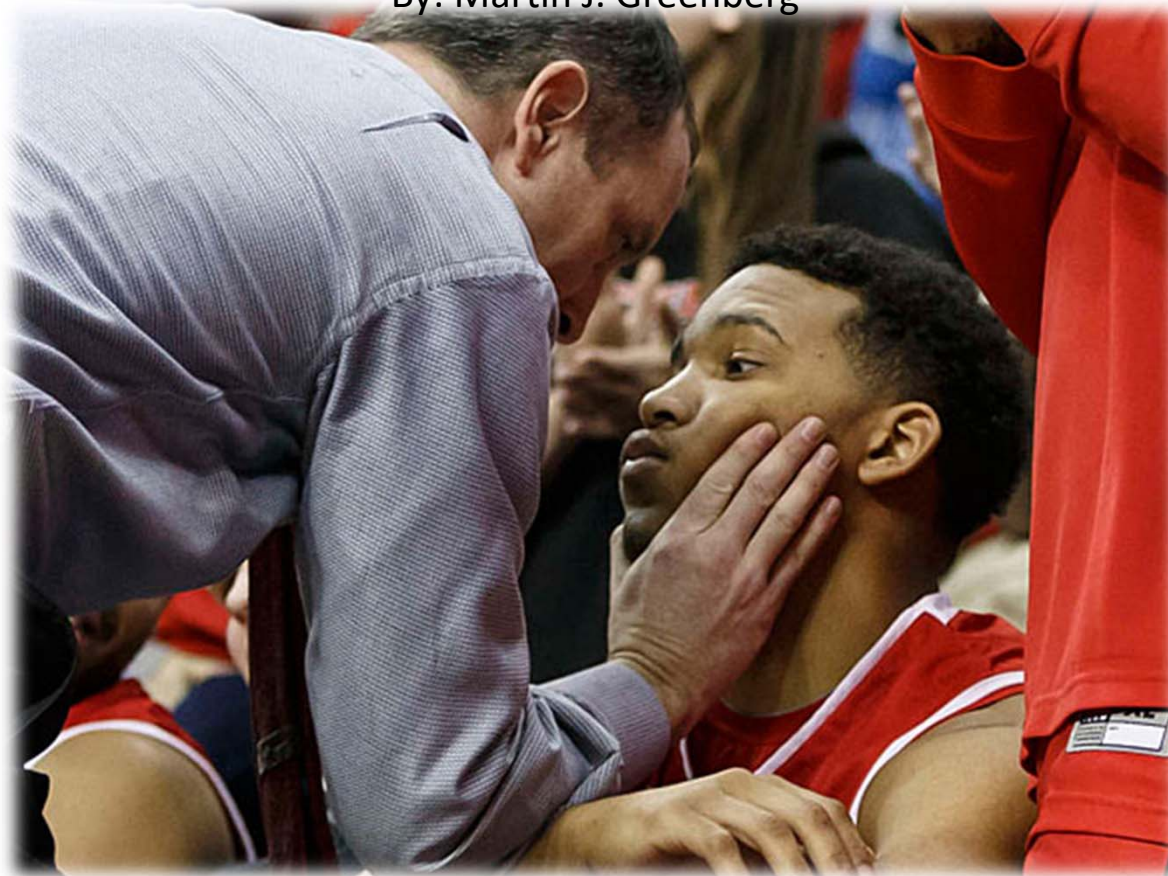


# Zero Tolerance – Abuse Must End in College Athletics

By: Martin J. Greenberg



**June 26, 2018 - Ethical Issues in Sports & Entertainment  
Brought to you by the National Sports Law Institute  
and Summerfest**

# TOUGH LOVE -- CROSSING THE LINE

Mike Rice, Rutgers former Head Men's Basketball Coach



<https://www.youtube.com/watch?v=Mtf6eWtGWh0>

# OFFENSES



1. The video opens with Coach Rice throwing a basketball at a player while yelling expletives. Rice throws a chest pass at the players legs/feet followed by forcefully shoving the player out of the way, apparently so Rice could demonstrate the correct positioning he demanded of the player. At time 00:02.
2. Rushing up to a player who is looking the other way and forcefully shoving him. At time 00:04.
3. Shoving another player after stopping practice. At time 00:07.
4. Running up behind a player while the player was running and pushing the player from behind. The player stumbled several steps before catching himself and almost falling face first into the court floor. At time 00:08.
5. Throwing another ball at the legs/feet of two players guarding each other, seemingly to get their attention. At time 00:12
6. Throwing a basketball full force at a player's midsection while yelling an expletive at him. At time 00:14.
7. Pushing a player from behind then following and screaming in the player's ear. At time 00:15
8. Grabbing a player by the practice jersey and forcefully pulling and pushing him into position (without any resistance by the player for the duration of the pushing). At time 00:20
9. Yelling at a player then sprinting over to him and putting him in a headlock dragging him several feet by the head and neck. At time 00:24
10. During a drill with a blocking pad, hitting a player multiple (three) times with the pad after the player had already lost the ball and the drill had ended. At time 00:28.
11. Throwing a basketball at a player. At time 00:58.
12. Punching/hitting a player on the upper arm while yelling at him. At time 01:00.
13. Grabbing a player's jersey and shirt from behind and forcefully pulling him backwards. At time 01:02.
14. Kicking a player. At time 01:04.
15. Rice quoted as using a homophobic slur "flip-flops are for faggots" to demoralize 10 year old basketball camp attendees for wearing flip-flops. At time 01:43.
16. Video of Rice himself using homophobic slurs "fairy" and "faggot" while screaming at the entire team during Rutgers practice. At time 01:57.
17. Video showing Rice violently screaming in players faces to "shut the fuck up...shut the fuck up" during Rutgers practice. At time 02:07.
18. Throwing a basketball at the feet/legs of a player while yelling an expletive. At time 02:36.
19. Series of quotes claiming Rice specifically targeted and belittled a Lithuanian player consistently and more often and more harshly than others. At time 02:35.
20. Video depicting the abuse of the Lithuanian player during practice. At time 02:50.
21. Video of commentators watching Rice throw a basketball at his Lithuanian player despite the player performing the play correctly. At time 03:30.
22. Rice throwing a ball full force directly at the back of a player's head while the player was facing the other direction during practice. At time 04:39.
23. Forcefully ripping a ball from a player's hands and screaming expletives at him from within inches of that players face. At time 04:45.
24. Hitting a player on the back of their head while he walked past the coach during practice. At time 04:50.
25. Throwing a ball at a player's legs. At time 04:54.

