



Colorado High School Activities Association

Title IX:

The "Laundry List"

PRESENTER:

Peg Pennepacker, CAA Consultant

High School Title IX Consulting Services, LLC

September 29, 2022

Peg Pennepacker, CAA Consultant

- 36 years in Public Education
- Teacher, Coach, Assistant Principal, Athletic Director
- ATIXA Advisory Board Member
- PSADA Executive Council Member
- NIAAA National Faculty Member
- NFHS *High School Today* Publications Committee
- Founder/Owner: *High School Title IX Consulting Services, LLC*
- Upper Perkiomen School District (PA) School Board Member



LEGAL DISCLAIMER

The information provided in this presentation is NOT a substitute for legal advice.

Title IX of the Education Amendments of 1972 is a federal law.

Participants of this presentation are strongly encouraged to seek the advice of their state association or school district legal counsel.

June 23, 2022



Title IX was Modeled After Title VI

Title VI of the Civil Rights Act of
1964

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title IX of the Education
Amendments of 1972

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

1968 Executive Order 11246 adds “sex” as a criterion for “minority group” representation.

Title IX of the Education Amendments of 1972

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

[Original 37-word statute]

Title IX has a long history of Sources of Law and other guidance including numerous “Dear Colleague Letters” and Q & A documents.

- November 2018 – Notice of Proposed Rule Making
 - May 6, 2020 – New Regulations
 - September 14, 2020 – Implementation
- *2022 NRMP – New Regs. Coming Spring 2023*

General Concepts About Title IX of the Education Amendments of 1972

- Title IX does not only pertain to sports. It is not a sports law. *The OCR considers athletics an education program.*
- Title IX is the first comprehensive federal law that prohibits sex discrimination in education programs and activities that receive Federal financial assistance.
- Title IX does not only protect females. It protects all students (boys & girls), faculty and staff.
- *Title IX covers sexual harassment/sexual assault in schools.*
- Title IX requires schools to maintain policies, practices and programs that do not discriminate against anyone based on sex.
- *Title IX is at the heart of efforts to create gender equitable schools. Males and females are expected to receive fair and equitable treatment in all arenas of public schooling.*

KEY TITLE IX-RELATED ISSUES

Sex-Based Discrimination

- Program Equity
- Recruitment, Admissions and Access
- Pregnancy
- Athletics
- Employment, Recruitment & Hiring
- Extra-curricular activities
- Housing
- Access to Course Offerings
- Salaries and Benefits
- Financial Assistance
- Facilities
- Funding
- Sex, Gender, Gender Identity

Sexual Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking

Retaliation

Athletic Oversight – Gender Equity

- The oversight of compliance remains the responsibility of the school/district's Title IX Coordinator
- Compliance in athletics may be delegated but for most K-12 recipients, this will be the responsibility of the school/district athletic director(s)
 - Need for outside education on the various areas of Title IX



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 24, 2015

Dear Colleague:

I write to remind you that all school districts, colleges, and universities receiving Federal financial assistance must designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination in education programs and activities.¹ These designated employees are generally referred to as Title IX coordinators.

Your Title IX coordinator plays an essential role in helping you ensure that every person affected by the operations of your educational institution—including students, their parents or guardians, employees, and applicants for admission and employment—is aware of the legal rights Title IX affords and that your institution and its officials comply with their legal obligations under Title IX. To be effective, a Title IX coordinator must have the full support of your institution. It is therefore critical that all institutions provide their Title IX coordinators with the appropriate authority and support necessary for them to carry out their duties and use their expertise to help their institutions comply with Title IX.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX for institutions that receive funds from the Department (recipients).² In our enforcement work, OCR has found that some of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient's compliance with Title IX. By contrast, OCR has found that an effective Title IX coordinator often helps a recipient provide equal educational opportunities to all students.

OCR has previously issued guidance documents that include discussions of the responsibilities of a Title IX coordinator, and those documents remain in full force. This letter incorporates that existing OCR guidance on Title IX coordinators and provides additional clarification and recommendations

¹ 34 C.F.R. § 106.8(a). Although Title IX applies to any recipient that offers education programs or activities, this letter focuses on Title IX coordinators designated by local educational agencies, schools, colleges, and universities.

TITLE IX RESOURCE GUIDE



U.S. Department of Education
Office for Civil Rights
April 2015

Title IX Athletics Compliance Framework

Combined the Sources of Law:

- 1972 Title IX Statute
- 1975 Title IX Regulations – the application of Title IX to athletic programs is conclusively addressed (Section 106.41 Athletics)
- 1979 Title IX Policy Interpretations – establishes the “3-Prong Test”
- 1990 OCR Athletics Investigators Manual
- 1996 Title IX Policy Clarification
- Federal Court Case Decisions & OCR Settlement Agreements

TITLE IX AND ATHLETICS

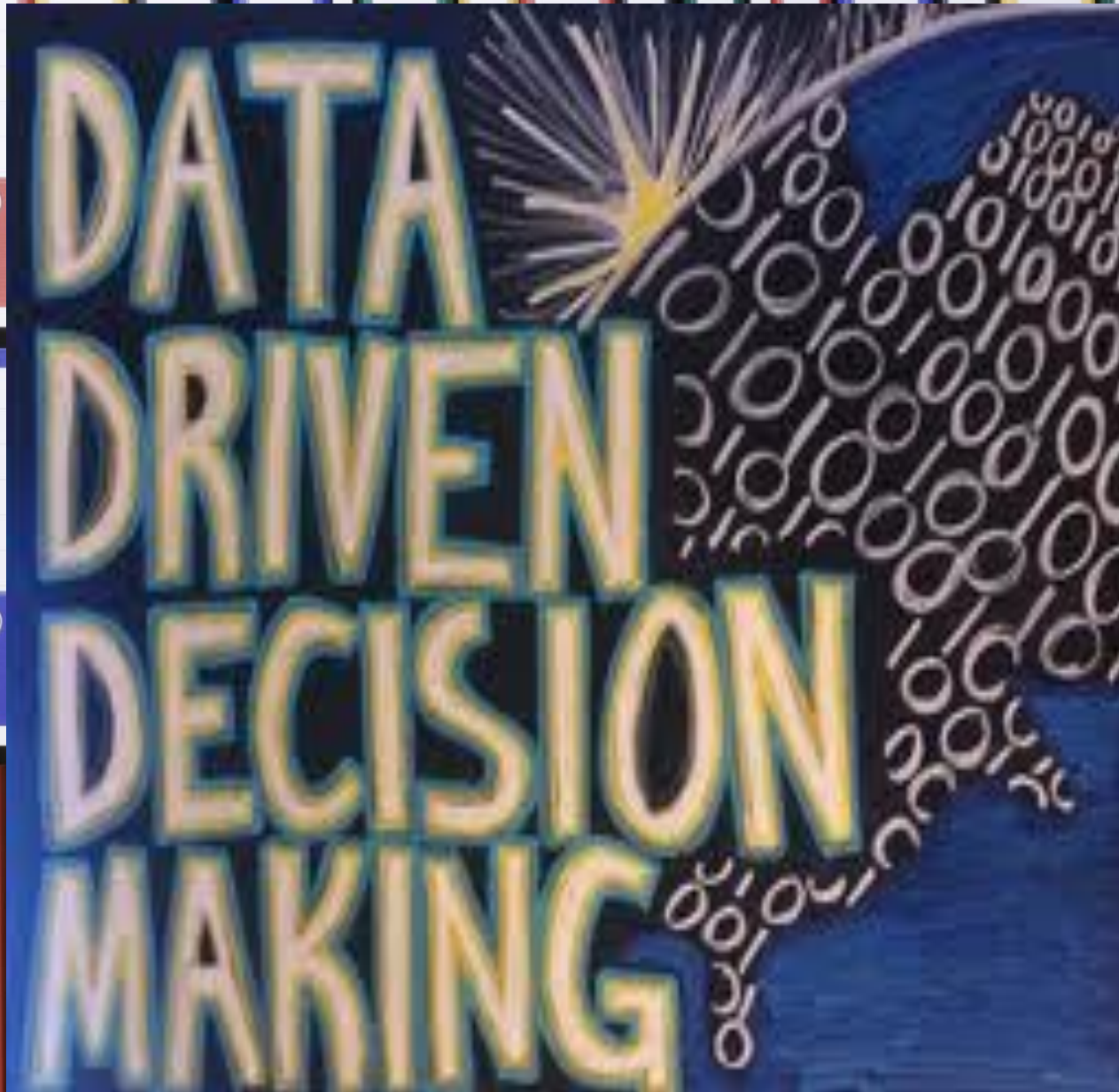
Title IX requires a school/district to:

