

U.S. Department of Education
Office for Civil Rights



Title IX Dear Colleague Letter (April 20, 2010) **Background, Fast Facts, and Summary**

What is Title IX?

- ✎ Title IX of the Education Amendments of 1972 (Title IX) is a federal law prohibiting discrimination on the basis of sex in all educational programs or activities that receive federal financial assistance.
- ✎ It has opened doors for millions of women and girls since its passage in 1972.
- ✎ The benefits of athletics stretch far beyond the playing field. Studies show that female athletes are more likely to graduate from college than female students who don't play sports, and are less likely to use drugs, get pregnant as teenagers, or become obese as adults. A recent study of Title IX by Wharton professor Betsey Stevenson found that up to 40 percent of the overall rise in employment among women in the 25 to 34 year-old age group was attributable to Title IX.

Increase in male and female intercollegiate and high school athletic participation after Title IX.

College Athletics

- ✎ In 1972, fewer than 30,000 female student athletes participated in sports and recreational programs at NCAA member institutions; by 2007–08, the number of college female student athletes had increased almost six-fold, to about 178,000.
- ✎ In 1972, about 170,000 male student athletes participated in sports and recreational programs at NCAA member institutions; by 2007-08, the number of college male student athletes had increased more than 40 percent, to 240,000.
- ✎ Between 2006-07 and 2007-08, the number of female college athletes at NCAA institutions increased by 3,550 students, while men's participation increased by 6,431 participants.

High School Athletics

- ✎ Fewer than 300,000 females participated in high school athletics in 1971-72, compared to over 3.5 million males.
- ✎ By 2007-08, the number of female high school athletic participants had increased ten-fold, to 3 million (The number of males participating in high school sports rose to 4.4 million).

What does the Dear Colleague letter (DCL) do?

- ✎ Withdraws the Title IX athletics documents issued by the Department of Education (ED) in 2005. These are the “Additional Clarification of Intercollegiate Athletics Policy: Three Part Test – Part Three”; “User’s Guide to Student Interest Surveys under Title IX”, including the “Model Survey”; and the accompanying technical report;
- ✎ Clarifies long standing ED policy that evaluates multiple factors to determine compliance with Part Three of the three-part test – a test used by ED’s Office for Civil Rights (OCR) in part to assess whether institutions are providing nondiscriminatory athletic participation opportunities as required by Title IX.¹ A survey alone is not sufficient for an institution to assess the athletic interests and abilities of its students;
- ✎ Does not permit an institution to interpret non-responses to a survey as evidence of lack of interest or ability in athletics; and
- ✎ Provides technical assistance on the nondiscriminatory design and implementation of surveys as one assessment technique under Part Three.

Why is ED issuing the DCL?

- ✎ The 2005 documents inappropriately changed ED’s longstanding athletics policy, which required an analysis of multiple factors to demonstrate compliance with Part Three.
- ✎ The 2005 documents are inconsistent with the Title IX nondiscrimination requirements and do not provide appropriate clarity regarding nondiscriminatory assessment methods, including surveys.

How will the DCL affect how schools and universities comply with the Title IX athletic requirements?

- ✎ The three-part test remains unchanged.
- ✎ Institutions can continue to use surveys to assess the interests and abilities of the underrepresented sex; however, a survey cannot be the sole means by which institutions make this assessment. Furthermore, non-responses to a survey cannot be characterized as a lack of interest or ability in athletics.
- ✎ The three-part test has provided and will continue to provide institutions with the flexibility to increase athletic opportunities for students of both sexes. OCR’s athletics policy continues to be that Title IX does not require the cutting or reduction of teams in order to demonstrate compliance with Title IX. In fact, OCR considers the elimination of teams to be a disfavored practice.

¹ The first part of the test assesses whether participation opportunities are “substantially proportionate” to enrollment. The second part assesses whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the underrepresented sex. The third part assesses whether an institution is fully and effectively accommodating the interests and abilities of the underrepresented sex.