



**2022 Annual Conference**

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**06B**

**LGBTQ Rights &  
Religious Freedom:  
Common Ground  
and Common  
Sense Solutions**

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**LGBTQ RIGHTS AND RELIGIOUS FREEDOM:  
COMMON GROUND AND COMMON-SENSE SOLUTIONS**

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**I. LGBTQ Rights and Religious Freedom: Common Ground and Common-Sense Solutions**

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**II. Attachment A**

Action Strategies for Making Collegiate Athletics Respectful and Safe for Student-Athletes and Staff of All Religious Perspectives

**III. Attachment B**

Action Ideas for Making Collegiate Athletics Respectful and Safe for Students and Staff of All Faiths, Sexual Orientations and Gender Identities

# **LGBTQ RIGHTS AND RELIGIOUS FREEDOM: COMMON GROUND AND COMMON-SENSE SOLUTIONS**

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## **I. Introduction**

Freedom of expression and affiliation are axiomatic to higher education, and standards of nondiscrimination often play an integral role in safeguarding the exchange of ideas among faculty and students. Institutions of higher learning also value diversity of thought and experiences in non-academic areas including residence life, student activities, and athletics. Colleges and universities seek to shield members of their community from unlawful discrimination based on membership in protected categories and to respect the integrity of institutional and personal religious affiliations, expressions, and beliefs. This outline explores how individuals and institutions can navigate situations where the tenets of an individual's religion or an institution's religious affiliation present novel questions about the application of nondiscrimination laws, with a special focus on the inclusion and experiences of members of the LGBTQ community.

## **II. Religious Freedom in the Academy<sup>1</sup>**

The U.S. Constitution prohibits public colleges and universities from regulation of religious expression or affiliation. Specifically, the Establishment Clause prohibits such institutions from engaging in (1) entanglement of government and religion, (2) coercion of religious observance, and (3) discrimination based on religious status. The Free Exercise Clause prohibits such institutions from engaging in any action that infringes on the religious exercise of constituents. In this context, religious exercise includes worship, membership in a religious organization, expression, and belief. Private colleges and universities enjoy protection from unlawful government action pursuant to the same constitutional provisions.

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<sup>1</sup> The materials accompanying a previous NACUA presentation by one of our coauthors includes an in-depth analysis of religious liberty in the academy. Steve Sandberg, Mary Ann Recker, and Anthony Hightower, *Respecting Religious Freedom: Perspectives from Across the Spectrum of University Campuses*, NACUA (June 24–27, 2018). Some of the following analysis is summarized from those materials.

In addition to these constitutional protections, the federal Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.*, requires any federal government action that burdens religious exercise to pass strict scrutiny. Because RFRA applies only to federal government action, many states have passed analogous statutes creating similar restrictions for actions by their state governments. These restrictions may apply to the actions of public colleges and universities as well.

### **III. Nondiscrimination Laws in the Academy**

Institutions that administer Title IV financial aid must comply with federal laws prohibiting discrimination in employment and education, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act. Such institutions may also be subject to analogous state and local nondiscrimination laws, as well as the terms of their own internal policies adopted to promote fair employment practices and foster educational environments free from discrimination and harassment.

Title VII prohibits discrimination in employment because of, among other bases, an individual's religion or sex, including sexual orientation and gender identity. *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1737 (2020). The Title VII statute exempts religious organizations from Title VII's prohibition against discrimination in employment on the basis of religion. *Corp. of the Presiding Bishop v. Amos*, 483 U.S. 327, 329 (1987). Similar employment regulations apply for federal contractors under the jurisdiction of the Office of Federal Contract Compliance Programs.

The [Department of Education issued a notice of interpretation](#) on June 16, 2021, that Title IX's prohibition on sex discrimination encompasses discrimination based on sexual orientation and gender identity. [The Department of Education has also published explanations on various statutory exemptions from Title IX](#), including that Title IX "shall not apply to an educational institution which is controlled by a religious organization if the application of [Title IX] would not be consistent with the religious tenets of such organization." 20 U.S.C. § 1681(a)(3).

### **IV. Intersection of Religious Freedom and Nondiscrimination Laws**

Courts over many decades have adjudicated the contours of exceptions and exemptions to these general compliance obligations for religious institutions. For example, Title VII and Title IX include the statutory religious exemptions mentioned above that may be available to faith-based colleges and universities, and certain employees within such institutions may qualify for the ministerial exemption under the First Amendment to the U.S. Constitution from such laws. These exemptions acknowledge the interest of faith-based institutions to maintain communities composed of individuals faithful to their doctrinal practices. *See e.g., Little v. Wuerl*, 929 F.2d 944, 945 (3d Cir. 1991) (holding that Title VII did not bar a Catholic institution from refusing to

rehire an employee who remarried after obtaining a divorce, an action that ran afoul of church doctrine).