# A National Epidemic



Brandeis University fires men's basketball coach [Brian Meehan] for alleged rampant racist conduct. April 6. 2018



Louisville fires women's lacrosse coach Kellie Young, November 6, 2017

A former University of Louisville lacrosse player has filed suit against the team's coach and others accusing them of failing to provide proper medical care and of releasing her private health information, the Courier-Journal has learned. Oct. 25, 2017

Louisville lacrosse coach accused of abusive tactics, Oct. 5, 2013

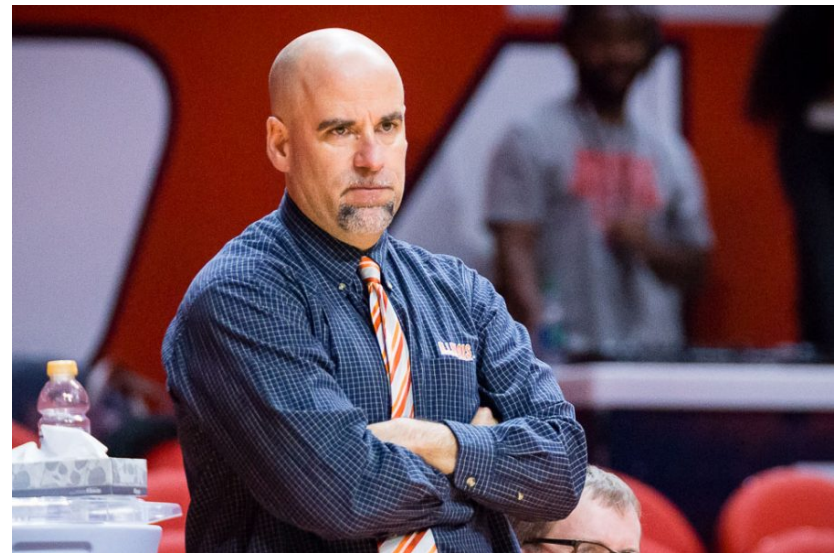
Colorado State to fire men's basketball coach Larry Eustachy, report says, Feb. 8, 2018

CSU: Larry Eustachy intimidated, emotionally abused players, Feb. 15, 2017



On Feb. 20, 2014, the coach was no longer allowed to be alone with his team and was required to have Graham or a member of his staff present at practices, meetings and games, including in the locker room, per an athletic department letter to Eustachy.

Illinois fires Matt Bollant as women's basketball coach, Feb. 9, 2017



Jimmy Patsos resigns as Siena coach after verbal abuse allegations surfaced from team manager (Apr. 13, 2018)



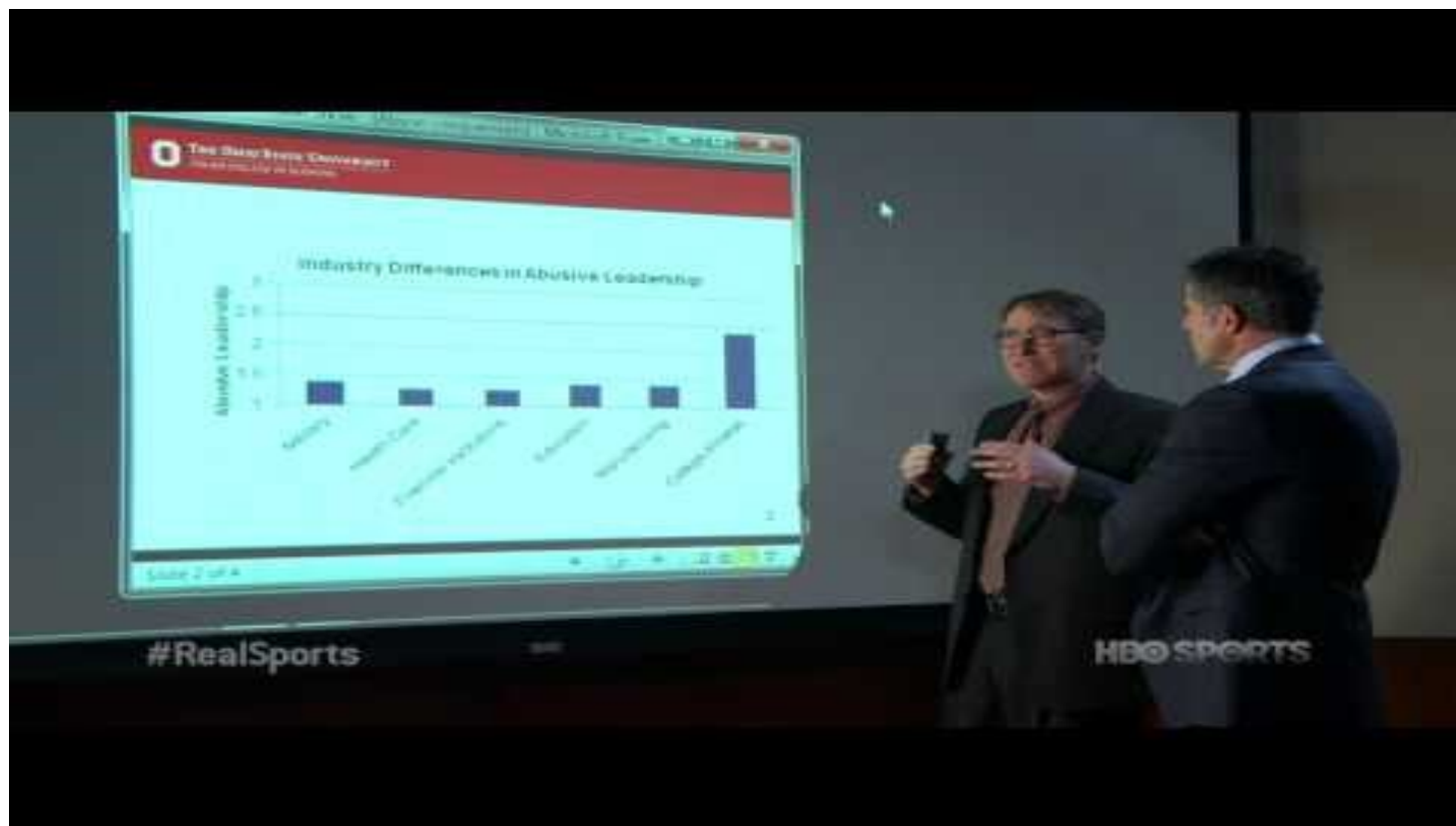
Stony Brook University Coaches [Janelle Atkinson and Assistant Jordan Bowen] Dismissed After Athletes Allege Abuse (Jan. 26, 2018)

Ex-Oregon volleyball players allege mistreatment, 'mental abuse' by former coaches Jim Moore and Stacy Metro (Apr. 28, 2017)



# Real Sports with Bryant Gumbel: Depression in College Athletes, Mar. 24, 2015

[Dr. Ben Tepper, Ohio State University Professor, on Abusive Leadership](#)



# Abuse: Mental, Physical, Bullying, Sexual

- Utilizing homophobic or racial slurs
- Embarrassing student-athletes in front of peers
- Threatening loss of scholarship
- Forcing play or training when injured
- Demeaning statements
- Slapping, grabbing, hitting, shoving, throwing equipment at student athlete
- Demanding excessive exercise as a means of punishment
- Denial of fluids
- Not sending potentially injured student-athlete to team doctor
- Imparting unreasonable requests as a form of punishment
- Weight loss requirements
- Religious dictates
- Unwarranted yelling and screaming
- Criticizing the student-athletes abilities
- Taunts, name-calling, threats, intimidation
- Exclusion from peer groups, isolation
- Retaliation



# Title IX – Sex Discrimination



- Under Title IX of the Education Amendments of 1972:
  - 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.
- Essentially, Title IX prohibits sex discrimination in educational institutions that receive federal funding (the vast majority of schools). While Title IX is a very short statute, Supreme Court decisions and guidance from the U.S. Department of Education have given it a broad scope covering sexual harassment and sexual violence. Under Title IX, schools are legally required to respond and remedy hostile educational environments and failure to do so is a violation that means a school could risk losing its federal funding.

