix B for a compilation of

<sup>3</sup> Intersex Society of North America, “What’s the difference between being transgender or transsexual and having an intersex condition?” Available online at <http://www.isna.org/faq/transgender>.

<sup>4</sup> Advocates for Informed Choice, General Brochure, available online at <http://aiclegal.files.wordpress.com/2010/02/aic-brochure.pdf>.

state and federal laws, regulations, and legal decisions prohibiting discrimination based on gender identity/expression). To avoid decision-making that perpetuates discrimination, school leaders must be proactive in adopting policies that are consistent with school non-discrimination policies and state and federal laws prohibiting discrimination based on gender identity or expression (see Appendix A for definitions of gender identity and gender expression).

Though the number of transgender students is small, research indicates that their number is growing.<sup>5</sup> As the number of people who come out as transgender as teenagers and children increases, so too do the numbers of parents who support their transgender children and advocate for their rights to safety and fair treatment in schools. In response to these demands, K-12 school and college leaders must be prepared to accommodate the educational needs and protect the rights of trans-identified students.

To respond to these realities, sport governing organizations and individual schools are well advised to proactively adopt policies that provide equal opportunities for transgender students to participate on school sports teams. Moreover, in the spirit of encouraging sports participation for all, it is the right thing to do.

In order to design effective policies, educators must understand that gender is a core part of everyone's identity and that gender is more complex than our society generally acknowledges. Learning about the experience of transgender people can help us to see more clearly how gender affects all of our lives, and to put that knowledge into practice in order to better serve all students.



**STEPHANIE BRILL**  
EXECUTIVE DIRECTOR, GENDER SPECTRUM

**“Parents call Gender Spectrum weekly to see if their children will be allowed to play sports in high school.”**

Addressing the needs of transgender students is an important emerging equal opportunity issue that must be taken seriously by school leaders. Because a more complex understanding of gender may be new and challenging for some people, there is a danger that misinformation and stereotypes will guide policy decisions rather than accurate and up-to-date information. Athletic leaders who are charged with policy development need guidance to avoid inscribing misconceptions and misinformation in policies that, ultimately, create more problems than they solve.

<sup>5</sup> See, e.g., Emily A. Greytak, Joseph G. Kosciw, and Elizabeth M. Diaz, Gay Lesbian Straight Education Network, *Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools* (2009). Available online at [http://www.glsen.org/binary-data/GLSEN\\_ATTACHMENTS/file/000/001/1375-1.pdf](http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1375-1.pdf). Despite this evidence of growing numbers, the decision to provide equal opportunity should not be based on the number of transgender students who want to play sports. Even the smallest minority of students deserves the opportunity to participate in all school-sponsored programs.

## Why Focus on High School and College Athletics?

Providing equal opportunities in all aspects of school programming is a core value in education. As an integral part of educational institutions, high school and college athletic programs are responsible and accountable for reflecting the goals and values of the educational institutions of which they are a part. It follows that school athletic programs must reflect the value of equal opportunity in all policies and practices.

Athletic programs affiliated with educational institutions have a responsibility, beyond those of adult amateur or professional sports programs, to look beyond the value of competition to promote broader educational goals of participation, inclusion, and equal opportunity. Because high schools and colleges must be committed to those broader educational goals, they should not unthinkingly adopt policies developed for adult Olympic and professional athletes. Recognizing the need to address the participation of transgender athletes, a few leading international and professional sport governing organizations have developed policies based on overly stringent, invasive, and rigid medical requirements. These policies are not workable or advisable for high school and college athletes for a number of reasons.

For example, in 2004 the International Olympic Committee (IOC) developed a policy addressing the eligibility of transgender athletes to compete in IOC sanctioned events.<sup>6</sup> While the IOC deserves credit for its pioneering effort to address the inclusion of transgender athletes, medical experts have identified serious flaws in the IOC policy, especially its requirement of genital reconstructive surgery, which lacks a well-founded medical or policy basis. Most transgender people—even as adults—do not have genital reconstructive surgery.<sup>7</sup> In addition, whether a transgender person has genital reconstructive surgery has no bearing on their athletic ability. The IOC policy also fails to provide sufficient protections for the privacy and dignity of transgender athletes. Because of these serious flaws, high schools and colleges should not adopt or look to the IOC policy as a model.<sup>8</sup>

### ERIC VILAIN

M.D., PH.D., PROFESSOR, DIRECTOR OF THE CENTER FOR GENDER-BASED BIOLOGY AND CHIEF MEDICAL GENETICS DEPARTMENT OF PEDIATRICS, UCLA



**“ Requiring sex reassignment surgery before allowing participation for the high school or collegiate student athlete is medically unnecessary and not linked to competitive equity. IOC regulations requiring surgery for Olympic transgender athletes have been controversial and it would be unreasonable to make this a requirement for high school and college students. ”**

<sup>6</sup> International Olympic Committee, *Statement of the Stockholm Consensus on Sex Reassignment in Sport* (2003), [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_905.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_905.pdf).

<sup>7</sup> Lisa Mottet, National Gay and Lesbian Task Force Policy Institute and National Center for Transgender Equality, “Preliminary Findings of the National Transgender Discrimination Survey” (2010).

<sup>8</sup> Alice Dreger, “Sex Typing for Sport,” Hastings Center Report (March-April 2010).

There are additional reasons for high schools and colleges to create their own policies rather than adopt policies developed for adults. High school- and college-aged student athletes have developmental needs that differ from those of adults. For example, a core purpose of high school and college is to teach students how to participate and be good citizens in an increasingly diverse society and how to interact respectfully with others. In addition, high school and college athletic programs impose limits on how many years a student athlete can compete that do not exist in adult sporting competitions, where athletes can compete as long as their performances are viable or, in the case of most amateur sports, as long as they wish to.

It is also advisable that high school athletic programs adopt a different policy for including transgender student athletes than college athletic programs. Specifically, this report recommends that high schools permit transgender athletes to play on teams consistent with the student's gender identity, without regard to whether the student has undertaken any medical treatment. In contrast, the report recommends a more nuanced policy for collegiate athletics that is based, in part, upon whether a student athlete is undergoing hormone therapy.

The need for distinct high school and collegiate policies is based on several considerations. First, in high school settings, students are guaranteed the availability of a high school education and a corresponding opportunity to participate equally in all high school programs and activities. At the high school level, the focus should be on full participation in athletics for all students, within the limits of school resources to provide participation opportunities.

Second, intercollegiate sports are governed differently than high school sports. Intercollegiate athletics are regulated nationally by governing bodies that sponsor national competitions and oversee such functions as the random testing of student athletes for the use of banned substances thought to enhance athletic performance. Because testosterone is a banned substance under the current rules for intercollegiate competition, the inclusion of transgender student athletes in college sports must be consistent with those rules.

Third, high school student athletes are still growing and developing physically, cognitively, and emotionally. Because high school-aged students are still growing and maturing, they present a broader range of physical characteristics than collegiate student athletes do, and these differences should be taken into account in developing a policy for high school students.

Finally, high school-aged and younger transgender students are subject to different medical protocols than adults because of their age and physical and psychological development.<sup>9</sup> The World Professional Association for Transgender Health (WPATH) has established guiding medical protocols for transitioning—the process by which a transgender person lives consistently with their gender identity—which may include treatments to have the person's physical presentation more closely align with their identity. Those protocols vary based on the age and psychological readiness of the young person.<sup>10</sup> For children and youth, transition typically consists entirely of

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<sup>9</sup> Stephanie Brill and Rachel Pepper, *The Transgender Child: A Handbook for Families and Professionals* (San Francisco: Cleis Press, 2008).

<sup>10</sup> World Professional Association for Transgender Health, *The Harry Benjamin International Gender Dysphoria Association's Standards Of Care For Gender Identity Disorders, Sixth Version* (2001). Available online at <http://www.wpath.org/documents2/socv6.pdf>.

permitting the child to dress, live, and function socially consistently with the child's gender identity. For youth who are approaching puberty, hormone blockers may be prescribed to delay puberty in order to prevent the youth from going through the traumatic experience of acquiring secondary sex characteristics that conflict with his or her core gender identity. For older youth, cross-gender hormones or even some sex-reassignment surgeries may be prescribed.



#### JAMISON GREEN

CENTER OF EXCELLENCE FOR TRANSGENDER HEALTH, UCSF, WPATH BOARD OF DIRECTORS

**“ The World Professional Association for Transgender Health Board of Directors has stated that policies requiring surgery as a condition of identity recognition are not advisable as a matter of ethical healthcare. High schools and colleges should not require surgery for a student to compete in their affirmed gender. ”**

All of these factors point to the need to develop policies for the inclusion of transgender student athletes in high school and college programs that take the relevant differences between the two settings into account. In the high school and college policies recommended below, we have attempted to take account of these differences.

### Should the Participation of Transgender Student Athletes on School Teams Raise Concerns About Competitive Equity?

Concern about creating an “unfair competitive advantage” on sex-separated teams is one of the most often cited reasons for resistance to the participation of transgender student athletes. This concern is cited most often in discussions about transgender women or girls competing on a women's or girls' team. Some advocates for gender equality in high school and college sports are concerned that allowing transgender girls or women—that is, male-to-female transgender athletes who were born male, but who identify as female—to compete on women's teams will take away opportunities for other girls and women, or that transgender girls or women will have a competitive advantage over other non-transgender competitors.

These concerns are based on three assumptions: one, that transgender girls and women are not “real” girls or women and therefore not deserving of an equal competitive opportunity; two, that being born with a male body automatically gives a transgender girl or woman an unfair advantage when competing against non-transgender girls and women; and three, that boys or men might be tempted to pretend to be transgender in order to compete in competition with girls or women.

These assumptions are not well founded. First, the decision to transition from one gender to the other—to align one's external gender presentation with one's internal sense of gender identity—is

a deeply significant and difficult choice that is made only after careful consideration and for the most compelling of reasons. Gender identity is a core aspect of a person's identity, and it is just as deep seated, authentic, and real for a transgender person as for others. Male-to-female transgender women fully identify and live their lives as women, and female-to-male transgender men fully identify and live their lives as men. For many transgender people, gender transition is a psychological and social necessity. It is essential that educators in and out of athletics understand this.

Second, while some people fear that transgender women will have an unfair advantage over non-transgender women, it is important to place that fear in context. When examined carefully, the realities underlying this issue are more complex than they may seem at first blush. The basis of this concern is that transgender girls or women who have gone through male puberty may have an unfair advantage due to the growth in long bones, muscle mass, and strength that is triggered by testosterone. However, a growing number of transgender youth are undergoing medically guided hormonal treatment prior to puberty, thus effectively neutralizing this concern. Increasingly, doctors who specialize in treating transgender people are prescribing hormone blockers to protect children who clearly identify as the other gender from the trauma of undergoing puberty in the wrong gender and acquiring unwanted secondary sex characteristics. When the youth is old enough to make an informed decision, he or she can make the choice of whether to begin cross-gender hormones. Transgender girls who transition in this way do not go through a male puberty, and therefore their participation in athletics as girls does not raise the same equity concerns that might otherwise be present.

**DR. WALTER BOCKTING, PH.D.**  
PRESIDENT OF WPATH, ASSOCIATE PROFESSOR,  
UNIVERSITY OF MINNESOTA MEDICAL SCHOOL

**“Differences within the sexes are considerable and often times larger than differences between the sexes.”**



In addition, even transgender girls who do not access hormone blockers or cross-gender hormones display a great deal of physical variation, just as there is a great deal of natural variation in physical size and ability among non-transgender girls and boys. Many people may have a stereotype that all transgender girls and women are unusually tall and have large bones and muscles. But that is not true. A male-to-female transgender girl may be small and slight, even if she is not on hormone blockers or taking estrogen. It is important not to over generalize. The assumption that all male-bodied people are taller, stronger, and more highly skilled in a sport than all female-bodied people



is not accurate.<sup>11</sup> This assumption is especially inaccurate when applied to youth who are still developing physically and who therefore display a significantly broader range of variation in size, strength, and skill than older youth and adults.<sup>12</sup>



**DR. NICK GORTON**

AMERICAN BOARD OF EMERGENCY MEDICINE,  
MEDICAL LEGAL CONSULTANT, TRANS HEALTH CARE

**“Transgender student athletes fall within the spectrum of physical traits found in athletes of their transitioned gender, allowing them to compete fairly and equitably.”**

It is also important to know that any athletic advantages a transgender girl or woman arguably may have as a result of her prior testosterone levels dissipate after about one year of estrogen therapy. According to medical experts on this issue, the assumption that a transgender girl or woman competing on a women’s team would have a competitive advantage outside the range of performance and competitive advantage or disadvantage that already exists among female athletes is not supported by evidence.<sup>13</sup> As one survey of the existing research concludes, “the data available does not appear to suggest that transitioned athletes would compete at an advantage or disadvantage as compared with physically born men and women.”<sup>14</sup>

Finally, fears that boys or men will pretend to be female to compete on a girls’ or women’s team are unwarranted given that in the entire 40 year history of “sex verification” procedures in international

<sup>11</sup> In addition, what counts as a competitive advantage may shift dramatically depending on the sport. What is an advantage in one context may be a disadvantage in another. For example, factors such as height, weight, reaction time, and proportion of fast twitch muscle fibers all affect competitive advantage depending on the sport. A female volleyball player may be very tall, and yet few people would consider that to be an unfair competitive advantage in her sport. Similarly, a male swimmer may have a naturally high hemoglobin count enabling him to take in more oxygen, but he is not barred from swimming for that reason. Sarah Teetzel, “On Transgendered Athletes, Fairness and Doping: An International Challenge,” *Sport in Society: Cultures, Commerce, Media, Politics*, 1743-0445, Volume 9, Issue 2 (2006) Pages 227 – 251.

