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# Governance Brief

## Title IX Requirements

A joint publication of CSBA and the California Interscholastic Federation (CIF)

### Introduction

Title IX, the landmark legislation signed by President Richard Nixon on June 23, 1972, celebrated its 46th anniversary this year. Public Law 92-318 of the Education Act of 1972, commonly known as Title IX, is a federal law that was enacted to help prevent gender discrimination in the United States educational system. It is intended to guarantee each gender equal rights to educational programs, activities, athletics, facilities, and federal financial assistance. Title IX states that: "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."<sup>1</sup> Simply put, it requires school leaders to treat male and female students equally.

With regard to athletics, large gender gaps in participation and support indicated the need for Title IX. In 1968, only 60 percent of California schools had female sports teams and there was a stark difference in numbers of participants: only 35,000 female students participated on high school athletic teams as compared to over 300,000 male students.<sup>2</sup>

Today, over 330,000 female student athletes play on California high school athletic teams. They represent 43 percent of the total number of students who participate in athletics.<sup>3</sup> Significant gains have been made, but it is vital that school leaders continue to promote the fair treatment of student athletes, regardless of gender.

### Equal Resources and Opportunities

At the interscholastic level, Title IX is straightforward. The law requires that school districts provide equitable opportunities for both boys and girls to participate in sports. It

#### In this brief you will find:

- » **Information about the Title IX requirements of equal opportunities and resources for male and female students.**
- » **A summary of school, district, and county office of education posting requirements.**
- » **Information about CIF data collection efforts, which can assist in meeting posting requirements.**
- » **Questions for boards to consider.**

is a school district's responsibility to ensure the equal treatment of female and male student athletes, regardless of the funding sources, including outside sources from fundraising and booster clubs.

As leaders in their districts, it is important for boards to consider the question: "Do male and female athletes and teams in our schools receive equal benefits?" In exploring this question, boards and other district leaders must remember that it does not matter who funds these benefits.

When it comes to athletics, boards should consider equivalency in the following areas, among others:

- » Athletic equipment, clothing, and other supplies.
- » Locker rooms, storage facilities, and practice and competition facilities.
- » Game and practice times and scheduling (i.e. scheduling competitions during “prime time”).
- » Travel benefits (overnight trips) and transportation, including the types of buses used (school bus vs. luxury bus).
- » Compensation, recruitment, and assignment of coaches.
- » Coverage and publicity such as in yearbooks, school newspapers, announcements, posters, programs, and other communication outlets under a school’s jurisdiction.
- » Facilities for and access to athletic training and medical services.
- » Institutional support services for athletic programs, including support by pep squads and bands, secretarial support, custodial support, etc.
- » Athletic team opportunities (number of teams offered for both boys and girls).

## Posting Requirements

In 2014, California passed Senate Bill 1349 (Education Code 221.9), which required that all schools (following the 2015–16 school year, and thereafter on an annual basis) post on the school website (or district website if the school does not maintain one) data on students’ participation in competitive sports by gender. Two years later, Senate Bill 1375 (Education Code 221.61) was passed requiring that the name and contact information of the Title IX coordinator be posted in a prominent and clearly visible location on the school, district, and county office of education websites, along with information about how to file a complaint under Title IX.

Recently, the Fair Play for Girls in Sports Project (a project of Legal Aid at Work) analyzed schools’ compliance with these reporting requirements. Those conducting the analysis found that out of 108 randomly selected California high schools, fewer than half—just 51 of the 108—had posted any data at all. The study also found that the lack of compliance with the Education Code did not appear to correlate with the racial or socioeconomic composition of a school’s community.<sup>4</sup>

## Summary of Posting Requirements

Senate Bill 1349 (Education Code 221.9) requires schools to report and post each year:

- » The total enrollment of the school, by gender;
- » The total number of male and female students participating in competitive athletics; and
- » The number of boys’ and girls’ teams, classified by sport and by competition level (Freshman, Junior Varsity, and Varsity).

