

2024 NADC

Austin, TX

December 17, 2024

PRESENTERS:

Peg Pennepacker, CAA

High School Title IX Consulting Services

W. Scott Lewis, J.D.

Managing Partner TNG

A hand holding a pen is shown writing on a chalkboard. The text 'TITLE IX UPDATE' is written in large, white, block letters. The background is a dark, textured surface, possibly a chalkboard or a wall with a pattern.

TITLE IX UPDATE

and

BEST PRACTICES

Workshop Presenters

Peg Pennepacker, CAA



W. Scott Lewis, JD



Legal Disclaimer

The information provided in this presentation is NOT a substitute for legal advice.

Title IX of the Education Amendments of 1972 is a Federal law.

Participants of this presentation should seek the advice of their school's legal counsel.

1. Register here!



2. ATIXA Event Lobby
(access to slides and
handouts after registering)

The background of the image shows a stack of several books, with a basketball resting on top of them. The books are dark-colored, and the basketball is a standard orange with black lines. The entire scene is dimly lit, creating a moody atmosphere. The text 'TITLE IX UPDATE' is overlaid in the center in a bright, white, pixelated font.

TITLE IX
UPDATE



Title IX Update

- Status of Injunctions

<https://www.atixa.org/2024regs/#injunction>



Title IX Update

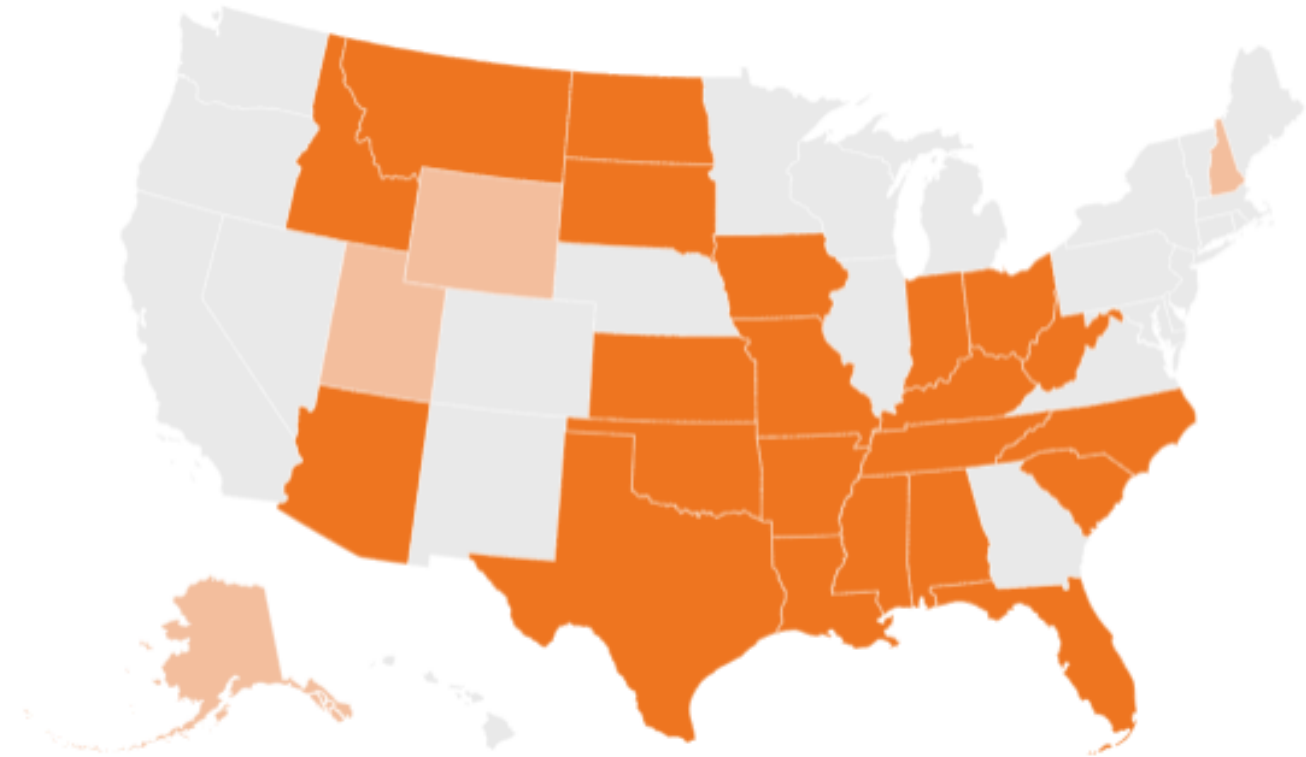
- 2020 v. 2024 Title IX regulations
 - What is the functional difference?
 - LGBTQ protections
 - Investigation and jurisdiction
 - What will the new administration do?
 - New regulations?
 - Rescind
 - Order non-enforcement
 - What will NOT change?
 - Equity provisions
 - Emergency removal provision
- *Skrmetti* decision coming
- Bathrooms and Locker Rooms

