

DELAWARE DEPARTMENT OF EDUCATION

FREQUENTLY ASKED QUESTIONS - TITLE IX



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Title IX Overview

1. What is Title IX and what does it mean for Delaware schools?

Title IX is a federal law in the United States that was passed as part of the Education Amendments of 1972. It prohibits sex discrimination in any educational program or activity receiving federal financial assistance. Title IX is primarily known for its impact on gender equality in sports, but it also extends to other areas of education.

Under Title IX, schools are required to provide equal opportunities and treatment for both male and female students. This includes, but is not limited to, admissions, academic programs, counseling, financial aid, student housing, and athletics. Schools must ensure that there is no discrimination based on sex in any of these areas.

Title IX also addresses sexual harassment and sexual violence in educational institutions. It requires schools to have procedures in place for handling complaints and investigating allegations of such misconduct. Schools must take prompt and effective action to address instances of sexual harassment or violence and provide a safe and nondiscriminatory environment for all students.

Also, schools must ensure that pregnant and parenting students are not subjected to harassment or unfair treatment due to their pregnancy or parenting status. This includes protecting them from stigmatization, ensuring their privacy, and preventing any negative impact on their educational opportunities.

2. Who must adhere to Title IX? Are all school districts/schools covered by Title IX?

Entities who receive Federal financial assistance and operate educational programs must adhere to Title IX including programs, services, and activities. Title IX applies not only to students and other program participants but also to employees.

Generally, yes. All public-school districts are covered by Title IX because they receive some federal financial assistance and operate education programs. There are some private schools that do not receive any federal assistance, and Title IX does not apply to them. Additionally, some schools are specifically exempt from certain parts of Title IX.

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For example, Title IX includes an exemption for educational institutions that are controlled by a religious organization but only to the extent that Title IX's application would not be consistent with the religious tenets of the religious organization.

3. Are all programs in a school or district covered by Title IX if any part of the school receives federal financial assistance?

Yes. All programs are covered if the school district, college, or university ("school") receives federal financial assistance. Title IX covers all the operations of a school that receives financial assistance including academics, extracurricular activities, athletics, and other programs. Title IX applies to all operations of a school, including those that take place in the facilities of the school, on a school bus, or in a class or training program sponsored by the school at another location. A school is also obligated to respond to sexual harassment off campus when the school has substantial control over both the person accused of engaging in harassment and the context in which the harassment occurs. This includes sexual harassment that occurs in any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

4. Who benefits from Title IX?

Title IX benefits everyone -- girls and boys, women, and men. Title IX also extends to individuals who are part of the LGBTQ+ community. While Title IX itself does not explicitly mention sexual orientation or gender identity, courts and the U.S. Department of Education have recognized that discrimination based on these factors can fall under the umbrella of sex discrimination prohibited by Title IX.

The law requires educational institutions to maintain policies, practices and programs that do not discriminate against anyone on the basis of gender. Elimination of discrimination against women and girls has received more attention because females historically have faced greater gender restrictions and barriers in education. However, Title IX also has benefited men and boys. A continued effort to achieve educational equity has benefited all students by moving toward the creation of school environments where all students may learn and achieve the highest standards.

5. Who is protected under Title IX?

Anyone who participates in an educational program, service or activity with a Federally funded entity is protected by Title IX. This includes students, parents and guardians, visitors, and employees.

6. Does Title IX protect transgender and intersex students' rights to play on teams matching their gender identity?

Title IX prohibits sex discrimination, which includes discrimination on the basis of transgender or intersex status. In its 2020 ruling in *Bostock v. Clayton County*, an employment discrimination case, the Supreme Court affirmed that discrimination on the basis of a person's being transgender is "inherently" a form of sex discrimination. Federal courts have recognized that both Title IX and the U.S. Constitution afford transgender students, including athletes, protection against sex-based discrimination. Based on these legal precedents, the U.S. Departments of Justice and Education also interpret Title IX to prohibit such discrimination. Title IX overrides state laws that discriminate against transgender and intersex girls and women. As such, Title IX's bar

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on sex discrimination extends to protect the rights of transgender and intersex girls and women to play on school sports teams consistent with their gender identity.

7. In addition to allowing a pregnant student to attend classes, does a school need to allow her to participate in school clubs, class activities, interscholastic athletics, and other school-sponsored organizations?

