

CAN THE CONCEPT OF “GOOD COACHING” BE QUANTIFIED FOR THE PURPOSES OF TITLE IX SEX DISCRIMINATION CLAIMS?

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INTRODUCTION

Growing up, I had mostly male tennis coaches. In retrospect of my fourteen years of playing junior tennis, I remember the male coaches the most vividly. Whenever they would speak, I listened intently and took what they were saying as the utmost truth. When they told me to take a lap, I took it and did not even think twice. My older sister, who had just completed her Division I college tennis career, became my private coach when I was eleven years old. By the time I was thirteen, I was unresponsive in having her as my coach. In group lessons, I hardly listened to her and the other female coach and looked instead to the male coaches for advice and support.¹ When I decided I did not want my sister to be my coach anymore, I started taking my private lessons from a male coach. During my junior and senior years of high school, when colleges were recruiting me for tennis, I leaned towards accepting a full tennis scholarship from the same Division I university that my sister attended. It was a bonus that my women’s tennis team would be coached by a man. I could not really figure out why I had these feelings at the time, but now it is extremely clear.

My reason for admiring the male coaches was based on a societal view that men are faster, smarter, stronger and more talented than women.² While in some cases this is true, in some it is very false.³ Women have mastered sport in unique ways that are specific to women.

¹ ROBERT DRAGO ET AL., FINAL REPORT FOR CAGE: THE COACHING AND GENDER EQUITY PROJECT 29-30 (Aug. 19, 2005), *available at* <http://lsir.la.psu.edu/workfam/CAGE.htm> (describing the tendency of female athletes to consider male coaches more authoritative and stating that female athletes preferred male coaches).

² CLAYTON E. TUCKER-LADD, PSYCHOLOGICAL SELF-HELP § 9 (Clayton Tucker-Ladd & Mental Health Net 2000), *available at* <http://mentalhelp.net/psyhelp/chap9/chap9p.htm>.

³ *Adams v. Baker*, 919 F.Supp. 1496, 1500 (D. Kan. 1996) (where a female athlete is described as just as strong and talented as her male counterparts).

Women can focus on one intense activity for a longer period of time than men can, making female athletes' mental focus greater than their male counterparts.⁴ Additionally, women commit themselves to achieving high goals in the future, while men commonly think about the present.⁵ This quality can make women more dedicated to their sports over a longer period of time when compared to male athletes. My negative attitude towards female coaches was also based on the societal assumption that women are less capable of providing quality coaching to athletes.⁶ However, men can be ineffective as coaches in certain situations.

When I think back on my Division I college tennis career, I realize that a man coaching female athletes is not always the best scenario. Although my college coach and I got along well in that we were both extremely competitive and relentless players, some of the other girls on the team had serious issues in dealing with his intensity. Understandably, he was not overly sympathetic when a more sensitive or "female" issue arose. Overall, I believe he was a wonderful coach, and my team had great success. Today, it is considered perfectly normal for a man to coach female athletes even though he never has before and has no training to do so. However, what is good coaching for male athletes is different from that for female athletes. The difficulty that male coaches experience in relating completely to their female athletes is a common one. A man coaching female athletes under these circumstances may not be as effective as coaching by a woman or by a man who is more experienced in coaching female athletes.⁷

⁴ See generally TUCKER-LADD, *supra* note 2.

⁵ J.O. RAYNOR, *Future Orientation and Achievement Motivation: Toward a Theory of Personality Functioning and Change*, in COGNITION IN HUMAN MOTIVATION AND LEARNING 199-231 (1981).

⁶ Peter Roby, *Good News for Women in Sports, Yet Much Work Remains*, http://www.northeastern.edu/csss/good_news.html (last visited Apr. 20, 2006) (stating that nearly all men's sports programs are coached by men, yet only about 43 percent of women's sports are coached by women).

⁷ See generally *id.*

Conversely, some female coaches of women's teams are inadequate because they cannot relate to the dissimilar experiences of the athletes they coach. For example, if a woman had great success in her heyday as a collegiate athlete and then coaches a women's team that is struggling for wins, the coach may have difficulty empathizing with the athletes' frustrations. Female athletes with women as coaches, especially who were similarly situated when they were athletes themselves, is the best case scenario to maximize female-specific talents.⁸ If that is not possible in all situations, female athletes, in order to take real strides against sex discrimination, deserve coaches that understand the differences between female and male athletes. A coach who is able to perform in this athlete-specific way can be a man or a woman, but is important that female athletes learn either from other women or from men who have an understanding of the differences in coaching women versus men. Men with this understanding could be those who have coached women's teams before or those who have educated themselves specifically about coaching women's teams.⁹ In order for female athletes to benefit completely from the experience of a participating in collegiate athletics, coaching that is specific to their unique needs is a necessity.¹⁰

If female-specific and personality-specific coaching is absent, the inability for female athletes to maximize their potential will be one, but not the only, detrimental result. To level the opportunities for female and male athletes, society's definition of what constitutes beneficial coaching of female athletes must change. Otherwise, discrimination on the basis of sex will continue to jeopardize positive collegiate athletic experiences.

⁸ DRAGO ET AL., *supra* note 1, at 51.

⁹ See generally S. MILGRAM, OBEDIENCE TO AUTHORITY (Harper & Row 1974).

¹⁰ See generally Roby, *supra* note 6 (stating that female athletes can benefit so greatly from being involved in sports that precautions must be taken to ensure that the female athletes of today will become the female world leaders and role models tomorrow, especially through coaching and administration).

Discrimination is defined as “unequal treatment of persons, for a reason which has nothing to do with legal rights or ability,” and sex discrimination is that unequal treatment based on gender.¹¹ For many years, women were not even included in collegiate and professional sports, and their struggle to demonstrate dedication and competitiveness in athletics has been ongoing since women have been introduced into sports at those levels.¹² Sex discrimination in funding collegiate athletics has been of especially great concern as more and more women’s teams have been introduced.¹³ However, with the help of legislation such as Title IX of the Education Amendments of 1972 (“Title IX”),¹⁴ more women can participate in athletic competition equally to men. A simple yet dramatic way to combat sex discrimination in athletics is to utilize Title IX to afford female athletes, as well as male athletes, coaches that cater to their specific needs.

This article first provides the actual language of Title IX and its scope, followed by a brief history. Next, the article delves into future considerations in using Title IX and its provisions to combat sex discrimination in collegiate athletics. As this article finds a lack of claims based on the inequality of coaches in women’s and men’s athletic programs, it uncovers the need for a system of quantifying what constitutes a “good coach.” It also points out the societal view that “good coaching” is the same for women’s and men’s collegiate athletic teams. The article concludes with suggestions for quantifying good coaching specifically for female athletes, while addressing ways to keep women interested in coaching positions.

¹¹ Law.com Dictionary, available at <http://dictionary.law.com/default2.asp?selected=532&bold=|||>.

¹² See 118 CONG. REC. 5804 (1972) (statements of Sen. Birch Bayh).

¹³ DRAGO ET AL., *supra* note 1, at 11-13.

¹⁴ 20 U.S.C. § 1681 (2005).