- Provide equal **opportunities** for female and male students to become interscholastic athletes
Analyzed by means of the Three-Part Test ("Prongs")
- Provide equitable **treatment** of participants in the overall girls' program as compared to the overall boys' program
Analyzed according to eleven (11) different program components (The "Laundry List")

Title IX Athletics Compliance Framework

Components of Assessment

- Effective Accommodations of Athletic Interests and Abilities
(Participation Opportunities)
The Three-Prong Test
- **Other Athletics Benefits and Opportunities**
(Treatment)
The “Laundry List” – Analysis of 11 program areas



*Before you begin,
remember to...*

**Document,
Document,
Document...**

*OCR will want to see
the evidence/proof.*

Strategic Planning
Process/Best Practice

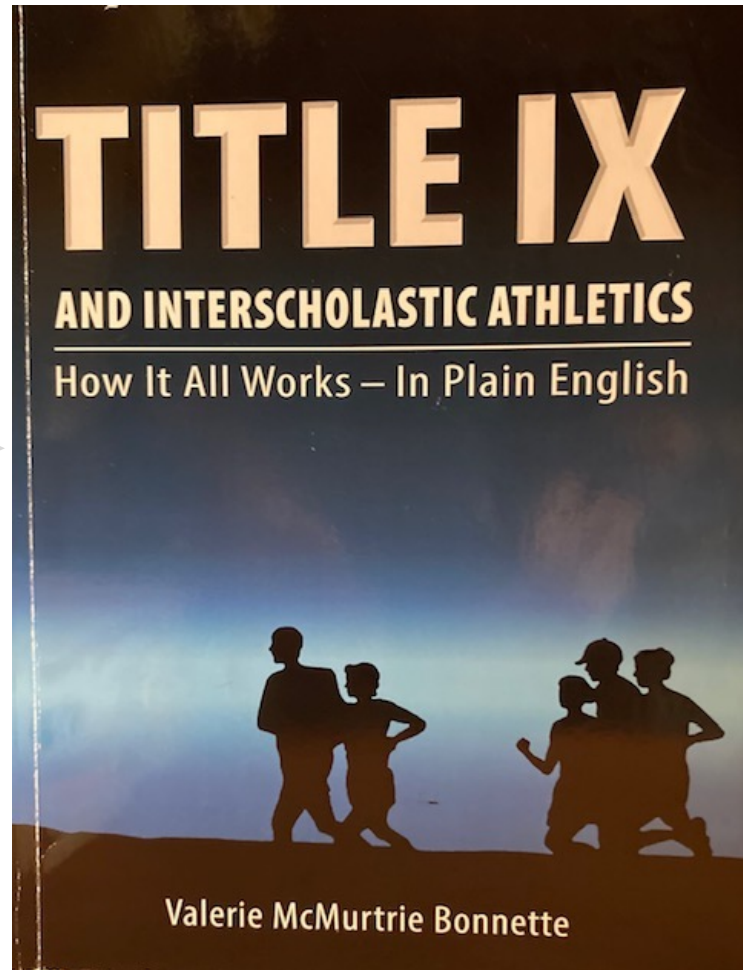
Permanent Title IX File

- Holds documentation and data necessary to analyze and assess the school's athletics program.
- Provides the comprehensive documentation of the athletics program necessary for identifying issues, creating strategic plans, and tracking progress of the school's Title IX athletics compliance.
- Should be housed in a location that is accessible by both the athletic director and the school district's Title IX coordinator.
- Data will be generated and updated as a routine duty of the work of the athletic department.
- The athletic director and Title IX coordinator should be working in concert relative to the data collected and its analysis.

