

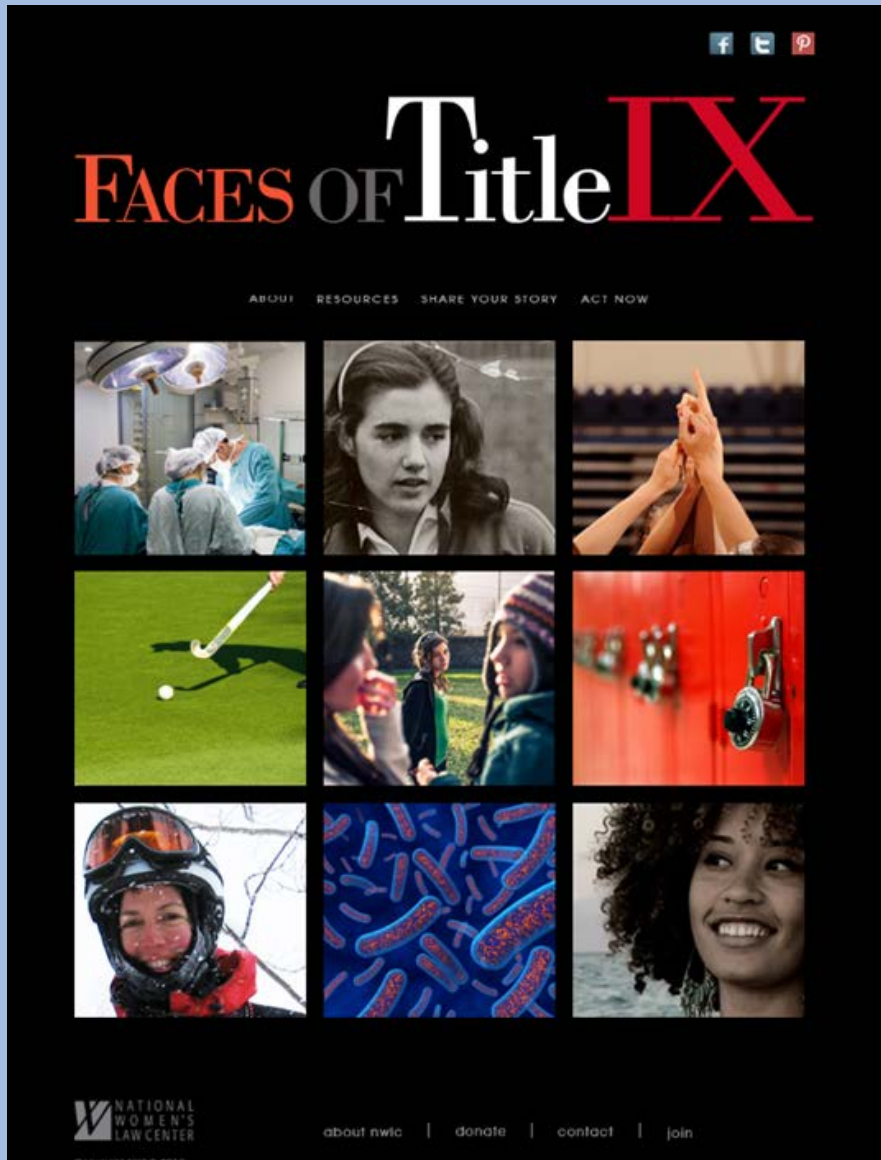
# What You Need To Know About Title IX and Athletics: A Webinar For Coaches, Parents, and School Officials



April 18, 2013

**Presenter: Neena Chaudhry**

Senior Counsel & Director of Equal Opportunities in Athletics  
National Women's Law Center



# Honoring Title IX

Women and girls have come a long way since the enactment of Title IX – the federal civil rights law that prohibits sex discrimination in education. Still, far too many students are denied equal educational opportunities. We're working to eliminate and prevent barriers to students' success in school.