II. BACKGROUND

A. *Language and Scope of Title IX*

It is crucial to break down the specific language of Title IX before beginning a detailed analysis of its history and applications. Signed into law on June 23, 1972, the language of Title IX, in pertinent part, is as follows:

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. . .¹⁵

Even though the wording of Title IX does not include anything about athletics specifically, the use of the words “any education program or activity” has been interpreted to encompass collegiate athletics.¹⁶ For an athletic claim based on Title IX to be valid, the complainant must demonstrate evidence of sex discrimination by means of exclusion from a particular athletic program or activity or through denial of the benefits of such an athletic program or activity.¹⁷ Collegiate athletics in private and public institutions are included in the category of federally funded educational programs or activities covered under Title IX, except where the institution is one that is traditionally of single-sex admission or is one that does not accept federal financial assistance.¹⁸

B. *History of Title IX of the Education Amendments of 1972*

After realizing a pattern of sex discrimination in American education,¹⁹ Congress implemented Title IX to remedy sex discrimination in educational bodies that receive federal

¹⁵ 20 U.S.C. § 1681(a).

¹⁶ *Haffer v. Temple University of Commonwealth System of Higher Education*, 678 F.Supp. 517, 541 (D. Pa. 1988); *see also* *Cohen v. Brown Univ.*, 991 F.2d 888, 895 (1st Cir. 1993).

¹⁷ *See Rice v. President & Fellows of Harvard College*, 663 F.2d 336 (1st Cir. 1981) (where the plaintiff was not protected under Title IX when simply evidencing the university’s receipt of federal funding and not showing discrimination on the basis of sex in the college’s handling of the program).

¹⁸ *Horner v. Kentucky High Sch. Ath. Ass’n*, 43 F.3d 265, 273 (6th Cir. 1994); *Moire v. Temple University School of Medicine*, 613 F.Supp. 1360, 1366 (D. Pa. 1985).

¹⁹ *See* 118 CONG. REC. 5804 (1972) (statements of Sen. Birch Bayh) (remarking on the overwhelming patterns of sex discrimination against women in the 1,200 pages of testimony).

funding.²⁰ The two main objectives in enacting Title IX were: “[t]o avoid the use of federal resources to support discriminatory practices’ and ‘to provide individual citizens effective protection against those practices.’ ”²¹ Although Congress did not specifically mention athletics in its objectives, there is “little doubt that the enactment was aimed, in part, at creating a more level playing field for female athletes.”²²

Since its signing into law,²³ Title IX has been employed to prevent the cancellation of female athletic programs, as well as to increase the opportunities for females in athletic programs in general.²⁴ One of the main purposes for bringing Title IX claims in athletics has been to remedy sex discrimination imposed by educational institutions in failing to provide female athletes with equal funding.²⁵ Funding has been inappropriately used to the detriment of female athletes in building and repairing venues and other facilities, buying and improving uniforms, purchasing team equipment, and awarding full and partial scholarships to the student-athletes.²⁶

In three of Title IX cases,²⁷ the three areas of inquiry provided by the Department of Education’s Office of Civil Rights for evaluating sex discrimination under Title IX and its provisions were explained. The first part asked whether intercollegiate opportunities for male

²⁰ *Cohen v. Brown Univ.*, 101 F.3d 155, 165 (1st Cir. 1996), *cert. denied*, 520 U.S. 1186, 137 L.Ed. 2d 682, 117 S. Ct. 1469 (1997).

²¹ *Gebster v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 286 (1998) (quoting *Cannon v. Univ. of Chicago*, 441 U.S. 677, 704 (1979)).

²² *Cohen v. Brown Univ.*, 991 F.2d at 894.

²³ Other than two amendments, one in 1974 and one in 1976, that were both minor amendments concerning punctuation and removals of the word “and” from the original wording, this statute has remained relatively unchanged from its original signed form.

²⁴ See generally *DRAGO ET AL.*, *supra* note 1.

²⁵ *DRAGO ET AL.*, *supra* note 1, at 11-12.

²⁶ See *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167 (U.S. 2005) (where a high school basketball coach brought a claim under Title IX, claiming that his girls’ team was receiving unequal funding and inadequate access to equipment and facilities when compared to the boys’ basketball teams); see also *Cohen v. Brown Univ.*, 101 F.3d 155 (1st Cir. 1996) (where suit arose in response to Brown University demoting the women’s gymnastics and volleyball teams from university-funded varsity status to donor-funded varsity status, which caused loss of support and privileges that come with being classified as a university-funded varsity status program); see also *McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275 (2nd Cir. 2004) (where high schools girls brought a claim against their school district for scheduling their season so that they were unable to compete in regional and state championships).

²⁷ See *Cohen v. Brown*, 991 F.2d 888; *Roberts v. Colorado State Univ.*, 814 F.Supp. 1507 (D. Colo. 1993); and *Favia v. Indiana Univ. of Pennsylvania*, 7 F.3d 332 (3rd Cir. 1993).

and female students were provided in numbers substantially proportionate to their respective enrollments.²⁸ The second part stated that, where the members of one sex have been underrepresented among intercollegiate athletes, it should be determined whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of that sex.²⁹ The final part of the three-part test said that, where the members of one sex are underrepresented among intercollegiate athletes and the institution cannot show a continuing practice of program expansion such as that cited above, it should be determined whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.³⁰ These three parts can be summarized as proportionality, expansion, and accommodations. Most cases involving Title IX have relied on this three-part test to evaluate policy claims.³¹

III. FUTURE CONSIDERATIONS FOR COMBATING SEX DISCRIMINATION IN COLLEGIATE ATHLETICS THROUGH THE USE OF TITLE IX

A. Remediating Sex Discrimination in Collegiate Athletics Begins with Title IX Claims

“Before Title IX was enacted, it was both legal and common for women to be . . . denied opportunities for athletic competition and scholarships.”³² Great strides have been made since Title IX’s signing. It would be a shame if forward progress in remediating sex discrimination in collegiate athletics did not continue. “One of the best examples of women gaining equal access in education thanks to Title IX has been in the area of athletics.”³³ It is of the utmost importance

²⁸ Cohen v. Brown, 991 F.2d at 901.

²⁹ *Id.*

³⁰ *Id.*

³¹ See *Roberts*, 814 F.Supp. 1507; see also *Favia*, 7 F.3d 332.

³² *McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275, 288 (2nd Cir. 2004) (quoting 130 CONG. REC. 18, 535 (1984) (statement of Rep. Snowe)).

³³ *Id.*

that this use of Title IX continues to be one of the best examples of dispelling unequal treatment of women.

