

Play Fair

A Title IX Guide for Athletics

Acknowledgments

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Introduction

Whether as an athlete, parent, coach, school/educational institution staff member, or spectator, you've likely faced a situation in which something hasn't seemed fair, but you have been unsure what you can do about it. Maybe you noticed that your high school always schedules the girls' basketball games on Thursdays at 4:00 p.m. while the boys' games are always on Friday evenings at 8:00 p.m. Maybe your school district only uses the big gym for the boys' teams, and the girls' teams are forced to use a smaller, off-site location. Or perhaps your athletic department has been saying for years that there is just not enough money for the girls' intramural soccer team to become a varsity team, even though they keep coming up with the money for other things, like new jerseys for the football team.

These are all real issues that the Women's Sports Foundation has heard from athletes, parents, coaches, other educational institution staff members, and spectators over the years. They are also the reason we first created this guide in 1992 and why we still need it today.

In this guide, we'll show you how Title IX, through its rules and regulations, mandates that girls and women receive equal opportunities and experiences from pre-kindergarten through high school and all the way up to college sports.

Title IX: A brief history and overview

Congress enacted Title IX of the Education Amendments—more commonly referred to as “Title IX”—on June 23, 1972. Title IX is the provision within the Education Amendments of 1972 that prohibits sex discrimination in educational institutions that receive any federal funds. In brief (only 37 words), Title IX states:

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 educational program or activity receiving Federal financial assistance.ⁱ

Title IX applies to any educational program at an institution that receives federal funds. This includes the majority of schools in the U.S. at the K-12 and collegiate levels, as well as those preschools that receive federal funds. Most private colleges are covered because they receive federal funding through financial aid programs such as Pell grants. Athletic associations, such as those governing high school sports in a given state, may also be covered under Title IX if they receive federal funds.ⁱⁱ

Despite this federal protection, many girls and women are routinely denied opportunities or treated as inferior to their male counterparts. The more we all know about the rights of our young people in sports and the responsibilities of educational institutions, the more we will be able to ensure that their opportunities and experiences are equitable.

If educational institutions are found to violate Title IX, their federal funding can be withdrawn. Despite this compliance incentive, to date, no institution has lost its federal funding due to being out of compliance with Title IX. Instead, most institutions agree to a specific plan that will bring them into compliance with the law rather than lose funding. However, an institution's agreement to such a plan does not ensure that it will fulfill them. Therefore, after such agreements are made, it is often on advocates—or even students, coaches, and other institutional staff—to continue monitoring compliance.

Title IX is enforced through a series of federal regulations and policy interpretations that have been issued by the executive branch since its creation. The Department of Education began issuing Title IX clarifications in 1979 with its first “Policy Interpretation” on intercollegiate athletics, which further spelled out the way in which the federal government should enforce the athletics component of Title IX.ⁱⁱⁱ Since then, it has issued several other clarifications, two of the most important—and still relevant today—being the 1996 clarification of the three-part test^{iv} and the 2010 Dear Colleague letter,^v which further clarified part three of the three-part test laid out in the 1996 clarification. Information in this playbook is drawn largely from the Department of Education's guidance provided in these three documents.

Title IX by the numbers

In 1971, only 294,015 girls were participating in high school sports, while there were more than 3.6 million boys participating. In other words, for every single girl playing a varsity sport, there were a dozen boys. During the decades after Title IX was passed, the opportunities for girls in high school and college sports multiplied.

However, despite these gains, inequities in athletics participation exist. According to the National Federation of State High School Athletic Associations (NFHS), which conducts [an annual survey on high school athletics participation](#), the 2022–23 survey showed that 4,529,795 boys participated versus 3,318,184 girls. This data remains in line with our most recent Title IX report, which in 2022 showed that girls miss out on over one million more high school sport opportunities as compared to boys.^{vi}

At the collegiate level, the data paints a similar picture. According to the NCAA's 2022–23 [Demographics Database](#), which similar to the NFHS survey also gets updated each year, 296,507 men participated in college athletics as compared to 229,577 women.

Title IX's application to athletic programs

Title IX is not just applicable to intercollegiate athletics. Unless otherwise noted, all below sections apply to *all* levels of play, from pre-K all the way up to college.

The Title IX regulations focus on “equal opportunity” when reviewing individual club, intramural, interscholastic, or intercollegiate athletic programs that schools offer separately for boys and girls or men and women. The components of the overall athletic program and activities are generally known as “program areas.”

For a school to be in violation of Title IX, the underrepresented sex generally must receive less than their counterparts across the school's program. For example, a girls' softball team may have to use a city field several miles away from school. A Title IX investigation conducted by the Office for Civil Rights (OCR) would look not only at whether the boys' baseball team had a more convenient on-campus field, but also at all the boys' teams and all the girls' teams and the facilities they used. It could turn out, for example, that all the boys' teams except boys' soccer and all the girls' teams except girls' softball had good fields and facilities on campus. OCR may not consider this example to be a violation since, overall, there was equal treatment of the girls' and boys' teams.

Title IX's scope

Title IX is only 37 words, but its scope is broad.

In addition to athletics, Title IX also covers sexual harassment and sexual violence, academic discrimination, and workplace discrimination against students, employees, and faculty at educational institutions.^{vii} This guide will focus on the athletics side of Title IX, but we have included resources and contact

information below for advocacy organizations that focus on Title IX from a sexual assault and harassment perspective.

Since recreational sports programs are generally not educational programs that receive federal funds, Title IX will usually not be applicable. However, many recreational community sports programs use school facilities, such as fields or courts that are federally funded. Therefore, Title IX could be raised because such facilities should not be used in a gender-discriminatory way (e.g., a boys' sports league is using a school field or gym 100% of the time with girls' teams/leagues lacking access). Finally, non-Title IX arguments have been used successfully to equalize parks and recreation programming.^{viii}

Determining Title IX compliance

Schools are not allowed to discriminate in interscholastic, intercollegiate, club, or intramural sports. One of the easiest ways to see whether discrimination exists at a school is to look at the number of women and men athletes. Yet, schools must do more than provide girls or women with the opportunity to play; schools also must provide an equitable quality of experience. That would be labeled as “compliance.”

In order to be in compliance, an institution must address three components of Title IX:

1. Participation;
2. Treatment in Program Areas; and
3. Athletic Financial Assistance (for colleges / universities)

For all the program components, except financial aid offered in the nature of athletic scholarships,^x the basic test of compliance is “equivalence.” That is, the benefits, opportunities, and treatment of each sex must be equal or equal in effect. That does not mean they must be the same. Nondiscriminatory factors can account for differences, such as the different equipment needs for the football and the field hockey teams.

To determine if differences are caused by discrimination, OCR looks for what it calls a “disparity” between the men's and women's programs. OCR defines disparity as a difference, on the basis of sex, in benefits or services that has a negative impact on athletes of one sex when compared with benefits or services available to athletes of the other sex.^x Being treated differently is not enough.

There are several resources that are helpful in determining whether or not your school is in compliance with Title IX. For colleges and universities, you can access the Equity in Athletics Data Analysis website at <http://ope.ed.gov/athletics>. This site will allow you to access data on athletics participation, coaching staff and salaries, and revenue and expenses reported by nearly 2,000 institutions.

Finally, see The Case Processing Manual (CPM) provided by OCR with the information on how they investigate complaints and compliance reviews, issue findings, and secure resolution agreements to remedy discriminatory policies or practices (at www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html).

This table includes information that may help you better understand Title IX compliance. Clicking on each item will take you to that section of the text.

Title IX Components

Participation	Treatment	Athletic Financial Assistance
Proportionality	Facilities	Scholarships
History and Practice	Equipment	Other Funding Issues
Interests and Abilities	Schedules	
	Publicity	
	Coaching	
	Travel/Allowances	
	Support Services	
	Recruitment	
	Tutoring	
	Medical/Training	
	Housing/Dining	

Participation: Ensuring equal opportunity to participate

Please note: Title IX’s rules and regulations utilize binary gender language—male/female, men/women, girls/boys—so this guide reflects that current reality. However, WSF advocates for all girls’ and women’s access to sport participation, regardless of someone’s gender identity or sexual orientation, and we support an inclusive interpretation of Title IX’s prohibition on sex discrimination.