A decade ago the U.S. Supreme Court articulated an exception for positions within religious institutions that qualify as ministerial, reasoning that the Establishment Clause and Free Exercise Clauses afford religious institutions the authority to select their leaders and their religious teachers. *See Hosanna-Tabor Evangelical Lutheran Church and Sch. v. E.E.O.C.*, 565 U.S. 171, 188 (2012) (by imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group's right to shape its own faith and mission through its appointments... and also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020).

In addition to addressing this institutional concern for religious liberty, courts have more recently focused on the application of nondiscrimination policies to individuals who assert religious liberty interests within public institutions. Of particular note is the recently decided Sixth Circuit Case, *Meriwether v. Hartop*, 992 F.3d 492, 498 (6th Cir. 2021). Prof. Meriwether is a philosophy professor at Shawnee State University, a public university in Ohio, and a devout Christian. Prof. Meriwether filed suit after being disciplined for failing to comply with the university's preferred pronoun policy. The policy required faculty to refer to students using the pronoun that reflected the student's gender identity. The policy did not provide for exceptions for faculty that had religious objections to the requirement.

Following implementation of the policy, Prof. Meriwether taught a political philosophy course in which he used the Socratic method, referring to students as Mr. and Ms. He believed referring to students in this way was pedagogically valuable, as it conveyed seriousness and mutual respect. After the first session, a student approached Prof. Meriwether and clarified that she identified as a woman. Prof. Meriwether explained to the student that his sincerely held religious beliefs precluded him from communicating messages about gender identity that he believed were false. In response, the student allegedly threatened to have Prof. Meriwether fired, and Prof. Meriwether reported the incident to the university.

After reporting the incident, Prof. Meriwether proposed a compromise that would allow him to continue using gendered pronouns to refer to all students except the one who had protested this use; instead, he would refer to her by name. The university initially accepted this arrangement but revisited the issue after continued protest from the student. Prof. Meriwether then suggested that he be allowed to include a disclaimer in his syllabus explaining his sincerely held religious belief, in which case he would refer to the students by their preferred pronouns. The university did not accept this suggestion. Prof. Meriwether found the university unwilling to engage in an interactive dialogue concerning the reasonable accommodation of his religious beliefs. Following an internal investigation, he received a formal written disciplinary warning. Prof. Meriwether's union grieved the discipline, and the grievance was denied at all levels.

Prof. Meriwether filed suit alleging violation of the Free Speech and Establishment Clauses of the First Amendment, the Equal Protection Clause, and analogous state law claims. The district court dismissed the lawsuit, and Prof. Meriwether appealed. The Sixth Circuit Court of Appeals ruled in his favor with respect to the religious liberty claims, holding that Prof. Meriwether's use of pronouns in the classroom was exercise of academic freedom subject to First Amendment protection and that the university's administration of its preferred pronoun policy not neutral and therefore unconstitutional. The court's opinion rested on the following key facts as alleged:<sup>2</sup>

- Remarks disparaging religion made by administrators responsible for implementing the policy
- Refusal of such administrators to consider arguments raised by Prof. Meriwether concerning his sincerely held religious beliefs
- Failure to consider accommodations suggested by Prof. Meriwether, and dismissing them as pretext for discrimination
- Basis of the discipline issued seemed to switch between findings of hostile environment and disparate treatment
- Lack of clarity with respect to the availability and administration of religious accommodations under the policy
- Irregularities in the Title IX investigation, and an absence of evidence that the complainant was denied any educational benefit in support of its finding

This case highlights the importance of considering religious liberty issues as part of an institution's commitment to diversity and nondiscrimination. Institutions of higher learning serve a broad range of constituents and are therefore already adept at addressing interests that may, at first glance, appear to conflict. However, because diversity and inclusion foster the environment in which freedom of speech (including religious speech) can flourish, we provide the following considerations and recommendations as a path forward.

## **V. Addressing LGBTQ Student Well-Being**

Paramount to the success of any college or university is its ability to promote the well-being of all its students, including LGBTQ students.<sup>3</sup> According to a May 2022 report of the Williams Institute of the UCLA School of Law, available online at <https://williamsinstitute.law.ucla.edu/publications/lgbtq-colleges-grad-school/>, nearly one-third of LGBTQ people experienced bullying, harassment, or assault at college. Nearly one in five (19.1%) LGBTQ people experienced in-person bullying or harassment, 12.5% of LGBTQ people

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<sup>2</sup> Because this was an appeal of a motion to dismiss, the decision is based on the facts as alleged by the plaintiff.

<sup>3</sup> In some cases, LGBTQ students have attributed challenges to their mental health and well-being to the actions of their academic institutions. For example, in the recently filed case *Hunter v. U.S. Department of Education*, 33 LGBTQ students at religious colleges have challenged the constitutionality of Title IX's religious exemption. The complaint details the harms these students experienced at their schools, including some students who were forced to choose between expulsion or undergoing conversion therapy.

experienced online or other indirect bullying or harassment, 17.6% experienced sexual harassment, and 11.8% experienced sexual assault in college. LGBTQ people were about three times more likely as non-LGBTQ people to report that their mental health was not good all or most of the time they were in college (35.3% and 10.8%, respectively). LGBTQ people were also at least twice as likely as non-LGBTQ people to report that a professional told them that they had a specific mental health problem while in college. In light of these troubling statistics, institutions are well-advised to seriously consider how internal policies and procedures impact the experiences of LGBTQ students and their ability to participate fully in the institution's educational programs.