Equality in intercollegiate athletics is far from being achieved. Since Title IX, the number of women participating in sports has increased significantly, but benefits and funding given to women's sports teams falls far short of the benefits and funding given to men's teams.³⁴ According to a 2004 study, for every tax dollar that goes towards funding intercollegiate athletics, men's sports receive 65 cents, while women's sports receive the remaining 35 cents.³⁵ Men's teams receive a total of \$133 million in college athletic scholarships per year, which is 36% more than the women's teams' total.³⁶ While these statistics may reflect the fact that men's sports are usually more profitable and have a larger fan base,³⁷ Title IX grants much more equal benefits than this.³⁸ Terminating men's sports teams is just one of the many detrimental results of Title IX legislation for men's athletics, but focus should shift to changing non-monetary inequalities. It is important for the statistics above to be more equal than they currently are, but it is more important for female athletes to acquire the benefits of sport such as those that come with good coaching. Ensuring women's teams have effective coaches requires no funding transfers, but merely evaluates how ready a coach is for the unique experience of coaching female athletes. These evaluations will only become routine when more Title IX claims are brought on behalf of female athletes.

³⁴ See http://www.smc.edu/comm_ed_facil_2004/pdf_files/app_h_gender_equity.pdf (last visited Dec. 10, 2005).

³⁵ *Id.*

³⁶ *Id.*

³⁷ See generally John C. Weistart, *Can Gender Equity Find a Place in Commercialized College Sports?*, 3 DUKE J. GENDER L. & POL'Y 191, 205-206 (1996).

³⁸ See generally 20 U.S.C. § 1681 (2005).

B. Our Society Has Been Historically Conducive to Sex Discrimination

One obstacle that women have to overcome is the difficulty in convincing others that they should be taken seriously when participating in sports.³⁹ Because of societal expectations for women to be feminine and not to overexert themselves, it is a recent development in the battle against sex discrimination that a woman can be a tough, highly competitive athlete without lacking femininity.⁴⁰ Some people still consider participation in sports as something in which only men partake.⁴¹ Despite Title IX and shifts in participation due to feminist movements, the number of women who participate in sports is still not near equal to the number of men that participate in sports, and there is still a strong presumption that only men, not women, can master a sport.⁴² There is a societal assumption that only men should get sweaty, compete in sports, and be quick and strong.⁴³

Women continue to be associated with feminine sports like gymnastics, tennis, and ice-skating. When women play more “masculine” sports like basketball or hockey, they have to answer to automatic questions about their sexuality.⁴⁴ On the other hand, the women who play more masculine sports are the only ones who seem to be taken seriously as athletes.⁴⁵ For example, professional female tennis players, especially in the past ten years, have become sex

³⁹ See generally Claire Smith, *Women in Sports*, U.S. SOCIETY AND VALUES, December 2003, available at <http://usinfo.state.gov/journals/itsv/1203/ijse/smith.htm>.

⁴⁰ See generally Smith, *supra* note 39; see also Lea Ann Schell, Women’s Sports Foundation, *(Dis)Empowering Images? Media Representations of Women in Sport* (2001), at <http://www.womenssportsfoundation.org/cgi-bin/iowa/issues/media/article.html?record=881>.

⁴¹ See generally *Benefits—Why Sports Participation for Girls and Women: The Foundation Position*, at <http://www.womenssportsfoundation.org/cgi-bin/iowa/issues/body/article.html?record=577> (Aug. 14, 2000); see also Donna Lopiano, Women’s Sports Foundation, *Gender Equity in Sports: Whose Responsibility Is It?* (June 14, 2002), at <http://www.womenssportsfoundation.org/cgi-bin/iowa/issues/rights/article.html?record=149>.

⁴² See generally Lopiano, *supra* note 41.

⁴³ See generally Lopiano, *supra* note 41.

⁴⁴ See Lopiano, *supra* note 41; see also Schell, *supra* note 40.

⁴⁵ See generally Schell, *supra* note 40.

symbols.⁴⁶ They attract media attention because of their fit, feminine bodies and their beauty, rather than their athletic abilities.⁴⁷ Even though any publicity is good publicity, especially in the important area of women in sports, some perks for women playing sports include: to feel competitive, to be in shape, to have a livelihood outside of housework, to learn discipline, and to feel strong and empowered.⁴⁸ The goal should not be to bring publicity to women's sports to make money and exploit the female athletes; nor should it be to further engrain sex discrimination by suggesting that women are only worthy as sex symbols and will never be taken seriously as athletes. Exposure to women in sports should be for the purpose of granting women the benefits of athletic programs.

C. There is Hope as Female Athletic Superstars Emerge

Every athlete dreams of being a professional at his or her particular sport. For female athletes, though, it is difficult to find professional female athlete role models.⁴⁹ The four main sports leagues in the United States are the National Football League ("NFL"), Major League Baseball ("MLB"), the National Basketball Association ("NBA"), and the National Hockey League ("NHL"). These sports leagues are the ones that have their games televised and listened to on radio stations. Virtually twenty-four hours a day, a sports fan can find one of these sports league's highlights or re-broadcastings on television or the radio.⁵⁰ There are countless channels on television that are dedicated only to sports, and yet airtime is hardly ever given to those women's sports that have professional leagues. For example, it is rare to find a Women's National Basketball Association ("WNBA") game on one of the sports television channels,

⁴⁶ See Alina Bernstein, *Women in Sports Media: Is It Time for a Victory Lap?*, Play the Game, Dec. 12, 2002, at http://www.playthegame.org/Knowledge%20bank/Articles/Women_in_Sports_Media_Time_for_a_Victory_Lap.aspx.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See generally DRAGO ET AL., *supra* note 1.

⁵⁰ See, e.g., <http://www.espn.com>.

especially during the playoffs of one of the four big men's sports leagues.⁵¹ It is impossible to ignore men's sports in today's society, as they are such a huge part of American culture.⁵²

Only men's sports leagues attract massive followings of fans for "fantasy" leagues, where fans pick players from various teams to make a dream team that competes against other fans' dream teams in a particular sport.⁵³ Statistics and game analyses of men's sports leagues are ample on sports fanatic websites such as espn.com and foxsportsnet.com, and these websites are updated multiple times per day.⁵⁴ With millions of hits per day on men's sports-related websites, it is no mystery that the extreme majority of our culture's attention is focused on men's rather than women's sports. However, when men's sports leagues first began, the huge profits and massive technological following could not have been predicted. If the same efforts were put into developing women's professional sports leagues, it is very likely that similar, if not exceeding, profits are possible.

Finding female role models in the whirlwind of testosterone that is professional sports is difficult. With such little recognition for women's professional sports, it may seem that the possibility of women being able to master sports, and attract the audiences that men do, is unrealistic. However, as evidenced by female athletes like Danica Patrick,⁵⁵ Serena Williams,⁵⁶ and Anika Sorenstam,⁵⁷ women are beginning to be renowned in the world of sports.⁵⁸ These female professional athletes have been a ray of hope for many young girls with dreams of playing collegiate or professional athletics. Superstar female professional athletes have

⁵¹ *Id.* (where WNBA schedules are only found by entering "WNBA" into the search engine).

⁵² See [http://encarta.msn.com/encyclopedia_1741500820_3/United_States_\(Culture\).html](http://encarta.msn.com/encyclopedia_1741500820_3/United_States_(Culture).html).

⁵³ See <http://fantasysports.yahoo.com/>.

⁵⁴ See <http://www.espn.com>; see also <http://msn.foxsports.com/>.

⁵⁵ Danica Patrick is a female Indy Racing League driver who has successfully competed with her male counterparts.

