

# **ATHLETICS 101**

**Title IX Basics**

**&**

**How to Avoid Potential Risks**

# Information Is Power

*It can help you appropriately  
recognize and respond to potential  
problems*

# Title IX

- Title IX of the Education Amendments of 1972 is the principal law that prohibits sex discrimination in education. It provides:

“No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance...”

The Department of Education's Office *for* Civil Rights

OCR

Enforces Title IX

Investigates complaints

Conducts Compliance Reviews

[www.ed.gov](http://www.ed.gov)

# Enforcement by OCR

- OCR's enforcement generally depends on the philosophy of the political party in power or on public and/or political pressure.
- Because OCR's enforcement is so bureaucratic and onerous, complainants or plaintiffs have been forced to seek remedies and solutions through the legal process.

# Legal Cases

3 majors pertinent cases (there are many others)

- Franklin v. Gwinnett County Public Schools – in addition to injunctive relief and damages provided for reimbursement for fees and expenses, Franklin also required the school must be found to have *intentionally* violated Title IX.
- Jackson v. Birmingham Board – established retaliation under Title IX for coaches suing under Title IX
- Biediger v. Quinnipiac – rigorously analyzed “games schools play” to comply with Title IX – Numbers behind the EADA, new sports; double/triple counting athletes; % differential between men and women.

# Enforcement

Penalty for non-compliance is withholding of federal funding. This has never happened in 39 years.

Possible results of a compliance review or complaint investigation:

- the institution is found in compliance with Title IX
- Voluntary resolution agreement OCR facilitates with the parties
- complainant agree enter into an ECR (Early Complaint Resolution) prior to the completion of the investigation
- the institution is found out of compliance and receives a LOF (Letter of Finding) and usually results in a subsequent CAP (Corrective Action Plan)

# Title IX

- Title IX applies to most elementary and secondary schools, colleges and universities. It also applies to programs and activities affiliated with schools that receive federal funds (such as internships or School to Work programs and to federally funded education programs run by other entities such as correctional facilities, health care entities, unions and businesses.
- Title IX protects students, faculty and staff.
- Title IX regulations require federally funded educational programs to take a variety of steps to prevent and address sex discrimination, including:
  - ✓ **designate** at least one employee with major responsibility to serve as its **Title IX Coordinator, institution is required to publish the name address and phone number**
  - ✓ **adopt and publish grievance procedures** that follow prompt and equitable resolution of complaints
  - ✓ **implement and disseminate a policy that prohibits sex based discrimination**



# Areas Covered Under Title IX

- Sex discrimination in admission to educational institutions
- Discrimination on the basis of pregnancy and marital status
- Sexual Harassment in educational institutions
- Student Services
- Career and Vocational Education
- Title IX and sports
  - Discrimination in Physical Education Programs
  - Discrimination in Athletic Programs

# Misconceptions Regarding Title IX

- Applies only to athletics
- Applies only to girls and women
- Requires quotas
- Requires men's sports to be dropped

# Title IX Requires Equitable

1. Accommodation of Athletic Interests & Abilities  
(Participation Opportunities )
2. Athletic Scholarships
3. Benefits, treatment and services  
( in 11 areas called the “laundry list” )

# Participation Opportunities

Title IX generally requires institutions to offer male and female students equal opportunities to participate in intercollegiate sports.

There are 3 ways institutions can demonstrate compliance:

1. the percentage of male and female athletes is about the same as the percentage of male and female enrolled at the school, **OR**
2. the school has a history and continuing practice of expanding opportunities for female students, since they usually have been excluded from sports, **OR**
3. the schools can show that it is completely and effectively meeting the need of the female athletes = interests and abilities.

# Who Counts as an OCR “Participant”

Everyone, who on the first day of competition:

- Receives institutionally-sponsored support normally provided to athletes competing at the institution; **and**
- Participates in organized practice sessions and other team meetings and activities on a regular basis during the sports season; **and**
- Is listed on the eligibility or squad list for each sport; **or**
- Who because of injury cannot meet the above but who continue to receive financial aid on the basis of athletic ability

# Athletic Scholarships

Athletics financial aid spent (as opposed to budgeted) should be within 1% of the student-athlete participation percentages (not undergraduate enrollment).

