

# *A Level Playing Field: Title IX and Gender Equity in K-12 School Athletics*

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# CALIFORNIA WOMEN'S LAW CENTER

**Pursuing Justice for Women and Girls**

CWLC's mission is to break down barriers and advance the potential of women and girls through transformative litigation, policy advocacy and education. We address issues varying from gender discrimination to women veterans and women's health.



CWLC is extensively involved in ensuring California's girls have equal access to athletic opportunities and benefits they are entitled to under Title IX.

[www.cwlc.org](http://www.cwlc.org)

# Fair Play For Girls in Sports

- **WHO**
  - Project of the Legal Aid Society-Employment Law Center
  - Attorneys and Support Staff
- **WHAT**
  - Gender equality for girls
  - Grades K-12 w/ focus on low-income girls and girls of color
  - Schools and park and rec. entities
- **HOW**
  - Community education – trainings, etc.
  - Policy advocacy
  - Technical assistance
  - Strategic litigation



## A quick note...

Today's webinar is intended to be an informative general primer on Title IX as it applies to K-12 school athletics, and is not intended to constitute legal advice.

If you suspect a Title IX violation, please consult a Title IX attorney (that includes us!) for legal advice in your individual case.

# Title IX Coordinators

- Coordinate responses to all Title IX Complaints.
- Monitor outcomes, identify and assess patterns, assess effects on campus climates.
- District must provide appropriate, training, support, authority, and independence.
- Title IX Coordinator should not have other job responsibilities that create a conflict of interest.
- OK and often desirable to have more than one.

# Coordinator Shortcomings

- Among Bay Area K-12 Title IX Coordinators:
  - Only 8% ensured their school's policies and practices were nondiscriminatory.
  - More than 30% were not responsible for receiving & investigating Title IX complaints.
  - Only 7% actually assessed their school's Title IX compliance; only 16% assessed the district's.



# Benefits of Sports for Girls

# Educational Benefits of Female Sports Participation



- Better grades & more likely to graduate, especially minority girls
- Scholarship recipients:  
graduating at higher rates than female students generally
- Skills and discipline acquired at K-12 levels, key for later success



# Employment Benefits

- Sports experience = leadership, teamwork, competition skills

- 80% percent of executive businesswomen played organized sports as youth



- High school female athlete → 7% higher wages later on

# Health Benefits

- Girls who are athletes are half as likely to become pregnant as girls who are not athletes
- Girls who participate in sports possess higher self-esteem
- Women and girls who participate in regular exercise experience lower rates of depression



# Federal Law: Title IX

- Title IX of the Education Amendments of 1972
- “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.”
- Public and private schools, K-12, colleges & universities receiving federal funding.



# Title IX Progress Update

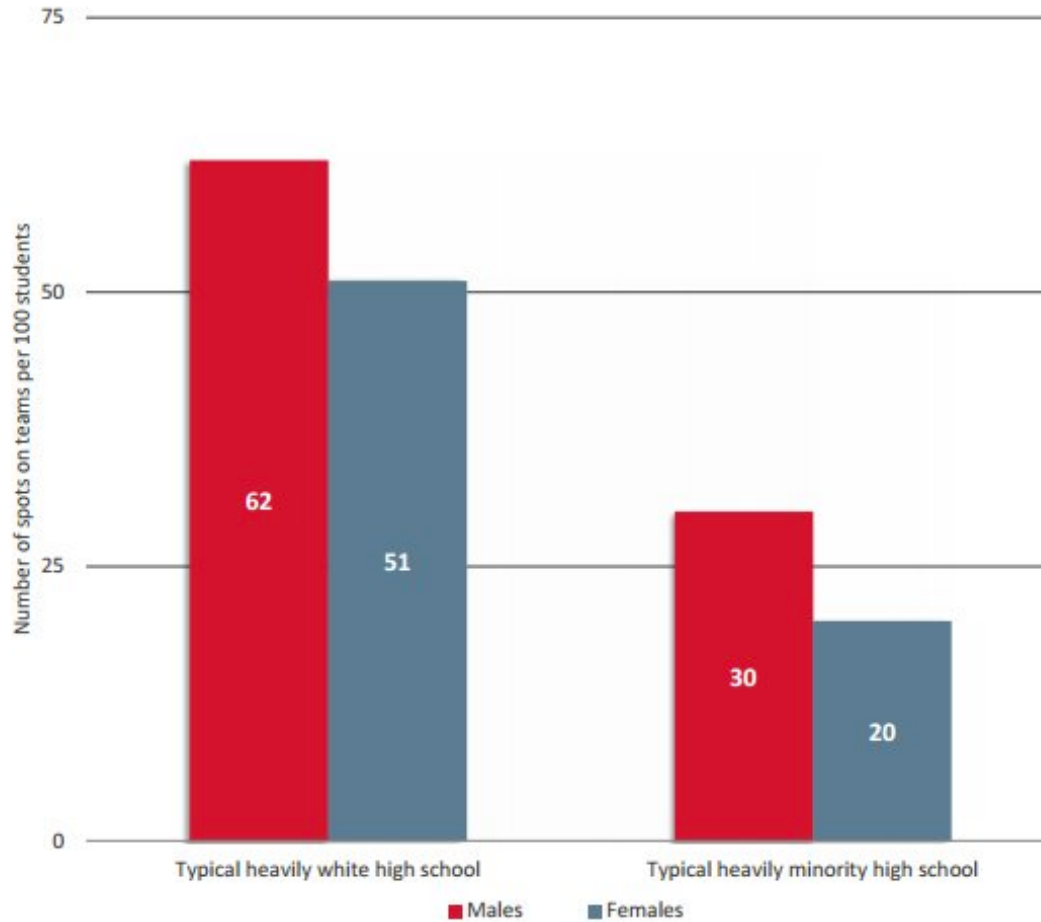
- Before Title IX (1972), fewer than 295,000 girls participated in high school athletics nationally
- In 2015-2016 that number increased to more than 3,300,000
- According to the U.S. Dept. of Education (Office for Civil Rights), nationally, girls are 49% of high school students, but 42% of high school athletes
- In California, in 2015-16, girls were 42% of high school athletes



