

Member Login Search our Articles... [Home](#)[Professional Learning](#)[Information and Resources](#)[Forums](#)[Career Center](#)[Legal Support](#)[Advocacy](#)[Membership](#)[About Us](#)[Corporate Partners](#)[Recognition](#)

Solving Booster Clubs and Facilities – How Equity Impacts Both

JB Associate Executive Director and Staff Counsel

You have just received notice from a booster club that they intend to donate a significant amount of money toward your boys' baseball team. The booster club informs you that the donor wants the funds to go toward new uniforms and improvements to the baseball diamond's dugout and infield. Beyond the school board's policy on acceptance of donations, have you thought about equity issues under Title IX of the Education Amendments of 1972 in accepting and administering the donation? The following article will provide background information on Title IX related to the role of the Title IX Coordinator, the handling of booster club funds under the lens of Title IX and how Title IX affects facility access, planning and development.

Title IX - Background

Congress passed Title IX of the Education Amendments in 1972. Title IX is a federal statute which prohibits discrimination on the basis of sex by educational institutions receiving federal financial assistance. If your local school district receives federal funding in any format, you are covered by Title IX.

Title IX provides in pertinent part: "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." Dear Colleague Letter: Title IX Coordinators (April 24, 2015), available at <http://www.ed.gov/ocr/letters/colleague-201504-title-ix-coordinators.pdf>

Title IX Coordinators

All school districts receiving federal financial assistance must designate at least one employee to coordinate the district's efforts to comply with and carry out their responsibilities under Title IX. This position may not be left vacant. A school district must have at least one person designated and actually serving as the Title IX coordinator at all times.

The Department of Education recommends that "the Title IX coordinator's role should be independent to avoid any potential conflicts of interest and the Title IX coordinator should report directly to the recipient's senior leadership, such as the district superintendent." Ibid.

Title IX does not categorically exclude particular employees from serving as Title IX coordinators. However, the DOE recommends that when designating a Title IX coordinator, a district should be careful to avoid designating an employee whose other job responsibilities may create a conflict of interest. For example, designating a dean of students, superintendent, principal or athletics director as the Title IX coordinator may pose a conflict of interest.

If as a principal you are not the Title IX Coordinator, it is a good idea to interact with the Title IX Coordinator regarding the district's relations with booster clubs, PTOs, athletic and activity budgets and any facility improvements or modifications.

If a district designates one employee to coordinate the recipient's compliance with Title IX and other related laws, it is important that the employee has the qualifications, training, authority, and time to address all complaints throughout the school district, including those raising Title IX issues.

According to the DOE, "Title IX coordinators can be effective agents for ensuring gender equity within their institutions only when they are provided with the appropriate authority and support necessary to coordinate their institution's Title IX compliance, including access to all of their institution's relevant information and resources."

How does the Title IX coordinator become an effective agent for ensuring gender equity? The coordinator can do it in the following ways by:

- Ensuring the District's compliance with Title IX's administrative requirements.
- Being involved in, and knowledgeable of the district's non-discrimination policies and procedures.
- Being be involved in the drafting and revision of such policies and procedures to help ensure that the District complies with the requirements of Title IX.
- Educating the school community on how to file a complaint alleging a violation of Title IX.
- Investigating complaints, and ensuring that complaints are resolved promptly and appropriately.
- Working with law enforcement when necessary.

- Coordinating the District's response to all complaints involving possible sex discrimination to monitor outcomes, identify patterns, and assess effects on the school climate.
- Assisting the district in developing a method to survey the school climate and coordinate the collection and analysis of information from that survey.
- Monitoring students' participation in athletics and across academic fields to identify programs with disproportionate enrollment based on sex and ensure that sex discrimination is not causing any disproportionality or otherwise negatively affecting a student's access to equal educational opportunities. Ibid.

As a principal, you should make sure that district staff inform the Title IX coordinator of all reports and complaints raising Title IX issues, even if the complaint was initially filed with you, another individual or office or the investigation will be conducted by another individual or office.

Title IX does not specify who should determine the outcome of Title IX complaints or the actions the school will take in response to such complaints. The Title IX coordinator could play this role, provided there are no conflicts of interest, but does not have to.