<sup>12</sup> Assuming that boys have an automatic advantage over girls is particularly false with respect to prepubescent children, where gender plays virtually no role in determining relative athletic ability. For that reason, we strongly recommend that school and recreational sports adopt the policy recommended by the Transgender Law and Policy Institute and endorsed by Gender Spectrum. Transgender Law and Policy Institute, *Guidelines for Creating Policies for Transgender Children in Recreational Sports* (2009).

<sup>13</sup> Brenda Wagman, Promising Practices: Working with Transitioning/Transitioned Athletes in Sport Project, AthletesCAN, Canadian Association for the Advancement of Women in Sport, and the Canadian Centre for Ethics in Sport, *Including Transitioning and Transitioned Athletes in Sport: Issues, Facts and Perspectives* (2009). Available online at [http://www.caaws.ca/e/resources/pdfs/Wagman\\_discussion\\_paper\\_THE\\_FINAL.pdf](http://www.caaws.ca/e/resources/pdfs/Wagman_discussion_paper_THE_FINAL.pdf).

<sup>14</sup> Michaela C. Devries, “Do Transitioned Athletes Compete at an Advantage or Disadvantage as compared with Physically Born Men and Women: A review of the Scientific Literature” (May 18, 2008). Including Transitioning and Transitioned Athletes, *supra* note 13. Available online at [http://www.caaws.ca/e/resources/pdfs/Wagman\\_discussion\\_paper\\_THE\\_FINAL.pdf](http://www.caaws.ca/e/resources/pdfs/Wagman_discussion_paper_THE_FINAL.pdf).

sport competitions, no instances of such “fraud” have been revealed.<sup>15</sup> Instead, rather than identifying men who are trying to fraudulently compete as women, “sex verification” tests have been misused to humiliate and unfairly exclude women with intersex conditions.<sup>16</sup> The apparent failure of such tests to serve their stated purpose of deterring fraud—and the terrible damage they have caused to individual women athletes—should be taken into account when developing policies for the inclusion of transgender athletes.

Rather than repeating the mistakes of the past, educators in high school and collegiate athletics programs must develop thoughtful and informed policies that provide opportunities for all students, including transgender students, to participate in sports. These policies must be based on sound medical science, which shows that male-to-female transgender athletes do not have any automatic advantage over other women and girls. These policies must also be based on the educational values of sport and the reasons why sport is included as a vital component of the educational environment: promoting the physical and psychological well-being of all students, and teaching students the values of equality, participation, inclusion, teamwork, discipline, and respect for diversity.

### What Are the Benefits of Adopting Inclusive Policies and Practices Regarding Transgender Student Athletes?

All stakeholders in high school and collegiate athletics will benefit from adopting fair and inclusive policies enabling transgender student athletes to participate on school sports teams. School-based sports, even at the most competitive levels, remain an integral part of the process of education and development of young people, especially emerging leaders in our society. Adopting fair and inclusive participation policies will allow school and athletic leaders to fulfill their commitment to create an environment in which all students can thrive, develop their full potential, and learn how to interact with persons from diverse groups.

**DONNA ROSE**  
TRANSGENDER ACTIVIST, WRESTLER

**“To deny us the opportunity to participate and to compete and to potentially excel is to take away part of ourselves that we cherish.”**



<sup>15</sup> Erin Buzuvis, “Caster Semenya and the Myth of the Level Playing Field,” *Social Science Research Network* (2009). Available online at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1521674](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1521674).

<sup>16</sup> Joe Leigh Simpson et al, “Gender Verification in the Olympics,” *JAMA* (2000); 284: 1568-1569; see also Sex Typing for Sport, supra note 8.

Many schools and athletic departments identify diversity as a strength and have included sexual orientation and gender identity/expression in their non-discrimination policies. Athletic departments and personnel are responsible for creating and maintaining an inclusive and non-discriminatory climate in the areas they oversee. Adopting inclusive participation policies provides school athletic leaders with a concrete opportunity to fulfill that mandate and demonstrate their commitment to fair play and inclusion.

Moreover, when all participants in athletics are committed to fair play, inclusion, and respect, student athletes are free to focus on performing their best in athletic competition and in the classroom. This climate promotes the well-being and achievement potential of all student athletes. Every student athlete and coach will benefit from meeting the challenge of overcoming fear and prejudice about social groups of which they are not members. This respect for difference will be invaluable to all student athletes as they graduate and enter an increasingly diverse workforce in which knowing how to work effectively across differences is a professional and personal asset.

### What Are Harmful Potential Consequences of Failure to Adopt Transgender-Inclusive Policies and Practices?

When schools fail to adopt inclusive participation policies, they are not living up to the educational ideals of equality and inclusion, and may reinforce the image of athletics as a privileged activity not accountable to broad institutional and societal ideals of inclusion and respect for difference. Moreover, this failure puts schools, athletic conferences, and sport governing organizations at risk of costly discrimination lawsuits and negative media attention.



**KEELIN GODSEY**  
TRANSGENDER STUDENT ATHLETE,  
BATES COLLEGE, 2006

**“ I have found it is nearly impossible to be both trans and an athlete. Being an athlete and being trans are both a part of my identity. I wish I didn’t feel like I have to choose one or the other. ”**

Failing to adopt transgender-inclusive participation policies is hurtful to and discriminates against transgender students because they may be denied the opportunity to participate in school sports. School sports programs are integral parts of a well-rounded education experience. The benefits of school sports participation include many positive effects on physical, social, and emotional well-being. All students, including those who are transgender, deserve access to these benefits.<sup>17</sup>

<sup>17</sup> Kirk Mango, “The Benefits of Competitive Athletic Sports Participation in Today’s Sports Climate,” *Chicago Now* (February 16, 2010). Available online at <http://www.chicagonow.com/blogs/athletes-sports-experience/2010/02/the-benefits-of-competitive-athletic-sports-participation-in-todays-sports-climate.html>.

Failure to adopt inclusive participation policies also hurt non-transgender students by conveying a message that the values of non-discrimination and inclusion are less important than values based on competition and winning. Schools must model and educate about non-discrimination values in all aspects of school programming, not only for students, but for parents and community members as well.

Last but not least, failure to adopt policies that ensure equal opportunities for transgender student athletes may also result in costly and divisive litigation. As described in Appendix B, a growing number of states and localities are adopting specific legal protections for transgender students. In addition, state and federal courts are increasingly applying sex discrimination laws to prohibit discrimination against transgender people.

#### JILL PILGRIM

FORMER GENERAL COUNSEL & DRUG TESTING  
PROGRAM ADMINISTRATOR LADIES PROFESSIONAL  
GOLF ASSOCIATION



**“ High Schools and colleges need to adopt transgender student athlete accommodation policies to remedy the silent suffering of young people who have the right to participate and enjoy the same activities that all other students have access to, without being discriminated against. ”**

Several studies show that schools are often hostile places for transgender students and other students who do not conform to stereotypical gender expectations.<sup>18</sup> These students are frequently subjected to peer harassment and bullying which stigmatizes and isolates them. This mistreatment can lead to feelings of hopelessness, depression, and low self-esteem. When a school or athletic organization denies transgender students the ability to participate in sports because of their gender identity or expression, that condones, reinforces and affirms their social status as outsiders or misfits who deserve the hostility they experience from peers.

Finally, the absence of transgender-inclusive policies and practices reinforces stereotypes and fears about gender diversity. When transgender students are stigmatized and excluded, even non-transgender students may experience pressure to conform to gender-role stereotypes as a way to avoid being bullied or harassed themselves.

<sup>18</sup> Harsh Realities, *supra* note 3.

## **PART TWO:**

### **POLICY RECOMMENDATIONS FOR INCLUDING TRANSGENDER STUDENT ATHLETES**

## PART TWO: POLICY RECOMMENDATIONS FOR INCLUDING TRANSGENDER STUDENT ATHLETES

This section of the report includes:

- **Guiding Principles**
- **General Recommendations**
- **Recommended Policy for High School Athletics**
- **Recommended Policy for College Athletics**
- **Additional Guidelines for Transgender Student Athlete Inclusion**

### Guiding Principles

We recommend that policies governing the participation of transgender student athletes be informed by the following principles, which provided a philosophical foundation for the think tank participants.

Think Tank participants were committed to these guiding principles based on the belief that athletic participation is an integral part of the educational experience. This report recommends that, in addition to an organization's stated values, the following principles be included in the transgender student athlete policy statement:

1. Participation in interscholastic and intercollegiate athletics is a valuable part of the education experience for all students.
2. Transgender student athletes should have equal opportunity to participate in sports.
3. The integrity of women's sports should be preserved.
4. Policies governing sports should be based on sound medical knowledge and scientific validity.
5. Policies governing sports should be objective, workable, and practicable; they should also be written, available and equitably enforced.
6. Policies governing the participation of transgender students in sports should be fair in light of the tremendous variation among individuals in strength, size, musculature, and ability.
7. The legitimate privacy interests of all student athletes should be protected.

8. The medical privacy of transgender students should be preserved.
9. Athletic administrators, staff, parents of athletes, and student athletes should have access to sound and effective educational resources and training related to the participation of transgender and gender-variant students in athletics.
10. Policies governing the participation of transgender students in athletics should comply with state and federal laws protecting students from discrimination based on sex, disability, and gender identity and expression.

## General Recommendations

1. Schools should adopt transgender student athlete inclusive policies proactively, rather than waiting for a transgender student to express an interest in sports participation. Proactive adoption of such a policy enables school and athletic administrators to educate staff, students and parents about the policy and increases the likelihood that inclusion of transgender students on school teams will occur in a timely, fair and effective manner. The adoption of comprehensive, consistent policies, and the institution of training concerning participation of transgender student athletes before the instance of a transgender student asking to participate also prevent situations in which a student may be subject to harassment or other unwanted or undue attention.
2. Policies governing the participation of transgender student athletes should be adopted by national and state athletic associations and implemented within individual school districts at the individual school level. The advantage of adopting a single national policy for all high schools and a single national policy for intercollegiate athletics is that it provides consistency for state eligibility rules, conference and tournament eligibility, and national competitive tournaments. This consistency reduces the likelihood of student athletes being held to different eligibility requirements in different states.
3. The adoption of a single national standard for high schools and a single national standard for colleges would also enable an easier transition for high school transgender student athletes moving to another state, or for transgender student athletes in college to transfer to a program in another state. Policy consistency eliminates confusion and ensures that transgender student athletes will be afforded an opportunity to compete in every state at both the high school and collegiate levels. Add or amend school non-discrimination policies to include “gender identity and expression.”
4. Policies should focus on maximizing inclusiveness, rather than restricting students’ opportunities to participate based on their gender identity or expression.
5. Policies should reflect the educational values of the organization adopting them and include procedures for implementation, protection of student confidentiality, and appeal.
6. Policies should enable all student athletes, regardless of their gender identity or expression, to compete in a safe, competitive, and respectful environment free of discrimination.

7. Policies should use clear and consistent language that reflects understanding of the concepts of transgender, gender identity, and gender expression.
8. Policies should be in written form and included in all school organizational rulebooks, eligibility guidelines, and student athlete handbooks and should be made readily available to all stakeholders including administrators, coaches, students, and parents.
9. Educational resources should be made available to all national, state and local athletic associations and conferences, school athletic staff, parents, and student athletes, including:
  - Information about gender identity and expression
  - State and federal non-discrimination and anti-harassment laws pertaining to transgender students
  - Best practices for including transgender student athletes on teams, and
  - Information about the transgender student athlete participation policy in the student athlete handbook.

## A HIGH SCHOOL STUDENT ATHLETE A PERSONAL STORY

**“ I am blessed to have a mom who has always accepted me, even though I know that it was hard for her at first. Knowing that my mom was always there to fight for my rights, and that she is not ashamed of me helped me to have the confidence to participate in sports. ”**

I've been on the cross country and track teams since before I started to transition. At first, I had to be on the boys' team. I always felt terrible, out of place, and like I was living a lie.

