Title IX and Athletics: Workshop

Ashley Atteberry (she/her), Ph.D.
Associate Compliance Officer

Minnesota State
Agenda

Review of Title IX

- General application
- Special topics
- Athletic Specific Challenges
- Compliance Areas within Athletics
- Compliance Committee
Title IX Overview

"No person in the United States shall, on the basis of sex,
--- be excluded from participation in,
--- be denied the benefits of, or
--- be subjected to discrimination
under any education program or activity receiving federal financial assistance."

Title IX of the Education Amendments of 1972 (34 CFR Part 106)
Adjacent Federal and State Laws

Title IX

MN 135A.15

Clery

MN 135A.158

VAWA
Areas of Compliance

- Admissions & recruitment
- Pregnant & parenting
- Athletics
- Employment
- Training
- Grievance process
Title IX Compliance and Oversight

• **Oversight** of compliance in athletics: the institution’s Title IX Coordinator

• Compliance in athletics may be delegated to the Senior Woman Administrator (SWA per NCAA) or compliance officer in athletics; who must have Title IX relevant education

• Deputy Title IX Coordinator in Athletics is recommended; should not be the Title IX Coordinator
Special topics

- Employment (sex-based discrimination)
- Sex-based harassment
- Pregnant and parenting students
- Training
Special topics, continued

NCAA sexual violence prevention policy, attesting process

• Athletics Dept is informed on, integrated in, and compliant with institutional policies and processed regarding sexual violence
• Readily available policies & processes re: sexual violence prevention and adjudication
• Annual education for student-athletes and staff re: sexual violence prevention, intervention, and response
• Annual disclosure for student-athletes re: Title IX proceedings or criminal convictions
• Reasonable steps by institution to confirm disclosed information
• Written procedure re: staff gathering information
Title IX Lens: Athletic Specific Challenges

- Expectations of loyalty to coach, team, department
- Coach-athlete relationships
- College promotion of one particular sport
- Body image and mental well-being
- Winning and scores driven
- Acceptable language, behavior, and attitudes
Overview of Gender Equity in Athletics

Treatment Areas

Financial Assistance

Participation

Applies to:
• intercollegiate
• club
• intramurals
Title IX and Athletics

Title IX requires an institution to:

• Provide **equal** opportunities for women and men students to become intercollegiate athletes

• Provide **equitable** treatment of participants in the overall women’s program as compared to the overall men’s program
Title IX and Athletics (continued)

**Not required:**

- Providing the same funding overall or for the same sport
- Providing specific benefits
- Offering the same number of teams or the same sports
- Providing the same benefits to teams of the same sport
*Equity in Athletics Data Analysis

Equity in Athletics Disclosure Act
Co-educational institutions that participate in a Title IV, federal student financial assistance program, and have an intercollegiate athletic program:

REQUIRED to prepare an annual report to the Department of Education on athletic participation, staffing, and revenues and expenses, by men's and women's teams.

Equity in Athletics Data Analysis (EADA): www.ope.ed.gov/athletics
Participation

Equitable opportunities to participate

• Substantial proportionality;
• History and continuing practice of expansion; or
• Effective accommodation of interests and abilities

3- part test
Evaluating the proportion

Compare enrollment to women and men participants on your school’s teams:

• Are the percentages of men and women participants substantially proportionate to the percentages of men and women enrolled in the school?

• Note: This evaluation also includes calculating the number of additional participants needed to make the percentages of participants on men’s and women’s teams substantially proportionate to enrollment.
  • If this number is so small that it would not be enough to make a viable team (a team for which there are enough interested and able students and enough available competition to sustain a team), your school can likely be considered substantially proportional.
  • If this number is enough to make a viable team, your school likely cannot use this option to show its athletic program provides equal opportunity based on sex.
Treatment Areas

Equitable benefits and opportunities within offerings

- Provision & maintenance of **equipment and supplies**
- Scheduling of **games and practice times**
- **Travel and per diem expenses**
- Opportunity to receive **tutoring** and assignment and compensation of tutors
- Opportunity to receive **coaching**, and assignment and compensation of coaches
- Provision of **locker rooms, practice, and competitive facilities**
- Provision of **medical and training services and facilities**
- Provision of **housing and dining services and facilities**
- **Publicity**
- **Support services**
- **Recruiting**
Treatment Areas: Key Questions

Not all sports are easily compared to others: differences are inherent in operation; such sport-specific needs must be met in an equivalent manner for both men’s and women’s programs.
Financial Assistance

Proportionality of financial assistance
• Regardless of where the money comes from
• Other than scholarships (work-related aid or loans)
• Tiering: caution
Evaluating the financial assistance

Compare the percentage of participants to athletic scholarship money awarded:
• Is the percentage of athletic scholarship money awarded to participants on women’s and men’s teams substantially equal to the percentage of participants? (For example, if 45% of the participants in the athletic program are women, then women should receive about 45% of the available athletic financial assistance)
• If your school provides financial assistance to athletes in forms other than scholarships (for example, work-related aid or loans), does your school make equivalent benefits proportionately available to men and women in its athletic program?
• If any unexplained disparity in the athletic scholarship budget for women and men is 1% or less of the entire scholarship budget, there will be a strong presumption that the disparity is reasonable and based on legitimate, nondiscriminatory factors.
*Fundraising*

Teams raising money on their own

- For specific opportunity
- For equipment, uniforms, etc.
- For special equipment, uniforms, etc.

Foundation solicitation, Targeted funding

Athletics “giving” campaigns

Foundation or campus events
Gender Equity in Athletics

Compliance Evaluation
• Participation
• Treatment Areas
• Financial Assistance

Committee

Guidance materials
Post-Test

1. Participation compliance
2. Percentage of athletic scholarship money
3. Athletic department decisions
4. Committee membership
5. Oversight of gender equity in athletics compliance
Questions?
Resources (& sources for this presentation)

Office of Civil Rights: Title IX and Athletic Opportunities in Colleges and Universities, February 2023

Equity and Title IX in Intercollegiate Athletics: A practical guide for colleges and universities (2012)