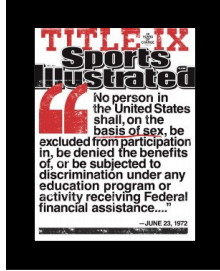


# Title IX Coordinator Training

Module 8: Title IX & Athletics  
Part 3

Janet P. Judge  
Partner, Holland & Knight LLP



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## Jackson v. Birmingham Bd. of Education (SCT):

- Retaliation is intentional discrimination on the basis of sex
- One who witnesses and complains about discrimination is protected from adverse action imposed because of the complaints
- Coaches, teachers, administrators and students in best position to witness and alert schools



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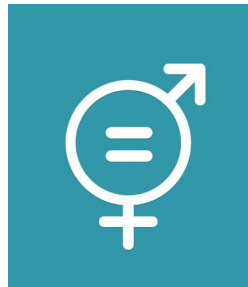
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## Equal Pay

- Equal Pay Act
- Title VII
- State Law Trends



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## Equal Discipline

**Privilege  
vs.  
Right**

- Changing Expectations
- Speech Cases
- Discipline
- Team Rules/Expectations

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## LGBTQ

- Gender Based Harassment.
- Common Ground
- 2016 DCL pulled back, but NCAA expectations still apply.
- "NCAA Inclusion of Transgender Student Athletes," August 2011.
- New NCAA guidance forthcoming.
- Courts cases are ongoing and progressing toward bathroom choice.



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## Sexual Misconduct and Athletics

- Policies/Procedures
  - Conference
  - School
  - Department
  - Team
- Interim Measures
- Interim Plus
- Proactive



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**2014 NCAA Executive Committee Sexual Violence Prevention and Compliance Resolution**

- ▶ “Cooperate with, but not manage, direct, control or interfere with, college or university investigations into allegations of sexual violence ....”



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**NCAA Commission to Combat Sexual Violence**

Defined the aspirational culture for colleges and universities as:

*A positive and thriving athletics team culture that revolves around respect and empathy for all, fostering a climate in which all feel that they are respected, valued and contributing members of their teams, athletics programs and institutions; and creating an environment in which students (athletes and nonathletes alike) feel safe and secure, both emotionally and physically, and are free of fears of retaliation or reprisal. The positive culture exuded by a member institution's NCAA teams is the catalyst for a positive culture across an entire campus.*



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**NCAA Board Of Governors Association-wide Policy**

Overarching Principles

1. Intercollegiate athletics departments should be informed on and integrated in overall campus policies and processes addressing sexual violence prevention and acts of sexual violence, particularly those related to adjudication and resolution of matters related to sexual violence.
2. Intercollegiate athletics departments should review annually the most current Checklist Recommendations of the NCAA Sexual Violence Prevention Toolkit, using it as a guide with resources to conduct ongoing, comprehensive education for student-athletes, coaches and athletics administrators.
3. Intercollegiate athletics programs should utilize their platform to serve as leaders on campus through engagement in and collaboration on efforts to support campus-wide sexual violence prevention initiatives. This includes involving student-athletes in prevention efforts in meaningful ways across the campus, including encouraging use of leadership roles on campus to support such efforts.



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## Annual Attestation: 2018

By signing and dating this form, you attest that your institution has satisfied the policy requirements outlined below for the 2017-18 academic year:

1. The athletics department is fully 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.
2. The institutional policies and processes regarding sexual violence prevention and adjudication, and the name and contact information for the campus Title IX coordinator\*, are readily available within the department of athletics, and are provided to student-athletes.
3. All student-athletes, coaches and staff have been educated on sexual violence prevention, intervention and response, to the extent allowable by state law and collective bargaining agreements.

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## Take Aways:



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## Note

The content of this presentation is to provide news and information on legal issues and all content is provided for informational purposes only and should not be considered legal advice.

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If you desire legal advice for a particular situation, you should consult an attorney.

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