Title IX does not require equal participation (50 percent women athletes and 50 percent men athletes). It means that the programs must accommodate the needs, abilities, and interests of the students. There are three ways (often referred to as the “three-prong test”) to determine participation:

1. [Proportionality](#),
2. [History and Continuing Practice](#), and
3. [Effectively Accommodating Interests and Abilities](#).

Meeting any one of these prongs will usually result in finding a school in compliance.

Part One – Proportionality

The first prong compares the ratio of women to men as participants in the athletic program with the ratio of women to men among full-time students (undergraduates for intercollegiate investigations). If the resulting ratios are close, the school is most likely in compliance.

For example, if the student body is 48 percent girls and 52 percent boys, and 48 percent of the participants in the athletic program are girls with 52 percent boys, then the school is in compliance with the participation requirement of Title IX. Girls’ athletic participation opportunities are proportional to girls’ representation in the student body. That’s “proportionality.”

It should be stressed that equal numbers of teams do not always afford fair opportunities. Different teams may have greatly varying numbers of athletes. For example, a football team may have 95 players on its roster, while a women’s gymnastics team may have seven. This illustrates the importance of looking at the total number of athletic participation opportunities and not the total number of teams.

So, consider...

- What's the gender ratio of students at your school?
- How many athletes of each gender participate?
- How many teams exist for girls and boys or women and men?
- And how many students are on each team?

If you think that your school may not have substantial proportionality, consider these solutions:

- Add more levels of play for girls and women (varsity, JV, and ninth-grade/"novice") during seasons so that participation opportunities overall will be fair.
 - Have no-cut policies on teams to ensure interested girls can play.
 - Intentionally open some boys' sports to co-ed play (e.g., baseball, golf, tennis).
-

Prong Two – History and Continuing Practice

Another way to determine compliance is analyzing whether the institution has shown a "history and continuing practice" of program expansion for the underrepresented sex. The intent behind this prong when it was created was to give schools a "grace period" when Title IX was passed.

The word "continuing" is important when using the second prong. Many schools added more women's teams in the 1970s and the decades following, but they either kept the status quo or decreased opportunities during the 1980s and later years. Those changes occurred quite long ago and are not sufficient to comply with this prong. Schools must also demonstrate that they are continuing to add programs and expand opportunities for girls. It can be very difficult for a school to show it's meeting Prong Two; and now that it has been over 50 years since Title IX was passed, schools have had enough time to add girls' programs to equitable, appropriate levels.

So, consider...

- What's the sport history, by gender, at your school? Check old photos in yearbooks, banners in the gym, or the trophy cabinet in the main hall.
 - Over the last few years, has the school added or removed women's or men's teams? If so, what effect did it have on the proportion of women to men athletes?
 - Does the school have plans to add new sports for girls or boys?
-

Prong Three – Interests and Abilities

The third prong addresses whether the interests and abilities of the underrepresented sex are fully and effectively accommodated by the current athletic program.

In this prong, the key words are "fully and effectively." Educational institutions offering athletic programs are required to effectively accommodate the interests and abilities of their students. Under Title IX, these institutions must provide opportunities for individuals of each sex to participate in sports, as well as provide those individuals with competitive team schedules.^{xi}

So, consider...

- Does your school conduct a survey every few years to determine students' / girls' interest levels in sports?
- Have the women requested new, even bigger teams or additional levels (e.g., JV2)? What happened to those requests?
- Are there clubs or intramural teams that could/should become varsity-level teams?

Now, consider these solutions:

- Develop an athletic survey for students and have it completed during a daily homeroom period.
 - Review the survey results and compare them with the current program offerings. Just know that surveys are not a perfect or singular measure of students' interests and shouldn't be used alone to prove compliance with this test.
 - Investigate other programs already offered or gaining popularity in your community.
 - Check in with your local athletic directors to review the district's long-term plans for sports.
 - Advocate for changing the status of a girls' club team to a varsity team with the Title IX coordinator and principal if necessary.
 - Forward this information to your school's or school district's respective leadership.
 - Prepare a report to present at a school board meeting.
-

The burden is on the school to ensure equitable opportunities, meeting at least one of the three parts above—while advocates, students, families, and coaches can help, it is ultimately the schools' responsibility to comply with Title IX.

If the school can demonstrate that it meets one of these prongs, then it likely complies with Title IX and is accommodating students' interests and abilities. Now, look back at our questions and your answers in this section. Is your school doing well by meeting at least one of the test prongs, or do you still have concerns about your school's fairness and compliance with the law? The upcoming sections will get a little more complex and dig deeper into the particular issues that might be coming up.

Participation FAQ

Is football a special case?

No. Football is part of the athletic program and cannot be considered separately. There are no special exceptions or carve-outs under Title IX for football (or any specific sport—they're all subject to the law and equity mandates). It must be included in all analyses of Title IX compliance.

Here's a typical scenario: Women athletes ask for the addition of a women's soccer team. They have seven men's teams, including football, and six women's teams. The athletic director says that football is a special case and that there are equal numbers of teams for men and women when you leave football out of the equation. This is incorrect. The athletic director must include the numbers of athletes on the football team when examining the school's sports offerings to men and women. Further, having equal numbers of teams for boys and girls, or for men and women, does not mean equitable opportunities given teams could significantly vary in roster sizes — even having far more women's teams doesn't equal compliance. The key is to look at the actual participation opportunities provided (the number of athletes), not the number of teams.

What about adding a specific sport, one your school doesn't have?

First, you may want to gather information to gain a general idea of your school's participation. If the women-to-men ratio of the student body is not in proportion to the ratio for athletes, your school may not be in compliance with Title IX. In that case, your school should be responsive to adding a women's team. It is not enough for you and one or two friends to say you want to play soccer; there have to be enough women interested in forming a team. The more you can do to show your interest, the better. For example, hold a meeting of interested women and ask them all to sign a petition stating that they will try out for the team if it is offered. Look for a potential coach and a field to play on. Connect with women who play weekend soccer or in competitive local leagues. All of these efforts will help to demonstrate a need for the team.

Can a school count cheerleading and other activities in its proportionality calculations?

Maybe. It depends on whether the focus of the squad is for performance and student support or competition. Generally, cheerleading is considered to be an extracurricular activity when it is conducted in conjunction with sports contests and the primary purpose is to entertain or educate spectators or to increase audience enthusiasm and participation for

those sports contests. However, if the primary purpose of the cheerleaders is to compete against other cheerleaders on a regular-season and postseason qualification basis, in much the same structure as basketball or gymnastics, and if the team conducted regular practices in preparation for the competition while under the supervision of a coach, these activities would be considered sports.

These distinctions will help you begin to determine the nature or purpose of your current cheerleading squad. Review what is possible on your campus, given a thorough study of the opportunities to participate, the budget, and the needs and interests of the students. Focus on dance and drill activities within the structure of physical education classes and after-school activities. Investigate the interest of sponsoring a competitive cheer team as well as a sideline cheer squad. Contact other league schools to determine if a competitive schedule can be established and whether there are regional and national competitions for participants. This information will help you all to make the right decision.

For more information, please reference the [Women's Sports Foundation's position on cheerleading](#) as a sport.

What if a girl (or woman) wants to play contact or co-ed sports?

While we noted earlier that Title IX applies to the entire athletic program, there are certain situations in which a school must offer a specific girls' team or allow her to try out for the boys' team.

Title IX expressly requires schools to create single-sex teams for girls under specific circumstances.

Where a school offers a team in a **non-contact** sport for members of one sex, Title IX requires that the school also offer a team for members of the other sex **when there's been historically limited opportunities** in sports for one sex (in most cases, girls), and there is **sufficient interest and ability to sustain a viable team** and reasonable expectation of intercollegiate (or interscholastic) competition for that team, and members of the excluded sex do not possess sufficient skill to be selected for a single integrated team or compete actively on such a team if selected.

