

## Q's and A's Related to Title IX

### How does Title IX relate to Affirmative Action?

Title IX, [Education Amendments of 1972](#).

A. Title IX prohibits on the basis of sex in all education programs and activities receiving federal financial assistance.

B. Title IX cases that have reached the Supreme Court since 1972 have established that:

1. Individuals have a private right of action, in addition to administrative remedies under the law.
2. Title IX prohibits sex discrimination in employment.
3. Remedies under Title IX are broad and include an action for money damages where sexual harassment is alleged.

C. Since the initial passage of Title IX Congress has strengthened the law in

1. Federal courts may now award attorneys fees to successful litigants.
2. The Civil Rights Restoration Act of 1987 amended Title IX to clarify that the law requires all programs and activities of an institution or education system to be free of sex discrimination if any part of the system receives federal funds.
3. The Civil Rights Remedies Equalization Amendment in 1986 provided that states which violate Title IX are liable to the same extent as any public or private entity.

### What does Title IX require in athletics?

Title IX of the Education Amendments of 1972 is the federal law that prohibits sex discrimination in educational institutions that receive federal funds from the U.S. Department of Education. This includes all public school districts in Washington State. Title IX applies to a wide range of school programs and activities, including interscholastic athletics.

Under Title IX, school districts must provide girls and boys with equal athletic opportunities. The focus of Title IX is on overall program equality, not comparisons between specific sports. Title IX does not require that male and female athletes receive identical support and services. Instead, it requires that male and female athletes receive the same quality of support and that each program equally meets the needs of the athletes involved.

To help determine whether equal athletic opportunity exists, federal regulations set out a series of "program components" which must be evaluated. For a district to be found in violation of Title IX, there must be a disparity between the way male and female athletes are treated in at least one component of the district's overall program, and the disparity must result in a lack of equal opportunity.

The program components evaluated under federal regulation that are most relevant to interscholastic athletics in Washington are: (1) accommodation of students' athletic interests and abilities; (2) the provision and maintenance of equipment and supplies; (3) the scheduling of games and practice times; (4) practice and competitive training facilities; (5) coaching; (6) publicity; (7) medical and training; and, (8) travel and per diem. Within each of these program components, a district must equally meet the needs of male and female athletes. If there is a

disparity found in one program component, a district may assert that the disparity is offset by advantages elsewhere in the district's athletic program. If the district is able to demonstrate that, overall, its entire program provides equal athletic opportunity in its athletic program despite the disparities in an individual component, the district may avoid a finding of noncompliance with Title IX.

The federal law does not require the provision of any specific athletic program or services; it simply requires that, whatever services are provided be provided equitably.

[Title IX of the Education Amendments of 1972](#)

[Title IX regulation](#)

[OCR intercollegiate athletics policy](#)

### **How do we know that we have met the athletic interests of both boys and girls?**

Under federal law, school districts are required to effectively accommodate the athletic interests and abilities of students of both sexes to the extent necessary to provide equal athletic opportunity. A three-part test was developed under federal law. The federal three part test to determine whether the selection of sports effectively accommodates the interests of both sexes follows. The latest clarification of the three part test is included.

A district may be in compliance if it meets any part of the test.

#### Part 1 of the Test

The first part of the three-part test is a comparison of the ratio of male to female participation in interscholastic athletic programs to the ratio of male to female students enrolled. Keep in mind that the comparison is between the number of participants, not the number of boys' or girls' teams. If these ratios are comparable, such as where the enrollment of male students is 48% and male students make up 47.5% of participants in the interscholastic athletics program, the district would be in compliance. It is a common misconception that if there is a significant difference between the ratios, the school district is not in compliance with the law. This is not correct. Rather, you need to consider how the other two parts of the three-part test apply to the facts at hand. Take a look at the OCR clarification issued in 1996 for more case examples on determining whether there is substantial proportionality of participants.

#### Part 2 of the Test

If the first part of the test reveals that one sex is under-represented in the district's athletic program, a district may still be in compliance if the district can show a history and continuing pattern of program expansion for the underrepresented sex. A history and continuing pattern of program expansion entails a review going back at least a decade and would consider whether sports were added in response to the existing and emerging interests of students for new opportunities, whether there is a clear and effective method for requesting new sports and whether there is currently a plan to add more sports in response to known interest.