# What Title IX Covers

- Gender Discrimination:
  - Gender-based bullying
  - Derogatory or sexist remarks
  - Gender discrimination in an activity, athletics, program, office, or classroom
- Sexual Harassment:
  - Stalking or obscene phone calls, texts, emails or gestures
  - Sexually suggestive jokes, whistles, catcalls, or innuendos
  - Inappropriate touching
  - intimidation
- Sex Violence:
  - Sexual assault, battery, or coercion
  - Attempted or completed rape
  - Physical and/or aggressive sexual advances
  - Inappropriate touching

- Retaliation:
  - Demotion or prohibiting advancement due to a filed complaint
  - Firing, loss of benefits, or the like due to a filed complaint
  - Unfair treatment or discrimination due to a filed complaint
- Hostile Environment:
  - Bullying abusive or intimidating comments and actions
  - Intimidating or offensive comments that alter the conditions of a person's work, classroom, team, or program environment
  - Continual offensive comments or surroundings of a discriminatory or sexual nature



# Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017



- The [heroic reporting in the Indianapolis Star](#) that led to public knowledge about Nassar's crimes described hundreds of alleged acts of sexual abuse over the span of two decades. It also found that U.S. Olympic Committee and USA Gymnastics officials did not forward reports to law enforcement. Nor did they ban coaches who were found guilty of criminal child molestation. Worse, perhaps, is that they treated the athletes who were being abused with skepticism and contempt.
- Designed to help better protect youth athletes from becoming victims of sexual abuse.
- A bipartisan bill that has passed the Senate, it mandates members of Olympic sports and youth sports organizations that travel across interstate lines to report suspected abuse to an appropriate government agency.
- Athletes who participate in school-sponsored sports are covered through existing mandatory reporter statutes.
- The bill also authorizes the U.S. Center for SafeSport, a non-profit that is in ways akin to the U.S. Anti-Doping Agency and college Title IX offices, to investigate and sanction those who commit acts of sexual abuse.

# NCAA Board of Governors Adopts Sexual Violence Policy



## **SEXUAL VIOLENCE PREVENTION**

An Athletics Tool Kit for a Healthy and Safe Culture

Coaches, college athletes and athletics administrators are required to complete education each year in sexual violence prevention, according to a policy adopted by the NCAA Board of Governors.

As part of the new policy, leaders on each NCAA campus — the school president or chancellor, athletics director and Title IX coordinator — must attest annually that coaches, athletics administrators and student-athletes were educated in sexual violence prevention.

Additionally, according to the new policy, each of the three campus officials must declare that:

- The school's athletics department is knowledgeable about, integrated in, and compliant with institutional policies and processes regarding sexual violence prevention and proper adjudication and resolution of acts of sexual violence.
- The school's policies regarding sexual violence prevention and adjudication — plus the name and contact information for the campus Title IX coordinator — are readily available in the athletics department and are distributed to student-athletes.

## The “Baylor Clause” from Chip Kelly’s UCLA Football Contract



8. RESPONSIBLE EMPLOYEE. Coach is considered a “Responsible Employee” pursuant to Title IX of the Education Amendments Act of 1972 (“Title IX”). As a Responsible Employee, Coach is required to inform the Title IX Officer if Coach becomes aware that a student (undergraduate, graduate, or professional) has experienced sexual violence, sexual harassment, or other behavior prohibited by University policy. Coach must contact University’s Title IX Office as soon as possible when Coach learns of an incident of sexual violence or sexual harassment and share whatever information Coach has, including the names of any individuals involved, their contact information, and any details of the incident. As a Responsible Employee, Coach must report directly to the Title IX Office, even if Coach is unsure that the incident actually occurred or unsure whether it constitutes sexual harassment or sexual violence. Coach should not investigate the report, and should not try to intervene or resolve the issue. While information must be provided to the Title IX Office, Responsible Employees should not discuss the case with other people who do not have a legitimate need to know.





# BULLYING



**Bullying has been defined as a conscious, willful, deliberate and repeated hostile activity marked by an imbalance of power, intent to harm, and/or a threat of aggression. Severe bullying can lead to a feeling of terror on the part of the person being bullied.**

## Forms of bullying include:

- Verbal: taunts, name-calling, put-downs, threats, and intimidation.
- Social: exclusion from peer groups, ganging up, or group teasing.
- Physical: hitting/kicking victims and/or taking/damaging personal property.
- Cyber: using the computer or other technology to harass or threaten.



## Bullying before, during or after sports may appear as:

1. Unwarranted yelling and screaming directed at the target.
2. Continually criticizing the target's abilities.
3. Blaming the target for mistakes.
4. Making unreasonable demands related to performance.
5. Repeated insults or put downs of the target.
6. Repeated threats to remove or restrict opportunities or privileges.
7. Denying or discounting the target's accomplishments.
8. Threats of and actual physical violence.
9. E-mails or instant messages containing insults or threats.

# 2017 Florida Statutes

## “Jeffrey Johnson Stand Up for All Students Act”

(a) “Bullying” includes cyberbullying and means systematically and chronically inflicting physical hurt or psychological distress on one or more students and may involve: 1. Teasing; 2. Social exclusion; 3. Threat; 4. Intimidation; 5. Stalking; 6. Physical violence; 7. Theft; 8. Sexual, religious, or racial harassment; 9. Public or private humiliation; or 10. Destruction of property.

(b) “Cyberbullying” means bullying through the use of technology or any electronic communication, which includes, but is not limited to, any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including, but not limited to, electronic mail, Internet communications, instant messages, or facsimile communications. Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.

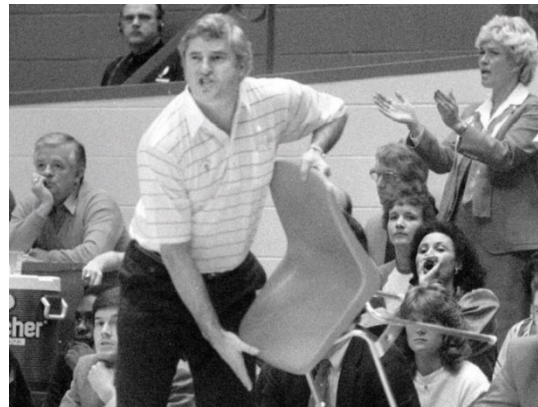
(c) “Harassment” means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that: 1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property; 2. Has the effect of substantially interfering with a student’s educational performance, opportunities, or benefits; or 3. Has the effect of substantially disrupting the orderly operation of a school.



# The Abuse of (Child) Athletes by their Coaches

## by Adam Altieri

- [The Abuse of \(Child\) Athletes by their Coaches](#)
- Adam Altieri was a member of the University of Maryland D2 Ice Hockey Team for the 2012/2013 and 2013/2014 seasons.