## **VI. NCAA Common Ground: Working Toward Collaborative Solutions**

Since 2014, the NCAA has sponsored collaborative approaches that its institutions can adopt to reconcile the interests of LGBTQ community members and those with sincerely held religious beliefs concerning sexuality and gender identity, acknowledging that these are not necessarily mutually exclusive communities. It has hosted multiple in-person meetings to foster discussions about commonalities and differences and model how to work more cohesively within athletics. The NCAA has said its main goal for the Common Ground initiative is to create athletics environments that respect and support the dignity and well-being of student-athletes and those who teach and lead them. The [NCAA's Common Ground initiative](#) has shown that one key to constructive dialogue and reconciling adverse positions is mutual trust and a commitment to long-term relationships. The Common Ground leadership team comprises more than a dozen individuals who, in addition to planning and hosting the in-person meetings, meet frequently on online meetings and conference calls to learn from each other and create resources for athletic department staff, administrators, coaches, and student-athletes. Included at the end of these materials is a document they created in 2018 titled Action Ideas for Making Collegiate Athletics Respectful and Safe for Students and Staff of All Faiths, Sexual Orientations and Gender Identities.

The NCAA Common Ground leadership team continues to work on resources to help athletic departments and universities engage in discussions on complex and challenging topics. They have most recently been working on guidelines (not yet finalized or published) for these types of discussions using the following principles:

- Look for commonalities and build upon them.
- Be willing to say the “wrong” thing and invite another perspective.
- Be cognizant of balancing how much time and effort you spend explaining and defending your viewpoint and how much time and effort you spend asking sincere questions of others and listening in order to better understand their viewpoint.
- Recognize confusion and contention as an opportunity to learn, including different perspectives about the meaning of words, phrases, gestures, and symbols. Explain your meaning and listen to the meaning expressed by others.
- Dialogue in a way that people will continue to want to talk with you. Create a discussion environment that is free of shame and absolutes.

- Ask how people want to be identified, and then make a conscious effort to use their identifiers.
- Don't let fear and uncertainty paralyze you: Ask, share, act.
- Meet people where they are. Figuratively and literally.
- Respect different experiences and perspectives, even the ones you disagree with.
- Don't be afraid to say "I don't know" or "I need help."
- Build trust and genuine, long-term relationships. Commit to "stay at the table."

## **VII. Transgender and Non-Binary Student-Athletes: An Ongoing Discussion**

Through a notice of interpretation issued in June of 2021, the U.S. Department of Education confirmed that it will enforce Title IX's prohibition on discrimination on the basis of sex to include: (1) discrimination based on sexual orientation; and (2) discrimination based on gender identity.<sup>4</sup> The Notice provides:

[The Office of Civil Rights (OCR)] has long recognized that Title IX protects all students, including students who are lesbian, gay, bisexual, and transgender, from harassment and other forms of sex discrimination. OCR also has long recognized that Title IX prohibits harassment and other forms of discrimination against all students for not conforming to stereotypical notions of masculinity and femininity. But OCR at times has stated that Title IX's prohibition on sex discrimination does not encompass discrimination based on sexual orientation and gender identity. To ensure clarity, the Department issues this Notice of Interpretation addressing Title IX's coverage of discrimination based on sexual orientation and gender identity in light of the Supreme Court decision [in *Bostock v. Clayton County*, 140 S. Ct. 1731, 590 U.S. \_\_\_\_ (2020)].

In a press statement about the June 2021 notice, Secretary of Education Cardenas voiced the Department's support for transgender student athletes:

It's their right as a student to participate in these activities. And we know sports does more than just put ribbons on the first-, second- and third-place winner," he said. "We know that it provides opportunities for students to become a part of a team, to learn a lot about themselves, to set goals and reach them and to challenge themselves. Athletics provides that in our K-12 systems and in our colleges, and all students deserve an opportunity to engage in that."<sup>5</sup>

The NCAA has also played a key role in promoting equality and inclusion for transgender student athletes. In 2011, the NCAA adopted a comprehensive policy permitting transgender student athletes to compete on teams based on their gender identity so long as they complied with rules requiring transgender women to be on a year of testosterone suppression to qualify to play

<sup>4</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/202106-titleix-noi.pdf>

<sup>5</sup> [U.S. Secretary of Education Miguel Cardona backs transgender athletes' rights - ABC News \(go.com\)](https://www.abcnews.com/news/50711000/u-s-secretary-of-education-miguel-cardona-backs-transgender-athletes-rights)



on a women's team.<sup>6</sup> The policy also required all NCAA teams and events to treat transgender student athletes respectfully and equally with respect to anti-harassment protections, names, pronouns, locker rooms, and restrooms.