#### Part 3 of the Test

If a district cannot meet the first and second parts of the test, it may still be in compliance if the current program can be shown to be effectively accommodating the interests and abilities of

students of the underrepresented sex. Interest in a sport may come to a district's attention in a variety of ways including, requests from parents and students to add a team, the interests survey conducted every three years pursuant to Washington state requirements and increasing interest in recreational or intramural sports. If the district can show that there are sound and effective methods for determining interest and that the current program is addressing all known interest, then it is in compliance even if there is a disparity in the ratios of students participating in sports to the students enrolled.

Under federal law the issue of levels of competition is also generally included with the assessment of the accommodation of interests and abilities. This area is evaluated by comparing the level (A, AA, AAA or AAAA) at which boys and girls compete to ensure that there are no unlawful disparities. Because the level of competition in school districts in the State of Washington is generally the same for all sports in the district, the issue of levels of competition is not one that is expected to involve disparities between boys and girls teams and as a result the issue is not included in the evaluation materials on this site.

### **Is the school district required to have the same number of teams for boys and girls?**

No. The important issue here is not the number of teams but the number of students participating in sports. The district needs to equally accommodate the interests and abilities of both sexes. If the ratio of participants in the interscholastic athletics program to students enrolled is significantly different along gender lines, then the district may need to take action, such as adding a team or another competitive level. Whether the school needs to take action depends on the application of a three part test described above.

### **How do you decide who is a participant?**

You look to whether (1) the student is receiving the support, such as coaching, normally provided to athletes at the school, (2) the student participates in organized practice sessions and is available for participation in competitions, (3) the student is listed on the squad list.

### **What if there are proportionately more opportunities for boys than girls but all known interest of girls for new sports have been met?**

If the school has taken reasonable steps to ensure it is aware of all interest and all the known interest has been appropriately met, the district would currently be in compliance even though there is a disparity. However, for as long as the disproportion exists, the district would need to meet new interests that come to its attention by developing new sports to respond to the interests of the underrepresented sex.

### **What should a district do if girls are underrepresented in the sports program, and there is interest in a new sport, but the other districts with which the district normally competes do not offer the sport or the sport is not state sanctioned?**

The district should take reasonable steps to foster the development of competitive opportunities in the sport in other districts the district normally competes with, and explore possible competitive opportunities with other districts or club sports programs. If the sport is not sanctioned the district should work with the WIAA to take reasonable steps to address the interest. Alternatively, the district should consider how to meet the interest within the district by including the sport in its recreational athletics program.

**If a district is experiencing financial problems that require a reduction in the sports program, how do nondiscrimination laws apply?**

The same "interests and abilities" principles apply when the district reduces the size of its program. If the district's program is in compliance at the time of the reductions, then the district should make reductions in a way that equally affects boys and girls. If one sex is underrepresented before reductions begin, then the reductions should address the imbalance in the participation rate before reducing the participation opportunities for the underrepresented sex.

**How do the rules apply to teams that are offered for members of one sex?**

Federal law does not specifically prohibit offering a sport for just one sex, or maintaining separate teams. However, where a district offers a team for members of one sex and the participation opportunities for the other sex have historically been limited, the district would have to offer a team in the sport if there is sufficient current interest in it and there is a reasonable expectation of interscholastic competition. If there is not enough interest to start up a separate team, the district may need to permit members of the underrepresented sex to compete for a spot on the existing team. For more detailed information, go to the separate teams section.

**When is a district required to allow members of one sex to try out for a team that has been limited to members of the opposite sex (eg. girls trying out for football)?**

Federal law includes an exception for contact sport. In some circumstances, a district may be required to add a separate team. For information, go to the separate teams section.

**When may a school have two separate teams for boys and girls?**

A school may have separate teams for members of each sex when

1. the selection for the teams is based upon competitive skill,
2. the teams are for students in grades 7 through 12,
3. it can be clearly shown that maintaining separate teams is the best way to provide both sexes with an equal athletic opportunity, and
4. the two separate-sex teams are substantially equally. Substantial equality includes equality in the number of students who would participate in a separate team. For example, a school could not create a separate girls' football team, thereby allowing it to exclude girls' from the boys' team, unless there were comparable numbers of girls interested in playing the sport.