# Description of an abused athlete

- Experiencing loss of confidence and self-worth
- Fear of rejection
- Depression
- Anxiety
- PTSD (Post Traumatic Stress Disorder)
- Suicidal thoughts, self harm, or attempted suicide
- Feelings of being overwhelmed and fatigued
- Physical body changes – eating disorders
- Psychological fragility
- Reckless behaviors (careless sexual encounters, drugs, drinking)



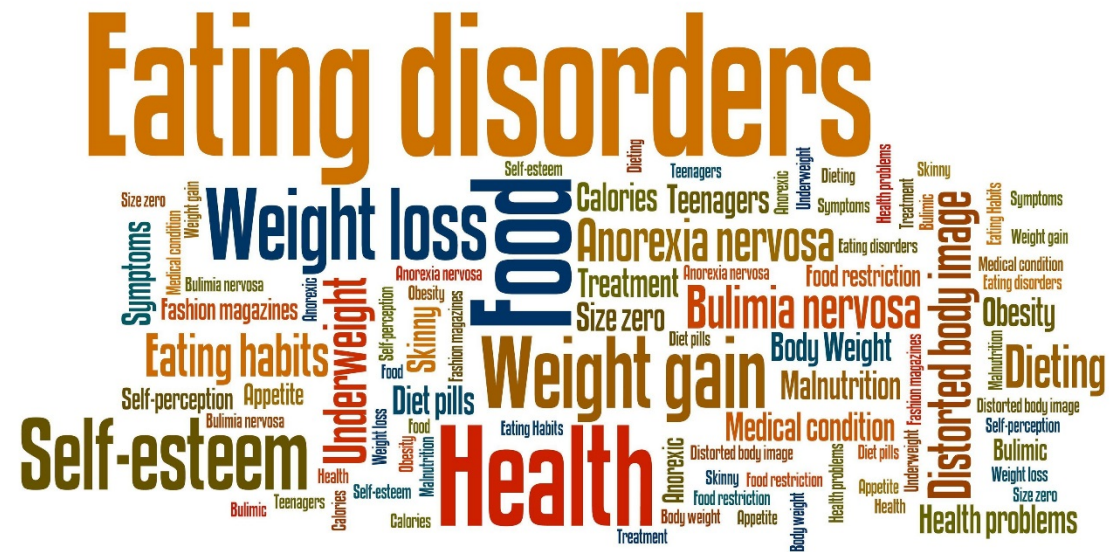
“Students were diagnosed or treated for the following:”



Font size is equivalent to percentage of student response from the 2012 ACHA-NCHA II report.



I'm not as  
okay as I  
pretend to be.





## What does Martin J. Greenberg do?

- Research, review documentation as to whether a case of abuse exists including review of any bullying statutes, codes of conduct and client and other student-athlete statements.
- Draft position memorandum to President of University and Athletic Director regarding abuse allegations.
- Seek to have coach terminated, resigned, take a leave of absence, or receive some form of sensitivity training.
- If university does not voluntarily act, which is normally the case, create public exposure and ridicule relative to harboring an alleged abuser and the damages it may cause.
- Reinstatement of student-athlete if desired and restoration of scholarship.
- Restoration of full eligibility and right to transfer without restriction (toxic environment).
- Seek to make client whole by being reimbursed by university for costs and attorneys fees.
- Seek local counsel if Title IX claims or state claims exist, such as infliction of emotional distress.



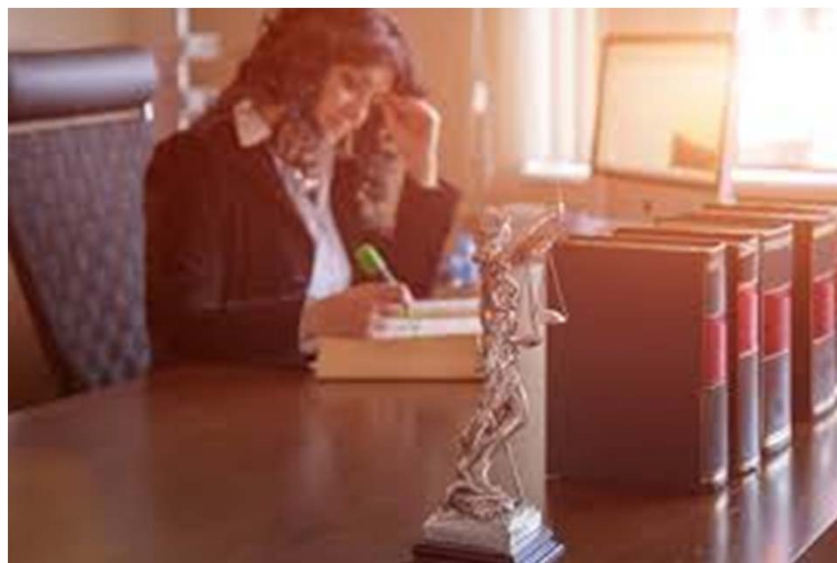
## Ethical Considerations

- Competent Representation is defined by the Wisconsin Supreme Court Rules Ch. 20:1.1 as requiring the legal knowledge, skill, thoroughness and preparation reasonably necessary for representation.
- In order to be an effective attorney representing a coach or student athlete in a university alleged abuse situation, the attorney must be knowledgeable in the following areas:
  - NCAA Rules
  - Coach's Contracts
  - University Codes of Conduct
  - State Bullying Laws or University Bullying Policies
  - Title IX Procedures
  - University Complaint Procedures



# Confidentiality

- Confidentiality requirements as defined by the Wisconsin Supreme Court Rules Ch. 20:1.6 states that a “lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent [...].”
- Often times we represent parties that do not want their names associated or utilized in the prosecution of the alleged abuse case for fear of retribution and retaliation, but still want their situation and position stated.
- Careful use of confidentiality and absolute approval from the client with respect to what can be disclosed is a prerequisite in the prosecution of any alleged abuse case.



## SCR 20: 4.1. Truthfulness in Statements to Others

- In the course of representing a client a lawyer shall not knowingly:
  - (a) make a false statement of material fact or law to a third person; or
  - (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.
- Given that jobs and lifelong reputations are at stake, allegations need to be independently investigated and verified. Carefulness in utilizing the word 'alleged,' and asking for the allegations to be verified by independent investigators and counsel who are objective and have no interest in the outcome.





# Penn State Women's Gymnastics

- Complaint by Assistant Coach Samantha Brown
- Allegations
- Online Petition
- Associate Head Coach resignation
- Head Coach firing



# Coach Samantha Brown, Whistleblower and Hero: The Allegations



- a. Weight: the Associate Head Coach making obsessive comments concerning the weight of the student-athletes and comments about the inability to perform or incur injury due to weight or physical condition.
- b. Training: regularly overtraining with unrealistic goals: i.e., cast handstand on bars having to be perfectly vertical, while not understanding there is a 10 degree leeway without a deduction. Would consistently make girls stop routine immediately, risking and putting the student-athlete at risk to injury.
- c. Failure to spot student-athletes during floor routine, and allowing them to fall short causing direct injury to ankles/Achilles.
- d. Excessive history of injuries: Behavior toward student-athletes from coaching staff, making comments about injuries, getting back to practices before being fully released by doctors, berating of student-athletes by saying that they want out of practices and that is why they are 'injured.'
- e. High numbers of skills/ routines: results in frustration, pounding of body, overuse injuries, etc. Sometimes doing as high as 15 of a skill. Brown tried to convey her concerns with the high numbers and at times sarcastic comments were made in response to her concerns over the numbers.
- f. Handling of cardio: Associate Head Coach made girls do cardio on treadmill, bike or elliptical. Sometimes too much: i.e. – student-athlete crying, throwing up in trash cans, and telling her if she stops more time will be added, coaching staff yelling at Brown not to go over there unless she was going to push the student-athlete to finish.
- g. Student-athletes afraid to tell Associate Head Coach if hurt because she will get mad, Brown advised them they should never be afraid, however coaches want them to prove their toughness and to know they will be able to go on meet day when team needs them regardless of injury.
- h. Associate Head Coach routinely yelling across the gym while coaching another event and making comments about the student-athletes performance, the assistant coaches' inability to "hold them to a high enough standard", or anything else the Associate Head Coach felt needed to be said on the events that the Head Coach and Brown were responsible for coaching. The Associate Head Coach did not care how she spoke to Brown, there was a lack of respect and professionalism, and showed very little concern for her feelings as an employee of PSU. The behavior of the Associate Head Coach made it difficult for Brown to do her job, and Brown felt as if she was walking on pins and needles not knowing what the associate head coach would say or do next.
- i. The coaches routinely use the threat of withdrawal of student-athlete scholarships to force compliance with their demands. It is no wonder that there is under-reporting of abuse given that for scholarship recipients so much often rides on receiving that money from the university. Given the power dynamic between coaches and student-athletes, this type of threat does not comport with PSU ideals of integrity, respect, and honor.