On its 40th Birthday, the National Women's Law Center salutes Title IX's victories and embraces the work ahead to realize its full promise.

Visit Faces of Title IX at  
[www.nwlc.org/title-ix](http://www.nwlc.org/title-ix)

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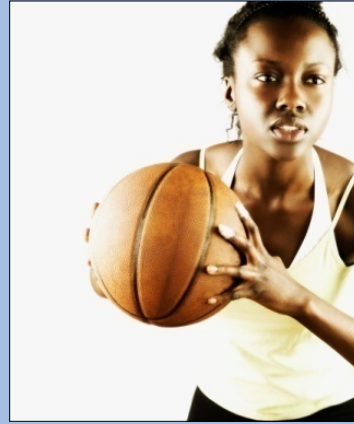
[NChaudhry@nwlc.org](mailto:NChaudhry@nwlc.org)



Neena Chaudhry is Senior Counsel at the National Women's Law Center, where since 1997 she has focused on gender equity in education issues, particularly Title IX. Ms. Chaudhry has served as counsel on key Title IX cases, engaged in legislative advocacy on behalf of women and girls, and addressed gender equity in education issues in the media and before key national audiences throughout the U.S.

Ms. Chaudhry received her J.D. from Yale Law School and her B.A. from the University of Maryland at College Park.

# Title IX & Athletics



## Three basic requirements:

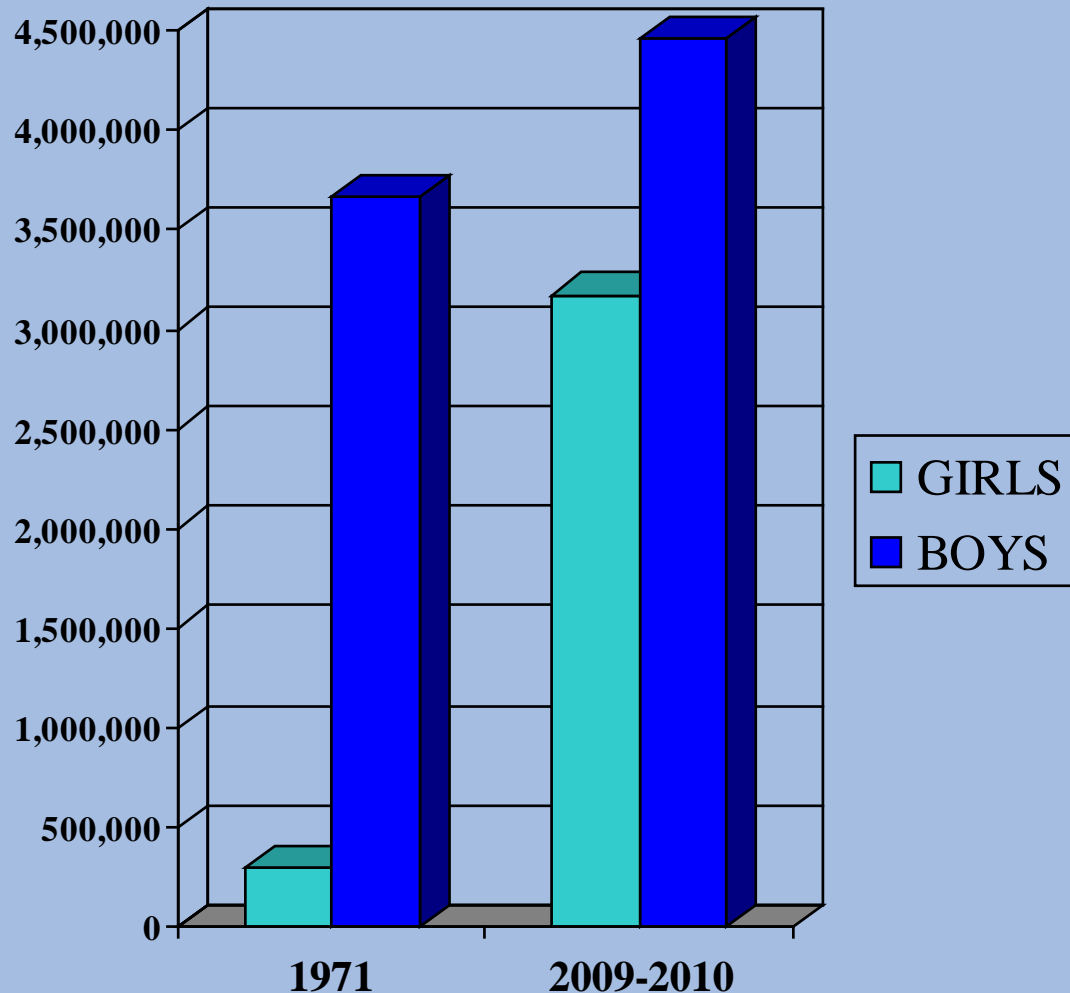
1. Schools must offer male and female students **equal opportunities to participate.**
2. Schools must **allocate athletic scholarship dollars equitably.**
3. Schools must provide male and female athletes with **equal benefits/services.**

