

## ***Title IX***

### ***I. Participation***

The first compliance prong of Title IX deals with overall sport and athletic participation offerings available for men and women. A three-part test for participation opportunities determines if institutions provide female and male students with equal athletic opportunities. In order to comply, institutions must pass one of these three tests:

**Proportionality:** That's a big phrase and a chance for you to use a little math. The first test means to compare the ratio of female to male participants in the athletic program with the ratio of female to male full-time students (undergraduates for intercollegiate investigations). If the resulting ratios are equal, the school is most likely in compliance in this area of Title IX.

**History and Continuing Practice:** Has your school shown a history and continuing practice of program expansion for the underrepresented sex? The courts have been firm in noting that the word "continuing" is important when using the second test. Many schools added considerable numbers of women's teams in the 1970s but either kept the status quo or decreased opportunities during the 1980s. Those changes occurred quite long ago. So, let's stay focused on our current generation of young people and their athletic opportunities.

**Effectively Accommodating Interests and Abilities:** Are the interests and abilities of the underrepresented sex fully and effectively accommodated by the current program? In the third test, the key words are "fully and effectively." Educational institutions that offer athletic programs are required to effectively accommodate the interests and abilities of their students. Under Title IX, these institutions must provide opportunities for individuals of each sex to participate in sports, as well as provide those individuals with competitive team schedules.

### ***II. Athletic Financial Assistance***

The second major compliance prong of Title IX encompasses athletic financial assistance. The only monetary requirement of Title IX deals with the area of scholarships. Scholarships must be allocated in proportion to the number of female and male students participating in intercollegiate athletics. Funding for women's and men's programs does not have to be equal, but a significant disparity in funds does suggest that institutions could be found non-compliant in other program areas.

### ***III. Treatment***

This third compliance prong of Title IX requires equivalence in other athletic benefits and opportunities and includes all other program areas not previously covered. Title IX does not require that each men's and women's team receive exactly the same services and supplies, but it looks at the entirety of the treatment the men's and women's programs receive as a whole. The equivalence of overall treatment is measured on the basis of eleven criteria. We have listed them here and provided a brief explanation of the legal standard for each.

**Special Note: For each of the treatment items described below (a-k), you will see what the law evaluates and the legal language that should be evident in your documentation and best drives the process towards meeting the standard of the law. While it may feel redundant, use it often and well to support your objectives.**

**a) Locker Rooms, Practice and Competitive Facilities** looks at the quality, maintenance and availability of the facilities provided for practice and competitive events; the exclusivity of use of the facilities; the preparation of facilities for games and practices; and the availability, exclusivity and quality of locker and team rooms.

**A school is obligated to ensure that the overall benefits and treatments of the female and male programs are comparable. Under Title IX, budgets for men's and women's teams do not have to be equal, but the bottom line is that the benefits provided must be equal. Facilities are one benefit that must be equally provided to the men's and women's programs.**

**b) Equipment and Supplies** is determined in examining the quality, amount, suitability, maintenance and replacement, and availability of equipment and supplies. A school is obligated to ensure that the overall benefits and treatments of the female and male programs are comparable.

**Under Title IX, budgets for men's and women's teams do not have to be equal, but the bottom line is that the benefits provided must be equal. Equipment is one benefit that must be equally provided to the men's and women's programs.**

**c) Scheduling of Games and Practice Times** is based on the number of competitive events offered per sport, the number and length of practice opportunities, the time of day for practice sessions, the number of pre-season and post-season competitive opportunities, and the time of day competitive events are scheduled.

**Under Title IX, a school is obligated to ensure that the overall benefits and treatments of the female and male programs are comparable. Scheduling, including the scheduling of game and practice times, is one benefit that must be equally provided to the men's and women's programs. Specifically, men's and women's programs must have equal access to "prime-time" game and practice times. The nature of what constitutes "prime time" may be different depending on the sport, season and school, but a common example of a compliance issue would be if the men's basketball team played all of its games at 7 p.m. on a Friday nights while the women always played at 5:30 p.m.**

**d) Publicity** encompasses the availability and quality of sports information personnel, access to other publicity resources for men's and women's programs, and quantity and quality of publications and other promotional devices featuring men's and women's programs. A school is obligated to ensure that the overall benefits and treatments of the female and male programs are comparable.

**Under Title IX, budgets for men's and women's teams do not have to be equal, but the bottom line is that the benefits provided must be equal. Publicity services are one benefit that must be equally provided to the men's and women's programs. Specifically, schools have an obligation to ensure that both its men's and women's programs have equal access to publicity resources and that the quantity and quality of publications and other promotional devices featuring men's and women's programs are equitable. Publicity resources include school support groups like cheerleaders, band, and dance teams.**

**e) Coaching** examines the equivalence in the availability of qualified full-time and part-time coaches, assistant coaches and graduate assistants; assignment of coaches with comparable training, experience and other professional qualifications; and equitable compensation of coaches, including rate of compensation, duration of contract and conditions for contract renewal (taking into account experience, duties and working conditions).

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**f) Travel and Daily Allowance** encompasses modes of transportation, housing furnished during travel, length of stay before and after competitive events, daily allowance provided to the teams, and dining arrangements for the teams.

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**g) Academic Tutoring** includes the availability of tutoring for the men's and women's programs; qualifications, training and experience of tutors provided; employment conditions of the tutors for the men's and women's programs, including compensation, term and length of contracts; and the number of students tutored per session.

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**h) Provision of Medical Training Facilities and Services** includes the availability of medical personal and assistance, including health, accident and injury insurance coverage; availability and quality of weight training and conditioning facilities; and availability and qualifications of athletic trainers.

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**i) Provision of Housing and Dining Facilities and Service** pertains to housing provided and special services, such as laundry facilities, parking spaces and housekeeping services.

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**j) Recruitment of Student Athletes** refers to whether coaches and athletic personnel serving female and male athletes are provided with substantially equal opportunities to recruit, whether the financial and other resources made available for recruitment meet the needs of the men's and women's programs, and whether the differences in benefits, opportunities and treatment of prospective men and women athletes affect their recruitment.

**A school is obligated to ensure that the overall benefits and treatments of the female and male programs are comparable. Under Title IX, budgets for men's and women's teams do not have to be equal, but the bottom line is that the benefits provided must be equal. Recruitment of student-athletes is one benefit that must be equally provided to the men's and women's programs.**

**k) Support Services** includes the amount of administrative, secretarial and clerical assistance provided to the women's and men's programs.

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