

Some Commonly Asked Questions About Title IX
Answered by Donna Lopiano, Women Sports Foundation

1. Does Title IX require identical athletic programs for males and females?

- No. Males and females can participate in different sports. Rather, Title IX requires that the athletic programs meet the interests and abilities of each gender.
- Under Title IX, one team is not compared to the same team in each sport. The Office for Civil Rights examines the total program afforded to male athletes and the total program afforded to female athletes and whether each program meets the standard of equal treatment.
- Title IX does not require that each team get exactly the same services and supplies. Rather, it requires that the men's program and the women's program receive the same level of service, facilities and supplies. Variations within the men's program and within the women's program are allowed.

2. Does Title IX require institutions to meet "quotas"?

No. Every institution has three options to meet the participation standard of Title IX, only one of which is to provide athletic participation opportunities in substantial proportion to each gender enrollment. They only need to meet one of the following:

- Option 1: Compare the ratio of male and female athletes to male and female undergraduates; if the resulting ratios are close, the school is probably in compliance with the participation standard.
- Option 2: Demonstrate that the institution has a history and continuing practice of program expansion for the underrepresented gender.
- Option 3: Demonstrate that the institution has already effectively accommodated the interests and abilities of the underrepresented gender.

3. How do I know if my school is in compliance with Title IX?

- Ask. Every school, by law, has to have a Title IX Coordinator. Find out who this person is and ask them about the school's compliance. Title IX covers many areas, from participation numbers to quality of available coaching. If the school doesn't have a Title IX Coordinator, report it to the Office for Civil Rights (OCR) at the U.S. Department of Education.
- At the high school level, find out if the school is accommodating the sports interests of both boys and girls. Are there programs not being offered for girls where there's substantial interest to field a program? Compare the number of participation opportunities available to boys (not the number of teams but the actual number of players) to the number of opportunities for girls.
- At the college level, it's become a little easier for anyone to find out if an institution is in compliance. In 1994, Congress passed the Equity in Athletics Disclosure Act (EADA), which requires all institutions of higher education to report each year on athletic participation numbers, scholarships, program budgets and expenditures, and coaching salaries by gender. This information is to be made available to anyone in a timely fashion (1-2 weeks) upon request. Simply call the institution's athletic department and request it. As it is broken down by gender, it's easy to see whether an institution is being equitable.
- Grade your school at www.GeenaTakesAim.com.

4. What is the penalty for non-compliance with Title IX?

- The ultimate penalty for non-compliance is withdrawal of federal funds from the offending institution. Institutions may also be required by a court or the OCR to make changes in their programs and to pay damages to the students for their lost opportunities.
- Although most institutions are not in compliance with Title IX, no institution has lost any federal funds as a result of non-compliance with Title IX (Office for Civil Rights states that it does not have sufficient staff/budget to fully enforce Title IX). Institutions have had to pay substantial damages and attorneys' fees in cases brought to court.

5. Can an established women's athletic program be eliminated, and another one added?

If the institution is in compliance with Title IX participation requirements (i.e. percentage of female athletes is the same as the proportion of female students), it can replace an existing women's team with a different women's team. However, if female athletes are underrepresented, the school cannot eliminate any women's sport until it comes into compliance. Thus when female athletes are underrepresented, the institution must continue to add women's sports without eliminating existing women's programs until the interests and abilities of underrepresented gender are met (as defined by the three-prong test of Title IX's participation provision).

6. Can a former female athlete sue her institution for failure to provide past and current athletes equal opportunities? Can she file an official Office of Civil Rights complaint?

Yes, she can sue her institution as long as the suit involves a claim that there are damages. For example, the former athlete can sue her institution for past discrimination by arguing lost scholarship opportunities. However, she can only file an Office of Civil Rights complaint if it is within 180 days of alleged discrimination or 60 days from the last step in an internal grievance process.