In January of 2022, the NCAA abruptly withdrew this longstanding policy and issued a new policy stating that it would defer to the governing bodies of particular sports to set rules for the participation of transgender student athletes.<sup>7</sup> The NCAA's shift has elicited criticism from advocates for LGBTQ athletes and led to uncertainty about the organization's stand on transgender athletes.<sup>8</sup> Despite this shift, the NCAA continues to maintain that transgender athletes must be treated equally and that any requirements for their participation must be non-discriminatory and evidence-based.

## **VIII. Resources**

**Attachment A:** Action Ideas for Making Collegiate Athletics Respectful and Safe for Students and Staff of All Faiths, Sexual Orientations and Gender Identities

**Attachment B:** Action Strategies for Making Collegiate Athletics Respectful and Safe for Student-Athletes and Staff of All Religious Perspectives

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<sup>6</sup> [NCAA-Transgender-Handbook.pdf \(usc.edu\)](#)

<sup>7</sup> <https://www.ncaa.org/news/2022/1/19/media-center-board-of-governors-updates-transgender-participation-policy.aspx>

<sup>8</sup> [The NCAA has transformed from pioneer to pawn in complex effort for transgender inclusion \(msn.com\)](#)

# **Action Ideas for Making Collegiate Athletics Respectful and Safe for Students and Staff of All Faiths, Sexual Orientations and Gender Identities**

## **Introduction**

This document identifies action strategies for college athletics departments to create respectful and inclusive climates for students and staff of all sexual orientations, gender identities and faiths, with the recognition that many staff and students are both LGBTQ and people of faith.

These action strategies center on two broad school contexts: private faith-based institutions and public or private secular institutions.

## **Focus**

For private faith-based institutions, this document focuses on respect and inclusion for LGBTQ students and staff. This list of actions does not assume that all faith-based schools are inclusive of all different religious perspectives.

The list of actions for public and private secular institutions focuses on respect and inclusion for students and staff of different faiths. This list of actions does not assume that all public and private secular schools are inclusive of LGBTQ people.

## **Action Strategies**

The action strategies identified in this document provide a range of options. We, the leadership of Common Ground, present these strategies with the knowledge that each school will adopt action strategies that are consistent with its institutional mission and with regard to internal conversations about including students of faith and students of all sexual orientations and gender identities.

These suggested action strategies were developed from discussions during Common Ground meetings, which included people of faith and LGBTQ people in college athletics from private faith-based, public and private secular schools.

We recognize that the action recommendations included in this document are reflective of an ongoing conversation among people of faith and LGBTQ people and will need to be amended and refined as our conversation continues.

**What are some ways that a private faith-based institution can create a respectful and inclusive climate for LGBTQ students and staff in athletics without compromising religious beliefs or institutional mission?**

Individual Actions

- Acknowledge and accept the presence of LGBTQ students and staff in the school community.
- Communicate with athletics staff and student-athletes about respect and inclusion of LGBTQ people in the context of faith.
- Speak up to stop anti-LGBTQ bullying, slurs, jokes and stereotypes.
- Display resources that address LGBTQ issues from a faith-based perspective in your office where students and staff will see them.
- Initiate conversations with school administrators, boards of trustees, alumni or other school leaders about how to provide a safe and inclusive campus environment for LGBTQ people.
- Indicate your willingness to talk with LGBTQ students and staff about their experiences in athletics.

Departmental Actions

- Explicitly include LGBTQ students when communicating to athletics staff the importance of respect for all student-athletes (student and staff handbooks, orientation programs for new staff and students, for example).
- Write an athletics department statement of welcome that acknowledges all students and staff, including LGBTQ members of the school community, and post it on the department website.
- If school policy holds LGBTQ students or staff to a different standard of conduct than heterosexual or cisgender students, make that policy public on the athletics department website and in other institutional communications with prospective students and parents.
- Provide people who are exploring the relationship among their faith, sexual orientation or gender identity with resources and support to help them identify themselves in positive ways.
- Seek out conversations with constituents across campus to learn about efforts to respect diversity and to create inclusive environments.
- Connect the athletics department with campus and community LGBTQ organizations or groups and resources they provide.
- Provide families, friends and colleagues of LGBTQ people with resources that encourage respect and love.
- Provide student-athletes and athletics staff with education from a faith-based perspective on creating respectful climates for LGBTQ student-athletes.
- Examine department and institutional policy regarding LGBTQ students and staff to explore ways to increase LGBTQ inclusion.
- Examine departmental and institutional policies and their alignment with the institutional mission regarding different standards of conduct for LGBTQ students and their heterosexual and cisgender peers.