Yes. The Title IX Regulations prohibit a school from excluding a pregnant student from any aspect of its educational programs, including all extracurricular activities such as school clubs, academic societies, honors programs, homecoming court or interscholastic sports. A pregnant student must also be eligible to hold leadership positions in these activities.

8. Who is responsible for enforcing Title IX?

Institutions are responsible for complying with federal laws. The Office for Civil Rights (OCR) of the U.S. Department of Education enforces Title IX. OCR has the authority to develop policy on the regulations it enforces.

9. What types of Title IX cases does U.S. Department of Education, Office of Civil Rights (OCR) handle?

OCR handles cases of sex discrimination involving a range of issues, such as discriminatory discipline, harassment and sexual violence, discrimination based on sexual orientation, discrimination based on gender identity, and unequal access to educational resources (such as STEM or career and technical education) or athletic opportunities.

10. Can a school leader call the U.S. Department of Education, Office of Civil Rights (OCR) to ask questions regarding whether our school is in compliance with Title IX?

Yes. Part of the OCR's mission is to provide technical assistance to educational institutions and the OCR encourages schools to contact their regional offices to ask questions or to receive assistance regarding Title IX compliance (visit www.ed.gov/OCR to find the location of and contact information for the closest regional office). OCR also provides extensive support materials on the website.

11. Does each school or school district have a person who can help answer Title IX questions?

Yes. All school districts 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. This person is often referred to as a Title IX coordinator.

Your school is required to publish your Title IX coordinator's contact information in its handbooks and catalogs for students, employees, applicants, parents and guardians, and unions or professional organizations. The Title IX coordinator's contact information must also be prominently posted on your school's website.

12. How is Title IX applied to athletics?

If a school operates or sponsors an athletic program, it must provide equal athletic opportunities for students. In determining whether equal athletic opportunities are

available, U.S. Department of Education, Office of Civil Rights (OCR) considers whether an institution is effectively accommodating the athletic interests and abilities of students. OCR also considers whether a school is providing equivalent benefits, opportunities, and treatment to its students, specifically with respect to equipment and supplies; game and practice times; travel and per diem allowances; coaching and academic tutoring; assignment and compensation of coaches and tutors; locker rooms, practice, and competitive facilities; medical and training facilities and services; housing and dining facilities and services; and publicity. The Title IX regulations specify that if a school awards athletic financial assistance, it must provide reasonable opportunities for awards for members of each sex in substantial proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

Athletics programs are considered educational programs and activities. There are three basic parts of Title IX as it applies to athletics:

1. Participation: Title IX requires that women and men be provided equitable opportunities to participate in sports. Title IX does not require institutions to offer identical sports but an equal opportunity to play;
2. Scholarships: Title IX requires that female and male student-athletes receive athletics scholarship dollars proportional to their participation; and
3. Other benefits: Title IX requires the equal treatment of female and male student-athletes in the provisions of: (a) equipment and supplies; (b) scheduling of games and practice times; (c) travel and daily allowance/per diem; (d) access to tutoring; (e) coaching, (f) locker rooms, practice and competitive facilities; (g) medical and training facilities and services; (h) housing and dining facilities and services; (i) publicity and promotions; (j) support services and (k) recruitment of student-athletes.

13. To learn more about Title IX

The U.S. Department of Education, [Office for Civil Rights](#) is the best resource for understanding more about Title IX and the current guidance in place that schools must adhere to.

Title IX and Sex-Based Harassment and Discrimination

14. Does Title IX prohibit discrimination based on sexual orientation and gender identity?

Yes. Title IX prohibits discrimination based on sexual orientation and gender identity in education programs and activities that receive federal financial assistance. This includes situations where individuals are harassed; disciplined in a discriminatory manner; excluded from, denied equal access to, or subjected to sex stereotyping in academic or extracurricular opportunities and other education programs or activities; denied the benefits of a school's programs or activities; or otherwise treated differently because of their sexual orientation or gender identity.

15. What is sex-based harassment in an educational setting?

Sex-based harassment can take multiple forms. Harassers can be students, school staff, or even someone visiting the school, such as a student or employee from another

school. Sexual harassment (including sexual violence) is a form of sex-based harassment.

