




The College Athletic Department Toolkit
Series: Balancing Compliance and
Competitive Success in an Era of Change

September 19, 2023
12:00 p.m. – 1:30 p.m.

Session 1: Title IX and Athletics | *What Every Athletic Administrator Needs to Know*



Disclaimer



This isn't legal advice!

(but please ask questions if you have them)

Your Presenters





Kasey Nielsen
Attorney



Joel Nielsen
Higher Education Specialist



Jeff Knight
Attorney

About this Series

Bricker Graydon

- TODAY - Tuesday, September 19, 2023
 - Session 1: Title IX and Athletics | What Every Athletic Administrator Needs to Know
- Tuesday, September 26, 2023
 - Session 2: Student-Athlete Conduct and Health, Safety, and Well-being
- Tuesday, October 3, 2023
 - Session 3: Athletic Operations and Revenue Generation in an Ever-Changing Climate
- Tuesday, October 10, 2023
 - Session 4: The Future of College Athletics | Practical Tips and Takeaways in Anticipating the "New Normal"



Agenda

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- Overview of Case Scenario
- Nuts and Bolts: Title IX Athletics and Equal Opportunities
 - 1. Accommodation of Interests and Abilities
 - [BREAK]
 - 2. Scholarships
 - 3. Benefits and Treatment Areas (the "laundry list")
- Title IX and the Money

Overview of Case Scenario:

Champion University

Bricker Graydon



- Overview of Case Scenario
- Nuts and Bolts: Title IX Athletics and Equal Opportunities (Intro)
- Accommodation of Interests & Abilities
- Scholarships
- Benefits and Treatment Areas
- Title IX and the Money



Champion University



- NCAA Division II (with football)
- Varsity teams: 7 men's sports, 11 women's sports
 - Men's teams: baseball, basketball, cross country, football, golf, swimming, track
 - Women's teams: basketball, cross country, field hockey, golf, lacrosse, soccer, softball, swimming, track, triathlon, volleyball
- Club teams (that we know of):
 - Women's flag football
 - Men's lacrosse








Nuts and Bolts: Title IX Athletics and Equal Opportunities

- Overview of Case Scenario
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Learning Outcomes



1. How to analyze your institution's compliance in providing equal **participation opportunities** and strategies to achieve and maintain compliance
2. How to analyze your institution's compliance in providing equal **scholarships** and strategies to achieve and maintain compliance
3. How to analyze your institution's compliance in providing equitable **benefits and treatment** and strategies to achieve and maintain compliance

Resources



- Title IX Regulations
 - It prohibits schools that receive Federal funding from discriminating based on sex in their programs or activities, including its athletic program.
- Case law
- "Dear Colleague" letters (guidance from OCR)
- OCR Case Resolutions

Why the emphasis now?



- It's the law!
- Anticipating renewed scrutiny with this administration (OCR released resources in February)
- Institutional restructuring due to financial challenges (may impact athletics programs)
- NCAA Division I institutions and DEI requirement
- Anyone (yes, anyone) can make a complaint to OCR, which may trigger an investigation
- Lawsuits
- A pillar of institution's values



It can be tricky...



- Title IX Coordinators have the ultimate responsibility
 - *But Athletics often has the data...*
- Compliance is a "snapshot in time"
- Rules, regulations, and requirements are dense and complicated
- Decisions – good and bad – flow downward to coaches
 - Oversight is KEY!



How to tackle these issues?

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Control your own destiny...
be proactive in complying with Title IX.

Document your compliance...
have a written Gender Equity Plan.

Overview of your Legal Duties

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- Must meet compliance with all three "buckets":

Accommodation of Interests and Abilities

Athletic Scholarships

Benefit & Treatment Areas

Overall program analysis

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- Title IX regulations require that a school offer equivalent benefits, opportunities, and treatment to its men's and women's teams overall.
- Not sport-to-sport comparison (e.g., men's basketball to women's basketball, baseball to softball)

Men's
OVERALL
PROGRAM

=

Women's
OVERALL
PROGRAM

A note on EADA...