When I first started to transition, I was able to be on the girls' team. I was so excited to be with the girls, but I was not allowed to “officially” compete and that was hard.

I'll be a senior this fall. Looking back at these last three years competing on the girls' cross country and track team, I feel really good about my experience as a transgender student athlete in my high school. I know I couldn't have done it without the help of

people who have loved and supported me, and fought for my right to be myself no matter what.

My mom was always with me, and she talked to the coaches about what I needed so I could participate fully on the team. My coaches are great. They do not treat me like I am different. To them, I am just another girl on the team.

Before I had surgery, I was able to talk to my female coach about how uncomfortable I would be wearing the speed suits that are required when running, and she was able to figure out a solution that did not single me out. My coaches also made sure that I

was accepted and safe when I started to use the girls' restroom and locker room. And I have teammates that are genuinely accepting, and defend me if others on the team are teasing me, or saying things about me behind my back.

Overall, I believe that taking the time to educate my teammates, being honest, and holding my head high has helped me to be a successful student athlete. I know that there are still people who don't accept or understand what it means to be transgender, but I don't let them get in my life, or in the way of my success on the track or off.



## POLICY RECOMMENDATIONS FOR HIGH SCHOOL AND COLLEGIATE ATHLETICS

The following policy recommendations are for high school and collegiate athletic programs and should not be assumed appropriate for younger age groups. We recommend that policies for younger athletes should be adopted specifically for that age group and should follow the general guidelines developed by the Transgender Law and Policy Institute and endorsed by Gender Spectrum which states that prepubescent young people should be able to commit in recreational and school sports according to their gender identity.<sup>19</sup>

We urge readers to keep in mind that policy development governing the inclusion of transgender student athletes is an emerging endeavor. As new research on the participation of transgender athletes and the physiological effects of gender transition on athletic performance becomes available, policies may need to be reevaluated to ensure that they reflect the most current research-based information.

### Recommended Policy for High School Athletics

A transgender student athlete at the high school level shall be allowed to participate in a sports activity in accordance with his or her gender identity irrespective of the gender listed on the student's birth certificate or other student records, and regardless of whether the student has undergone any medical treatment. This policy shall not prevent a transgender student athlete from electing to participate in a sports activity according to his or her assigned birth gender.

### RECOMMENDED IMPLEMENTATION PROCEDURES

1. Notice to the School: The student and/or parents shall contact the school administrator or athletic director indicating that the student has a consistent gender identity different than the gender listed on the student's school registration records or state birth record, and that the student desires to participate in activities in a manner consistent with his/her gender identity.
2. Notice to the State Interscholastic Athletic Association (SIAA): The athletic director shall notify the SIAA of the student's interest in participating.
3. Once the athletic director grants the student eligibility to participate in the sport consistent with his/her gender identity, the eligibility is granted for the duration of the student's participation and does not need to be renewed every sports season or school year. All discussion and documentation will be kept confidential, and the proceedings will be sealed unless the student and family make these records available.
4. All communications among involved parties and required supporting documentation shall be kept confidential and all records of proceedings sealed unless the student and family

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<sup>19</sup> Transgender Law and Policy Institute, *Guidelines for Creating Policies for Transgender Children in Recreational Sports* (2009). Online at [http://www.transgenderlaw.org/resources/TLPI\\_GuidelinesforCreatingPoliciesforTransChildreninRecSports.pdf](http://www.transgenderlaw.org/resources/TLPI_GuidelinesforCreatingPoliciesforTransChildreninRecSports.pdf); Gender Spectrum, "School Policies and the Law: School Sports," available online at [http://www.genderspectrum.org/index.php?option=com\\_content&view=article&id=24&Itemid=38](http://www.genderspectrum.org/index.php?option=com_content&view=article&id=24&Itemid=38).

make a specific request otherwise. All medical information provided pursuant to this policy shall be kept strictly confidential as is consistent with medical privacy law.

5. Should any questions arise about whether a student's request to participate in a sports activity consistent with his or her gender identity is bona fide, a student may seek review of his or her eligibility for participation through the procedure set forth below:

A. First Level of Appeal: The student will be scheduled for an appeal hearing before an SIAA eligibility committee specifically established to hear gender identity appeals. The SIAA shall schedule a hearing as expeditiously as possible, but in no case later than five (5) school business days of the student's school prior to the first full interscholastic contest that is the subject of the petition, or within a reasonable time thereafter in cases of emergency, including, but not limited to, any unforeseeable late student enrollment. The Gender Identity Eligibility Committee will be comprised of a minimum of three of the following persons, at least one of whom must be from the physician or mental health professional categories:

- Physician with experience in transgender health care and the World Professional Association for Transgender Health (WPATH) Standards of Care
- Psychiatrist, psychologist, or licensed mental health professional familiar with the WPATH Standards of Care
- School administrator from a non-appealing school
- SIAA staff member
- Advocate familiar with issues of gender identity and expression

B. Documentation: The appealing student should provide the Eligibility Committee with the following documentation and information:

- Current transcript and school registration information
- Documentation of the student's consistent gender identification (e.g., written statements from the student and/or parent/guardian and/or health care provider)
- Any other pertinent documentation or information

C. Committee Decision Process: The student's appeal should be granted upon the committee's receipt of the documentation noted above.

D. Second Level of Appeal: If the Gender Identity Eligibility Committee denies the student's request to participate, the student can file a notice of appeal with the Executive Director of the SIAA on or before the tenth (10th) school business day following the date of receipt of the written decision of the Gender Identity Eligibility Committee denying the petition. An appeal to the SIAA Executive

Director shall require the Executive Director to schedule a hearing to commence on or before the tenth (10th) school business day following the date of receipt of the written notice of appeal. Written notice of the time and place of the hearing shall be delivered to the appealing student in person or by certified mail, with return receipt requested, no later than five (5) school business days of the student's school prior to the date of the hearing.

- E. When there is confirmation of a student's consistent gender identity, the Eligibility Committee/SIAA Executive Director will affirm the student's eligibility to participate in SIAA activities consistent with the student's gender identification.



**MIKE COLBRESE**

EXECUTIVE DIRECTOR, WASHINGTON  
INTERSCHOLASTIC ACTIVITIES ASSOCIATION

**“ The WIAA’s gender identity/expression policy, which was adopted two years ago, has been successful in its implementation in the eyes of student athletes, teammates, coaches, athletic directors, parents, and the state association. ”**

Our think tank report recommendation for interscholastic athletics is based on the Washington Interscholastic Activities Association (WIAA) Gender Identity/Expression policy adopted in 2008. The WIAA adopted this non-discrimination policy permitting transgender student athletes to participate according to their gender identity. This policy and specific procedural steps that students and schools are required to follow are described in the WIAA Official Handbook. WIAA officials report that this policy is working as planned in providing equal opportunity for currently participating transgender student athletes. The WIAA policy is, as of 2010, the best working policy governing the participation of transgender student athletes in high school sports and is consistent with contemporary medical knowledge and practice and with the principles of inclusion and non-discrimination, as well as with laws prohibiting discrimination against transgender persons. (See Part Five: Appendix B)

As a final note, it is important to recognize that some high school transgender athletes will have undergone hormonal treatments or even surgeries, and others will not. This recommended policy—which requires inclusion regardless of whether a transgender student has undergone any medical treatment—recognizes that regulating access to high school sports based on medical treatment would be unfair and too complicated for this level of competition. However, high schools should ensure that transgender student athletes are aware of any policies that may affect their ability to compete at the collegiate level so that they can make informed choices about how medical transition may affect their eligibility to participate in collegiate athletics.

**KEELIN GODSEY**

FORMER STUDENT ATHLETE, BATES COLLEGE, 2006,  
NORTHEASTERN COLLEGE, 2010



Photo courtesy of Jeff Sheng

I was 18 when I started to figure out I was transgender, but the thought of telling anyone was absolutely frightening. I didn't have the support system I needed and I didn't know how it would impact my track and field career.

I started researching rules and regulations for transgender athletes, and while I was able to find a policy from the International Olympic Committee, I couldn't find anything that would apply to me at the collegiate level. I later found out it was because they didn't have any policies.

I also tried to find information about transgender athletes, which, at the time, was like trying to find a needle in a haystack. I became very fearful that you couldn't be transgender and a champion collegiate athlete at the same time. This fear, the lack of policies and information about successful transgender athletes, and the fact that I was the track team's biggest scorer

and a national contender each year, caused me to hold off on coming out as transgender for almost three years. I was so afraid of losing everything I had worked so hard to accomplish in track and field and that I would no longer be able to compete in something that defined me as much as being transgender does.

But by the end of my junior year I couldn't hide who I was anymore. I felt I had no choice but to face the consequences head on and come out as FTM. I was afraid if I didn't, I wouldn't make it through my senior year. I started by coming out to a professor/mentor. This wasn't too hard, but I knew that I had to come out to the athletic director, and that getting his/her support was imperative in order for my "transition" of names and pronouns to work and my continued participation on the women's track and field team to go smoothly.

At the time, my track team had a new head coach, and I was really nervous about how she was going to respond. But after having a long talk with her it was clear that she understood and that she was there to help. Together, we were able to think through how my coming out might effect the team, and come up with the best plan for telling my teammates. When I came out to the team, I wasn't met with the fear and hate that I was expecting. In fact, it was the complete opposite.

My team was awesome. The only thing that was said was, "Please forgive us if we slip on the pronouns while we adjust." And, to tell the truth, I don't think I ever once heard them slip up on pronouns.

Everyone's biggest concern was how my transition was going to be received outside of Bates, as, at that time, the NCAA didn't have any rules or guidelines about transgender athletes. Since I was already a national champion in the Women's Hammer Throw, as well as holding the DIII national record as an 11-time all-American, we knew my coming out was very much going to be a public event. Unfortunately, things went less smoothly off-campus than on. I was extremely lucky though to have the support of my teammates and my coach, who helped me succeed despite all of the outside stresses I experienced as an FTM competing at the national level on a women's team. My teammates were the first to defend me when people were being hateful, when the media was stalking me or when I was repetitively accused of cheating despite all of my clean drug (testosterone) tests. I had chosen to forego any medical transitioning to remain on my women's team. My team was also there to share in the positive things that happened as a result of my coming out.

## Recommended Policy for College Athletics

A transgender student athlete at the college level should be allowed to participate in any sports activity so long as that athlete's use of hormone therapy, if any, is consistent with the National Governing Body's (NGB) existing policies on banned medications. Specifically, a transgender student athlete should be allowed to participate in sex-separated sports activities under the following conditions:

### I. Participation in Sex-Separated Sport Teams

#### A. Transgender student athletes who are undergoing hormone treatment

1. A male-to-female (MTF) transgender student athlete who is taking medically prescribed hormone treatment related to gender transition may participate on a men's team at any time, but must complete one year of hormone treatment related to gender transition before competing on a women's team.<sup>20</sup>
2. A female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone related to gender transition may not participate on a women's team after beginning hormone treatment, and must request a medical exception from the National Governing Body (NGB) prior to competing on a men's team because testosterone is a banned substance.
3. A female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone for the purposes of gender transition may compete on a men's team.
4. In any case where a student athlete is taking hormone treatment related to gender transition, that treatment must be monitored by a physician, and the NGB must receive regular reports about the athlete's eligibility according to these guidelines.

#### B. Transgender student athletes who are NOT undergoing hormone treatment

1. Any transgender student athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.
2. A female-to-male transgender student athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
3. A male-to-female transgender student athlete who is not taking hormone treatments related to gender transition may not compete on a women's team.

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<sup>20</sup> Recent research indicates that most salient physical changes likely to affect athletic performance occur during the first year of hormone treatment making a longer waiting period unnecessary. Goorin, Louis, and Mathijs Bunck, "Transsexuals and Competitive Sports," *European Journal of Endocrinology* 151 (2004): 425-429. Available online at <http://www.eje.org/cgi/reprint/151/4/425.pdf>

**ERIC VILAIN**

M.D., PH.D., PROFESSOR, DIRECTOR OF THE CENTER FOR GENDER-BASED BIOLOGY AND CHIEF MEDICAL GENETICS  
DEPARTMENT OF PEDIATRICS, UCLA



**“ Research suggests that androgen deprivation and cross sex hormone treatment in male-to-female transsexuals reduces muscle mass; accordingly, one year of hormone therapy is an appropriate transitional time before a male-to-female student athlete competes on a women’s team. ”**

## II. Participation in Mixed Gender Sport Activities

A mixed team has both female and male participants and may be restricted in championship play according to specific national governing body rules.

### A. Transgender student athletes who are undergoing hormone treatment

1. For purposes of mixed gender team classification, a male-to-female (MTF) transgender student athlete who is taking medically prescribed hormone treatment related to gender transition shall be counted as a male participant until the athlete has completed one year of hormone treatment at which time the athlete shall be counted as a female participant.
2. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is taking medically prescribed testosterone related to gender transition shall be counted as a male participant and must request a medical exception from the National Governing Body (NGB) prior to competing because testosterone is a banned substance.