**What happens when a school only offers a particular sport for one sex (e.g. a school has a football team only for boys)?**

The answer to this question depends on whether the single sex team is in a non-contact or contact sport.

Contact sports include football, wrestling, hockey, rugby, basketball, soccer and other sports that involve major bodily contact.

## **Non-contact sports**

If a school has a separate sex team in a particular non-contact sport for members of one sex and not for the other, the school must allow members of the historically underserved sex to try-out for the single sex team. Furthermore, if a school maintains a single-sex team, and the participation opportunities for the other sex have been historically limited, the district must offer a team for the other sex in that sport if,

1. there is enough interest to start a separate team,
2. there is a reasonable expectation of interscholastic competition, and
3. members of the excluded sex do not possess sufficient skill to be selected for or compete actively on a mixed-sex team.

For example, if a school sponsors a boys' golf team and not a girls' golf team, they must allow girls' to try out for the boys' team. If there are enough girls interested in competing in golf to sustain a separate girls' team, and there are other schools to compete with, the school must sponsor a girls' golf team unless the skill level of the girls' is such that they could be selected for and actively compete on the same golf team as the boys.

## **Contact Sports**

If a school has a separate-sex team in a particular contact sport for members of one sex and not for the other, under Washington law the school must allow members of the excluded sex to try out for the single sex team. Furthermore, if a school maintains a single sex team in a contact sport, and the participation opportunities for the excluded sex have been historically limited, the district must offer a team for the excluded sex in that sport if

1. there is enough interest to start a separate team, and
2. there is a reasonable expectation of interscholastic competition.

## **Are cheerleading or drill team considered interscholastic sports under federal law?**

As part of its responsibility for enforcing the Title IX provisions regarding athletics, OCR must determine whether an activity is a sport for purposes of evaluating whether an equal opportunity is being provided. OCR's April 11, 2000, guidance on the factors it considers in making this determination, with particular reference to Cheerleading and Dance and Drill, is [attached](#).

In many states and school districts, dance and drill and cheerleading have continued to transition from support activities to activities that are more competitive in nature. This transition, along with the Office for Civil Rights (OCR) recent letter outlining criteria to determine if an activity is a sport for assessing equal opportunity, require guidelines and assistance for the interscholastic community. Guidance is needed so that these activities are properly supported consistent with the treatment of other athletic activities by interscholastic associations. Also, guidance is needed that addresses all of the issues raised by OCR that relate to assessing equal opportunity in participation. Before providing insight into these criteria and the impact on an entire school's activities programs as well as a state association, three important points must be made.

First, the determination of whether an activity is a sport will be on a case-by-case/school by school basis. The determination will be based on the action of the school toward meeting the established criteria. Simply stated, if an activity is declared a sport, such declaration will be made

only because those in charge of the program treat the program as a sport and the participants as athletes. Schools are not required to offer competitive cheerleading or dance and drill programs. Such a decision is left to the local school district.

Secondly, these guidelines and descriptions are meant to provide direction. As with most initial steps into new territory, the path is unknown and untested and in some cases, the destination is uncertain. What is important is the journey and the realization that development takes open dialogue and a realization that as the process and methods are tested, they may change not only the process, but some of the determiners. Given this, as long as the focus remains on fairness and what is best for all students, the very students for which activities programs are designed will be the real winners.

Lastly, the ability of a school to count certain participants toward the proportionality test that OCR or a particular state uses to determine if equal opportunity is met, must not be the “driver” in deciding whether to make dance, drill or cheerleading competitive sports.

The primary motivation for providing healthy activities that are tied to educational goals must remain the sole reason of any school’s programs. To do otherwise would convolute the mission of co-curricular programs, would undermine the credibility of a school’s administration and it’s coaches, and create mistrust with the students, parents and community, which a school serves. The guidance we provide now will need to be revisited regularly and modified to adapt to changes that occur as these activities transition into sports programs comparable to other competitive sports offerings. If school administrators, coaches, parents and students wish to take their dance and drill and/or cheerleading programs to the level of competition available for students who participate in football, volleyball, and other sports, then the students who participate must be treated as any other athlete.

Once a decision is made to transition dance and drill and/or cheerleading to that level of competition, the development of a program should follow a process similar to that of any school activity and look the same once the process is complete.