# iPetition - Demand for an Independent Investigation into Penn State Women's Gymnastics & Athletics, 1,445 signatures

**The goal of this petition is to demand that Penn State University and the NCAA do a thorough outside investigation into the alleged abuse, mistreatment, and hostile environment created by the Head and Associate Women's Gymnastics coaches, Jeff and Rachelle Thompson. We feel that we should demand that our universities protect our student athletes and coaches from any type of behaviors that would be considered unacceptable coaching behaviors.**

There have been numerous complaints made by former student athletes at both Auburn University, the Thompson's former employer, and Penn State University. There has been a complaint made by a former assistant coach who was eventually terminated from her position in January 2016. Penn State athletic administrators have failed to properly address this situation, and the alleged conduct has persisted for years and has not been stopped nor punished and Penn State knew or should have known about the problems.

There should also be an investigation to look into the possibility that Penn State University violated the Athletic Integrity Agreement that was put into place after Sandusky. This would require an investigation into the entire Athletic Department and their handling of reports of alleged abusive behavior from various coaches of different athletic teams at Penn State.

We want to help protect the current and future gymnasts at Penn State. It is our goal to ensure that Penn State is abiding by their own promises to each student athlete to abide and follow their mission statement, core values, and the Penn State Principles.

The mission of Penn State Athletics is to strive for excellence by offering all students model programs to develop meaningful standards of scholarship, athletic performance, leadership, community service, ethical conduct and sportsmanship with the institution's education and social environments.

The Core Values are: integrity, honor and respect.

Part of the Penn State Principles state that we expect our students, faculty, staff, administration, trustees, and alumni will not engage in any behaviors that compromise or demean the dignity of individuals or groups, including intimidating, stalking, harassment, discrimination, taunting, ridiculing, insulting, or engaging in acts of violence. They will demonstrate respect for others by striving to learn from differences between people, ideas, and opinions and by avoiding behaviors that inhibits the ability of other community members to feel safe or welcome as they pursue their academic goals.

Please help us make things right at Penn State for the future team members and to make sure that all student athletes are treated properly.



## Penn State Associate Head Coach Resignation

On May 20, 2016, “Penn State Athletics confirmed the resignation of Rachelle Thompson, the women’s gymnastics team’s associate head coach.”

University's Statement:

“We have accepted Rachelle Thompson’s resignation and thank her for her commitment to Penn State, our women’s gymnastics program and her many contributions as associate head coach,” the statement said. “We wish her all the best as she begins her next chapter. The program has a solid foundation for future success and we look forward to continuing to build upon it with head coach Jeff Thompson and his staff. A national search for her replacement will begin immediately.”

<http://www.centredaily.com/sports/college/penn-state-university/article78837237.html>

# Penn State Fires Head Coach

On February 23, 2017, Penn State issued the following:

“Penn State Director of Athletics Sandy Barbour announced today that women's gymnastics head coach Jeff Thompson has been relieved of his duties, effective immediately.

Thompson was in his seventh year as head coach of the Nittany Lions.

Assistant coaches Kera Molinaro and Josh Nilson will serve as interim co-head coaches for the remainder of the season. A national search for a new head coach will begin immediately

Consistent with University policy, this is a personnel matter and Intercollegiate Athletics will not have any further comment.

<http://www.gopsusports.com/sports/w-gym/spec-rel/022317aaa.html>





## Auburn University Softball

- Student Athlete Alexa Nemeth
- Allegations
- Assistant Coach resigned and was banned
- Resignation of Head Coach



# Allegations brought by Alexa Nemeth and others



- Alleged Mental Abuse

- Seniors were told to punish freshmen in order to "control" them. Coaches would give them the option of punishing the freshmen themselves, which they took in order to mitigate our punishments.
- One day in late September, all of the freshmen were kept 20 minutes after workouts to do wall sits while a student-athlete was doing plate pushes for an infraction. Seniors had to drive some of the freshman to classes to ensure they would not be late, due to how long they stayed.
- All coaches virtually never said anything positive to any of the players and would get up within inches of their faces while "talking" to them harshly. Coach Corey said to the pitchers that he was going to be negative in the fall in an attempt to make the pitchers better.
- Coaches would often cuss at players, typically multiple times per practice.
- Many student-athletes felt pressured to engage in an inappropriate sexual relationship with Coach Corey in order to receive better treatment in practice and at games.
- Student-athletes developed anxiety, depression, Battered Women's Syndrome, as well as other mental illnesses, as a result of treatment by Head Coach Myers and his staff that have driven softball players to hang up their cleats for good to seek needed healing.<sup>31</sup>

# Allegations brought by Alexa Nemeth and others

- Alleged Physical Harassment

- A student-athlete had a surgery either sophomore or junior year for an injury. She was meant to be out for 14 days; the coaching staff pressured her to come back after 6. She is still having complications from the surgery.
- Another student-athlete had strep throat about mid-spring season and had already gotten to the doctor and had gotten the proper written excused absence from practice. Nonetheless, Lana, the trainer, forced her to come in and visit Head Coach Myers to confirm she was truly sick.
- Another student-athlete had surgery around the first week of fall. Though she had only had the surgery 2-3 days before, Head Coach Myers forced her to participate in the running test, though she was obviously having great difficulties, and Head Coach Myers had to catch her at the end of one part of the runs.
- A student-athlete got hit on the head during batting practice about late February, and put down on the concussion form that she had a headache. One member of the staff questioned her in a demeaning manner, saying something to the effect of 'why did you put that down?'
- During Hell Week (January), student-athletes, including me, were alternating between hot and cold tubs (they were not treated). A student-athlete noticed bumps on her legs that were the size of spider bites and were leaking pus. It was not until six different players had similar bumps that Lana brought us to Head Coach Myers, had us show him the bumps, and then got his approval for us to go to the doctor's.

# Associate Head Coach Resignation



## Corey Myers Resignation, March 30, 2017:

"It is with great sadness today that I announce that I will be stepping down as associate head coach of the Auburn University softball team," Myers said in a release. "It became clear to me that my relationship with my family needs to be my top priority right now and therefore felt that I must step away."