### B. Transgender student athletes who are NOT undergoing hormone treatment

1. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is not taking testosterone related to gender transition may be counted as either a male or female.
2. For purposes of mixed gender team classification, a female-to-male (FTM) transgender student athlete who is not taking testosterone related to gender transition participating on a women’s team shall not make that team a mixed gender team.
3. For purposes of mixed gender team classification, a male-to-female (MTF) transgender student athlete who is not taking hormone treatment related to gender transition shall count as a male.

### III. Recommended Implementation Process

#### A. The student's responsibility

1. In order to avoid challenges to a transgender student's participation during a sport season, a student athlete who has completed, plans to initiate, or is in the process of taking hormones as part of a gender transition shall submit the request to participate on a sports team in writing to the athletic director upon matriculation or when the decision to undergo hormonal treatment is made.
2. The student shall submit her or his request to the athletic director. The request shall include a letter from the student's physician documenting the student athlete's intention to transition or the student's transition status if the process has already been initiated. This letter shall identify the prescribed hormonal treatment for the student's gender transition and documentation of the student's testosterone levels, if relevant.

#### B. Individual School and National Governing Body Responsibilities

1. The athletic director shall meet with the student to review eligibility requirements and procedure for approval of transgender participation.
2. The athletic director shall notify the NGB of the student's request to participate. The NGB will assign a facilitator to assist the athletic director in responding to the request.
3. If a student athlete's request is denied by the athletic director, the decision must be automatically reviewed by a Transgender Participation Committee to be established by a school administrator. This committee shall be convened and its decision reported to the athletic director and school administrator in a timely fashion. This committee should include:
  - A health care professional, e.g. physician, psychiatrist, psychologist or other licensed health professional with experience in transgender health care and the World Professional Association for Transgender Health (WPATH) Standards of Care. The student athlete's physician can serve in this role.
  - A faculty athletic representative; and
  - A representative assigned by the institution's president with expertise in institutional anti-discrimination policy, such as someone from the institution's human resources, ombuds office, or Americans with Disabilities compliance office.
4. The athletic director will notify the NGB of the appeal outcome.
5. The NGB will confirm that the treatment requirement has been met.

6. Transgender student athletes subject to a one-year transition period should receive an extension of their eligibility at the end of their transition period, upon timely review and approval by the NGB.
7. An opposing team or school may only challenge a transgender student athlete's approved eligibility through the accepted formal appeal process of the NGB.
8. All discussions among involved parties and required written supporting documentation should be kept confidential, unless the student athlete makes a specific request otherwise. All information about an individual student's transgender identity and medical information, including physician's information provided pursuant to this policy, shall be maintained confidentially.\*

[\*The NGB should provide a model confidentiality policy for member institutions, including information about medical waivers.]

## **ADDITIONAL GUIDELINES FOR TRANSGENDER STUDENT ATHLETE INCLUSION**

In addition to overall eligibility policy, we recommend that the following additional guidelines be adopted by individual schools at both the high school and college level. These guidelines will assist schools, athletic departments, coaches, teams, and student athletes in creating an environment in which all student athletes are safe and fairly treated.

### **Facilities Access**

1. Changing Areas, Toilets, Showers—Transgender student athletes should be able to use the locker room, shower, and toilet facilities in accordance with the student's gender identity. Every locker room should have some private, enclosed changing areas, showers, and toilets for use by any athlete who desires them. When requested by a transgender student athlete, schools should provide private, separate changing, showering, and toilet facilities for the student's use, but transgender students should not be required to use separate facilities.
2. Competition at Another School—If a transgender student athlete requires a particular accommodation to ensure access to appropriate changing, showering, or bathroom facilities, school leaders, athletic directors, and coaches, in consultation with the transgender student athlete, should notify their counterparts at other schools prior to competitions to ensure that the student has access to facilities that are comfortable and safe. This notification should maintain the student's confidentiality. Under no circumstances should a student athlete's identity as a transgender person be disclosed without the student's express permission.
3. Hotel Rooms—Transgender student athletes generally should be assigned to share hotel rooms based on their gender identity, with a recognition that any student who needs extra privacy should be accommodated whenever possible.



## Language

1. Preferred Names—In all cases, teammates, coaches and all others in the school should refer to transgender student athletes by a student's preferred name.
2. Pronouns—Similarly, in all cases, pronoun references to transgender student athletes should reflect the student's gender and pronoun preferences.

## Dress Codes and Team Uniforms

1. Dress Codes—Transgender athletes should be permitted to dress consistently with their gender identities. That is, a female-to-male transgender athlete should be permitted to dress as a male. A male-to-female should be permitted to dress as a female.

For reasons unrelated to trans-inclusion, schools should evaluate the necessity of gendered dress codes and recognize that they tend to marginalize a range of students who may not feel comfortable with them. Dress codes for athletic teams when traveling or during a game day at school should be gender-neutral. Instead of requiring a girls' or women's team to wear dresses or skirts, for example, ask that team members wear dresses or slacks that are clean, neat, well cared for and appropriately "dressy" for representing their school and team.

2. Uniforms—All team members should have access to uniforms that are appropriate for their sport and that they feel comfortable wearing. No student should be required to wear a gendered uniform that conflicts with the student's gender identity.

## Education

1. In School—All members of the school community should receive information and education about transgender identities, school or district non-discrimination policies, the use of preferred names and pronouns, and expectations for creating a respectful team and school climate for all students, including transgender and gender-variant students.
2. Athletic Conference Personnel—Athletic conference leaders should be educated about the need for policies governing the participation of transgender student athletes, develop such policies, and ensure that all schools in the conference understand and adopt the policies.
3. Opposing Teams/Schools—Without violating a transgender student's confidentiality or privacy, school leaders, athletic directors, and coaches should communicate with their counterparts at other schools prior to competitions in which a transgender athlete is participating about expectations for treatment of transgender student athletes on and off the field. This does not require "outing" or otherwise identifying a particular student athlete as transgender, but rather establishing general expectations for the treatment of all student athletes, including those who may be transgender.

## Media

1. Training—All school or athletic representatives (conference and/or state leaders, sports information departments and personnel, school leaders, athletic administrators, team members, and coaches) who are authorized to speak with the media should receive information about appropriate terminology, use of preferred names and pronouns, and school and athletic conference policies regarding the participation of transgender student athletes on school sports teams.
2. Confidentiality—Protecting the privacy of transgender student athletes must be a top priority for all athletic department and affiliated school personnel, particularly when in the presence of the media. All medical information shall be kept confidential in accordance with applicable state, local, and federal privacy laws.

## Enforcement and Non-Retaliation

1. Enforcement—Any member of an athletics department who has been found to have violated this policy by threatening to withhold athletic opportunity or harassing any student on the basis of their gender identity or expression, or by breaching medical confidentiality will be subject to disciplinary action, up to and including discharge or expulsion from the school. The athletic department will also take appropriate remedial action to correct the situation. Any member of the athletic department who becomes aware of conduct that violates this policy should report the conduct to the appropriate official such as the athletic director.
2. Retaliation—Retaliation is specifically forbidden against anyone who complains about discrimination based on gender identity or expression, even if the person was in error. This athletic department will take steps to prevent any retaliation against any person who makes such a complaint.

# **PART THREE:**

**BEST PRACTICES RECOMMENDATIONS FOR  
IMPLEMENTING TRANSGENDER STUDENT  
ATHLETE INCLUSION POLICIES**

## PART THREE: **BEST PRACTICES RECOMMENDATIONS FOR IMPLEMENTING TRANSGENDER STUDENT ATHLETE INCLUSION POLICIES**

Part Three describes best practices—the actions that coaches, administrators, student athletes, and parents of transgender student athletes can take to assure the inclusion of transgender student athletes. Although these practices specifically address transgender student athletes, they can be used to address discrimination based on other factors as well, such as race, religion, class, and sexual orientation.

The first part of this section describes general best practices for everyone. The next sections identify best practices we recommend specifically to athletic administrators, coaches, student athletes, and parents of student athletes, as well as athletic staff who interact with the media.

### **Overall Best Practices**

1. **Provide Equal Opportunity**—Colleges and universities often have legal obligations to provide equal opportunity to student athletes and to personnel, including coaches. All those involved in athletics should be aware of these obligations, and treat them as core values guiding policies and practices. Transgender discrimination may be a part of a systemic problem where the broader environment is unfriendly or discriminatory toward lesbian, gay, bisexual, and transgender people. This will negatively affect all boys, girls, men, and women who participate in athletic competition. If discrimination is accepted as part of the common practices of an athletic department, this will undermine the core principle of equal opportunity.
2. **Value Diversity**—In creating guidelines or best practices for including transgender student athletes, it is important to place this conversation in the context of the athletic department's broad commitments to safety, fairness, and respect for all participants. It helps when athletic department leadership, including coaches, value all aspects of diversity. Collegiate athletics provide an opportunity for students to compete with and against others who come from different races, cultures, religions, sexual orientations, gender identities and expressions, and social classes, but all of whom share the common goal of achieving athletic excellence. Valuing this common ground enhances the social and competitive experience for all. Athletic administrators should make their commitment to valuing diversity explicit in media interviews and other public speaking opportunities as well as in meetings with athletic department staff. That diversity-valuing approach then shapes and informs activities throughout the athletic department and is conveyed to coaches and student athletes. Everyone should also understand how these core values are important to team success and to individual team member development. Teams that value each member's contribution to the unit, while respecting individual differences, provide a foundation for the whole team and each member of the team to focus on achieving their athletic and academic goals.

3. When diversity values are explicit, athletic departments, institutions, state, and national governing organizations are in a position to develop specific policy statements that reflect a commitment to these values. These policy statements, if followed, protect schools, administrators, student athletes, and coaches from litigation and other negative consequences. Coaches should know that they may have a transgender student athlete on their teams and should be equipped to make that experience a positive one for the athlete and their teammates. Parents should communicate the importance of these values in meetings with prospective coaches and athletic administrators. Student athletes can discuss these values with new team members and in public speaking opportunities.



**LAURIE PRIEST**

CHAIR OF PHYSICAL EDUCATION AND DIRECTOR  
OF ATHLETICS, MT. HOLYOKE COLLEGE

**“ It is imperative that administrators and coaches provide a safe and inclusive environment so that all student athletes can participate and achieve success. Being aware of appropriate laws can help us to develop policies and implement practices to assure that all of our students are treated with respect. ”**

## Best Practices for Athletic Administrators

Best practices for athletic administrators focus on policy development, discrimination prevention, education, enforcement procedures, and consequences. These best practices will be helpful to a wide range of athletic administrators in organizations including colleges and universities, high schools, sport-governing organizations, coaches associations, and sports conferences.

1. If the school does not have an inclusive non-discrimination and harassment policy, work with other school administrators to adopt a policy that includes gender identity and expression.
2. Respect the right to privacy of all student athletes with respect to personal information (including whether a student is transgender) when discussing gender identity and expression and understand that all medical information must be kept confidential in accordance with applicable state, local, and federal privacy laws.
3. Become knowledgeable about school non-discrimination and harassment policies that include gender identity and expression.
4. Include gender identity and expression in departmental non-discrimination statements on all official department documents and web sites.
5. Become aware of state and federal non-discrimination laws that prohibit discrimination

based on gender identity and expression (see Part 5 Appendix B for a list of relevant federal and state laws).

6. Adopt an effective and fair athletic departmental policy addressing the participation of transgender student athletes that is consistent with school policy and state or federal non-discrimination laws.
7. Educate all members of the athletic department community (including staff, student athletes, and parents) about departmental and school policy regarding the participation of transgender student athletes in athletics.
8. Educate yourself about transgender identity, preferred terminology, and current scientific perspectives on the participation of transgender student athletes on men's and women's sports teams.
9. Work with athletic conferences of which your school is a member to adopt fair and effective policies governing the participation of transgender student athletes.
10. Recommend that your athletic conference sponsor educational programs for coaches and student athletes on the inclusion of transgender student athletes, preferred terminology, and understanding transgender identity.
11. Recommend that professional associations for athletic administrators sponsor educational programs on the inclusion of transgender student athletes, preferred terminology, understanding transgender identity, and adopting fair and effective policies.
12. Educate all members of the sports information department about transgender identity, preferred terminology, department policies governing the participation of transgender student athletes, and confidentiality requirements when discussing transgender student athlete participation with the media.

## **Best Practices for Coaches**

Best practices for coaches focus on acquiring knowledge about transgender student athletes, understanding legal and ethical obligations, maintaining professional conduct, and ensuring that those with whom coaches work are also educated and aware of these issues.

1. Become knowledgeable about school non-discrimination and harassment policies that include gender identity and expression
2. Become knowledgeable about departmental and school policy regarding the participation of transgender student athletes in athletics.
3. If your department does not have a policy addressing the participation of transgender student athletes, ask your athletic director to adopt one.
4. Educate student athletes on your team about transgender identity, preferred terminology,

and departmental/school policies regarding the participation of transgender student athletes on sports teams.

