Let’s Play Ball!
Title IX Athletics

Liani Reeves & Kalia Walker
Bullard Law
April 18, 2019
Overview

- Title IX Refresher
- Title IX Compliance
- Red Flags & Common Violations
Title IX Refresher
"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 & Athletics

Title IX Regulations:

“No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics athletics[.]”
Title IX & Athletics Compliance
Equal Opportunity

- Selection of Sports and Levels of Competition Affectively Accommodate the Interests and Abilities of Both Sexes
- Athletic Scholarships
- Other Athletic Benefits & Opportunities
Three Prong Test

1. Substantial Proportionality OR
2. History & Continuing Practice OR
3. Full & Effective Accommodation
Athletic Scholarships

Female and male student-athletes must receive athletics scholarship dollars proportional to their participation.
Other Benefits & Opportunities

1. Provision of equipment, uniform, and supplies
2. Scheduling of games and practice times
3. Travel and per diem allowance
4. Opportunity to receiving coaching and academic tutoring
5. Assignment and compensation of coaches and tutors
6. Provision of locker rooms, practice and competitive facilities
7. Provision of medical and training facilities and services
8. Provision of housing and dining facilities and services
9. Publicity, marketing and promotions
10. Support services for athletic programs
11. Recruiting resources provided to athletic programs
What is “Equal”?  

- Equal quality  
- Equal maintenance  
- Equal suitability  
- Equal availability  
- Equal access  
- Equal set-up/take-down time  
- Equal distance from school
Examples of “Equal In-Effect”?

- Uniforms of equal quality and age
- Other apparel provided equally
- Equal equipment
- Equal supplies
- Equal instructional devices
- Equal weight training equipment
- Equal locker rooms (size, age, location)
- Equal access to bathroom facilities
- Equal storage facilities
- Equal access to athletic trainer/training room/location
Travel and Per Diem Expenses

- Modes of transportation
- Housing during travel
- Length of stay before/after game
- Amount of per diem allowance
- Dining arrangements
Coaching, Tutoring, Trainers

- Availability
- Part-time versus full-time
- Legitimate, non discriminatory
  - Pay
  - Conditions of employment
  - Range and nature of duties
- Coach-Athlete ratio
- Coach experience, professional standing
Publicity

- Quantity
- Quality
- Website
- Social Media
- Access to publicity resources
- Sports information personnel
Facilities: Locker Room, Practice Fields, Playing Fields

- Quality
- Availability
- Maintenance
- Preparation
Compliance = Total Program Comparison
Do the athletic programs meet the interests and abilities of each gender?
Use of Student Interest Surveys
Other Strategies for Compliance

- Designate a Title IX Coordinator
- Integrate Title IX training in annual staff training
- Craft comprehensive policies that the School community will understand
Red Flags & Common Violations
Athletic Funding

For purposes of athletics, the School is required to provide equal in-effect benefits to both genders.
Athletic Funding

- Equal in-effect benefits does not necessarily mean equal total dollars spent.

- BUT… If you do not have equal funding going to each gender, then you will need to provide legitimate and justifiable discrepancies for nongender related differences.
Athletic Funding

If you are spending more money on men’s athletics you need to be able to show:

- You have equal participation between the sexes or equal opportunities with a lower cost attributed to those athletics and that interest is being met.

- If you do not have equal participation, you need to be sure you are sending out an annual interest survey and show a history of expansion.
RED FLAG: Football

Often results in spending a total dollar amount on men’s sports that is larger for women’s sports because football is an expensive sport!
Athletic Funding

If you are spending different amounts of money for comparable sports, you need to have a very good non-discriminatory reason for that disparity.

- Baseball/Softball
- Soccer
- Basketball
RED FLAG:

- Most problematic area
- Most comparable sport
- Must be equal in-effect
RED FLAG: Tiering
Handling Tiering

- Don’t simply count number of men’s and women’s teams in each tier.
- Count the percentage of male and female participants in each tier.
- Watch athletic scholarships!
Club Funds/Team Account
Fundraisers/Booster Clubs

- Title IX requires both genders to receive equal in-effect benefits.
- Any benefit received by a team is considered a benefit provided by the School.
RED FLAG: Donations
Handling Donations

- Require comparable sports to fundraise together and share fundraised dollars equally.

- Explain to donors that cash donations will be allocated in accordance with School policy, i.e., equitably.

- Have Athletic Department maintain fundraised funds.
THANK YOU!