- Host a Common Ground conversation sponsored by your athletics department. (If interested, contact the NCAA office of inclusion and/or a member of the Common Ground leadership team.)
- Provide educational opportunities for members of the athletics community to explore LGBTQ issues in the context of faith.
- Provide ways for athletics staff and student-athletes to express acknowledgment of LGBTQ people on campus and their intention to create a climate of respect and safety for all people, including those who identify as LGBTQ (faith-based safe space programs/stickers or ally campaigns).
- Permit and support student or staff organizations for LGBTQ people and their allies.
- Engage your Student-Athlete Advisory Committee as peer leaders showing respect for LGBTQ students.
- Make a “You Can Play” video for the athletics department ([youcanplayproject.org](http://youcanplayproject.org)).
- Create policies and practices that treat LGBTQ students with respect and that specifically identify them (along with other minority or marginalized groups) as members of the school community.
- Examine departmental and institutional policies for transgender students and adopt the NCAA-recommended policy and best practices for including transgender student-athletes.
- As appropriate and with the student’s consent, include statements about a student-athlete’s sexual orientation and/or gender identity in videos or print about the student-athlete.
- Proactively plan how to accommodate LGBTQ student-athletes from visiting teams to ensure they have a safe and welcoming experience (refer to NCAA transgender inclusion guide and NCAA Champions of Respect LGBTQ inclusion guide).

**What are some ways that a public or private secular school athletics department can provide a respectful and inclusive climate for students and staff of faith?**

Individual Actions

- Acknowledge and accept the presence of students and staff of different faiths in the athletics community.
- Speak up to stop anti-religious bullying, slurs, jokes and stereotypes.
- Encourage respectful conversations regarding differences in religious perspectives among athletics staff and student-athletes.
- Initiate conversations with school administrators, boards of trustees, alumni or other school leaders about how to respect the rights of students and staff of faith in public or private secular schools.
- Indicate your willingness to talk with students and staff of faith about their experiences in athletics.
- Include different faith perspectives — Muslim, Christian (Protestant, Catholic, The Church of Jesus Christ of Latter-day Saints), Jewish, Hindu, atheism and others — when you talk about respect for people of faith.

## Departmental Actions

- Explicitly include students of different faiths when communicating to athletics staff the importance of respect for all student-athletes (student and staff handbooks, orientation programs for new staff and students, for example).
- Write an athletics department statement that acknowledges and welcomes students and staff of all different religions.
- Provide ways for athletics staff and student-athletes to express acknowledgment of religious people on campus and their intention to create a climate of respect and safety for all people, including those who identify as religious or as having no religion.
- Provide resources about religious expression in schools:
  - [aclu.org/aclu-defense-religious-practice-and-expression-public-schools](https://www.aclu.org/aclu-defense-religious-practice-and-expression-public-schools)
  - [religiousfreedomcenter.org/faq/](https://religiousfreedomcenter.org/faq/)
  - [newseum.edu/religion](https://www.newseum.edu/religion)
  - [pewresearch.org](https://www.pewresearch.org)
  - [thefire.org/first-amendment-library/special-collections/fire-guides/fires-guide-to-religious-liberty-on-campus/](https://thefire.org/first-amendment-library/special-collections/fire-guides/fires-guide-to-religious-liberty-on-campus/)
- Recognize and respect different religious practices regarding matters related to prayer, clothing and dietary needs, as consistent with federal guidelines (see above).
- Provide educational opportunities for members of the school community to explore issues of different faiths in the context of athletics.
- Support student or staff organizations for people of different faiths.
- Permit and support student or staff organizations for religious people and their allies.
- Educate coaches and other staff about the importance of knowing the different religious or spiritual perspectives represented on their teams.
- Post institutional religious nondiscrimination policies on the athletics department website.
- Provide student-athletes and athletics staff with education about creating respectful climates for student-athletes of multiple faiths (see federal guidelines on religious expression in public schools).
- Connect athletics departments with campus religious organizations or groups and resources they provide.
- Provide information about resources for student-athletes of faith (campus or community-based religious groups, for example).
- Develop a relationship with different campus-based offices of religious and spiritual life and create an awareness of the student resources they offer.
- Engage the Student-Athlete Advisory Committee as peer leaders showing respect for students of different faiths.
- Schedule athletics events with an awareness of different religious observances.

- Create policies and practices that treat religious students with respect and that specifically identify them (along with other minority or marginalized groups) as members of the school community.
- Host a Common Ground conversation on your campus. (If interested, contact the NCAA office of inclusion.)
- As appropriate and with the student's consent, include statements about a student-athlete's religion in videos or print about the student-athlete.
- Proactively plan how to accommodate religious student-athletes from visiting teams, or entire visiting teams from religious institutions, to ensure they have a safe and welcoming experience.

### Additional Resources

For further resources for addressing LGBTQ inclusion, see the NCAA guide for LGBTQ inclusion, [Champions of Respect](#).