# Low Income Girls Hit Hardest

- 16% of K-12 public schools nationally have over 75% students of color
- 40% of heavily minority schools have large gender inequality in athletics
- At heavily white schools girls have 33 additional spots per 100 students than at heavily minority schools

**FIGURE 1: GENDER DISPARITIES IN ATHLETIC OPPORTUNITIES AT HEAVILY WHITE & HEAVILY MINORITY HIGH SCHOOLS**



Source: NWLC calculations based on CRDC 2011-2012 data. Heavily white high schools have white enrollment of 90 percent or more. Heavily minority high schools have white enrollment of 10 percent or less. CRDC data treat Hispanic as a racial category.

# What Does Title IX Require for School Athletics?

- Equal Participation Opportunities



- Equal Treatment and Benefits



- No Retaliation



# Title IX's Three-Part Test re Proportionality

- 1. Part 1: Substantial Proportionality** – Male to female ratio of athletes is “substantially proportionate” to the male to female ratio of student enrollment; OR
- 2. Part 2: Expansion** – The school has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex; OR
- 3. Part 3: Full Accommodation** – The school has fully and effectively accommodated the interests and abilities of the underrepresented sex.



# 1. Substantial Proportionality (Example)

- 1,000 students attend a high school
  - 500 females
  - 500 males

**200 of those students play sports**  
**70 females**  
**130 males**

$\frac{500 \text{ female students}}{1000 \text{ total students}} = 50\% \text{ female students}$

$\frac{70 \text{ female athletes}}{200 \text{ total athletes}} = 35\% \text{ female athletes}$

**NOT SUBSTANTIALLY  
PROPORTIONAL**

= **15% gap** (50% - 35%)



## 2. Expansion

- Where members of one sex have been and are underrepresented in athletics, the institution, as an **affirmative defense**, can show a *history and continuing practice of program expansion* which is demonstrably responsive to the developing interest and abilities of the members of that sex.



# 3. Full and Effective Accommodation

- Where members of one sex are underrepresented in athletics (Part 1), and the institution cannot show a continuing practice of program expansion (Part 2), this affirmative defense can be used by a school to demonstrate that the **interests** and abilities of the members of that sex have been **fully and effectively accommodated** by the present program.

# Equal Treatment and Benefits “Laundry List”

1. Equipment & Supplies (*e.g.*, uniforms)
2. Facilities for Practices & Games
3. Locker & Team Rooms
4. Scheduling of Practices & Games
5. Coaching
6. Medical & Training Facilities
7. Publicity & Promotion
8. Travel & Per Diem Allowances
9. Housing/Dining Facilities & Services





Girls' Softball Field  
September 27, 2006



Boys' Baseball Field, September 4, 2007

# Results for Girls, Thanks to Title IX!



Old Dugout - 2006



New Dugout (front) - 2013



New Dugout (back) - 2013



Sweetwater Team



*“[E]qual athletic treatment is not a luxury. It is not a luxury to grant equivalent benefits and opportunities to women. It is not a luxury to comply with the law. Equality and justice are not luxuries.”*

Sweetwater D. Court Judge Lorenz, April 2012



# Enforcement Options

- Complaint directly to **school/school board**.
- **Sue in court** (private law suits) through female student and her family as plaintiffs.
- Complaint to **U.S. Dept. of Education**, Office for Civil Rights (OCR).
- Complaint to **California Interscholastic Federation**.
- Complaint to **California Dept. of Education**.



# Resources

- **California Women's Law Center**

- (323) 951-1041
- <http://cwlc.org/>
- <http://cwlc.org/web/wp-content/uploads/2013/09/Time-Out Title Nine School Compliance.pdf>

- **Legal Aid At Work**

- (415) 864-8848
- <https://legalaidatwork.org/>
- Video: <https://youtu.be/6Uw4i3ll7eY>
- Title IX fact sheet: <https://legalaidatwork.org/factsheet/title-ix/>



# Questions

- Concerns
- Comments

