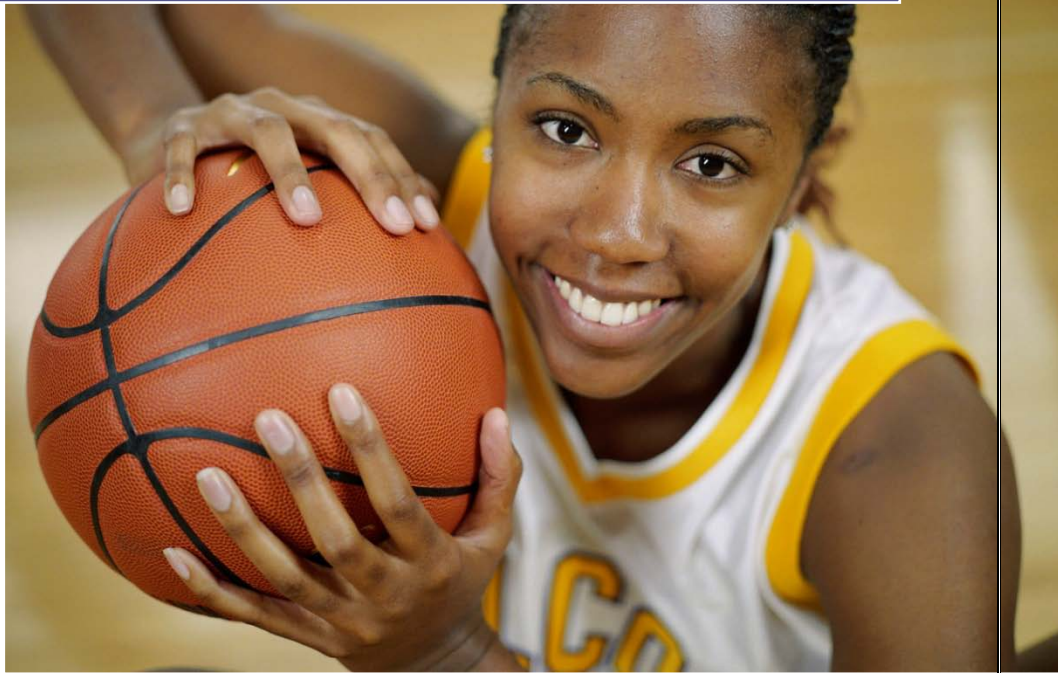


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Title IX of the Education Amendments



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Title IX of the Education Amendments of 1972 is a federal law prohibiting gender discrimination in athletic programs at institutions that receive federal funds. Title IX has been a controversial law involving amateur sports. Since it was enacted, the number and quality of female high school and college athletes have increased tremendously as a direct result of this federal law. Title IX is often referred to as the gender equity statute. Some say Title IX as the necessary equivalent of affirmative action for women in sports. Others argue that Title IX is an unjust quota system that punishes male athletes and programs.

As a result of this legislation, women have directly benefitted from the creation of new programs and new opportunities to compete at the highest amateur level. Additionally, professional leagues in several sports such as the [Women's National Basketball Association \(WNBA\)](#) .

In 1979, the [Office of Civil Rights \(OCR\)](#) published regulations regarding how Title IX should be interpreted. These regulations compared areas of financial assistance and other funding categories for both men's and women's sports programs. Based on the OCR's interpretation, these factors must be taken into account when comparing Title IX compliance between men's and women's programs:

- [EQUIPMENT AND SUPPLIES;](#)
- [SCHEDULING OF GAMES AND PRACTICE TIME;](#)
- [TRAVEL AND PER DIEM ALLOWANCES;](#)
- [TUTORING;](#)
- [COACHING;](#)
- [LOCKER ROOMS, PRACTICE, AND COMPETITIVE FACILITIES;](#)
- [MEDICAL AND TRAINING FACILITIES AND SERVICES;](#)
- [HOUSING AND DINING FACILITIES AND SERVICES;](#)
- [PUBLICITY;](#)
- [SUPPORT SERVICES; AND](#)
- [RECRUITMENT OF STUDENT-ATHLETES \(E.G., BUDGET\).](#)

Title IX ultimately analyzes whether or not money is being allocated equitably between men's and women's programs based on the number of students attending such schools. The key component in a Title IX cases is whether the institution developed a plan and carried out its mission to expand and accommodate the interests of female student-athletes, coaches, and administrators. Developing a plan is not enough: Carrying out its mission is the key.

Fact or Myth? Title IX is only about athletics.

