



# Title IX and Athletic Opportunities in K-12 Schools

A Resource for Students, Parents, Coaches, Athletic Directors, and School Communities

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This resource is designed by the [Office for Civil Rights \(“OCR”\)](#) of the U.S. Department of Education (“Department”) to help K-12 school communities (“schools”), including students, parents, coaches, athletic directors, and school officials, evaluate whether a school is meeting its legal duty to provide equal athletic opportunity based on sex consistent with Title IX of the Education Amendments of 1972 (“Title IX”) and the Title IX regulations.<sup>1</sup>

This resource explains the rights that students have to participate in interscholastic, intramural, or club athletic programs free from discrimination based on sex and may help you evaluate whether your school’s athletic program is providing equal opportunity consistent with Title IX.

If you believe that your school may not be providing equal athletic opportunities based on sex, you may file a complaint through your school’s grievance procedures or directly with OCR, as described on

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<sup>1</sup> Title IX says: “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.” You can find the full Title IX statute at [20 U.S.C. §§ 1681–1688](#). You can find the Department’s Title IX regulations at [34 C.F.R. Part 106](#). The Title IX athletics regulation is at [34 C.F.R. § 106.41](#). In addition, the Department has published several guidance documents on Title IX and athletics that are linked in the Appendix. The examples and questions in this resource draw in part from those guidance documents but are not intended to be comprehensive of all of the guidance documents linked in the Appendix. While this resource focuses on boys and girls teams, please note that schools must also ensure equal opportunity based on sex on coeducational teams.

page 9.<sup>2</sup> You do not need to follow the steps described here before filing a complaint. Filing a complaint with OCR may result in an investigation into whether your school is in compliance with Title IX and the Title IX regulations. A full Title IX investigation by OCR may also involve additional questions and considerations. For a similar resource on Title IX's application to athletic programs at colleges and universities that receive Federal funds, please see [Title IX and Athletic Opportunities in Colleges and Universities](#).

Any difference from the language of Title IX, the Title IX regulations, or previous OCR guidance documents is not intended to communicate a change in OCR's interpretation of Title IX or the Title IX regulations. This resource does not have the force and effect of law. OCR's authority stems from Title IX and the Title IX regulations, which are legally binding and cited in this resource.

## Background on Title IX

### What is Title IX?

Title IX is a Federal civil rights law. It prohibits schools that receive Federal funding from discriminating based on sex in their programs or activities. The Department's Title IX regulations include requirements for how schools must comply with Title IX, including in their athletic programs.

### How does Title IX cover athletic teams in K-12 schools?

If your school receives Federal funding, all the programs and activities your school operates or sponsors—including its athletic program—are covered by Title IX. Public K-12 schools receive Federal funding, while private K-12 schools generally do not. However, if your private K-12 school receives Federal funding, it is covered by Title IX.

### What does Title IX require for schools' athletic programs?

The Title IX regulations require schools to provide *equal opportunity* based on sex. This requirement applies to schools' athletic programs, including club, intramural, and interscholastic teams.

Equal opportunity in K-12 school athletic programs is measured by:

1. The benefits, opportunities, and treatment given to boys and girls teams<sup>3</sup> and
2. How a school is meeting students' athletic interests and abilities.<sup>4</sup>

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2 This resource focuses on schools' athletic programs that offer team sports as an extracurricular activity. For more information about schools' obligations under Title IX in their physical education classes, see the Title IX regulation on access to classes and schools at [34 C.F.R. § 106.34\(a\)](#).

3 [34 C.F.R. § 106.41\(c\)\(2\)–\(10\)](#).

4 [34 C.F.R. § 106.41\(c\)\(1\)](#).

### Evaluating Your School's Athletic Program

The sections that follow include information on these two points and sample questions you can ask your school. As noted above, a full Title IX investigation by OCR may involve additional questions and considerations. If OCR opens an investigation of your school regarding possible sex discrimination, OCR will seek the information needed to determine compliance through its Title IX enforcement authority.<sup>5</sup> OCR evaluates each complaint on a case-by-case basis, considering the specific circumstances of the school and its athletic program.