State Laws

Trans athlete laws

Twenty-six states have passed laws since 2020 banning or restricting trans student athletes from playing on the sports team that matches their gender identity.

■ Includes higher education ■ Does not include higher education



Source: [Movement Advancement Project](#)



* A Flourish map

History of Title IX...

- **Title VI of the Civil Rights Act of 1964**

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” [“Sex” added by Executive Order 11246 in 1965]

- **Title VII of the Civil Rights Act of 1964**

Prohibits discrimination in the terms, conditions or privileges of employment on the basis of an individual’s race, color, religion, sex, or national origin.

- **Title IX is signed into law in 1972**

- **Department of Health, Education and Welfare (HEW) – Title IX regulations codified in 1975**

Bernice Sandler



Patsy Mink



Birch Bayh



Edith Green

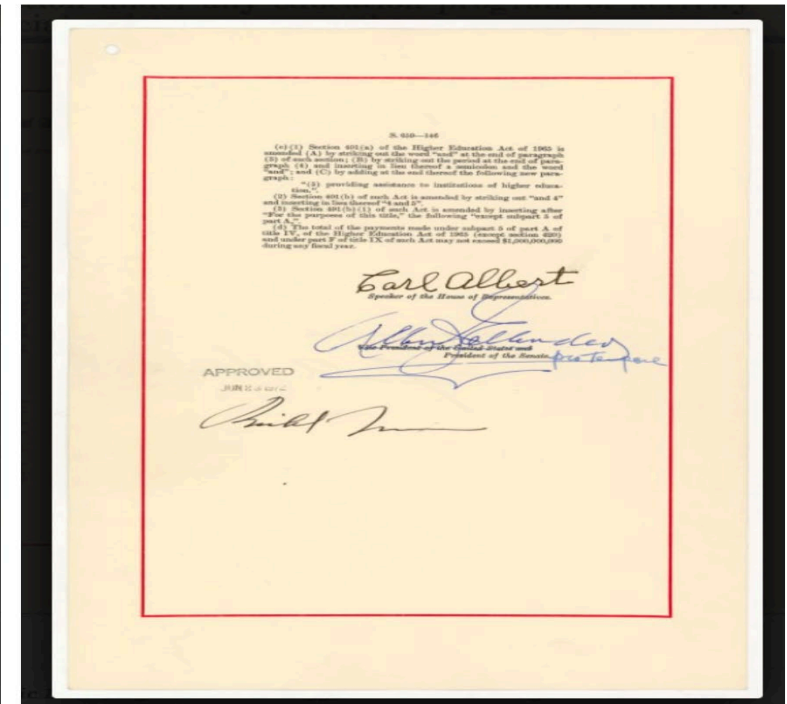
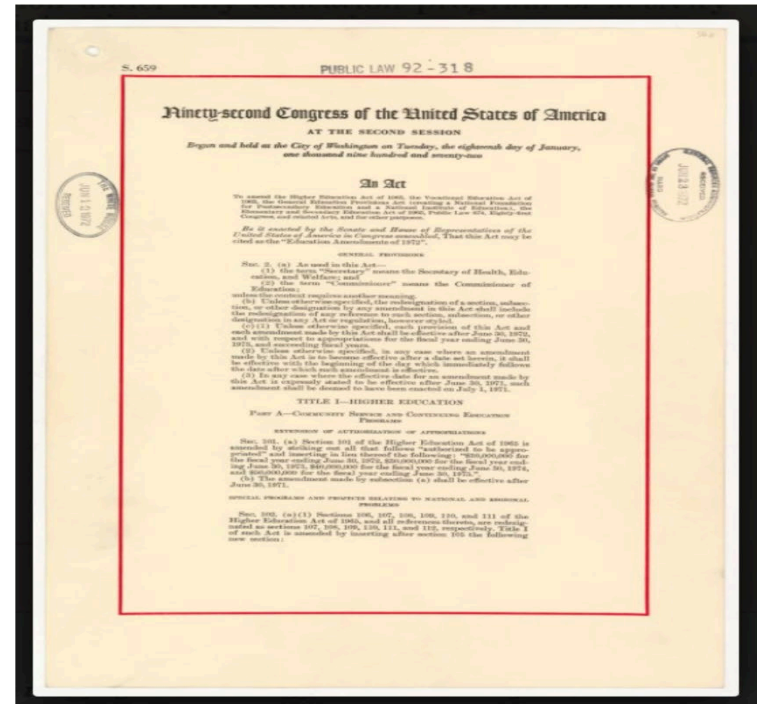