⁵⁶ Serena Williams is a female tennis player who dominates the Women's Tennis Association and is known for her provocative tennis outfits that show off her muscles and feminine features as well.

⁵⁷ Anika Sorenstam is a female professional golfer who has played in formerly men's only Professional Golf Association Tour tournaments.

⁵⁸ See Bernstein, *supra* note 46.

illustrated that, with hard work and tireless practice, women can be seen as just as strong and skillful as men and deserve the full range of benefits of participating in sports while competing at the same level.

The star female athletes have also aided in encouraging companies like Nike to have special shoe and clothing lines developed to help them perform at a higher level.⁵⁹ Because men used to dominate the professional and collegiate sporting worlds, many of the shoes and other equipment were traditionally made to fit male bodies and cater to the way a man's body moves.⁶⁰ Professional female athletes have clothing and equipment tailored to their unique bodies, and companies have noticed the differences between female and male athletes because of this tailoring. The companies have mass produced clothing and equipment that is specific to female athletes. With the innovations in shoe and equipment design, young female athletes may find renewed hope in the fact that some of the biggest sports equipment companies are recognizing athletic talent in women and are making products just for them.

In today's male-dominated society,⁶¹ assertive women struggle to contradict "traditional" expectations of their roles as housewives and caregivers. This struggle is one that, for many women, begins at birth, continues through the formative years of college, and extends into married life and the professional world. Women must have strong female role models present in their homes, as well as in the greater community around them, in order to succeed in activities in which they have previously been discriminated.⁶² One type of role model for young women is the female collegiate coach. With the help of these coaches, who are many times former

⁵⁹ See <http://www.nike.com/nikewomen/us/index.jhtml>; see also <http://www.nike.com/nikewomen/us/index.jhtml#dressingroom> (where Serena Williams and Maria Sharapova have personalized wardrobes for the Nike Women line).

⁶⁰ See http://www.nike.com/nikerunning/usa/home.jhtml?ref=running_global_redirect#footwear_women (where women-specific technology for running shoes is mapped out with interactive diagrams and explanations).

⁶¹ See generally TUCKER-LADD, *supra* note 2.

⁶² See generally DRAGO ET AL., *supra* note 1.

collegiate athletes themselves, more females will be eager to participate in athletics.⁶³ Sex discrimination caused a decline in the number of women that hold coaching and administration positions in collegiate athletics.⁶⁴ If Title IX is used for its intended purpose of guaranteeing quality coaches to both female and male athletes, the damage done by sex discrimination in the past can be undone.⁶⁵

In order to keep the battle against sex discrimination moving forward, claims need to be continually brought under Title IX for any unequal treatment. Claims can be brought by coaches, administrators, parents, and the individual athletes themselves.⁶⁶ “Parents, athletes, and spectators should insist on equality for women’s athletics. It’s nothing less than the law, and nothing less than women athletes deserve.”⁶⁷ Female athletes should be made aware of the equality to which they are entitled. If no action is taken to obtain the benefits granted by the Title IX provisions, female athletes may have coaches that do not take their jobs seriously enough and have no desire to improve their understanding of the differences between female and male athletes. When coaches have faulty beliefs (such as that their female athletes are incapable of dedication and success) they miss out on the value of coaching passionate, talented female athletes. Additionally, the athletes miss out on having quality coaching to accompany their passion for the sport.

⁶³ See generally DRAGO ET AL., *supra* note 1.

⁶⁴ See generally DRAGO ET AL., *supra* note 1.

⁶⁵ See generally DRAGO ET AL., *supra* note 1.

⁶⁶ Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 173 (U.S. 2005).

⁶⁷ Editorial, *You Go, Girls*, ST. LOUIS POST-DISPATCH, July 13, 1999, at B16.

D. Athletes as Young as High School Age Show Passion for Sports

Women have equal, if not superior, abilities compared to men in playing certain sports.⁶⁸

This illustrates the necessity to bring claims for sex discrimination at schools where female athletes are unable to play to their fullest potential.⁶⁹ The idea of separate but equal athletic programs is invalid when a female athlete of extreme talent and competitive drive is prevented from developing into an elite athlete because of rules against female participation on men's teams or other discriminatory regulations at educational institutions.⁷⁰

In addition to being equal or superior in ability when compared to their male counterparts, some female athletes also surpass male athletes in levels of dedication and commitment. A clear example of this was a case where two female high school soccer players brought a lawsuit against the school district for scheduling their soccer season in such a way that prevented them from participating in the regional and state championships.⁷¹ The girls were passionate about their sport and about the opportunity to compete at the State tournament, the most significant competition of the year, that they brought a Title IX sex discrimination claim.⁷² For high school girls to be so enthusiastic about sport is promising, and it illustrates the incredible competitiveness and passion that some young women have developed from being involved in athletics. If given the opportunity to maximize these positive athletic attributes using Title IX and its provisions, those young female athletes can be integral parts of their collegiate teams. Women can be denied certain benefits of participating in athletics based solely on their

⁶⁸ Evidenced by Anika Sorenstam (who has proved herself on the PGA tour by surpassing many men in qualifying for big tournaments) and Danica Patrick (who has had impressive race finishes, beating men in recent Indy Racing League events).

⁶⁹ *See O'Connor v. Board of Education*, 449 U.S. 1301, 1303 (U.S. 1980) (where a girl was denied the opportunity to play on the boys' basketball teams, and the District Court decided that the programs were not "separate but equal" in that the girl was only competing against girls of significantly less skill).

⁷⁰ *Id.* at 1303.

⁷¹ *McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275, 284 (2nd Cir. 2004).

⁷² *Id.* at 284 (where the high school girls themselves stated the extreme importance of competing for the Regional and State soccer titles, just as the boys' team can compete in those events).

gender even when collegiate recruiters and coaches have evaluated them as possessing exceptional abilities.⁷³ This discriminates against such exceptional females athletes, and one of the crucial benefits they will miss out on is good coaching.

During the significant years of college, female athletes need the guidance of a good coach to supplement the wonderful opportunity of playing the sport they love.⁷⁴ When a women's team has a valuable female coach, they will learn a great deal from the fact the coach has gone through similar situations and understands the agonies and triumphs of women's collegiate athletics. A similarly beneficial situation is one where a women's team has a qualified male coach who is experienced with or has been trained in the dynamics of coaching women's teams.

IV. APPLICATIONS OF TITLE IX IGNORE THE PROVISIONS CONCERNING COACHING

Since its enactment, Title IX has continued to be construed to combat varying evils of sex discrimination. The Department of Health, Education, and Welfare set out regulations to assist in the application of Title IX.⁷⁵ One of these provisions, which specifically addresses sex discrimination in athletic programs of federally funded institutions, provides that separate men's and women's teams are only appropriate for contact sports or for teams where the selection is based on competitive skill.⁷⁶ However, the regulation goes on to say that if no team of a particular sport is operated for the gender that is of traditionally lower opportunity, then the member of the "excluded sex must be allowed to try out for the team offered *unless* the sport involved is a contact sport."⁷⁷ For this regulation, contact sports include basketball, football, rugby, and others which involve extensive bodily contact.⁷⁸ This particular provision has created

⁷³ *Id.* at 281.