If the student-athlete participation is 45% male and 55% female then the scholarship dollars spent should be within 1% of that.

# “Laundry List”

1. Equipment and Supplies
2. Scheduling of Games and Practice Times
3. Travel and Per Diem Allowances
4. Opportunity to Receive Coaching
  - Assignment of Coaches
  - Compensation of Coaches
5. Opportunity to Receive Academic Tutoring
  - Assignment of Tutors
  - Compensation of Tutors

# “Laundry List”

6. Locker Rooms, Practice and Competitive Facilities
7. Medical and Training Facilities and Services (includes the weight room)
8. Housing and Dining Facilities and Services
9. Publicity
10. Support Services
11. Recruitment of Student Athletes



# How To Measure Title IX Compliance

- Talk to other coaches and student-athletes
- Be a bean counter – evaluate using numbers as well as anecdotal explanations and comparisons, can't control what you can't count or verify.
- Be a critical thinker – ask questions
- Become knowledgeable and familiar with:

# How to Measure Title IX Compliance

- Athletic Department budgets
- NCAA Financial Data Reports
- EADA Reports (Equity in Athletic Disclosure Act)
- Athletic Department Policies and Procedures
- Tour all athletic facilities
- Review student-athlete exit interviews
- Create spreadsheets to compare benefits and services provided for all teams

# What Title IX Does and Does Not Require

- Does not require equal dollars be spent on men and women, only male and female student-athletes must receive equitable benefits
- Does not require the same amount be spent on men's and women's sports. Does allow for discrepancies in costs along as they are based on legitimate and justifiable non-gender related
- Does not require identical programs for male and females
- No sport is excluded from Title IX
- Tiering of sport programs allows institutions to choose to provide greater resources for some teams as long as it provides those resources proportionally to females
- No matter in what forms money arrives (fundraising, donations, ticket revenue, etc) once expended or provided to teams it must be counted by the institution in evaluating Title IX compliance

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# Equipment and Supplies

- Quality
- Suitability
- Amount
- Maintenance and replacement
- Availability

# Scheduling of Games and Practice Times

- Numbers of competitive events per sports
- Number and length of practice opportunities
- Time of day of competitive events are scheduled
- Time of day practice opportunities are scheduled
- Opportunities to engage in available pre-season and post-season competition

# Travel and Per Diem Allowances

- Modes of transportation
- Housing furnished during travel
- Length of stay before and after competitive events
- Per diem allowances
- Dining arrangements



# Opportunities to Receive Academic Tutoring

## Assignment and Compensation of Tutors

- Opportunity to receive Academic Tutoring
  - - availability of tutors
  - - procedures and criteria for obtaining tutorial assistance
- Assignment of Tutors
  - - tutor qualifications
  - - training, experience and other qualifications
- Compensation of Tutors
  - - rates of pay

# Opportunities to Receive Coaching

## Assignment and Compensation of Coaches

- **Availability** - relative availability of full-time coaches and part-time coaches and graduate assistants
- **Assignment** - training, experience and other professional qualifications of a coach
- **Compensation** - allocation of funds for coaching to men's and women's programs

# Locker Rooms, Practice and Competitive Facilities

- Quality and availability of the facilities provided for practice and competitive events
- Exclusivity of use of facilities provided for practice and competitive events
- Availability of locker rooms
- Quality of locker rooms
- Maintenance of practice and competitive facilities
- Preparation of facilities for practice and competitive events

# Medical Training Facilities and Services

- Availability of medical personnel and assistance
- Health, accident and injury insurance coverage
- Availability and quality of weight and training facilities
- Availability and quality of conditioning facilities
- Availability and qualifications of athletic trainers

# Housing and Dining Facilities and Services

- Housing Provided
- Special services as part of housing arrangements (laundry facilities, parking space, maid service, etc.)

