

***A Level Playing Field:*  
*The Legal Landscape for Equality  
in Youth Sports***

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The California Women's Law Center breaks down barriers and advances the potential of women and girls through transformative litigation, policy advocacy and education.



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

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

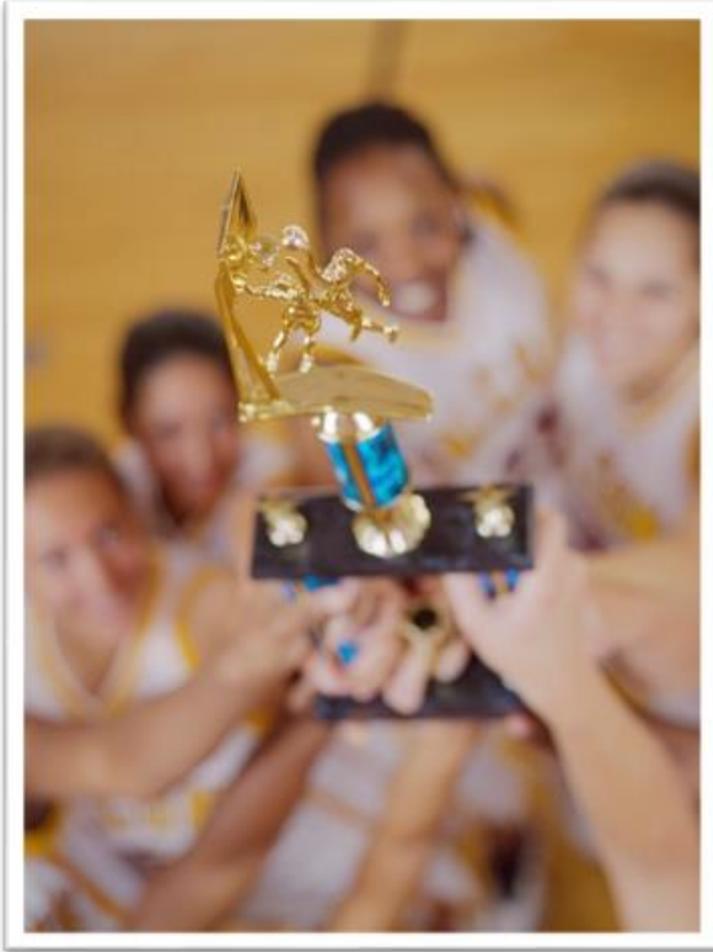
# A quick note!



Today's webinar is intended to be an informative general primer on Title IX and the Fair Play Act and does not constitute legal advice.

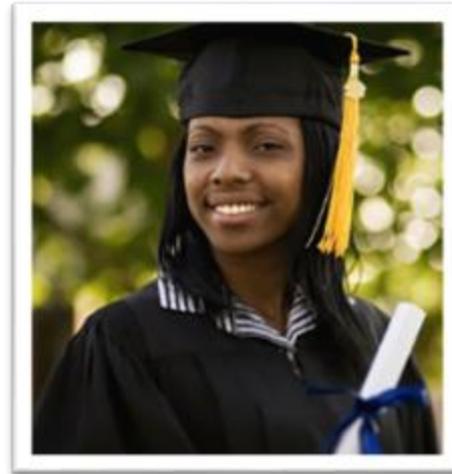
If you suspect a violation, please consult an attorney for legal advice in your individual case.

# Benefits of Sports for Girls



# Educational Benefits of Female Sports Participation

- ▶ Better grades
- ▶ Positive associations with school
- ▶ Skills and discipline acquired through sports at K-12 levels = key for later success



# Employment Benefits of Female Sports Participation

- ▶ Sports experience = **leadership, teamwork, competition skills**
- ▶ **90% percent of executive businesswomen** played organized sports as youth
- ▶ High school female athletes → **7% higher wages as adults**



# Health Benefits of Female Sports Participation

- ▶ Female athletes have lower rates of **teen pregnancy**
- ▶ Girls playing sports have better **physical health** outcomes
- ▶ Girls who participate in sports have better **mental health** outcomes



# 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 2017-2018 that number increased to more than 3,400,000; note: boys' participation = 4,500,000+
- ▶ 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

