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## [\\$15.9 Million in Payments Put ...](#)

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This past fall, three significant Title IX retaliation cases were lost by California State University at Fresno (CSUF) resulting in payments of \$15.9 million to the plaintiffs. Lindy Vivas, former volleyball coach at CSUF received a jury award for \$5.8 million, Stacy Johnson-Klein received a \$6.6 million settlement and Diane Milutinovich received \$3.5 million. And it is not over. New allegations of discrimination have been leveled at the Fresno State athletics department by an administrative assistant, Iris Levesque, and, in addition, softball coach Margie Wright is attempting to resolve salary concerns before considering a lawsuit.

The CSUF situation does not appear to be an isolated case. Sue Humphreys, a former swimming coach and athletics administrator at the University of California at Berkeley settled her Title IX/retaliation lawsuit for \$3.5 million. In January, 2008 Florida Gulf Coast University (FGCU) volleyball coach, Jaye Flood, filed a lawsuit alleging gender discrimination and retaliation and it looks like more lawsuits may follow at FGCU after a former FGSU general counsel and provost were fired and demoted respectively, a softball coach was fired and a golf coach resigned in the midst of a litany of gender equity concerns. This case could be similar to CSUF.

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In all of these cases, the issue is retaliation from employers because coaches or administrators raised Title IX/gender equity issues. Specifically, they spoke out because their respective student-athletes and programs did not receive the same treatment as their male counterparts.

What are the implications for athletics administrators?

1. **Title IX Self-Evaluation.** Athletics departments should have a current Title IX self-evaluation on file and a Title IX compliance plan in place that is annually reviewed and updated.
2. **Termination of Employees.** Prior to terminating any employee, carefully assess whether that employee has raised Title IX compliance concerns in the past and determine if the department could be susceptible to a retaliation claim. Consult with the University attorney prior to terminating the employee if there is such a concern. When such risks are apparent, it may be wise to consider a severance pay package, the receipt of which is dependent on the employee waiving any rights to litigation.
3. **Hostile Environment.** Assess whether there have been sexual harassment allegations by female coaches, student-athletes or other employees. There should be a model sexual harassment policy in place that is annually reviewed with staff and student-athletes and that includes procedures for handling all such complaints..
4. **Pro-Active Education.** At staff meetings and student-athlete orientation meetings at the beginning of each year, department policies and procedures related to the athletic department's commitment to a healthy educational environment should be reviewed, with specific focus on professional conduct and sexual harassment. Such sessions should also cover intellectual or physical abuse by coaches, an area that is receiving increased attention from parents.
5. **Diversity Report Cards.** Administrators should have a diversity report card in place that permits at least an annual assessment of this critical indicator, as well as a staff diversity plan in place.

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