

TITLE IX

PUBLIC LAW 92-318 OF THE EDUCATION ACT OF 1972

Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. Title IX states that:

“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 program or activity receiving Federal financial assistance”.

Participation in interscholastic athletics programs provides students from diverse backgrounds opportunities to cooperate with and compete against their peers through sport. Participation in school sports may lead to the following benefits to students: improved physical health and fitness, higher self-esteem, a stronger sense of community and purpose, consistent time spent with an adult mentor, and increased academic performance in the classroom. Given the possible benefits associated with school sport participation, both boys and girls should have equitable opportunities to participate in and benefit from sports. Historically, boys have participated in interscholastic athletics programs in greater numbers than their female peers; at the turn of the twenty-first century, however, girls are participating in larger numbers than ever before.

OCR created a three-prong test that is used to assess gender equity compliance in school athletic departments. Schools must meet the criteria of at least one prong to be in compliance with Title IX.

- To satisfy the **first prong** of the gender equity test, a school must show that the athletic participation rates by gender are within 5 percent of the enrollment rate for that gender.
- Schools may also be in compliance if they satisfy the **second prong** - providing evidence that the school has a history and current practice of program expansion for girls.
- To meet the requirements of the **third prong**, the school must demonstrate that it offers an athletic opportunity for girls if there is a sufficient interest and ability in a particular sport.

Although schools need to meet only one prong of this three-prong test, most interscholastic athletics programs still have not achieved equity in the three major areas of Title IX that pertain to high school sports: athletic financial assistance, accommodation of student interests and abilities, and other program areas.

Schools do not necessarily need to provide equal funding for boys' and girls' sports. School sports programs are in compliance with Title IX if the **quality** of the girls' program is equal to that of the boys' program. The funding may not be equitable because of large programs (such as football), but if the total funding for overall programs are equal, then the school is more than likely in compliance. Other program areas that must be equitable by gender include: equipment and supplies, scheduling of practices and contests, travel, access to quality coaches with equitable pay, [locker](#) rooms and facilities, access to training facilities and medical services, publicity, and sporting opportunities.

Achieving sports equity in secondary schools is a significant factor in increasing opportunities for girls in sports and in helping to change perceptions about athletes based on traditional gender stereotypes. Gender equity in interscholastic sports translates into students having similar opportunities for participation in a variety of sports and seasons regardless of their gender. Equitable opportunities to benefit from participation in interscholastic sports should exist for all students. Although the number of girls participating in school sports has increased since the passage of Title IX, inequities still exist. Schools need to work with their athletics administrators and designated Title IX officers to ensure compliance is achieved.

THREE-PRONGED TEST

(Schools must pass one of the three tests)

PARTICIPATION OPPORTUNITIES

- **Compliance by Proportionality (Test #1)**

The OCR has determined proportionality by examining the ratio of male/female students in the general student body to the ratio of male/female participating. The ratio needed for compliance is determined on a case-by-case basis by the OCR, but in general, to be considered “proportional” the ratios must be within five percent (5%) or less.

- **Full and Effective Accommodations of Athletic Interests and Abilities (Test # 2)**

The survey assessment should determine whether sport interests of the female student have been fully and effectively satisfied. Schools/districts can be “in compliance” even with a large male/female ratio difference within their athletic programs when their survey indicates they are meeting the needs of their student body. In addition to the results of the survey, it is up to the school/district to show what actions have been taken by the district, based on the results of the survey. These results could be adding new sports or adding an additional level of competition of existing sports.

- **History and Continuing practice of Athletic Program Expansion (Test # 3)**

Demonstrate a pattern of ongoing program expansion within the past two-three years. One OCR office has recommended that a school district survey/assess its student population every two year. The result of the survey/assessment drives the expansion of the athletic program. The survey findings will show a chronological history of the school’s sport program and any expansion will be based upon the results of the survey. Preserve pertinent information demonstrating a sincere effort to engage and promote boys and girls activities continuously through program development. This should include the policy and procedures for adding new sports.

- **itle IX**

- **Frequently Asked Questions**

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- **FAQ: What is Title IX?**

- Answer: Title IX is the law that gave girls and women an equal opportunity in sports as boys and men. Title IX was passed in 1972 and was signed by Richard Nixon.

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- **FAQ: Who enforces Title IX?**

- Answer: The United States Department of Education's Office for Civil Rights is the Federal agency empowered to enforce Title IX.

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- **FAQ: Who is responsible for enforcing Title IX?**

- Answer: Every school, by law is required to designate a Title IX Coordinator. Contact information for the Title IX Coordinator must be readily available to school faculty, staff and students.