The DOE does suggest that it may also be helpful to designate specific employees to coordinate certain Title IX compliance issues (*e.g.*, gender equity in academic programs or athletics, harassment, or complaints from employees). Ibid. If a school district has multiple Title IX coordinators, then it should designate one lead Title IX coordinator who has ultimate oversight responsibility. Ibid.

According to the DOE, districts must ensure that their Title IX coordinators are appropriately trained and possess comprehensive knowledge in all areas over which they have responsibility in order to effectively carry out those responsibilities, including the recipients' policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution.

Title IX's Application to Athletics and Activities

The DOE's Title IX regulations prohibit sex discrimination in interscholastic, intercollegiate, club, or intramural athletics offered by a recipient institution, including with respect to:

- (a) student interests and abilities;
- (b) athletic benefits and opportunities; and
- (c) athletic financial assistance.

Title IX regulations and Office of Civil Rights (OCR) guidance require that districts that operate or sponsor interscholastic, club or intramural athletics provide equal athletic opportunities for members of both sexes.

In determining whether a district is providing equal opportunity in athletics, the regulations require the Department to consider, among others, the following factors (*a.k.a. the "laundry list"*):

- (1) the provision of equipment and supplies;
- (2) scheduling of games and practice time;
- (3) travel and per diem allowances;
- (4) opportunity for coaching and academic tutoring;
- (5) assignment and compensation of coaches and tutors;
- (6) provision of locker rooms, and practice and competitive facilities;
- (7) provision of medical and training facilities and services;
- (8) housing and dining services;
- (9) publicity;
- (10) recruitment; and
- (11) support services.

As part of the district's obligation to provide equal athletic opportunity to its students, OCR encourages Title IX coordinators to work with the district to periodically review and compare the distribution of athletic benefits and opportunities by sex in each of these areas, including financial expenditures on male and female athletic teams. *Please see 34 C.F.R. § 106.41(c)(2)–(10); and Title IX Policy Interpretation: Intercollegiate Athletics (December 11, 1979), available at <http://www.ed.gov/ocr/docs/t9interp.html>.*

In addition to Title IX, it is important to note that several longitudinal studies have shown that sports and other extracurricular activity participation has a positive effect on academic achievement. For example, girls who play sports are more likely to attend school on a regular basis, have fewer disciplinary referrals, have higher grades on average and graduate from high school than those girls who do not.

See The Case for High School Activities (National Federation of State High School Associations, Indianapolis, I.N.), 2008, at 7, available at <https://news.ku.edu/2014/01/15/study-shows-high-school-athletes-performed-better-school-persisted-graduation-more-non>

("Involvement in interscholastic sports has a positive impact on high school students as suggested by previous research and corroborated by this study. As such, participation should be encouraged, especially for high-risk populations, and specifically for minority students[.]")

Title IX's Application to Booster Clubs

School districts rely to a great degree on the time, energy and efforts of their booster clubs and parent teacher organizations to enhance educational and athletic opportunities for the students in their schools. In order to promote accountability and applicable oversight, a booster club or parent teacher organization needs to be approved by the school district and must follow school district policies regarding booster organizations and other applicable policies. The principal is most often times the administrator with the most interaction with the booster club and parent teacher organization. Due to this fact, it behooves the principal to know the specific board policies on booster clubs and parent teacher organizations and the specific legal relationship that the district has with the club or organization.

School districts should have policies in place that define the specific role of booster clubs/parent teacher organizations and set up an approval process with specific criteria for granting of approval to the booster clubs/parent teacher organizations. Several school districts have opted for a single booster club to help facilitate district-wide fund raising and ease oversight responsibilities that may be exacerbated when multiple booster clubs or parent teacher organizations exist. The district in deciding whether to approve a booster club should examine the role of the booster club, who the booster club intends to support, how the booster club will address fund raising activities and what insurance the booster club carries for its members and its activities. It is also important to keep in mind that while the district often works with the booster clubs/parent teacher organizations, that a partnership has not been created unless the groups are run out of Fund 60 Agency funds. (Please see DPI's Agency Fund Guidelines for Fund 60 accounts <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fdpi.wi.gov%2Fsites%2Fdefault%2Ffiles%2Fimce%2Fsf%2Fdoc%2FFund%252060%2520guidelines.docx>)

If the booster club or parent teacher organization is a separate entity, the principal should ensure that the booster clubs and parent teacher organizations use school facilities in accordance with the board's established facility use policy and procedures.