5. Be prepared to talk with parents of student athletes about transgender student athletes' participation on school teams.
6. Use respectful and preferred language and terminology when discussing transgender student athlete participation or interacting with a transgender student athlete.
7. Anticipate and address transgender student athlete access issues proactively and in accordance with departmental policy regarding locker room use, toilet and shower availability, hotel room assignment, uniforms and dress codes.
8. Recommend that coaches associations to which you belong adopt fair and effective policy statements addressing the participation of transgender student athletes.
9. Recommend that coaches associations to which you belong sponsor educational programs addressing the participation of transgender student athletes.
10. If you are aware of discriminatory or harassing behavior from opposing teams or spectators based on the perceived or actual gender identity or expression of a student athlete, talk to the opposing coach and ask your athletic director to talk with the opposing school's athletic director.
11. Respect the right to privacy of all student athletes with respect to personal information (including whether a student is transgender) when discussing gender identity and expression and understand that all medical information must be kept confidential in accordance with applicable state, local, and federal privacy laws.

**JENNIFER 'JAY' HARTSHORN**  
TRACK AND FIELD COACH, BATES COLLEGE

**“ I think it's important for us to be aware there are transgender student athletes who want to compete, and with a little preparation, including transgender athletes isn't a big deal. ”**



## Best Practices for Student Athletes

Best practices for student athletes who have transgender teammates focus on respectful behavior, safety, and valuing diversity.

1. Use respectful and preferred language and terminology when discussing transgender student athlete participation or interacting with a transgender student athlete.
2. Become familiar with departmental and school policy governing the participation of transgender student athletes in athletics.
3. Learn about school non-discrimination and harassment policies that include gender identity and expression.
4. Encourage other student athletes to use respectful language when discussing transgender issues in sports or interacting with a transgender student athlete.
5. Respect the right to privacy of all student athletes with respect to personal information (including whether a student is transgender) when discussing gender identity and expression.
6. Ask your coach and athletic director for team and departmental educational training concerning transgender student athlete participation.
7. If taunting or harassment from spectators or opponents occurs during competition, take the approach that these actions are never acceptable for any reason including taunting or harassment based on gender identity or expression. Make your coaches aware of discriminatory or harassing behavior and ask them to arrange a meeting with the opposing school's athletic director to address this behavior.
8. Ask the student athlete advisory council at your school to plan an activity that focuses on the participation of transgender athletes in sports and frame the issue as one of equal opportunity in sports and fair treatment for all.

## Best Practices for Parents of Student Athletes

Best practices for parents of student athletes highlight the importance of the role of parents in monitoring athletic department policy and practice to encourage adherence to core principles of fairness for all student athletes.

1. If you are the parent of a transgender student, ask school officials and athletic administrators for their policy on the participation of transgender students in athletic programs.
2. Encourage athletic administrators to educate coaches, other athletic staff, student athletes, and parents of student athletes about policies and preferred terminology relating to the participation of transgender student athletes on school teams.
3. Talk with your child about the importance of respecting the rights of transgender teammates and understanding transgender identity.



4. If your child is transgender, talk with them about actions to take if she or he is feeling unsafe or is treated disrespectfully.
5. Respect the right to privacy of all student athletes when discussing gender identity and expression and understand that all medical information must be kept confidential in accordance with applicable state, local, and federal privacy laws.
6. If you become aware of discriminatory or harassing behavior by spectators or participants based on perceived or actual gender identity or expression during competitions, report this behavior to your school's athletic director.

#### PARENT OF HIGH SCHOOL ATHLETE

**“ Like any parent, I want to make sure my daughter is treated fairly and with respect when playing sports. I spend a lot of time watching her sporting events. Any time I have seen her being discriminated against, harassed, or degraded, I set up meetings with her teachers or the principal so they could address the problem and figure out how to prevent future issues. In addition, I’ve talked to my daughter on ways she can respond if her team members treat her with disrespect, make fun of her, or shun her. I also kept on top of the law in this area, so that we know her rights as a student and athlete and can educate others on their responsibilities. ”**

### Best Practices for Athletic Staff Interacting With Media About Transgender Student Athlete Issues

Best practices for interacting with the media focus on the importance of understanding basic information about transgender identity, preferred terminology, and respecting confidentiality of student athletes.

1. The school or athletic department should provide training to all athletic staff who may interact with the media.
2. Respect the confidentiality of all student athletes when discussing transgender issues with the media and understand that all medical information must be kept confidential in accordance with applicable state, local, and federal privacy laws.
3. Use appropriate language in media interviews or presentations and insist that this terminology be used in media reports on transgender issues in athletics.
4. Focus on the importance of providing equal opportunities for all students to participate in athletics.
5. Describe how departmental policies provide equal opportunities for all students to participate in athletics.

# **PART FOUR:**

## **ADDITIONAL RESOURCES ON TRANSGENDER ISSUES**

## PART FOUR: **ADDITIONAL RESOURCES ON TRANSGENDER ISSUES**

### **Print Resources (Books, Articles, Reports)**

AthletesCAN, the Canadian Centre for Ethics in Sport, and the Canadian Association for the Advancement of Women and Sport and Physical Activity, *Promising Practices: Working With Transitioned/Transitioning Athletes in Sport* (2009).

Including Transitioning and Transitioned Athletes in Sport - Issues, Facts and Perspectives - SUMMARY. Brenda Wagman (February 12, 2009). Available online at [http://www.caaws.ca/e/resources/pdfs/Summary\\_Transition\\_Discussion\\_Paper\\_FINAL1%20\(2\).pdf](http://www.caaws.ca/e/resources/pdfs/Summary_Transition_Discussion_Paper_FINAL1%20(2).pdf).

Including Transitioning and Transitioned Athletes in Sport - Issues, Facts and Perspectives - DISCUSSION PAPER. Brenda Wagman (February 12, 2009). Available online at [http://www.caaws.ca/e/resources/pdfs/Wagman\\_discussion\\_paper\\_THE\\_FINAL.pdf](http://www.caaws.ca/e/resources/pdfs/Wagman_discussion_paper_THE_FINAL.pdf).

Working with Transitioning or Transitioned Athletes in Sport - EMERGING THEMES. Rachel Corbett (May 26, 2009). Available online at [http://www.caaws.ca/e/resources/pdfs/Wamsley\\_lit\\_review\(2\).pdf](http://www.caaws.ca/e/resources/pdfs/Wamsley_lit_review(2).pdf).

Social Science Literature on Sport and Transitioning/Transitioned Athletes - LITERATURE REVIEW. Kevin B. Wamsley (February 2008). Available online at [http://www.caaws.ca/e/resources/pdfs/Wamsley\\_lit\\_review\(2\).pdf](http://www.caaws.ca/e/resources/pdfs/Wamsley_lit_review(2).pdf).

Do Transitioned Athletes Compete at an Advantage or Disadvantage - LITERATURE REVIEW. Michaela C. Devries (May 18, 2008). Available online at [http://http.caaws.ca/e/resources/pdfs/Devries\\_lit\\_review\(2\).pdf](http://http.caaws.ca/e/resources/pdfs/Devries_lit_review(2).pdf).

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Currah, Paisley, Richard M. Juang and Shannon Price Minter, *Transgender Rights* (Minneapolis, MN: University of Minnesota Press, 2006).

Gay Straight Alliance Network, the Transgender Law Center and the National Center for Lesbian Rights, *Beyond The Binary: A Tool Kit for Gender Activism in Schools* (2004). Available online at [http://transgenderlawcenter.org/pdf/beyond\\_the\\_binary.pdf](http://transgenderlawcenter.org/pdf/beyond_the_binary.pdf).

Goorin, Louis, and Mathijs Bunck, "Transsexuals and Competitive Sports," *European Journal of Endocrinology* 151 (2004): 425-429. Available online at <http://www.eje.org/cgi/reprint/151/4/425.pdf>.

Griffin, Pat, "Inclusion of Transgender Athletes on Sports Teams," Women's Sports Foundation (2007). Available online at <http://www.womenssportsfoundation.org/Content/Articles/Issues/Homophobia/I/Inclusion-of-Transgender-Athletes-on-Sports-Teams.aspx>.

Greytak, Emily A., Joseph G. Kosciw, and Elizabeth M. Diaz, Gay Lesbian Straight Education Network, *Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools* (2009).

Lambda Legal, *Bending the Mold: An Action Kit for Transgender Students* (2009). Available online at <http://www.lambdalegal.org/publications/bending-the-mold/order-bending-the-mold.html>.

Movement Advancement Project, *Advancing Transgender Equality: A Guide for LGBT Organizations and Funders* (2009). Available online at <http://www.lgbtmap.org/advancing-transgender-equality.html>.

National Center for Transgender Equality, *Understanding Transgender: Frequently Asked Questions About Transgender People* (2009). Available online at [http://transequality.org/Resources/NCTE\\_UnderstandingTrans.pdf](http://transequality.org/Resources/NCTE_UnderstandingTrans.pdf).

Steinbach, Paul, "Change Candidates," *Athletic Business* (August 2008). Available online at <http://www.athleticbusiness.com/articles/article.aspx?articleid=1817&zoneid=3>.

Sykes, Heather, "Transsexual and Transgender Policies in Sport." *Women in Sport and Physical Activity Journal* 15:1 (2006): 3-13.

Transgender Law and Policy Institute, *Guidelines for Creating Policies for Transgender Children in Recreational Sports* (2009). Available online at [http://www.transgenderlaw.org/resources/TLPI\\_GuidelinesforCreatingPoliciesforTransChildreninRecSports.pdf](http://www.transgenderlaw.org/resources/TLPI_GuidelinesforCreatingPoliciesforTransChildreninRecSports.pdf).

Washington Interscholastic Activities Association Gender Identity Policy  
Jim Meyerhoff, Assistant Executive Director  
435 Main Avenue South, Renton, WA 98057  
Office Phone: 425-282-5234  
Office E-mail: [jmeyerho@wiaa.com](mailto:jmeyerho@wiaa.com)

Women's Sports Foundation, *Participation of Transgender Athletes in Women's Sports: A Women's Sports Foundation Position Paper* (2008). Available online at <http://www.womenssportsfoundation.org/Content/Articles/Issues/Homophobia/T/Participation-of-Transgender-Athletes.aspx>.

## ORGANIZATIONS/WEBSITES

**American Bar Association (ABA)**—The ABA opposes discrimination against those who are transgender or gender non-conforming. In 2006, the ABA House of Delegates adopted a recommendation that all federal, state, local and territorial governments enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression, in employment, housing and public accommodations. For more information visit [www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentytwob.doc](http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentytwob.doc).

**Advocates for Informed Choice**—legal advocacy organization dedicated to promoting the civil rights of children with intersex conditions or disorders of sex development. [www.aiclegal.org](http://www.aiclegal.org)

**American Civil Liberties Union (ACLU)**—The ACLU Lesbian, Gay, Bisexual, Transgender Project fights discrimination and moves public opinion through the courts, legislatures and public education across five issue areas: Relationships, Youth & Schools, Parenting, Gender Identity and Expression and Discrimination in Employment, Housing and other areas.  
[www.aclu.org/lgbt-rights](http://www.aclu.org/lgbt-rights)

**American Medical Association (AMA)**—The AMA is a medical professional association whose mission is to promote the art and science of medicine and the betterment of public health. The AMA has adopted a number of policies supporting the right of transgender and gender-non-conforming persons to be free from discrimination on the basis of their gender identity or expression. [www.ama-assn.org](http://www.ama-assn.org)

**American Psychological Association (APA)**—In 2008, the APA Council of Representatives adopted a policy statement supporting “the passage of laws and policies protecting the rights, legal benefits, and privileges of people of all gender identities and expressions;” and as well as supporting “efforts to provide safe and secure educational environments, at all levels of education.” [www.apa.org/about/governance/council/policy/transgender.aspx](http://www.apa.org/about/governance/council/policy/transgender.aspx)

**Gay and Lesbian Advocates and Defenders Transgender Rights Project**—Through the Transgender Rights Project (TRP), Gay and Lesbian Advocates and Defenders puts litigation, legislative, and educational assets to work in a focused way to establish clear legal protections for the transgender community. [www.glad.org](http://www.glad.org)

**Gay, Lesbian and Straight Education Network**—The Gay, Lesbian and Straight Education Network strives to assure that each member of every school community is valued and respected regardless of sexual orientation or gender identity/expression. [www.glsen.org](http://www.glsen.org)

**Gender Spectrum**—Gender Spectrum provides education, training and support to help create a gender sensitive and inclusive environment for all children and teens. [www.genderspectrum.org](http://www.genderspectrum.org)