⁷⁴ See generally DRAGO ET AL., *supra* note 1.

⁷⁵ *O'Connor*, 449 U.S. at 1307.

⁷⁶ 45 C.F.R. § 86. 41(b) (1979).

⁷⁷ 45 C.F.R. § 86. 41(b) (emphasis added); see generally *O'Connor*, 449 U.S. 1301.

⁷⁸ *O'Connor*, 449 U.S. 1301.

opportunities for young female athletes to compete in their favorite, non-contact sport in the instance that their school does not offer a women's team for their sport.

*A. Provisions of the Department of Health, Education, and Welfare Assist in
and Broaden the Application of Title IX*

Title IX can aid female athletes not only by equalizing funding between women's and men's athletic teams, creating new teams, and allowing women to try out for men's teams. It can also be used to employ coaches for female athletes that are equally qualified to those of their male athlete counterparts, whether those qualified coaches be men or women. After all, according to the wording of Title IX, federally funded institutions must not deny anyone the benefits of programs or activities because of gender.⁷⁹ It is undisputed that one of the benefits of participating in athletics is having coaches who motivate the athletes and maximize their potential.⁸⁰ Although not at issue in the benchmark Title IX cases, or many other cases in general, equality in providing coaches to women's athletic teams is part of the Title IX Department of Health, Education, and Welfare provisions.⁸¹ These provisions provide the opportunity to have coaches and tutors and for those coaches and tutors to be compensated equally whether they serve female or male athletes.⁸² This is because Title IX ensures equal access to the benefits of programs and activities at an institution and "good coaching" is a benefit of athletic programs.

The regulations of the Department of Health, Education, and Welfare, which say that the wording of Title IX provides for equality in coaching value for men's and women's teams, have been at issue in very few cases. The cases where it is at issue involve suits that have been

⁷⁹ 20 U.S.C. § 1681 (2005).

⁸⁰ JIM THOMPSON, *THE DOUBLE-GOAL COACH: POSITIVE COACHING TOOLS FOR HONORING THE GAME AND DEVELOPING WINNERS*, (Harper Collins 2003).

⁸¹ 34 C.F.R. § 106.41(c) (2005).

⁸² 34 C.F.R. § 106.41(c)(5); 34 C.F.R. § 106.41(c)(6).

brought solely on the compensation portion of the provision, saying that coaches of the same gender should be paid equally whether they coach a women's or a men's team.⁸³ There is significant case law concerning the quantification of the other factors listed in the provisions. Unfortunately, there are more claims brought that pertain to the equality of the funding for collegiate athletic programs than there are brought to ensure the athletes learn valuable life lessons like leadership, goal attainment, dedication, and respect for authority.⁸⁴ Such benefits are possible from the experience of playing a collegiate sport, but only when coaches are capable of cultivating them in their athletes.⁸⁵ These benefits cannot be realized by increasing funding for coaches' salaries and new team uniforms and equipment. Yet, these are the benefits of participating in collegiate athletics which are crucial to be made available to female and male athletes equally. Effective coaching that achieves these ends must be quantified in order to truly equalize the experiences of female and male athletes.

Title IX was enacted to prevent exclusion from participation, denial of benefits, and subjection to discrimination.⁸⁶ However, of the ten provisions set out by the Department of Education's Office for Civil Rights for determining whether equal opportunities exist, five provisions call for equal funding.⁸⁷ While it is important for women's teams to have equal funds to buy equipment and supplies,⁸⁸ to travel and have daily expense allowances,⁸⁹ to procure locker rooms and practice and competitive facilities,⁹⁰ to buy the services of and facilities for medical

⁸³ 34 C.F.R. § 106.41(c)(6); *see* Blalock v. Dale County Bd. of Educ., 84 F. Supp. 2d 1291 (D. Ala. 1999) (where a high school girls' coach brought a claim for unequal compensation in comparison to her male coach counterpart).

⁸⁴ *See generally* DRAGO ET AL., *supra* note 1.

⁸⁵ Sarah J. Murray, Women's Sports Foundation, *10 Tips for Coaching Girls' Sports*, (2001), at <http://www.womenssportsfoundation.org/cgi-bin/iowa/sports/gogetfit/article.html?record=164> (last visited Dec. 10, 2005).

⁸⁶ 20 U.S.C. § 1681(a) (2005).

⁸⁷ 34 C.F.R. § 106.41(c).

⁸⁸ *Id.* § 106.41(c)(2).

⁸⁹ *Id.* § 106.41(c)(4).

⁹⁰ *Id.* § 106.41(c)(7).

and training staff,⁹¹ and to purchase housing and dining facilities and services,⁹² the Title IX provisions that ensure equality in coaching and tutoring may be more beneficial to the athletes. Two provisions – first, affording the opportunity of coaching and academic tutoring⁹³ and second, assigning and compensating coaches and tutors⁹⁴ -- will provide equality in the benefits of athletic programs in a more meaningful and goal-oriented way. It is claims based upon these provisions that can create the equal athletic experiences for the sexes, which is something that Title IX was enacted to accomplish.

In *Deli v. Univ. of Minnesota*, Deli filed a suit against the University of Minnesota, alleging that it improperly paid her less than head coaches of several men’s athletic teams. She claimed that the difference in compensation based on the gender of the athletes she coached was actionable under Title IX.⁹⁵ In that case, Deli had filed her claim after the applicable statute of limitations, so her Title IX claims were considered untimely and were barred.⁹⁶ The court in that case also said that even if the Title IX claim had been filed timely, the claim would still have failed on the merits.⁹⁷ The claim failed on its merits because, in order to have a violation of Title IX based on differential compensation of coaches, one must show that “compensation or assignment policies or practices deny males and female athletes coaching of equivalent ‘*quality, nature or availability.*’”⁹⁸

In *Deli*, the court said where availability and assignment of coaches is equivalent for both women’s and men’s teams, it is difficult to determine if there is a negative effect on the female

⁹¹ *Id.* § 106.41(c)(8).

⁹² *Id.* § 106.41(c)(9).

⁹³ *Id.* § 106.41(c)(5).

⁹⁴ *Id.* § 106.41(c)(6).

⁹⁵ *Deli v. Univ. of Minnesota*, 863 F.Supp. 958, 959 (D. Minn. 1994).

⁹⁶ *Id.* at 962.

⁹⁷ *Id.*

⁹⁸ *Id.* at 962 (citing 44 Fed. Reg. at 71, 413-416 (1979)) (emphasis added).

athletes or not.⁹⁹ After all, the Department of Health, Education, and Welfare intended the provisions that accompany Title IX to ensure that female athletes are equal to male athletes with respect to the “ ‘quality, nature or availability’ ” of coaching available to them; the provisions were not meant to equalize compensation of coaches of women’s teams to men’s teams.¹⁰⁰ The only way that compensation would be covered by the coaching provisions of Title IX is if doing so were to ensure equality in the experience of collegiate athletics.