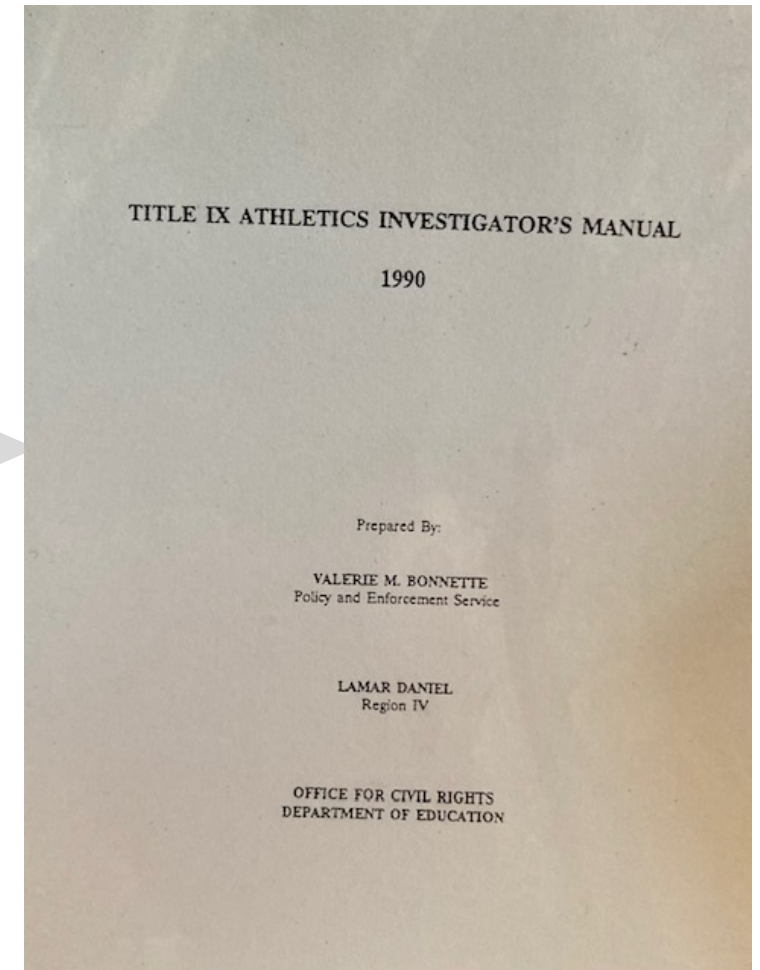
RESOURCES



LTI 506 Manual



www.titleixspecialists.com



<https://eric.ed.gov/?id=ED400763>

EQUIVALENCE OF OTHER ATHLETIC BENEFITS AND OPPORTUNITIES

THE “LAUNDRY LIST”

- **Equipment and Supplies**
- **Scheduling Games and Practice Times**
 - **Travel and Per Diem Allowance**
 - **Opportunity to Receive Coaching**
- **Opportunity to Receive Academic Tutoring**
- **Provision of Locker Rooms, Practice and Competition Facilities**
 - **Provision of Medical and Training Facilities and Services**
 - **Provision of Housing and Dining Facilities and Services**
 - **Publicity**
- **Institutional Support Services**
 - **Recruiting Resources**

Equivalence of Other Athletics Benefits and Opportunities

(Treatment)

- This area of compliance deals with the treatment of student-athletes.
- The benefits flowing to programs and ensuring that they are equitable.
 - Commonly referred to as the *“Laundry List”*.
- There are 11 program areas that athletic directors will review and assess for Title IX compliance.

Equivalence of Other Athletics Benefits and Opportunities

(Treatment)

(Continued)

- Collection of data and the analysis of the 11 program areas will be the most time-consuming aspect of the assessment process.
- Involving coaches in the process may provide a time-saving option. This may provide an opportunity to educate coaches about the law *however*, there may be loss of consistency.
- Whether involving coaches or a gender equity committee, steps will have to be taken to educate those involved in the assessment process to ensure accuracy and consistency.

Equivalence of Other Athletics Benefits and Opportunities

(Treatment)

(Continued)

- Each of the 11 program areas requires analyses of the benefits for each interscholastic team under each *factor* within the program area.
- The term “factor” refers to the issues within each 11- program area that are reviewed for compliance.

Provision of Equipment and Supplies

Provision of Equipment and Supplies

*Key factors in examining the equivalence for boys
and girls:*

- *Quality of Equipment*
- *Suitability of Equipment*
- *Amount of Equipment*
- *Maintenance/Replacement of Equipment*
- *Availability of Equipment*

“RED FLAG” EXAMPLES

Provision of Equipment and Supplies

- Boys are provided more equipment by the school; girls must provide and use their own equipment.
- Boy’s teams are provided an overall higher quality of equipment than the girls’ teams which are provided with cut-rate, low-end equipment.
- Boys’ equipment is replaced more frequently than girls’ equipment.
- Coed equipment that may be shared between same-sport boys’ and girls’ teams is all charged to the budget of the girls’ team to create the façade of financial equity between programs.
- Boy’s teams are provided with laundry services; girl’s teams must do all of their own laundry.

**TEAM ASSESSMENT
PROTECTIVE ATHLETIC EQUIPMENT & OTHER ATHLETICS
SUPPLIES**



COMPLIANCE FACTORS	EVALUATIVE CRITERIA	IN THIS SPACE, ASSESS EVALUATIVE CRITERIA FOR THE TEAM
Quality of Equipment, Shoes, Uniforms, Sport-specific Equipment [Helmets, Bats, Rackets, etc.] & General Sports Equipment	Cost of Equipment? Cost relative to Other Options? High-end vs. Cut-rate? Durability?	
Suitability of Equipment	Officially Sanctioned by National Governing Body? By NFSHSA? By State Association? Meets Sport-specific Specifications as Defined by Sanctioning Bodies?	
Amount of Equipment	Adequacy of Number Provided to Each Member of Team? Do Participants Have to Share Equipment? Do Participants Have to Provide Their Own Equipment?	
Maintenance of Equipment	Reconditioning Provided for Equipment? Laundry Services Provided for Uniforms? Replacement Schedules for Old-Worn-Unsafe Equipment?	
Availability of Equipment	Access to Equipment by Athletes? Access for Use During Practice? After Practice? Schedules of Availability for Equipment?	

From LTC 506 Manual

Summary Assessment for Overall Athletic Program Protective Athletic Equipment & Other Athletic Supplies

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Athletic Equipment/Supplies Benefits to Men as Compared to Women.

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided <u>To</u> Male Athletes Vs. Female Athletes	Identify Corrective Action <u>To</u> Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Quality of Equipment		
Suitability of Equipment		<div style="border: 1px solid red; padding: 5px; display: inline-block;">From LTC 506 Manual</div>
Amount of Equipment		
Maintenance of Equipment		
Availability of Equipment		

Scheduling Games and Practice Times

Scheduling Games and Practice Times

Key factors in examining the equivalence for boys and girls:

- ***Number of Competitive Events per Sport***
- ***Number and Length of Practice Opportunities***
- ***Time of Day Competitive Events are Scheduled***
- ***Time of Day Practice Opportunities are Scheduled***
 - ***Opportunities for Pre and Post Season Competition***

“RED FLAG” EXAMPLES

Scheduling Games and Practice Times

- Boy’s teams have priority of choice as to preferred practice/game times.
- Boy’s teams are scheduled to play an overall higher percentage of maximum allowable contests than are girl’s teams.
- Boy’s teams are given greater opportunities to play in preseason competitions or elite tournaments than are girl’s teams.
- Boy’s teams always play during “prime time” of same-sport doubleheaders.

Note: The OCR considers scheduling to be an important program area – competition is a major benefit.

Team Assessment Game & Practice Times & Scheduling

From
LTC 506 Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria For The Team
Number of Competitive Events Per Sport	Flat Number of Games Per Sport? Percent of Association Maximum Allowed Per Sport?	
Time of Day Competitive Events Are Scheduled	Actual Time of Contests? Order of Contests in Same Sport Doubleheaders? Impact of Scheduling on Athletes Missing Class? Effect of Scheduling on Game Attendance?	
Number & Length of Practice Opportunities	Date of First Practice? Flat Number of Practices? Percent of Association Maximum Number of Practices Allowed?	
Time of Day at Which Practices Are Scheduled	Actual Times of Practices? Procedures for Teams to Choose Practice Times? Priority of Choice to Certain Teams?	
Opportunities for Preseason & Postseason Competition	Pre/Post Season Competition by Invitation or by Application? Who is Responsible for Applying? Does Season of Sport Affect Opportunity for Post-Season Competition?	