**It Takes A Team! Education Campaign for LGBT Issues in Sport**—A Women’s Sports Foundation initiative, It Takes A Team! Education Campaign for Lesbian, Gay, Bisexual, and Transgender Issues in Sport is an education project focused on eliminating homophobia as a barrier to all women and men participating in sport. [www.ittakesateam.org](http://www.ittakesateam.org)

**Lambda Legal**—Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work. [www.lambdalegal.org](http://www.lambdalegal.org)

**National Center for Lesbian Rights**—NCLR is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. [www.nclrights.org](http://www.nclrights.org)

**National Center for Transgender Equality**—The National Center for Transgender Equality is a social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment. [www.transequality.org](http://www.transequality.org)

**National Gay and Lesbian Task Force**—The mission of the National Gay and Lesbian Task Force is to build the grassroots power of the LGBT community by training activists, equipping state and local organizations with the skills needed to organize broad-based campaigns to defeat anti-LGBT referenda and advance pro-LGBT legislation, and building the organizational capacity of the movement. [www.thetaskforce.org](http://www.thetaskforce.org)

**Parents and Friends of Lesbians and Gays-TNET**—The purpose of this special affiliate of PFLAG is to promote the health and well-being of transgender persons, their families and friends through: support, to cope with an adverse society; education, to enlighten an ill-informed public; and advocacy, to end discrimination and to secure equal civil rights. PFLAG TNET focuses on support for transgender people and their parents, families, and friends; education on transgender facts and issues; and advocacy for equal rights for the transgender community at local and national levels. [www.pflag.org/tnet](http://www.pflag.org/tnet)

**Transgender Law Center**—Transgender Law Center (TLC) connects transgender people and their families to culturally competent legal services, increases acceptance and enforcement of laws and policies that support California's transgender communities, and works to change laws and systems that fail to incorporate the needs and experiences of transgender people. [www.transgenderlawcenter.org](http://www.transgenderlawcenter.org)

**Transgender Law and Policy Institute**—Transgender Law and Policy Institute (TLPI) is a non-profit organization dedicated to engaging in effective advocacy for transgender people in our society. The TLPI brings experts and advocates together to work on law and policy initiatives designed to advance transgender equality. [www.transgenderlaw.org](http://www.transgenderlaw.org)

**World Professional Association for Transgender Health (WPATH)**—WPATH is an international, interdisciplinary organization of professionals from fields of psychiatry, endocrinology, surgery, law, psychology, sociology, and counseling. WPATH publishes the internationally recognized Standards of Care for Gender Identity Disorders, an evolving consensus on best practice in the provision of medical treatments for individuals with Gender Identity Disorder. [www.wpath.org](http://www.wpath.org)

## VIDEOS

### ***Straightlaced: How Gender's Got Us All Tied Up***

*Straightlaced: How Gender's Got Us All Tied Up* takes a powerful and intimate look at how popular pressures around gender and sexuality are shaping the lives of American teens. The film proudly showcases the diverse and unscripted voices of more than 50 high school students from a variety of different communities, all of whom speak with breathtaking honesty, insight, and humor about gender roles and their struggles to be who they really are. More information on the film is available at [www.groundspark.org/our-films-and-campaigns/straightlaced](http://www.groundspark.org/our-films-and-campaigns/straightlaced)

# PART FIVE:

## APPENDICES

PART FIVE: **APPENDIX A****Definitions and Terminology: A Word About Words<sup>21</sup>**

Language has immense power to shape our perceptions of other people. Using accurate language can help to overcome many of the misperceptions associated with gender and transgender people. Although the vocabulary related to transgender people continues to evolve, here are some working definitions and examples of frequently used (and misused) terms.

**Biological/Anatomical Sex**—The physical characteristics typically used to assign a person's gender at birth, such as chromosomes, hormones, internal and external genitalia and reproductive organs. Given the potential variation in all of these, biological sex must be seen as a spectrum or range of possibilities rather than a binary set of two options.

**Gender Identity**—One's inner concept of self as male or female or both or neither. One's gender identity can be the same or different than the gender assigned at birth. Most people become conscious of their gender identity between the ages 18 months and 3 years. Most people have a gender identity that matches their assigned gender at birth. For some, however, their gender identity is different from their assigned gender. Some of these individuals choose to live socially as the other gender and may also hormonally and/or surgically change their bodies to more fully express their gender identity. All people have gender identity, not just transgender people.

**Gender Expression**—Refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, haircut, voice, and other forms of presentation. Gender expression also works the other way as people assign gender to others based on their appearance, mannerisms, and other gendered characteristics. Many transgender people seek to make their external appearance—their gender expression—congruent with their internal gender identity through clothing, pronouns, names, and, in some cases, hormones and surgical procedures. All people have gender expression, not just transgender people.

**Transgender**—Sometimes used as an 'umbrella term' to describe anyone whose identity or behavior falls outside of stereotypical gender norms. More narrowly defined, it refers to an individual whose gender identity does not match their assigned birth gender. Being transgender does not imply any specific sexual orientation (attraction to people of a specific gender.) Therefore, transgender people may additionally identify as straight, gay, lesbian, or bisexual.

**Sexual Orientation**—Term that refers to being romantically or sexually attracted to people of a specific gender. Our sexual orientation and our gender identity are separate, distinct parts of our overall identity. Although a child may not yet be aware of their sexual orientation, they usually have a strong sense of their gender identity.

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<sup>21</sup> These terms and definitions were adapted from Gender Spectrum's "A Word About Words." Available online at [http://www.genderspectrum.org/images/stories/Resources/Family/A\\_Word\\_About\\_Words.pdf](http://www.genderspectrum.org/images/stories/Resources/Family/A_Word_About_Words.pdf).



**Genderqueer**—This term represents a blurring of the lines around gender identity and sexual orientation. Genderqueer individuals typically reject notions of static categories of gender and embrace a fluidity of gender identity and sexual orientation. This term is typically assigned an adult identifier and not used in reference to preadolescent children.

**Gender Nonconforming/Gender Variant**—Refers to individuals whose behaviors and/or interests fall outside what is considered typical for their assigned gender at birth. Someone who identifies as “gender nonconforming” is not necessarily transgender. To the contrary, many people who are not transgender do not conform to gender stereotypes in their appearance, clothing, physical characteristics, interests, or activities. No one should be treated differently or made to feel uncomfortable or unaccepted because they are gender nonconforming.

**Gender Fluidity**—Gender fluidity conveys a wider, more flexible range of gender expression, with interests and behaviors that may even change from day to day. Gender fluid individuals do not feel confined by restrictive boundaries of stereotypical expectations of girls or boys.

#### MORGAN DICKENS

FORMER BASKETBALL, RUGBY STUDENT ATHLETE,  
CORNELL UNIVERSITY 2008, ITHACA COLLEGE, 2009

“There are differences between being male and female, but being gender fluid doesn’t mean I reject these differences, it just means I’m rejecting the idea that I have to be defined one way or another. The clear delineation between male and female in the sporting world doesn’t leave room for someone like me. When I started presenting in a more masculine way, I was ostracized in girls’ locker rooms, told I was in the wrong bathroom, and even once had my gender questioned during a co-ed intramural football game. Because athletics are such an important part of my life, I deal with these and other inequalities and misunderstandings. While I’m prepared to handle it, my concern is there aren’t many other people out there who are prepared and willing to engage in a dialogue about the presence of gender fluid athletes in sport.”



**Intersex**—An estimated one in 2,000 babies is born with an “intersex” condition or Difference of Sex Development (DSD), that is, a reproductive or sexual anatomy and/or chromosome pattern that doesn’t seem to fit typical definitions of male or female. These conditions include androgen insensitivity syndrome, some forms of congenital adrenal hyperplasia, Klinefelter’s syndrome, Turner’s syndrome, hypospadias, and many others. People with intersex conditions generally identify as men or women, just as people without intersex conditions do. Having an intersex condition does not necessarily affect a person’s gender identity.

**FTM (Female-to-Male)/Affirmed male/transboy**—A child or adult who was assigned to the female gender at birth but has a male gender identity.

**MTF (Male-to-Female)/Affirmed female/transgirl**—A child or adult who was assigned to the male gender at birth but has a female gender identity.

**Transition**—The process by which a transgender individual lives consistently with his or her gender identity, and which may (but does not necessarily) include changing the person’s body through hormones and/or surgical procedures. Transition can occur in three ways: social transition through changes in clothing, hairstyle, name and/or pronouns; hormonal transition through the use of medicines such as hormone “blockers” or cross hormones to promote gender-based body changes; and/or surgical transition in which an individual’s body is modified through the addition or removal of gender-related physical traits. Based on current medical knowledge and practice, genital reconstructive surgery is not required in order to transition. Most transgender people in the United States do not have genital reconstructive surgery.

**Transsexual**—A person whose gender identity differs from the person’s assigned gender at birth. Transsexual people do not identify with their birth-assigned genders and desire to live and be treated by others consistently with their gender identity. In addition to transitioning socially, transsexual people may also physically alter their bodies surgically and/or hormonally. This physical transition is a complicated, multi-step process that may take years and may include, but is not limited to, cross-gender hormone therapy and a variety of surgical procedures. There is no cookie cutter approach. The precise treatments required vary from person to person.

**Transphobia**—Fear or hatred of transgender people. Transphobia is manifested in a number of ways, including violence, harassment, and discrimination.

## PART FIVE: **APPENDIX B: LEGAL STATUS OF TRANSGENDER PEOPLE**

Federal, state, and local laws prohibit discrimination on the basis of gender identity/expression. In addition, many K-12 and collegiate educational institutions have adopted non-discrimination policies that include gender identity/expression. Each school or school district should be knowledgeable about specific legal requirements that apply and make sure that all school athletic staff understand their responsibilities to abide by and enforce these laws.

### **Federal Protections**

**The Employment Non-Discrimination Act (ENDA)**—ENDA is a bill that was introduced in the 111th U.S. Congress in 2009.<sup>22</sup> If passed into law, ENDA would provide basic protections against workplace discrimination on the basis of sexual orientation or gender identity. The bill is closely modeled on existing civil rights laws, including Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act. ENDA prohibits public and private employers from using an individual's sexual orientation or gender identity as the basis for employment decisions, such as hiring, firing, promotion or compensation. ENDA also applies to federal, state, and local government employees.

**The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA)**—The HCPA gives the Department of Justice (DOJ) the power to investigate and prosecute bias-motivated violence by providing the DOJ with jurisdiction over crimes of violence where a perpetrator has selected a victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability.<sup>23</sup> Furthermore, the HCPA requires the Federal Bureau of Investigation to track statistics on hate crimes.<sup>24</sup>

**Title IX of the Education Amendments of 1972**—The purpose of Title IX is to address sex discrimination in schools. However, this federal law has also been successfully used to address discrimination or harassment in schools based on gender stereotypes.<sup>25</sup> When gender non-conforming or transgender students are targeted on the basis of their gender expression, Title IX may provide the basis for legal recourse.<sup>26</sup>

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<sup>22</sup> H.R. 3017, 110th Cong. (2010).

<sup>23</sup> 18 U.S.C.A. § 249.

<sup>24</sup> 28 U.S.C.A. § 534.

<sup>25</sup> See *Snelling v. Fall Mt. Regional Sch. Dist.*, 2001 D.N.H. 057, 2001 WL 276975 (D.N.H. 2001); *Ricco v. New Haven Bd. of Educ.*, 467 F.Supp.2d 219 (D. Conn. 2006); *Doe v. Southeastern Greene Sch. Dist.*, 2006 U.S. Dist LEXIS 12790 (W.D. Pa. 2006).

<sup>26</sup> See 20 U.S.C.A. § 1681 *et seq.*; Office of Civil Rights, Revised Sexual Harassment Guidance, § III (Jan. 2001) (“Though beyond the scope of this guidance, gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, but not involving conduct of a sexual nature, is also a form of sex discrimination to which a school must respond[.]”).

**Equal Protection Clause of the Fourteenth Amendment of the United States Constitution**—The Equal Protection clause states that “no state shall ... deny to any person within its jurisdiction the equal protection of the laws.”<sup>27</sup> Several successful cases involving allegations of harassment and discrimination against lesbian, gay, bisexual, and transgender students and staff in public schools have been based on the Equal Protection clause.<sup>28</sup>

## State Non-Discrimination Laws

As of July 2010, 13 states and the District of Columbia<sup>29</sup> have enacted non-discrimination laws prohibiting discrimination on the basis of sexual orientation and gender identity or expression: California,<sup>30</sup> Colorado,<sup>31</sup> Hawaii,<sup>32</sup> Illinois,<sup>33</sup> Iowa,<sup>34</sup> Maine<sup>35</sup>, Minnesota,<sup>36</sup> New Jersey,<sup>37</sup> New Mexico,<sup>38</sup>

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<sup>27</sup> U.S. Const. amend. XIV, § 1.