16. What is sexual harassment?

Sexual harassment refers to sex-based conduct that satisfies one or more of the following: (1) quid pro quo harassment by an employee of an educational institution—meaning that an employee offers something to a student or other person in exchange for sexual conduct; (2) unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity; or (3) sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking (as defined in the Violence Against Women Act). Each of these categories of misconduct is a serious violation that jeopardizes a victim's equal access to education.

17. Who can someone contact if they believe they have experienced sex-based discrimination?

Title IX requires schools to appoint a Title IX coordinator who is responsible for consulting with and providing information to potential complainants and investigating sex discrimination complaints filed within their school community. The contact information for your school's Title IX coordinator should be found in your school's nondiscrimination statement, which should be posted on the school's website, as well as in prominent locations throughout the school's campus. You can also contact your school's administration office for instructions for filing a Title IX complaint at your school.

18. What are the responsibilities of school districts under Title IX to address sex-based harassment?

When a school has actual knowledge of sexual harassment in any of its programs or activities that take place in the United States, it must respond promptly in a manner that is not deliberately indifferent. A school is deliberately indifferent if its response to sexual harassment is clearly unreasonable considering the known circumstances. The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, regardless of whether a formal complaint is filed, and to explain the process for filing a formal complaint.

In addition, if a formal complaint is filed, either by the complainant or the Title IX Coordinator, a school must: offer supportive measures to the respondent and follow the Title IX grievance process specified by the 2020 amendments.

Title IX and Athletics

19. Does Title IX require identical athletics programs for males and females?

Title IX does not require identical athletics programs for males and females. Rather, Title IX requires that the athletics programs meet the interests and abilities of each gender. Under Title IX, one team is not compared to the same team in each sport. U.S. Department of Education, Office of Civil Rights (OCR) examines the total program afforded to male student-athletes and the total program afforded to female student-athletes and whether each program meets the standards of equal treatment. Title IX

does not require that each team receive the same services and supplies. Rather, Title IX requires that the men and women's program receive the same level of service, facilities, supplies etc. Variations within the men and women's program are allowed if the variations are justified.

20. Does DIAA (Delaware Interscholastic Athletic Association) have Title IX obligations?

Yes. DIAA should act consistently with Title IX in planning State championships and reviewing and approving sports. To provide a meaningful and fair experience in athletics, DIAA works closely with the athletic directors of each school district and with other participating member schools.

DIAA also is responsible for reviewing and approving which sports qualify for a state championship and which sports are played in each season. For example, Delaware boys' soccer is played in the fall and girls' soccer in spring.

21. Does Title IX require schools to have equal numbers of sports teams for girls and boys?

No, Title IX does not require schools to have equal numbers of sports teams for girls and boys. Title IX is a federal law that prohibits sex discrimination in educational programs and activities, including athletics, at institutions that receive federal funding. While Title IX does aim to provide equal opportunities for both sexes, it does not mandate strict numerical equality in sports teams.

Under Title IX, schools must provide equal athletic opportunities for male and female students. This means that schools must demonstrate that they are providing equitable opportunities for both genders in terms of program offerings, benefits, facilities, equipment, coaching, and other resources. The overall athletic program must be responsive to the interests and abilities of students and must not discriminate against any particular gender.

Related to athletics, schools can demonstrate compliance with Title IX by meeting one of three primary tests: (1) providing athletic participation opportunities for males and females that are proportional to their enrollment in the institution, (2) showing a history and continuing practice of expanding opportunities for the underrepresented sex, or (3) fully accommodating the interests and abilities of the underrepresented sex.

While proportional representation is one method of compliance, schools can also meet the requirements of Title IX by showing a commitment to expanding opportunities for the underrepresented sex or by offering athletic programs that accommodate the interests and abilities of the underrepresented sex, even if the numbers are not equal.

In summary, Title IX does not mandate equal numbers of sports teams for girls and boys but requires schools to provide equal athletic opportunities overall, taking into account factors such as enrollment, history of expansion, and accommodation of interests and abilities.

22. Does traditional cheerleading count as a sport for Title IX?

Usually not. Just because an activity requires athleticism, does not mean it is considered a sport under Title IX. Title IX covers athletic activities that are considered sports and receive federal funding. If a school recognizes traditional cheerleading as a competitive sport and provides similar resources and opportunities as other sports teams, it will likely fall under Title IX protection.

