

# Division of Risk Management



Rachel Terry  
Division Director  
Risk Management

# Title IX



# TITLE IX

**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.**

**Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.**



# SCOPE & ENFORCEMENT

- Applies to all education institutions
- Enforced by the Office of Civil Rights in the US  
Department of Education and the Department of  
Justice
- Can take away federal funding



# Equal Opportunity:

A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes.

- Interests and Abilities
- Equipment
- Scheduling
- Travel
- Coaching
- Locker rooms and facilities
- Publicity



# INTERESTS AND ABILITIES: THREE PART TEST

- **The number of male and female athletes is substantially proportionate to their respective enrollments; or**
- **The institution has a history and continuing practice of expanding participation opportunities responsive to the developing interests and abilities of the underrepresented sex; or**
- **The institution is fully and effectively accommodating the interests and abilities of the underrepresented sex.**



**Meeting any requirement of the three-part test is sufficient for Title IX compliance.**

# History and Continuing Practice

- Did you add new sports
- Did you increase number of participants
- Did you respond to requests for new sports



# FULL AND EFFECTIVE ACCOMMODATION OF INTERESTS AND ABILITIES

- Is there unmet interest?
- Is there sufficient ability to form a team?
- Is there a reasonable expectation of competition for the team?





# HOW DO I COMPLY?

- Run the Numbers
- Checklist
- Survey
- Assess Interest
- Review your policies
- Do you have policies regarding equity in athletics
- Emerging Sports Policy
- Make a Plan
- Title IX Coordinator should meet with athletic directors
- Identify areas for Improvement



# State Law



# Reporting on Action Plan (53G-6-1101)

Before the beginning of each academic year, the athletic director or another administrator of each school shall report to the school's local governing board regarding:

- number of sports available at each school by gender
- number of students competing in each gender
- amount of spending for each sport
- a comparison and evaluation of designated practice and game locations in gender-designated interscholastic sports
- efforts to comply
- if discrepancy of more than 10%, plan for addressing discrepancy



# Prohibited sex-based distinctions (63G-31-204)

Must have equal

- facilities
- scheduling of games and practices



# Facilities





# Self Evaluation

	Boys	Girls
On-site field	✓	✗
Regulation	✓	✗
Backstop	✓	✗
Fencing	✓	✗
Bleacher	✓	✗
Restrooms	✓	✗
Fountains	✓	✗
Batting Cages	✓	✗
Dugouts	✓	✗
Scoreboards	✓	✗
Storage	✓	✗
Locker Rooms	✓	✗
Concession Stand	✓	✗
Press Box	✓	✗
Schedule	✓	✗

3

# The “Try Harder” Approach



- Strengthen interlocal agreements with cities
- Install/improve on-site facilities
- Train employees
- Install or complete new facilities at two sites
  - Covered dugouts
  - Scoreboards
  - Upgrade bleachers

4





# REJECTED!



- ✘ City commitments not strong enough when talking to coaches
- ✘ Travel time to off-site fields could not be counted as practice time
- ✘ Storage units
- ✘ Repair or install electrical outlets
- ✘ Batting cages
- ✘ Cover dugouts
- ✘ Outfield fencing
- ✘ Adjust size of field if not regulation
- ✘ Access to restroom and drinking fountain for all practices and games
- ✘ List of all practices and games
- ✘ Rotate on and off campus between boys and girls teams





# Do over . . .

- × Batting cages
- × Bleachers
- × Cover dugouts
- × Eliminate city parks
- × Storage sheds
- × Fencing
- × Three unplanned new fields (one already planned for)
- × Five years – over \$1,000,000





How did we get here?



# It's ALL on you!

**The school is still responsible for making sure the girls' teams receive equal benefits.**

1. Have and follow policies
2. Know the legal relationship
3. District employees may not be paid by booster clubs or parent organizations
4. Once accepted by the school, donations become public funds subject to Title IX's legal obligations in their disbursement



# It's ALL on you!

## EARMARKED DONATIONS:

- Reject if restricted to only a boys' athletic program
- Accept on condition the donors agree to provide equivalent benefits to girls' teams; or
- Reallocate monies from the general athletic fund to girls' teams that do not receive donations

“While OCR acknowledges that this policy may be seen as discouraging private initiatives (which are unquestionably valuable to recipients and students), we cannot diminish the protection of Title IX by exempting benefits, treatment, services or opportunities provided to athletes through the use of private funds.”



**The school is still responsible for making sure the girls' teams receive equal benefits.**

Be proactive:

- Make donor organizations aware of commitment to equity regarding donor benefits
- Make donor organizations aware of overall plans and needs for maintenance and replacement schedules
- Ensure purchases follow procurement process

27

