



## *Title IX Questions & Answers*



Title IX is the key federal law prohibiting sex discrimination against students and employees in education programs and activities receiving federal financial assistance. Title IX benefits both males and females, and is at the heart of efforts to create gender equitable education. The law requires educational institutions to maintain policies, practices and programs that do not discriminate against anyone based on sex. Under this law, males and females are expected to receive fair and equal treatment in all arenas of schooling: recruitment, admissions, educational programs and activities, course offerings and access, counseling, financial aid, employment assistance, facilities and housing, health and insurance benefits, marital and parental status, scholarships, sexual harassment, and athletics. It may seem hard to believe but prior to 1972 schools routinely discriminated by not admitting girls into traditional “male programs” like shop or engineering and by not admitting boys into traditional “female programs” like home economics or nursing.

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

**- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681**

The following are frequently asked questions about Title IX. The answers are intended to improve awareness and to encourage educators, students, parents, administrators, coaches, athletes and community members to advocate for these rights. They are based on the 1975 Title IX regulations and subsequent guidance on how to implement Title IX.

### *What school levels are covered by Title IX?*

Title IX protects students, faculty and staff in federally funded education programs and activities. Title IX applies to elementary and secondary schools, colleges and universities. It also applies to education programs and activities that receive federal funds (such as internships or School-to-Work programs or research labs, museum programs, and even Department of Justice supported programs for police training). Thus, Title IX covers education programs that receive support from any federal agencies. For example, this includes many private schools, correctional facilities, health care entities, unions, businesses as well as schools and all but two U.S. colleges. (Hillsdale and Grove City College do receive federal funds or allow their students to receive federal financial assistance.)

### *Who is responsible for enforcing Title IX?*

Every recipient of federal financial assistance, by law, is required to designate a Title IX Coordinator and provide grievance procedures. Contact information for the Title IX Coordinator must be readily available to school faculty, staff and students. Title IX coordinators as well as all faculty, students, coaches, and community members can file a complaint of Title IX violation with the Office for Civil Rights or they can use private law suits. Title IX also prohibits institutions from retaliating against any complainant. Find your state Title IX Coordinator at [http://feminist.org/education/pdfs/NetworkCoordinators\\_state.pdf](http://feminist.org/education/pdfs/NetworkCoordinators_state.pdf) and information on winning Title IX cases at <http://feminist.org/education/consequences.asp>.

### *Is there a penalty for Title IX non-compliance?*

Yes! Schools can lose federal funds for violating the law. Although many institutions are not in full compliance with Title IX, no institution has actually lost any federal money. The U.S. Department of Education, as well as individual students and their parents, may sue schools for Title IX violations. In some cases, federal funding has been delayed and schools have had to pay substantial damages and attorney fees in cases brought to court. (See <http://www.feminist.org/education/consequences.asp>)

## *How do athletic activities comply with Title IX?*

Title IX requires that schools, which receive federal financial assistance, provide equal opportunities for members of both sexes. It addresses the availability, quality and kind of benefits, and the opportunities and treatment that athletes receive. There are three basic aspects of Title IX as applied to athletics:

1) **Participation:** Title IX is not a quota system. Every institution has three options to demonstrate fairness in allowing students to participate on a sports team. Schools can show that they comply with Title IX if they can demonstrate any one of the following:

- Athletic opportunities for male and female athletes which are substantially proportionate to enrollment of male and female students. For example, a school with an enrollment of 50% male students and 50% female students must have approximately 50% of its athletic opportunities for males and 50% for females;
- A history and continuing practice of expanding athletic opportunities for the under-represented sex. For example, creating new teams or enlarging existing team squads;
- Full and effective accommodation of the interests and abilities of the under-represented sex. Schools do not necessarily need to offer identical sports, yet they do need to provide an equal opportunity for females to play in sports of interest.

2) **Scholarships:** The total amount of athletic aid must be substantially proportionate to the ratio of female and male athletes. For example, consider a college with a total number of athletes of 205, made up of 90 female athletes (90/205-44% of the total) and 115 male athletes (115/205-56% of the total) and a scholarship budget of \$100,000. An equitable distribution of funds would award \$44,000 (44% of the total funds) in scholarship aid to female athletes and \$56,000 (56% of the total funds) to males. However, schools may justify a higher percentage of funds dedicated to the underrepresented sex as a way to demonstrate compliance with the participation aspect of Title IX, mentioned above.

