



# ATHLETICS AND TITLE IX

GARRETT COLLEGE 2023

## TOPICS COVERED

- Title IX Overview
- Athletics
- Discrimination and Harassment
- Proposed Regulations
- College Policies
- What you can do
- Questions

# TITLE IX OVERVIEW

# Simplified: **Title IX**

**1**

**What is it?** Title IX of the Education Amendments of 1972 was designed to limit discrimination by sex and sexual harassment in public schools and other government-funded institutions.\*

**2**

**What does this mean?** Schools are prohibited from restricting admission or participation in activities based on sex. In terms of sports, male and female students must have equal opportunity for participation.\*

**3**

**What are the consequences?** If a school is in violation of Title IX, a claim may be filed in court or with the Office of Civil Rights, which has the power to limit federal funding to that school — although that has never happened so far.\*\*

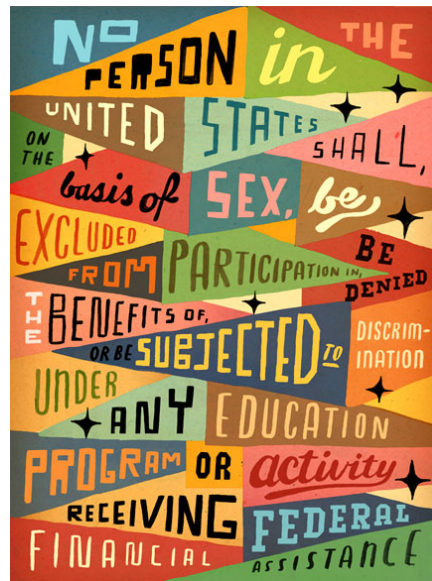
Image from: <https://www.envisageinternational.com/blog/2016/04/11/title-ix-making-news-confusion-still-hand/>

“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 is enforced by the Office of Civil Rights, which is typically influenced by the political philosophy of the current administration; as evidenced by the current proposed changes to the regulations.

## TITLE IX

- Applies to most PreK-12, colleges, and universities.
- Protects students, faculty, and staff.
- Require federally funded educational programs to take a variety of steps to prevent/address sex discrimination, including:
  - Title IX Coordinator
  - Grievance procedures
  - Sex based Discrimination Policy



### Steps:

1. Schools must designate at least one employee with major responsibility to serve as the Title IX Coordinator and must publish their contact information.
2. Adopt and publish grievance procedures that follow prompt and equitable resolution of complaints.
3. Implement and disseminate a policy that prohibits sex based discrimination

## AREAS COVERED UNDER TITLE IX

- Admissions
- Pregnancy, parenting, marital status
- Sexual Harassment
- Student Services
- Career and Vocational Education
- Financial Aid/Scholarships
- Athletics

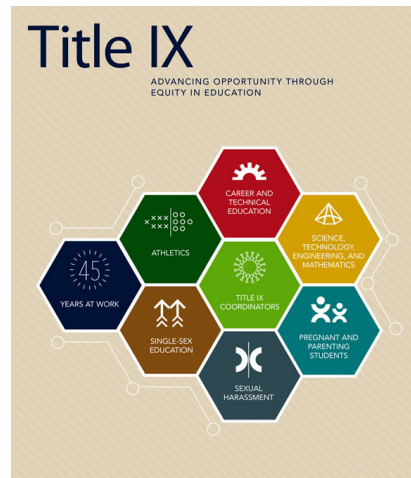


Image from: [www.ncwge.org](http://www.ncwge.org)

# TITLE IX AND ATHLETICS

## EQUITABILITY REQUIRED

- Accommodation of Athletic Interests and Abilities (Participation Opportunities)
- Athletic Scholarships
- Benefits, opportunities, treatment and services (the “Laundry List”)



Common misconceptions around TIX and athletics is that it only applies to athletics, girls and women, requires quotas, and requires the elimination of men’s sports. This is not true. What TIX requires is equitability.



## PARTICIPATION OPPORTUNITIES

- Required to provide equal opportunities to participate.
- Demonstrate compliance in one of three ways:
  - Proportionality- % male and female athletes about the same as % of male and female enrolled, **OR**
  - History and continued practice of expanding opportunities for underrepresented sex, **OR**
  - Show completely and effectively meeting needs of underrepresented athletes (interests and abilities)
- OCR “Participant”
  - Everyone, who on the first day of competition:
    - Receives institutional support normally provided to athletes; **and**
    - Participates in practice sessions, team meetings and activities on a regular basis during season; **and**
    - Listed on eligibility list; **or**
    - Due to injury cannot meet above but still receives aid on basis of athletic ability

\* According to the Title IX Resource Guide, the “three part test is intended to allow institutions to maintain flexibility and control over their athletic programs consistent with Title IX’s nondiscrimination requirements. If an institution has met any part of the three-part test, OCR will determine that the institution is meeting this requirement”( US Dept of Ed, OCR; Title IX Resource Guide, April 2015).