"I thank the Auburn family for everything they have done for my family and myself. We absolutely love living on the plains and will forever feel like Auburn is our home."  
<https://www.seccountry.com/auburn/auburn-softball-associate-head-coach-corey-myers-resigns>

## University bans Corey Myers, August 21, 2017:

"We have determined there is sufficient evidence ... to conclude that you violated the policy prohibiting 'pursuing or engaging in romantic relationships' with more than one student whom you supervised or taught while you were employed as associate head coach of the softball program," wrote Kelley Taylor, Auburn's Title IX coordinator.

"We have considered the nature of the violations, which we found to have occurred with more than one student and over an extended period, and have determined that the appropriate sanction is that you are not eligible for rehire by the university at any time," the letter states. "You are banned from campus property and may not attend any university events. Further, you are forbidden from attending any Auburn University softball-related activities or events, whether on- or off-campus." <http://www.espn.com/espnw/sports/article/21750766/auburn-softball-assistant-corey-myers-was-banned-school>

# Head Coach Clint Myers Retires

## August 23, 2017

“After 40 years of coaching and reflecting on the importance of spending quality time with my wife, my children, and my grandchildren, I have decided to retire from a sport that I love dearly and which has brought so much joy to me,” Myers said in a release. “I have had the chance to coach many great student-athletes. I have seen them grow to be outstanding contributors to society. My time in coaching has been a source of great pride.”

“I appreciate the opportunity to coach at Auburn and am proud of our successes. I know the program has a bright future. The community, and group of fans have been incredible and I have truly appreciated their support. Auburn is a special place.”

[http://www.al.com/sports/index.ssf/2017/08/clint\\_myers\\_retires\\_as\\_auburn.html](http://www.al.com/sports/index.ssf/2017/08/clint_myers_retires_as_auburn.html)





# The Rutgers University Women's Swimming

- Student Athlete Morgan Perrotti
- Allegations
- Newspaper articles
- Head Coach firing



# Allegations brought by Morgan Perrotti and others



- Martin, according to interviews with former swimmers and parents of athletes who were on the team, shamed athletes over their weight, used abusive language during training sessions and demanded they stop using medication prescribed by their doctors for anxiety and other issues.
- A parent of a former swimmer, Michael Perrotti, said Martin used "Mike Rice tactics" to verbally and mentally abuse athletes on the team and that attempts to report the abuse to university leadership fell on deaf ears. Perrotti said he alerted the university of allegations in December 2016 after his daughter, Morgan, had her scholarship revoked. "They were supposed to have a foolproof way to protect athletes after Mike Rice... This is supposed to be a happy time of my daughter's life and Rutgers has taken that away from her. I hope justice will prevail and the right thing is done because I don't want another young woman hurt, but where does that leave my daughter? ... It's been a very difficult year for our family. I wanted to avoid getting to this point. The fact that they have now continued to ignore us, gave us little choice but to go public. Coaches like Petra Martin need to be stopped in their tracks."
- Barbra Brottman, who was a member of the swim team from 2013-14 to last season, said swimmers were put through drills designed to have them hold their breath underwater for as long as they could while swimming the width of the pool. "(Swimmers) were on the verge of blacking out; people were peeing themselves because they had no oxygen left," Brottman said. "That was, I guess, her way of showing us who's boss. I lost the love of this sport within a month of having her as a coach."
- "Things changed when Petra came in," Mark Brottman (father) said. "The mood of the team changed. (Martin) was very verbally and mentally abusive. She body-shamed the kids. With Barbra, (Martin) said she swam slowly because she was fat. It was sad to see a kid who started swimming when she was 5 just lose her love for the sport."

# Allegations brought by Morgan Perrotti and others



- In an extensive interview, the swimmer who contemplated ending her life alleged that Martin created a culture of psychological abuse. She said athletes were "guilted and scolded" if they didn't complete nutrition logs that served as "pressure to eat less and to diet." "I felt like she was targeting specific girls," the swimmer said. "People started to develop anxiety and taking medications that were totally unnecessary on themselves."
- A Rutgers sophomore was in a dark place...-- so deep that, on a December night in 2015, she said she considered driving into oncoming traffic to end her life. One month later, she told Rutgers swimming and diving coach Petra Martin ... Martin put her arm around her ... and said they would get through this. But the next day, after a Jan. 15, 2016, swim meet against Penn State, Martin singled out the swimmer as "a bad teammate" in front of the other athletes in a withering locker-room speech... "That was utterly devastating," the swimmer said. NJ Advance Media is withholding her name because she is still a student at the university. She spoke to reporters on the condition of anonymity. "That whole bus ride back, I just felt like I needed to be punished because I was this horrible teammate and every negative thought that I had until this point was validated," she said. "(I felt) like I should have finished the job in December."

# Coach Petra Martin Fired November 16, 2017



"Earlier today, we both agreed that it was in the best interests of the program for Petra to step away," athletics director Patrick Hobbs said. He declined to address the specific circumstances around her firing, which happened after an hours-long meeting with the team Wednesday night.

Rutgers President Robert Barchi wasn't made available for an interview, but the university issued a statement that said "concerns were raised" within the swimming program earlier this week.

"Over the last 48 hours, (Hobbs) reviewed these concerns with both the team and the coach and today (Martin) and (Hobbs) mutually agreed that it was in the best interest of the program for the coach to resign," the statement read.

[http://www.nj.com/rutgersfootball/index.ssf/2017/11/rutgers\\_fires\\_swimming\\_coach\\_accused\\_of\\_mike\\_rice.html](http://www.nj.com/rutgersfootball/index.ssf/2017/11/rutgers_fires_swimming_coach_accused_of_mike_rice.html)



## Rutgers should be leading the pack

"The bottom line is this, the entire world was awakened to abuse in college athletics by coaches like Mike Rice," said Martin Greenberg, an attorney for the parents of a swimmer. "You would think that if any school would not have a reoccurrence of this, it would be Rutgers University."

He's right, of course, and that's what makes this entire episode so difficult to believe. Rutgers should be more acutely aware of what happens when a coach crosses the line than any university in the country.

[http://www.nj.com/rutgers/index.ssf/2017/11/rutgers\\_swimming\\_mike\\_rice\\_fiasco\\_leadership\\_column\\_politi.html](http://www.nj.com/rutgers/index.ssf/2017/11/rutgers_swimming_mike_rice_fiasco_leadership_column_politi.html)



# NCAA 'denies legal duty' to protect student-athletes, court filing says



- “The NCAA denies that it has a legal duty to protect student-athletes,” the court filing stated, which was obtained by [The Washington Times](#). “But [the NCAA] admits that it was ‘founded to protect young people from the dangerous and exploitative athletic practices of the time.’”
- “The NCAA denies that it has a legal duty to protect student-athletes, but affirmatively states that under the NCAA Constitution each member institution is responsible for protecting the health of its student-athletes, and that for decades it had provided appropriate information and guidance on concussions to its member institutions.”
- <https://www.cbssports.com/general/news/ncaa-denies-legal-duty-to-protect-student-athletes-court-filing-says/>

# THE NCAA AND ABUSE

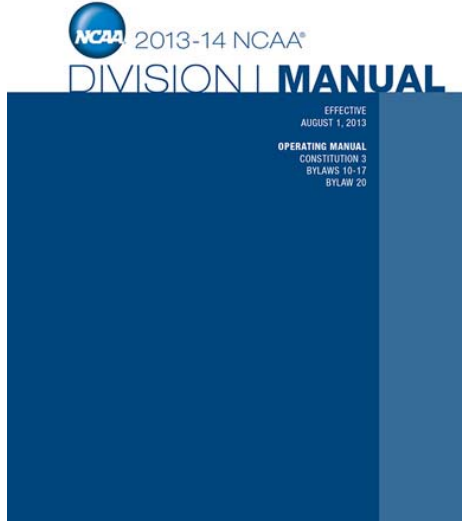
The NCAA may not have a specific rule or bylaw relating to mental, physical, or psychological abuse by a coach, but has what is generally referred to as "catch-all" provisions.