- Can be used to evaluate (1) athletic participation opportunities and (2) financial aid
- **EADA & Title IX**
 - Although it may not *fully* reflect, it is *pretty* close
 - Example: Title IX participants
 - In lawsuits, Plaintiffs often rely on EADA data and courts have used these numbers to issue preliminary injunctions

You can use the questions below to help assess your school's provision of scholarships and athletic financial assistance. Your school's athletic director or other school leaders may be able to provide you with the information needed to answer these questions. Also, the Department's Office of Postsecondary Education maintains the [Equity in Athletics Data Analysis \(EADA\) website](#), which publishes information provided by all participating schools that have an intercollegiate athletic program and participate in Federal Student Aid programs. Data on the EADA website may be helpful in answering the questions below. But please note that DOE does not rely solely on the data or any one data point to determine compliance with Title IX.



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- Nuts and Bolts: Title IX Athletics and Equal Opportunities (Intro)
- **Accommodation of Interests & Abilities**
- Scholarships
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Compliance Requirement #1:

Accommodation of Interests and Abilities

Two compliance obligations



Accommodation of Interests and Abilities

1. Participation Opportunities

- *Three prong test*

2. Levels of Competition

- Your school has flexibility in choosing one of these options:
 1. Provide **equivalently advanced competitive opportunities to female and male student-athletes**
 2. Demonstrate continuing upgrades of competitive opportunities for the historical disadvantaged sex

Participation Opportunities

- Your school has flexibility in choosing one of these options:
 - Substantial Proportionality:** whether the percentage of athletic participation compared to full-time undergraduate enrollment is "substantially" proportional ☒
 - History and Continuing Practice:** whether you are adding opportunities for the underrepresented sex ☐
 - Interests and Abilities of Students:** whether you are fully accommodating the interests and abilities of the underrepresented sex ☐


PRONG 1 How to: Substantial Proportionality

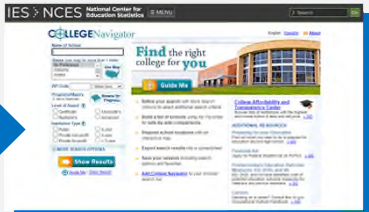
- Ask:** Are the percentage of women and men participants on athletic teams equal to – or "**substantially proportionate**" to—the percentage of women and men enrolled full-time as undergraduates at your school?

$$\% \text{ full-time undergraduate male} = \% \text{ male participants}$$

$$\% \text{ full-time undergraduate females} = \% \text{ female participants}$$

PRONG 1 Full-time undergraduate enrollment

- Team effort: contact your institutional research office or compliance office for enrollment data
- IPEDS data is helpful 



PRONG 1

Athletic participants

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1. Can you count the *sport*?

→

2. Can you count the *participants*?

PRONG 1

Athletic participants – Sport?

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Can you count...

- Traditional sports? **Yes.**
 - Sport on EADA?
 - Sponsored by NCAA, NAIA, etc.?
- Emerging sports? **Likely yes.**
 - Acrobatics and tumbling (33 schools)
 - Equestrian (22 schools)
 - Rugby (23 schools)
 - Triathlon (35 schools)
 - Women's wrestling (39 schools)
- Other sports? **It depends...**

* To be considered a varsity sport under the EADA, an activity must also be considered a sport for purposes of Title IX of the Education Amendments of 1972 (Title IX, 20 U.S.C. § 1088) or any "The Department's Office for Civil Rights, which enforces Title IX, published guidance on determining which activities qualify for coverage under the purposes of Title IX compliance (2005). The Guidance provides varying information to help institutions determine which sports qualify and which will be considered a sport for the purposes of compliance with Title IX of the Education Amendments of 1972 (Title IX, 20 U.S.C. § 1088) or any. The Guidance is useful for institutions as they evaluate their athletic programs for compliance with both the EADA and Title IX.



