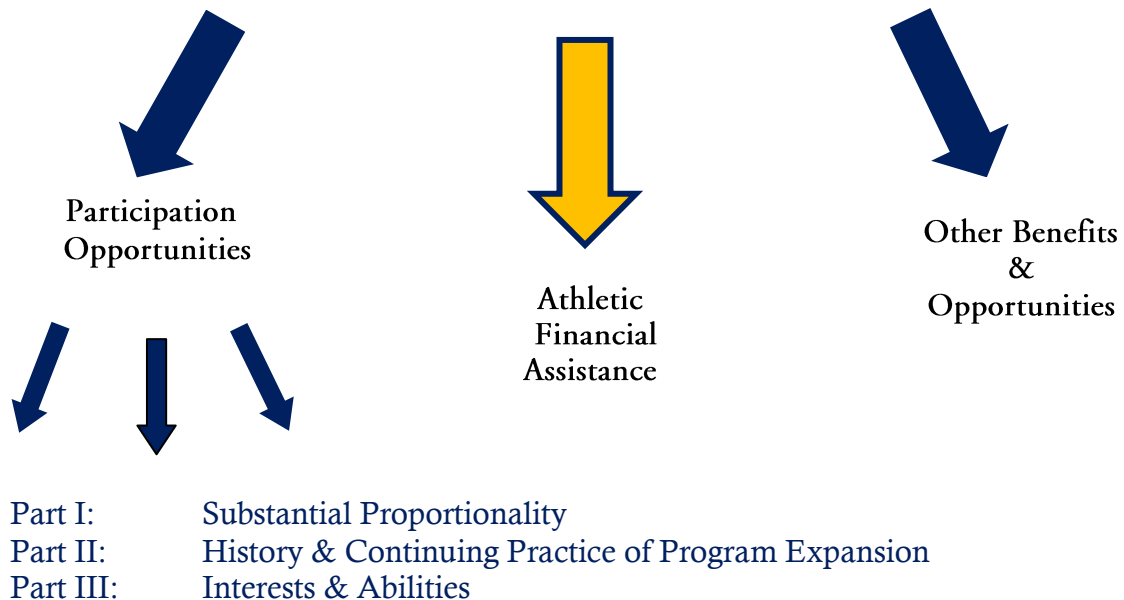


Title IX Primer

This abbreviated Title IX document will follow the basic tenets of the Title IX legislative format. With this being stated, the framework of Title IX is as follows:

A. Title IX Framework¹



B. Language of Title IX

- (a) General. 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 program.
- (b) Separate teams. When an institution sponsors a team in a particular sport for members of one sex but does not sponsor that team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.
- (c) Equal opportunity. An institution that sponsors interscholastic,

¹ Please note that paraphrased language from the Title IX regulations is used throughout the document.

intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, eleven (11) areas are considered and discussed later in this section.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if an institution sponsors separate teams will not constitute noncompliance with this section, the equality of opportunity will be considered.

C. Participation Opportunities

The law requires that the selection of sports and levels of competition effectively accommodate the interests and abilities of both sexes. The first area of Title IX compliance addressed in this review is participation opportunities. The Department of Education's Office of Civil Rights (OCR) issued the "Three-Part Test," which assists an institution in determining whether it is in compliance with Title IX. There are three primary "parts" of this test:

Part I: Substantial Proportionality

Part II: History & Continuing Practice of Program Expansion

Part III: Interests & Abilities

It is important to note that an institution receiving federal funding must comply with Part I **OR** Part II **OR** Part III. The institution under review does not need to comply with all three parts.

Part I: Are Participation Opportunities Substantially Proportionate to Enrollment.

Under Part I of the Three-Part Test, an institution must provide intercollegiate level athletic participation opportunities for male and female students in numbers substantially proportionate to their respective full-time undergraduate enrollments. For example, if an institutional enrollment is 60% female and 40% male, participation opportunities should reflect that same rate in order to meet Part I.

Countable Participants are defined as:

- 1.) Students receiving the institutionally-sponsored support normally provided to student-athletes competing at the institution involved, e.g., coaching, equipment, medical and training room services, on a regular basis during a sport's season and are participating in organized practice sessions and other team meetings and activities on a regular basis during the sport's season and are listed on the eligibility or squad lists. If an athlete competes in two (2) sports, the athlete is counted twice. Athletes are counted as participants on the date of the first contest

and after.

- 2.) Athletes not competing due to injury but continue to receive financial aid on the basis of athletic ability.

Part II: A History and Continuing Practice of Program Expansion for the Underrepresented Sex

Under Part II of the Three-Part Test, an institution can show that it has a history and continuing practice of program expansion.

The following factors will be considered, among others, as evidence that may indicate a history of program expansion or an assessment of interest.