# Benefits of Sports for Girls

- Girls who play sports are more likely to graduate from high school, have higher grades, better test scores, and better employment outcomes.
- Female athletes are more likely to do well in science classes than their classmates who do not play sports.
- Sports participation decreases a young woman's chance of developing heart disease, osteoporosis, and other problems.
- Sports participation reduces the risk of obesity in adolescent girls, and for adult women who played sports in school.
- Young women who play sports have higher self-esteem, lower incidence of depression and more positive body image.
- Female student-athletes are less likely to smoke or use drugs and have lower rates of both sexual activity and pregnancy.

# Good News: Female Sports Participation Has Skyrocketed

Girls' Participation in Athletics Before and After Title IX



# Bad News: Discrimination Persists

- Women and girls at all levels of education are still being denied opportunities to play sports, and equal benefits and services.
- Schools are providing 1.3 million fewer chances for girls to play sports in high school than boys.
- Female athletes at the typical Division I-FBS (formerly Division I-A) school receive roughly 28% of the total money spent on athletics, 31% of the recruiting dollars, and 42% of the athletic scholarship dollars.





# Participation: The “Three-Part Test”

**Schools are providing equal participation opportunities to their male & female students if:**

- Prong 1: Athletic participation opportunities for males and females are substantially proportionate to their respective enrollments; **OR**
- Prong 2: The school has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex; **OR**
- Prong 3: The school has fully and effectively accommodated the interests and abilities of the underrepresented sex.



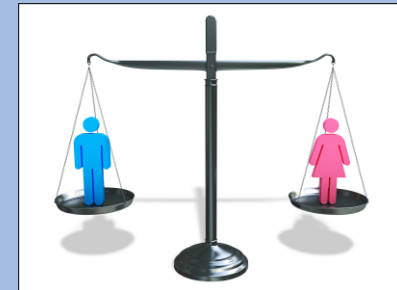
# Prong One: Proportionality

**Percentage of athletes who are female must mirror percentage of students who are girls.**

- So, if 50% of students are girls, then about 50% of athletes must be girls.

Example: Quinnipiac University case

- Cut volleyball and counted cheerleading as sport to increase participation numbers
- Court said reinstate volleyball and cannot count cheerleading because too underdeveloped to count as competitive sport
- Without cheer, 3.62% participation gap, which does not meet prong one