Team _____ No. of Participants _____ Head Coach _____

Summary Assessment for Overall Athletic Program Game & Practice Times & Scheduling

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Game & Practice Times & Scheduling Benefits to Men as Compared to Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided To Male Athletes vs. Female Athletes	Identify Corrective Action To Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Number of Competitive Events Per Sport		
Time of Day Competitive Events Are Scheduled		
Number & Length of Practice Opportunities		
Time of Day at Which Practices Are Scheduled		
Opportunities for Preseason & Postseason Competition		

Travel and Per Diem Allowance

Travel and Per Diem Allowance

Key factors in examining the equivalence for boys and girls:

- ***Modes of Transportation***
- ***Housing Furnished During Overnight Travel***
 - ***Length of Stay Before & After Events***
 - ***Per Diem Allowances***
 - ***Dining Arrangements***

“RED FLAG” EXAMPLES

Travel and Per Diem Allowance

- Significantly smaller travel budgets/expenditures for girl’s programs.
- Boy’s teams travel by contract bus carrier while girl’s teams travel by school van or coach/parent/student vehicle.
- Boys’ teams allocated money to travel to distant tournaments/competition; girls’ teams financially restricted to travel in smaller geographic area.
- Boy’s teams travel the day before competition while girl’s teams must travel on the day of competition.
- Boy’s team stay overnight after events while girl’s teams must return home immediately.
- Girls’ teams must assign more students per room than boy’s teams.
- Girls’ teams consistently must stay in significantly lower quality hotels.
- Girls’ teams are not provided with pre or post game meals or they are consistently provided with inferior dining arrangements.

Team Assessment Allocation Of Travel, Transportation & Per Diem Benefits

Team _____ No. of Participants _____ Head Coach _____

From
LTC 506
Manual

COMPLIANCE FACTORS	EVALUATIVE CRITERIA	IN THIS SPACE, ASSESS EVALUATIVE CRITERIA FOR THE TEAM
Modes of Transportation	Transportation Budget for the Team? Does the Team Travel by Contract Bus Carrier? By School Owned Bus/Van? Priority of Access? Who Drives? Size of Travel Squad Permitted? Distances Permitted to Travel?	
Housing Furnished During Overnight Travel	Quality of Accommodations? Number of Students Per Room? Conditions of Being Allowed to Stay Overnight? Funding Priority for Overnight Stays in Comparison to Other School Teams?	
Length of Stay Before & After Events	Arrival Time Before Events? Do Teams Spend the Night Before Events? Do Teams Spend the Night After the Event? Length of Stay Compared to Other School Teams?	
Per Diem Allowances	Is Money Provided for Meals? What is the Amount of Money Provided? Do Team Members Have to Buy Their Own Pre-game or Post-game Meals? Per Diem Provisions as Compared to Other School Teams?	
Dining Arrangements	Quality of Dining Arrangements? Quality as Compared to Other School Teams? Does the Team Eat as a Group and Coach Pays? Pre-game Meal Provided? Post-game Meal Provided?	

Summary Assessment for Overall Athletic Program Allocation Of Travel, Transportation & Per Diem Benefits

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Allocation of Travel, Transportation & Per Diem Benefits to Men as Compared to Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action To Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Modes of Transportation		
Housing Furnished During Overnight Travel		
Length of Stay Before & After Events		
Per Diem Allowances		

Opportunity to Receive Coaching, Assignment and Compensation of Coaches

Opportunity to Receive Coaching, Assignment and Compensation of Coaches

Key factors in examining coaching:

- Opportunity to receive coaching

 - Relative availability of full-time coaches

 - Relative availability of part-time and assistant coaches

 - Relative availability of teaching assistants

 - Volunteers

- Assignment of coaches

 - Training, experience, and other professional qualifications

 - Professional standing

Opportunity to Receive Coaching, Assignment and Compensation of Coaches (CONT.)

Key factors in examining coaching:

- Compensation of coaches

- Rate of compensation (per sport, per season)

- Duration of contracts

- Conditions relating to contract renewal

- Experience

- Nature of coaching duties performed

- Working conditions

- Other terms and conditions of employment

NOTE: The OCR considers coaching a 'big deal'.

"RED FLAG" EXAMPLES

Opportunity to Receive Coaching, Assignment and Compensation of Coaches

- Girl's teams are assigned fewer assistant coaches than same-sport boy's teams.
- Girl's team coaches, overall, have less coaching experience than boy's team coaches.
- Girls' team coaches, overall, must teach heavier course loads than the boy's team coaches.
- Girl's team coaches, overall, have higher levels of multi-sport coaching responsibilities than do the boy's team coaches.
- Girls' team coaches are not given the same benefits (e.g. final hour planning periods, office space, support services) as boy's team coaches.
- Girls' team coaches include significantly higher overall number of volunteer, non-teacher, or parent coaches than boy's teams.
- Girls' team coaches are paid, overall, disparately small stipends.

Team Assessment
 Years Of Experience, Quality, Compensation & Assignment Of Coaching

Team _____ No. of Participants _____ Head Coach _____

From LTC 506
Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria for The Team
Availability of Coaches	Full Time Coaches? Part-time & Assistant Coaches? Graduate Assistant Coaches? Student Coaches? Number of Coaches Assigned to a Team? Relative Number of Coaches Compared to Other Teams?	
Assignment of Coaches	Educational Background of Coaches? Training? Years of Experience as Coach? Record and Success as Coach? Parent/Player Feedback? Professional and Continuing Education as a Coach? Off-Season Coaching Experience?	
Compensation of Coaches	Rate of Compensation? Relative Stipends Between Same-Sport Coaches? Nature & Duration of Coaching Contracts? Evaluation Conditions for Contract Renewal? Nature of Overall Duties Required in Exchange for Coaching Compensation?	

Summary Assessment for Overall Athletic Program
Years Of Experience, Quality, Compensation & Assignment Of Coaching

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Years Of Experience, Quality, Compensation & Assignment Of Coaching Benefits To Men As Compared To Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided To Male Athletes vs. Female Athletes	Identify Corrective Action To Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Availability of Coaches		
Assignment of Coaches		
Compensation of Coaches		

**Opportunity to Receive
Academic Tutoring,
Assignment and
Compensation of Tutors**

Opportunity to Receive Academic Tutoring, Assignment and Compensation of Tutors

Key factors in examining the equivalence for boys and girls:

- ***Academic Tutoring***

- Availability of tutoring -*

- Procedures and criteria for obtaining tutorial assistance*

- ***Assignment of Tutors***

- Tutor qualifications -*

- Training, experience, and other qualifications*

- ***Compensation of Tutors***

- Hourly rate of payment by nature subjects tutored*

- Pupil loads per tutoring session*

- Tutor qualifications*

- Experience*

- Other terms and conditions of employment*

“RED FLAG” EXAMPLES

Opportunity to Receive Academic Tutoring, Assignment and Compensation of Tutors

- Certain boy’s teams are the focus of school tutoring efforts in order to maintain athletic eligibility for the athletes on those teams.
- Tutors are provided only to “star” athletes (common are members of the football or boy’s basketball teams).
- Priority of access to computer labs or other support services for tutoring are given to boy’s teams over girls’ teams.
- Male athletes are provided with one-on-one tutoring; females are given access only to infrequent group tutoring sessions.