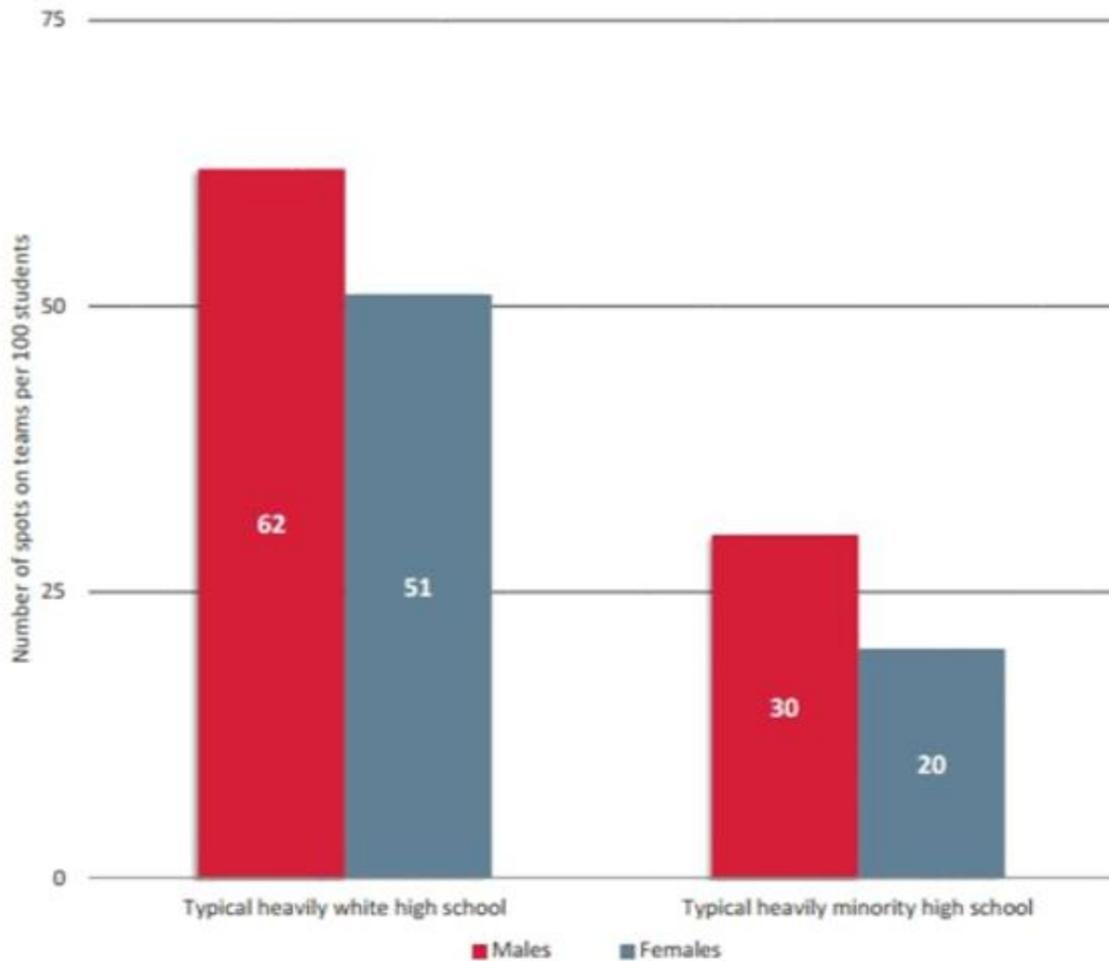


# Increasing Equity for Low-Income Girls and Girls of Color

- ▶ 16% of K-12 public schools across the nation 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 & Benefits



- ▶ No Retaliation



# Participation Opportunities

## Title IX's Three-Part Test

- ▶ **Part 1: Substantial Proportionality** – Share of girls enrolled is “substantially proportionate” to the share of girls on competitive athletic teams; OR
- ▶ **Part 2: Expansion** – School has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex; OR
- ▶ **Part 3: Full Accommodation** – School fully and effectively accommodates the interests and abilities of the underrepresented sex.



# Part 1: Substantial Proportionality (Example)

- ▶ 1,000 students attend a high school
  - ▶ 500 females = 50% of student body
  - ▶ 500 males = 50% of student body
- ▶ 200 students in athletic program
  - ▶ 70 female athletes = 35% of athletes
  - ▶ 130 male athletes = 65% of athletes

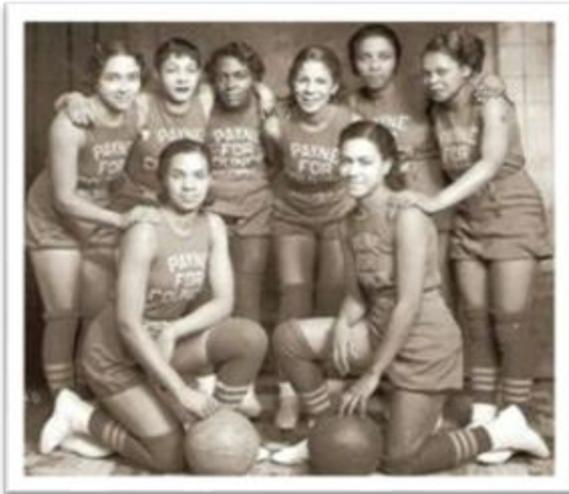
- ▶ Girls' share of students = 50%
- ▶ Girls' share of athletics = 35%
- ▶ **50% - 35% = 15% Gap**

**NOT Substantially  
Proportionate**



# Part 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** responsive to the developing interests and abilities of the members of that sex.