3) **Additional Athletic Program Components:** Title IX also mandates equal treatment in the provision of:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Coaching                                 | <input checked="" type="checkbox"/> Equipment and supplies              |
| <input checked="" type="checkbox"/> Game and practice times                  | <input checked="" type="checkbox"/> Locker rooms                        |
| <input checked="" type="checkbox"/> Medical and training facilities          | <input checked="" type="checkbox"/> Practice and competitive facilities |
| <input checked="" type="checkbox"/> Publicity                                | <input checked="" type="checkbox"/> Recruitment of student athletes     |
| <input checked="" type="checkbox"/> Method of travel and per diem allowances | <input checked="" type="checkbox"/> Tutoring opportunities              |

The standard for compliance is one of quality rather than quantity. The actual amount of money spent on women's and men's programs may differ as long the quality of facilities and services for each program achieve parity. For example, equipment needed for men's football may cost more than equipment needed by women's field hockey. Title IX compliance is achieved as long as both teams are given equipment of comparable quality. However, Title IX is violated if a community builds a state-of-the-art field and locker facilities for males, but requires female athletes to share a field owned by a local community center. In this example, quality of facilities is far from equitable, and Title IX is violated. To learn about the participation and support for women and men in athletics in your college use the Equity in Athletics Data Analysis Cutting Tool Website <http://ope.ed.gov/athletics/index.asp>. Similar data disclosure requirements have been proposed for high schools.

## *Does Title IX require male athletic opportunities be cut?*

No, Title IX is designed to create parity in athletic opportunity and quality of experience for men and women. It is a school's choice to cut men's programs in an effort to comply with the law or to meet budget constraints. However, Title IX is not intended to be a zero-sum game. Title IX is intended to ensure equality for both males and females.

## *Are any single-sex schools, classes, or activities allowed under the 1975 Title IX regulations?*

In general, Title IX prohibits separate sex schools, courses, and activities such as home economics solely for girls and shop solely for boys. However, the 1975 regulations and the 2006 changes to these regulations include some exceptions to the general prohibition of sex-segregation. The key exceptions starting in 1975 allow sex-segregation for human sexuality courses, choral groups where vocal range and quality are a requirement of the type of music or part being performed, and for contact sports. They also include allowing single sex schools, classes, or activities for remedial or affirmative purposes to decrease sex discrimination in desired education outcomes if the single-sex education is more effective than comparable quality coeducation efforts to decrease sex discrimination.

The additional 2006 exceptions are much broader and allow sex-segregation for K-12 non vocational single sex schools, classes, and extracurricular activities in elementary and secondary schools for a variety of vague purposes such as: “the achievement of an important governmental or educational objective”; “to provide diverse educational opportunities”; or to “meet the particular, identified educational needs of its students”. These 2006 changes no longer tie the key justification for allowing this sex segregation to overcoming the effects of sex discrimination, the sole purpose of Title IX.

Many supporters of Title IX and gender equity agree these exceptions should be rescinded because they are legally indefensible, based on false premises about the benefits of sex segregation, and because there are insufficient safeguards to insure that the sex segregation will result in positive outcomes and that it will not increase sex discrimination.

## *Does Title IX prohibit bias in textbook content?*

No. Because of concern over potential conflict with the First Amendment “freedom of speech” principles and states rights to provide education, the Title IX regulations did not prohibit sexism in curriculum materials. However, to help implement Title IX it is important to avoid bias and stereotyping in instructional practice, content, and materials. Thus, those responsible for advancing gender equity will want to monitor content to ensure that the curriculum promotes understanding of the perspectives of both sexes and their roles in history. To learn how to identify gender bias in textbooks, (See <http://www.american.edu/sadker/curricularbias.htm> ).

## *Under Title IX are students and teachers protected from sexual harassment?*

Yes, sexual harassment (including discrimination relating to perceived or actual sexual orientation) is a form of prohibited sex discrimination, and recipients of this harassment may recover monetary damages. Title IX prohibits sexual harassment by faculty and staff members and by other students in all school programs and activities in school facilities or in other locations when the school is the sponsor of the activity. Discrimination related to sexual harassment of employees is also prohibited under Title VII of the Civil Rights Act of 1964. As in all other areas of Title IX both male and female students and employees are protected from sexual harassment regardless of who is committing the harassing behavior.

## *Are Title IX rights granted to pregnant students?*

Yes. Schools may not discriminate against an enrolled student in academic or non-academic activities because of pregnancy, birth of a child, false pregnancy, miscarriage, or termination of pregnancy. However, a student may opt to participate in an alternate, comparable activity such as a special class for parenting teens.

(This Title IX fact sheet was created by Karen Zittleman with some modification by Sue Klein and Kim Kirn and used with permission of Karen Zittleman 10-1-07, See [www.feminist.org/education](http://www.feminist.org/education) .)