### **Discussion of the OCR Criteria**

The next section of this memorandum discusses the elements of the Office for Civil Rights definition of a sports activity outlined in the recent OCR letter. In this letter, OCR reiterates the presumption that dance, drill and cheerleading are not at this time considered sports; however, it provides criteria OCR will consider on a case-by-case basis if a district seeks to overcome this presumption. OCR has stated in its recent letter that it will, on a case-by-case basis, determine whether an activity sponsored by a secondary school\* is a sport based upon whether the activity meets all of the following criteria:

\* While OCR guidelines also address intercollegiate sports, this document is meant to address only programs at the interscholastic level (junior high, middle school, and high school).

#### Office of Civil Rights Definition of an Athletic Activity

1. Whether selection for the team is based upon objective factors related to athletic activity.

**Discussion:** The type of factors usually considered when selecting athletes include speed, strength, agility, ability to be cooperative, competitiveness, citizenship and the role they fulfill on

the team. For activities such as dance, drill, and cheerleading to be considered an athletic offering, selection must be selected using factors similar to those used for selecting athletes for other sports.

2. Whether the activity is limited to a defined season.

**Discussion:** The state association will be responsible for establishing a starting and ending date as well as rules and regulations that are similar to other sanctioned sports. Typically those determinations are made with input from school personnel and others who are knowledgeable about the activity/sport.

Each school must determine if it will sponsor competition squad(s) and the impact that such a decision will have on providing the traditional cheerleading and dance and drill squads that have been a part of the support groups for athletic events for decades. A school could choose to field competitive squads and continue to provide squads that support athletic events through sideline activity and halftime entertainment. In fact, some participants may choose to be involved in both offerings. (To review the WIAA's goal for this issue, please read the addendum.)

3. Whether the activity is administered by the athletic department.

**Discussion:** This is self-explanatory and a matter of developing the proper chain of responsibility, oversight, and funding.

4. Whether the team prepares for and engages in competition in the same way as other teams in the athletic program with respect to the following:

a. Coaching - Individuals who coach dance and drill and cheerleaders would need to meet the same hiring and evaluation criteria as other coaches. This would also include monetary stipends and any other benefits such as opportunities to receive training.

b. Budget -The programs would receive a budget that would meet the needs of the activity and is comparable to that school's other programs. The budget would include allowances for equipment, uniforms, travel, meals, lodging, and any other items similar to other sports programs.

c. Tryout and Eligibility – Participants would be required to meet the same local school and state association eligibility guidelines. (Please review the WIAA's goals in the addendum.)

d. Length and number of practice sessions – The squads would receive comparable practice time as well as use of comparable facilities. The state association will establish the number of practice sessions prior to initial competition.

e. Competitive opportunities and recognition – While the number of regular season competitions would be established by the state association, the athletic director and coach would be responsible for establishing league affiliation to insure that a schedule is as complete as other sports team in the school district. Awards such as a varsity letter, “all-league” and, which are appropriate and are common with other sports, must also be provided.

5. Whether the primary purpose of the activity is athletic competition and not the support or promotion of other athletes –

> **Discussion:** Competition must be the focal point of the event in which the student participates. The traditional “appearances” that are part of other athletic contests are not appropriate avenues to showcase these participants as athletes.

#### Other Evidence that may be Considered

The OCR letter discusses the central role of state associations and other organizations in determining whether an activity will be considered a sport for equal opportunity purposes. Among the evidence OCR may consider in applying the criteria are the following issues:

1. Organizations knowledgeable about the activity agree that it should be recognized as a sport.
2. The activity is recognized as part of the interscholastic athletic program by the athletic conference to which the institution belongs and by the organized state and national interscholastic athletic/activities associations.

Discussion: Action by the National Federation of State High School Associations (NFHS) suggests that this body has determined that cheerleading and dance and drill are sports. In addition to requesting that OCR review its criteria to allow for a determination that each is a sport, the NFHS has also developed rules and training materials.

3. Whether a state, national or conference rulebook or manual has been adopted for the activity.

Discussion: As stated above, the NFHS has already established rules for competition that address safe and fair competition. The state association must adopt these rules or similar ones as well as adopt rules and regulations similar to other sports. In addition, leagues and other organizational structure such as districts, regionals, or divisions must adopt Standard Operating Procedures (SOP's) similar to other such programs.