B. The Coaching Provisions Can Ensure That the Meaningful Benefits of Collegiate Athletics Are Equally Enjoyed

If the Department of Health, Education, and Welfare thought that the “benefits” described in Title IX did not include valuable and proper coaching, the provisions that accompany it would not have been promulgated. The provisions afford coaches and tutors to both women’s and men’s teams equally.¹⁰¹ Among other factors, the opportunity for women’s teams to have coaches and tutors that are paid similarly to the coaches and tutors of men’s teams is in the Department’s provisions describing the applications of Title IX.¹⁰² The Department recognized the ability of institutions to lure coaches of better quality with a greater salary to offer them, and knew the importance of acquiring qualified coaches for both men’s and women’s teams.¹⁰³ Certainly it would be unfair to give the women’s teams tutors that are far less qualified when compared to the tutors afforded to the men’s teams. Similarly, it is unreasonable and discriminatory to give less qualified coaches to women’s teams than are given to men’s teams. Therefore, implicit in these coaching and tutoring provisions promulgated by the Department is that the coaches afforded to women’s and men’s athletic teams should be equally qualified and

⁹⁹ *Id.* at 963.

¹⁰⁰ *Price v. Wilton Public School District*, 1998 U.S. Dist. LEXIS 23138 (D. Conn. 1998).

¹⁰¹ 34 C.F.R. § 106.41(c)(5) and 34 C.F.R. § 106.41(c)(6).

¹⁰² 34 C.F.R. § 106.41(c).

¹⁰³ DRAGO ET AL., *supra* note 1, at 11.

similarly valuable. Just as has been done with many of the other parts of Title IX legislation, these provisions can be construed as the avenue by which claims are brought when a women's team has an inexperienced or uninterested coach at an institution whose men's teams have highly qualified coaches.

To afford a team the opportunity of having a coach that is equal to that of another team means to have coaches with similar credentials.¹⁰⁴ Coaching athletes is challenging because a certain level of expertise of the sport must be corroborated with a natural ability to help a large number of athletes, all of whom may have completely different ways of learning, practicing, and mastering the sport.¹⁰⁵ In many cases, coaching is not something that can be taught and is considered a true art.¹⁰⁶ Collegiate coaching is difficult, but coaching females can be extremely complex, especially for those coaches who have previously coached only males.¹⁰⁷ Title IX can help in assuring every female athlete will have a coach that will improve her athletic ability and teach her numerous life lessons.

C. The Advantages of Sports Along with the Benefits of Good Coaching Create an Imperative Combination in Achieving Growth On and Off the Field

There are countless benefits for young men and women when they participate in sports.¹⁰⁸ Research has shown that participating in sports reduces the risks of obesity, hypertension, excessive stress, hyperlipidemia,¹⁰⁹ and high cholesterol.¹¹⁰ In addition to these general benefits,

¹⁰⁴ DRAGO ET AL., *supra* note 1, at 25.

¹⁰⁵ *See generally* JIM THOMPSON, THE DOUBLE-GOAL COACH: POSITIVE COACHING TOOLS FOR HONORING THE GAME AND DEVELOPING WINNERS, (Harper Collins 2003).

¹⁰⁶ *Id.*

¹⁰⁷ DRAGO ET AL., *supra* note 1, at 29-30, 32 (stating that females athletes may have trouble respecting female coaches as authority figures that command respect, while pointing out the drama with menstrual cycles and "bitchiness" that can occur among female teammates and coaches).

¹⁰⁸ *Benefits of Playing Sports*, available at <http://www.benefitsof.info/benefits-of-playing-sports.php> (last visited Dec. 10, 2005).

¹⁰⁹ High levels of fat in the blood.

female athletes can further benefit from playing sports. The risk of osteoporosis and breast cancer significantly decreases with participation in sports.¹¹¹ Young female athletes are more likely to report that they have never had sexual intercourse than non-athletes, and teenage female athletes are less than half as likely to get pregnant as are non-athlete teens.¹¹² Playing sports is an effective tool for reducing symptoms of depression and low self-esteem.¹¹³ Research has shown a more positive body image in athletes when compared to non-athletes.¹¹⁴ Additionally, young female athletes learn math skills when playing sports and have more success in academics in general, with a much higher high school graduation rate when compared to non-athletes.¹¹⁵

Coaches can greatly increase the chances that all of the benefits of participating in athletics will be realized by their athletes. Effective coaching results in athletes maximizing their talents and benefiting from sport in general.¹¹⁶ Good coaches convey to their athletes the realistic expectations they have by formulating appropriate training and practice schedules.¹¹⁷ While a strong desire to win is an inherent quality in good coaches, they also truly enjoy watching their athletes improve and have fun while practicing and competing.¹¹⁸ By giving their athletes the appropriate time off for recuperating from injuries and resting sore muscles, coaches maintain healthy athletes.¹¹⁹

¹¹⁰ Women's Sports Foundation, *25 Benefits of Girls Playing Sports*, (1999), available at <http://www.womenssportsfoundation.org/cgi-bin/iowa/sports/gogetfit/article.html?record=4> (last visited Dec. 10, 2005).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*; see also JEAN ZIMMERMAN & GIL REAVILL, Reader's Companion to *Raising Our Athletic Daughters: How Sports Can Build Self-Esteem and Save Girls' Lives*, (Doubleday 1999), available at http://www.randomhouse.com/resources/bookgroup/raisingathdaughters_bgc.html (last visited Dec. 10, 2005).

¹¹⁶ See <http://www.positivecoaching.org/ForCoaches.html> (last visited April 20, 2006)

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

Any athlete who has been under the direction of a tough, yet understanding, coach can attest to the unparalleled and lifelong benefits that come from the experience.¹²⁰ On the other hand, there is the unfortunate reality that all the wonderful benefits of sports listed above could be taken away from a female athlete by an experience with an unqualified and ineffective coach. A harsh coach could turn young women away from sports and exercise at a young age.¹²¹ Psychological games that coaches sometimes play with their athletes to catalyze better performance can ruin a young woman that has an already stressful life.¹²² Therefore, it is of the utmost importance that, in order to give female athletes the opportunity to experience the physical, psychological, and intellectual benefits of sport, Title IX provisions are used to prevent unequal coaching. Under the right circumstances, coaches can play a huge role in the development of strong women who will be role models to young girls.¹²³

V. QUANTIFYING “GOOD COACHING” FOR THE PURPOSES OF THE TITLE IX PROVISIONS

As with many other definitions in law, the definition of a “good coach” for the purposes of Title IX claims could be complex. However, concrete legal criteria have been created for some extremely abstract concepts when the law’s language does not provide a definition in itself. Creating legal parameters for whether the coach of a women’s team is “equal” to that of the comparable men’s team at an institution is a task that would no doubt cause some debate. Yet, it is a process that must take place in order to ensure female athletes receive the full range of benefits from Title IX legislation.

¹²⁰ JEAN ZIMMERMAN & GIL REAVILL, *Raising Our Athletic Daughters: How Sports Can Build Self-Esteem and Save Girls’ Lives*, Reader’s Companion (Doubleday 1999), summary available at http://www.randomhouse.com/resources/bookgroup/raisingathdaughters_bgc.html (last visited Dec. 10, 2005).