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- **FAQ: Is there a penalty for Title IX non-compliance?**

- Answer: Yes! Schools can lose federal funds for violating the law. Although most institutions are not in compliance with Title IX.

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- **FAQ: Does Title IX require that we hire women to be the coaches for our women's athletics teams?**

- Answer: No. Title IX mandates that your school's female student-athletes should have access to a quality of coaching comparable to your male student-athletes. The relevant criteria are the expertise, experience, success, etc. of your coaching candidates, not their gender. It is important to note, however, that a variety of Federal and state employment laws exist which are separate and distinct from Title IX and which make it clear that you may not discriminate on the basis of gender in your recruitment and hiring of coaches.

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- **FAQ: Our school has 30 girls participating in cheerleading, 25 in pom poms, and 50 on drill team. Can we count these activities as sports and these girls as athletic participants for Title IX purposes?**

- Answer: No. Despite the fact that cheerleading, danceline, and other related activities are competitive activities requiring a high degree of athleticism and which provide regularly scheduled "contests" very similar to any other sport, the OCR does not at this time consider these activities as sports for purposes of complying with Title IX.

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- **FAQ: How do I determine whether we satisfy the third prong of the three-part test-fully and effectively accommodating the interests and abilities of the underrepresented sex?**

- Answer: By determining whether there are concrete and viable interests among the underrepresented sex that should be accommodated by the school's athletic program. OCR has recently clarified that a school will be found in compliance with part three unless there exists a sport(s) for the underrepresented sex for which all three of the following conditions are met: (1) unmet interest sufficient to sustain a team in the sport(s); (2) sufficient ability to sustain a team in the sport(s); and (3) reasonable expectation of competition for a team in a sport(s) with the school's normal competitive region.

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- **FAQ: How are we to measure the students' interests in sport activities?**

- Answer: The biennial determination of a student interest survey.

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- **FAQ: If my school provides an equal number of male and female sports, does that mean we are automatically in compliance?**

- Answer: No, Title IX requires an analysis of overall equivalence of opportunity to participate in sports that is much more complex than mere quality in the number of sports offered.

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- **FAQ: Can my school have only a football or wrestling booster club?**

- Answer: Maybe. If the school has a mechanism in place to ensure that equivalent benefits, treatment, services and opportunities are provided to males and females despite large portions of funding being raised specifically for one team.

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- **FAQ: If we are not in compliance, can we eliminate a sport in order to bring us into compliance?**

- Answer: This is not the recommended solution. OCR has repeatedly stated that nothing in Title IX requires the cutting or reduction of teams in order to demonstrate compliance with Title IX and that the elimination of teams is a disfavored practice. Because the elimination of teams diminishes opportunities for students who are interested in participating in athletics instead of enhancing opportunities for students who have suffered from discrimination, it is contrary to the spirit of Title IX for the government to require or encourage a school to eliminate athletic teams.

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- **FAQ: Can a coach file a Title IX complaint?**

- Answer: Yes. Players, parents, coaches, and any other third parties may file a Title IX complaint with the OCR complaints. Numerous Title IX investigations have been initiated by public interest groups on the behalf of women athletes at a particular state.

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- **FAQ: Our district is facing substantial budget cuts, and we cannot afford to provide equal athletic opportunities for both male and female students. What do we do?**

- Answer: Lack of funds does not excuse discrimination. Schools should, in advance of proposed budget cuts, develop a mechanism to ensure that equivalent benefits, treatment, services and opportunities are provided for males and females as programs face elimination or as resources are reallocated.

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- **FAQ: Our school's athletic budget is divided equally between boys' and girls' programs, but our booster clubs provide more extra benefits to boys' football and boys' basketball than to any other boys' sports or to any girls' sports. Is this a violation of Title IX?**

- Answer: Maybe. Schools must ensure that, in an overall sense, considering all athletic programs as a whole, that comparable benefits are provided to boys and girls. Booster club support must be included in this evaluation, therefore the school must take care to monitor and ensure that the extra booster club support does not create an imbalance between the boys' and girls' athletic programs.

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- **FAQ: Several of our coaches and teams work very hard carrying out fund-raising activities of their own to raise extra money to buy new uniforms, pay for extra equipment and finance extra team trips. If our boys' teams raise more money with such fund-raising activities, will this create a Title IX violation?**

- **Answer:** Probably not. It is important to remember that all athletics benefits and resources, whatever their source, must be considered in evaluating compliance with Title IX. Therefore, technically, even money from team fund-raising activities and the items purchased with that money, must be considered in assessing overall equivalence between programs. Assuming, however, that the

amounts from such fund-raising are unlikely to create an overall imbalance, a Title IX violation will probably not be created.