Title IX classifies boxing, wrestling, rugby, ice hockey, football, basketball, and "other sports in which the purpose or major activity involves bodily contact" as **contact sports**, thereby subject to the "contact sports exemption." This exemption states, "where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport."^{xii}

However, courts have held that the Equal Protection Clause requires that schools permit girls to try out for traditionally boys' teams **when no similar team exists for girls**.^{xiii} Courts have also held that because girls are underrepresented in athletics, the exclusion of girls from participation on a boys' team, in non-contact and contact sports, violates the Equal Protection Clause.

In summary, between Title IX and the Equal Protection Clause, a school must allow a girl to try out to participate on the boys' team when girls are underrepresented among a school's athletes and possess the interest and ability to participate.

Instead of adding teams, what about cutting a team to make the opportunities balanced?

Because of financial constraints, teams are sometimes cut from a school's offerings. Schools planning such cuts must keep Title IX regulations in mind to be sure that they do not place the school's compliance in jeopardy and that gender equity is considered.

Unfortunately (and historically) some administrators misunderstand these requirements, and in trying to reach proportionality (or equal opportunities to participate) they make poor choices, such as cutting a boys' or men's team. We strongly feel that cutting a boys' or men's team should never be a method used to comply with the participation test (prong) of Title IX. It is counterproductive. The intent of Title IX is to expand opportunity, not trade men's for women's opportunities. Ensuring boys' and men's teams are appropriately and reasonably resourced is one way to ensure gender equity (e.g., having 200 football players in a high school may make it hard for other boys' and girls' teams to get the resources, support, and attention they need; reasonable rosters are key).

Instead of cutting an entire program, schools have other options for compliance. For example:

- If limited funds are the problem, schools should look for ways to fundraise for both boys'/men's and girls'/women's teams.
- Schools can make partial cuts from several teams. For example, instead of having 100 football players, have 75. That saves a lot of money and numbers, often enough to keep a men's team. Having proper roster sizes for all sports school-wide makes sense and ensures players get a good amount of coach attention and playing time.
- Some schools have opted to shorten the season of all their sports. That can save money across the board, but still allows all student-athletes the opportunity for competition.

So, consider...

- Have any men's programs been cut under the pretext of being fair to women's sports and Title IX? Did those cuts increase the participation, treatment, and/or financial assistance for women's sports? (Keep reading for info on treatment and financial assistance.)
- How about cuts to girls' or women's programming without regard for Title IX?
- What's the response to those cuts across the campus and from special interest groups?

Cutting equal numbers of teams does not always mean equally cutting opportunities. In fact, cutting equal numbers of teams might decrease the percentage of women athletes, and women often had fewer opportunities to begin with. It is vital that all potential cuts be reviewed carefully for their effect on Title IX compliance.

Equitable treatment and benefits in the athletics program

Another major factor in Title IX compliance is equitable treatment and benefits. Girls and boys or women and men in athletics should receive equal treatment, benefits, and opportunities. The treatment doesn't need to be identical, but any differences in the overall effect, or end result, must be negligible to be acceptable under Title IX.

To best describe what the "treatment of athletes" means, several categories are usually examined:

- **Facilities** (Practice and Competitive Facilities and Locker Rooms)
- **Equipment** (Equipment and Supplies)
- **Scheduling**
- **Publicity**
- **Coaching**
- **Travel and Daily Allowance**
- **Support Services**
- **Recruitment of Students**
- **Academic Tutoring**
- **Medical and Training Facilities**
- **Housing and Dining**

Facilities (practice and competitive facilities and locker rooms)

Title IX requires that schools provide comparable (i.e. equitable) practice and competitive facilities to their women's and men's athletic programs.

So, consider...

- Is the quality of the facilities provided for practice and competitive events similar for girls'/women's and boys'/men's teams?
- Are quality facilities shared equally between men's and women's teams, or do the men's teams have the exclusive use of the better facilities for practice and competitive events?
- Are time slots assigned for the use of facilities? Are the times given to men's and women's programs equally desirable?
- Are locker rooms also available? For whom? And, when? How about the quality of locker rooms? How about team rooms? The weight room?
- Are facilities prepared and maintained for practice and competitive events? By whom? And, to what degree of quality?

Notice any pattern as we look over facilities and locker rooms? Schools may try to blame tight budgets for inequities that exist; gender equity is always important even when resources are constrained.

SPORT SPECIFICS

Softball vs. Baseball Fields: Admittedly, a softball field and a baseball diamond don't look the same. However, there is a problem when amenities like batting cages, electronic scoreboards, fencing with warning tracks, dugouts, and bleachers are not made available to both programs.

Solutions: While making improvements in a field can be a costly venture, many schools have developed a graduated process of renovation, with differences corrected on a designated time schedule with available annual funding. Additionally, schools can demonstrate a commitment to renovation via immediate action such as repainting dugouts, sharing batting cages and electronic scoreboards, and providing the women's teams with additional bleacher sections.

SPORT SPECIFICS

Women’s Basketball vs. Men’s Basketball Facilities: It’s not unusual to find schools with two gymnasiums, one big and beautiful and the other small, old, and perhaps a bit smelly. If the men’s basketball team plays and/or practices in the larger or “new” gym while the women’s basketball team plays and/or practices in the smaller or “old” gym, that is not a fairly shared use of space.

Men’s vs. Women’s Locker and Team Rooms: Imagine that a college just built a brand-new gym with fancy locker rooms for the men’s basketball and football teams. All of the women’s teams practice and play their games in the old gym, which has small, poorly furnished locker rooms that are shared by all the teams. Thus, only men’s teams use a superior facility, while all the women’s teams use an inferior one.

Solution: A cost-free answer is to divide space not by gender but by the hierarchy or levels of teams—varsity and junior varsity. The varsity teams (girls’ and boys’) alternatively share the main gym, and the other teams (junior varsity, sub-varsity, ninth grade) rotate through the smaller or older gym.

Solutions: The school must provide equivalent facilities for the men’s and the women’s programs. Sometimes called “fringe facilities,” these non-playing spaces must be equally shared among teams. One cost-effective idea is to redistribute locker rooms and team rooms so that “in-season” players for both genders have comparable locker space. Converting a near-by classroom to a team room could also be a viable option.

Equipment and supplies

Title IX does not require that each team get the same services and supplies. Instead, Title IX requires that the boys’/men’s and girls’/women’s programs receive the same quality of services and supplies. Variations within the men’s program and within the women’s program are allowed.

General equipment and supplies include, but are not limited to, uniforms and apparel, sport-specific equipment and supplies, instructional devices, and conditioning and weight-training equipment. Specifically, Title IX applies to practice and game uniforms, shoes, rain gear, and warm-up suits, but not to undergarments (that means athletic supporters and sports bras). Equipment includes bats, sticks, rackets, and equipment set up and taken down for practice. Conditioning and weight-training equipment includes weights, water bottles, sweatbands, and braces, plus more.

So, consider...

- What is the quality of equipment available to players? Is there a new volleyball for game days and older and worn ones for practices?
- What amount of equipment is available to athletes? Do varsity teams in men’s major sports get new shoes and it’s “bring your own” for everyone else?
- What is the suitability of supplies and equipment for students? Is it officially sanctioned, meeting regulation requirements for each sport?
- What is the maintenance and replacement schedule of supplies and equipment? Is everything kept in good order with a trained eye towards this responsibility?
- What is the availability of supplies and equipment? Do some athletes keep equipment throughout the year, ever-ready for workouts, but others only sign out items during their season?
- How do your answers play out by gender? Are some athletes advantaged over others?

Now, consider this solution:

- Develop a spreadsheet that lists each athletic team.
 - Each year enter the detailed amounts budgeted (then spent) for equipment, supplies, and uniforms. Or ask for this information from the school.
 - Compare this amount on a yearly basis by gender to ensure compliance.
 - For all teams, develop a three-year cycle for the purchase of uniforms and a five-year cycle for warm-ups.
-

Scheduling of games and practices

The scheduling of practice times must also be nondiscriminatory. This issue often arises when two or more teams share the same practice facilities. One team cannot receive preferential treatment over another team on the basis of gender. A team that is in its competitive season, however, could (and likely should) receive preference over a team that is not in competition at the time.