¹²¹ DRAGO ET AL., *supra* note 1.

¹²² See generally DRAGO ET AL., *supra* note 1; see also TUCKER-LADD, *supra* note 2.

¹²³ JIM THOMPSON, *THE DOUBLE-GOAL COACH: POSITIVE COACHING TOOLS FOR HONORING THE GAME AND DEVELOPING WINNERS*, (Harper Collins 2003); see also DRAGO ET AL., *supra* note 1.

*A. There Are Some Qualities That Describe What is Traditionally
Viewed as “Good Coaching”*

A “good coach” usually is defined by the number of wins or the winning percentage over the course of the career of the coach.¹²⁴ Although this does show success in winning games, it does not necessarily indicate a coach’s ability to develop player talent.¹²⁵ Sometimes a coach will come into an extremely talented team from a previous coach. If so, recruiting is simple for that coach because good players want to be on a talented, winning team. With a continuing cycle of good players seeking the coach out for recruitment, that particular coach may never actually demonstrate his or her ability to develop the athletes. The number of years that a coach has been coaching, when taken with the talent he or she has developed, is a good combination of factors that can be used to determine the definition of a “good coach.”¹²⁶

Another important consideration in evaluating a coach is the ability to get along with players like a friend, while simultaneously commanding respect in the way a parent would.¹²⁷ When athletes truly respect their coaches as knowledgeable and encouraging, success as measured by the number of wins often comes on its own. Respect comes from coaches being understanding of the stressful and multi-faceted lives that collegiate athletes live. A good coach is understanding, yet demanding.¹²⁸ He or she will expect many things of the athletes: a healthy social life, a good relationship with family, near perfect grades, and unconditional and unwavering dedication to practices and games. Athletes with effective coaches understand the negative consequences of performing in any one of the above areas at a level that is below their

¹²⁴ See generally DRAGO ET AL., *supra* note 1.

¹²⁵ See generally DRAGO ET AL., *supra* note 1.

¹²⁶ See DRAGO ET AL., *supra* note 1, at 6-7.

¹²⁷ See *Weaver v. Ohio State Univ.*, 71 F. Supp. 2d 789 (S.D. Ohio 1998) (where the pros and cons of a particular coach are specified, indicating the factors that are not important in determining a definition of good coaching).

¹²⁸ DRAGO ET AL., *supra* note 1.

potential. In this ideal situation, the athletes do not resent these high expectations from their respectable coaches. Instead, they rejoice at the end of their athletic careers because they have matured and learned invaluable life lessons from the painful, yet rewarding, experience.¹²⁹

Respect for coaches is also a product of the coaches leading a fulfilling life themselves, which includes meaningful relationships with friends and family, as well as an ability to separate work from personal matters. Many coaches share their families with their student-athletes and the fans in order to illustrate the loyalty and honor that exists among their families.¹³⁰ Exhibiting to their athletes this commitment to family can make the athletes more confident that their coaches can be trusted in important game situations. By sharing their families with the fans, coaches can effectively raise interest in and money for the athletic programs.

Defining “good coaching” is also possible through the analysis of team practices. Often, there are complaints from athletes concerning the effectiveness of practices run by their coaches.¹³¹ Although seemingly simple, the task of creating good drills for practice day in and day out can be very difficult. Not only must the coaches be concerned with keeping their athletes’ interest, but they must also make sure the drills adequately develop each unique player. They must make certain that each practice requires the endurance, quickness, and strength necessary for the particular sport. Practice is the time that players improve the most, and coaches must have improvement and game preparation on their minds every day when planning practice. After a tough loss in a game, effective coaches teach their athletes to accept and learn from it graciously, while instilling drive to work harder at practice so that success will result more often.

¹²⁹ DRAGO ET AL., *supra* note 1.

¹³⁰ DRAGO ET AL., *supra* note 1 (explaining that it is sometimes difficult to get women to be interested in coaching because it creates a barrier to starting a family with its time commitments and traveling).

¹³¹ See *Weaver*, 71 F. Supp. 2d 789 (where female field hockey players complained about their coach, saying that their practices were a joke, the coach did not interact with the players, the coach did not effectively coach and participate in drills, and the coach did not provide any feedback and seemed distracted at practices).

A sensitive issue that good coaches face daily is encouraging those athletes that will not be fortunate enough to play in every game. Good coaches understand the frustration of athletes that will always be “bench-warmers.” They encourage these bench-warmers to keep trying and improving at practice, with the knowledge that, even if they never have the opportunity to play, they will have learned invaluable lessons just by showing up each day.

Winning percentage in previous coaching positions, development of well-rounded athletes, use of strict yet understanding methods, amount of respect from all of the athletes, effectiveness in conducting practices, and encouragement given to the less talented athletes are factors that can be used to define a “good coach.” These factors of effective coaching can help courts quantify the definition of good coaching for the purposes of the Title IX provisions. After all, such quantification may be the only way to ensure that female athletes have available to them all of the important benefits of participating in athletics. Still, even these factors taken together can deceptively make a coach seem effective. For example, if a prospect for a college coaching position had a near perfect record in previous coaching positions, this would be irrelevant if the previous experience was with high school athletes. Likewise, a coach’s past experience with only men’s teams is sometimes irrelevant in determining coaching ability for a women’s team. Though attempting to define coaching will always have its downfalls, it is a process that must take place. By using the factors mentioned above, it is possible to come up with an effective definition.

*B. What Defines “Good Coaching” for Male Athletes Is Sometimes Different
From What Defines It for Female Athletes*

Female athletes, although in many ways similar to male athletes, may have different coaching needs. Arguably, the male anatomy is simply more conducive to building muscle and

performing strenuous physical activity.¹³² Male athletes have been historically faster, stronger, and more experienced in athletic activities.¹³³ Therefore, if coaches are accustomed to coaching male athletes, or if they are men themselves, they may be frustrated with the female athletes having less talent, lifting less weight during conditioning, and being less experienced in high pressure situations. As a result of the oppression of women and the sex discrimination in this country, women have not been given equal opportunities to develop quickness, strength, and mental toughness.¹³⁴ Women are just starting to gain on men regarding all aspects of athletic ability. Coaches of female athletes must be patient and knowledgeable about the differences in talent and strength. Not only must they accept the sometimes slow process of progress, but they must also push the female athletes to improve.

Another reason that female athletes have different coaching needs is that women tend to respond more passionately to the criticisms of coaches and to the heartache of losing a close game.¹³⁵ Coaches that are effective for female athletes know the proper way to motivate women in a tone and manner that will not spark a disruption in their competitive focus.¹³⁶ The combination of empathy for the anguish and the inspiration to persist is the best balance in coaching a female athlete who has just lost a tough game.¹³⁷

An additional concern for coaches of female athletes is “feminine” issues. Menstrual cycle pains and other personal feminine concerns that arise must be addressed in order for female athletes to perform at their highest levels. If coaches are squeamish about such topics, or if they refuse to take the female athletes to get medicine or feminine products, they are ineffective

¹³² Adams v. Baker, 919 F. Supp. 1496, 1504 (D. Kan. 1996).