## ATHLETIC SCHOLARSHIPS

- “Must provide reasonable opportunities for such awards for members of each sex in substantial proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics” (OCR Title IX Resource Guide; April 2015).
  - “Does not require colleges to grant the same number of scholarships to men and women, nor does it require that individual scholarship be of equal value” (Dear Colleague Letter: Bowling Green State University; July 23, 1998).
- “OCR conducts a financial comparison to determine whether proportionately equal amounts of financial assistance (scholarship aid) are available to men's and women's athletic programs” (Dear Colleague Letter: Bowling Green State University; July 23, 1998).



## ATHLETIC BENEFITS AND OPPORTUNITIES- “THE LAUNDRY LIST”

1. Equipment and supplies
2. Scheduling of games and practice time
3. Travel and per diem allowances
4. Opportunity for coaching and academic tutoring
5. Assignment and compensation of coaches and tutors
6. Locker rooms, and practice and competitive facilities
7. Medical and training facilities and services
8. Housing and dining services
9. Publicity
10. Recruitment
11. Support Services



## EQUIPMENT AND SUPPLIES

- Quality
- Suitability
- Amount
- Maintenance and replacement
- Availability



## SCHEDULING OF GAMES AND PRACTICES

- Number of competitive events per sport
- Number and length of practice opportunities
- Time of day when competitive events are scheduled
- Time of day when practice opportunities are scheduled
- Opportunities for pre and post season competition engagement



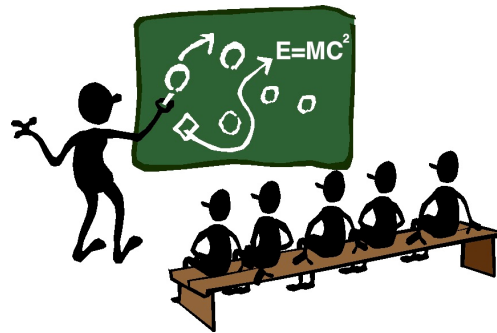
## TRAVEL AND PER DIEM ALLOWANCES

- Modes of transportation
- Housing accommodations during travel
- Length of stay before and after competitive events
- Per diem allowances
- Dining arrangements



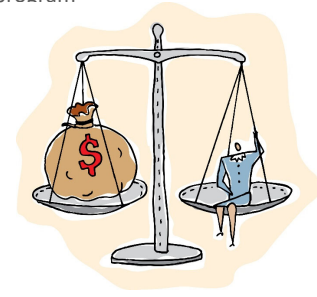
## COACHING AND ACADEMIC TUTORING

- Availability
  - Coaches- relative availability of full-time and part-time coaches, and graduate assistants
  - Tutoring- opportunity to receive academic tutoring, availability of tutors, steps to obtain tutoring assistance



## ASSIGNMENT AND COMPENSATION

- Assignment
  - Coaches- Qualifications; training; professional experience
  - Tutors- Qualifications; training; experience
- Compensation
  - Coaches- Allocation of funds for each men's and women's coaching program
  - Tutors- Rates of pay





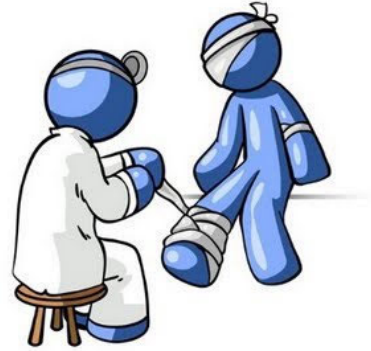
## FACILITIES

- Types:
  - Locker Rooms
  - Practice facilities
  - Competitive facilities
- Factors to consider:
  - Quality and availability
  - Exclusivity of use
  - Maintenance
  - Preparation



## MEDICAL TRAINING FACILITIES AND SERVICES

- Availability of medical personnel and assistance
  - Includes availability and qualifications of athletic trainers
- Insurance coverage
- Availability and quality of:
  - Weight and training facilities
  - Conditioning facilities



## HOUSING AND DINING SERVICES

- Housing provided
- Special services as part of housing arrangements
  - Laundry facilities
  - Parking
- Dining services



## PUBLICITY

- Availability and quality of sports information/media relations personnel
- Quantity/quality of:
  - Publications
  - Web pages
  - Social Media
  - Other promotional devices featuring men's and women's programs
- Access to other publicity resources (radio, TV, streaming, etc.)



## RECRUITMENT

- Coaches are provided with substantial opportunities to recruit
- Financial and other resources available for recruitment are equivalently adequate to meet the needs of each program
- Whether the differences in benefits, opportunities and treatment afforded to prospective student-athletes of each sex have a disproportionately limiting effect upon recruitment of students of either sex.