- an institution's record of adding intercollegiate teams, or upgrading teams to intercollegiate status, for the underrepresented sex;
- an institution's record of increasing the numbers of participants in intercollegiate athletics who are members of the underrepresented sex; and
- an institution's affirmative responses to requests by students or others for addition or elevation of sports.
- an institution's current implementation of a nondiscriminatory policy or procedure for requesting the addition of sports (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students; and
- an institution's current implementation of a plan of program expansion that is responsive to developing interests and abilities.
- an institution's use of a survey to assess interest.

Part III: Fully and Effectively Accommodating the Interests and Abilities of the Underrepresented Sex.

In making this determination, an institution must consider the following factors:

- a) Is there sufficient unmet interest to support an intercollegiate team?

An institution's evaluation of interest should be done periodically so that the institution can identify in a timely and responsive manner any developing interests and abilities of the underrepresented sex.

- b) Is there sufficient ability to sustain an intercollegiate team?

Neither a poor competitive record nor the inability of interested students or admitted students to play at the same level of competition engaged in by the institution's other student-athletes is conclusive evidence of lack of ability. It is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team.

c) Is there a reasonable expectation of competition for the team?

D. Athletic Financial Assistance

An institution must provide reasonable opportunity for the awarding of financial assistance to members of each gender in proportion to the number of students of each gender participating in the intercollegiate athletics program. Proportionality must be attained in this analysis of athletic financial assistance. OCR gives less than a 1% differential that institutions must meet for compliance. The institution should review the appropriate "fifth year" athletic financial assistance as well as "summer session" assistance.

E. Other Benefits & Opportunities

The regulation requires that institutions must provide equal athletic opportunities for members of both sexes. In determining whether an institution is providing equal opportunity, eleven (11) factors must be considered. Please note that in certain components it is difficult to determine an exact scenario, i.e., the specific details of the component are not necessarily "black and white" in detail. OCR recognizes that certain components are difficult to document, such as equipment and supplies and support services are more subjective in analysis, while recruitment of student-athletes is based on quantitative analysis and therefore easier to determine non-compliance.

1. Equipment & Supplies [34 C.F.R. section 106.41 (c) (2)]

The quality, suitability, amount, maintenance and replacement, and availability of equipment and supplies provided to all varsity teams must be considered regarding the following:

- Uniforms.
- Other apparel.
- Sport-specific equipment and supplies.
- Instructional devices.
- Conditioning and weight training equipment.

2. Scheduling of Games and Practice Times [34 C.F.R. Section 106.41 (c) (3)]

The following components are reviewed regarding scheduling of games and practices:

- Number of competitive events per sport.
- Number and length of practice opportunities and the time of day practice opportunities are scheduled.
- The time of day competitive opportunities are scheduled.
- The opportunities to engage in pre-season and post-season competition.

3. Travel and Per Diem Allowances [34 C.F.R. Section 106.41 (c) (4)]

The component of travel and per diem allowances includes the following factors:

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

4. Opportunity to Receive Coaching and the Assignment and Compensation of Coaches [34 C.F.R. Section 106.41 (c) (5) (6)]

The analysis of coaching compensation and assignment is the most subjective area of compliance. The factors assessed include:

- Availability.
- Assignment.
- Compensation.

5. Opportunity to Receive Tutoring and the Assignment and Compensation of Tutors [34 C.F.R. Section 106.41 (c) (5) (6)]

The factors assessed include:

- Availability.
- Assignment.
- Compensation.

6. Provision of Locker Rooms, Practice and Competitive Facilities [34 C.F.R. Section 106.41 (c) (7)]

The factors to be considered regarding locker rooms, and practice and competitive facilities are availability, quality and exclusivity of use.

7. Provision of Medical and Training Facilities and Services [34 C.F.R. Section 106.41 (c) (8)]

The factors to be considered in this component include the availability and quality of:

- Medical personnel.
- Athletic training staff.
- Athletic training facilities.
- Conditioning facilities.
- Insurance coverage.

8. Provision of Housing and Dining Facilities and Services [34 C.F.R. Section 106.41 (c)(9)]

The two primary factors reviewed for compliance in this component are:

- Provision of housing facilities and services.
- Provision of dining facilities and services.

9. Publicity [34 C.F.R. Section 106.41 (c) (10)]

The three primary factors reviewed for compliance in this component are:

- Quality and availability of sports information personnel.
- Access to other publicity resources for men's and women's programs.
- Quantity and quality of publications and promotional devices for men's and women's programs.

10. Support Services [34 C.F.R. Section 106.41]

This component focuses on two areas:

- Administrative support.
- Secretarial support.

11. Recruitment of Student-Athletes [34 C.F.R. Section 106.41 (c)]

This area is addressed by determining the level of recruiting support provided to both the men's and women's program. This support looks at the following:

- Percentage of recruiting dollars provided to each program
- Provision of recruiting cars and other resources