PRONG 1

Athletic participants – Other Sports

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- 2008 Dear Colleague Letter offers guidance and has stood up in court

OCR will consider a variety of factors, mainly whether the sport's


- Program Structure and Administration
- Team Preparation and Competition



is consistent with established varsity sports in the institution's athletic program

- Operating budget, support services and coaching staff administered by athletic department?
- Eligible to receive athletic scholarship and are recruited?
- Practice opportunities (number, length, quality)?
- Regular season competition?
- Pre-season and/or post-season?
- Purpose is to provide athletic competition rather than support or promote other athletic activities?





PRONG 1


Cheer & Rugby 

- Cheerleading and rugby could **not** count as a sport under Prong 1, according to the 2nd Circuit (CT, NY, VT)
 - Biediger v. Quinnipiac Univ. (2013)*
-  **Cheerleading:** had limited # of contests against other intercollegiate teams; differing rules for those contests; lack of off-campus recruitment; loosely organized post-season opportunity
-  **Rugby:** at the time, only 5 programs nationwide; 6/10 contests against club teams; close to being removed from NCAA emerging sport list
 - Likely a different result today.

PRONG 1

esports 

-  Esports cannot count as a sport under Prong 1, according to the Middle District of Florida
 - Navarro et al v. Florida Institute of Technology (2023)*
- esports was not a "close-call" (compared to cheerleading in *Biediger*) regarding the application of OCR's factors:
 - "Esports does not require athletic ability"
 - "Sport governance associations have no control over the rules of the game itself."



PRONG 1

Key Takeaways on "Sport"

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- Sport on EADA/Traditional Sport? **Yes.**
- Emerging sports? **Likely yes.**
 - Keep records of how it meets the requirements
- Other sports? **It depends...**
 - Are you in a jurisdiction that recognizes it?
 - **Evaluate under 2008 DCL guidance**
 - Keep records of how it meets the requirements



PRONG 1

Hypo – Champion University

Bricker Graydon

- Triathlon?
- If **flag football** is added as a varsity sport next year, can Champion count the female participants for Title IX purposes?



PRONG 1

Athletic participants – What is a Title IX participant?

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- What metric do you use?
 - Website rosters?
 - EADA data?
 - Internal eligibility/squad lists?
- **OCR rule of thumb:** "number of females and males listed on the NCAA squad or eligibility list for each intercollegiate sport on the date of the first competition for each sport."



Be careful of "inflation" – adding names to a squad list the day before the first game and eliminating the day after.

PRONG 1


Athletic participants – Other oddities 



- How do you count...
 - Athlete who participates in more than one sport?
 - Walk-ons?
 - Quit or cut from the team?
 - Redshirt?
 - Student managers?

"Counting participants has become increasingly complicated as eligibility rules regarding transfers, redshirt players, exhausted eligibility, permanent medical determination, non-championship season play, and the growing practice of including male practice players on women's teams have evolved"

PRONG 1


Hypo – Champion University 

EADA		
Athletic Participants 2022-23 (As of May 15, 2023)		
Men's Teams	Women's Teams	
Baseball	55 Baseball	20
Basketball	18 Cross Country	10
Cross Country	10 Field Hockey	23
Football	120 Golf	6
Golf	13 Lacrosse	22
Swimming	33 Soccer	28
Track	30 Softball	22
	Swimming	23
	Track	17
	Triathlon	6
	Volleyball	15
Total	279	194
Total S-A	473	473


→

- Subtract the 5 men's practice players from women's basketball
- Add 5 women's track athletes

Title IX participants		
Athletic Participants 2022-23 (As of May 15, 2023)		
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	Swimming	23
	Track	22
	Triathlon	6
	Volleyball	15
Total	279	194
Total S-A	473	473



PRONG 1

How close is close enough? 