1972

June 23, 1972

Title IX of the Education Amendments of 1972 is

enacted by Congress and is signed into law by President Richard Nixon, prohibiting sex discrimination in any educational program or activity receiving any type of federal financial aid.



Original 37-word Statute

“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.”

— Title IX, Education Amendments of 1972

The exact language of the law basically prohibits sex discrimination by any educational institution receiving any form of federal financial assistance.

The statute does not include the word “athletics”, but it is clear from debates in committee and on the floor of the House before Title IX was passed that consideration was given to the impact that it was going to have on athletic programs and on all different aspects of educational institutions.

What Title IX Covers in Your School...

Sex-Based Discrimination

Program Equity	Housing
Recruitment, Admissions & Access	Access to Course Offerings
Pregnancy	Salaries & Benefits
Athletics	Financial Assistance
Employment, Recruitment & Hiring	Facilities
Extra-curricular Activities	Funding
	Sex, Gender, Gender Identity

Sexual Harassment

Quid Pro Quo
Hostile Environment
Sexual Assault
Domestic Violence
Dating Violence
Stalking

Retaliation

General Concepts About Title IX of the Education Amendments of 1972

- Title IX does not only pertain to sports. Title IX is not a sports law. *The OCR considers athletics an education program.*
- ***Title IX is the first comprehensive federal law that prohibits sex discrimination in education programs and activities that receive Federal financial assistance.***
- Title IX does not only protect females. It protects all students (boys & girls), faculty and staff.
- ***Title IX covers sexual harassment/sexual assault in schools.***
- Title IX requires schools to maintain policies, practices and programs that do not discriminate against anyone based on sex.
- *Title IX is at the heart of efforts to create gender equitable schools. Males and females are expected to receive fair and equitable treatment in all areas of education.*

A close-up of a hand holding a white, hand-drawn style letter 'B'. The hand is positioned on the left side of the frame, with the thumb and index finger gripping the letter. The letter has a textured, sketchy appearance with fine lines and shading. The background is solid black.

**BEST
PRACTICES**



THE HISTORY AND IMPORTANCE OF TITLE IX

National Federation of State
High School Associations



The Importance Of Compliance

- Professional Obligation/*Title IX is a Federal Law*
- *Proactive Leadership Function -> **Best Practice***
- State Athletics Data Collection Laws
- A Complaint was Filed – *Defeat the rage to sue...*
- To Educate Yourself and Others
- To Develop a *Strategic Plan* for Improvement
- *To assess the current status of the program – How are we doing? What can we do better? What things are we doing well? (Give yourself credit!)*
- ***Do the Right Thing for ALL Students!***

GIRLS WHO PLAY SPORT BECOME **WOMEN WHO LEAD**

94%

OF WOMEN IN EXECUTIVE
MANAGERIAL POSITIONS HAVE
A BACKGROUND IN SPORT

91%

OF WOMEN IN LEADERSHIP ROLES
SAY THE SKILLS THEY DEVELOPED
THROUGH SPORT WERE
IMPORTANT TO CAREER SUCCESS

88%

OF WOMEN IN LEADERSHIP ROLES
SAY THE SKILLS THEY LEARNED
THROUGH SPORT CAN BE EASILY
TRANSFERRED TO THE BOARDROOM.