## SUPPORT SERVICES

- Amount of support and assistance provided to men's and women's programs by:
  - Administration
  - Secretarial and clerical assistance
  - Non-coaching personnel (Director of Facilities, Marketing and Public Relations, etc.)
- Office space, equipment, and supplies



## MEASURING COMPLIANCE

- Use institutional data (ex. Equity in Athletics Disclosure Act).
- Work with other departments (Institutional Compliance & Safety, Financial Aid, Institutional Research).
- Periodic review
  - Athletic policies and procedures
  - Recruitment practices
  - Tour facilities
  - Complete and/or review student-athlete exit interviews
- Reach out to other collegiate athletic departments



1. Compare enrollment data to the number of athletic participation opportunities offered; examine historical data for offerings and expansion of participation opportunities for underrepresented sex; evaluation of unmet interest (ability to sustain, competition)

## DO'S AND DON'TS OF TITLE IX IN RELATION TO ATHLETICS

- Does not require = \$ spent on men and women; only male and female student-athletes must receive equitable benefits.
- Does not require same amount to be spent on men's and women's sports.
  - Discrepancies allowed if based on legitimate and justifiable non-gender related criteria
- Does not require identical programs
- No sport is excluded from Title IX
- Tiering of sports programs allows institutions to choose to provide greater resources for some teams as long as it provides those resources proportionally to females
- No matter the funding (fundraising, donations, ticket revenue, etc.), once expended or provided to teams, it must be counted in evaluating Title IX compliance!



# DISCRIMINATION AND HARASSMENT

## NONDISCRIMINATION POLICY STATEMENT

“Garrett College adheres to all federal and state civil rights laws prohibiting discrimination in public institutions of higher education. Garrett College will not discriminate against any employee, applicant for employment, student or applicant for admission on the **basis of race, religion, personal appearance, color, sex, pregnancy, political affiliation, source of income, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity, gender expression, veteran or military status, predisposing genetic characteristics, or any other protected category under applicable local, state or federal law**, including protections for those opposing discrimination or participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.”

## DISCRIMINATORY HARASSMENT POLICY

“Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Garrett College’s harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under College policy.”

Includes:

- Hostile environment
- Sexual harassment
- Sexual Misconduct (includes dating/domestic violence, IPV, stalking)

## PROPOSED REGULATIONS

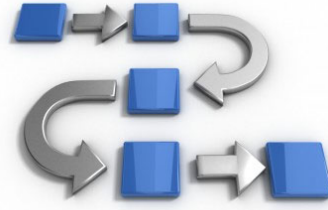
## 2023 PROPOSED REGULATIONS

- Title IX Updates
  - Current federal administration proposing changes to the 2020 regulations
  - Addresses College's obligation to respond to sex and gender- based harassment and discrimination
  - Increased focus on gender identity and pregnancy
- Athletic Participation
  - Current Regulations
    - Equal opportunity and equitability for women/female athletes
  - Proposed Regulations
    - Cannot prohibit transgender athlete participation
    - Includes all spectrum of gender identity; play on team consistent with their gender identity
    - Could create a policy; however, very challenging to navigate the requirements without facing legal ramifications

# COLLEGE PROCESS

## GRIEVANCE PROCESS

- Report
- Preliminary Inquiry
- Resolution
  - No action (policy not violated)
  - Process A
  - Process B
- Interim Remedies/Actions
- Investigation
- Finding
- Appeals
- Long-term Remedies/Actions



WHAT CAN YOU DO?



## HOW TO AVOID SEXUAL HARASSMENT/DISCRIMINATION

- Consider whether you base your behavior (i.e., comments, decisions) on stereotypes of others. Review your behavior and make sure it is sex-/gender-neutral and free of bias.
- Consider how others respond to what you say and do.
- Consider and understand that unwelcome sexual humor and innuendoes may violate the College's sexual harassment policy.
- Do not assume that colleagues, peers, employees, or students enjoy sexually- or gender-oriented comments, jokes, or stories.
- Do not assume that colleagues, peers, employees, or students are flattered by comments about personal appearances, requests to go on a date, questions about relationships, or being touched (i.e. hugs, massages, playful patting).
- Do not assume that you will be made aware when others are offended or feel harassed by what you say and do, especially if you are in a position of power over them.

Persons accused of sexual harassment and/or discrimination are often surprised to learn that someone viewed specific behavior or comments as offensive. The following are steps that you can take to avoid engaging in behaviors that may be harassing or offensive to others.

## HOW CAN YOU MAKE A DIFFERENCE?

- Know Title IX
- Maintain compliance by regularly auditing practices
- Understand and update policies and procedures, handbooks
- Educate staff and student-athletes
- Participate in activities or hold programs
- Ask questions when unsure
- Document and report when necessary
- Lead by example!
  - Check your terminology



QUESTIONS??

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## REFERENCES

Milutinovich, Diane (2013). *Athletics 101: Title IX Basics & How to Avoid Potential Risks*. Powerpoint.

U.S. Department of Education, Office for Civil Rights (April 2015). *Title IX Resource Guide*. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>

U.S. Department of Education, Office for Civil Rights (July 1998). *Dear Colleague Letter: Bowling Green State University*. <https://www2.ed.gov/about/offices/list/ocr/docs/bowlgrn.html>