



FACT OR FICTION?

It has been 49 years since the enactment of Title IX. Title IX states that: “[n]o 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.”¹ Despite being around for nearly 50 years, confusion and refusal to adhere to the law still exist. Below are common statements about Title IX that are often misunderstood or downright myths. Test your knowledge to see if you can spot the facts from fiction.¹

Title IX protects all students and staff—male and female—from discrimination on the basis of sex in educational programs or activities that receive federal funding.

FACT. This applies to all public K–12 schools, most colleges and universities, and even hospitals.²

Title IX protects male AND female students from sex-based harassment and assault.

FACT. Title IX protects students, teachers, and school staff from assault and sex-based harassment—including gender stereotypes and gender identity—from other teachers, school staff, and students.

Title IX protects men’s and women’s rights to equal access in many fields.

FACT. Protections extend to STEM courses, school-related extracurricular activities, and university research resources. Title IX allows for equal opportunities in career and technical education programs, including those traditionally dominated by women, such as nursing, and those traditionally dominated by men, such as construction and IT.²

Did you know?

Of the 90 NCAA championships only five (all Division I) generate as much money as they cost to run: men’s basketball, men’s ice hockey, men’s lacrosse, wrestling, and baseball.⁷

Schools must designate a Title IX coordinator to oversee compliance with the law.

FACT. Title IX requires that coordinators should be given the time, authority, and independence to effectively investigate any reported violations.²

Men’s football and basketball programs pay for female sports and allow female sports to exist.

FICTION. These “high-profile” sports don’t generate as much as they cost at most schools. In more elite divisions, almost half of the men’s football and men’s basketball programs spend more money than they generate for their institutions.⁵

Men’s sports are declining because of Title IX.

FICTION. Opportunities for men in sports (measured by numbers of teams and athletes) have grown since Title IX passed in 1972. Between the 1988–1989 and 2015–2016 school years, NCAA member institutions added 4,045 men’s sports teams and dropped 3,016, creating a net gain of over 1,000 men’s teams. NCAA member institutions added 5,660 women’s teams and dropped 2,185 teams for a net gain of 3,475 teams. Women superficially made greater gains over the same period because women started at a deficit. During the 2015–2016 school year, NCAA member institutions dropped 44 women’s teams and 35 men’s teams.⁴

Title IX requires quotas.

FICTION. Title IX requires that schools provide male and female students with equal opportunities to participate in athletics. However, Title IX does not set quotas nor does it demand equal funding for different sports or even the same sport between the genders. Title IX requires that schools allocate participation opportunities in a nondiscriminatory way. Federal courts have consistently rejected arguments that Title IX imposes quotas. The three-part legal test to determine whether a school is in compliance with Title IX is lenient and flexible. These parts are applied in stages so that if the school fails the first prong, they will move on to the second, then the third. If the school can pass any of the parts, there is typically no Title IX violation. The three-part test allows schools to choose which of the three parts they want to satisfy in order to comply with Title IX.^{2, 8}

Title IX forces schools to cut male sports.

FICTION: Title IX does not require or encourage cutting any sports. It allows schools to make choices about how to structure their programs as long as the schools do not discriminate. The sports that are cut are at the discretion of the institution. As long as cuts occur to both men’s and women’s teams (not necessarily of the same sport) then cutting sports teams is not forbidden.²

Title IX does NOT require equal spending on male and female sports.

FACT. Spending does not have to be the same as long as the benefits and services provided to the men’s and women’s programs are equal overall.² For example, if both men’s and women’s sports receive: a championship tournament, marketing campaigns, air time access, food options, gym amenities, swag bags, or even Covid-19 testing, no matter the difference in quality or quantity of these benefits and services, then the benefits and services are said to be “equal overall.” **Is this a Title IX violation?** The answer is complicated because it depends on who is providing the benefits and services to the student-athletes. First, in the 1999 case *NCAA v. Smith*, the Supreme Court ruled that although the NCAA runs sports tournaments for schools—and collects money from those schools—the NCAA *itself* does not receive direct funds from the federal government.⁶ The NCAA receives most of its annual revenue from two sources: March Madness television and marketing rights and Championship tickets.⁷ That money is then distributed to various areas such as sports sponsorship and scholarships, Divisions I-III, and association expenses.⁷ Therefore, the NCAA is currently not required to abide by Title IX even though the institutions it works with have to abide by Title IX regulations. Second, if the institutions themselves provide the benefits and services to the student-athletes, then the benefits and services the men’s and women’s sports receive would have to be equal overall, not necessarily equal in the amount spent. As long as both the men’s and women’s sports receive what appears to be similar benefits, then the institutions are not in violation of Title IX, even if the benefits themselves are not held to the same quality standard between men’s and women’s sports.

1. *Title IX and Sex Discrimination*. U.S. Department of Education. Available at: https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html.
 2. *Advancing Opportunity through Equity in Education*. National Coalition for Women & Girls in Education (NCWGE), 2017. <https://www.ncwge.org/TitleIX45/TitleIX2019%20at%2045-Advancing%20Opportunity%20through%20Equity%20in%20Education.pdf>.
 3. *Debunking Myths about Title IX and Athletics*. National Women’s Law Center (NWLC), 2015. Available at <http://www.nwlc.org/resource/debunking-myths-about-title-ix-and-athletics>.
 4. E. Irick, *NCAA Sports Sponsorship and Participation Rates Report: Student-Athlete Participation, 1981-82 – 2015-16*. NCAA, 2016, pp. 8–9.
 5. D. Fuiks, *NCAA Revenues & Expenses Report: 2004–2014*. NCAA, 2015.
 6. *NCAA v. Smith*, 525 U.S. 459, 119 S. Ct. 924 (1999).
 7. *Where Does The Money Go?*, NCAA, last updated March 2018 using 2016–2017 fiscal figures, https://www.ncaa.org/sites/default/files/18-00180%20NCAA%20101_WheretheMoneyGoes-WEB-NEW-PDF.
 8. *Intercollegiate Athletics Policy: Three-Part Test—Part Three*, U.S. Department of Education, Office for Civil Rights, <https://www2.ed.gov/about/offices/list/ocr/docs/title9-qa-20100420.html>.