However, most schools offer what is considered traditional cheerleading with the primary purpose of being a supportive activity for other sports. If your cheerleading program is largely a supportive activity without enough formal competition, it may not be considered a Title IX sport.

It is important for schools to assess how they classify and treat traditional cheerleading to ensure compliance with Title IX. If there are concerns or uncertainties about its status, schools should consult legal guidance or seek clarification from the U.S. Department of Education's Office for Civil Rights, which oversees Title IX compliance.

23. Are schools required to spend the same amount of funds on girls' and boys' teams?

Title IX does not require schools to spend the same amount on girls' and boys' teams. Title IX is a federal law that prohibits sex discrimination in educational programs and activities, including athletics, at institutions that receive federal funding. While Title IX does require equal athletic opportunities for male and female students, it does not mandate equal spending on sports teams.

Under Title IX, schools must provide equal benefits, opportunities, and treatment to both male and female athletes. This means that schools should allocate resources equitably and without discrimination based on sex. However, there is no specific requirement that schools must spend the same amount on girls' and boys' teams or allocate an equal budget for each.

The financial resources allocated to sports teams may vary based on various factors such as the size of the program, the level of competition, facility needs, and other legitimate considerations. What Title IX requires is that any differences in funding or resources between girls' and boys' teams must be justified by nondiscriminatory factors and should not result in unequal treatment or opportunities.

Schools must demonstrate a commitment to providing equitable resources and support to both genders, ensuring that girls' sports receive fair and proportionate treatment within the overall athletic program.

It is important for schools to regularly assess their athletic programs, budgeting practices, and resource allocation to ensure compliance with Title IX and to provide equal opportunities for male and female athletes.

24. Is booster club money count as part of a Title IX evaluation?

Booster clubs, which are independent organizations formed to support and raise funds for school athletic programs, can play a role in supporting athletic opportunities for both male and female athletes. While booster clubs themselves are not directly subject to

Title IX regulations, their activities and contributions can have implications for Title IX compliance at the school level.

When booster clubs provide financial or other support to athletic programs, it is important for schools to ensure that these contributions do not result in gender-based discrimination or inequities. Here are a few key considerations regarding booster clubs and Title IX:

1. **Funding Allocation:** Schools must ensure that any financial support provided by booster clubs is distributed in a manner that does not discriminate against one gender. While booster clubs often fundraise specifically for certain sports or programs, it is important for the school to ensure that the overall distribution of resources, benefits, and opportunities remains equitable for male and female athletes.

2. **Transparency and Accountability:** Schools should maintain transparency and oversight regarding the activities and decisions of booster clubs. This includes monitoring the use of funds and resources provided by booster clubs to ensure they are consistent with Title IX requirements and do not result in gender-based disparities.

3. **Non-Discrimination:** Booster clubs should be aware of Title IX and strive to support athletic programs in a way that does not discriminate based on gender. They should align their efforts with the school's commitment to providing equal opportunities and benefits for male and female athletes.

It is essential for schools to actively collaborate with booster clubs, communicate expectations, and work together to ensure compliance with Title IX. Schools should provide guidance to booster clubs on adhering to Title IX principles and emphasize the importance of supporting equal athletic opportunities for all students, regardless of gender.

By maintaining open lines of communication and a shared commitment to equity, schools and booster clubs can work together to support athletic programs while upholding the principles of Title IX.

25. If a school sponsors an equal number of sports for girls and boys. Does this mean that the school is automatically in compliance with Title IX?

While sponsoring an equal number of sports for girls and boys is one way to demonstrate compliance with Title IX, it does not automatically guarantee full compliance on its own. Title IX requires schools to provide equal athletic opportunities for male and female students, but it allows for flexibility in meeting that requirement.

While proportionality is one method of compliance, there are two other primary tests that schools can use to demonstrate compliance with Title IX:

1. **Proportionality Test:** This test compares the enrollment of male and female students with their respective athletic participation rates. If the percentage of male and female athletes is proportionate to the enrollment of male and female students, it indicates compliance. However, proportionality alone is not the sole determinant of Title IX compliance.

2. History and Continuing Practice of Program Expansion: Schools can also demonstrate compliance by showing a history and continuing practice of expanding athletic opportunities for the underrepresented sex. If a school has a documented record of consistently adding new sports or programs for the underrepresented gender, it can fulfill Title IX requirements through this test.