4. Whether a state championship exists for the activity.

Discussion: A state event that is developed to showcase the athletic talent of cheerleaders and dance and drill participants must be developed similar to that of other sports. If a state association offers state championships or other such competition, similar competition must be developed.

5. Whether there is state regulation of competition officials along with standardized criteria upon which the competition may be judged.

Discussion: A state organization, similar to those in place for other sports officials, may need to be developed to provide annual rules clinics, seminars, and training. Ranking systems and methods for selecting post-season judges would also be created. Criteria to evaluate performances would be utilized by trained judges similar to gymnastics.

6. Whether the activity is recognized as part of the interscholastic athletic program by the state association.

#### Conclusion

These OCR criteria have yet to result in a finding by OCR that a district may include its dance, drill or cheerleading participants in its evaluation of equal opportunity under Title IX. As these activities evolve, this situation may change. However, it is important to emphasize that districts should not make changes in these activities on the assumption that OCR will accept them as sports. Instead, the interests of the students should drive changes involved.

\* While OCR guidelines also address intercollegiate sports, this document is meant to address only programs at the interscholastic level (junior high, middle school, and high school).

Civil Rights/Definition of Athletic Activity  
July 19, 2000

### **What is considered equitable in equipment and supplies?**

In the area of equipment and supplies, federal athletic law requires that girls' and boys' sports programs receive equipment and supplies that equally meet the sport specific needs of their teams.

Equipment and supplies include, but are not limited to, practice and game uniforms, shoes, rain-gear, warm-up suits, sport-specific equipment such as bats, balls, nets, gymnastics equipment, and general equipment and supplies such as instructional devices, and conditioning and weight training equipment. Stationary equipment such as basketball hoops, field goals and tennis nets are reviewed under the legal standards for the "facilities" program component. Keep in mind a district is not under any obligation to provide these items. If they are provided, however, they must be provided in a way that equally meets the needs of boys' and girls' teams.

Whether or not the girls' and boys' programs are being provided equal equipment and supplies will be evaluated, in part, by considering five factors:

- Quality
- Quantity
- Suitability
- Maintenance and replacement
- Availability

District compliance in this area depends upon a comparison of equipment and supplies for girls' and boys' teams and an analysis of whether their program needs are being met equally. The law does not require the provision of identical equipment if the overall effect of the differences is negligible.

### **What is the district's responsibility to address inequities in equipment and supplies that result from contributions by booster clubs or individual coaches?**

The district is responsible to ensure that the equipment and supplies afforded to interscholastic athletic teams are equitable. If one team receives a contribution from an outside source, the district must ensure that the contribution does not result in an overall disparity in the amount, quality and availability of equipment and supplies for boys' and girls' teams. Special considerations apply to Booster club contributions and are discussed in a separate section.

**If new equipment is provided for one team, such as girls' softball, must it be provided for a "like" sport or for all teams?**

State and federal rules do not specifically require that all sports be on the same schedule for receiving new equipment. The test is whether, overall, the amount, quality and availability of equipment is comparable throughout the girls' and boys' programs.

**What if there are inequities in the amount spent on equipment for boys' and girls' teams?**

State and federal equity laws permit schools to take into account real differences between the costs of girls' and boys' sports that may justify a difference in the amount spent on their equipment and supplies. For example, if it costs more to buy boys' baseball uniforms than girls' softball uniforms, then a school is permitted to spend more on the boys' equipment, as long as the girls' uniforms are of equal quality. Similarly, if the boys' overall equipment and supply budget is higher than the girls', it may be justified if a boys' sport like football requires greater expenditures to equally meet the needs of that sport as compared to other girls' sports.

**Is budget a factor in evaluating whether a district is in compliance in the area of equipment and supplies?**

While budget is not listed in the regulations as a specific factor in this area, a significant disparity between girls' and boys' team budgets may signal a disparity under one of the factors used to assess equal opportunity. For additional information, you may go to the section on budget.

**Do the budgets for girls' teams and boys' teams need to be equivalent under Title IX?**

Title IX does not require that equal dollars be spent on boys' and girls' sports programs. Equal opportunity is the primary concern. The question is whether girls' and boys' sports are being provided sufficient dollars to afford an equal opportunity?