Team Assessment
Academic Tutoring Services for Student Athletes

Team _____ No. of Participants _____ Head Coach _____

From LTC 506
Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria For The Team
Opportunity to Receive Academic Tutoring	Availability of Academic Tutoring? Procedures for Obtaining Tutorial Support? Amount of Time Tutors Are Available to Athletes? Tutors Available Only for Star Athletes? Who Assigns/Supervises Tutors? Support for Tutoring? Computers? Books?	
Assignment of Tutors	Tutor Qualifications? Tutor Training? Who Assigns and Supervises Tutors? How are Tutors Evaluated? Pupil Loads Per Tutoring Session? Priority of Access to Tutors for Members of Any Particular Team?	
Compensation of Tutors?	Tutor Salaries? Hourly rates Paid to Tutors? School Selected Tutors or Independent Contractors? Differences in Compensation Between Tutors Provided for Different Teams?	

Summary Assessment for Overall Athletic Program Academic Tutoring Services for Student Athletes

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Academic Tutoring Services for Student Athletes Benefits to Men as Compared to Women.

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes vs. Female Athletes	Identify Corrective Action to Be Taken to Remedy Differences In Program Area Benefits Between Male And Female Athletes
Opportunity to Receive Academic Tutoring		
Assignment of Tutors		
Compensation of Tutors?		

From LTC 506
Manual

**Provision of
Locker Rooms, Practice
and Competition
Facilities**

Provision of Locker Rooms, Practice and Competition Facilities

Key factors in examining the equivalence for boys and girls:

- ***Quality and Availability of the Facilities provided for Practice/Competitive Events***
 - ***Exclusivity of Use of Facilities provided for Practice/Competitive Events***
 - ***Availability of Locker Rooms***
 - ***Quality of Locker Rooms***
 - ***Maintenance of Practice/Competitive Facilities***
- ***Preparation of Facilities for Practice/Competitive Events***

Provision of Locker Rooms, Practice and Competition Facilities

- A significant overall difference between the facilities provided to the girl’s program as compared to the boy’s program.
- Boy’s teams have exclusive locker rooms while girl’s teams share.
- Visiting boy’s teams displace girl’s teams from locker rooms - boy’s teams have exclusive use of their locker rooms.
- Quality size/security of girl’s locker rooms and or shower rooms are significantly different from or less than boy’s facilities.
- Girl’s teams share practice/competition facilities with other school activities – boy’s teams have exclusive use of facilities.
- Girl’s teams use primarily off-campus facilities – boy’s teams have priority access to on-campus facilities.
- Girl’s teams must prepare their own facilities for practice and competition – school staff prepare boy’s facilities.

Team Assessment Locker Rooms, Practice Facilities & Competition Facilities

Team _____ No. of Participants _____

Head Coach _____

From LTC 506
Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria For The Team
Practice/Competition Facility Quality & Availability	Condition? Sufficiency for Program? Proximity to Locker Rooms? Equality of Access to Facilities? Special Features, Such as Scoreboards, Spectator Seating, Etc.?	
Practice/Competition Facility Exclusivity of Use?	Use of Facility by Other Institutional Facilities? Priority of Use of Shared Facilities to Men's Teams Instead of Women's Teams?	
Practice/Competition Facility Event Preparation?	Who Sets Up the Facility or Playing Environment for Practices/ Competition? Do School Custodial Staff Set Up All Men's Events, But Women's Teams Must Set Up Their Own Events?	
Practice/Competition Facility Maintenance and Repair	Who Maintains and Repairs the Facilities & Playing Fields? Do School Staff Make Repairs for Men's Teams, But Women's Teams Must Do Their Own Maintenance Work?	
Locker Room Quality	Size of Locker Room? Size of Lockers? Percent of Players Who Receive Lockers? Sharing of Lockers by Athletes? Quality of Shower Facilities?	
Locker Room Availability	Hours of Locker Room Availability? Proximity of Locker Room to Practice &	

Summary Assessment for Overall Athletic Program Locker Rooms, Practice Facilities & Competition Facilities

Collectively Analyze All Team Assessment Forms in Order to Evaluate the
Overall Locker Room/Facilities Benefits to Men as Compared to Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action to Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Practice/Competition Facility Quality & Availability		
Practice/Competition Facility Exclusivity of Use?		
Practice/Competition Facility Event Preparation?		
Practice/Competition Facility Maintenance and Repair		
Locker Room Quality		

Provision of Medical and Training Facilities and Services

Provision of Medical and Training Facilities and Services

Key factors in examining the equivalence for boys and girls:

- ***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/Training Facilities***

“RED FLAG” EXAMPLES

Provision of Medical and Training Facilities and Services

- Team physicians or athletic trainers consistently attend boy’s games but only on call for girl’s games.
- Professional athletic trainers attend boy’s games but only student trainers attend girl’s games.
- Certain boy’s teams have priority access to weight rooms, conditioning facilities and athletic training facilities.
- Boy’s teams, overall, have a greater number of hours of access to weight rooms, conditioning facilities, and athletic training facilities than girls.
- All male student-athletes are provided insurance coverage by the school/females are given only the option of purchasing their own.

Team Assessment Facilities For & Access to Athletic Training & Medical Services

Team _____ No. of Participants _____ Head Coach _____

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria for The Team
Availability of Medical Personnel & Assistance	Quality of Medical Personnel? Doctors? Physical Therapists? Nurses? When Available to Athletes? Present at Men's Games? Present at Women's Games? Equal Access by All Teams to Medical Services?	
Availability of Athletic Trainers & Training Facilities	Quality of Athletic Training Personnel? Use of Independent Contractors? Involvement of Student Trainers? Quality of Athletic Training Facilities? Access to Athletic Training Facilities by All Athletes?	
Availability of Weight & Training Facilities	Quality of Facilities? Access to Facilities by Women Athletes? Priority of Access to Any Particular Team or Group? Professional Guidance Available to Athletes? Strength Coaches Available?	
Availability of Conditioning Facilities	Quality of Facilities? Equal Access to the Facilities by Women? Priority of Access to Any Particular Team or Group? Professional Guidance Available?	
Health/Accident/Injury/Insurance Coverage	Are There Any Coverage Disparities in Health, Injury, Accident, or Catastrophic Injury Insurance Coverage Based on Gender? Type of Coverage Provided for Team Members?	