### Benefits, opportunities, and treatment for boys and girls teams

When a school offers boys and girls athletic teams, the Title IX regulations require that the school offer equivalent benefits, opportunities, and treatment to its boys and girls teams overall. Answering “no” to any of these questions may indicate a possible Title IX violation.<sup>6</sup>

#### ● Equipment and Supplies

- Does your school provide athletic gear of equivalent quality, quantity, suitability, condition, and availability for athletes on boys and girls teams? *(For example, uniforms, apparel, sports equipment, general supplies)*

#### ● Scheduling Games and Practice Time

- Do boys and girls teams both have a reasonable opportunity to compete before an audience? *(For example, Sunday morning games may be less likely to generate attendance and interest than Friday night games. So, scheduling all girls teams' games for Sunday mornings and all boys teams' games for Friday nights would likely not provide the girls teams the same opportunity to compete before an audience as the boys teams.)*
- Do the boys and girls teams play an adequate number of regular season games or other competitions for the team's division level?
- Are scheduled practice times equally convenient for both boys and girls teams? *(For example, always scheduling practice for the girls swim team at 5am and the boys swim team at 7am, would likely not provide equally convenient practice times.)*
- Are the number and length of practice sessions equivalent for girls and boys teams in the same or similar sports?

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<sup>5</sup> [34 C.F.R. § 100.7](#) (incorporated by reference at [34 C.F.R. § 106.81](#)).

<sup>6</sup> In evaluating a school's compliance with Title IX, OCR will consider a variety of factors such as, but not limited to, the examples in the following questions. Please note, OCR would also consider whether your school has a nondiscriminatory reason for any difference in benefits, opportunities, or treatment in the athletic program, such as differences based on unique aspects of particular sports.

### ● Travel and Daily Allowance

- Do athletes on girls and boys teams use equivalent modes of transportation when traveling to away games or competitions? *(For example, carpool, school bus, charter bus, airplane)*
- Do athletes on girls and boys teams have equivalent accommodations when traveling overnight? *(For example, quality of hotels, number of athletes per room)*
- When athletes on girls and boys teams travel to games, are they offered equivalent meals or meal allowances? *(For example, pre-game meals, set allowance per meal or per day)*

### ● Coaching

- Do boys and girls teams have coaches with equivalent qualifications? *(For example, experience coaching, teaching, or playing at the high school, college, amateur, or professional level)*
- Are coaches available to girl and boy athletes for equivalent amounts of time?
- Do coaches of boys and girls teams receive equivalent compensation?
  - If not, can differences in pay be justified by factors that could be nondiscriminatory? *(For example, experience, number of athletes, extra responsibility to supervise other coaches, outstanding record of achievement, nondiscriminatory factors related to the context of recruiting and hiring coaches for specific sports)*
- Do coaches of girls and boys teams have equivalent “other duties”? *(For example, teaching versus full-time coaching)*

### ● Locker Rooms and Fields, Courts, or Other Facilities for Practice and Competition

- Do athletes on boys and girls teams have locker rooms of equivalent quality and size?
- Are the conditions of playing fields, courts, pools, and other practice/game facilities for boys and girls teams equivalent? *(For example, quality, maintenance, access to restrooms, availability of spectator seating, scoreboards, lighting, and other amenities)*

### ● Medical and Training Facilities and Services

- Are the training and conditioning facilities for athletes on boys and girls teams of equivalent quality? *(For example, type of equipment in each training facility/weight and conditioning room)*
- Do members of boys and girls teams have equivalent access to training facilities? *(For example, whether certain teams have priority or exclusive use of facilities while others have to share facilities)*

- Do boys and girls teams have access to equivalent medical and training personnel/services? (For example, presence at away or home games, availability of annual physical exams, qualifications of personnel who conduct physical exams)

- **Publicity**

- Does your school provide equivalent coverage for boys and girls teams and athletes on its website, social media, or other publicity?
- Are cheerleaders, pep bands, and drill teams provided equivalently for girls and boys teams?