The law recognizes that there may be circumstances when more money needs to be spent on one program than another in order to achieve the same result. For example, it may cost a district \$100.00 to fully equip a female field hockey player and \$500.00 to fully equip a football player with the same quality of equipment. A district in this case would not be out of compliance if its overall boys' program budget exceeded the girls' as a direct result of the cost of the football equipment. In contrast, however, if a district is allocating significantly different budgets to sports that appear to have similar needs, this may raise serious compliance issues.

The ultimate determination of equal opportunity, however, will not be based on comparing one team to another but will depend on what is actually provided to all the teams and whether the support provided results in an equal opportunity in the athletic program overall. Thus, if a district allocates more budget for equipment to boys' baseball than to girls' softball, and the difference in budget results in a lesser quality girls' softball program, the district may not be out of compliance with the law if the disparity between baseball and softball is offset elsewhere in the athletic budget by providing greater resources to other girls' teams as compared to the other boys' teams.

Keep in mind, disparities in girls' and boys' program budgets must be based on non-discriminatory reasons, e.g. differences in the cost of equipment, and any significant disparities in the overall budget along gender lines should raise serious questions.

**Can money or resources be designated for a boys' sport or a girls' sport only from Booster Clubs, a contributor, or fund raising? What is the district's responsibility to other sports if such are accepted?**

School districts often receive donations of money or other tangible support from the public. Sometimes these monies are given to one specific team as opposed to the overall sports program.

Title IX does not prohibit the district from accepting voluntary support. However, if the money results in an inequity along gender lines, then the district needs to act to correct the inequity using its own funds. Thus, if the district accepts a significant donation of new equipment to a boy's baseball team, the district may need to provide comparable equipment to one or more girls' teams if the donation results in an overall inequity in the equipment and supplies provided to boys' and girls' teams.

The guiding principle for a district under federal law is to ensure that its teams receive a level of support necessary to provide an equal athletic opportunity to girls and boys. Support from outside sources such as booster clubs can be an important and welcome part of a district's sports program, but it does not exempt a district from its basic obligation of ensuring equality among its athletes.

**What determines whether boys and girls receive equal benefits from the scheduling of games and practice times?**

This component is not just about the number and times of games. Rather, its overriding concern is the impact that unequal scheduling may have on factors such as the opportunity to participate, compete, attract media coverage, play in front of spectators and develop a strong overall program. There are five factors to be assessed in determining whether your district is providing equal opportunity:

1. number of competitive events per sport;
2. number and length of practice opportunities;
3. time of day competitive events are scheduled;
4. time of day practices are scheduled; and
5. opportunities to engage in available competition.

There may be nondiscriminatory differences in scheduling due to the unique aspects of certain sports. Scheduling of competitive events, for example, may be limited by a lack of competition for a particular sport in the normal competitive region. Fewer competitive contests may in turn affect practice schedules and pre-season and post-season competitive opportunities.

Competitive and practice schedules are often affected by the availability of facilities. Usually, an investigation of the scheduling program component will overlap with an investigation into the program component that covers athletic facilities. When schedules for teams of one sex are adversely affected by the availability of facilities, a district may be out of compliance in both program components.

An institution is not required to schedule the same number of games or practices for boys' and girls' teams in the same or similar sport. However, such a disparity may suggest a larger problem and any differences favoring, for example, boys' teams, should be offset by differences favoring girls' teams in other sports.

**What is considered "prime time" for competitions where there are "similar" teams such as boys' and girls' basketball competing on the same nights?**

The times for competition that are considered "prime time" or those that are most desirable may vary from district to district. Also, when determining whether the district is in compliance, an overall program assessment is needed. Thus, a schedule that favors a boys' team over a similar girls' team is only part of the determination. If the difference is offset by differences in scheduling for other sports which favored girls, the district would still be in compliance with Title IX and state statutes. Only a thorough evaluation can determine whether the overall program is in compliance.

**What determines equal treatment in the area of competitive and practice "facilities," such as locker rooms, playing fields, gyms, courts, and swimming pools?**

An evaluation of a district's sports facilities should consider at least these six different areas:

- the quality and availability of the facilities for girls' and boys' teams;
- whether any teams get exclusive use of a facility;
- the availability, proximity and quality of locker rooms;
- the maintenance of facilities; and
- the level of preparation of facilities for practice and competitive events.