- Bylaw 2.2.3 (Health and Safety) covers the health and safety of student athletes and states that “[i]t is the responsibility of each member institution to protect the health of, and provide a safe environment for, each of its participating student-athletes.”
- Bylaw 2.2.4 (Student-Athletes/Coach Relationship) focuses on the relationship between athlete and coaches and states that “[i]t is the responsibility of each member institution to establish and maintain an environment that fosters a positive relationship between the student-athlete and coach.”



# THE NCAA AND ABUSE

The issues of institutional control, monitoring, and oversight would also come into play as they relate to an abusive coach and a University's responsibility. Bylaws 2.1.1 (Responsibility for Control) and 2.1.2 (Scope of Responsibility) indicate:



- 2.1.1: It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the Association. The Institution's president or chancellor is responsible for the administration of all aspects of the athletics program, including approval of the budget and audit of all expenditures.
- 2.1.2: The institution's responsibility for the conduct of its intercollegiate athletics program includes responsibility for the actions of its staff members and for the actions of any other individual or organization engaged in promoting the athletics interests of the institution.

# An Open Letter to NCAA President Mark Emmert

June 8, 2016

## **An Open Letter to the NCAA Regarding the Endemic Problem of Physical and Mental Abuse by Coaches in College Athletics – ABUSE MUST END**



Dear President Emmert,

By way of introduction, my name is Attorney Martin J. Greenberg. I have practiced in the area of sports and real estate law for over forty-five years, and have been a law professor at Marquette University Law School for forty-four years. During my tenure, I founded the National Sports Law Institute at Marquette University Law School.

For over 20 years I have been writing about the legal and economic issues of college coaching on such issues as reassignment, termination for cause, mitigation of damages, liquidated damages, due process, coaching free agency, and salary explosion.

However, over the last several years my efforts have been mainly focused on coaches' misconduct.

College coaches, administrators and conferences are struggling with the boundaries on what exactly crosses the line in reprimanding, chastising, disciplining, or dishing out what is commonly known as "tough love" to student athletes.

The American public was exposed to the antics of Rutgers Coach Mike Rice ("Rice") on ESPN Outside the Lines. On April 2, 2013, ESPN aired video clips showing Rice shoving his players, throwing basketballs at their heads, violently grabbing and kicking them, berating them and calling them an assortment of names and utilizing homophobic slurs. Rice's grossly demeaning behavior created a public outrage.

**See Greenberg's Coaching Corner: <http://www.law.marquette.edu/national-sports-law-institute/greenbergs-coaching-corner>.**



## The Drake Group, Inc.



- A 501(c)4 Advocacy Group
- The mission of The Drake Group is to defend academic integrity in higher education from the corrosive aspects of commercialized college sports.
- In December of 2016, The Drake Group issued a Position Statement entitled “Athletic Governance Organization and Institutional Responsibilities Related to Professional Coaching Conduct.”
- The Drake Group examined the rules of athletic governance organizations related to coaching misconduct and found them non-existent except with regard to recruiting and extra benefits limitations. The obligations of coaches as professionals are neither documented nor policed by any professional or licensing organization for coaching. Higher education institution codes of conduct applicable to faculty and staff were also examined and found to be too generic and insufficient to address the elevated risks that exist in athletic programs. Further, the importance of winning athletics contests, the multimillion dollar investment in high profile coaches, the relative isolation of athletics practices and locker rooms, which, by nature, are secretive and hidden from public view, and institutions’ practice of allowing coaches to resign without exposure to protect the institution’s brand, create significant conflict-of-interest concerns about the investigation and adjudication of misconduct. Lastly, the extraordinary power of a coach in athletic settings, with control over access to skill-instructional time, the granting and renewal of athletics financial aid, and decisions related to playing time creates a student/coach power differential that is far greater than the differential between student and professor, potentially leading to “quid pro quo” situations. All of these considerations argue for ensuring that athletes are protected from abuse.
- The Drake Group believes that most coaches act responsibly and in the best interests of their players. Even when using now-unacceptable pedagogy, most coaches do so without malicious intent. However, adequate evidence shows that the coaching profession is without clear and consistent standards and that absent such guidelines, too many coaches, albeit a minority, are crossing the line that separates good practice from harm to athletes.

Seven recommendations regarding athletic governance organization and institutional responsibilities related to professional coaching conduct:

1. **Adoption of a code of ethics** — specifically defines unacceptable behaviors in the areas of physical abuse, romantic, sexual and social relationships, sexual harassment, mental and verbal abuse and discrimination based on race, ethnicity, religion, age, disability, gender, or sexual orientation.
2. **Provisions for the implementation and enforcement of such a Code that include:**
  - a. Its mandated inclusion in employment agreements;
  - b. A process for educating athletes and receiving their complaints;
  - c. Designation of all athletic department employees as mandatory reporters;
  - d. Whistle-blower protection for reporters and complainants;
  - e. Fair plausibility, investigation, adjudication and appeal procedures that protect accused coaches;
  - f. National collegiate athletic governance organization oversight to review all serious coaching misconduct cases and, if necessary, apply additional penalties up to and including banning employment at all member institutions; and
  - g. Requiring the national collegiate athletic governance organizations to publish all serious coaching misconduct decisions.

Seven recommendations regarding athletic governance organization and institutional responsibilities related to professional coaching conduct, continued:

3. A proposal that national collegiate athletic governance organizations enter into a partnership with the United States Olympic Committee for the use of its newly established US Center for SafeSport education, investigation, and adjudication services.
4. The establishment of specific minimum coaching credentials and vetting of applicants for coaching employment.
5. Implementation of a peer-reviewed certification program that includes an assessment of the professional conduct of coaches.
6. Establishment of an “athlete ombudsman office” funded by the national collegiate athletic governance organization but independently administered.
7. Establishment of required coach orientation and continuing education programs.