Please also note that your school can accept **voluntary support for teams from booster clubs, parents, and others**. Those donations cannot justify discrimination under Title IX in your school's benefits, opportunities, and treatment offered to its boys and girls teams. If booster clubs provide support for only boys teams, for example, your school must ensure that girls teams receive equivalent benefits, opportunities, and treatment. In addition, if booster clubs provide more support to boys than girls in your school's athletic program or vice versa, then your school must ensure that the benefits, opportunities, and treatment are equivalent for both boys and girls in its athletic program. Failure to do so may indicate a possible Title IX violation.<sup>7</sup>

### Meeting students' athletic interests and abilities<sup>8</sup>

Under OCR's longstanding approach to evaluating whether a school's athletic program complies with Title IX, your school may choose any one of three ways to demonstrate that it is fulfilling its legal duty to meet the athletic interests and abilities of boys and girls in its student body. These options are commonly referred to as the "three-part test." Your school has flexibility in choosing one of these options based on the best fit for its community. However, if your school does not satisfy any of these three options, it may not be meeting this aspect of its legal duty under Title IX.

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<sup>7</sup> See, e.g., *Daniels v. School Board of Brevard County, Fla.*, 985 F. Supp. 1458, 1462 (M.D. Fla. 1997) (explaining that a public school must provide equal opportunity regardless of sex in its athletic program even if its booster clubs raise more funds for boys teams than girls teams, or vice versa).

<sup>8</sup> [34 C.F.R. § 106.41\(c\)\(1\)](#). See also [Policy Interpretation: Title IX and Intercollegiate Athletics](#), 44 Fed. Reg. at 71,413, 71,417-18 (1979).

## Option 1: Substantial Proportionality

This option looks to whether the percentage of girl and boy participants<sup>9</sup> on athletic teams are about the same as—or “substantially proportionate” to—the percentage of girls and boys enrolled at your school. While each team may vary in size, this option focuses on the number of participants on all teams in your school’s athletic program. Learn more by answering the following questions. *Your school’s athletic director or other school leaders may be able to provide you with the information needed to answer these questions.*

### ● Measure your school enrollment:

How many boys are enrolled at your school? \_\_\_\_\_

How many girls are enrolled at your school? \_\_\_\_\_

What is the total enrollment at your school? \_\_\_\_\_

What is the percentage of boys enrolled? (Divide boys’ enrollment by total enrollment)

$$(\text{ } \div \text{ }) \times 100 = \text{ } \%$$

What is the percentage of girls enrolled? (Divide girls’ enrollment by total enrollment)

$$(\text{ } \div \text{ }) \times 100 = \text{ } \%$$

### ● Measure the boy and girl participants on your school’s teams:

How many boy participants are on your school’s teams? \_\_\_\_\_

How many girl participants are on your school’s teams? \_\_\_\_\_

Add the numbers above to get total participants on teams at your school: \_\_\_\_\_

What’s the percentage of boy participants? (Divide number of boy participants by total participants)

$$(\text{ } \div \text{ }) \times 100 = \text{ } \%$$

What’s the percentage of girl participants? (Divide number of girl participants by total participants)

$$(\text{ } \div \text{ }) \times 100 = \text{ } \%$$

<sup>9</sup> Here, “participants” means those athletes: a) who are receiving the school sponsored support normally provided to athletes competing at the school involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport’s season; and b) who are participating in organized practice sessions and other team meetings and activities on a regular basis during a sport’s season; and c) who are listed on the eligibility or squad lists maintained for each sport, or d) who, because of injury, cannot meet a, b, or c above but continue to receive financial aid on the basis of athletic ability. See [Policy Interpretation: Title IX and Intercollegiate Athletics](#), 44 Fed. Reg. at 71,415. All three options for meeting students’ interests and abilities rely on the number of actual participants who are receiving the benefits of taking part in a school’s athletic program. See Dear Colleague Letter on Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (1996), available at <https://www2.ed.gov/about/offices/list/ocr/docs/clarific.html> (stating that “participation opportunities must be real, not illusory”).

- **Compare enrollment to boy and girl participants on your school's teams:**

Are the percentages of boy and girl participants substantially proportionate to the percentages of girls and boys enrolled in the school?

If the answer is “yes,” your school can likely use Option 1 to show its athletic program provides equal opportunity to participate based on sex under the Title IX regulations. If no, your school may not be able to use this option.