TOP SKILLS ACQUIRED THROUGH SPORT

TEAMWORK
CONFIDENCE
COMMUNICATION

LEADERSHIP
SELF-BELIEF
RESILIENCE

EMAIL US TO FIND OUT HOW YOU CAN SUPPORT
foundation@hersport.ie

Athletic Administrators must gain an understanding and learn about the law so that they can apply it in their daily practice as an *important leadership function*.

Apply your knowledge and turn it into *Best Practice* so that you can create and support a healthy and safe environment for **ALL** student-athletes.

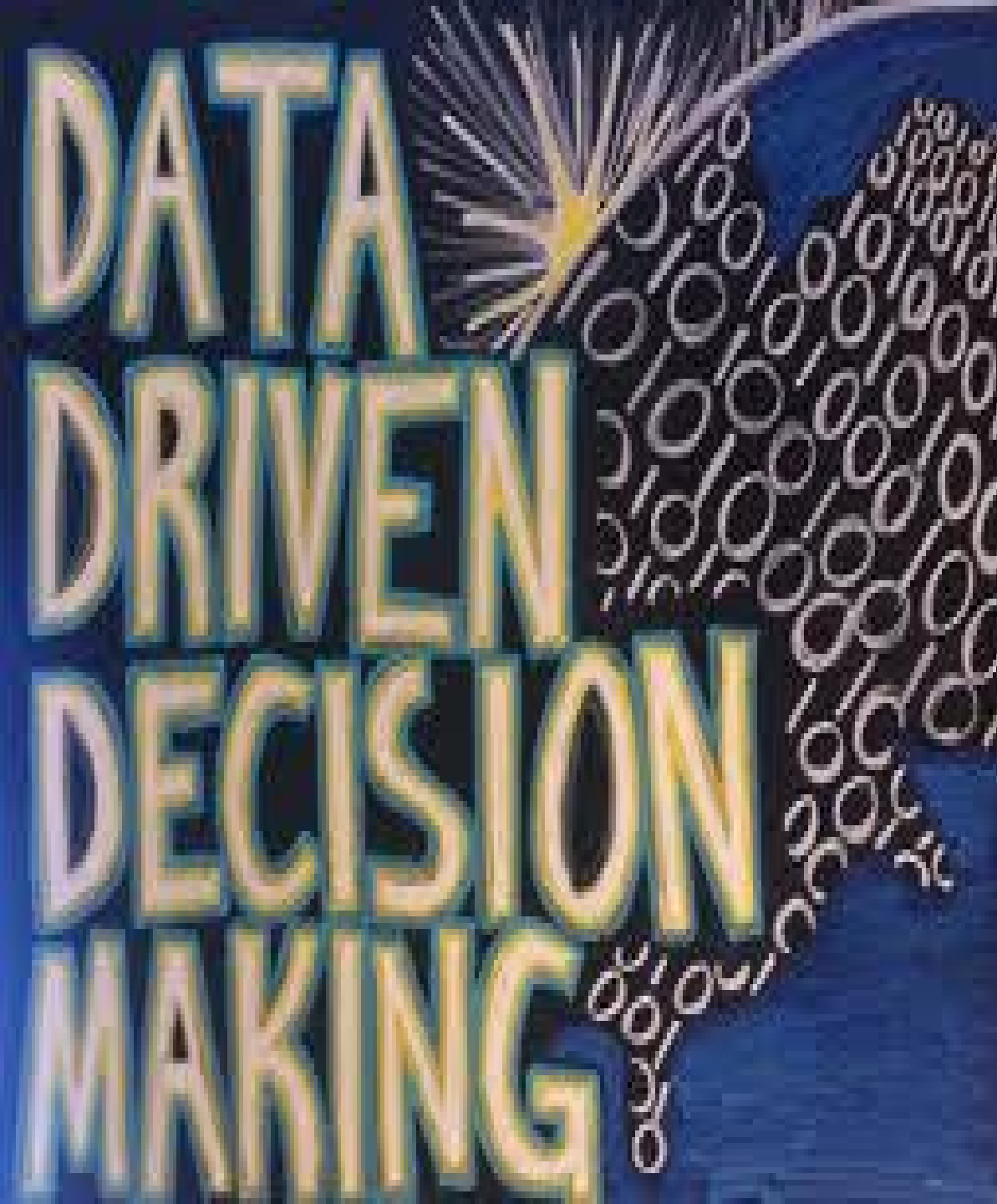


Speak to the **Title IX Coordinator**

ATHLETIC OVERSIGHT – GENDER EQUITY IN ATHLETICS

The oversight of compliance remains the responsibility of the school/district's **Title IX Coordinator**.