Scheduling of games and practices is still a problem in high schools where teams share facilities. High schools that are in compliance follow strict schedules by which boys' and girls' teams alternate the "best" days and times for practices and games.

Athletic directors, and even state-wide leagues, have manipulated season scheduling to stretch facility use under the guise of giving more opportunities to student-athletes. For example, when a school has limited facilities, administrators may suggest that the girls' tennis team playing in the fall and the boys' team playing in the spring is the best use of the tennis courts and provides more opportunities to the girls. We saw this play out when the Michigan High School Athletic Association shifted the traditional seasons of six girls' teams to compete in nontraditional or disadvantageous seasons, while allowing the boys' teams to play during the traditional seasons. Unsurprisingly, the end result was that girls did not have access—especially when compared with other girls across the country—to high-level competitions, college scouting, and scholarships. A lawsuit challenged girls' right to fair play, and as a result, girls and boys nationwide are scheduled to practice and play during a sport's typical season.^{xiv}

So, consider...

- What's the number of competitive events offered per sport?
- What's the number and length of practices per sport?
- What time of year are teams playing ("regular / normal" season or an unusual time of year given the sport)
- Are there differences in the number of events offered per sport, and/or the number and length of practices?
- To successfully analyze compliance, compare the information you've gathered for the boys'/men's and girls'/women's teams competing in the same or similar sport.

Now, consider this solution:

- Review the method of scheduling and the starting times of all athletic teams.
 - Establish a schedule so that one team is away when the other is scheduled at home.
 - Have all starting times be identical—so that similar conditions impacting play (weather, sunlight, crowd availability) are apparent.
 - Schedule all league (and non-league) games in the same manner.
 - Alternate starting times if boy-girl double-headers occur (make-up games, day-long tournaments).
-

SPORT SPECIFICS

"Prime time" Games for Boys vs. Girls: The high school's basketball games are scheduled so that the girls' varsity plays at 4:00 p.m., the boys' JV plays when that game is completed, and the boys' varsity plays last. It is more difficult for parents, friends, and family to attend earlier games, making the later game times more valued.

Full Range of Schedule for Boys vs. Girls: Generally, a sports season, with a full schedule, includes preseason training, a number of regular-season games and postseason tournaments and championships. Sometimes, in a sport like track and field, top individual athletes are invited to championships.

There have been times when a school supports boy athletes' participation (by covering finances and sending a coach), but girl athletes (also invited with stellar times) are excluded.

Solutions: If boys' teams are always scheduled for more valued times than girls' teams, that is a significant difference in treatment. If both teams play on the same day, teams should alternate which plays at the preferred (or prime) time. Otherwise, teams should swap which day they play. What time or day is considered "preferred" is determined by asking the athletes, coaches, and fans at the specific institution.

Solution: Conscientious athletic directors and school administrators need only make an effort to examine and revise the full schedule to ensure men's and women's teams (and individuals) have equitable opportunities for competition, thus equally supporting their men and women athletes.

Sports' publicity and Title IX

Title IX covers three factors when determining compliance in the publicity area:

- Quality of sports information personnel assigned to their teams,
- Background and experience of the assigned sports information personnel, and
- Number of personnel assigned.^{xv}

The unique circumstances of a particular team, competitive event, or athlete may create exceptional demands or imbalances. For example, a team that is in contention for a national championship may be of great interest to the community and media, generating many requests for information. The sports information staff may spend much more time on that team and neglect other teams as a result. Such disparities are not Title IX violations.

So, consider...

- What is the availability and quality of sports information personnel? Is there balanced access to other publicity resources for men's and women's programs?
 - Are the publicized images and realities of students' sport experiences fueling negative gender stereotypes, e.g., the men's photos are actively engaged, the women are standing and posing?
 - Do teams have a comparable quantity and quality of publications and other promotional devices featuring men's and women's programs?
 - Are cheerleaders, pep bands, and school administrators present at sports events in a manner that demonstrates their support for all teams?
 - PA announcements, marquees outside schools, banners, yearbooks, social media, websites, and programs provided at games are all areas where publicity inequities can exist.
-

SPORT SPECIFICS

Cheerleaders, Pep Bands, Spirit Squads: Publicity also includes cheerleaders, pep bands, and rallies. This area, in particular, is a problem in high school athletic programs when schools have no cheerleaders appearing at girls' athletic events, or they provide cheerleaders only at girls' home basketball games. Cheerleaders, bands, and pep squads are considered publicity services. When they are provided for the boys' program, they must also be provided for the girls' program.

Solution: There will probably be some valuable discussion on breaking down gender stereotypes with this topic across the school community.

Students (athletes and spirit squads) need to be reminded that everyone deserves the support of the school's publicity services. Institute a home-games-only policy for spirit squads.

Their presence and visibly must serve the school community fairly. This solution would probably be a significant money saver as well.

Publicity: Imagine that game programs are provided for all four men's team sports and only two of the three women's team sports. The women's basketball team handles its own tickets with parent or student volunteers. Three men's teams were photographed for pocket-sized school calendars versus none for women. One women's team appeared on posters advertising the season. Three men's teams were furnished with similar posters, and these were distributed campus wide. The school's sports website is framed with photos of men athletes. These realities contribute to a larger pattern of inequitable publicity.

Solutions: The school must provide similar publicity materials for men's and women's programs. If the athletic director is managing the budget, and the accounts are monitored for transparency and compliance with Title IX, inequities in publicity will be noticeable. So, each time a request for publicity is made, the communications officer (or school-district-level or on-site athletic director) must advocate for all student-athletes. This can apply to external publicity as well. If the media wants student interviews with star players, several women and men can be provided. If an outside contributor wants to advertise a restaurant and use photos of local sports teams, the school must make sure the product is appropriate and has an inclusive approach, by gender, to the total program.

Coaching

The coaching component is important for all levels from K-12 to colleges. Remember, Title IX is examined by looking at the overall athletic programs rather than specific individual coaches. Women or men coaches who have experienced sex discrimination may wish to consult an attorney because their employment situations may also be covered under other statutes, such as Title VII of the Civil Rights Act, the Equal Pay Act, or state employment statutes. Coaches have the same protections and rights as their athletes and, initially, can follow their school's or school district's internal grievance process.

So, consider...

- Are there differences in the salaries or stipends of head and assistant coaches in the girls'/women's and boys'/men's program?
- How many full-time coaches are hired for each team? Is the ratio of coaches to participants for the men's program equal to the ratio of coaches to participants for the women's program?
- Are the numbers of assistant coaches available to each team comparable in the men's and women's programs? Are these unpaid volunteers or hired support staff?
- Are the numbers of assistant coaches available to each team comparable in the men's and women's programs? Are these unpaid volunteers or hired support staff?
- Are girls' teams getting more off-campus/walk-on coaches with less access to the student body for recruiting or little to no office space?
- What is the training, experience, and additional professional qualifications of the coach (including their professional standing in the field)? Are the training and qualifications of the coaches assigned to the women's teams similar to those of the coaches assigned to the men's teams?
- Do some coaches have conditions for contract renewal (winning vs. losing records), entitlements, and working conditions (special club memberships, commercial benefits) and under-the-table pay packages? Are those coaches only for men's teams?

Now, consider these solutions:

- Contact nearby colleges and university teacher preparation/health and physical education departments to identify prospective both men's and women's team coaching candidates.
- Contact district personnel to target candidates from nearby schools.
- Advertise positions in local newspapers and online with a list of competencies that will be used to hire coaches. Include specific requirements pertaining to the time

commitment of each position. Review the salary scale for discrepancies. (You can meet with administrators and union leadership if discrepancies need resolution.)

- Meet with school faculty to determine their interests and qualifications. Their on-campus presence and knowledge of the student body and school culture are often very effective.
- Expect all candidates to meet the district's educational and legal obligations, especially as they relate to Title IX.

