Panelists

- **Erin E. Buzuvis**: Overview and Update on Title IX’s Impact on College Athletics
  > Director, Center for Gender and Sexuality Studies and Professor of Law, Western New England University School of Law

- **Barbara Osbourne**: Sexual Assault, Violence and Harassment on Campus
  > Associate Professor and Coordinator Graduate Program in the Sport Administration, Department of Exercise and Sport Science, University of North Carolina Chapel Hill

- **Laura Warren**: Transgender Issues on Campus and Impact on College Athletics
  > Senior Associate General Counsel, DePaul University

- **Martin Greenberg**: Physical and Mental Abuse by Coaches
  > Law Offices of Martin J. Greenberg, Adjunct Professor, Marquette University Law School, NSLI Board of Advisors

- **Christine Taylor**: Investigating Complaints -- How and Why Marquette Changed Its Policies
  > Title IX Coordinator, Office of the Provost, Marquette University
Overview and Update: Title IX’s Impact on College Athletics

Professor Erin Buzuvis (Western New England Univ. School of Law) researches and writes about gender and discrimination in sport, including such topics as the interrelation of law and sports culture, intersecting sexual orientation and race discrimination in women's athletics, retaliation against coaches in collegiate women's sports, the role of interest surveys in Title IX compliance, participation policies for transgender and intersex athletes, and Title IX and competitive cheer. Additionally, she is a co-founder and contributor to the Title IX Blog, an interdisciplinary resource for news, legal developments, commentary, and scholarship about Title IX's application to athletics and education.
Overview and Update: Title IX’s Impact on College Athletics

- Judicial and Administrative Enforcement of Title IX to Collegiate Athletics: Recent Examples

OCR:
  - Southeastern Louisiana State (2014)
  - Rutgers University (2015)
  - Erie Community College (2016)
  - Opinion letter re: cost-of-living stipends

Courts:
  - Burns v. San Diego State University (2016)
Overview and Update: Title IX’s Impact on College Athletics

Figure 1: Men Still Outnumber Women in College Sports

Figure 2: Declining Percent of Women’s Teams With Female Head Coach

Figure 3: Median Division I-FBS Institution Grant-in-Aid for Male and Female Athletes
- Male: $4,810,000 (58%)
- Female: $3,349,000 (42%)
Sexual Assault, Violence and Harassment on Campus

- **Professor Barbara Osborne (UNC)** teaches Legal Issues in College Sports and NCAA Governance and Compliance in the graduate program, as well as Legal Aspects of Sports, Discrimination and Sport, and Women and Sport in the undergraduate program. She holds a secondary appointment teaching Sports Law at the UNC Law School. Prior to her appointment at UNC in 1998, she worked for 14 years as an athletics administrator in intercollegiate athletics. While working at Brandeis University as the Senior Woman Administrator and Associate Athletics Director, Barbara completed her law degree at Boston College Law School. She also has experience as a coach, public relations coordinator, television sports commentator, publisher, and sports information director.
90% of sexually assaulted college women know their attackers:
Classmates (36.6%)
Friends (34.2%)
(Ex-)Boyfriends (25.7%)
Acquaintances (2.6%)

One in four university women will be a victim of attempted or completed rape.
Source: U.S. Department of Justice

Locations of completed, on-campus rapes:
60% in the victim's residence
31% in another residence
10% in a fraternity
Source: U.S. Department of Justice

RAPE STATISTICS
Nationwide statistics display a need for awareness and education about sexual assault on college campus.

Between one in three and one in five college-aged women will experience some form of relationship or sexual violence while in college.

85 percent of sexual assaults are perpetrated by an acquaintance.

Alcohol is the number one predatory drug on college campuses.

Less than 2 percent of reported rape cases have been proven false. More people fake their own death every year than lie about being raped.

Source: Relationship & Sexual Violence Prevention Center

9 out of 10 rapes on college campuses are perpetrated by repeat offenders.
The average college rapist rapes 6 times.