# Does Cheerleading Count?

## Quinnipiac case

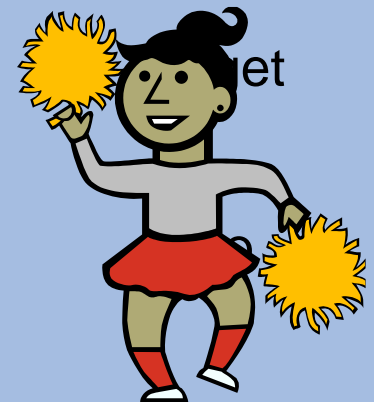
- Competitive cheer activity “still too underdeveloped and disorganized to be treated as offering genuine varsity athletic participation opportunities for students”

## 2008 Dept of Ed Dear Colleague Letter

- Discussed when activity is a sport for Title IX compliance

## Update:

- USA Cheer working with some schools  
“Stunt” recognized by NCAA.
- USA Gymnastics working with others  
get “Team Acrobatics and Tumbling” recognized.



# Prong Two: Program Expansion

**The school has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex.**

- Record of adding female participation opportunities
- Current plan of expansion responsive to developing interests and abilities of women

Bottom line: Should see a pattern of consistently expanding opportunities in response to developing interests/abilities





# Prong Three: Full And Effective Accommodation

**The school has fully and effectively accommodated the interests and abilities of the underrepresented sex.**

## April 2010 Clarification

- Rescinded 2005 Clarification that enabled schools to send email survey and count non-response as lack of interest and receive presumption of compliance.
- Restored previous policy, under which schools must evaluate multiple factors (including surveys) to demonstrate compliance with prong three.

# 2010 Clarification: Requires More to Assess Interest

## The following indicators should be evaluated:

- Requests by students to add or elevate a sport;
- Participation in particular club or intramural sports;
- Interviews with students, coaches and administrators;
- Participation rates in high schools and community leagues in areas from which school draws students; and
- Results of questionnaires regarding interests in particular sports.



<http://www2.ed.gov/print/about/offices/list/ocr/docs/clarific.html>



# Have These Schools Met the Three-Part Test?

1. Prong One: Hogwarts High School has a student body that is 49% male and 51% female. Its athletes are 51% male and 49% female. The 2% gap translates to 40 students.
2. Prong Two: Potter Regional High School last added a team for girls in 2003, has not assessed interests, and there has been no other expansion of girls' opportunities.
3. Prong Three: Snape High School does not offer proportionate opportunities to girls and does not have a history and practice of adding opportunities for them. It has sent a survey to its female students asking about their athletics interests but got very few responses.



# Adequate Defenses to Not Meeting Three-Part Test?

1. “Girls are less interested in sports than boys, and boys need them more to stay engaged in school.”
2. “Giving girls additional opportunities to play would require cutting boys’ teams.”
3. “Boys’ sports bring in more money than girls’ sports.”

# ***Rally for Girls' Sports: She'll win more than a game***

## **Public Education & Outreach**

- Outreach on E-mail, Facebook and Twitter
- Public Education Opportunities
- Technical Assistance
- Hotline: 1-855-HER-GAME (1-855-437-4263)  
report inequities



## **Enforcement**

- 12 Title IX complaints filed with the Department of Education against school districts for failing to provide girls with equal opportunities to play sports



# NWLC Complaints

- Filed against 12 school districts—one in each OCR region.
- Districts were identified based on their own data submitted to OCR, which indicate that they are failing to provide girls with equal opportunities to play sports.
- Districts vary in size, locale (urban, rural, suburban), and diversity of the student population.
- Schools selected are examples of a much larger problem.
- Complaints call on OCR to investigate all high schools in the districts.