From LTC 506
Manual

Summary Assessment for Overall Athletic Program Facilities For & Access to Athletic Training & Medical Services

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Facilities For & Access To Athletic Training & Medical Services Benefits to Men as Compared to Women.

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action to Be Taken to Remedy Differences in Program Area Benefits Between Male and Female Athletes
Availability of Medical Personnel & Assistance		
Availability of Athletic Trainers & Training Facilities		
Availability of Weight & Training Facilities		
Availability of Conditioning Facilities		
Health/Accident/Injury/Insurance Coverage		

From LTC 506
Manual

Provision of Housing and Dining Facilities and Services

Provision of Housing and Dining Facilities and Services

Key factors in examining the equivalence for boys and girls:

- ***Housing provided***
- ***Dining***
- ***Special Services Related to Housing/Dining***

"RED FLAG" EXAMPLES

Provision of Housing and Dining Facilities and Services

- Girls' housing is, overall, significantly inferior to housing provided for boys.
- Female athletes are housed more-to-a-room than male athletes.
- Special dining arrangements made when practice time or competition interferes with boy's teams meals while no such adjustments are made for girl's teams.
- Girls' teams receive lower per diems when dining facilities are closed during school breaks than boy's teams receive.

Team Assessment Institutional Housing/Dining Facilities & Related Services

From LTC 506
Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria for The Team
Housing	Nature of Housing Provided? Arranged by the School? Size of Rooms? Number of Students Per Room? How Furnished? Bath & Shower Facilities? What are Arrangements When Athletes Must Be on Campus While Dorms are Closed?	
Dining	Meal Plans? Number of Meals Per Week? Training Table Access? Arrangements When Practices Interfere with Meals? Pre-game & Post-game Meal Arrangements? Arrangements When Athletes Must Be on Campus While Dining Facilities are Closed?	
Special Services Related to Housing & Dining	Laundry Facilities? Kitchen Facilities? Commons Rooms? Television Rooms? Computer Labs?	

Team _____ No. of Participants _____ Head Coach _____

Summary Assessment for Overall Athletic Program Institutional Housing/Dining Facilities & Related Services

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall
Institutional Housing/Dining Facilities

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action To Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Housing		
Dining		
Special Services Related to Housing & Dining		

From LTC 506
Manual

Publicity

Publicity

Key factors in examining the equivalence for boys and girls:

- ***Availability and quality of sports information personnel***
- ***Access to other publicity resources for boys' and girls' programs***
- ***Quantity and quality of publications and other promotional devices featuring boys' and girls' programs***

Publicity

- Professional SID or school personnel focuses on boy’s teams while student staff covers girls.
- Professional SID or school personnel cover girl’s teams at home games only but cover boy’s teams home/away.
- SID or school personnel ensures boy’s teams statistical info is promptly reported to media; girl’s team info only reported sporadically.
- SID or school personnel heavily promotes only football/boy’s basketball while no girl’s sports are heavily promoted.
- Boy’s program media guides are much more extensive/high quality/more professional while girl’s media guides are overall inferior.
- Pep band, cheerleaders, drill teams, marching bands, and other support groups are often assigned to boy’s events; rarely to girls.

Team Assessment

Nature of Sports Publicity-Marketing-Media Services

Team _____ No. of Participants _____ Head Coach _____

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria For The Team
Sports Information Personnel	Availability of Sports Information Personnel? Quality of Sports Information Personnel? Student Staff vs. Professional Staff? How Often Assigned to Cover Home Games? How Often Assigned to Away Games?	
Publications	What Type of Publications are Produced for Team Use? Media Guides? Game Programs? Schedule Cards? Posters? Press Releases? Media Statistic Releases? Coverage in Local Media?	
Other Publicity Resources	Marketing Efforts to Attract Fans? Halftime Events and Promotions? To What Extent are Support Groups Such as Cheerleaders, Pep Bands, Pom Pon Squads, Drill Teams, Jazz Bands & Marching Bands Provided?	

From LTC 506 Manual

Summary Assessment for Overall Athletic Program Nature Of Sports Publicity-Marketing-Media Services

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Nature of Sports Publicity-Marketing-Media Services Benefits to Men as Compared to Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action To Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Sports Information Personnel		
Publications		
Other Publicity Resources		

Institutional Support Services

The administrative and clerical support provided to an athletic program can affect the overall provision of opportunity to male and female athletes, particularly to the extent that the provided services enable coaches to perform better their coaching functions.

Key factors:

- ***Amount of Administrative Assistance Provided to boy's and girls' programs***
- ***Amount of Secretarial/Clerical Assistance Provided to boys' and girls' programs***

Institutional Support Services

"RED FLAG" EXAMPLES

Institutional Support Services

- Coaches of girl's teams do most of their own administrative/secretarial/clerical work while coaches of boy's teams receive substantial assistance.
- Athletic Director spends most of the time on administrative tasks for boy's teams.
- Football/boy's basketball coaches have superior offices and superior support services compared to any coaches of girl's teams.
- Coaches of boy's teams have priority of access to office equipment and to support staff over coaches of girl's teams.

Team Assessment Institutional Support Services for Athletic Programs

Team _____ No. of Participants _____ Head Coach _____

From LTC 506
Manual

Compliance Factors	Evaluative Criteria	In This Space, Assess Evaluative Criteria for The Team
Administrative Assistance	Number of Administrators Assigned to the Men's Program? To the Women's Program? Amount of Time Administrators Spend Working to Support the Team? Number of Hours Personally Spent by Team Coaches on Administrative Tasks for the Team?	
Secretarial/Clerical	Number of Secretarial Staff Assigned to Men's Programs? To Women's Programs? Amount of Time They Spend Working for the Team? Number of Student Workers Assigned to Team & Amount of Time Worked? Number of Hours Coaches Personally Spend on Clerical Tasks for the Team? Size of Coaches' Offices? Shared Offices? Office Equipment Available? Computers? Faxes? Phones? Copiers? Availability of Office Supplies?	

Summary Assessment for Overall Athletic Program Institutional Support Services for Athletic Programs

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Institutional Support Services Benefits to Men as Compared to Women.

From LTC 506
Manual

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action to Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Administrative Assistance		
Secretarial/Clerical		

**Recruiting Resources
Provided to
Athletic Programs**

Recruiting Resources Provided to Athletic Programs

Key factors in examining the equivalence for boys and girls:

- *Opportunity to Recruit*
- *Equivalent Resources to Recruit*
- *Effect of Athletic Program Benefits on Recruiting*

***Ollier v. Sweetwater Union School District (CA)*
*2009 & 2014***

“RED FLAG” EXAMPLES

Recruiting Resources Provided to Athletic Programs

- Certain boy’s teams have disproportionately high opportunities and resources to recruit compared to any girls’ teams.
- Boy’s teams have priority of access to vehicles used for recruiting.
- Disproportionately high percent of campus visits by prospective male student athletes are subsidized by the school.
- Same-sport girls’ teams have fewer assistant coaches thereby limiting recruiting opportunities for those teams.