Compliance in athletics may be delegated but for most K-12 schools, this will be the responsibility of the school/district's **Athletic Director**.



The Title IX Self-Assessment Process

**It's all about
Documentation...**

Document,

Document,

Document...

OCR will want to see the evidence/proof.



- Holds documentation and data necessary to analyze and assess the school's athletics program.
- Provides the comprehensive documentation of the athletics program necessary for identifying issues, creating strategic plans, and tracking progress of the school's Title IX athletics compliance.
- Should be housed in a location that is accessible by both the Athletic Director and the school district's Title IX Coordinator.
- Data will be generated and updated as a routine duty of the work of the athletic department.
- The Athletic Director and Title IX Coordinator should be working in collaboration relative to the data collected and its analysis.

Title IX (Athletics) requires a school to:

1. Provide equal **opportunities** for female and male students to become interscholastic athletes.

Analyzed by means of the "Three-Prong Test"

2. Provide equitable **treatment** of participants in the overall girls' program as compared to the overall boys' program.

Analyzed according to eleven different program components often referred to as "The Laundry List" or in NIAAA's LTC 506: P-L-A-Y-I-N-G F-A-I-R

START

Title IX Athletics Assessment Process



Self-Assessment is a **DYNAMIC** process – it is not *static*.

Doing the work over time - the process will become routine.

Title IX Assessment is a BEST PRACTICE.

Title IX Athletics Compliance Framework

1. Participation Opportunities (OPPORTUNITY TO PARTICIPATE)

3-Prong Test

1. Substantial Proportionality **OR**
2. History and Continuing Practice of Program Expansion **OR**
3. Full and Effective Accommodations of Interests and Abilities

2-Prong Test

1. Equivalently Advanced Competitive Opportunities **OR**
2. History and Continuing Practice of Improvement

2. Other Athletics Benefits and Opportunities (TREATMENT)

11 Program Area:

Equipment & Supplies, Competition & Practice Facilities & Locker rooms, Coaching, Medical/Training Srvs., Trans./Per Diem/Dining, Tutoring, Recruiting, Support Srvs., Scheduling of Game/Practice Times, Housing & Dining facilities, Publicity, Support Srvs.

Using a “TEAM” Approach



Gender Equity Committee

- Athletic Administrator
 - District Title IX Coordinator
 - Superintendent/Assistant Superintendent/ Director of Human Resources
 - School Board Members
 - Building Level Administrators
 - Supervisor of Buildings and Grounds
 - Coaches
 - Student-Athletes
 - Parents
 - School District Legal Counsel
 - Other Professionals and Community Members
- Educate, Educate, Educate...***

START SOMEWHERE...START WITH WHAT YOU KNOW

Prong-1: Substantial Proportionality – “Crunch-the-Numbers”

Continue to track the numbers yearly.

Prong-2: History & Continuing Practice of Program Expansion

Create a chart to document when sports were established, eliminated and reinstated.

Prong-3: Full & Effective Accommodation of Athletic Interests & Abilities

Do the “leg-work”...seek to show that opportunities have been “maxed out” for the “historically underrepresented gender” OR, provide evidence of growth, etc.

[Program “expansion”, not “retraction”]

Look at obvious potential “red flags” in the 11-program area (Laundry List) – Facilities, Schedules, Equipment (uniforms), Coaches, Transportation, etc. **DOCUMENT, DOCUMENT, DOCUMENT...**



Equity in Athletics

START SOMEWHERE...