# Publicity

- Availability and quality of sports information/ media relations personnel
- Quantity and quality of publications, web pages, social media outlets and other promotional devices featuring men's and women's programs
- Access to other publicity resources for men's and women's programs (radio, tv, streaming, etc.)

# Support Services

- Amount of administrative assistance provided to men's and women's programs
- Amount of secretarial and clerical assistance provided to men's and women's programs
- Amount of non-coaching personnel provided to men's and women's programs (Directors of operations, video technicians, personnel assistants, etc.)
- Office space, equipment and supplies

# Recruitment of Student Athletes

- Whether coaches or other professional personnel are provided with substantially opportunities to recruit
- Whether the financial and other resources made available for recruitment are equivalently adequate to meet the needs of each program
- Whether the differences in benefits, opportunities and treatment afforded to prospective student-athletes of each sex have a disproportionately limiting effect upon the recruitment of students of either sex



# Buzz Words

- Mirror sports
- Industry Standards
- Gender Neutral
- Student-Athlete Experience
- Offsets
- Best practices
- Roster management

# Check List for Dissemination of Information

- Catalog
- Schedule of courses
- Policy manuals
- Faculty and Staff Handbooks
- Student-Athlete handbook
- Publications, web sites, social media sites
- Post information (Locker rooms, training rooms, meeting rooms, weight rooms, etc.)

# Where To Get Help On Campus

- **Sport Supervisor** (administrator responsible for oversight of each sport program)
- **SWA** (Senior Woman Administrator)
- Athletic Director
- **Campus Title IX Coordinator and/or Deputy Coordinator**
- Faculty Athletics Representative(s) (FAR)
- NCAA Compliance Coordinator
- Legal Counsel
- Equal Employment Opportunities Office

# Retaliation

&

## Recognizing Potential Problems

# AVOIDING CLAIMS

- Know Title IX
- Be in compliance with Title IX –
  - conduct regular self-evaluations
  - share budget and EADA information
- Have appropriate and updated Policies and Procedures Manual
- Educate your staff and Athletics Department personnel
- Be sure the Student-Athlete Handbook includes information on Title IX and related university policies

# Four Elements of Retaliation

- Employee engaged in a protected activity
- Employer had knowledge of the employees protected activity
- Employee suffered an adverse action
- There was a casual link between the protected activity and the adverse action

# Protected Activities

- Whistleblower
- Complains about discrimination, inequities, harassment, etc.
- Assisting another individual in reporting violations
- Participates in an investigation
- Files formal complaint
- Other complaints

# Retaliation Includes

Threats, Intimidation, Reprisals and/or  
Adverse Actions

Adverse Actions Include:

- Low or failing evaluations
- Demotion
- Counseling
- Discipline
- Lay-off
- Termination
- Reassignment



# Red Flags

- Bias and inconsistency in treatment and/or enforcement of policies
- Not taking complaints seriously, delaying or failing to report and/or respond to complaints in a timely manner
- Sudden negative evaluations
- Flurry of hostile or mean spirited exchanges
- Inconsistent statements or changing stories
- Sloppy or over documentation

# Steps to Minimize Lawsuits

Do be fair and impartial, avoid bias

Do ask questions and listen

Do be respectful

Do be consistent

Do be through and timely

Do verify

Don't make assumptions

Do document both good and bad

Do track trends

# What You Can Do

- **Educate yourself – Information is Power**
- **Share information with colleagues and peers**
- **Educate your student-athletes (Title IX, Sexual Harassment, Hazing, potential problems with social media)**
- **Educate your parents, fans and community members**
- **Celebrate NAGWSD in Feb. and the anniversary of Title IX on or around June 23**
- **Support other women coaches and coaches of women's sports**
- **Document–Document–Document (be accurate and complete)**
- **Report concerns and issues to Sport Supervisor, SWA, Title-IX Coordinator**
- **File a Title IX complaint (should be a last resort)**
- **Belong to and financially support organizations that support girls women and equity**
- **Finally, after high school please refer to female student-athletes as women**

# My Keys to Success

- Information is power, get it and share it
- Communication
- Common Sense
- Consistency

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