- Now you know how to count, what is "substantially proportionate"?
- What is the "safe harbor"?
- Two data points to consider:

1. Participation gap

- How many additional opportunities are required for the underrepresented sex in order to achieve perfect proportionality?

2. Percentage differential


- What is the difference between the full-time undergrad population vs. athletic participants?

PRONG 1

Percentage Differential

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- Courts in the past have looked at this number
- Calculation
 - % full-time undergraduate male - % male participants = [percentage differential]
 - % full-time undergraduate females = % female participants = [percentage differential]
- Based on case law, if percentage differential is:
 - Over 10% = **unlikely compliant**
 - Between 3.5% and 10% = less clear, but unlikely compliant
 - Below 3.5% = likely compliant



PRONG 1


Percentage Differential – Hypo

Bricker Graydon

Athletic Participants 2022-23 (As of May 15, 2023)	
Men's Teams	Women's Teams
Baseball	55 Basketball
Basketball	18 Cross Country
Cross Country	10 Field Hockey
Football	125 Golf
Golf	33 Lacrosse
Swimming	33 Soccer
Track	30 Softball
	Swimming
	Track
	Volleyball
	Volleyball
Total	279
Total F/A	475
Percentage	58.08%

Male 47% - 59% = -12% **X**

Female 53% - 41% = 12% **X**



PRONG 1

Participation Gap

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- The most the important data point for courts
- How many additional opportunities are required for the underrepresented sex in order to achieve perfect proportionality?
 - X If sufficient to field a "viable team" = **non-complaint**
 - ✓ If not sufficient to field a "viable team" = **compliant**
- Million dollar question: what is a "viable team"?
 - OCR examples:
 - 62 part. gap → can fit a viable team → **not compliant**
 - 6 part. gap → cannot fit a viable team → **compliant**
 - So what about 6-62 part. gap?

PRONG 1

Participation Gap – Magic Number?

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- So what about 6-62 part. gap?
 - Likely depends on a variety of factors (*Lazor v. UConn*)
 - Average size of a team the underrepresented sex is not *dispositive* (“may” be considered as a “frame of reference”)
 - **20 part. gap is enough to sustain a viable team**
 - Mentioned that average Division I women’s golf team is 8, bowling is 10, rifle is 8, gymnastics is 18, and sand volleyball is 18
 - **Using this theory, a part. gap has to be under has to be under the women’s sport with the lowest roster size not offered at your institution?**
- Used viable team at issue – women’s swimming and diving (*Balow v. Michigan State*)
 - **31 part. gap is enough to sustain a viable team** because the smallest swimming & diving team in the Big Ten Conference was 21 females

PRONG 1

Participation Gap - Hypo

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- For women:

$$\left(\begin{array}{c} \text{Number of} \\ \text{male} \\ \text{athletes} \end{array} \right) \div \left(\begin{array}{c} \text{Percentage of} \\ \text{males in student} \\ \text{body} \end{array} \right) - \begin{array}{c} \text{Total athletic} \\ \text{participants} \end{array} = \begin{array}{c} \text{Participation} \\ \text{Gap} \end{array}$$

$$\left(\begin{array}{c} 279 \\ \div \\ 47\% \end{array} \right) - 473 = 120$$

TIGERS

PRONG 1

Strategies to Meet Prong 1

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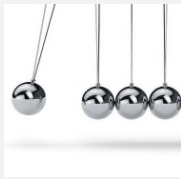

- Roster management policies
- Adding, eliminating (“disfavored” practice), and transitioning programs
 - Leverage emerging sports

PRONG 1

Hypo – Champion University

Bricker Graydon

- If used roster management and had the average NCAA DII participants...
 - Percentage differential = 7.5%; Participation gap = 77
 - Closer, but likely not substantially proportionate
- If eliminated football...
 - Percentage differential = -2% (now men are the underrepresented sex!); Participation gap = -15
 - Likely substantially proportionate
- If added women's flag football and if you can count...
 - Percentage differential = 8.4%; Participation gap = 90
 - Closer, but likely not substantially proportionate – wait for prong 2!