# Complaints Highlight Huge Participation Gaps

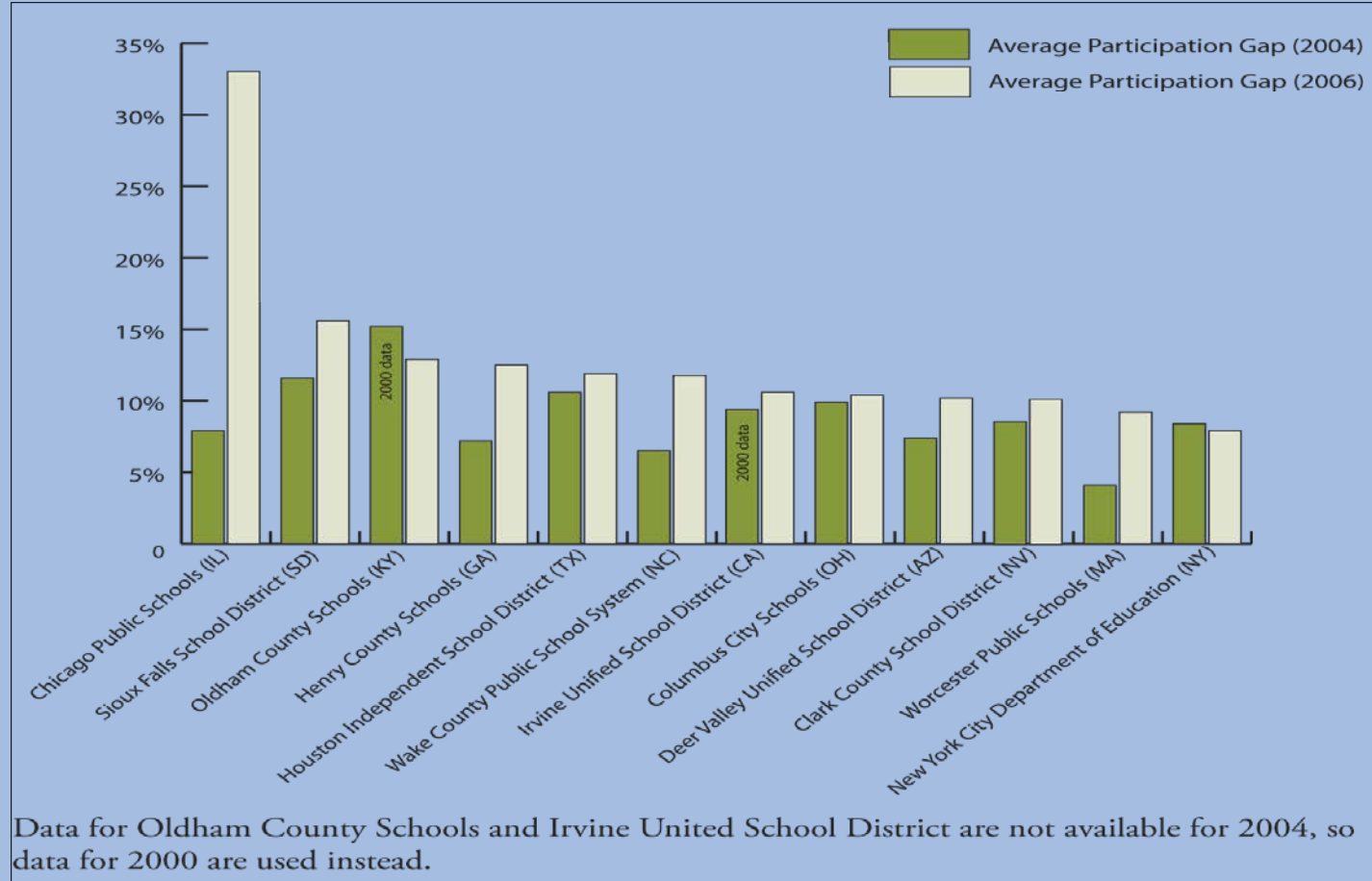
SCHOOL DISTRICTS			SAMPLE SCHOOLS		
SCHOOL DISTRICT	AVERAGE PARTICIPATION GAP*	NUMBER OF GIRLS' OPPORTUNITIES LOST**	SAMPLE SCHOOL	PARTICIPATION GAP	NUMBER OF GIRLS' OPPORTUNITIES LOST
Chicago Public Schools (IL)	33.0%	7294	Marshall Metropolitan High School	40.8%	116
Sioux Falls School District (SD)	15.6%	569	Washington High School	19.9%	241
Oldham County Schools (KY)	12.9%	193	Oldham County High School	18.8%	73
Henry County Schools (GA)	12.5%	430	Stockbridge High School	28.9%	124
Houston Independent School District (TX)	11.9%	2404	Sterling High School	20.3%	138
Wake County Public School System (NC)	11.8%	2,620	Wake Forest-Rolesville High School	18.7%	233
Irvine Unified School District (CA)	10.6%	767	Northwood High School	11.5%	223
Columbus City Schools (OH)	10.4%	982	West High School	15.5%	74
Deer Valley Unified School District (AZ)	10.2%	739	Deer Valley High School	14.1%	202
Clark County School District (NV)	10.1%	3,591	Coronado High School	13.7%	228
Worcester Public Schools (MA)	9.2%	657	North High School	18.1%	108
New York City Department of Education (NY)	7.9%	16,993	Washington Irving High School	11.2%	291