Coaching FAQ

Must all athletes get the same chance to receive coaching?

The primary focus for coaching under Title IX is on the availability of coaches. When determining compliance with Title IX for the opportunity to receive coaching, consider the relative availability of full-time coaches, part-time and assistant coaches, and graduate assistants.^{xvi} Title IX requires that schools provide comparable coach-to-athlete ratios for its women and men athletes.

To calculate the ratio at your school, add up the numbers of athletes from all women's teams and the numbers of coaches for those teams. Divide the total number of athletes by the total number of coaches to get the coach-to-athlete ratio; four coaches for 80 athletes becomes a ratio of one coach to 20 athletes (1:20). Do the same for the men's teams. Then compare the ratios for the boys' and girls' programs. Is there an inequity? **Coed teams are excluded in this analysis.**

How does Title IX impact the assignment of coaches?

Compare the training and qualifications of the coaches assigned to the girls'/women's teams with the coaches assigned to the boys'/men's teams. Title IX requires that schools regularly assign similarly qualified coaches to the women's and men's athletic programs.

Years of coaching experience are not conclusive evidence in determining similar qualifications for compliance with Title IX. It is possible for a coach with three years of experience to be as effective as, or even more than, someone with 10 years of coaching experience. Yet, if many or most of the coaches of boys'/men's teams have a lot of experience and the girls'/women's team coaches have markedly less experience, that is noteworthy for a Title IX analysis.

Too frequently, the hiring and placement of coaches for men's teams (especially in major sports) can become a higher priority than for women's teams.

What about the compensation of coaches and Title IX?

Payment to faculty, administrators, staff, and coaches is not easily transparent to outsiders.

Determine whether any overall differences exist. Note whether or not these differences are the result of nondiscriminatory factors like extra duties, experience, or a reward attached to an outstanding record.

Dividing sports into different levels of support is not a violation of Title IX. However, schools must ensure that these levels are not used to discriminate. The schools cannot, for example, assign men's teams primarily to the highest level of support while relegating most women's teams to the lower levels. Nor can the schools pay coaches of women's teams with equal qualifications, experience, and job requirements less than coaches of men's teams. Such actions could violate Title IX as well as other civil rights statutes such as Title VII or the Equal Pay Act.

Can a coach file a Title IX complaint on behalf of student-athletes?

Yes, anyone can file a complaint with OCR, and coaches are particularly well-situated to speak up when they witness or experience a Title IX violation. If a coach is uncomfortable about filing, complaints can be made confidentially to serve as protection from retribution. Retaliation is not permitted under the law. A school cannot fire or retaliate in any way against a coach just because they filed a complaint. A coach may also want to have an alumnus or a representative from an advocacy group file the complaint. However, it is critical that coaches feel protected against retribution as they are likely to know the detail and extent of any discrimination that is occurring.

Teams' travel, daily allowances, and cost differences

This component most often applies to intercollegiate programs because interscholastic teams usually travel only within their school district or conference, except for special events and tournaments.^{xvii} Be sure to compare the treatment provided to the boys' and men's teams with the treatment provided to the girls' and women's teams in terms of meal costs, hotels (if applicable), and other travel-related items (e.g., tournament travel, pre-season).

Some nondiscriminatory differences may exist. For example, the form of transportation may vary between teams because of team size, number of coaches and support staff, and/or amount of equipment.^{xviii} Distance to specific competitions also affects the mode of transportation as well. It would be discriminatory, however, if the men's team rides in a luxury bus to a competition while a women's team of the same size travels the same distance in cramped vans.

Housing violations are prevalent in OCR complaints. For example, a women's team had three to five athletes per hotel room when traveling to away games, while men's teams had two to three athletes per room.^{xix} If schools and athletic departments are making budget decisions with unconscious or inequitable attention to gender, compliance might be at risk.

So, consider...

- How do students travel to games? Who is driving the bus or van? In fact, who is loading equipment onto the vehicles?
- Do some teams have extra preparation (and recovery) days on site for special events while others just show up, play, and head back home?
- Is there a daily food and housing allowance for athletes on the road? Do these differ by gender?

Support services for coaches and athletic directors

The administrative and clerical support provided to an athletic program is extremely important because it gives coaches more time to perform their coaching and recruiting duties. When determining Title IX compliance, one must consider the amount of administrative, technical, and clerical assistance provided to the boys'/men's and the girls'/women's programs.^{xx} Quantity and quality of office space provided to support staff and coaches would also be included.

The need for administrative, technical, and clerical support services may vary from team to team. Determine whether this need is satisfactorily fulfilled for the men's and the women's programs overall.^{xxi}

So, consider...

- Do the coaches' offices vary by their salary, seniority, sport status, win-loss record, or gender? Is there good or bad news to report and what's newsworthy as it might relate to coaches?
- Do some coaches have a full cadre of support personnel with clerical staff, film crew, IT statistical crew, and a bevy of volunteers? Is there a pattern of support that might generate more benefits to one gender, over the year, than another?
- Are some high school coaches released from the obligations of their instructional day as teachers to better serve student-athletes? Does their teaching load, attendance at faculty workshops, or absenteeism reflect the heightened role as coaches for one gender more than another?

Recruitment of student-athletes

It is rare that schools recruit student-athletes at the pre-K through 12th-grade level. Therefore, a high school athletics investigation most likely will not include this program component. It is true that some students move to certain districts to “play up” to a better team or be seen by big-time recruiters. Pay attention to the extent that this practice occurs at your school. This could be indicative of a growing Title IX problem, especially if girls’ teams aren’t getting access to recruiters or college opportunities in the same manner as boys and their teams.

Certain nondiscriminatory differences are permitted. For instance, many students from one team graduating in a particular year may result in the need for an unusually large recruitment budget.^{xxii} When this occurs, the program would likely not be in violation of Title IX.

So, consider...

- Are coaches or other athletic personnel serving men and women athletes provided with substantially equal opportunities to recruit?
- Are financial and other resources made available for recruitment purposes meeting the needs of the men’s and the women’s programs?
- Are the differences in opportunities, benefits, and treatment of prospective athletes of each gender affecting recruitment?

Student-athlete tutoring and academic support

An investigation of an academic tutoring program, typically found in higher education, is divided into three parts:

1. The opportunity to receive academic tutoring, specifically, the availability of tutoring and the procedures and criteria needed to obtain tutorial assistance are reviewed.
2. The assignment of tutors; specifically, the tutor’s training, experience, and general qualifications are emphasized.
3. The compensation provided to tutors.

These may seem far from your interest of concern, yet sports programs, embedded in the collegiate academic culture, demand a great deal of participants. The pressure of time and talent on athletes can put their course achievement at risk.

So, consider...

- Is there an expectation of tutoring for some athletes and not for others? Are these differences evident by gender, scholarship, and/or sport?
- Is the cost of academic support (such as tutoring) visible in athletic budgets?
- Are women told to help each other with their academics or “just go to student services” while men are partnered with trained tutors? Do high-profile men athletes on scholarship get extra academic support over their counterparts on women’s teams?
- Are the expectations of hired tutors defined, including the number of students tutored per session and per academic term?

Medical and training facilities and services

According to the *Title IX Athletics Investigator’s Manual*, any disparities that may exist between medical and training facilities and services for the men’s and women’s teams must be considered “significant” for them to be deemed impermissible under Title IX.^{xxiii} Certain nondiscriminatory factors might allow one team to have more qualified trainers than another. For example, the injury rate in a particular sport may justify the assignment of more qualified medical personnel. It would be advisable for any parent, coach, athletic director, or athlete to look for injury patterns. Ensuring that players are well-trained and monitored for conditioning and safety is critical to preventing injury and overall player well-being.

So, consider...

- What is the availability of medical personnel and assistance; health, accident and injury insurance coverage; availability and quality of weight and training facilities; availability and quality of conditioning facilities; and availability and qualifications of athletic trainers and medical personnel?
- Do the school’s medical policies or insurance coverage differ on the basis of sex?
- Are the trainers and medical personnel assigned equally and fairly? Are some teams assigned a professional trainer as opposed to a student or part-time trainer?