*Note: Option 1 also includes calculating the number of additional participants needed to make the percentages of participants on boys and girls teams substantially proportionate to enrollment. OCR may conduct this analysis when it investigates whether a school's athletic program is meeting students' athletic interests and abilities. If this number is so small that it would not be enough to make a viable team (a team for which there are a sufficient number of interested and able students and enough available competition to sustain a team), your school can likely use Option 1.<sup>10</sup> If this number is enough to make a viable team, your school likely cannot use this option to show its athletic program provides equal opportunity based on sex.*

### **Option 2: History and Continuing Practice**

This option looks to whether your school can show it has a history and continuing (*i.e., present*) practice of expanding its athletic program to respond to the interests and abilities of girls, if girls have been underrepresented, or boys, if boys have been underrepresented. Historically, girls were underrepresented in schools' athletic programs, and schools used this option as they expanded their girls programs.

*\* This option is not available if girls are underrepresented and your school has not added or expanded teams for girls or added girls to existing teams since the early years of its girls athletic program. It is also not available if your school cut or capped boys teams without adding or expanding teams for girls.*

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<sup>10</sup> OCR makes this determination only after evaluating the facts related to a particular school and its athletic program. For example, School A has a total of 600 athletes. Although girls make up 52 percent of School A's enrollment, they represent only 47 percent of its athletes. OCR determines that if girls' athletic opportunities were substantially proportionate to their enrollment at School A, 62 additional girls would be able to participate in School A's athletic programs. Because this is a significant number of unaccommodated girls, it is likely that a viable team could be added. If so, School A cannot use Option 1 to show its athletic program provides equal opportunity to participate based on sex. As another example, at School B girls also make up 52 percent of the school's enrollment and represent 47 percent of School B's athletes. School B's athletic program has 60 participants. If School B provided girls with 52 percent of athletic opportunities, 6 additional girls would be able to participate. Since 6 participants may not be enough to support a viable team, School B could potentially use Option 1. For a team to be considered a viable team, there must be a sufficient number of interested and able students, as well as sufficient competition to sustain an interscholastic team. See Dear Colleague Letter on Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (1996), available at <https://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>.

- If girls have been and are underrepresented in your school’s athletic program, does your school have a history and continuing practice of adding or expanding teams for girls to accommodate expressed interest? Or, if boys have been and are underrepresented, does your school have a history and continuing practice of adding or expanding teams for boys to accommodate expressed interest?

If the answer is “yes,” your school can likely use Option 2 to show its athletic program provides equal opportunity to participate based on sex under the Title IX regulations. If the answer is “no,” your school likely cannot use this option.

### **Option 3: Interests and Abilities of Students**

Option 3 asks whether your school can show that, despite the disproportionality, it is otherwise meeting the interests and abilities of the underrepresented sex. For example, if girls are underrepresented in the athletic program, this option asks if there is enough demand, skill, and talent at your school among girls to sustain a viable team or sport, and likewise for boys if boys are underrepresented in the athletic program.

Learn more by answering the following questions. The questions here ask about athletic opportunities for girls. But the same questions can be asked about boys if boys are underrepresented in the athletic program.

- 1. Is there unmet interest in a particular sport that is not offered at your school?** *(For example, have students/parents asked to elevate an existing club sport or add a team or sport to the school’s interscholastic girls sports offerings? Have there been surveys that showed enough interest from girls in a particular sport that is not offered? Do students take part in that sport in feeder schools,<sup>11</sup> athletic associations, or community sports leagues? Do girls participate in particular club or intramural sports?)*
- 2. Is there enough talent and skill among the girls in the student body to sustain a team in the sport?** *(For example, do interested/admitted students have experience or accomplishments playing that sport? Do coaches, administrators, or athletes think there’s enough talent to support a team? Is there high participation in other sports that require similar skills?)*
- 3. Are there other schools in your area or region currently competing in the sport?**

If the answer is “no” to any of these questions, your school can likely use Option 3 to show its athletic program provides equal opportunity to participate based on sex. If the answer is “yes” to all three

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11 In this context, a feeder school is a school whose students “feed into” an upper-level school automatically. Typically, elementary schools feed students into designated middle schools. Likewise, middle schools feed students into a designated high school. If, for example, a high school does not have a girls volleyball team but the middle schools that feed into the high school do offer girls volleyball, this could indicate that there is unmet interest in a sport not offered by the high school.



questions, your school likely cannot use this option. Your school's athletic director or other school or district leaders should have information to help you answer these questions. If they do not have this information, your school likely cannot use this option.