Source: 2006, Department of Education, Office for Civil Rights, Civil Rights Data Collection, <http://ocrdata.ed.gov/Default.aspx>. (Schools are included when data are available regarding both enrollment and athletic participation.)

\* Average Participation Gap: The average of the participation gaps of schools in the district.

\*\*Number of Girls' Opportunities Lost: The sum of the number of opportunities lost at each school in the district.

# Participation Gaps Go From Bad to Worse



# Sample Sports Not Offered to Girls in Districts

- Soccer
- Softball
- Tennis
- Swimming & Diving
- Golf
- Lacrosse
- Field Hockey
- Bowling
- Gymnastics



\* Examples of sports sponsored by relevant state high school athletic associations that are not offered to girls at one or more of the 12 districts

# Athletic Scholarships

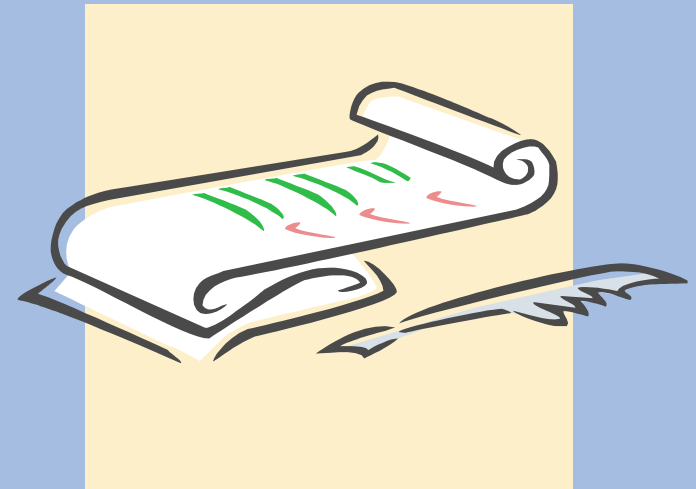
- The total scholarship dollars awarded to male and female athletes must be within one percent or one scholarship, whichever is greater, of their participation rates, absent a legitimate nondiscriminatory reason.
- Focus is on the overall dollar amount provided rather than the number of scholarships.



# Equal Benefits/Services

***Boys' and girls' athletics programs must be equal overall,\* including:***

- Scheduling
- Travel
- Coaching
- Locker rooms/facilities
- Medical/training services
- Publicity
- Recruiting
- Tutoring
- Housing/dining



\* No “booster club” exception



# Adequate Defenses to Unequal Treatment?

1. “There aren’t enough fields or facilities to allow girls and boys to play in the same season.”
2. “More people come to the boys’ games so they deserve the better schedule.”