Housing and dining facilities and services

While this is less of an issue at the pre-K through 12th-grade level, in higher education there are two factors to assess when determining Title IX compliance for housing and dining facilities:

1. The housing provided to members of each team;
2. The special services provided as part of housing arrangements, such as laundry facilities, parking spaces, etc.

Note that special dining services may be provided even when there are no special housing arrangements.

The unique aspects of a particular sport may result in variations of types, timing, and amounts of meals.^{xxiv} Nevertheless, significant disparities between the services for women and men could be a violation.

So, consider...

- Do either the men's or the women's teams have housing different in quality from the other?
- Are the men's meals different from the women's meals?
- Are special dining arrangements made for any team during or outside of competitive seasons?

Title IX and sexual harassment and sexual violence

Sexual harassment and sexual violence exist at all levels of education, particularly within athletics,^{xxv} and they continue to be pervasive issues that require serious attention. Sexually abusive environments can prevent girls and women from participating in educational and athletic opportunities. The implementation of policies and enforcement of the Title IX rules and regulations governing sexual harassment and sexual violence helps to create organizational climates in which all students feel safe and free to report such incidents should they occur. Schools are required to implement such policies in order safeguard all students and effectively address any harassment or violence.

Sexual harassment and sexual violence are considered illegal acts of sex discrimination under Title IX. This includes, but is not limited to, any unwelcome sexual conduct, unwelcome sexual advances, and unwanted physical acts that are perpetrated against that person's will or if they are incapable of giving consent. Other state and federal laws may apply, and as we will discuss below, we highly recommend consulting with a licensed attorney to consider all possible legal remedies. There are several organizations that can provide specific resources, advocacy, and possible legal assistance, including:

[The Army of Survivors](#)

[The National Women's Law Center's Legal Network for Gender Equity](#)

[It's On Us](#)

[End Rape On Campus](#)

[Sexual Violence Prevention Association](#)

So, consider...

- Is the school taking preventative measures to ensure that students will not be harassed by coaches or other athletic department staff? If not, what could the school do differently?
- Does the school require coaches to take annual sexual harassment and discrimination training to learn and understand their responsibilities under Title IX?
- If I needed to make a report about harassment, do I have a place to go where I can count on other adult professionals supporting my concerns?

The Women's Sports Foundation's [position paper on Sexual Harassment](#) provides extensive information on this subject.

Athletic Financial Assistance

As this guide has discussed, budgets provided for men's and women's sports do not have to be equal. However, budgets are an important area of Title IX compliance because a great disparity in funding can indicate where there might be a problem in other compliance areas, like treatment and participation. Football equipment cannot be top-of-the-line while the field hockey team tapes together cheap, shoddy sticks. If funding is unequal, the resulting consequences in participation and programming tend to be as well.

Under Title IX, budgets for boys' and girls' teams do not have to be equal, but the bottom line is that the benefits provided must be equal. According to OCR's interpretation of Title IX, educational institutions cannot use an economic justification for discrimination. When an institution accepts money from an outside source (fundraising, sponsors, booster clubs, private donations, NIL collectives) the institution can use the money in the manner specified by the outside source, but it cannot use the circumstances as an excuse for discrimination. If the school uses the outside source to give benefits to the boys' sports programs, the school has an obligation to find resources from somewhere else to make sure that the girls' programs have the same benefits. These benefits do not have to match by sport (i.e., boys' baseball and girls' softball) because "equal opportunity" as defined by Title IX is determined by looking at boys' and girls' entire programs rather than at single teams.

Budget levels are especially important when the dollar limits set by the school cause unequal services. For example, in higher education, a lack of a recruiting budget that results in few recruiting efforts for the women's program would be problematic if the men's program has a large budget and, therefore, conducted a lot of recruiting.

A budget can also affect the number of athletes on a team. For instance, a softball coach may only carry the minimum number of players because the budget for the team is not enough to supply the equipment, uniforms, and travel costs for more athletes. At the same time, the baseball team may have a full roster with plenty of players on the bench because its budget is much larger.

So that time-honored excuse, "we don't have the money," is not a good enough answer. If the men's athletic program receives greater benefits than the women's, the institution has three choices: increase the benefits for the women, decrease the benefits for the men, or some of both. Simply telling the women there is not enough money does not relieve the institution of its responsibilities under Title IX.

So, consider...

- Are there any circumstances where the expenditures for women and men athletes are unequal?
 - Since it doesn't have to be exactly equal, are there some areas where a variance in funding might lead to problems in other program areas?
-

Athletic financial assistance FAQ

I just found out that our college spends 80 percent of its budget on men's sports. Is this college in violation of Title IX?

Maybe. How much of the budget goes to men's sports versus women's sports does not necessarily answer the question. What is important is what that money buys. If the small budget forces the women's program to offer fewer benefits and services, then it is a problem. The additional money for the men's program might be necessary depending on the exact needs of the specific sports offerings. A large discrepancy between the budgets should, however, be examined carefully to determine the reasons and whether they are discriminatory.

There is a women's team at our school that has existed as a club for five years. There is a men's varsity team for the same sport, but the athletic director says there is not enough money to turn the women's club team into a varsity team. Is this a violation of Title IX?

Most likely. Lack of money is not a valid justification for discriminatory practices. As explained earlier, an athletic program must effectively accommodate the interests and abilities of the students of the underrepresented sex. In this instance, a legitimate Title IX violation would exist under the following conditions: a lack of substantial proportionality between the percentage of women students and women athletes at the school, and the school failing to demonstrate a history and continued practice of expanding opportunities for women. Under those conditions, a school would need to demonstrate compliance with participation through the third prong: interests and abilities. Here there is a demand for the club team to turn varsity, and assuming there is adequate competition to field a team and league, the school would not be complying.

Sometimes the women's club sport is not the same as the men's varsity sport, as is the case with softball and baseball. In this situation, look at the "Interests and Abilities" section of this guide to determine the school's overall compliance in that area. If the school is not in compliance with that section, the school

may elevate a particular women's club team to varsity status to increase opportunities for women student-athletes and achieve compliance. Lack of funding to elevate the team would not excuse the school's failure to comply with Title IX in this area.

Scholarships are money, right?

Title IX requires that scholarships be awarded in proportion to the number of students of each sex participating in athletics.^{xxvi} Proportionate amounts of financial aid must be available to the men's and women's athletic programs. For example, if 51 percent of the athletes in the program are women, then 51 percent of the scholarship dollars must go to women. OCR has ruled out some specific factors that might be used to justify disparities in financial aid. Among them are revenue-producing capabilities of particular teams, sources of funds, athletic association rules, differences in interest or ability between men and women students, and differing levels of spectator interest and student or community support.^{xxvii} None of these reasons can be used to offer less financial aid to women.

So, consider...

- What's the percentage of athletes who are women and who are men?
- What proportion of financial aid goes to women athletes and to men athletes?
- How do they compare?
- Is inequitable funding justified by statements like: "But it's football!", "Their attendance certainly covers their costs.", "They are winners—that's enough reason for support."?

Can booster clubs, collectives, and other special interest groups just raise money and give it to the programs they choose?

Booster clubs, collectives, and sport-specific alumni groups often contribute to the budgets for athletic programs. Parents and alumni may raise money for certain teams or for the overall athletic program. As a result, the school may have greater resources for some teams or programs. Men's sports programs typically receive more donor support because they have been around longer and men earn more than women on average in this country—although this should change over time. As a result, booster clubs may provide benefits or services to the men's teams that the women's teams do not receive.

On the whole, considering all boys' and girls' sports, the educational institution is obligated to distribute all of its resources (and the outside funding is a resource once the school accepts it) in a nondiscriminatory manner.

Stated rather clearly...

- Outside sources of funding and donations are acceptable.
- They cannot result in disparities between the boys' and girls' programs.
- If the money results in an inequity along gender lines, the district must correct the inequity, using its own funds if needed.