# Steps to ameliorate the endemic and systemic issue of coaching abuse:



1. State bullying statutes should include secondary school and university coaches and cover the areas of mental and physical abuse.
2. Governing bodies such as the NCAA and Conferences should require participating universities to employ anti-bully, anti-abuse regulations that cite the need to protect a student-athlete from abusive coaching techniques which includes an oversight system of checks and balance to recognize non-compliance and hold administrators, as well as coaches, accountable for failures to comply. Those regulations must include punitive measures for coaches at all levels, along with stiffened penalties for apathy, concealment, or non-reporting. Coaches and university administrations should not be allowed to abdicate responsibility to student-athlete welfare; to the health and safety of complainants; and to university values. Universities should be eager to adopt rules and regulations that ensure the safety and wellbeing of their student-athletes and that promote values such as integrity, respect, responsibility, discovery, excellence, and community.
3. Universities need to adopt rules and regulations that insure the safety and wellbeing of their student athletes and to promote values such as integrity, respect, responsibility, excellence, and community. All heads and assistant coaches should go through sensitivity training. This activity should be required by NCAA and Conferences.
4. The NCAA and Conferences also need to take the threat of loss of athletic scholarship out of the coaches' hands in some way, shape or form. This alone creates a huge power vacuum wherein a student-athlete may not report abuse for fear of losing their scholarship. Coaches can inspire athletes in other ways beyond the base tactic of threatening a student's very existence at an academic institution. Student athletes who are on scholarship and parents who are barely paying for their child's academic matriculation can hardly afford to fight a university, its legal counsel, and large law firms in these types of cases. They have little or no affordable recourse. .
5. Unless a student-athlete has a known medical ailment, the university should honor their commitment. This could also help slow down early recruiting of student-athletes at such a young age. Coaches and universities should be responsible for the student-athletes they recruit.

# Steps to ameliorate the endemic and systemic issue of coaching abuse, continued:

6. NCAA and Conference student-athletes subjected to an abusive coach should be allowed to immediately transfer without any loss of eligibility. Coaches can make or break the student-athletes' college experience. Our athletes deserve a healthy environment to learn and grow without penalty.
7. The NCAA and Conferences should require that coaching contracts include specific language making physical and verbal abuse and bullying a basis for termination for cause. It is unjust for coaches to be fired without cause, or be allowed to resign, and then have the ability to collect money for the remainder of their contract term due to poor contract drafting — especially in cases where abuse is the foundation for the termination. Universities need to employ the use of coaching contracts with stronger language regarding expectations of their relationships with their student-athletes, including language that includes a for cause termination upon finding of abuse regardless of whether it is physical, mental, or sexual. Coaches who are determined to have committed acts of mental or physical abuse should be personally liable for damages and attorneys' fees. Coaches found to be engaging in abusive or bullying activities should be required on some prorated basis to participate in an action for damages monetarily, much the same way that Penn State's former Women's Basketball Coach was fined at least \$10,000 in 2007 for discriminatory practices.
8. The NCAA and Conferences should require that coaching contracts include language that makes it clear that resignation cannot be utilized as a means to skirt an investigation. Universities should not angle to be portrayed in a better light by letting coaches resign at the contract's end and wander off into the sunset to another university where this process might be repeated. The investigation should stand and continue regardless of the employment status of the accused coach. Universities need to take a hard line on the protection of the student-athletes. After all, first and foremost, universities are supposed to be a safe learning environment.
9. The NCAA and Conferences should require that where there is an accusation of abuse, the university must immediately involve an independent investigator that has no interest in the outcome, but is willing to do an objective and complete investigation regardless of the consequences. They must also require that once a coach has been accused of abuse, he/she must be put on immediate leave while independent investigation is undertaken.

# Steps to ameliorate the endemic and systemic issue of coaching abuse, continued:

10. Abusive coaching may have worked for another generation, but not now. Universities should have rules and contract clauses that address administrators who tolerate, are indifferent to, or who conceal this type of abusive behavior. They, too, must face the firing squad. Every time an administrator looks the other way or issues a dismissive punishment, it's like dispatching an abuser back into the home of a domestic violence victim. To ensure accountability for all, there must be rules adopted by the university that effect administrators including contract language that provides for termination when they fail to report alleged abuse.
11. Require whistle-blowing. Whistle blowing must be encouraged, not discouraged. When a student-athlete steps out of the darkness and reports abuse, above all, they must be taken seriously. In order for them to feel they can come forward, there must be steps taken to ensure there will be no retaliation or retribution from the alleged abuser. The NCAA and Conferences should have anti-retaliation rules for these situations. Student-athletes bring in a lot of crowds and money to universities and the NCAA, as such they should be afforded some protection. The university should create a culture that ensures that the reporting, investigation, and disciplinary actions involving student-athletes and athletics department staff are managed in the same manner as all other students and staff on campus and that coaches are held accountable to the same standards as all university personnel.
12. There must be penalties for retaliation by coach and other student-athletes against student-athletes that report alleged abuse.
13. In a post-Sandusky environment this bears repeating, every university needs to adopt a zero tolerance policy. Abusive behavior by high profile university employees who coach student-athletes doesn't merely merit a time out and second chance, it merits dismissal. Abusive coaching may have been given a pass for another generation, but not now, and not in an age where research has proven the tolls that physical and mental abuse has on a person. There must be punitive measures for coaches at all levels along with stiffened penalties for apathy, concealment, or non-reporting. We know better, we should do better.

# Steps to ameliorate the endemic and systemic issue of coaching abuse, continued:



14. Discussions between university psychologists and student-athletes should remain confidential. In the case of Penn State, I found numerous instances where the sports psychologist reported back to the gymnastics coaches about their discussion with the student-athlete. Where was the safe place for a student-athlete to express her concerns and gain insight into her dealings with their coaches? Why are university psychologists not required to automatically report to administration in cases where they suspect alleged abuse? Doctor-patient confidentiality should be sacrosanct, regardless of the personal relationships that a sports psychologist may have with coaches.



# Coaches' Scandals are Expensive

Rutgers' price for the Mike Rice scandal approached \$4 million. Some of the expenses included:

- \$150,000 to Hill & Knowlton Strategies for crisis communication consultations
- \$481,685 for Skadden Arps Report
- \$64,000 to Connel Foley for Lacey Report
- \$1.2 million settlement agreement for Tim Perneti to resign as AD
- \$70,000 paid to Parker Executive search for AD search
- \$475,000 settlement for Mike Rice
- \$35,000 paid to Eddie Fogler Consulting for basketball coach search
- \$420,000 payout to General Counsel John Wolf for resignation
- \$300,000 settlement for Derrick Randall
- \$500,000 settlement for Eric Murdock



# Conclusion



Finally, not only are the allegations of an abusive coach a public embarrassment, but also costly. Abusive coach scandals involve crisis communication expenses, investigation expenses, attorney fees, buyouts for the coach, and settlements for the student-athletes, which can become extremely expensive for the university. Universities need be more concerned with protecting their student-athletes from an abusive coach than protecting themselves from legal action. Abuse is not good coaching, even when it results in winning. Placing winning games or revenues above sportsmanship, decency, fairness, and ethics is out of the question. The NCAA must take a stronger stance and provide rules sanctions for such kinds of conduct.

## Conclusion, continued



“The difference between a demanding coach and an abusive coach is not a thin line that someone can drift over if he or she loses focus for a second before peeling back to the other side. It's a wide gap -- a mile wide -- and it takes a long time for a coach to get from one side to the other and back again.” – Kate Fagan, *espnW*

“Good coaches are like magicians, turning self-doubt into confidence. They don't try to separate and chase away those perceived as weak -- because dividing the weak from the strong is herding, not coaching.” *Id.*

“Good coaches shoot arrows around the feet of their players, keeping them on edge while teaching them how to dance.” *Id.*

# Thank you

Thank you to Danelle Welzig for assistance in helping to prepare this presentation and for her understanding of the area of mental and physical abuse and the pain that student-athletes and parents suffer from it. And for offering a helpful hand in trying to stamp this epidemic out in college athletics.

**THE END**