**Is the school district required to have identical practice and competitive facilities for boys' and girls' teams?**

The district needs to ensure that the facilities used by boys' teams and by girls' teams, taken as a whole, are comparable in terms of quality and availability, exclusivity of use, maintenance, and preparation. Because, different sports have different requirements, equity laws do not require identical facilities.

**Is the district responsible for ensuring comparability of city-owned or county-owned facilities used by district teams?**

The district has to make sure that, overall, the facilities used by the girls' teams and the facilities used by the boys' teams are comparable regardless of who owns or manages the facilities.

**What is the district's responsibility to address inequities in facilities that result from contributions by booster clubs or individual coaches?**

The district is responsible to ensure that the facilities afforded to interscholastic athletic teams are equitable. If one team receives a contribution from an outside source, the district must ensure that the contribution does not result in an overall disparity in the facilities used by boys' and girls' teams.

## **How is coaching for boys' and girls' teams assessed for comparability?**

Three main factors are evaluated: opportunity to receive coaching (how much coaching is provided?); the qualifications of coaches (sometimes referred to as the assignment of coaches); and, the compensation of coaches. Each of these factors include elements that should be considered. These elements are listed below.

Two elements to assess for the opportunity to receive coaching:

1. relative availability of full-time coaches for boys' and girls' teams; and
2. relative availability of part-time and assistant coaches for boys' and girls' teams.

Two elements to be assessed for the qualification of coaches:

1. training, experience, and other professional qualifications; and
2. professional standing.

Seven elements to assess for the compensation of coaches:

1. rate of compensation (per sport, per season);
2. duration of contracts;
3. conditions relating to contract renewal;
4. experience;
5. nature of coaching duties performed;
6. working conditions; and
7. other terms and conditions of employment.

Under certain circumstances, some coaching positions can and should be excluded from your analysis. These coaching positions are for combined and coed teams. "Combined teams" refers to sports where the boy's and girl's teams have the same coach(es) and practice and compete at the same or similar times. This is most often the case for sports such as swimming, track and cross country. Coaches of combined teams should be excluded from the analysis unless more coaching time is spent with athletes of one sex. Even though sexes may participate on a team, districts should not arbitrarily determine that a sport, such as wrestling is co-ed.

The primary focus of your analysis should be the degree of coaching services made available to girls' and boys' sports and whether the amount of such services is meeting the needs of boys and girls to a comparable degree. This is because availability of coaching is most directly related to the benefits received by student-athletes. Bear in mind that a decision on compliance under state and federal laws includes a consideration of all three factors for all sports in the program.

For qualifications (also referred to as assignment) of coaches you will need to determine if there is a pattern of assigning less qualified coaches to the program for students of one sex more than the other. The reason for relying only on an overall pattern is because measurable qualifications do not always translate into higher quality coaching. For example, depending on the particular individuals, it is possible for a coach with five years experience to be as effective, or even more effective, than someone with 15 years coaching experience.

While compensation of coaches must be included in your assessment, unequal compensation of boys' and girls' coaches may not itself be enough for your program to be considered out of compliance with athletic equity laws. If the amount of coaching services and the qualifications of coaches to both girls' and boys' sports teams are equivalent, it may be difficult to establish that lower compensation for coaches in, for example, the girls' program, negatively affects female athletes. The intent of federal athletic equity laws is for equal athletic opportunity to be provided to participants, not coaches. However, state law speaks specifically to pay and duties assigned. In addition, other laws may be violated as well if the compensation of coaches is discriminatory.

Federal laws enforced by the Equal Employment Opportunity Commission (EEOC) protect the rights of employees including coaches. Under these laws, a district must ensure that it pays equal pay for equal work without regard to the gender of the employees involved. For example, if a woman is coaching the girls' basketball team and a man is coaching the boys' basketball team, and if their backgrounds, seniority and responsibilities are comparable, the district may not be able to justify a difference in salary.

**Does a district have to pay the coach of a boys' basketball team the same as the coach of a girls' basketball team?**

Athletic equity rules do not require districts to pay the same salary to coaches of "like" sports such as boys' and girls' basketball. Differences in salary may be based on nondiscriminatory factors such as years of experience or different job duties or responsibilities. Under athletic equity laws, equal opportunity with respect to coaching requires an evaluation of the overall coaching services provided to all sports. Salary is just one element of the evaluation and may not be as directly related to the equal opportunity of student athletes as the amount of coaching provided to boys' and girls' teams. Keep in mind however that EEOC policy, which is designed to protect employees, applies to your school and needs to be carefully reviewed.