According to OCR:

"The private funds that are used to support District athletic programs, although neutral in principle, are likely to be subject to the same historical patterns that Title IX was enacted to address. In the experience of OCR, sponsors, as a whole, are more interested and willing to assist boys' teams than girls' teams and male-oriented "booster" activities generate more public interest than girls' activities. If all benefits are not considered in examining interscholastic athletics, the purpose and effectiveness of the Title IX requirements could be routinely undermined by the provision of unequal benefits through private financial assistance."^{xxviii}

"While it may appear that this policy is discouraging private initiatives (which are unquestionably valuable to recipients and students), we cannot diminish the protection of Title IX by exempting benefits, treatment, services or opportunities provided to athletes through the use of private funds. Private fundraising, including student-initiated fundraising, has been, and continues to be, permissible under Title IX. It should also be noted that this does not mean that teams must "share" proceeds from fundraising activities. It does, however, place a responsibility on the district to ensure that benefits, services, treatment and opportunities overall, regardless of funding sources, are equivalent for male and female athletes."^{xxix}

So, go ahead and consider...

- Are there collectives or booster clubs for sports teams at your school? Or, is there one school-wide booster group, energizing and funding all programs across campus?
- Is the collective or booster club part of the school's parent network or structure, or is it run in an informal manner with limited oversight or transparency?
- If you wanted to track the collective's or booster club's funding and bureaucracy, would you be able to?

Now, consider these solutions:

- Design a school-wide sports booster club (drawn from a quality and equitable district policy) that creates one booster club for all athletics with all contributions and going through the athletic department.
- Have the district booster and fundraising policies presented to the school board for approval.
- Appoint the school bookkeeper to oversee all submission of funds.
- Have a school-wide administrator, in conjunction with the athletic director and other colleagues, conduct an audit of all funds.
- Review a list of alumnae and special interest groups for solicitation of donations.
- Meet with community organizations for possible funding sources.
- Investigate corporate sponsorships. Names or company logos could appear on or at a facility, in keeping with the district's mission.
- Obtain school board approval for these sponsorships and special interest funds. Lobby the board often with tales of team and individual success stories. Let them know the overall benefits of athletics for students.

My daughter plays high school basketball. At the end of the season she receives a letter certificate, as do all the girls' teams. Meanwhile, the boys' basketball team receives letter jackets as a gift from the booster club, as do the boys' football and baseball teams. Is this a Title IX violation?

Yes. Such a practice is a violation of Title IX according to OCR. The athletic department has the ultimate responsibility to ensure that all student-athletes receive the same quality of equipment and supplies. The source of the funding (booster club or school funds) does not diminish or change this obligation. If permission is given by the athletic director for an act that benefits the boys' program, a similar benefit must be provided to the girls' program.

SPORT SPECIFICS

Banquets: When a high school holds a post-season banquet for just the boys' football and basketball programs, the rationale has been that those were the only programs that generated enough revenue to help pay for dinner and/or their booster clubs paid for the meals for the team and coaches. That's a blatant message to other athletes, especially girls, about their value.

Solution: In this actual case, OCR found the school to be in violation of Title IX that engaged in these practices.^{xxx} The girls' athletic program did not receive equivalent benefits, in terms of awards, banquets, or services. The answer, already evident in many schools today, is to have seasonal or annual school-wide sports banquets, reinforcing the value of athletics for all students. A co-ed event values sport for its highest goals and avoids promoting rigid and historic gender stereotypes or a misuse of funds.

Action Planning: What next?

Now that you know more about Title IX, you may know of a situation at your school that falls within its scope. If you believe that your school is in violation of Title IX, you have options on how to proceed. Our resource, [Step-by-Step: A Practical Guide to Assess and Achieve Gender Equity in School Sports](#), is a helpful guide to use as you begin to take action.

When dealing with Title IX violations, it is always a good idea to start by finding others who agree with you or are experiencing the discrimination firsthand. While **your school is not permitted to retaliate against you** for filing a complaint, there is strength in numbers, and it may be easier to effect change with a group. A single individual may find it difficult to get the attention of the institution, and a school could be more likely to pressure a single individual to drop a complaint. A group may also be more effective than an individual as other supporters may be able to provide additional perspectives or sources of information.

- **Sources of support** can include athletes, coaches, parents of athletes, administrators, other students, women's groups (especially those on college campuses), and alumni. It's important to note that while it is ideal to get buy-in from coaches and administrators, these officials may have concerns about their jobs and may not feel comfortable taking an active role for fear of retaliation. Sympathetic coaches or administrators may be able to supply some of the information needed to see whether the overall athletic program is complying with Title IX.
- **The more information you can gather the better.** Since Title IX covers a school's entire athletic program, the experience of an athlete on a single team may not reflect the overall situation. There may be men athletes in situations as bad as women athletes. Find the answers to as many of the questions outlined in this playbook as possible.

If you believe the school is in violation of Title IX, consider these next steps:

1. After finding your institution's designated Title IX coordinator, present the situation to them. That official may decide to bring the situation to the institution's attention.
2. Ask a sympathetic member of an athletic council, a faculty member for example, to present the information to that group, noting that this situation may put the institution into legal danger. For high schools, present the information to the PTA, school site council, or even the school board.
3. Outline the requirements of Title IX for the athletic department, noting where you believe the school may be

at risk for violating the law. Be sure to note the ways in which the department can make changes to come into compliance, such as a list of requests from the affected athletes. Document that these requests have been made.

4. Suggest to the athletic department that they request technical assistance from OCR to determine if they are in compliance with Title IX.
5. Inquire about your school's grievance procedure and consider filing a complaint through that process.
6. File an administrative complaint with the Office for Civil Rights.
7. Seek legal representation and consider filing a lawsuit.

Note: Once you file a complaint or a lawsuit, the first five steps above generally will not apply. The statute of limitations may also apply.

The posted options above are not mutually exclusive. You may, for example, want to hold off on filing a complaint or a lawsuit while presenting the institution with the information you have. The athletic department may decide to make changes based on your requests. On the other hand, if your requests are refused, you may then want to file a complaint or lawsuit.

The more allies you can find, the better. Large donors, alumni, or the school president, for example, may have particular ties to girls' and women's sports. Letter-writing, email, and social media campaigns by parents and alumni; or publicity in school, local websites, newspapers, or alumni magazines are tools that can be used to put pressure on the institution to listen to your requests.

Filing a complaint with OCR

A complaint filed with the Office for Civil Rights (OCR) is not a lawsuit. Rather, it is an administrative complaint that can be filed by anyone: a parent, an athlete, a team, or even a total stranger. You do not need to have experienced the alleged discrimination yourself to file a complaint. To file your complaint, you may use OCR's [electronic complaint form](#). You are not required to use the electronic form. There is an option to [download a fillable PDF](#) and send via mail to the address listed in the appendix on page 24 or via email to OCR@ed.gov. You may also write your own complaint letter, but according to OCR, it must include the information from items one through 15 in the fillable PDF. A signed consent form may also be required after filing your complaint. Please review [OCR's overview page](#) closely as you file your complaint.

Complaints must be filed within **180 days of the last act of discrimination**. You may also request a waiver if the complaint involves conduct that occurred past the 180-day window. If you have already begun following your school's internal grievance process—or you decide that you would like to do that before filing a complaint with OCR—your complaint **must be filed with OCR within 60 days after completion** of the school's internal grievance process.^{xxxii}

OCR must resolve all complaints in a “timely manner.” But per language on OCR's website, if you have not received an immediate response that your complaint was received, we recommend contacting them at 800.421.3481 or OCR@ed.gov to confirm receipt.

If you are not satisfied with the result of your OCR complaint, you can appeal the results. Because the appeal will most likely be sent to the office that conducted the investigation, **it will be most effective if it provides substantial new information**.

Filing a lawsuit

A lawsuit is different from an OCR complaint. To file a lawsuit, you must have legal standing. Standing is the legal right to bring a lawsuit. Only an individual with a legal right at stake has standing to bring a lawsuit. For example, a coach or an athlete impacted by an institution's alleged Title IX violation will likely have standing to bring a lawsuit.

