

Title IX Athletics

Q & A

Q

We had been scheduling games at 6:00 pm and 8:00 pm for basketball, and the women's game had been played first. We started rotating times so the women's team is not always playing the first game. Coaches for the women's teams do not like it, and want to go back to playing all of their games at 6:00 pm. Now that some of the men's games have been played at 6:00 pm, some of the men's coaches have expressed a preference for the 6:00 pm time. What are the Title IX considerations for the issue of game / event rotation times for basketball, and for that matter, other sports? (NCAA Administrators)

A

For starters, it sounds like the decision to rotate the times was a good one. In general, alternating start times for double-header events for basketball, soccer, or other sports eliminates questions regarding compliance, and eliminating the red flags for Title IX compliance usually means administrators, coaches, and athletes can focus on the games themselves.

The issue of game times is a very old question that continues to have current day application. In the 1970s and 1980s, institutions that scheduled double-header

basketball games would schedule the women's game for 5:00 pm, or worse yet, 4:30 pm. The men's game would be scheduled at the "prime time" of 7:00 pm. "Prime time" is not a Title IX term, but a term coined by athletics professionals to refer to the optimum time to schedule a competitive event for the specific sport; and the basic considerations include class and meal schedules for athletes and the opportunity to compete before an audience. Scheduling the women's game at 4:30 or 5:00 pm usually meant that the women on that team could not take any coursework where afternoon lab classes were common, and meal schedules were impacted – even if lunch was at a convenient time, the female athletes missed dinner because the school dining halls were closed by the time their game ended. Meanwhile, the men's teams were provided pre-game meals either off-campus or through special arrangements with the campus dining hall operations. But another important consideration is that audience attendance was severely limited for the women's games since most people were still at work at 4:30 in the afternoon. Indeed, there is language in the 1979 Policy Interpretation aimed at ensuring that administrators' actions do "not limit the potential for women's athletic events to rise in spectator appeal" Scheduling only women's games at times that limit spectator attendance is clearly inconsistent with the Policy Interpretation language.

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Usually, it is a red flag when scheduling double-headers and the women's game is always played in the earlier slot. But, a red flag does not mean it is automatically a Title IX compliance problem. The circumstances for the specific institution can affect whether such scheduling is acceptable. A 6:00 pm / 8:00 pm start time for basketball games can be equally convenient (or equally inconvenient), in that one game starts a little too early, while the other game starts a little too late. When conferences set the scheduling for double-header basketball games (or for other sports), one of the considerations can be the travel time between conference schools and the part of the country in which the conference schools are located. Conferences located in areas where the weather can be severe and/or the member institutions are significant distances from each other can directly affect the game times preferred by coaches and athletes. In other words, the double-header scheduling that may work well for one athletics conference might not work well for another athletics conference.

A very important statement in the question is that some men's coaches prefer the 6:00 pm start time. This suggests that starting all of the women's games at 6:00 pm might be a disadvantage for the men's teams, if 6:00 pm is indeed the preferred start time. Consequently, alternating the start times provides equitable scheduling that eliminates compliance questions.

As a variation of this scenario, perhaps after experimenting with alternating the start times, the men's coaches and athletes prefer the later start times, and the women's teams prefer the earlier start times. Returning to the original scheduling where the women's game is scheduled first and the men's game is scheduled second should be acceptable under Title IX. In fact, the original scheduling is justified all the more if the alternating schedules were tried for at least one year, and preferably two years, to show that a real attempt was made to assess the preferred scheduling. In effect, an institution's compliance posture is stronger when decisions are based on actual practices rather than concepts, and the best method for all is ultimately selected. (34 C.F.R. § 106.41(c)(3) and 1979 Intercollegiate Athletics Policy Interpretation page 71416)