PRONG 1

Key Takeaways – Prong 1

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- Challenging because of the changing demographics
 - Rise of female students since 1970
- If relying on this prong:
 - Do an internal count – don't just rely on EADA data
 - Have rigorous and well-document procedures in place that support the roster numbers being used
 - Calculate the participation gap
 - Consider having a roster management policy
 - Consult with legal counsel and/or experts

PRONG 2

How to: History & Continuing Practice

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- It is okay for the underrepresented sex to be substantially lower than their student body population, so long as the institution has, for the underrepresented sex (often women):
 - (1) consistently added new teams and → "HISTORY"
 - (2) intends to do so in the future → "CONTINUING PRACTICE"

PRONG 2

History & Continuing Practice

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- In evaluating "**history**," OCR looks at the institution's record for:
 - adding teams, (within the last 3-4 years)
 - increasing participants on existing teams, and
 - the institution's response to requests to add teams.
- In assessing "**continuing practice**," OCR examines:
 - the institution's current policy for adding teams and
 - an institution's current implementation of a plan of program expansion that is responsive to developing interests and abilities.

PRONG 2

Hypo – Champion University

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- Are they compliant with prong 2?
 - Likely **not** because they added triathlon 5 years ago, which is not within the past 3-4 years and they are missing other obligations
- How can they comply with prong 2?
 1. If they add women's flag football as a varsity sport immediately
 2. If they prepare a policy on requesting the addition of varsity teams
 3. If they have a written plan to add another women's sport in the future (3-4 years)




PRONG 2

Key Takeaways - Prong 2

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- Look at the last time you added a [women's] team.
 - → If more than 4 years have passed, be cautious.
- Look at if you have a policy regarding requesting the addition of varsity sports.
 - → If you don't have one, prepare a policy and procedure.
 - → If you have one, effectively communicate it (website, handbook, etc.).
 - → If you have one, make sure you document responses to sport requests.
- Look to see if you have a long-plan program expansion plan, including a rough timetable for adding sports.
 - → If you don't have a plan, prepare one.

PRONG 3

How to: Interests & Abilities of Students

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- This is the most complicated because the metrics are nuanced
- Usually referred to as the "survey" prong
- **Question – is there enough (1) demand/interest, (2) skill/talent, and (3) competition at your school among [women/men] to sustain a viable team or sport?**
 - → If the answer is "no" to *any* of these questions, your school can likely use Prong 3
 - → If the answer is "yes" to *all* three questions, your school likely cannot use this option.
- **OCR: Your school's athletic director or other school leaders should have information to help you answer these questions. If they do not have this information, your school likely cannot use this option.**

PRONG 3

Competition + Interest + Ability

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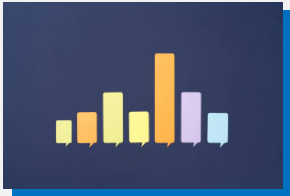
Competition	Interest	Ability
Are there other schools in your area or region currently competing in the sport?	Is there an <i>unmet interest</i> in a particular sport that is not offered at your school?	Is there enough talent and skill among women in the student body to sustain a team in the sport?
Look at normal competitive region, the average mileage to away events and conference opponents	Look at participation in club sports, intramural and recreation student opinions, surveys, high school and community participation in the College's normal recruitment area	Look at whether students have experience or accomplishments playing the sport, administrators/coaches believe that there is enough talent to support a team, high participation in other sports that require similar skills

PRONG 3


Surveys

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- How to assess student's interests and abilities
- Note that you not have to administer a survey to rely upon prong 3
- OCR has released guidance on this prong because it has been controversial
 - Does not consider nonresponses to surveys as evidence of lack of interest or ability in athletics.