***Your school can try to use Option 1, 2, or 3 to show compliance with Title IX. If your school cannot use any of the options to show compliance with Title IX, it may not be meeting its legal duty to provide equal opportunity to participate in athletics based on sex under Title IX.***

### What to Do if You Think Your School's Athletic Program Violates Title IX

Students, parents and guardians, employees, or others in the school community who believe their school may be providing unequal athletic opportunities based on sex may file a complaint through their school's grievance procedures. Every school district covered by Title IX is required to prominently display contact information for the Title IX Coordinator, who can provide information about the school's grievance procedures. The Title IX Coordinator is responsible for overseeing all Title IX complaints in your school or district, including for unequal athletic opportunities.<sup>12</sup> You should be able to find their contact information on the school or district website as well as in student and employee handbooks and catalogs.

In addition, anyone can file a complaint with OCR. This includes students, parents and guardians, employees, coaches, athletic directors, community members, and others who experience or suspect discrimination in education programs or activities, including in a school's athletic program. OCR enforces laws that prohibit discrimination based on sex, as well as based on race, color, national origin, disability, and age.

To file a complaint with OCR, visit [www2.ed.gov/ocr/complaintintro.html](http://www2.ed.gov/ocr/complaintintro.html).

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<sup>12</sup> [34 C.F.R. § 106.8\(b\)\(2\)](#).

### **For questions about this or other OCR resources**

If you have questions about this resource, contact OCR at 1-800-421-3481, [OCR@ed.gov](mailto:OCR@ed.gov), or the regional OCR office that serves your state or territory. You can find contact information for the regional OCR offices here: <https://ocrcas.ed.gov/contact-ocr>.

To request no-cost language access services or resources from OCR, which may include oral technical assistance or written translation of a publicly available OCR document, contact us at 1-800-421-3481 (TDD: 1-800-877-8339) or [OCR@ed.gov](mailto:OCR@ed.gov).

If you would like more information about the Department's interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-437-0833) or email [Ed.Language.Assistance@ed.gov](mailto:Ed.Language.Assistance@ed.gov).

To request this resource or other OCR documents in alternate formats such as Braille or large print, please contact the Department at 202-260-0852 or [om\\_eeos@ed.gov](mailto:om_eeos@ed.gov).

## Appendix

This Appendix identifies the authorities OCR uses to determine whether a school is complying with Title IX in its athletic program. The Title IX athletics regulation can be found at [34 C.F.R § 106.41](#). Below, you can also find links to OCR’s guidance documents that provide detailed information about Title IX and schools’ athletic programs.

### [§ 106.41 Athletics.](#)

(a) **General.** No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) **Separate teams.** Notwithstanding the requirements of [paragraph \(a\)](#) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(c) **Equal opportunity.** A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the [Assistant Secretary] will consider, among other factors:

- (1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
- (2) The provision of equipment and supplies;
- (3) Scheduling of games and practice time;
- (4) Travel and per diem allowance;
- (5) Opportunity to receive coaching and academic tutoring;
- (6) Assignment and compensation of coaches and tutors;
- (7) Provision of locker rooms, practice and competitive facilities;
- (8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Assistant Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

***You can learn more about Title IX and athletics by visiting OCR's [Title IX Athletics Overview page](#) or by accessing the following guidance documents issued by OCR:***

- [Dear Colleague Letter: Part Three of the Three-Part Test](#) (2010)
- [Dear Colleague Letter: Athletic Activities Counted for Title IX Purposes](#) (2008)
- [Dear Colleague Letter on the Title IX Athletics Three-Part Test](#) (2008)
- [Dear Colleague Letter on Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance](#) (2003)
- [Dear Colleague Letter on Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test](#) (1996)
- [Policy Interpretation: Title IX and Intercollegiate Athletics](#) (1979)