START WITH WHAT YOU KNOW

- **Conduct *Athletic Participation Interest Surveys* yearly/bi-yearly**
- **Talk to student-athletes/non-athletes and coaches**
- **Incorporate a student-athlete leadership program to engage student-athletes in conversations about program equity**
- **Ask Guidance Counselors to be a part of the process of assessing interest levels**
- **Talk with PE department staff**
- **Make a commitment to improve the experiences of *ALL* student-athletes**
- ***Show that you care...***

***Girls
seek the same
benefits from
participating in
sports as
boys...***



Train Staff



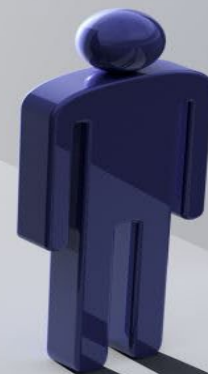
In-Service Training on Title IX

- In-service training provided to athletic staff, administration AND, school board members need to include a component designed to provide an understanding of the broad equity mandates of the law regarding equivalence of opportunity for female students to participate in sports and to receive benefits comparable to those received by male student-athletes.
- Equally important is for athletic directors to provide training for athletic staff regarding the prevention of sexual harassment in athletic programs. Included in this training should be the prevention of inappropriate relationships between athletics personnel and student-athletes as well as sexual harassment between student-athletes and other student-athletes.

In-Service Training on Title IX

- Athletic directors must make a commitment to provide in-service training to coaches and other athletics personnel. Doing so, demonstrates the belief in Education-Based Athletics and supports the mission of doing what is in the best interests of the student-athletes that they serve.
- The most effective resource for conducting in-service training on Title IX and athletic compliance is the LTI 506 course (Legal Issues II), available at www.niaaa.org, which includes detailed coverage of the Title IX Compliance Framework, along with numerous supportive resources.
- Resources for conducting in-service training on Title IX and sexual harassment are also included in the LTI 506 course as well as the following:
 - LTI 715 course – Appropriate Professional Boundaries: Identifying, Implementing, Maintaining
 - NFHS free online courses – *“Protecting Students from Abuse”*, *“Hazing Prevention for Students”*, *“Bullying, Hazing and Inappropriate Behaviors”*.
Coming soon: “Title IX 101”.
- The athletic director must be the Title IX expert in their school with regards to athletics compliance and must educate coaches, student-athletes, parents, administration and school board members.

Seek Assistance



NIAAA Leadership Training Program

The NIAAA believes in the importance of Title IX and Title IX compliance.

There is one single four-hour course in the Leadership Training Program dedicated to this Law.

THE NIAAA CHAMPIONS THE PROFESSION OF ATHLETIC ADMINISTRATION THROUGH EDUCATIONAL OPPORTUNITIES, ADVOCATING ETHICS, DEVELOPING LEADERS, AND FOSTERING COMMUNITY.



LTC 506

ATHLETIC ADMINISTRATION:
LEGAL ISSUES II (TITLE IX AND
SEXUAL HARASSMENT)



National Interscholastic Athletic
Administrators Association

LTC 506

©COPYRIGHT NIAAA 2021 - ALL RIGHTS RESERVED

LEADERSHIP TRAINING COURSE



← [Back to Courses](#)



Recommended for: **Coach, Administrator**

Title IX

Elective Course



[Description](#)

[Course Outline](#)

[FAQs](#)

Please Select Your State ▾

\$

[Order Course](#)

Description

Over 3.4 million girls participate in High School Athletics every year. This participation is fueled by the flagship legislation for girls' participation, Title IX. The NFHS has developed this Title IX course to help interscholastic professionals know the history and impact of Title IX and understand the responsibilities of a school and staff pertaining to girls athletic programs. This course discusses the standards at which Title IX compliance is evaluated and breaks down the factors involved in supporting girls programs.