### Common Ground Leadership Team Assistance

We strongly encourage athletics leaders who are interested in implementing any of these recommended actions to reach out to the Common Ground leadership team for assistance, consultation, resources or programming that can assist your efforts to become more inclusive for LGBTQ people and people of faith.

- Nevin Caple, LGBT SportSafe — [nevin@lgbtsportsafe.com](mailto:nevin@lgbtsportsafe.com)
- Helen Carroll, National Center for Lesbian Rights — [hcarroll@nclrights.org](mailto:hcarroll@nclrights.org)
- Liz Darger, Brigham Young University — [liz\\_darger@byu.edu](mailto:liz_darger@byu.edu)
- Clyde Doughty Jr., Bowie State University — [cdoughty@bowiestate.edu](mailto:cdoughty@bowiestate.edu)
- Jess Duff, Massachusetts Institute of Technology — [jduff@mit.edu](mailto:jduff@mit.edu)
- Pat Griffin, University of Massachusetts, Amherst — [griffin@educ.umass.edu](mailto:griffin@educ.umass.edu)
- H. Skip Lord, Houghton College — [harold.lord@houghton.edu](mailto:harold.lord@houghton.edu)
- Drew Martin, University of Texas at Austin — [drew.martin@utexas.edu](mailto:drew.martin@utexas.edu)
- Jean Merrill, NCAA office of inclusion — [jmerrill@ncaa.org](mailto:jmerrill@ncaa.org)
- Karen Morrison, University of Central Florida — [karen.morrison@ucf.edu](mailto:karen.morrison@ucf.edu)
- Chris Mosier, TransAthlete.com --- [chris.mosier@gmail.com](mailto:chris.mosier@gmail.com) Donna Noonan, former staff, Fellowship of Christian Athletes — [djnoon78@att.net](mailto:djnoon78@att.net)
- Gary Pine, Azusa Pacific University — [gpine@apu.edu](mailto:gpine@apu.edu)
- Amy Wilson, NCAA office of inclusion — [awilson@ncaa.org](mailto:awilson@ncaa.org)

*Developed by the Common Ground Leadership Team, April 2017*

*Revised by the Common Ground Leadership Team, December 2017 and October 2018*

# **Action Strategies for Making Collegiate Athletics Respectful and Safe for Student-Athletes and Staff of All Religious Perspectives**

## **Introduction**

This document identifies action strategies for college athletics departments at public and private secular institutions to create respectful and inclusive climates for student-athletes and staff of all religious or non-religious perspectives. We believe that all student-athletes and athletic staff should be safe and included in all aspects of athletic department and team programming.

This resource centers on the religious climate at public and private secular schools and does not directly address inclusion efforts at private faith-based schools. We recognize that many private faith-based schools are aligned with specific religious tenets that guide policy and practice and that create distinctive religious climates. Athletic programs at religious institutions are an important part of the diversity of collegiate athletics, and many student-athletes, coaches and staff seek opportunities at schools with expressly religious climates. Faith-based schools can take actions to create inclusive climates consistent with their institutional missions and the strategies identified in this document. All student-athletes, coaches and staff at faith-based private schools should be treated with respect and fairness, regardless of their religious differences.

## **Focus**

Specifically, this document focuses on student-athletes and athletic staff and the role religion plays in their lives. People of all religious faiths as well as those who do not subscribe to any religious faith should be welcomed and respected as valued members of the athletic department community. The guidelines described in this document are our recommendations for enacting this commitment to inclusion in public and private secular institutions.

In accordance with constitutional protections of freedom of religion and traditional conventions of separation of religion and state, athletic programs at public and private secular schools should ensure a neutral religious climate in which no particular religion or religious belief or practice is promoted over any other and where student-athletes, coaches and staff of all religious perspectives are welcomed, accommodated and treated with respect. This neutrality enables individual student-athletes, coaches and staff to express their respective religious beliefs and, at the same time, protects the rights of student-athletes, coaches and staff who do not share those religious beliefs, do not follow any religion or choose not to participate in any religious activity or public demonstrations of religion within the context of athletics. The goal in public and private secular schools is to find common ground where student-athletes, coaches, and athletics staff of all religious and non-religious beliefs can compete together in a respectful, safe, and fair climate.

## **Action Strategies**

The action strategies identified in this document provide a range of options. We, the leadership team of Common Ground, present these strategies with the knowledge that each school will adopt action strategies that are consistent with federal, state and local laws, as well as

Developed by the Common Ground Leadership Team, August, 2018

institutional mission and policies governing religious expression in public and private secular schools.

We recognize that the action recommendations included in this document are reflective of an ongoing conversation and will need to be amended and refined as our conversation continues.