Team Assessment Recruiting Resources for Athletic Programs

Team _____ No. of Participants _____ Head Coach _____

From LTC 506
Manual

COMPLIANCE FACTORS	EVALUATIVE CRITERIA	IN THIS SPACE, ASSESS EVALUATIVE CRITERIA FOR THE TEAM
<p>Equal Opportunity to Recruit</p>	<p>Coaches Provided with Adequate Opportunity to Recruit? Amount of Time Coaches Have for Recruiting? Number & Availability of Assistant Coaches for Recruiting? Administrative Support Provided for Recruiting?</p>	
<p>Equivalent Resources for Recruiting Efforts</p>	<p>Recruiting Budgets for Teams? Number of Institution-Subsidized Campus Visits Per Team? Quality of Campus Visits by Team? Modes of Transportation? Campus Tours? Quality of Lodging? Meals? Entertainment?</p>	
<p>Effect of Athletic Program Benefits on Recruiting</p>	<p>Do Differences in Overall Athletic Benefits in All of the Other Program Areas Being Provided to Enrolled Athletes Have Limiting Effect on the Ability of the Team to Recruit Prospective Student-Athletes?</p>	

Summary Assessment for Overall Athletic Program Recruiting Resources for Athletic Programs

Collectively Analyze All Team Assessment Forms in Order to Evaluate the Overall Recruiting Resources Benefits to Men as Compared to Women.

Compliance Factors For Program Area	Identify Collective, Overall Differences Between Program Area Benefits Provided to Male Athletes Vs. Female Athletes	Identify Corrective Action to Be Taken To Remedy Differences In Program Area Benefits Between Male And Female Athletes
Equal Opportunity to Recruit		
Equivalent Resources for Recruiting Efforts		
Effect of Athletic Program Benefits on Recruiting		

From LTC 506
Manual

Booster Club Contributions and Outside Funding

Nothing in the regulatory language of Title IX dictates that funding must be the same for the girls' and boys' overall programs or boys' and girls' teams in the same sport. Lack of funds, however, cannot justify sex discrimination.

Title IX does not require dollar-for-dollar matching in the girls' and boys' programs.

Title IX requires schools to provide female and male students an equal opportunity to become athletics participants and receive equivalent treatment as participants.

Booster Club Contributions and Outside Funding (2)

Schools are not absolved of these requirements, even if donors choose to donate only to boys' teams, the booster clubs support only football, or coaches and/or administrators make poor choices about how to spend the available money.

This means that whatever benefits are provided for student-athletes via booster club or donated monies, tangible gifts, and endowments, are all viewed under Title IX as benefits provided by the school.

This principal of institutional responsibility is the same under all civil rights laws so as to prohibit actions that would circumvent those laws.

Guiding Booster Club Contributions and Outside Funding

- School Board Policy for guidance/oversight of Booster Clubs
- School Board Policy for Gifts/Contributions to the school district
- Unify (“marry”) like-sports (i.e., boys’ and girls’ basketball)
- Meet regularly with booster club leaders
- Use a school “Team” approach – District Title IX Coordinator, Superintendent, Principal, School Board representative, etc.
- Collaborate to find ways to make contributions “work”
- Caution: avoiding the “keeping up with the Joneses” mind-set
- Keep an open mind – Work together – Educate

EQUIVALENCE OF OTHER ATHLETIC BENEFITS AND OPPORTUNITIES

THE “LAUNDRY LIST”

- **Equipment and Supplies**
- **Scheduling Games and Practice Times**
 - **Travel and Per Diem Allowance**
 - **Opportunity to Receive Coaching**
- **Opportunity to Receive Academic Tutoring**
- **Provision of Locker Rooms, Practice and Competition Facilities**
 - **Provision of Medical and Training Facilities and Services**
 - **Provision of Housing and Dining Facilities and Services**
 - **Publicity**
- **Institutional Support Services**
 - **Recruiting Resources**

Title IX Athletics Compliance Framework

Components of Assessment

- Effective Accommodations of Athletic Interests and Abilities
(Participation Opportunities)
The Three-Prong Test
- Other Athletics Benefits and Opportunities
(Treatment)
The “Laundry List” – Analysis of 11 program areas

A School's Motivation to be in Compliance...


U.S. Department of
Education

Federal Law



Office for Civil Rights
(OCR)

VS.



Do the Right
Thing

Importance of Compliance

- Moral/Professional Obligation -> *Federal Law*
- Proactive Leadership Function/Best Practice
- State athletics data collection laws
- A complaint was filed – Defeat the urge to sue...
- To educate yourself and others
- To develop a *Strategic Plan* for improvement
- *To assess the current status of the program – How are we doing? What can we do better? Here are the things that we are doing well!*
- Do the right thing for ALL students!

Use a “TEAM” Approach



Gender Equity Committee (include stakeholders)

- Athletic Administrator
- District Title IX Coordinator
- Superintendent/Assistant Superintendent/ Director of Human Resources
- School Board Members
- Building Level Administrators
- Supervisor of Buildings and Grounds
- Coaches
- Student-Athletes
- Parents
- School District Legal Counsel
- Other Professionals and Community Members

Educate, Educate, Educate...

START SOMEWHERE...START WITH WHAT YOU KNOW

- Three-Prong Test Analysis – Program Expansion/Participation Opportunities
- Treatment - "Laundry List": Look at obvious potential *"red flags"* in the 11-program areas – Facilities, Schedules, Equipment (uniforms), Coaches, Transportation, Booster Clubs, etc.

START SOMEWHERE...START WITH WHAT YOU KNOW

- **Conduct Student-Athlete Participation Interest Surveys yearly; bi-yearly at the very least.**
- **Talk to student-athletes and coaches.**
- **Incorporate a student-athlete leadership program to engage student-athletes in conversation.**
- **Ask Guidance Counselors (and other stakeholders) to be a part of the process.**
- **Talk with PE department staff.**
- **Make a commitment to improve the experiences of ALL student-athletes**
- *Show that you care...*

District Title IX Coordinator

State Athletic Association/Athletic
Directors Association/NIAAA/NFHS

Outside Consultant/Local College &
University staff

School's Legal Counsel

Outside Organizations: ATIXA, WSF, ICS

Contact the Office for Civil Rights

Collaborate/Talk to one another



SEEK ASSISTANCE

Equity

[Print](#)