# Part 3: Full and Effective Accommodation

- ▶ Where girls are underrepresented in athletics (Part 1) and the school cannot show program expansion (Part 2);
- ▶ A school may demonstrate the **interests and abilities of the members of that sex have been fully and effectively accommodated** by the present program (Part 3).
- ▶ Signs a school is NOT fully and effectively accommodating girls = **girls are cut from teams and/or surveys show interest in new teams.**



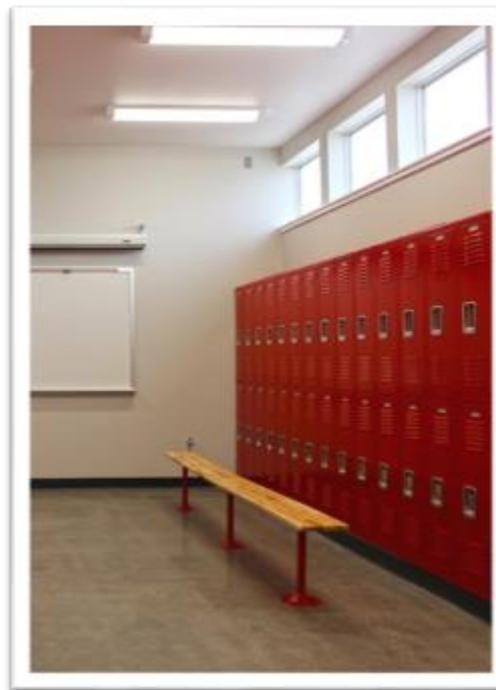
# Equal Treatment and Benefits “Laundry List”

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



# Practice & Game Facilities

## Example – Locker Rooms



# Facilities – Further Examples



Girls' Softball Field  
*Ollier v. Sweetwater* – Class Action  
2007-Present



Boys' Baseball Field  
*Ollier v. Sweetwater* – Class Action  
2007-Present

# Results for Girls and Equity, Thanks to Title IX!



Old Dugout - 2006



New Dugout (front) - 2013



New Dugout (back) - 2013



Sweetwater Team

# Parks & Rec. - AB 2404, CA Fair Play in Community Sports Act)

- ▶ California's Fair Play in Community Sports (Fair Play Act) – **effective as of 2005**



# Fair Play Act (AB 2404)

- ▶ Youth athletic programs are especially important for parks and rec centers
- ▶ Low-income girls are disproportionately affected
- ▶ Skills learned in parks and rec can be crucial to their later success in higher education and employment

# Fair Play Act

- ▶ **Opportunities:** Park and rec. must provide girls and boys **competitive sport opportunities** on an equitable basis
  - ▶ Three prong test (same as Title IX)
- ▶ **Treatment & Benefits -** Female athletes must receive treatment and benefits equal to male athletes, such as field space
- ▶ Community members **can enforce with lawsuit**

# Treatment and Benefits

- ▶ 1. Whether the community youth athletic programs effectively accommodate the athletic interest and abilities of both genders
- ▶ 2. The provision of monies, **equipment**, and supplies
- ▶ 3. The **scheduling** of games and practice times
- ▶ 4. The opportunity to receive **coaching**
- ▶ 5. The assignment and **compensation** of coaches
- ▶ 6. **Access** to lands and areas available to the agency
- ▶ 7. The selection of the **season** for a sport
- ▶ 8. **Location** of games and practices
- ▶ 9. Availability of **locker rooms**
- ▶ 10. The provision of practice and competitive **facilities**
- ▶ 11. The manner of providing **publicity**
- ▶ 12. The quality, training and certification standards of umpires, **referees**, or judges

# Establishing Gender Equity in Park and Recreation & Schools

- ▶ Practices proven to increase girls' participation
  - ▶ Outreach / promote girls' sports
  - ▶ Diversity of sports offerings
  - ▶ Communicate benefits
- ▶ Recurring challenges and barriers
  - ▶ Worries about injuries
  - ▶ Traditional/outdated family values
  - ▶ Culture and funding of girls' teams



# Resources

## California Women's Law Center

(323) 951-1041

<http://cwlc.org/>

See Time Out  
Compliance Guide



## Legal Aid At Work

(415) 864-8848

<https://legalaidatwork.org/>

See Fact Sheets, Videos, and Other Materials

“[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* District Court Judge Lorenz, April 2012

“Courage, sacrifice, determination, commitment, toughness, heart, talent, guts. That's what little girls are made of; the heck with sugar and spice.”

- Bethany Hamilton,  
professional surfer



# Questions and Comments?