PRONG 3




Survey Factors

- OCR evaluates the overall weight it will accord the results of a survey by examining the following factors, among others:
 - content of the survey;
 - target population surveyed;
 - response rates and treatment of nonresponses; (*higher response rate – more weight by OCR*)
 - confidentiality protections; and
 - frequency of conducting the survey.

PRONG 3




Key Takeaways – Prong 3

- Collect good information
 - Surveys can be complicated. Using an expert might be beneficial.
- Document the analysis
 - If you decide not to add a sport that has been requested, you should document the reasons you made that decision, which should include the results of assessing the abilities of interested students and viability of the sport.





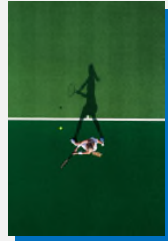
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- Benefits and Treatment Areas
- Title IX and the Money

Compliance Requirement #2
Scholarships

Scholarships



- OCR considers whether the total amount of athletic scholarship aid a school makes available to men and women is “**substantially proportionate**” to their participation rates
- “substantially proportionate” = **within 1%**
 - However, this is subject to adjustment of disparities that are legitimate and non-discriminatory
 - What does this mean? Outside 1% might be okay if:
 - Actions are taken to promote athletic program development
 - Differences between in-state and out-of-state tuition
 - Unexpected fluctuations in participation (someone quits)



Scholarships



- Often not an issue for NCAA Division III institutions because you are not allowed under the bylaws to offer athletic aid
- However, if you offer aid only to athletes, could be subject to Title IX scrutiny
 - Ex. “presidential awards” or “leadership awards”



Hypo – Champion University





• Calculation

- Male
 - Male participation = 59%
 - Male scholarship dollars = 57.8%
 - **Difference = 1.2%**
- Female
 - Female participation = 41%
 - Female scholarship dollars = 42.2%
 - **Difference = 1.2%**

If Champion can show they have legitimate non-discriminatory reasons for the 0.2% difference

→ Complaint.

 **Key Takeaways**



- Analyze this each year
- Document legitimate, non-discriminatory disparities
- Keep copies of policies, procedures, and criteria for awarding scholarship including how determinations are made
- Exercise oversight of coaches



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- **Benefits and Treatment Areas**
- Title IX and the Money



Compliance Requirement #3

Benefit and Treatment Areas

Benefit and Treatment Areas



The "Laundry List"

Equipment and Supplies	Scheduling Games and Practice Time	Travel and Daily Allowance	Coaching	Academic tutors
Locker Rooms and Fields, Courts, or Other Facilities for Practice and Competition	Medical and Training Facilities and Services	Housing and Dining Services	Publicity	Recruitment

What is a disparity?



- There are going to be differences amongst the men's and women's program, but when is it a big enough difference to be a compliance concern?
 - Disadvantage *based on gender*
 - Depends on how many student-athletes it impacts
 - Depends on the benefit
- A disparity in of itself is likely not a Title IX violation, but a pattern or practice of multiple disparities may indicate discrimination and may rise to the level of a violation

A few more notes...



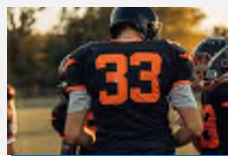
- You can consider the nature of particular sports
- You (and your coaches) can make reasonable professional decisions, but it cannot be discriminatory
 - Example: less expensive equipment
 - If the reason is "tradition" or "that is the way it has always been done" you may want to reconsider



Equipment and Supplies



- Does your school provide athletic gear of equivalent **quality, quantity, suitability, condition, and availability** for athletes on men's and women's teams?
- Strategies to help compliance:
 - Apparel and equipment rotation policies (ex. every 3 years, new warm up gear)
 - Be able to list all the equipment, supplies, and laundry services to teams (inventory software?)



Scheduling Games and Practice Time



- Do men's and women's teams both have a **reasonable opportunity to compete before an audience**?
 - OCR has been investigating this one recently
- Are scheduled practice times equally **convenient** for both men's and women's teams?
- Are the **number and length** of practice sessions equivalent for women's and men's teams in the same or similar sports?