**What are some ways that a public or private secular school's athletics department can provide a respectful and inclusive climate for all student-athletes, coaches and staff regardless of their religious beliefs?**

#### Individual Actions for Coaches and Other Athletics Staff

- Coaches and other athletics staff are responsible for ensuring that individual religious expressions of student-athletes, coaches and athletics staff are respected and that individuals of all religious perspectives are welcomed as valued members of the athletics department
- Coaches and other athletics staff are also responsible for ensuring that the climate for all team activities is neutral with regard to religion and affirms that all student-athletes and athletics staff of any religious perspective are welcomed and respected. Coaches and other athletics staff in public schools are responsible for adhering to federal and state laws, policy and guidance related to religious expression. As employees of public institutions, these coaches and other athletics staff are required to be neutral about religion in their professional capacity. This means that the activities in which student-athletes participate under athletic staff leadership, such as practice sessions, competitions, travel, official team activities outside of competition, official team communications and any other organized team activities should all be religion-neutral. As explained below in this document, "religion-neutral" allows these coaches and athletics staff to take actions to accommodate the religious practices of their student-athletes.
- Coaches and other athletics staff at private secular schools are responsible for adhering to state and local laws related to religious expression. These laws may vary from state to state, so athletics leaders at a private secular school should consult with their school's legal counsel to identify how laws affect the responsibilities of coaches and other athletics staff at that private secular school in that state. In the interests of creating an athletic climate in which all student-athletes are treated with respect and fairness, coaches and other athletics staff in private secular schools should strive to maintain a religion-neutral climate in which individual student-athletes' religious expressions are protected within the limits of the law.

#### Suggested Action Strategies for Coaches and Other Athletics Staff

- Acknowledge and accept the presence of student-athletes, coaches and staff of different religions in the athletics community including student-athletes, coaches and staff who do not identify with any religion.



- Indicate your willingness to talk with student-athletes, coaches and staff of different religious perspectives about their experiences in athletics.
- Recognize, respect and accommodate different religious practices regarding matters related to prayer, clothing, dietary needs and religious observance.
- Include religion among the many ways that student-athletes are different from each other in discussions of team expectations for respectful relationships.
- Name different religious perspectives (e.g., Atheist, Christian [Protestant, Catholic, Mormon], Hindu, Muslim, Jewish) when talking about respect for people of different religious perspectives.
- Know about campus resources or organizations for people of different religions.
- Speak up to stop anti-religious bullying, slurs, jokes and stereotypes.
- Encourage respectful conversations regarding differences in religious perspectives among student-athletes, coaches and athletics staff.

### Examples of Practices and Policies that Promote a Respectful and Inclusive Religious Climate

- A coach who identifies themselves as a follower of a particular religion, but intentionally establishes a team climate of inclusivity for student-athletes of all religious perspectives.
- A moment of silent prayer or reflection before practice or competition if the team chooses to participate in such an activity.
- A coach reading a non-religious poem or quote, playing non-religious music, giving a non-religious inspirational talk.
- A coach is inclusive in acknowledging the different religious holidays that team members may celebrate
- Individual student-athletes participating in religious groups or activities of their choosing outside of required or voluntary team activities.
- Individual student-athletes initiating a conversation about religion with a coach, teammate, other athletic staff or the media.
- Individual student-athletes talking openly about their religious faith, but not trying to persuade others to accept their religious faith, unless others express an interest in that type of religious conversation (This is not intended to suggest that students cannot talk with each other about their individual religious perspectives).
- Individual student-athletes quietly reading religious texts to themselves on the team bus.
- Individual student-athletes praying on their own during practice, competition or at any time in the athletic setting.
- A group of student-athletes voluntarily praying together, attending religious text study or a religious service together as long as it is not assumed that these are team activities in which everyone must, or is pressured to participate.
- Individual student-athletes wearing jewelry, clothing or other symbols of their religion (as is consistent with uniform requirements for practice or competition).
- Individual student-athletes choosing to participate in a post-game prayer with team members from an opposing school.

### Examples of Policies and Practices That Can Undermine a Religion-Neutral Team Setting

- Team prayers of any kind, whether led by coaches, religious leaders or student-athletes in which all team members are expected or required to participate.
- Coaches distributing religious literature to student-athletes.
- Team attendance at religious text study, prayer breakfasts, religious services or events, or religious club meetings required or encouraged by coaches or team captains.
- Student-athletes or coaches talking about their religious beliefs to other team members who are not interested in discussing religion.
- Student-athletes distributing written religious information, unless an individual teammate expresses an interest in such information.
- Student-athletes or coaches condemning other team members for not subscribing to their religious beliefs.
- Coaches or team captains including verses from particular religious texts or religious messages in team materials or in team communications (verbal, emails, texts, letters, office phone messages).
- Coaches organizing a specific religious holiday-related team event or sending specific religious holiday cards to recruits or team members.
- Coaches or student-athletes discriminating against or harassing a player or coach who does not share their religious beliefs.
- Coaches or student-athletes trying to persuade student-athletes or coaches who do not share their religious beliefs to accept their religious beliefs, unless they express an interest in that type of religious conversation.
- Coaches promising recruits and their parents that the team has a particular religious-based ethos or value system.