Principals and activity directors should remind staff, including coaches and advisors, that district employees should not be paid by the booster club or parent teacher organization for services provided to students. In addition, both staff and the individuals involved in the booster club or parent teacher organization should be reminded that they should not provide gifts or items of substantial value directly to students or coaches.

In addition, WIAA regulations prohibit the booster club from directly providing benefits to individual pupils, for example, by signing contracts or paying expenses from booster club accounts for any arrangements related to students' travel, such as transportation, hotel costs, or fees (Please see *WIAA Regulations* - <https://www.wiaawi.org/Schools/EligibilityRulesForms.aspx>).

It is important to remember that under Title IX outside funds for athletics programs, whether contributed by booster clubs or other private donors, once accepted by the school become public funds subject to Title IX's legal obligations in their disbursement.

A school district that receives money from a booster club or outside donor earmarked for a specific athletic program has two choices: (1) it can reject the donation if it is restricted to only a boys' athletic program; or (2) it can accept the restricted-use donation, but then must ensure that an equivalent amount from another private donor or from district monies is allocated to the girls' athletic program. *See also: OCR Letter Docket Number 09-91-1222* <http://www2.ed.gov/about/offices/list/ocr/letters/jurupa.html>

To prospectively avoid these issues, there are several steps the district can take. So, in the fact pattern that we addressed in the beginning (the booster club wanting to donate money for dugout renovations and new uniforms to the boys' baseball team), the district should first discuss with the booster club the district's overall needs for sports and activities of all pupils. If the district believes that new uniforms for the boys' baseball team are warranted, the district should ensure that the uniforms should only be purchased through the district's bidding process. Using the bidding process ensures that the district receives a fair price on the uniforms and should reduce any personal incentive a booster, coach or other employee may have to select one uniform vendor over another. The district could also add a level of oversight to this process by requiring the athletic director to solicit and approve the bids directly or to at least supervise and monitor the process as conducted by the coaches. Coaches must be reminded that they may not use their positions to receive anything of personal value from a third-party and warned that, if they do so, they will be subject to discipline or termination and possibly a civil forfeiture as well.

In addition to the procurement process, the district must ascertain how the uniform acquisition fits into its overall plan for the maintenance and replacement of equipment, gear and uniforms for all sports with a particular sensitivity to gender equity. To put it bluntly, does the donation of new uniforms for the boys' baseball team raise questions about the provision of uniforms and equipment to the girls' team?

In addition to uniforms and access to coaching, another issue to consider underneath Title IX is the state of the competitive facilities. Since 2009, Office of Civil Rights complaints based on disparities between softball and baseball programs have been filed against several school districts across the country. See the following resolution agreements for examples of a case from Springfield, Missouri: <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/07071195-a.pdf> and <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/15131020-b.pdf> Plymouth-Canton, Michigan.

Due to these factors, it is important to look at the breadth of the donation and its impact on providing equitable opportunities for male and female athletes and activity participants.

Conclusion

As mentioned above, Title IX regulations and OCR guidance require districts that operate or sponsor interscholastic, club or intramural athletics provide equal athletic opportunities for members of both sexes. In working with your booster clubs and on your long-term facility planning, remember to be cognizant of Title IX's influence on the acceptance of gifts and the allocation of district resources to athletic facilities.

**This article was written by Attorney Bob Butler, Associate Executive Director and Staff Counsel for the Wisconsin Association of School Boards (WASB). He can be reached at bbutler@wasb.org. The views expressed herein are exclusively those of Mr. Butler. This article was designed to provide you with general authoritative information and with commentary as a service to AWSA members. It should not be relied upon as legal advice. You are encouraged to contact your district legal counsel should you require legal advice regarding this topic.*

Read more at:

[Elementary Edition](#) - [Secondary Edition](#) - [District Level Edition](#)

© Association of Wisconsin School Administrators

4797 Hayes Road, Ste. 103

Madison, WI 53704

United States

608-241-0300

Back to top 

powered by  MemberClicks