A lawsuit can provide immediate relief in one way that an OCR complaint cannot. For example, an attorney can ask a court for a temporary restraining order, which can immediately stop an athletic department from carrying out its plan to cut a team. Additionally, the court can award monetary damages to successful plaintiffs, whereas OCR does not have this authority. Consult an attorney for more information about whether or not this type of action might be applicable to your situation.

In cases where Title IX may not apply, it's necessary to consider other laws that may apply. For example, almost all states have public accommodation laws that prohibit certain types of discrimination, including sex discrimination, in public facilities. Some states like California have gone even further to pass laws that expand opportunities for girls to play sports in “community parks and recreation.”^{xxxiii} The Equal Protection Clause (EPC) of the 14th Amendment of the U.S. Constitution may also apply. When consulting with an attorney, ensure that you are pursuing all possible legal remedies.

While an individual may proceed pro se (on their own), the assistance of an attorney is highly recommended when filing a lawsuit. Lawsuits can be costly, though some attorneys will accept cases on a pro bono basis. If an attorney takes your case on a pro bono basis you will not have to pay attorneys' fees, although you may have to pay filing costs or other fees.

Should you have additional questions or concerns, the Advocacy Department of the Women's Sports Foundation is available to you via phone (800.227.3988) and e-mail (Advocacy@WomensSportsFoundation.org).

Appendix: Contact information and other helpful organizations

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100
t 800.421.3481
f 202.453.6012
e OCR@ed.gov

Note: For more information from the Department of Education, including contact information for regional offices, please visit: https://www2.ed.gov/about/overview/focus/what_pg6.html

American Civil Liberties Union (ACLU)
www.aclu.org

American Alliance for Health, Physical Education, Recreation and Dance (AAPERD)
www.aahperd.org

American Volleyball Coaches Association
www.avca.org

Black Women in Sport Foundation
www.blackwomeninsport.org

California Women's Law Center
www.cwlc.org

Feminist Majority Foundation
<http://feminist.org>

Legal Momentum
www.legalmomentum.org

National Association of Intercollegiate Athletics (NAIA)
<https://www.naia.org/landing/index>

The National Coalition for Women and Girls in Education (NCWGE)
www.ncwge.org

National Collegiate Athletics Association (NCAA)
www.ncaa.org

National Federation of State High School Associations
www.nfhs.org

National Women's Law Center
www.nwlc.org

Southwest Women's Law Center
www.swwomenslaw.org

U.S. Olympic and Paralympic Committee
www.usopc.org

Women's Basketball Coaches Association
www.wbca.org

Women's Law Project
www.womenslawproject.org

About the Women's Sports Foundation

The Women's Sports Foundation exists to enable girls and women to reach their potential in sport and life. We are an ally, an advocate, and a catalyst. Founded by Billie Jean King in 1974, we are one of the first organizations to recognize the powerful connection between sports access, equity, and society. WSF has been changing the game for 50 years through its research, advocacy, and community programming, investing over \$100 million to help girls and women play, compete, and lead — in sports and beyond — without barriers. A leader and champion of the entire women's sports ecosystem, WSF amplifies the vital societal and cultural impact that is made when girls and women play sports. All girls. All women. All sports® To learn more about the Women's Sports Foundation, please visit www.WomensSportsFoundation.org.

Women's Sports Foundation
founded by Billie Jean King
247 West 30th Street, Fifth Floor
New York, NY

Endnotes

- i 20 U.S.C. §1681 et seq. (2024), as amended by the Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. (1988) (codified at 20 U.S.C. §1687).
- ii See *Horner v. Kentucky High School Athletic Association*, 43 F.3d 265 (6th Cir. 1994); *Communities for Equity v. Michigan High School Athletic Association*, (459 F.3d 676) (6th Cir. 2006).
- iii A Policy Interpretation: Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71413 (Dec. 11, 1979) (codified at 45 C.F.R. pt. 86) <https://www2.ed.gov/about/offices/list/ocr/docs/t9interp.html#:~:text=Title%20IX%20requires%20that%20%22an, cost%20of%20football%20programs%20have> [hereinafter 1979 Policy Interpretation].
- iv Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (Jan. 16, 1996) <https://www2.ed.gov/about/offices/list/ocr/docs/clarific.html#:~:text=The%20Title%20IX%20regulation%20provides,for%20members%20of%20both%20sexes> [hereinafter 1996 Clarification].
- v Dear Colleague Letter (April 20, 2010) <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100420.html> [hereinafter 2010 Dear Colleague Letter].
- vi Staurowsky, E. J., Flowers, C. L., Busuvis, E., Darwin, L., & Welch, N. (2022). 50 Years of Title IX: We're Not Done Yet. Women's Sports Foundation, https://www.womenssportsfoundation.org/articles_and_report/50-years-of-title-ix-were-not-done-yet/.
- vii 34 C.F.R. § 106.2, <https://www.federalregister.gov/d/2024-07915/p-27>.
- viii see *Baca v. City of Los Angeles*; see also 24 Harv. Women's L.J. 139 (2001) *In Search of a Level Playing Field: Baca v. City of Los Angeles as a Step toward Gender Equity in Girls' Sports beyond Title IX*
- ix 34 C.F.R. §106.37(c)
- x Title IX Athletics Investigator's Manual 2, 14, [https://eric.ed.gov/?id=ED400763\(1989\)](https://eric.ed.gov/?id=ED400763(1989)) [hereinafter Investigator's Manual].
- xi Investigator's Manual at 25.
- xii Women's Sports Foundation, *Issues Related to Girls and Boys Competing With and Against Each Other in Sports and Physical Activity Settings*, (2019), <https://www.womenssportsfoundation.org/wp-content/uploads/2019/08/issues-related-to-girls-and-boys-competing-with-and-against-each-other-in-sports-and-physical-activity-settings-the-foundation-position.pdf>.
- xiii *Id.*
- xiv *Communities for Equity v. Mich. High Sch. Athletic Ass'n*, 178 F. Supp. 2d 805 (W.D. Mich. 2001).
- xv Investigator's Manual at 96.
- xvi Investigator's Manual at 55.
- xvii Investigator's Manual at 43.
- xviii Investigator's Manual at 46.
- xix Letter of Finding, Office for Civil Rights, Denver Regional Office, 22 (January 30, 1990) (Ref: 08-89-2019).
- xx Investigator's Manual at 91.
- xxi Investigator's Manual at 93.
- xxii Investigator's Manual at 100.
- xxiii Investigator's Manual at 76.
- xxiv Investigator's Manual at 80-82.
- xxv N'Dea Yancey-Bragg, *Sexual abuse common among college athletes, survey finds*, USA Today, (Aug. 26, 2021) <https://www.usatoday.com/story/news/nation/2021/08/26/college-athlete-report-sexual-assault-common-survey/8253766002/>.
- xxvi Investigator's Manual at 14.
- xxvii *Equity and Title IX in Intercollegiate Athletics—A practical Guide for Colleges and Universities* (2012), <https://www.ncaapublications.com/p-4268-equity-and-title-ix-in-intercollegiate-athletics-a-practical-guide-for-colleges-and-universities-2012.aspx>.
- xxviii See *Jurupa Unified School Dist.*, OCR File No. 09- 91-1222 (Feb. 7, 1995).
- xxix *Id.*
- xxx Letter of Finding, Office for Civil Rights, Dallas Regional Office (April 22, 1991) (Ref: 06-91-1056).
- xxxi How to File a Discrimination Complaint with the Office for Civil Rights, Office for Civil Rights <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html> (last accessed June 14, 2024).
- xxxii *Equality for Girls in Sports Under AB 2404, Legal Aid at Work*, <https://legalaidatwork.org/factsheet/equality-for-your-girls-in-your-parks/> (last accessed June 14, 2024).



Find us here

Women's Sports Foundation
247 W 30th Street, 5th Floor
New York, NY 10001
800.227.3988

WomensSportsFoundation.org

Keep being inspired