[EEOC Notice on Compensation of Sports Coaches](#)

**When are publicity and promotional activities considered equitable?**

Interscholastic athletics may be limited in many school districts but you must pay close attention to the decisions made about who receives publicity and the resources allocated to girls' and boys' teams. Whatever limited resources are allocated to these activities, districts must ensure they are distributed equitably.

Some examples of publicity and promotional activities covered by this program component include school newspaper articles, coverage by local media, posters and banners, school-wide announcements, pep rallies, trophy cases and cheerleaders and bands at games. These activities are significant because they help develop b programs, they encourage students to try-out for teams, and they communicate to athletes that their hard work is valued. It is therefore important that the district demonstrate its support equitably.

The measure of equality in this area is based upon the efforts made by a school to provide equal publicity and promotional services. Districts are not held responsible for inequities that result from outside media providing greater coverage for girls' or boys' sports, so long as equal efforts have been made to obtain coverage.

Similarly, unequal publicity may result from the initiative of fans and booster clubs for a particular team. Districts must seek to offset inequities caused by these outside sources of publicity.

The unique circumstances of a particular team, competitive event, or particular athlete may create unique demands or imbalances in particular program components, including publicity. Such imbalances are permissible to the extent that opportunities for teams of the other sex are not limited.

### **How is equitable treatment in the area of medical and training services evaluated?**

In many districts, these services will be minimal but it is important to include consideration of this component in one's evaluation of equality. This consideration should determine, at a minimum, whether athletes of both sexes:

- have equal access to medical and emergency personnel and assistance;
- are covered by or offered the same kinds of accident and medical insurance;
- are given comparable access to trainers; and
- have equal access to, and quality of, weight, conditioning and training facilities.

### **What determines that travel arrangements and travel allowances for girls' and boys' teams are comparable?**

Five different factors should be assessed for each team in your athletic program:

#### Modes of transportation

This factor requires a comparison of the types of transportation used for teams, particularly when they are traveling similar distances. Some differences in transportation may be explained by non-discriminatory factors such as the number of athletes traveling with the team or the amount of equipment to be transported.

#### Overnight accommodations furnished during travel

If your school provides housing accommodations for teams on travel, you should compare the overall quality of the accommodations including the number of athletes assigned to share rooms.

#### Length of stay before and after competitive events

Under this factor, the primary consideration is whether girls' and boys' teams are provided comparable opportunities to arrive at away games with time to rest, have meals or practice.

#### Per diem allowances

Many schools have different ways of handling meal allowances for teams on away games. Regardless of how the school covers these costs (e.g. per diems for each player, a set amount for the whole team etc.), the actual amount of money spent on each athlete should be equal for the girls' and boys' athletic programs.

#### Dining arrangements

If your school makes dining arrangements for athletes on away games, the convenience and quality of the arrangements should equally meet the needs of the girls' and boys' teams.

While some schools may not provide all of these travel services for their teams, whatever services are provided must be provided equitably between the girls' and boys' program. This does not mean that the travel arrangements for each team must be identical. The law recognizes that many factors may affect the travel needs of any particular team for any particular event. However, these services must be provided in a way that equally meets the overall needs of the boys' and girls' teams. Generally, a school must determine whether there is a pattern of favoring teams of one sex in the provision of travel services.

Keep in mind, a district is under no obligation to provide travel services as part of its athletic program. But if it does provide such services, the services must be equitably provided to both male and female athletes.

#### **What should I do if I experience sex discrimination?**

##### Federal Remedies

- federal law also requires that school districts have grievance procedures for complaints of sex discrimination and a Title IX coordinator
- under federal law you may file a complaint directly with a regional office of the Office for Civil Rights. For more information see OCR's web site:  
[http://www.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www.ed.gov/about/offices/list/ocr/docs/tix_dis.html)
- for employment related complaints contact the Equal Employment Opportunity Commission.

##### State Remedies

State laws may provide a detailed set of complaint procedures to follow by anyone wishing to file a grievance concerning possible sex discrimination. Often complaints may also be filed with the state level human rights commissions.

##### Legal Action

Other legal actions through the courts may also be pursued.

##### Contacts for assistance:

Regional OCR offices, etc.