

## **How to Comply with Title IX Athletics Requirements: A Primer for Schools**

This fact sheet is part of a series of tools designed by the National Women's Law Center to help schools address the dropout crisis. Studies show that students who are engaged in extracurricular activities at school are less likely to drop out. Because girls are dropping out of school at alarmingly high rates and because they have consistently been under-represented in athletics programs,<sup>1</sup> schools that want to reduce their dropout rates must ensure that girls have equal access to after-school programs, including athletics. The most basic part of this responsibility is to ensure compliance with Title IX.

With regard to athletics, Title IX requires that schools:

- (1) offer male and female students equal opportunities to play sports;
- (2) provide male and female athletes with equal benefits and services in their athletics programs; and
- (3) give male and female athletes their fair shares of athletic scholarship money.

The following sets forth a brief summary of the policies and regulations that govern each of these requirements.

### **Equal Participation Opportunities**

To demonstrate that it offers equal opportunities for both male and female students to play sports, a school must show one of three things:

- (1) that the percentages of male and female athletes are about the same as the percentages of male and female students enrolled at the school; OR
- (2) that the school has a history and a continuing practice of expanding athletic opportunities for female students, since they usually have been the ones given fewer chances to play; OR
- (3) that even though it is not offering its female students substantially proportionate opportunities to play sports, the school is nonetheless fully meeting female athletes' interests and abilities.

A school will be in compliance with Title IX's requirement that it provide equal participation opportunities for male and female students if it meets any one of the three prongs of the test described above. Under the first prong, a school will be in compliance if, for example, female students are 48% of the student body and girls are 48% of the school's athletes. For K-12 schools, a student should be considered an athlete if s/he (a) receives the institutionally-

sponsored support normally provided to athletes competing at the school; (b) participates in organized practice sessions and other team activities on a regular basis during the sport's season; and (c) is listed on the eligibility or squad list maintained for the sport.<sup>ii</sup>

Under the second prong, schools must show good faith efforts to increase athletic participation opportunities for girls, either through the addition of teams or the addition of athletes to existing teams. These opportunities must be added in response to female students' developing interests and abilities. Cutting or capping male teams does not count as increasing opportunities for female students.

To show that it is already fully accommodating the interests and abilities of its female students, a school must show that it has evaluated the interests of girls in additional athletic opportunities and has responded to those interests. A school should use the following indicators to gauge interest:

- requests by students and admitted students that a particular sport be added;
- requests that an existing club sport be elevated to intercollegiate team status;
- participation in particular club or intramural sports;
- interviews with students, admitted students, coaches, administrators and others regarding interest in particular sports;
- results of questionnaires of students and admitted students regarding interests in particular sports; and
- participation in particular interscholastic sports by admitted students.<sup>iii</sup>

Note that a school must consider each of these indicia of interest; reliance on a survey alone is insufficient.

### **Equal Treatment**

To provide equal treatment to their male and female athletics programs, schools must make sure that the programs overall receive equal benefits and services, including with regard to:

- equipment and supplies;
- scheduling of games and practice times;
- travel and per diem allowances;
- opportunities to receive coaching and tutoring;
- assignment and compensation of coaches and tutors;
- locker rooms and practice and competitive facilities;
- medical and training facilities and services;
- housing and dining facilities and services; and
- publicity.

### **Equal Scholarship Aid**

Although it is not typically applicable in elementary and secondary schools, the third requirement of Title IX is that percentages of athletic scholarship money awarded to male and female athletes be within one percent of their respective participation rates, unless the school can

show why a bigger gap is not discriminatory.<sup>iv</sup> For example, if female athletes are 44% of the athletes at a school, they must be allocated between 43% and 45% of the total scholarship money awarded.

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Compliance with Title IX to ensure that girls and boys have equal opportunities to play sports and engage in other extracurricular activities at school can be an important step toward reducing girls' dropout rates. For more information on these issues, please visit our website at [www.fairplaynow.org](http://www.fairplaynow.org) and [www.nwlc.org/display.cfm?section=athletics](http://www.nwlc.org/display.cfm?section=athletics), or contact the National Women's Law Center at [info@nwlc.org](mailto:info@nwlc.org). To read the Center's report, *When Girls Don't Graduate, We All Fail: A Call to Improve High School Graduation Rates for Girls*, visit [www.nwlc.org/dropout](http://www.nwlc.org/dropout).

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<sup>i</sup> While girls comprise 49% of the students in the nation's high schools, for example, they receive only 41% of the opportunities to play sports; further, girls' teams continue to be subjected to a host of inequities in the facilities, support, coaching, and publicity they receive. See generally *The Battle for Gender Equity in Athletics in Elementary and Secondary Schools* (National Women's Law Center, Washington, D.C.), June 2007, available at <http://www.nwlc.org/pdf/Battle%202007.pdf>; see also *Barriers to Fair Play* (National Women's Law Center, Washington, D.C.), 2007, available at <http://www.nwlc.org/pdf/BarriersToFairPlay.pdf>.

<sup>ii</sup> Office for Civil Rights, Department of Education, Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (Jan. 16, 1996), available at <http://www.ed.gov/about/offices/list/ocr/docs/clarific.html>.

<sup>iii</sup> *Id.*

<sup>iv</sup> Letter from Dr. Mary Frances O'Shea, National Coordinator for Title IX Athletics, Office for Civil Rights, Department of Education, to Nancy S. Footer, General Counsel, Bowling Green State Univ. (July 23, 1998).