- [Equity Manual](#)
- [Booster Club](#)
- [Transgender Policy Procedure](#)
- [Gender Spectrum](#)
- [Transgender Guidance](#)
- [Transgender Support for Students](#)
- [Mandatory Reporters of Child Abuse/Neglect in CO](#)
- [Admin. Proportionality Checklist for Spirit Teams](#)
- [Title IX Self Audit Tool \(NFHS\)](#)
- [Title IX Brochure \(NFHS\)](#)
- [CHSAA Service Dog Guidelines](#)
- [SPORTS EQUITY FOUNDATION INFORMATION](#)
 - [Resources for LGBTQ high school student-athletes](#)
 - [Trans inclusion resources for high school sports](#)
 - [How to get connected with the LGBTQ sports community](#)
 - [Inspiring videos of athletes and others coming out and being out in sports and in life](#)
 - [Resources for parents who have LGBTQ children](#)
 - [LGBTQ-inclusion resources for athletic departments and coaches](#)
 - [LGBTQ student-athlete scholarship opportunities](#)
- [Inclusive Sports and Activities - Youth Celebrate Diversity](#)
- [LGBTQ+ Athletics & Education Teen Toolkit](#)
- [GLSEN Safe Space Toolkit for Educators](#)
- [GLAD](#)

Title IX Resources

- NIAAA LTC 506: Title IX & Sexual Harassment in Athletics Programs www.niaaa.org
- NFHS Learn Courses www.nfhs.org
- Good Sports, Inc. www.titleixspecialists.com
- Association of Title IX Administrators (ATIXA) www.atixa.org
- Title IX Clearinghouse www.titleix.com
- National Women's Law Center www.nwlc.org
- Women's Sports Foundation www.womenssportsfoundation.org
- Institutional Compliance Solutions www.icslawyer.com
- Education Risk Management www.EduRisksolutions.org
- Stop Sexual Assault In Schools www.stopsexualassaultinschools.org
- Pennsylvania Coalition Against Rape (SH curriculum) www.pcar.org
- Stop Educator Sexual Abuse Misconduct & Exploitation www.sesamenet.org

NIAAA Leadership Training Program

The NIAAA believes in the importance of Title IX and Title IX compliance.

There is one single four-hour course in the Leadership Training Program dedicated to this law.

THE NIAAA CHAMPIONS THE PROFESSION OF ATHLETIC ADMINISTRATION THROUGH EDUCATIONAL OPPORTUNITIES, ADVOCATING ETHICS, DEVELOPING LEADERS, AND FOSTERING COMMUNITY.

LTC 506

**ATHLETIC ADMINISTRATION:
LEGAL ISSUES II (TITLE IX AND
SEXUAL HARASSMENT)**

LTC 506
©COPYRIGHT NIAAA 2021 - ALL RIGHTS RESERVED

**LEADERSHIP
TRAINING COURSE**

NIAAA ACCREDITED
AdvancED

LEADERSHIP
SERVICE
EDUCATION

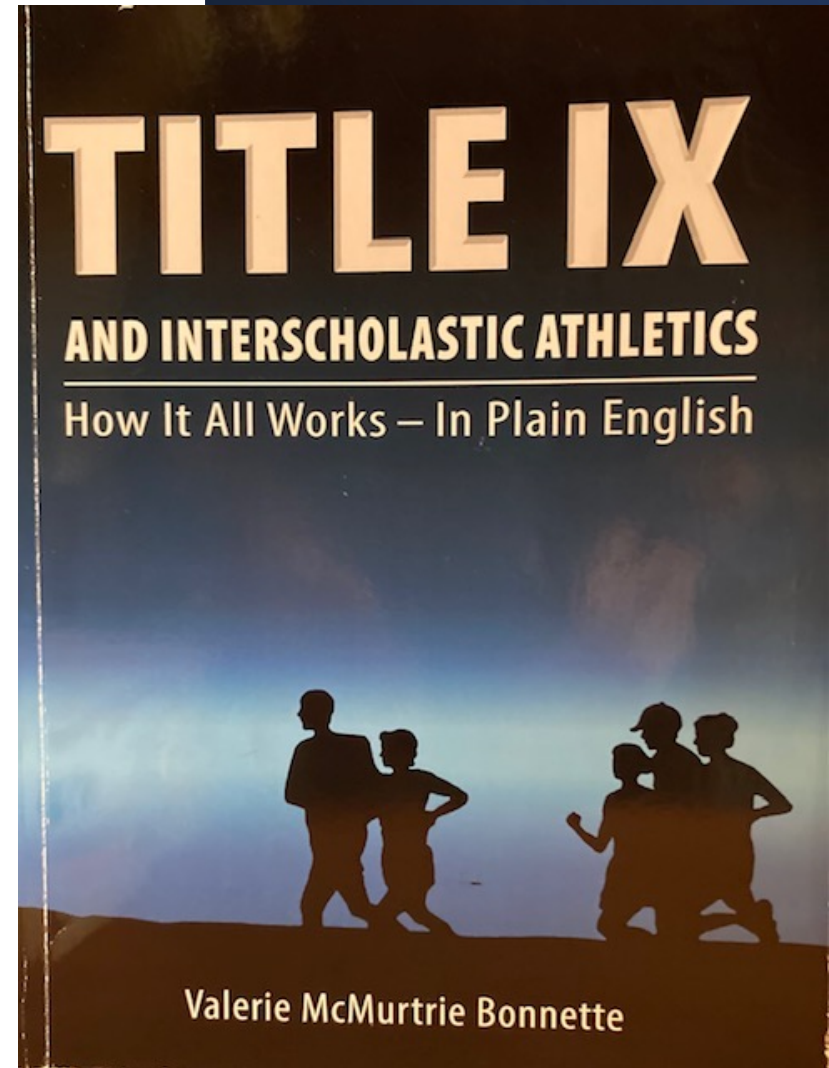
NIAAA
National Interscholastic Athletic
Administrators Association

"Title IX and Interscholastic Athletics: How It All Works – In Plain English"

Good Sports, Inc.

Valarie Bonnette

www.titleixspecialists.com





← [Back to Courses](#)



Recommended for: **Coach, Administrator**

Title IX

Elective Course



[Description](#)

[Course Outline](#)

[FAQs](#)

Please Select Your State ▾

\$

[Order Course](#)

Description

Over 3.4 million girls participate in High School Athletics every year. This participation is fueled by the flagship legislation for girls' participation, Title IX. The NFHS has developed this Title IX course to help interscholastic professionals know the history and impact of Title IX and understand the responsibilities of a school and staff pertaining to girls athletic programs. This course discusses the standards at which Title IX compliance is evaluated and breaks down the factors involved in supporting girls programs.

This Course Includes

- ✓ Approved for 1 Clock Hour
- ✓ Certificate of Completion

Be Proactive...Do the Right thing for ALL Students...

Proactive

Proactive

initiate change rather than
reacting to events in the
acting in advance of a f
taking preemptory acti

Some final thoughts...

- Don't be afraid to "do the right thing"
- Don't be apathetic or uncaring
- You are not alone
- *Make the effort to comply*
- Take it slow – work through the process – begin with what you know..."chunk-it"
- Do your homework...be the expert
- Title IX Coordinators and Athletic Directors need to communicate and collaborate
- Seek assistance
- Educate, educate, educate...



Questions and Conversations

Thank you for allowing me to visit with you today!

Contact Information:

Peg Pennepacker, CAA

814-470-7101 (cell)

pegpennepacker@gmail.com

Title
IX