<sup>28</sup> See, e.g., *Flores v. Morgan Hill Unified Sch. Dist.*, 324 F.3d 1130 (9th Dist. 2003) (equal protection required school district to enforce policies “in cases of peer harassment of homosexual and bisexual students in the same way that they enforce those policies in cases of peer harassment of heterosexual students”).

<sup>29</sup> D.C. Code §§ 2-1401.01 et seq. (employment, housing, public accommodation, education, motor vehicle insurance, access to government facilities and programs), 4-754.21(10) (access to services for homeless persons), 16-914 (custody proceedings), 31-2231-11(c) & 31-2231.13(d) (insurance), 31-1603 (determination by insurance companies of likelihood of developing AIDS), 43-1507 (companies providing electricity).

<sup>30</sup> Cal. Penal Code § 422.56, Cal. Gov’t Code § 12926 et seq. (non-discrimination in employment and housing), Cal. Civ. Code § 51 (public accommodations).

<sup>31</sup> Colo. Rev. Stat. Ann. §§ 24-34-401 et seq. (non-discrimination in public accommodation, housing and employment), 22-32-109 (non-discrimination in education).

<sup>32</sup> Haw. Rev. Stat. §§ 489-2 (non-discrimination in public accommodations), 515-3 (real property transactions).

<sup>33</sup> 775 Ill. Comp. Stat. 5/2-102 (non-discrimination in employment, public accommodations, real estate transactions, and access to financial credit).

<sup>34</sup> Iowa Code Ann. § 216.1 et seq. (non-discrimination in public accommodation, employment, housing, credit, and education).

<sup>35</sup> Me. Rev. Stat. Ann. tit. 5, § 4552 et seq. (non-discrimination in employment, housing, public accommodation, credit and education).

<sup>36</sup> Minn. Stat. Ann. § 363A.03 et seq. (non-discrimination in public accommodation, housing, employment, credit, and education).

<sup>37</sup> N.J. Stat. Ann. §§ 10:5-4 (non-discrimination in employment, housing, and public accommodation), 18A:37-14 (education).

<sup>38</sup> N.M. Stat. Ann. § 28-1-2 et seq., (non-discrimination in public accommodation, employment, housing and credit).

Oregon,<sup>39</sup> Rhode Island,<sup>40</sup> Vermont,<sup>41</sup> and Washington.<sup>42</sup>

Eight additional states have enacted laws prohibiting discrimination based on sexual orientation only: Connecticut, Delaware, Maryland, Massachusetts, Nevada, New Hampshire, New York, and Wisconsin.<sup>43</sup>

Additionally, courts and administrative bodies in seven states have interpreted state laws against sex discrimination to prohibit discrimination against transgender and gender nonconforming people: California, Connecticut, Florida, Massachusetts, New Jersey, New York, and Pennsylvania. Courts and administrative bodies in seven states have also held that transgender people are protected by state laws prohibiting discrimination based on disability or medical condition: Florida, Illinois, Massachusetts, New Hampshire, New Jersey, New York, and Washington.<sup>44</sup>

## State Student Rights Laws

In addition to these federal protections, as of July 2010, twelve states and the District of Columbia<sup>45</sup> have enacted laws protecting students in schools from discrimination or harassment on the basis of sexual orientation or gender identity: California, Colorado, Illinois, Iowa, Maine, Maryland,

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<sup>39</sup> Or. Rev. Stat. § 174.100(6), Or. Rev. Stat. §§ 659A.003 et seq. (non-discrimination in public accommodation, employment, and housing), 101.115(3) (non-discrimination in retirement communities), 179.750(2) (state institutions), 240.306(1) (state employees), 418.648(10) (selection of foster parents), , 430.550 (drug abuse diversion programs), 443.739(19) (adult foster care), 458.505(4)(h) (community service programs hosted by a community action agency), 659.850(2) (education), 744.382(4) (making life settlement contracts), 10.030(1) (jury service).

<sup>40</sup> R.I. Gen. Laws § 11-24-2 (public accommodation), R.I. Gen. Laws 1956 §§ 28-5-7 (employment), 28-5.1-4(a) (state employees), 34-37-4 (housing), 34-37-5.4 (residential real estate transactions).

<sup>41</sup> Vt. Stat. Ann. tit. 3, §§ 961(6) (state employees), 963 (state employee organizations), 1026(6) (judiciary employees), 1028 (judiciary employee organizations), 1621 (union membership); Vt. Stat. Ann. tit. 8, §§ 4724(7) (B) & (C) (insurance), 10403 (credit cards, loans, mortgages, and commercial loans); Vt. Stat. Ann. tit. 9, §§ 2362 (motor vehicle retail installment contracts), 2410 (retail installment contracts), 2488 (agricultural finance leases), 4502 (public accommodations), 4503 (housing); Vt. Stat. Ann. tit. 16, §§ 11, 565 (education); Vt. Stat. Ann. tit. 21, §§ 495(a) (employment), 1726 (municipal employees).

<sup>42</sup> Wash. Rev. Code §§ 48.30-300 (insurance), 49.60.175 (credit), 49.60.180 (employment), 49.60.190 (labor unions), 49.60.215 (public accommodation), 49.60.222 (housing).

<sup>43</sup> See Conn. Gen. Stat. § 46a-81a et seq. (employment, public accommodations, housing, credit); Del. Code Ann. tit. 6, §§ 4500 et seq. (public accommodation), 4601 et seq. (housing), Del. Code Ann. tit. 19, § 710 (employment); Md. Code Ann., State Gov't §§ 20-304 (public accommodation), 20-705 (housing), 20-606 (employment); Mass. Gen. Laws Ch. 151B § 1 et seq. (generally), Mass. Gen. Laws Ch. 272 §§ 92A, 98 (public accommodation); Nev. Rev. Stat. §§ 613.330 (employment), 651.070 (public accommodation); N.H. Rev. Stat. Ann. §§ 354-A:7 (employment), 354-A:10 (housing), 354-A:17 (public accommodations); N.Y. Exec. Law § 296 (employment, public accommodations, housing, credit), N.Y. Civ. Rights § 40-c (public accommodations); Wis. Stat. §§ 106.50 (housing), 106.52 (public accommodation).

<sup>44</sup> For a comprehensive discussion of state court and administrative decisions applying sex and disability discrimination to transgender plaintiffs, see [www.nclrights.org/site/DocServer/state\\_cases091004.pdf?docID=1203](http://www.nclrights.org/site/DocServer/state_cases091004.pdf?docID=1203).

<sup>45</sup> D.C. Code 1981 §§ 2-1401.02 & 2-1402.41.

Minnesota, New Jersey, North Carolina, Oregon, Vermont, and Washington.<sup>46</sup> Four additional states offer protections on the basis of sexual orientation only: Connecticut, Massachusetts, New York, and Wisconsin.<sup>47</sup>

## Individual School or School District Non-Discrimination Policies

For a list of colleges and universities that have enacted non-discrimination policies that include gender identity/expression, refer to the following list created by the Transgender Law and Policy Institute: [www.transgenderlaw.org/college/index.htm#policies](http://www.transgenderlaw.org/college/index.htm#policies)

For a list of K-12 school districts that have enacted non-discrimination policies that include gender identity/expression, refer to the following list created by the Transgender Law and Policy Institute: [www.transgenderlaw.org/college/index.htm#schools](http://www.transgenderlaw.org/college/index.htm#schools)

## American Bar Association

The American Bar Association (ABA) opposes discrimination against those who are transgender or gender non-conforming. The ABA is a national organization of lawyers, law students and judges, and is the largest voluntary professional association in the world, with more than 400,000 members. The control and administration of the ABA is vested in the House of Delegates, which is the policy-making body of the Association. In 2006, the ABA House of Delegates adopted a recommendation that all federal, state, local, and territorial governments enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression, in employment, housing, and public accommodations.<sup>48</sup>

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<sup>46</sup> See Cal. Educ. Code §§ 220, 210.7, 212.6, & 51500; Colo. Rev. Stat. §§ 2-4-401(13.5), 22-32-109(II)(I), 12-59-106(1)(s), 22-30.5-104(3), 22-30.5-507(3), & 22-38-104(1)(d); 775 Ill. Comp. Stat. Ann. 5/1-102(A), 775 Ill. Comp. Stat. Ann. 5/1-103(O-1), (Q), & 775 Ill. Comp. Stat. Ann. 5/5-101(A)(11); Iowa Code §§ 216.9, 280.28; Me. Rev. Stat. Ann. tit. 5, §§ 4552, 4553(9-C), 4601, & 4602(4); Md. Code Ann. Educ. §§ 7-424; Minn. Stat. §§ 363A.03 subd. 44, 363A.13; N.J. Stat. Ann. §§ 10:5-5, 10:5-12(f)(1), & 18A:37-14; N.C. Gen. Stat. §§ 115C-407.15, 115C-407.16; Or. Rev. Stat. §§ 659.850, 174.100, 339.351(d)(3), & 338.125; Vt. Stat. Ann. tit. 16, §§ 1, 11 & 565; Wash. Rev. Code §§ 49.60.030 & 49.60.040(2), (26).

<sup>47</sup> Conn. Gen. Stat. § 10-15c; Mass. Gen. Laws. Ch. 76, § 5; N.Y. Exec. Law §§ 291(2), 292(9) & (27) & 296(2); Wis. Stat. § 118.13.

<sup>48</sup> See A.B.A. Recommendation 122B (adopted August 7-8, 2006) available online at <http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentytwob.doc> (recognizing that “[t]ransgender people are disproportionately likely to face discrimination” and that “many individuals who are not transgender continue to suffer discrimination . . . because they do not comply with gendered stereotypes.”).

## PART FIVE: APPENDIX C

### EQUAL OPPORTUNITY FOR TRANSGENDER STUDENT ATHLETES A NATIONAL THINK TANK, OCTOBER 25-26, 2009: PARTICIPANTS

**Stephanie Brill**

*Founding Director*  
Gender Spectrum Education and Training  
Orinda, Calif.

**Walter Bockting, Ph.D.**

*President of WPATH*  
*Associate Professor*  
Program in Human Sexuality  
Department of Family Medicine and Community Health,  
University of Minnesota Medical School  
Minneapolis, Minn.

**Erin Buzuvis, Esq.**

*Associate Professor*  
Western New England College  
School of Law  
Springfield, Mass.

**Helen J. Carroll**

*Sports Project Director*  
National Center for Lesbian Rights  
San Francisco, Calif.

**Mike Colbrese**

*Executive Director*  
Washington Interscholastic Activities Association  
Renton, Wash.

**Joni Comstock**

*Senior Vice-President for Championships*  
NCAA Senior Woman Administrator  
Indianapolis, Ind.

**Morgan N. Dickens**

*Student Athlete*  
Basketball, Rugby Cornell University 2008  
Ithaca College, M.S. 2009  
Ithaca, N.Y.

**Sarah Dunne, Esq.**

*Legal Director*  
ACLU of Washington Foundation  
Seattle, Wash.

**Keelin Godsey**

*Student Athlete*  
Track and Field: Hammer Throw  
Former Rugby  
Bates College 2006  
Northeastern College 2010

**Jamison Green**

*Primary Care Protocols Manager*  
Center of Excellence for Transgender Health, UCSF  
*WPATH Board of Directors*  
San Francisco, Calif.

**Dr. Pat Griffin, Ed.D**

*Professor Emeritus*  
University of Massachusetts Amherst  
*Director, It Takes A Team!*  
Education Campaign for LGBT Issues in Sport, An  
Initiative of the Women's Sports Foundation  
East Meadow, N.Y.

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San Francisco, Calif.

**Lori Kohler, M.D.**

*Director*  
Correctional Medicine Consultation Network  
*Professor of Clinical Family and Community Medicine*  
University of California, San Francisco  
San Francisco, Calif.

**Terri Lakowski**

*Public Policy Officer*  
Women's Sports Foundation  
East Meadow, N.Y.

**Jennifer Levi, Esq.**

*Transgender Project Director*  
Gay & Lesbian Advocates & Defenders  
*Professor of Law*  
Western New England College

**Karin Lofstrom**

*Executive Director*  
Canadian Association for the Advancement  
of Women and Sport  
Ottawa, ON, Canada

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*Staff Attorney & Youth Project Director*  
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San Francisco, Calif.

**Sharon McGowan, Esq.**

*Staff Attorney*

ACLU Lesbian, Gay, Bisexual, Transgender & AIDS  
Project / American Civil Liberties Union Foundation  
Washington, D.C.

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*Legal Director*

National Center for Lesbian Rights  
Washington, D.C.

**Karen Morrison**

*Director*

Gender Initiatives, NCAA  
Indianapolis, Ind.

**Jill Pilgrim, Esq.**

*Former General Counsel &*

*Drug Testing Program Administrator*

Ladies Professional Golf Association  
Daytona Beach, Fla.

**Laurie Priest**

*Chair of Physical Education & Director of Athletics*

Mt. Holyoke College

South Hadley, Mass.