Senate Bill 1375 (Education Code 221.61) requires schools, districts, and county offices of education to post in a prominent and clearly visible location on their websites all of the following:

- » The name and contact information of the Title IX coordinator including a phone number and email address. The importance of this factor is highlighted in a recent survey conducted by the United States General Accountability Office in which roughly 40 percent of athletic administrators at 784 public high schools reported that they were unaware of a Title IX coordinator at their school.<sup>5</sup>
- » The rights of a student and the public, and the responsibilities of the schools, districts, and county offices of education under Title IX, which shall include but not be limited to:
  - » Internet links to information about those rights and responsibilities located on the websites of the California Department of Education’s Office of Equal Opportunity and the United States Department of Education’s Office of Civil Rights, and the list of rights specified in Education Code 221.8.
- » A description of how to file a complaint under Title IX, which shall include:
  - » An explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred, and how a complaint may be filed beyond the statute of limitations;
  - » An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint (including links to this information on the United States Department of Education’s Office for Civil Rights website); and

- › An internet link to the United States Department of Education’s Office for Civil Rights complaints form and the contact information for the office, which shall include its phone number and email address.

## CIF Participation Census Data Collection

Each year the California Interscholastic Federation (CIF) requests athletic and activity participation data from nearly 1,600 California high schools. The CIF online reporting system allows schools to compile and submit their data to the CIF. Upon conclusion of the census, the CIF posts submitted data on its website, which allows schools and districts to pull their data and post it on their own sites accordingly. This information (which is more detailed than that required to be collected by Education Code 221.9) helps promote transparency of school and district extracurricular programs to the public. More information about the CIF participation census data collection can be found at [bit.ly/2s8j17w](http://bit.ly/2s8j17w).

## Questions for Boards to Consider

Governance teams can play a vital role in ensuring that their schools and districts fulfill their Title IX responsibilities and posting requirements. Questions that school boards should consider include:

1. Who in the district oversees athletic programs?
2. Has our district Title IX coordinator attended in-service and other training on Title IX? (Often Title IX coordinators are in Human Resources and may not understand that Title IX responsibilities go well beyond athletics and can include hazing, sexual harassment, etc.)
3. Have our school athletic directors attended in-service and other training on Title IX?
4. Are our schools collecting and posting the mandated information related to Title IX?
5. Does the board conduct a periodic review of data on student participation and benefits for male and female athletes in the districts’ schools? (See page 2 for areas of equivalency to consider.)

## Resources

- » **CSBA Policies**, available to GAMUT subscribers at [gamutonline.net](http://gamutonline.net):
  - › BP 0410—Nondiscrimination In District Programs And Activities
  - › BP/AR 5145.3—Nondiscrimination/Harassment
  - › BP/AR 5145.7—Sexual Harassment
  - › BP/AR 6145.2—Athletic Competition
- » **CIF Equity in Athletics webpage:** [bit.ly/2ILwKs4](http://bit.ly/2ILwKs4)
- » **CIF Participation Census Data Collection:** [bit.ly/2s8j17w](http://bit.ly/2s8j17w)
- » **California Department of Education Gender Equity/Title IX webpage:** [bit.ly/2sepuxJ](http://bit.ly/2sepuxJ)
- » **Legal Aid at Work webpage on Fair Play for Girls in Sport:** [bit.ly/2IONeiY](http://bit.ly/2IONeiY)
- » **National Women’s Law Center report, *Breaking Down Barriers: A Legal Guide to Title IX and Athletic Opportunities*:** [bit.ly/2GNPOE5](http://bit.ly/2GNPOE5)

## Endnotes

- 1 U.S. Department of Education Office for Civil Rights. (2015). *Title IX and sex discrimination*. Available at [www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)
- 2 According to the California Interscholastic Federation.
- 3 California Interscholastic Federation. Participation census. Available at [bit.ly/2s8j17w](http://bit.ly/2s8j17w)
- 4 Fair Play for Girls in Sports Project. (2017). *Missing report cards: Available data show stark gender inequity in sports programs, and many California public schools shirk reporting requirement*. Legal Aid at Work. Available at [bit.ly/2KWwely](http://bit.ly/2KWwely)
- 5 U.S. Government Accountability Office, Report to Congressional Committees. (2018). *High school sports: Many schools encouraged equal opportunities, but education could further help athletics administrators under Title IX*. Available online at [www.gao.gov/assets/700/691715.pdf](http://www.gao.gov/assets/700/691715.pdf)

