

GOOD SPORTS, INC.

Title IX and Gender Equity Specialists

TITLE IX FACTS

Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (20 United States Code section 1681) *et seq.* (Title IX), is a federal statute created to prohibit sex discrimination in education programs that receive federal funds. Nearly all postsecondary and many secondary institutions are recipients of federal funds, and thus, required to comply with Title IX. The regulation implementing the Title IX statute is at 34 C.F.R. (Code of Federal Regulations) Part 106.

Title IX is enforced nationwide by the Office for Civil Rights (OCR) of the U.S. Department of Education. OCR has authority to develop policy on the regulations it enforces. In regard to athletics programs, OCR developed an Intercollegiate Athletics Policy Interpretation that was issued December 11, 1979, 44 *Fed. Reg.* 71413 *et seq.* (1979). The 1979 Policy Interpretation remains current policy. In general, courts defer to the policies of the agencies with enforcement authority. The following is a brief chronology.

Title IX Statute – enacted June 23, 1972 (20 U.S.C. § 1681 *et seq.*).

Title IX Regulation – effective date July 21, 1975 (34 C.F.R. Part 106)

Specific requirements for athletics – 34 C.F.R. § 106.41

Specific requirements for athletic scholarships – 34 C.F.R. § 106.37(c)

Proposed regulation published June 20, 1974, in *Federal Register* for comment; nearly 10,000 comments were received, most on athletics; Congress passed Section 844 of the Education Amendments of 1974, also known as the Javits amendment, which required inclusion in the Title IX regulation "with respect to intercollegiate athletics activities reasonable provisions considering the nature of particular sports[;]" Conference Committee deleted a Senate floor amendment that would have exempted revenue producing sports from Title IX jurisdiction.

September 1975 – "Elimination of Sex Discrimination in Athletics Programs"

Issued to Chief State School Officers and others; published in *Federal Register* in November 1975; provides general guidance on Title IX athletics requirements.

Intercollegiate Athletics Policy Interpretation

Issued by OCR in *Federal Register* December 11, 1979, after nationwide consultation with institutions and athletics organizations; proposed Policy Interpretation was published for comment on December 11, 1978, in *Federal Register*; some of the 700 comments received were incorporated in final Policy Interpretation.

Title IX Intercollegiate Athletics Interim Manual issued July 28, 1980

Issued by OCR to its ten regional offices to provide guidance for conducting investigations of alleged sex discrimination in intercollegiate athletics programs.

***Grove City College v. Bell* (465 U.S. 555 (1984))**

U.S. Supreme Court decision ruled February 28, 1984, that Title IX applied only to programs that directly benefit from federal funds; ruling severely curtailed Title IX's application to nearly all aspects of athletics programs.

Civil Rights Restoration Act of 1987

Passed March 22, 1988, by Congress over President Reagan's veto, effectively overturned the *Grove City* ruling, directing that Title IX applies to all operations of an institution receiving federal funds when any one program receives federal funds, thereby restoring Title IX's application to all aspects of athletics programs.

Title IX Athletics Investigator's Manual, issued April 2, 1990

Issued by OCR to its regional offices providing general guidelines to OCR investigators for analysis and specifying interview questions and data to be collected; supersedes 1980 Interim Manual.

Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test

Issued by OCR January 16, 1996; the Clarification explains the three-part test used to analyze compliance for the accommodation of students' athletics interests and abilities (participation opportunities), one of 13 program areas reviewed for compliance under Title IX.

Clarification – Athletic Scholarship Guidance (1998)

Issued July 23, 1998, to the General Counsel at Bowling Green State University (OH), this letter creates a new compliance standard for athletic scholarships; the new policy was disseminated nationwide by OCR in fall 1998.

Additional Clarification of the Three-Part Test: Test Three – Rescinded April 20, 2010

Issued March 17, 2005, this OCR policy created a model survey that institution officials could use at their discretion to gauge compliance with test three of the three-part test for participation opportunities. OCR rescinded this Clarification on April 20, 2010.