3. Fully and Effectively Accommodating Interests and Abilities: Schools can also meet Title IX requirements by demonstrating that they fully and effectively accommodate the interests and abilities of the underrepresented sex. This means providing opportunities that match the interests and abilities of female students even if it does not result in proportional representation.

It is important to note that compliance with Title IX goes beyond simply counting the number of sports teams. Other factors, such as resource allocation, coaching quality, facilities, scheduling, and treatment of athletes, also come into play. Schools must ensure that female athletes receive equitable treatment, benefits, and opportunities compared to their male counterparts.

While an equal number of sports teams is a positive step towards compliance, it is advisable for schools to conduct a comprehensive evaluation of their athletic programs to assess compliance with all aspects of Title IX, including factors beyond team numbers, to ensure equal opportunities and treatment for male and female athletes.

26. How does a school determine if the school is “fully” and “effectively” accommodating the athletics interests and abilities of our female students?

Determining if a school is "fully" and "effectively" accommodating the athletics interests and abilities of female students requires a comprehensive assessment of various factors. Here are some steps you can take to evaluate your school's efforts in this regard:

1. Interest Surveys: Conduct surveys or assessments to gauge the athletics interests and preferences of female students. This can help identify which sports or activities they are interested in participating in and their level of enthusiasm.

2. Program Offerings: Evaluate the range of sports and athletic programs offered at your school. Assess whether the offerings align with the expressed interests of female students. Consider if there is a variety of options available that cater to different skill levels, interests, and abilities.

3. Participation Rates: Analyze the participation rates of female students in different sports and programs. Compare these rates to the overall female student population to determine if there are any significant disparities or underrepresentation. This can provide insights into whether the school is effectively accommodating the interests and involvement of female students.

4. Recruitment and Outreach: Assess the school's efforts to actively recruit and encourage female students to participate in sports. Determine if there are targeted

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outreach programs, recruitment initiatives, or mentoring opportunities to engage and support female athletes.

5. Resource Allocation: Evaluate the allocation of resources such as funding, coaching staff, facilities, equipment, and practice time for female sports teams. Ensure that these resources are comparable to those provided for male sports teams and that any differences are justified based on legitimate factors.

6. Coaching and Development: Consider the quality and availability of coaching staff for female sports teams. Assess if female athletes have access to qualified coaches who can provide proper guidance, skill development, and support.

7. Facilities and Equipment: Assess the quality and availability of facilities and equipment for female sports teams. Ensure that female athletes have access to appropriate and well-maintained facilities and equipment that meet their needs.

8. Support and Promotion: Evaluate the level of support and promotion provided to female sports teams. Consider factors such as media coverage, game scheduling, support from the school administration, and fan engagement. Ensure that female athletes receive equitable support and recognition.

9. Feedback from Female Athletes: Engage in conversations with female athletes to gather their perspectives and experiences. Seek feedback on whether they feel their interests and abilities are being accommodated effectively and if they have any suggestions for improvement.

By conducting a comprehensive assessment of these factors, schools can evaluate their efforts in accommodating the athletics interests and abilities of female students. This evaluation will help identify any areas of improvement and ensure that female athletes are provided with equitable opportunities and support within the athletic program.

27. Beyond budgets, in what other ways must schools assure equal treatment between boys and girls athletic programs?

Schools must assure equal treatment in scheduling, publicity, travel, coaching, recruiting, tutoring, locker rooms/facilities, housing/dining, and medical/training services. While Title IX does not require that each team receive the same services and supplies, it does require that boys and girls teams receive the same quality of supplies and services.

28. Does Title IX require schools to cut boys' teams?

Title IX does not require or encourage schools to cut any team. The Federal Department of Education has stated that cuts are disfavored, though the courts recognize that schools cut teams for several reasons. If schools do reduce boys' opportunities to fit compliance with Title IX, courts have upheld that that does not constitute discrimination.

Title IX Coordinator

29. Who is the Title IX Coordinator?

All school districts and charter or private schools 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. This person is often referred to as a Title IX coordinator.

Your school is required to publish your Title IX coordinator's contact information in its handbooks and catalogs for students, employees, applicants, parents and guardians, and unions or professional organizations. The Title IX coordinator's contact information must also be prominently posted on your school's website.