Know Your IX: lgg.me/at/KnowYourIX

“What frustrates me at my school is that we’ve had people expelled for cheating, but nobody has ever been expelled for rape.”
Sexual Assault on Campus

- 99% of accused are men
- 92% of victims under the influence of alcohol; majority of perpetrators also under the influence.
- 90% of victims know their attacker
- 63% are first year students, with September and October the months when rape is most prevalent
- 25% of accused are varsity athletes
- 20% of repeat perpetrators are student-athletes
- 10% of all sexual assault reports involve multiple perpetrators; 40% of multiple perpetrator attacks involve student-athletes (Keenan, 2014)
Title IX requires schools to:

- **Affirmative obligation to take immediate and effective steps to end sexual harassment and sexual violence** (2001 Revised Sexual Harassment Guidance)
- 2011 Dear Colleague Letter: Sexual Violence
- 2014 Department of Education Clarification
  - Designate Title IX Coordinator
  - Publish a notice of nondiscrimination
  - Adopt and publish grievance procedures for students and employees
  - Promptly investigate complaints and provide equitable resolution
  - Prevent recurrence of harassment and correct any discriminatory effects
  - Prohibit retaliation
What athletics departments should be doing

- Athletics employee training; student-athlete education
- Pay attention to past student disciplinary record and/or prior criminal record involving violence, domestic abuse, assault or rape
- Adhere to the standard university policy and procedures
  - Must cooperate with process, but cannot direct process.
- Resist impulse to protect accused student-athlete, keep in-house, and/or let the coach handle it
- Promote messaging that discourages victim blaming and secondary harassment
Transgender Issues on Campus and Impact on College Athletics

- Attorney Laura Warren (DePaul) is the primary legal advisor to the University’s Athletics Department and provides advice and counsel on a host of athletics and NCAA-related issues and risk management. Laura also manages the University’s public policy practice assessing the development and impact of statutory and regulatory developments in higher education and advises the University regarding information privacy and data security matters.
Legal Landscape for Transgender Students

- May 2016 OCR “Dear Colleague” Letter requires Title IX recipients to treat transgender students consistent with their gender identities
  - Restrooms and locker rooms
  - Housing
  - Athletics
  - Privacy
- Students are not required to present supporting medical or identification documentation
- Subsequent lawsuits are challenging DCL’s validity
NCAA Guidance on Transgender Student-Athletes (2011)

- Provide equal opportunity to participate in sports consistent with gender identity
- No unfair competitive advantage occurs
- Eligibility and team classification depend on gender identity and hormone treatments
- Permit use of facilities consistent with gender identity, with private facilities available to all
- Address preferred name and pronouns; dress code; and media training
Physical and Mental Abuse by Coaches

Attorney Marty Greenberg (Law Offices of Martin J. Greenberg) is a recognized authority in the areas of real estate and sports law throughout Wisconsin and nationwide. Greenberg has been practicing law for more than four decades. In addition, he is an adjunct law professor at Marquette University Law School, an author and lecturer. Mr. Greenberg is a Founder of the National Sports Law Institute and a member of the NSLI Board of Advisors.
Zero Tolerance: Abuse Must End – An Epidemic