Myth. Most people who know about Title IX think it only applies to sports, but Title IX applies to every aspect of Federally funded education programs. In fact, athletics is only one of 10 major areas addressed by the law. These other areas are: Access to Higher Education, Career Education, Education for Pregnant and Parenting Students, Employment, Learning Environment, Math and Science, Sexual Harassment, Standardized Testing, and Technology.

Title IX Criticism

The fundamental purpose of Title IX is designed to help prevent gender discrimination. However the practical application of this law has generated violent debate. Many opponents of Title IX argue that the law has turned into a quota system and has contributed to the systematic destruction of male sports programs throughout the United States. Many male swimming, wrestling, football, water polo, baseball, and other programs have been eliminated in the name of Title IX compliance. Almost all of the programs that are eliminated are classified as *non-revenue producing* sports according to the NCAA. Supporters of the law argue that Title IX continues to benefit women socially, economically, and even emotionally. Much of the criticism of this law involves the interpretation of how it is applied. *Id* at p. 105.

Title IX Tests

In order to comply with Title IX according to the U.S. Department of Education, a school must meet one of three tests. Currently the OCR oversees compliance in this area and in 1996 offered a clarification of what Title IX compliance really means. If a school passes any one of the three tests, then theoretically there is compliance. Passing these tests is often referred to as the *safe harbor* interpretations of the statute.

Test 1: Substantial Proportionality

Question: Is an institution providing participation opportunities for women and men that are substantially proportionate to their respective rates of enrollment as full-time undergraduate students?

The *substantial proportionality* test is the one that is most often used by plaintiffs and courts to determine whether an institution is in compliance with Title IX. It is usually the easiest method to assess compliance because it is based on numbers. If, for example, 50 percent of women are full-time undergraduates enrolled at a particular college, then 50 percent of the participants in sports programs there must be women. There has been considerable debate as to what the substantial proportionality test means in terms of a specific statistical ratio that athletic departments must adhere to in order to be in compliance. *Id* at p. 106. While ideally the ratio would be 50 - 50, such a ratio has been difficult for athletic departments and universities to achieve. What, then, is substantial proportionality? In *Roberts v. Colorado State Board of Agriculture*, 998 F.2d 824 (10th Cir. 1993), the court held that a disparity of 10.5% did not meet the substantial proportionality test.

Test 2: History of Expansion of Women's Programs

Question: Has an institution demonstrated a history and continuing practice of program expansion for the underrepresented sex? If an institution can demonstrate a history of expansion of women's sports programs, then the institution is likely to survive a claim against it charging noncompliance.

Test 3: Full and Effective Accommodation of Women's Interests

Question: Has an institution fully and effectively accommodated the interests and abilities of the underrepresented sex? Proving that women (or men) are having their interests effectively accommodated is virtually impossible. Recommendations have included conducting on-campus surveys.

Although women have welcomed the new opportunities to participate in sports, not everyone is happy. Finding the funding for each of the sports for both boys and girls is not easy. Budgets may have to be cut from one area in order to accommodate another. Football has always been the number one moneymaking sport at colleges and universities. Coaches and administrators argue that taking money away would be crippling to the sport. "You can't bite the hand that feeds you," says Michigan State football coach George Perles. Schools would rather do away with low-profile sports than interfere with football. Other men's sports being cut include field hockey and water polo.

Men's sports often fund women's sports for survival. This is the reason for much of the debate that rages among opponents to Title IX. They argue that *revenue sports* such as football and men's basketball serve as the cash cow for women's sports nationwide. Is it fair, then, that men's programs should continue to be cut in order to comply with Title IX while women's programs continue to receive aid from men's programs for their very existence? Though such an argument seems to have merit, it is not usually considered a valid one under a Title IX analysis. *Id.*

Football

There are no women's football programs at the intercollegiate level. How does an institution comply with the numerical equivalency requirement in terms of participation and the financial responsibilities associated with Title IX when 85 scholarships may be awarded by any Division I program for which there is no women's sports equivalent?

Such inequity has been dealt with by athletic departments by eliminating men's programs and adding women's programs. This balances the numerical imbalance in terms of proportionality. Unfortunately, male athletes in sports such as swimming, wrestling, tennis, and baseball have suffered at the expense of compliance-based numbers and percentages. Many individuals hope that subsequent interpretations of Title IX will exclude the sport of football. *Id* at pp. 114-115.

Men's Programs Cut Due to Title IX

Since Title IX has been enforced, numerous men's programs have been eliminated from athletic departments. Some of these programs, such as UCLA's men's swimming program, provided some of the finest amateur, Olympic, and professional athletes in our country's history. Male victims of program termination have sued under Title IX claiming that the fundamental purpose of Title IX was not to eliminate men's programs and such termination amounts to a form of reverse discrimination. However, such claims appear to have no merit under most judicial decisions.