30. What training must Title IX Coordinators receive?

The Title IX regulations require extensive training for Title IX coordinators, investigators, decision-makers, and those involved in any informal resolution process on topics including:

- The definition of sexual harassment for Title IX purposes;
- The scope of the institution's education "program or activity" under Title IX;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution process, as applicable;
- How to serve impartially including avoiding prejudgment of facts at issue, conflicts of interest, and bias;
- Issues of relevance of questions and evidence, including rape-shield limitations; and
- Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

All training materials must be posted on the institution's website.

*Preceding questions were adapted in full or in part from resources provided by the [U.S. Office for Civil Rights](#), [The National Collegiate Athletic Association](#), [the National Science Foundation](#), [National Women's Law Center](#), [National Federation of State High School Associations](#) and [the American Council on Education](#).

Title IX Compliance

31. How is Title IX compliance assessed?

Compliance with Title IX is a shared responsibility of an entire institution, from top-level administration to individual staff members. Title IX mandates that institutions or other recipients of federal funds designate at least one employee as a Title IX coordinator to oversee compliance efforts. Institutions also are required to investigate any complaints of gender discrimination. In addition, all students and employees must be notified of the name, office address and telephone number of the designated Title IX coordinator.

32. How do school personnel, students and others know if the school is presently in compliance with Title IX?

Determining whether your school is currently in compliance with Title IX requires a comprehensive evaluation of various factors related to athletic programs and overall educational activities. Here are some steps you can take to assess your school's compliance with Title IX:

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1. Familiarize yourself with Title IX: Review the provisions and requirements of Title IX, which prohibits sex discrimination in educational programs and activities. Understanding the law will help you identify potential areas of non-compliance.

2. Review school policies: Examine your school's policies, handbooks, and documents related to athletics and non-discrimination. Look for policies that address equal opportunities, resources, benefits, and treatment for male and female athletes.

3. Assess participation rates: Evaluate the participation rates of male and female students in athletic programs. Determine if the number of opportunities and teams provided for each gender is proportional to the enrollment of male and female students. This can help identify any disparities or underrepresentation.

4. Review resource allocation: Examine how resources such as funding, facilities, equipment, coaching, and support services are distributed between male and female athletes. Ensure that there is equitable access to resources and that any differences in allocation are justified by legitimate factors.

5. Evaluate athletic benefits and treatment: Assess whether male and female athletes receive comparable benefits, opportunities, and treatment. Consider factors such as scheduling, practice times, game locations, travel opportunities, equipment quality, and access to training facilities.

6. Seek input from student-athletes: Engage with male and female student-athletes to gather their perspectives and experiences regarding athletic opportunities, resources, and treatment. Their feedback can provide valuable insights into potential areas of concern.

7. Consult with Title IX coordinator: If your school has a designated Title IX coordinator, reach out to them for guidance and information. They can provide clarity on compliance procedures, reporting mechanisms, and specific school policies.

8. Seek legal or professional advice: If you have concerns or need assistance in evaluating your school's compliance with Title IX, consider consulting with a legal professional or advocacy organization specializing in Title IX matters. They can provide expertise and guidance specific to your situation.

It is important to note that evaluating Title IX compliance can be a complex process, and it may require input from various stakeholders and experts. Working collaboratively with school administrators, Title IX coordinators, and relevant parties can help ensure a thorough assessment of your school's compliance status.

Filing a Title IX Complaint

33. Who can file a Title IX complaint?

The U.S. Department of Education's Office for Civil Rights (OCR) explains that anyone can file a Title IX complaint with the OCR. This includes students, school employees, or

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a person or organization who is filing on behalf of a victim of sex discrimination. To file a complaint through a school, you will need to follow the school's policies and procedures.

If you are unable to get an appropriate response from your school's Title IX authority or you do not wish to file your complaint with school officials for whatever reason, you may also file a complaint directly with the OCR. The complaint may be filed online, or by mail, email, or fax. You can use the form provided by the OCR or write your own letter describing the alleged discrimination.

34. Is there any way to report a potential Title IX violation or complaint anonymously?

OCR (Office for Civil Rights) is a part of the U.S. Department of Education that enforces Title IX, a federal law that prohibits sex discrimination in educational institutions that receive federal funding. OCR investigates complaints related to Title IX violations and ensures compliance with the law.

When reporting a Title IX issue, it is generally advisable to provide your identity to facilitate the investigation process and maintain communication with the OCR. However, OCR also recognizes the importance of anonymity in certain cases, particularly if the complainant fears retaliation or wishes to maintain privacy.

