



Association of
Title IX Administrators

Time with IX Title IX and K-12 Athletics

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Title IX and Athletics

Title IX requires a school/district to:

- Provide equal **opportunities** for female and male students to become interscholastic athletes
 - Analyzed by means of a three-part test (“Prongs”)
- Provide equitable treatment of **participants** in the overall girls’ program as compared to the overall boys’ program
 - Analyzed according to thirteen (13) different program components (The “Laundry List”)

Title IX and Athletics

Title IX does not require a school/district to:

- Provide the same funding to the overall girls' and boys' programs
- Provide the same funding to boys' and girls' teams for the same sport
- Provide specific benefits to teams
- Offer the same number of teams for boys and girls
- Offer the same sports for boys and girls
- Provide the same benefits to boys' and girls' teams in the same sport
- Compete at a specific level

Three-Part Test (1979)

Effective accommodation of interests and abilities

1

Opportunities for males and females substantially proportionate to their respective enrollments; **OR**

2

Where one sex has been underrepresented, a history and continuing practice of program expansion responsive to the developing interests and abilities of that sex; **OR**

3

Where one sex is underrepresented and cannot show a continuing practice of program expansion, whether it can be demonstrated that the interests and abilities of that sex have been fully and effectively accommodated by that present program

Part 1: Proportionality

Opportunities for males and females substantially proportionate to their respective enrollments

- **Substantially proportionate** accounts for natural fluctuations in enrollment and participation rates, but schools must adjust if shifted enrollment or participation shifts persist
- The OCR uses a case-by-case analysis, rather than a rigid statistical requirement (e.g., within 1% of student body)
- The OCR would also consider opportunities to be substantially proportionate when the number of opportunities that would be required to achieve proportionality would not be sufficient to sustain a viable team

Part 2: Program Expansion

History and continuing practice of program expansion responsive to the developing interests and abilities of the underrepresented sex

In analyzing a history of program expansion, the OCR considers:

- A school/district's record of adding teams, or upgrading teams' status, for the underrepresented sex
- A school/district's record of increasing the numbers of participants in intercollegiate athletics who are members of the underrepresented sex

Part 3: Full Accommodation

Whether it can be demonstrated that the interests and abilities of that sex have been fully and effectively accommodated by that present program

The OCR will consider whether:

- There is sufficient unmet interest to support a varsity or JV team
- There is sufficient ability to sustain a varsity or JV team
- There is a reasonable expectation of competition for the varsity or JV team

Levels of Competition

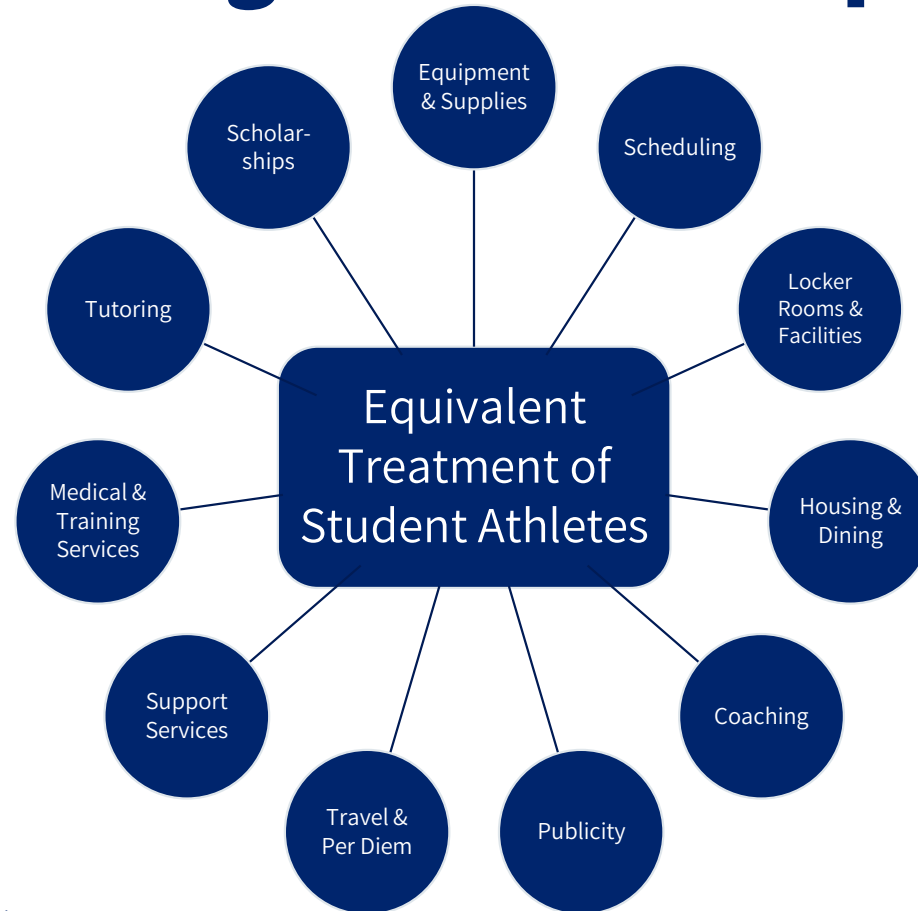
The OCR assesses compliance by examining:

- Whether the competitive schedules for boys' and girls' teams, on a program-wide basis, afford proportionally similar numbers of male and female athletes equivalently advanced competitive opportunities

OR

- Whether the school/district can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex as warranted by developing abilities among the athletes of that sex

Athletic Oversight: Gender Equity



Donations

- **Booster clubs:** Groups of fans or donors who want to support a team or program
- **Donors:** Individuals who want to give to a team or program
- Booster club and donor contributions to schools can affect a school's Title IX compliance
 - Can provide assistance to a school's athletic programs
 - Often, they only want to support a specific team or program or provide a specific service
 - Oversight and guidance from the Title IX Office are necessary to ensure compliance
 - Often involves educating the donor/club
- Ideally, they support **ATHLETICS**

Fundraising

- Fundraising = Teams raising money on their own
 - For a specific opportunity
 - For equipment, uniforms, etc.
 - For special equipment, uniforms, etc.
- Private fundraising is permissible
- Title IX requires that male and female teams must have equal access and equal opportunities to comparable benefits and services no matter the source of money

Change Ahead

- **July 2022:** NPRM published in the Federal Register and the 60-day public comment period began
- **April 2023:** OCR published a separate NPRM outlining proposed changes to the Title IX regulations focused on gender identity and athletic participation
- **OCR has not yet announced an implementation deadline or timeline for either set of new regulations.**
- ATIXA will continue to update members on the regulations



Questions?



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