This Course Includes

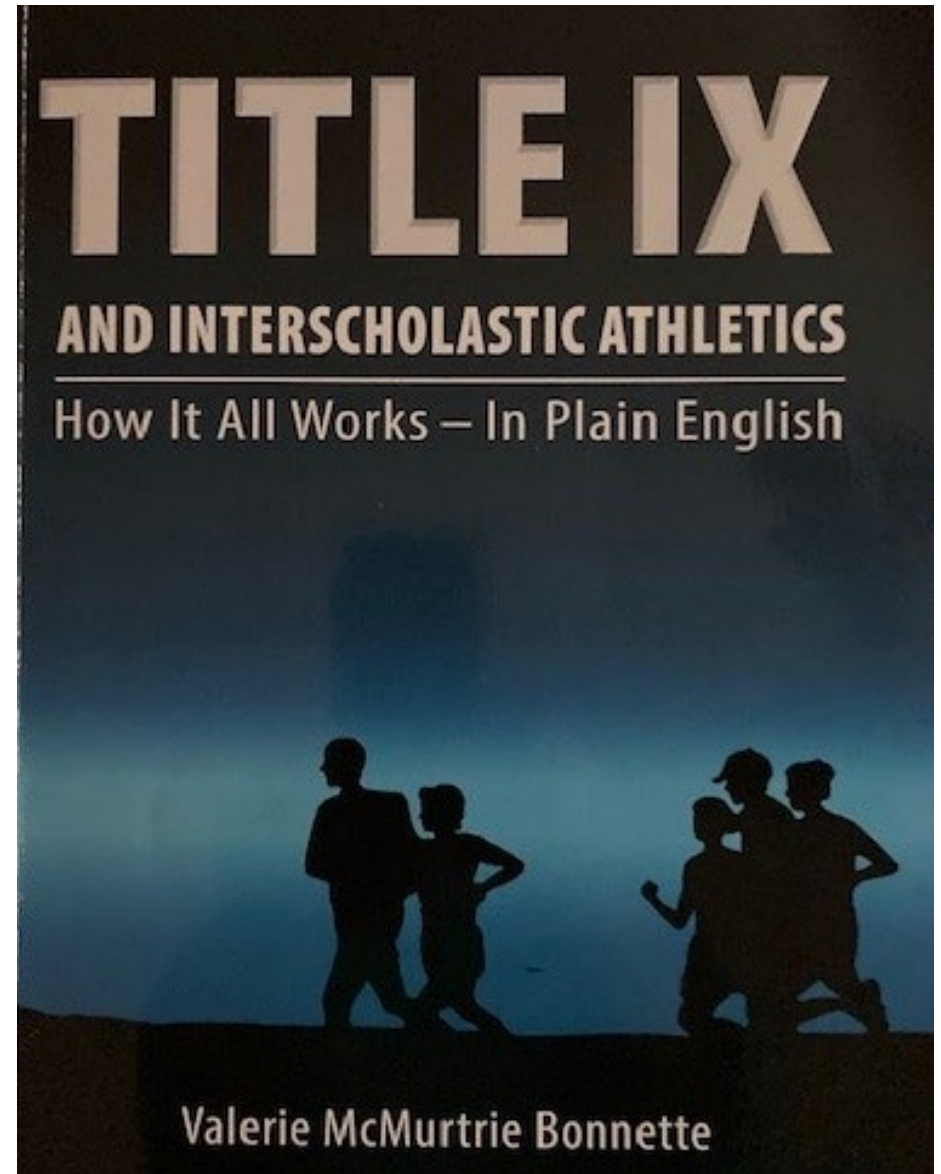
- ✓ Approved for 1 Clock Hour
- ✓ Certificate of Completion

**"Title IX and
Interscholastic Athletics:
How It All Works -
In Plain English"**

Good Sports, Inc.

Valarie Bonnette

www.titleixspecialists.com



Title IX Resources

- NIAAA LTC 506: Title IX & Sexual Harassment in Athletics www.niaaa.org
- NFHS Learn Courses www.nfhs.org
- Good Sports, Inc. www.titleixspecialists.com
- Association of Title IX Administrators (ATIXA) www.atixa.org
- National Women's Law Center www.nwlc.org
- Women's Sports Foundation www.womenssportsfoundation.org
- Institutional Compliance Solutions www.icslawyer.com
- Education Risk Management www.EduRisksolutions.org
- Stop Sexual Assault In Schools www.stopsexualassaultinschools.org
- Pennsylvania Coalition Against Rape (SH curriculum) www.pcar.org
- Stop Educator Sexual Abuse Misconduct & Exploitation www.sesamenet.org
- U.S. Center for Safe Sport www.uscenterforsafesport.org
- Coaching Boys Into Men www.coachescorner.org
- A Call To Men www.acalltomen.org

Thank you!
Let us know how we can help.

Contact Information:

Peg Pennepacker, CAA

High School Title IX Consulting Services, LLC

814-470-7101

pegpennepacker@gmail.com

Scott Lewis, J.D.

TNG Consulting

610-993-0229

scott.lewis@tngconsulting.com