### Departmental Actions

In addition to the actions of individual student-athletes, coaches and other athletics staff, it is important for departmental level policy and practice to provide a consistent and clear foundation for the individual expectations for all members of the athletics department. Departmental policy should provide guidance for coaches and other staff about expectations for accommodating different religious perspectives, observances and practices.

- Write an athletics department statement that acknowledges and welcomes student-athletes and staff of different religions and those who do not identify with any religion and post it on the departmental web site.
- Post institutional religious non-discrimination policies on the athletics department website.
- Explicitly include examples of different religions when communicating to student-athletes and athletics staff the importance of respect for all student-athletes (student-

athlete and staff handbooks, orientation programs for new staff and student-athletes, for example).

- Educate athletics staff about federal, state and local legal requirements of public and private secular schools and their individual responsibilities related to religious expression in these educational contexts.
- Provide resources about religious expression in schools:
  - <https://www.aclu.org/aclu-defense-religious-practice-and-expression-public-schools>
  - <http://www.religiousfreedomcenter.org/faq/>
  - <https://newseumed.org/religion>
  - [www.pewresearch.org](http://www.pewresearch.org)
  - <https://www.thefire.org/fire-guides/fires-guide-to-religious-liberty-on-campus/fires-guide-to-religious-liberty-on-campus-full-text/>
- Encourage athletics staff and student-athletes to express acknowledgment of people of many different religions or no religion on campus and their intention to create a climate of respect and safety for all people, including those who identify as religious or not religious.
- Provide a department resource or administrator who can act in the role of advocate or ombudsperson for student-athletes who desire religious accommodations.
- Provide educational opportunities for members of the athletics department to better understand different religions in the context of athletics (e.g., dietary needs, worship practices, religious observances, clothing).
- Permit student-athlete initiated organizations for student-athletes of different religions.
- Engage the Student-Athlete Advisory Committee as peer leaders showing respect for student-athletes of different religious perspectives.
- Educate coaches and other athletics staff about the importance of knowing the different religious perspectives represented on their teams.
- Provide student-athletes, coaches and athletics staff with education about creating respectful climates for student-athletes of multiple religious perspectives (see federal guidelines on religious expression in public schools listed above).
- Learn about different campus-based offices of religious and spiritual life and make student-athletes, coaches and staff aware of the resources they offer.
- Schedule athletics events with an awareness of different religious observances.
- Create policies and practices that treat religious student-athletes with respect and that specifically acknowledge them (along with other minority or marginalized groups) as members of the school community.
- Host a Common Ground conversation focused on religious diversity on your campus. (If interested, contact the NCAA office of inclusion.)

- As appropriate and with the student-athlete's consent, include statements about a student-athlete's religion in videos or print profiles.
- Proactively plan how to accommodate individual religious student-athletes from visiting teams, or entire visiting teams from faith-based institutions, to ensure they have a safe and welcoming experience.

#### Common Ground Leadership Team Assistance

We strongly encourage athletics leaders who are interested in implementing any of these recommended actions to reach out to the Common Ground leadership team for assistance, consultation, resources or programming that can assist your efforts to become more inclusive for people of all religious perspectives in athletics. We also invite suggestions for improvement of these recommended actions:

- Nevin Caple, LGBT SportSafe — [nevin@lgbtsportsafe.com](mailto:nevin@lgbtsportsafe.com)
- Helen Carroll, National Center for Lesbian Rights — [hcarroll@nclrights.org](mailto:hcarroll@nclrights.org)
- Liz Darger, Brigham Young University — [liz\\_darger@byu.edu](mailto:liz_darger@byu.edu)
- Clyde Doughty, Bowie State University — [cdoughty@bowiestate.edu](mailto:cdoughty@bowiestate.edu)
- Jess Duff, Massachusetts Institute of Technology — [jduff@mit.edu](mailto:jduff@mit.edu)
- Pat Griffin, University of Massachusetts Amherst — [griffin@educ.umass.edu](mailto:griffin@educ.umass.edu)
- Skip Lord, Houghton College — [harold.lord@houghton.edu](mailto:harold.lord@houghton.edu)
- Drew Martin, University of Texas Austin --- [drew.martin@utexas.edu](mailto:drew.martin@utexas.edu)
- Jean Merrill, NCAA Office of Inclusion --- [jmerrill@ncaa.org](mailto:jmerrill@ncaa.org)
- Karen Morrison, University of Central Florida — [karen.morrison@ucf.edu](mailto:karen.morrison@ucf.edu)
- Chris Mosier, TransAthlete.com — [chris.mosier@gmail.com](mailto:chris.mosier@gmail.com)
- Donna Noonan, Former Staff, Fellowship of Christian Athletes — [djnoon78@att.net](mailto:djnoon78@att.net)
- Gary Pine, Azusa Pacific University — [gpine@apu.edu](mailto:gpine@apu.edu)
- Amy Wilson, NCAA office of inclusion — [awilson@ncaa.org](mailto:awilson@ncaa.org)