While OCR encourages individuals to provide their names when reporting complaints, they do accept anonymous complaints. You can submit an anonymous complaint by omitting your identifying information or by using a pseudonym. However, it is important to note that anonymity may limit OCR's ability to investigate the issue thoroughly or provide updates on the progress of the investigation.

If you are considering reporting a Title IX issue anonymously, it is recommended that you review the OCR's specific guidelines and procedures, as they may vary depending on the circumstances and the educational institution involved. Additionally, you may want to consult with a legal professional or Title IX coordinator at your institution to understand the potential implications of filing an anonymous complaint and to explore any available support or resources.

35. Can a coach file a Title IX complaint with the U.S. Department of Education, Office of Civil Rights (OCR)?

Yes. Coaches, players, parents and other third parties (e.g., advocacy groups) may file a Title IX complaint with the OCR (Office of Civil Rights).

36. Is there a timeframe for filing a complaint?

If you go through the school's grievance process first and then decide to file a complaint with the U.S. Department of Education, Office of Civil Rights (OCR), you must file the OCR complaint within 180 days after the last day that the gender discrimination took place. If you do not go through the school's procedure, a complaint must be filed within 180 days after the last instance of discrimination. If you file a complaint about an alleged violation that occurred more than 180 days prior, you must request a waiver for the time to file and show good cause as to why you were unable to file on time.

37. How does the U.S. Department of Education, Office of Civil Rights (OCR) address sexual harassment against students?

OCR investigates and resolves allegations that educational institutions that are recipients of federal funds have failed to respond promptly in a manner that is not deliberately indifferent to sexual harassment. Where OCR identifies concerns or violations, educational institutions often resolve them with agreements requiring educational institutions to adopt effective anti-harassment policies and procedures, train staff and students, address the incidents in question, and take other steps to restore a nondiscriminatory environment.

In addition to resolving investigations, OCR takes steps to inform schools of their obligation to provide a nondiscriminatory environment by issuing policy guidance.

38. What procedures for filing complaints must a school district have in place related to sex-based discrimination?

School districts must adopt and widely communicate to staff, students and parents grievance procedures for filing complaints of any form of gender bias under Title IX. The grievance process should establish the methodology through which the district will investigate and evaluate complaints and must provide for prompt and equitable resolution of complaints. Every district must also be sure to comply with the requirement set forth in the Title IX Regulations to designate a Title IX Coordinator to oversee its efforts to comply with all mandated obligations under the law regarding the prevention of gender discrimination in educational institutions.

General School FAQ

39. I think there is a Title IX inequity at my school, who do I talk to?

If you feel comfortable, you can speak to your school district's Title IX coordinator, or a school staff member such as a coach, athletic director, or administrator. You can also reach out to U.S. Department of Education, Office of Civil Rights (OCR).

40. I am afraid of retaliation at my school, is there someone else I can go to about my concerns?

Yes. You can contact the U.S. Department of Education, Office of Civil Rights (OCR).

41. I went to my school and my concerns were dismissed, who else can I go to?

You can contact the U.S. Department of Education, Office of Civil Rights (OCR).

42. Does Title IX require that we hire women to be the coaches for our girls' teams?

No. Despite the desire by schools for purposes of mentorship, role modeling and diversity to have women coach girls' sports teams, the Title IX mandate is for female student-athletes to have access to quality coaching comparable to that provided to male athletes. The relevant criteria are the expertise, experience, and success of coaches, not their gender. It is also important to note that a variety of Federal and state employment laws exist that are separate and distinct from Title IX, and which make it clear that schools may not discriminate on the basis of gender in the recruitment and hiring of

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coaches.

- 43. Our school has one coach of a girls' team who has filed several complaints with the U.S. Department of Education, Office of Civil Rights (OCR) because of frustration with his team's budget and the belief that his team was not receiving its fair share of financial resources in comparison to boys' teams. Can we fire him for filing the complaints with the OCR?**

No. Retaliation by a school against a coach, administrator, or any employee for filing a Title IX complaint is unlawful based on Supreme Court precedent, federal law, and numerous state "whistleblowing" statutes.