# Additional Points

- There is no requirement that schools spend the same amount of money on male and female athletes, but differences in spending can raise red flags about second-class treatment.
- That money is provided by a booster club or other outside funding to support a team is not a defense to disparities in benefits or services.
- Provisions addressing coaching and tutoring create two sets of rights: those of the coaches/tutors not to be discriminated against and those of the student-athletes to receive equal quality coaching and tutoring.
- Schools must treat males and females equally with respect to recruitment.





# Gender Equity in Difficult Economic Times

- Any cuts in athletic opportunities or benefits due to budget issues must not exacerbate existing gender inequalities or create new ones.
- If not equal, cuts likely to aggravate existing inequality and violate T9.
- If equal but cuts disproportionate, could create inequality and violate T9.

# Myths v. Facts

**MYTH:** *Title IX imposes quotas.*

## **FACTS:**

- The concept of quotas is misplaced in athletics because males and females are not competing for the same slots. Schools decide how many fixed opportunities they will provide to men and women, and the three-part test simply measures whether schools are allocating these opportunities equally.
- The federal courts have unanimously rejected the quota argument.
- There are three separate ways to comply, so schools do not have to, and most don't, satisfy proportionality.

# Myths v. Facts

**MYTH:** *Title IX requires schools to cut men's teams.*

## **FACTS:**

- Title IX does not require or encourage schools to cut any teams, and the Department of Education has stated that cuts are disfavored.
- Courts recognize that schools cut teams for numerous reasons unrelated to Title IX, including the desire to achieve a particular competitive level, changing interests of students, and budgetary demands.
- Even when schools have reduced men's opportunities in order to come into compliance with Title IX, courts have uniformly held that those decisions do not constitute discrimination.

# What can I do as a parent?

- Let school officials know about potential Title IX violations.
- Discuss any equity concerns with your school's Title IX officer - the law requires federally funded schools to have one.
- Find out if your school has a grievance procedure - the law also requires federally funded schools to have a procedure for handling sex discrimination complaints.
- Develop a plan of action to address problem areas. You may want to involve coaches, the athletic director, principal, school board official, etc.



# What can I do as an advocate?

## Get involved in the *Rally for Girls'* Campaign

- Sign-up for NWLC email alerts.
- Share your story
- Become a fan of NWLC on Facebook to stay up to date.

## Participate in National Girls and Women in Sports Day

- Host an event in your community around National Girls and Women in Sports Day
- Write Op-Eds, Letters to the Editor, etc.

## Take Action on Legislation

- Contact your members of Congress
- Write Op-Eds, Letters to the Editor, etc.

# What should schools do?

- Ensure that a Title IX coordinator is in place and publish his/her contact information. These actions are required by law.
- Train staff, students, and members of the community about what Title IX requires and how to prevent and address discrimination.
- Evaluate the athletics program to determine if there are areas in which girls (or boys) are not being treated fairly, and then take action to fix any problems.
- Contact OCR or other experts for technical assistance on how to comply with Title IX.



# Resources

- **For more info on Title IX:**
  - Faces of Title IX, <http://www.nwlc.org/title-ix>
  - [www.titleix.info](http://www.titleix.info)
  - <http://www.nwlc.org/education>
- **For more info on Title IX and athletics:**
  - Check It Out (a tool to help you evaluate your school): [www.nwlc.org/checkitout](http://www.nwlc.org/checkitout)
  - 40th Anniversary fact sheet:  
[http://www.nwlc.org/sites/default/files/pdfs/nwlcathletics\\_titleixfactsheet.pdf](http://www.nwlc.org/sites/default/files/pdfs/nwlcathletics_titleixfactsheet.pdf)
- **For your district's athletic participation data:**
  - The Civil Rights Data Collection – compiled by the Department of Education's Office for Civil Rights at [www.ocrdata.ed.gov](http://www.ocrdata.ed.gov)
- **Hotline: 1-855-HER-GAME (1-855-437-4263)**
- **To get a copy of this presentation:**
  - Stay tuned! We will send you an email with a link.

# Questions?

We will take questions by chat now.

