

Paying for the Playing Field: Booster Clubs, Funding, School Sports and Title IX

This fact sheet addresses common questions regarding how Title IX applies to the funding of school sports teams and to athletic benefits and services provided to such teams by non-school sources.

Background

Title IX bars sex discrimination in education programs or activities that receive federal funds. Since all public schools and colleges and nearly all private colleges receive at least some federal funds, their sports programs are covered under Title IX.

Title IX requires schools to:

- Offer equal participation opportunities to their male and female students;
- Provide male and female athletes with their fair shares of athletic scholarship money; and
- Treat their male and female athletes equally overall with respect to: equipment, supplies, scheduling of practice/game times, travel, coaching, tutoring, locker rooms, practice and competitive facilities, medical and training services, publicity, housing/dining, and recruiting, among other things. NOTE: The proper analysis under this area of Title IX involves comparing the whole boys' program to the whole girls' program on a particular issue, although a significant disparity in the treatment of a boys' sport (e.g., baseball) and the equivalent girls' sport (e.g., softball) is often indicative of a program-wide.

Question: *Does Title IX require schools to spend the same amount of money on boys' and girls' teams?*

Answer: No. Title IX does not require exactly equal spending on girls' and boys' teams, only equivalent treatment. But, it is important to look behind the money to find out what it buys.

EXAMPLE: If a school provides uniforms of equal quality and quantity to its male and female athletes but spends more on boys' uniforms because they cost more than girls' uniforms (e.g., football uniforms may cost more than other sports uniforms), the school is not violating Title IX. But if the school spends more on boys' uniforms because it is providing them with top-of-the-line uniforms while providing girls with bargain-basement uniforms, then the school is not treating the girls fairly.



Question: *Is it true that ticket sales, booster clubs and other outside funding sources “don’t count” under Title IX?*

Answer: **No. All money and in-kind contributions that a team receives, regardless of the source, are subject to Title IX’s requirements.** A school cannot evade its responsibility to treat its male and female athletes equally by pointing to outside sources as the cause of unequal treatment. As one court has explained, “Once a (school) receives a monetary donation, the funds become public money, subject to Title IX’s legal obligations in their disbursement.” Chalenor v. Univ. of North Dakota, 291 F.3d 1042, 1048. Though they may accept such gifts, schools bear the ultimate responsibility of ensuring that boys’ and girls’ teams are treated equally.

EXAMPLE: At School A, the high school boys’ teams are treated better than the high school girls’ teams in terms of equipment. The boys’ baseball booster club raises money for a new pitching machine for the boys’ team. The girls’ softball team has no access to this new pitching machine or any other machine. To avoid exacerbating an already existing inequality, if the school accepts the pitching machine, it must ensure that girls also receive this benefit. Some of the ways in which the school can accept the pitching machine and still comply with Title IX include: (a) devising a schedule where both teams are allotted separate but equal time with the machine, (b) purchasing a pitching machine for the girls with school funds, or (c) soliciting outside funding for a new pitching machine for the softball team.

Question: *My daughter’s school team plays on a field owned by the city. Does that change her school’s obligation to provide equal fields/facilities to its boys’ and girls’ teams?*

Answer: **No. Title IX applies to any field or facility used by a school athletic program, regardless of who owns the field or facility in question.** Even if a field is supervised and maintained by the city or county, the school remains legally responsible if the field conditions, maintenance, or amenities reflect unequal treatment of its male and female athletes.

EXAMPLE: At School B, the high school boys’ teams’ fields are better maintained than the high school girls’ teams’ fields. In particular, the high school boys’ baseball team and the high school girls’ field hockey team each play on city-run fields. The boys’ field receives excellent care, while the girls’ field is full of muddy holes that make it difficult to play. To comply with Title IX, the school could (a) work with the city to ensure that the field hockey field receives maintenance equal to that of the baseball field, (b) allocate more school funds to better care for the field hockey field, or (c) relocate the girls to another field that receives better care.

Are you concerned about sports inequities at your school? Call NWLC @ 1.855.HERGAME