- 44. Our school provides cheerleaders, a pep band, a drill team, and other entertainment activities at all home boys basketball games, but only for three or four girls home basketball games each year. Is this a Title IX violation?**

Probably. This would be evaluated by the U.S. Department of Education, Office of Civil Rights (OCR) as part of the "Other Benefits" category dealing with marketing and publicity. Unless some counterbalancing extra benefits are provided to the girls' team (e.g., some other forms of marketing and publicity), then a violation is probably occurring, and corrective action needs to be taken.

- 45. Our school offers soccer for boys, but not for girls. Does Title IX require that we allow girls to play on the boys' team?**

Title IX requires that in sports where a girls' team is not offered, girls must be allowed to try out for the boys' team and participate on the same basis as boys. This does not mean that a girl automatically gets to be on the team. She must try out and make the team on the same basis as any boy would have to try out and make the team. She can also be cut from the team, but only on the same basis as a boy could be cut from the team – for an objectively verifiable lack of ability or a lack of size, strength, skill, and experience making participation unsafe.

- 46. Our school offers volleyball for girls, but not for boys. Does Title IX require that we allow boys to play on the girls' team?**

No. Although there have been a few, isolated lawsuits where boys have obtained injunctions to allow them to participate on a girls team for which their schools offered no same-sport equivalent for boys, the courts generally rule that the purpose of Title IX is to remedy past inequities of athletics opportunity for the historically under-represented gender – females – and that if boys are allowed to participate on girls teams, they will because of height, weight and strength advantages come to dominate the membership of those teams, and thereby decrease the competitive opportunities for women. Therefore, in the vast majority of cases, the courts have not permitted boys to play on girls' teams, even if there is not a same-sport boys' team.

- 47. Our school offers a boys varsity soccer team, but only a girls club soccer team. The school's justification is that there is not enough money in its athletic budget to upgrade the girls' team to varsity status. Is this a Title IX violation?**

It depends. Assuming that there has been a request for the girls' club team to be upgraded to varsity level, that adequate competition for a varsity girls team exists, and that girls are unlikely to be able to successfully try out and play for the boys' team, a

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violation may exist. If participation rates at the school are not already “substantially proportional,” then failure to upgrade the club sport may constitute a failure to “fully and effectively accommodate women’s athletics interests and abilities.” Furthermore, budget constraints are not a valid excuse which will justify a lack of equivalent participation opportunities for female students.

48. Our high school varsity basketball games are scheduled as doubleheaders with the girls’ games always played first and the boys games in prime time. Is a scheduling preference such as this a Title IX violation?

Most likely yes. Many schools are resistant to switching to a format where the boys’ team and girls’ team each play the first game of the doubleheader one-half of the time, arguing coaches’ preferences or that the girls enjoy playing their second half before an expanding crowd as it arrives for the boys’ game. Schools that have made the change have generally discovered that as fans adjust to the “alternating” format, most of the crowd from an earlier-played boys game stays to watch the girls’ game. Furthermore, the implicit message communicated by this scheduling arrangement is that the school considers its girls sports teams to be just as important as its boys’ teams. In numerous OCR complaints and federal lawsuits, the agency and courts have ruled that schools must allow girls teams to play in the “primetime” slot on a basis equivalent to boys’ teams and that if doubleheaders are not played, girls teams must be permitted to play on “prime nights” (Fridays and Saturdays) on a basis equivalent to boys.

49. May a school require a pregnant student to obtain a doctor’s permission before allowing her to attend school late in her pregnancy if the school is worried about the student’s health or safety?

Schools cannot require a pregnant student to provide written permission from a physician to stay in school or participate in curricular or extracurricular activities, including interscholastic sports, unless the same requirement to obtain a doctor’s note applies to all students being treated by a doctor. Schools cannot treat a pregnant student differently from other students being cared for by a physician, even when a student is in the later stages of pregnancy. For instance, a coach can require ongoing medical clearance to participate for a female athlete progressing into the later stages of pregnancy only if such doctor’s notes are required of all student-athletes as part of the return-to-play protocol for other medical conditions and injuries such as concussions, torn ligaments, broken bones, and chronic health issues.

50. Does the Delaware Department of Education deal with Title IX issues and complaints?

The Delaware Department of Education (DDOE) provides information on the Department website. DDOE does not handle complaints for school districts, but rather connects complainants to the Title IX Coordinator in the appropriate school or school district and provides contact information for the Office of Civil Rights (OCR).