In 1993, the men's swimming team at the University of Illinois was cut while the women's was not. The men's fencing team and both diving teams were eliminated as well. As usual, cutbacks were announced due to financial reasons. Members of the men's team sued, claiming discrimination on the basis of sex. Both the trial court and court of appeals held that such decision making by the University of Illinois was acceptable under Title IX analysis, particularly since the men's participation in athletics was 76.6 percent while the overall male enrollment was 56 percent. *Id* at p. 115.

Fact or Myth? Title IX forces schools to cut men's sports.

Myth. Title IX in no way requires schools to cut men's sports. "Nothing in Title IX requires the cutting or reduction of teams in order to demonstrate compliance." (DOE) All federal courts to consider the question have agreed. Some schools have decided on their own to eliminate certain men's sports, but the law is flexible. There are many other ways to come into compliance. Some schools have cut sports, like gymnastics and wrestling, rather than controlling bloated football and basketball budgets, which consume a whopping 72% of the average Division I-A school's total men's athletic operating budget. For example, San Diego State University decided to address its \$2 million budget deficit by cutting its men's volleyball team instead of cutting slightly into the \$5 million football budget. But there are other options: A recent GAO study found that 72% of schools that added teams from 1992-1993 to 1999-2000 did so without discontinuing any teams.

Title IX does not require schools to cut men's teams. College administrators make that choice rather than raise additional funding to support men and women's programs on an equal footing.

Equity in Athletics Disclosure Act, 20 U.S.C. 1092(g) -- 34 CFR 668.48.

The Equity in Athletics Disclosure Act (EADA) requires co-educational colleges and universities that receive federal funds and maintain an intercollegiate athletic program to prepare an annual report to the [Department of Education](#). This report deals with such areas as athletic participation, staffing, revenues and expenses, by men's and women's teams. This act was first adopted in 1994 to provide Congress and the public with a snapshot of collegiate athletics participation by gender. The Department of Education uses this information in preparing its required report to Congress on gender equity in intercollegiate athletics. Such reports provide a valuable tool for assessing compliance with Title IX. Each university must complete numerous forms that provide public access to certain items.

Federal regulations require that the information, based on the previous reporting year, be made available for inspection by students, prospective students, and the public by October 30 of each year. A table must be completed that lists sports participants (including walk-ons), operating expenses for men's and women's programs, recruiting expenses, scholarships awarded, revenues, and all coaches salaries. Once the data is received by the Department of Education, it must provide a report to Congress on gender trends in intercollegiate athletics based on these reports and make institutional specific reports available to the public through the Internet. *Id* at p. 117.

Ten Key Areas of Title IX

- [Access to Higher Education](#)
- [Athletics](#)
- [Career Education](#)
- [Education for Pregnant and Parenting Students](#)
- [Employment](#)
- [Learning Environment](#)
- [Math and Science](#)
- [Sexual Harassment](#)
- [Standardized Testing](#)
- [Technology](#)
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References: **Title IX of the Education Amendments of 1972**
20 U.S.C. § 1681 et seq.

The new regulation is key to making the promise of Title IX a reality. It provides the executive branch agencies with the tool they need to reach the persistent problems that make gender equity elusive -- like disparities in career education programming and sexual harassment, for example.

-- Verna Williams, vice president and director of educational opportunities at the National Women's Law Center

Overview of Title IX of the Education Amendments of 1972

In June 1972, the President signed Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 [et seq.](#), into law. Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. The principle objective of Title IX is to avoid the use of federal money to support sexually discriminatory practices in education programs such as sexual harassment and employment discrimination, and to provide individual citizens effective protection against those practices. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance. Many of these education program providers/recipients became subject to Title IX regulations when the Title IX final common rule was published on August 30, 2000.

Statutes and Regulations

- [Title IX Statute](#) (HTML version)
- **Rulemaking actions to effectuate regulations implementing Title IX:**
 - Title IX Final Common Rule for 21 Federal agencies: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (65 [Fed. Reg.](#) 52857) ([HTML](#) or [PDF](#)) and accompanying [press release](#)
 - Title IX proposed rule for 24 Federal agencies (64 [Fed. Reg.](#) 58568) ([HTML](#) or [PDF](#))