Hypo - Champion



- Men's and women's basketball team play double-headers on Saturdays – tipoff for the women's game is at 5:30 p.m. while the men's game starts after the conclusion of the women's game, usually around 7:30 p.m. The conference schedules the games

- Disparity?
- Solution?



- Whether in- or out-of-season, the football team gets the best lift time in the morning. The field hockey team is scheduled for mid-day, which often runs into class schedules.
- Disparity?
- Solution?



Travel and Daily Allowance



- Do athletes on women's and men's teams use equivalent modes of **transportation** when traveling to away games or competitions?



- Do athletes on women's and men's teams have equivalent **accommodations** when traveling overnight?



- When athletes travel to games, are they offered equivalent **meals** or meal allowances?

Coaching



- Do men's and women's teams have coaches with equivalent **qualifications**?
- Are coaches **available** to women and men athletes for equivalent amounts of time?
- Do coaches of men's and women's teams receive equivalent **compensation**?
 - If not, can differences in pay be justified by factors that could be nondiscriminatory?
- Do coaches of women's and men's teams have equivalent **"other duties"**?



Hypo - Champion



- The assistant athletic director also started to hear complaints that the field hockey team's strength and conditioning coach – though a well-liked individual – is "only" a graduate assistant and isn't exactly tailoring the team's workouts to the sport. The complaints also point out that the University's director of strength and conditioning, who has 20 years of experience, leads the football team and all the other men's sports lifts, and those lifts are typically highly customized.
- Disparity?
- Solution?



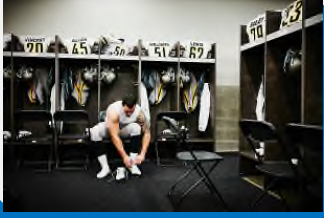
Academic Tutors



- Do men's and women's teams have academic tutors with equivalent **qualifications**?
- Are academic tutors **available** to athletes on women's and men's teams for equivalent amounts of time?
- Do academic tutors for men's and women's teams receive equivalent **compensation**?
- Are the **rules for qualifying for and getting tutoring** equivalent for athletes on women's and men's teams?



Locker Rooms & Facilities for Practice and Competition



- Do athletes on men's and women's teams have locker rooms of equivalent **quality and size**?
- Are the **conditions** of playing fields, courts, pools, and other practice/game facilities for men's and women's team equivalent?

Hypo - Champion



- Baseball: turf field upgraded recently and it continues to be in outstanding shape. In fact, the University regularly hosts tournaments from nearby high school athletic associations because of the turf's high quality.
- Softball: grass field that, while maintained and serviceable, suffers from poor drainage and regularly floods. The softball team's issues are compounded by ad-hoc fencing and poor lighting, *the latter of which necessitates the need to schedule games and practices only when the daylight will accommodate it.*



Disparity?
Solution?

Medical and Training Facilities and Services



- Are the training and conditioning facilities for athletes on men's and women's teams of equivalent **quality**?
- Do members of men's and women's teams have equivalent **access** to training facilities?
- Do men's and women's teams have equivalent medical and training **personnel/services**?



Housing and Dining Services


- Are equivalent **special housing and services** available to athletes on women's and men's teams?
- Are equivalent **special dining and services** available to athletes on women's and men's teams?







Publicity

- Does your school provide equivalent **coverage** for men's and women's teams and athletes on its website, social media, or other publicity?
- Are cheerleaders, pep bands and drill teams provided equivalently for women's and men's teams?





Recruiting

- Are coaches and other personnel given substantially equal **opportunities** to recruit women and men for athletic teams?
- Is recruitment for men and women athletes **funded** in a way that is equivalently adequate to meet the needs of each men's and women's athletic program?