- Illinois, Tim Beckman, football
- Utah, Greg Winslow, swimming
- Rhode Island, Erin Layton, softball
- Illinois, Mike Divilbiss, basketball
- Georgetown, Keith Brown, basketball
- Nebraska, Connie Yori, basketball
- Iowa State, Bill Fennelly, basketball
- Loyola, Sheryl Swoopes, basketball
- Duke, Joanne P. McCallie, basketball
- Wake Forest, Ken Murczek, volleyball
- Arkansas, Scott Norwood, baseball
- Arkansas, Robert Pulliza, volleyball
- Queens College, Darryl Jacobs, basketball
- Rutgers University, Brian Brecht, lacrosse
- Rutgers University, Mike Rice, basketball
- Pace University, Andy Rondeau, football
- Indiana, Michelle Gardner, softball
- Oakland, Beckie Francis, basketball, etc…
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Time</th>
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<tbody>
<tr>
<td>1.</td>
<td>The video opens with Coach Rice throwing a basketball at a player while</td>
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<td></td>
<td>yelling expletives. Rice throws a chest pass at the players legs/feet</td>
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<td>followed by forcefully shoving the player out of the way, apparently so</td>
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<td>Rice could demonstrate the correct positioning he demanded of the player.</td>
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<td></td>
<td>At time 00:02.</td>
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<td>2.</td>
<td>Rushing up to a player who is looking the other way and forcefully</td>
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<td>shoving him. At time 00:04.</td>
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<td>3.</td>
<td>Shoveling another player after stopping practice. At time 00:07.</td>
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<td>4.</td>
<td>Running up behind a player while the player was running and pushing the</td>
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<td>player from behind. The player stumbled several steps before catching</td>
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<td>himself and almost falling face first into the court floor. At time 00:08.</td>
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<td>5.</td>
<td>Throwing another ball at the legs/feet of two players guarding each other,</td>
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<td>seemingly to get their attention. At time 00:12.</td>
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<td>6.</td>
<td>Throwing a basketball full force at a player's midsection while yelling an</td>
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<td></td>
<td>expletive at him. At time 00:14.</td>
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<td>7.</td>
<td>Pushing a player from behind then following and screaming in the player's</td>
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<td></td>
<td>ear. At time 00:15.</td>
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<td>8.</td>
<td>Grabbing a player by the practice jersey and forcefully pulling and</td>
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<td></td>
<td>pushing him into position (without any resistance by the player for the</td>
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<td>duration of the pushing). At time 00:20.</td>
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<td>9.</td>
<td>Yelling at a player then sprinting over to him and putting him in a head-</td>
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<td></td>
<td>lock dragging him several feet by the head and neck. At time 00:24</td>
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<td>10.</td>
<td>During a drill with a blocking pad, hitting a player multiple (three)</td>
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<td>times with the pad after the player had already lost the ball and the drill</td>
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<td></td>
<td>had ended. At time 00:28.</td>
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<td>11.</td>
<td>Throwing a basketball at a player. At time 00:58.</td>
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<td>12.</td>
<td>Punching/hitting a player on the upper arm while yelling at him. At time</td>
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<td>01:00.</td>
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<td>13.</td>
<td>Grabbing a player's jersey and shirt from behind and forcefully pulling</td>
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<td>him backwards. At time 01:02.</td>
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<td>14.</td>
<td>Kicking a player. At time 01:04.</td>
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<td>15.</td>
<td>Rice quoted as using a homophobic slur “flip-flops are for faggots” to</td>
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<td>demoralize 10 year old basketball camp attendees for wearing flip-</td>
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<td></td>
<td>flops. At time 01:43.</td>
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<td>16.</td>
<td>Video of Rice himself using homophobic slurs “fairy” and “faggot” while</td>
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<td>screaming at the entire team during Rutgers practice. At time 01:57.</td>
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<td>17.</td>
<td>Video showing Rice violently screaming in players faces to “shut the</td>
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<td>fuck up...shut the fuck up” during Rutgers practice. At time 02:07.</td>
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<td>18.</td>
<td>Throwing a basketball at the feet/legs of a player while yelling an</td>
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<td></td>
<td>expletive. At time 02:36.</td>
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<td>19.</td>
<td>Series of quotes claiming Rice specifically targeted and belittled a</td>
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<td>Lithuanian player consistently and more often and more harshly than others.</td>
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<td>At time 02:35.</td>
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<td>20.</td>
<td>Video depicting the abuse of the Lithuanian player during practice. At</td>
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<td>time 02:50.</td>
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<td>21.</td>
<td>Video of commentators watching Rice throw a basketball at his Lithuanian</td>
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<td>player despite the player performing the play correctly. At time 03:30.</td>
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<td>22.</td>
<td>Rice throwing a ball full force directly at the back of a player’s head</td>
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<td>while the player was facing the other direction during practice. At time</td>
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<td>04:39.</td>
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<td>23.</td>
<td>Forcefully ripping a ball from a player’s hands and screaming expletives</td>
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<td>at him from within inches of his players face. At time 04:45.</td>
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<td>24.</td>
<td>Hitting a player on the back of their head while he walked past the coach</td>
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<td></td>
<td>during practice. At time 04:50.</td>
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<td>25.</td>
<td>Throwing a ball at a player’s legs. At time 04:54.</td>
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DEFINING AN ABUSIVE COACH

An abusive coach has been described as fitting any number of the following characteristics:

- Regularly uses public embarrassment and humiliation on his/her athletes
- Disinterested in the feelings and sensitivities of his/her players
- Rarely uses praise or positive feedback
- A yeller
- Demeans his/her players
- Plays “head games” with his/her athletes
- Personally dishonest and untrustworthy
- Creates a team environment based on fear and devoid of safety
- Never satisfied with what his/her athletes do
- Overly negative and a pro at catching athletes doing things wrong
- More interested in his/her needs than those of his/her players
DEFINING AN ABUSIVE COACH

An abusive coach has been described as fitting any number of the following characteristics:

- Over-emphasizes the importance of winning
- Tends to be rigid and over-controlling, defensive and angry
- Not open to constructive feedback from players or parents
- Uses excessive conditioning as punishment
- Can be physically abusive
- Ignores his/her athletes when angry or displeased
- Is a bully (and therefore a real coward)
- Coaches through fear and intimidation
- Is a “know-it-all”
- Is a poor communicator
- Only cares about his/her athletes as performers, not as individuals
- Consistently leaves his/her athletes feeling badly about themselves
- Kills his/her athletes’ joy and enthusiasm for the sport
- Is a bad role model
- Is emotionally unstable and insecure
- Earns contempt from players and parents
- Coaches through guilt
- A master of DENIAL!!!!

Beckie Francis
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:
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.
Ms. Christine Taylor’s (Marquette) responsibilities include the University’s compliance with Title IX, the Violence Against Women Act, as well as the University’s own policies and procedures. This includes requirements regarding education, prevention and response to sexual violence and misconduct (including sexual or gender based violence), domestic violence, dating violence and stalking.
How does this model alter the current student conduct model MU used to address sexual harassment, discrimination and sexual misconduct allegations?

- An active gathering of information by the investigator: NOT intended to “build a case.”
- Characterized by an intentional effort to equalize procedural and support mechanisms.
- Less adversarial
- Privacy for both complainant and respondent
Investigating Complaints -- Ten Steps

- Notice or Complaint
- Preliminary investigation – initial strategy, gather information, consider PPTV
- Gatekeeper determination by TIX Coordinator
- Notice of investigation to respondent
- Investigation strategy
- Formal comprehensive investigation
- Witness interviews
- Evidence gathering
- Analysis of Evidence
- Finding

ATIXA 2015
Panel Discussion – Title IX

- Do we still need Title IX?
- Women still participate at a lower level than men within college athletics, how are, or can, colleges continue to provide new opportunities for women to participate?

- Has Title IX expanded too far beyond its original intended purpose?
- What is the biggest threat to Title IX currently?
- Should Title IX deal with campus assault/rape or should this be handled solely be a criminal law matter?
- What do you see as the next big issue in regards to gender equity within collegiate athletics?
Panel Discussion _ Sexual Violence and Harassment on Campus

- Given the statistics on student-athlete/perpetrators, are there any system-wide solutions that a school, conference or NCAA could adopt?
- How are college athletic departments working to prevent these issues from occurring?
- Are the mandates and voluntary actions that schools are taking to address sexual violence and harassment making a difference? How do you explain the increase in numbers?
- Do actions – like those taken by the Baylor Univ. Board of Trustees – effect change – other than switching out college presidents and ADs?
Panel Discussion – Transgender Issues

- Can you talk about gender fluidity and how, if at all, it’s addressed by the Dear Colleague Letter or NCAA Guidance?
- What are the panel’s opinions on how the dispute over North Carolina’s law will play out?
- Are there other sports associations who have weighed in with policy or guidance on participation of transgender student-athletes?
Panel Discussion – Coach Abuse

- How prevalent is this problem?
- Marty is asking for the NCAA to address this issue – is this the right approach?
- Marty calls for independent investigations into the allegations of coach abuse? Is that the solution? Will that place a public spotlight on this problem?
- Other solutions that have been proposed?
Marquette modified its Title IX policies from a hearing panel to a civil rights investigative model – is that the direction other colleges are taking?

What are the drawbacks of the hearing panel vs. the investigative model?

Where do student rights – of both the accused and the victim – complicate the matter?
Questions?

Thanks to a great panel!