



James Madison University and Title IX: Myths v. Facts

The Department of Education recently reiterated that “nothing in Title IX requires the cutting or reduction of teams in order to demonstrate compliance.”

- Office for Civil Rights, United States Department of Education, *Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance*, July 2003.

Myth: *JMU had no other choice but to cut teams to comply with Title IX.*

Fact: Title IX did not require JMU to cut any teams.

- JMU has admitted in the press that it cut teams for reasons unrelated to Title IX, acknowledging that:
 - It wants a group of strong teams within five years in the Colonial Athletic Association and some of the cut teams compete in less prominent conferences.
 - Its cuts to women's teams were clearly unrelated to Title IX.
 - Some of the cut teams were more expensive for the school because they didn't have conference memberships and had to travel farther to compete.

Myth: *Title IX is denying opportunities to male athletes at JMU and elsewhere.*

Fact: JMU's independent choice to cut teams is hurting both men and women.

- Women's teams were cut in addition to men's.
- Several women's club teams wanted to become varsity sports, and JMU decided not to accommodate their interests.
- Both women and men are suffering as a result of JMU's decision.

Myth: *JMU could not afford to both maintain the athletics opportunities it was providing for its students and support new programs.*

Fact: JMU had other options that would have allowed it to avoid cutting teams.

- JMU could have looked for savings in the budgets of particular teams, such as football and basketball, which together eat up over 70% of its entire men's sports budget. Such savings could free up money to support a broad-based athletics program.

- JMU could have engaged in aggressive fundraising to cover the costs of men's and women's teams, as it did for its new \$10 million Athletic Performance Center, which included extensive upgrades to the football facility
- Many schools find ways to add sports opportunities without cutting any teams. A 2001 government study found that 72% of schools that added teams from 1992-1993 to 1999-2000 did so without discontinuing any teams.

Myth: *If Title IX is changed, students at JMU will get their teams back.*

Fact: **Changing Title IX will not bring back the teams that JMU cut, because the law didn't require the cuts in the first place. Students who have lost their teams should instead let JMU know that they don't approve of the choices the university is making.**

Students can send a message to the administration that they care about providing participation opportunities for more students. It is particularly appropriate for students to weigh in on the nature of JMU's athletics program because mandatory student fees account for \$17 million (84%) of the \$21 million athletics budget. Students can encourage JMU to stop using the law as a scapegoat and instead to reexamine its priorities and its solutions for achieving gender equity and adopt strategies that promote opportunities for all students.

Myth: *Title IX requires rigid proportionality between the percentages female athletes and students.*

Fact: **The law gives JMU three different ways to comply with Title IX's requirement to provide equal participation opportunities and JMU only has to show one of the following:**

- the percentage of male and female athletes is about the same as the percentage of male and female students enrolled at the school (Prong One or the "proportionality" prong), **OR**;
- they have a history and a continuing practice of expanding opportunities for the underrepresented sex, which is usually women (Prong Two), **OR**;
- they are fully and effectively accommodating the interests and abilities of female athletes (Prong Three).

This three-part test has been in effect for almost 30 years and has been upheld by every one of the nine federal appeals courts that has considered it. In addition, every court that has looked at the question has agreed that Title IX does not require cuts to teams, pointing out that schools decide which teams to sponsor based on a variety of factors.