**Susan (Sue) Rankin, Ph.D.**

*Associate Professor*

Education Policy Studies, College Student Affairs

*Senior Research Associate*

Center for the Study of Higher Education

The Pennsylvania State University

Harrisburg, Penn.

**Lea Robinson**

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Office of Multicultural Affairs

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National Center for Lesbian Rights

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**Bren Stevens, Ph.D.**

*Associate Director of Athletics/Senior Woman's*

*Administrator*

*Assistant Professor*

Division of Business

University of Charleston

*Head Volleyball Coach*

Charleston, W.Va.

**Rosie Stallman**

*Facilitator*

Equal Opportunity for Transgender  
Student Athletes: A National Think Tank  
Tampa, Fla.

**Charlotte Westerhaus**

*Vice President for Diversity and Inclusion*

NCAA

Indianapolis, Ind.

**Bruce Whitehead**

*Executive Director*

National Interscholastic Athletic

Administrators Association

Indianapolis, Ind.

**Mary E. Wilfert**

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Health and Safety, NCAA

Indianapolis, Ind.





NATIONAL CENTER FOR LESBIAN RIGHTS

NATIONAL CENTER FOR LESBIAN RIGHTS

**SPORTSPROJECT**

**[www.nclrights.org](http://www.nclrights.org)**

The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education.

**WOMEN'S  
SPORTS  
FOUNDATION**

**[www.womenssportsfoundation.org](http://www.womenssportsfoundation.org)**

Founded in 1974 by Billie Jean King, the Women's Sports Foundation is a national charitable educational organization dedicated to advancing the lives of girls and women through physical activity. The Women's Sports Foundation is the only national organization promoting all sports and physical activities for women of all ages and skill levels. The Foundation's goal is to create a society in which girls and women of all ages fully experience and enjoy sports and physical activity with no barriers to their participation.

**It Takes A Team!**

**[www.ittakesateam.org](http://www.ittakesateam.org)**

It Takes A Team! Education Campaign for Lesbian, Gay, Bisexual and Transgender Issues in Sport is an education and advocacy initiative of the Women's Sports Foundation. Our goal is to eliminate barriers to safe and respectful sports participation for all people regardless of their sexual orientation or gender identity. It Takes A Team works toward this goal through the development and dissemination of practical educational information and resources to athletic administrators, coaches, parents and student athletes at the high school and college levels.

*Department of Consumer Affairs*  
*California State Athletic Commission*

**Andy Foster**  
**Executive Officer**

Andy Foster became Executive Officer of the California State Athletic Commission on November 7th 2012. Previously, Mr. Foster served as Executive Director of the Georgia Athletic and Entertainment Commission and also as Regional Director of the Southeastern United States for the Association of Boxing Commissions. Before his appointment as a regulator, Mr. Foster served as the head mixed martial arts (MMA) referee for the Georgia Commission, officiating hundreds of bouts in both professional and amateur rule sets. Mr. Foster has also competed in professional MMA, amateur MMA, amateur boxing, amateur kickboxing, and amateur sport grappling. In addition, Mr. Foster instructed martial arts between 2002-2008 and trained many martial artists. Mr. Foster currently serves in the Association of Boxing Commissions as Chairman of the Unified Amateur Mixed Martial Arts Rules Committee, and member of the Professional Mixed Martial Arts Rules Committee, Boxing and MMA Matchmaking Committee, MMA Judging Committee, and MMA Training Committee. Mr. Foster is married to his wife of six years and they have a dog and a parrot.

# Dr. Kristin Hancock

Professor, College of Graduate and Professional Studies, Clinical Psychology

In 1996, Dr. Hancock was awarded Fellow status in the American Psychological Association (APA) in recognition of her outstanding contributions to the science and profession of psychology. In 2008, APA's Division 35 (Society for the Psychology of Women) honored Dr. Hancock with its Laura Brown Award for her work on lesbian and bisexual women's issues. She also received awards from the National Council of Schools of Professional Psychology (NCSPP) and APA's Division 44 (Society for the Psychological Study of Lesbian, Gay, and Bisexual Issues) for her work in lesbian, gay, and bisexual issues. In 2010, Dr. Hancock received the Distinguished Humanitarian Contribution Award from the California Psychological Association for improving the relevance and quality of mental health services available to the LGBT community and for her work in public policy that has informed the court and been used in testimony to oppose discriminatory legislation and initiatives aimed at gay and lesbian populations. In 2013, Dr. Hancock will be recognized for her work at the National Multicultural Conference and Summit.

Dr. Hancock is a member of APA's Policy and Planning Board and recently served as a member of APA's Board for the Advancement of Psychology in the Public Interest. She is past-chair of the APA's Board of Professional Affairs, the Committee on Professional Practice and Standards, the Committee on Women in Psychology, and the Committee on Lesbian, Gay, Bisexual, and Transgender Concerns (CLGBTC). She is past-chair of the Association of Lesbian and Gay Psychologists, past-president of APA's Division 44, and served for 6 years on APA's Council of Representatives. Dr. Hancock was the co-chair of a CLGBTC/Division 44 Joint Task Force on Guidelines for Psychotherapy with Lesbian, Gay, and Bisexual Clients and, in this capacity, coauthored these guidelines which were adopted by APA in February, 2000.

She also chaired the group responsible for the revision of these practice guidelines which were adopted by APA in 2011. Dr. Hancock assisted in the review of APA's Guidelines on Multicultural Education, Training, Research, Practice, and Organizational Change which were adopted by APA in 2002 and the Guidelines for Psychological Practice with Girls and Women which were adopted by APA in 2007. She is currently a member of Division 17 (Counseling Psychology), 35 (Society for Women in Psychology), 42 (Independent Practice), and 44 (Society for the Psychological Study of Lesbian, Gay, Bisexual, and Transgender Issues). In addition, she served for a number of years as clinical supervisor and consulting psychologist at the Project Eden Drug and Alcohol Prevention Program in Hayward.



NATIONAL CENTER FOR LESBIAN RIGHTS

## **Helen J. Carroll**

### **Sports Project Director**

Helen J. Carroll joined NCLR in August 2001 to lead the Sports Project. She is well known in the sports world as an acclaimed national championship basketball coach from the University of North Carolina-Asheville. Helen had been a National Collegiate Athletic Association (NCAA) Athletic Director for 12 years, and now devotes all her efforts to fighting homophobia in sports by directing NCLR's Sports Project. She works closely with major national sports organizations including the San Francisco 49ers, the Women's Sports Foundation and the NCAA. She has been a dynamic speaker on panels with the NCAA, Nike, the U.S. Tennis Association, The New York Times and many others. She was featured in Dee Mosbacher's award-winning film, *Out For A Change: Addressing Homophobia in Women's Sports*, and author Pat Griffin's book, *Strong Women, Deep Closets*.

## **Pat Cordova-Goff**

### **Recent graduate of Azusa High School**

Pat Cordova-Goff is a Transgender Queer Activist from Southern California. Pat founded the gay-straight alliance at her school and became a youth leader with Gay-Straight Alliance Network, training other young people to push back against all forms of oppression in their schools. As a senior at Azusa High School, Pat was an advocate for the passing and implementation of AB 1266 (Amiano) - California's School Success and Opportunity Act. Ms. Cordova-Goff was the state's first transgender student athlete, playing softball on her school's varsity team. Beginning this fall, Pat will be attending New York University where she plans to study Political Science and Queer Studies. Ms. Cordova-Goff plans to continue to bring visibility and awareness, to all LGBT issues as well as, continuing to work on public policy regarding Transgender athletes.

## **Rick Welts**

### **President & Chief Operating Officer**

One of the most respected business executives in the NBA, with over 36 years of experience in the league, Rick Welts is the president and chief operating officer of the Golden State Warriors. Welts oversees all business-related operations for the Warriors, reporting directly to the organization's Co-Managing Partners, Joe Lacob and Peter Guber.

Welts, 58, brings to the Warriors an impressive and all-encompassing résumé that includes a myriad of different capacities spanning virtually every level of an NBA operation. Most recently, he spent nine years with the Phoenix Suns, serving the organization as president and chief executive officer for the last two seasons. During his tenure in Phoenix, which began as president and chief operating officer in July of 2002, the Suns enjoyed success on all levels, including on the court, where the club registered five 50-plus win seasons and advanced to the Western Conference Finals in 2005, 2006 and 2010. Welts' responsibilities in Phoenix included the supervision of all business operations for the Suns, while also overseeing the team's interest in the management of the US Airways Center and the WNBA's Phoenix Mercury. The Mercury won the WNBA Championship in 2007 and 2009.

Prior to joining the Suns, Welts enjoyed a successful 17-year (1982-1999) stint at the NBA league office in New York, where he ascended through the ranks to eventually become the league's third-in-command as the executive vice president, chief marketing officer and president of NBA Properties. In addition to his overall contributions to the revitalization of the league's image and popularity, his notable accomplishments at the NBA include the creation of NBA All-Star Weekend in 1984 – a model that subsequently became a fixture in both MLB and the NHL – along with the creation of a marketing program with USA Basketball for the 1992 Olympic "Dream Team." Along with Val Ackerman, Welts was named "Marketer of the Year" by Brandweek in 1998 for his role in launching the WNBA. During his time at the NBA office, he received multiple promotions and supervised a wide-range of departments, including corporate sponsorship and media sales, consumer products, international business activities, media relations, community relations, team services, special events and creative services. Welts also played a prominent role in the organization of preseason games in foreign countries and the eventual opening of international NBA offices in Australia, Asia, Europe, Mexico and Canada.

A native of Seattle, Washington, Welts began his NBA career in 1969, at the age of 16, as a ball boy with the Seattle SuperSonics. He spent 10 years with his hometown team serving a number of roles, including as the team's director of public relations during back-to-back appearances in the NBA Finals (1978 and 1979) and the SuperSonics lone NBA Championship in 1979. In 2006, he was the recipient of the annual Splaver/McHugh "Tribute to Excellence Award," which is given annually by the NBA Public Relations Directors' Association to a current or former member of the NBA PR family who has demonstrated an outstanding level of performance and service during their NBA career.

After leaving the SuperSonics, the University of Washington product spent the following three years (1980-1982) at Bob Walsh & Associates, a sports marketing firm in the Seattle area. His non-NBA résumé also includes serving as president of Fox Sports Enterprises (1999-2000).

In May of 2011, in a front page story in the New York Times, Welts became the highest ranking executive in men's professional team sports to publicly acknowledge he is gay. Four months later, he was presented with a United States Tennis Association 2011 ICON Award at the US Open in New York City. The ICON Award recognizes and celebrates those who have had a positive impact on diversity and inclusion in the sports industry and society.

**Roger L. Blake, Executive Director  
California Interscholastic Federation (CIF)**

Roger L. Blake has completed his second year as CIF Executive Director and has been involved in education for almost 37 years as a teacher, coach, administrator, athletic director, assistant executive director and associate executive director. For the past 16 years, Blake has held positions within the CIF as Director of Education & Training (1998-2001), Assistant Executive Director (2001-07) and Associate Executive Director (2007-2012). Blake has also served on several committees for the CIF and Southern Section during his time as a coach and administrator.

After receiving his Bachelor of Science Degree from California State University, Fullerton in 1976, Blake began his teaching and coaching career at Sonora High School (1976-77) and Cajon High School (1977-78). Next, Blake worked 24 years in the Lake Elsinore Unified School District as a teacher and boys' varsity basketball coach (1978-94), Assistant Dean of Students (1980-81), Athletic Director (1984-94) and Director of District Athletics (1994-2001). During that time he also served as Special Advisor for the Governor's Council on Physical Fitness and Sports (1998-2001). In 1981, while at Elsinore High School, Blake earned his Masters of Arts from Azusa Pacific University.

Additionally, Blake is a Certified Master Athletic Administrator through the National Interscholastic Athletic Administrators Association (NIAAA) and has been a member of the National Federation of State High School Associations (NFHS) National Teaching Faculty on various subjects. He was also the NFHS Chairperson for the Coaching Education Committee (2007-11) and served on the Committee (2001-05). Throughout his career Blake has also been involved with the California State Athletic Directors Association (CSADA) and has served on the Board of Directors since 1996.

## **Toni Kokenis**

### **Stanford University Women's Basketball Team**

Toni Kokenis is a member of the Stanford University Women's basketball team pursuing bachelor degrees in Human Biology and Sociology. As president and co-founder of the university's athlete-ally student group, she and other founders worked alongside the Athletic Department to help produce the University's "You Can Play" video to fight homophobia and transphobia in Stanford athletics. Recipient of the 2014 Campus Pride National Voice & Action Athlete Award and the Stanford Huffington Pride Fellowship, she is also a co-founder of We A.R.E. (Athletes Reaching Equality) Pride. Toni recently completed an honors thesis in Feminist, Gender, and Sexuality studies examining negative recruiting in Division I Women's College Basketball.