	<ul style="list-style-type: none"> • Rulemaking actions to incorporate the Civil Rights Restoration Act's broadened definitions of "program or activity" and "program" into Title IX regulations: <ul style="list-style-type: none"> ○ Department of Education's Notice of Proposed Rulemaking, published May 5, 2000 (65 FR 26464) (HTML or PDF) ○ Department of Education's Final Rule, published November 13, 2000 (HTML or PDF) ○ Department of Health and Human Services' Notice of Proposed Rulemaking, published October 26, 2000 (65 FR 64194) (HTML or PDF) • Questions and Answers Regarding Title IX Procedural Requirements • Department of Education's Title IX regulations, 34 C.F.R. § 106.1 <i>et seq.</i> (HTML or PDF) • Link to Title IX regulations of other federal agencies
Title IX Materials	
	<ul style="list-style-type: none"> • Title IX Legal Manual (HTML or PDF) • Investigation Procedures Manual
Publications	
	<ul style="list-style-type: none"> • Link to Title IX portion of the Publications Page
What to do if you have a Title IX complaint, or have some questions on Title IX	
	<ul style="list-style-type: none"> • Download our complaint form and mail it to us • Call our Title VI Hotline: 1-888-TITLE-06 (1-888-848-5306) (Voice or TDD)

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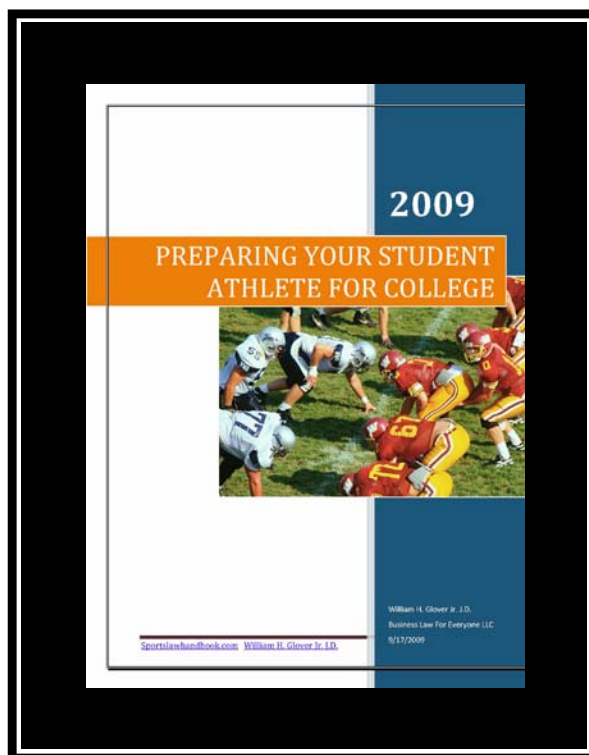
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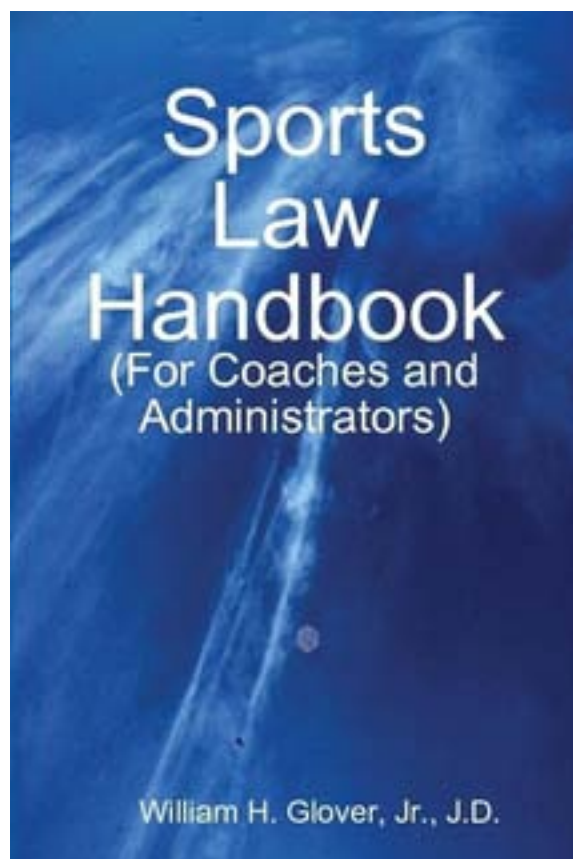
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The Sports Law Handbook examines sports and its relationship to various areas of law, as well as the legal liabilities and responsibilities of coaches, administrators, managers, and institutions that have a relationship to the sports field.

This book

- (1) Identifies the relationship of sports to various categories of the law, including contracts, torts, and crimes;
- (2) Analyzes the role of the attorney and sports agent when representing athletes;
- (3) Provides insight into sports contracts and contractual terms, and the forms they should take;
- (5) Discusses the legal issues unique to professional and amateur sports;
- (6) Shows how criminal law differs from civil law in the context of sports;
- (7) Gives an overview of the various labor issues in the sports world; and
- (8) Details the laws and regulations covering the drug testing of athletes