¹³³ *Id.*

¹³⁴ CATHERINE MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW 122 (1987).

¹³⁵ DRAGO ET AL., *supra* note 1 (stating that females have drama and menstrual cycles that may impede their abilities to play or coach or interact properly with teammates; also stating that having a female coach increases the incidence of drama on a team when compared to teams with male coaches).

¹³⁶ DRAGO ET AL., *supra* note 1.

¹³⁷ DRAGO ET AL., *supra* note 1.

women's coaches. For some female athletes, feminine concerns can cause frequent hospital visits or full days of nausea and vomiting.¹³⁸ Many female athletes have played their sports from a very young age, and this has been shown to cause menstrual cycle problems and other feminine difficulties that are more severe for athletes than for their non-athlete peers.¹³⁹ Consequently, feminine issues can be of great frustration to an unsympathetic coach who expects top performance from the athletes regardless of such medical problems. In addition to the mental load of participating in collegiate athletics in general, female athletes with coaches who are unable to deal effectively with these "feminine" issues will have the additional stress of hiding such problems from their coaches. This will result in an environment that is not conducive to athletic performance at such a high level.

It is imperative that coaches realize the difference between females and males in deciding certain technicalities such as which restaurants to eat at on trips and which activities are most conducive to relaxation during down time.¹⁴⁰ Unfortunately, issues such as these are real and, if not dealt with correctly by the coach, could result in sick, upset, groggy, and hungry athletes.¹⁴¹ With much of a college athlete's life being spent on the road, any off-court or off-field time must be intelligently planned to maximize the on-court time. Sports psychologists know that feeling good, eating healthy, looking ready to play in quality uniforms and with sufficient equipment, and getting ample sleep all contribute to top performance.¹⁴² Since coaches ultimately make the decisions regarding budget allocation and restaurant and hotel choices, the recognition of the differences between female and male athletes is imperative.

¹³⁸ See Tracee Cornforth, *Signs and Symptoms of Normal and Abnormal Periods: Is My Period Normal?*, at <http://womenshealth.about.com/cs/menstruation/a/menstruabnormal.htm> (last visited April 20, 2006).

¹³⁹ Cornforth, *supra* note 138.

¹⁴⁰ See generally DRAGO ET AL., *supra* note 1.

¹⁴¹ DRAGO ET AL., *supra* note 1; see generally E.D. CAPALDI, *WHY WE EAT WHAT WE EAT: THE PSYCHOLOGY OF EATING* (APA Press 1996); see also D. GREENE, *FIGHT YOUR FEAR AND WIN: SEVEN SKILLS FOR PERFORMING YOUR BEST UNDER PRESSURE-AT WORK, IN SPORTS, ON STAGE* (Broadway Books 2002).

¹⁴² See CAPALDI, *supra* note 141; see also GREEN *supra* note 141.

Due to these important differences in male and female athletes, effective coaching for female athletes can be drastically different from that for male athletes. Although these concerns may seem petty, they are actually quite important when considered with the fact that extreme concentration and focus are needed to perform at a level just below that of professionals.¹⁴³ For example, if a female athlete is thinking about her feminine issues or is sick from a meal at a fast food restaurant, she is going to be competing at a significantly lower level than if she had a coach accustomed to coaching female athletes with such unique concerns.¹⁴⁴ In order to have female athletes performing at their highest level and with the best attitude and confidence, coaches that cater to their needs as women first is a necessity. Female athletes have been given the Title IX provisions to confirm that having understanding coaches is one of the benefits to which they should have equal access.

*C. There Are Ways to Ensure That Effective and Supportive Coaches Are
Provided for Female and Male Athletes*

Even if a coach has never coached a women's team, he or she can still be an effective coach for female athletes. The key is to educate them about the differences set out above. For extended knowledge on coaching females, Title IX provisions can be construed to require attendance at special seminars given by former female athletes or by current coaches of female athletes. Those who want to coach female athletes would attend such seminars to learn about the differences set out above. This would be similar to continuing education classes that are required for other professionals such as real estate brokers, lawyers, and pharmacists.¹⁴⁵ Another way to ensure that coaches will be adequate under the provisions is to require a certain number of years

¹⁴³ See generally GREEN *supra* note 141 .

¹⁴⁴ CAPALDI, *supra* note 141; see also GREEN *supra* note 141 .

¹⁴⁵ For example, real estate brokers must complete twelve hours of continuing education and six of those hours must be in core subjects, while six can be elective courses. This continuing education must be completed every two years, with a proficiency test at the completion of the twelve hours. See <http://www.instituteonline.com>.

experience coaching female athletes at some level before they will be allowed to coach female athletes at the collegiate level. In addition, general continuing education can be provided for learning about the still-developing area of women in athletics.

Some former female athletes and other women interested in becoming coaches of female athletes express concerns about being able to start a family someday.¹⁴⁶ Many women with an interest in coaching may believe that the hours are too extreme to be able to have children and care for them.¹⁴⁷ While it is true that hours can be inconsistent and taking the team on weekend trips would prove to be the biggest difficulty, female coaches are desperately needed as coaches of women's collegiate athletic teams. Young women do not receive the same positive reinforcement that young men do in participating in sports.¹⁴⁸ It is important for strong female leaders to support these young women in overcoming this lack of positive reinforcement.¹⁴⁹

VI. CONCLUSION

Lawmakers implemented Title IX and have applied it to battle sex discrimination in collegiate athletics. This was extremely necessary legislation that continues to create opportunities for female athletes that never before existed. It is in the hands of the coaches of women's athletic teams, the female athletes themselves, and the parents of the athletes to file complaints and voice injustices. If nobody is proactive enough to do so, female athletes may continue to be seen as inferior athletes. There will be no greater interest in women's sports, and there will be the risk that women's teams are being coached by unqualified coaches.

¹⁴⁶ DRAGO ET AL., *supra* note 1.

¹⁴⁷ DRAGO ET AL., *supra* note 1.

¹⁴⁸ *Benefits—Why Sports Participation for Girls and Women: The Foundation Position*, at <http://www.womenssportsfoundation.org/cgi-bin/iowa/issues/body/article.html?record=577> (Aug. 14, 2000); Bernstein, *supra* note 46.

¹⁴⁹ *Id.*

This article has demonstrated the lack of claims based on the Title IX provision concerning assignment of coaches. Because female coaches can be such good role models for female athletes, they must be encouraged to stay involved with collegiate athletic coaching and, if needed, bring claims based on injustices. In doing so, female coaches will be leading female athletes by example. They will be teaching female athletes to use the resources afforded them to promote equality and overcome obstacles that may be in the way of so doing.

Title IX was an “important first step in the effort to provide for women something that is rightfully theirs – an equal chance to attend the schools of their choice, to develop the skills that they want, and to apply those skills with knowledge that they will have a fair chance to secure jobs of their choice with equal pay for equal work.”¹⁵⁰

¹⁵⁰ *McCormick v. Sch. Dist. of Mamaroneck*, 370 F.3d 275, 286 (2nd Cir. 2004) (quoting 118 CONG. REC. 5804, 5808 (1972) (statements of Sen. Birch Bayh)).