Key Takeaways



- Keep your eyes and ears open
- Meet with your student-athletes and coaches
- Monitor where the money is spent
- Administrators travel with teams
- Identify and remedy immediate compliance concerns

- Overview of Case Scenario
- Nuts and Bolts: Title IX Athletics and Equal Opportunities (Intro)
- Accommodation of Interests & Abilities
- Scholarships
- Benefits and Treatment Areas
- Title IX and the Money

Title IX and the Money

Title IX and the Money



- Funding does not have to be the same for the men's and women's overall program
 - Not dollar-for-dollar matching
 - But there are two program components where funding does matter: athletic scholarships & recruitment



What matters is the **tangible benefits** provided to students

- Evaluate what students *receive*, regardless of the source of the funds
- Budget is intent

Donations and Booster Clubs



- Booster clubs or foundation may not be subject to Title IX, but any *benefits* provided by the entity is subject to Title IX
- If an entity provides benefits that creates a disparity, the school is on the hook to offset that disparity
 - Solution: Reallocate funds
- If the benefits bring you closer to compliance, likely no disparity

Hypo – Champion University



- What to do about the club men's lacrosse team potential donation?


- The coach emphasized that – generally speaking – the families of lacrosse players on campus are fairly affluent, and that one parent suggested that they would donate \$2 million to start up the varsity program. The coach reminded the athletic director that a portion of such a donation would go toward renovating the turf field, which is used by women's lacrosse, field hockey, and football.




Fundraising




- Men's and women's programs have equitable opportunities to fundraise (allow teams to use facilities, etc.)
- Fundraising by student-athletes
 - Under Title IX, an institution has no obligation to offset benefits purchased individually by students
- Fundraising creates a disparity
 - Challenging because some coaches effort is not rewarded while other coaches lack of effort and lack of donors is not penalized.




Key Takeaways




- Monitor how coaches are spending their budget
- Monitor fundraising efforts and successes
- Have conversations with donors
- Be prepared to provide offsetting benefits






- Overview of Case Scenario
- Nuts and Bolts: Title IX Athletics and Equal Opportunities (Intro)
- Accommodation of Interests & Abilities
- Scholarships
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Today's Recap

Key Takeaway: Gender Equity Plan



- Document! Document! Document!
- One that is current, supported by top leadership at the institution, and reviewed by department leadership continuously
- Has an administrator as a "point of contact/responsibility"
- In-house plan or external plan?
- Importance of start and end date



Key Takeaways: Control your Destiny

- Be proactive!
- Federal judges and OCR investigators are not afraid to tell you how to run your athletic department

REPORTING REQUIREMENTS:

1. By no later than April 1, 2023, the University will submit to the Department of Education (DOE) a copy of the Three Part Plan for the University's athletic department, which will be made available to the public. The University will provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public.
2. By no later than July 1, 2023, the University will submit to the Department of Education (DOE) a copy of the Three Part Plan for the University's athletic department, which will be made available to the public. The University will provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public.
3. By no later than October 1, 2023, the University will submit to the Department of Education (DOE) a copy of the Three Part Plan for the University's athletic department, which will be made available to the public. The University will provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public.
4. By no later than January 1, 2024, the University will submit to the Department of Education (DOE) a copy of the Three Part Plan for the University's athletic department, which will be made available to the public. The University will provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public.
5. By no later than April 1, 2025, the University will submit to the Department of Education (DOE) a copy of the Three Part Plan for the University's athletic department, which will be made available to the public. The University will provide a copy of the Three Part Plan to the DOE and will make it available to the public. The University will also provide a copy of the Three Part Plan to the DOE and will make it available to the public.



Questions?

[REGISTER HERE!](#)

- Tuesday, September 26, 2023
 - Session 2: Student-Athlete Conduct and Health, Safety, and Well-being
- Tuesday, October 3, 2023
 - Session 3: Athletic Operations and Revenue Generation in an Ever-Changing Climate
- Tuesday, October 10, 2023
 - Session 4: The Future of College Athletics | Practical Tips and Takeaways in Anticipating the "New Normal"