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Idaho K-12 Title IX PLC #8

Wrap Session - athletics, pregnant students, trends and trainings

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Back to the beginning: Title IX and sports

Under Title IX, schools receiving federal funding cannot discriminate “on the basis of sex” in educational programs, including athletics.

Title IX athletics obligations:

1. **Equal athletic opportunity**
2. **Equal treatment and benefits**
3. **Protection from sex discrimination and harassment**

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OCR and Title IX in Sports

- Complaints can be raised by students, parents, anyone in the public.
- You DO NOT have to investigate under the harassment format.
- You DO have to assess and respond if inequities are found.
- Beware of deliberate indifference and retaliation.

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Equal Athletic Opportunity

This is the foundational athletics requirement.

Schools must provide girls and boys with equivalent opportunities to participate in sports.

OCR evaluates issues such as:

- Number of participation opportunities
- Levels of competition
- Availability of teams
- Ability to accommodate student interest and ability

Problems:

- Offering substantially more roster spots for one gender
- Adding' teams for one gender while denying requested the other's opportunities
- Cutting one gender's programs disproportionately

In K–12, schools are not required to have perfectly identical programs, but opportunities overall must be equitable.

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Equal Treatment and Benefits

Even where participation opportunities exist, schools must also provide equitable treatment.

OCR looks at areas including:

- Facilities - Locker rooms, fields, gyms
- Scheduling - Prime practice times, game times
- Equipment - Uniform quality, safety equipment
- Coaching - Access to qualified coaches
- Travel - Transportation, lodging
- Publicity - Announcements, social media, pep assemblies
- Medical/training support - Athletic trainers, strength programs

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Problems with Equal Treatment and Benefits

Common K–12 issues:

- **Boys receiving newer uniforms or equipment**
- **Girls consistently assigned worse practice times**
- **Unequal access to turf fields or weight rooms**
- **Booster club spending creating disparities**
- **Social media coverage**

“Separate” teams are permitted, but unequal treatment is not.

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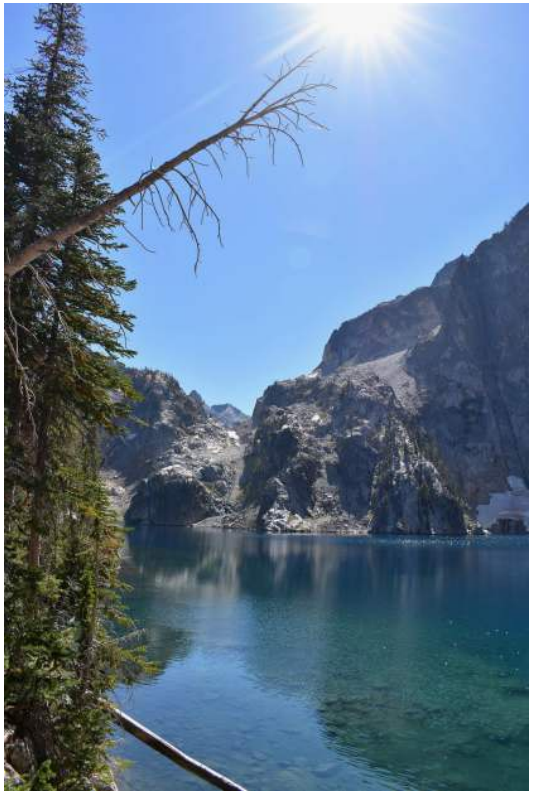
Locker Rooms, Travel, and Privacy

Issues Coming Your Way:

- overnight travel accommodations
- changing facilities
- privacy expectations
- supervision practices (locker room, showers, unstructured time)

Best practices:

- use clear district procedures
- maintain respectful communication
- always provide separate space upon request
- OVERSIGHT!
- coordinate with legal counsel on sensitive situations



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Booster Clubs!

We want to gift a batting facility….
Oops, Hi OCR.

- better facilities
- superior travel
- enhanced coaching support
- or unequal equipment

Practical recommendation:

- Districts should monitor booster support and maintain equity oversight.
- Facilities should not be gender specific.

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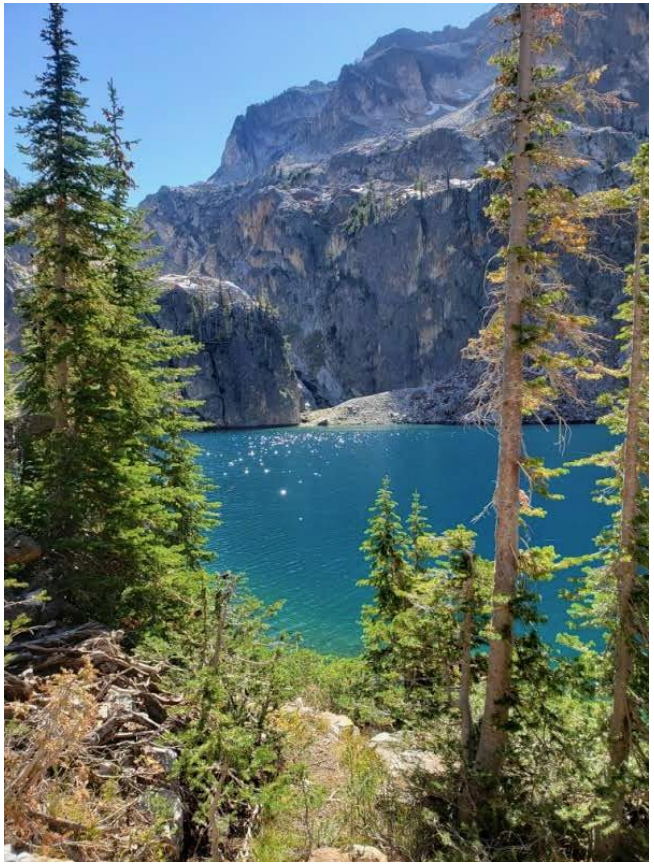
Proportionality Rule

The “proportionality rule” refers to one part of the federal test used to determine whether schools are providing equal athletic participation opportunities for males and females under Title IX.

1. **Substantial Proportionality** does athletic participation match enrollment?
2. **History** and Continuing Practice of Program Expansion
3. **Full and Effective Accommodation** of Interests and Abilities



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Coaches and Title IX

Risk:

- close coach/student relationships
- travel
- power dynamics
- team culture pressures
- parents

Coaches must understand:

- don’t pick a winner
- mandatory reporting obligations
- how to communicate with players
- anti-retaliation requirements
- appropriate boundaries
- documentation expectations

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Retaliation Risks in Athletics

Athletics environments are especially vulnerable to retaliation claims.

- **Reduced playing time after complaints**
- **Team exclusion**
- **Coach hostility**
- **Social ostracism**
- **Parent retaliation**
- **Scholarship/recommendation impacts (more common in higher ed but still relevant)**

Retaliation violated Title IX even if the underlying complaint is not substantiated.

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Pregnancy and Title IX

- **Pregnant students' right to continue education**
- **Excused absences**
- **Comparable make-up opportunities**
- **Lactation accommodations**
- **Retaliation concerns**
- **Sounds like Supportive Measures!**

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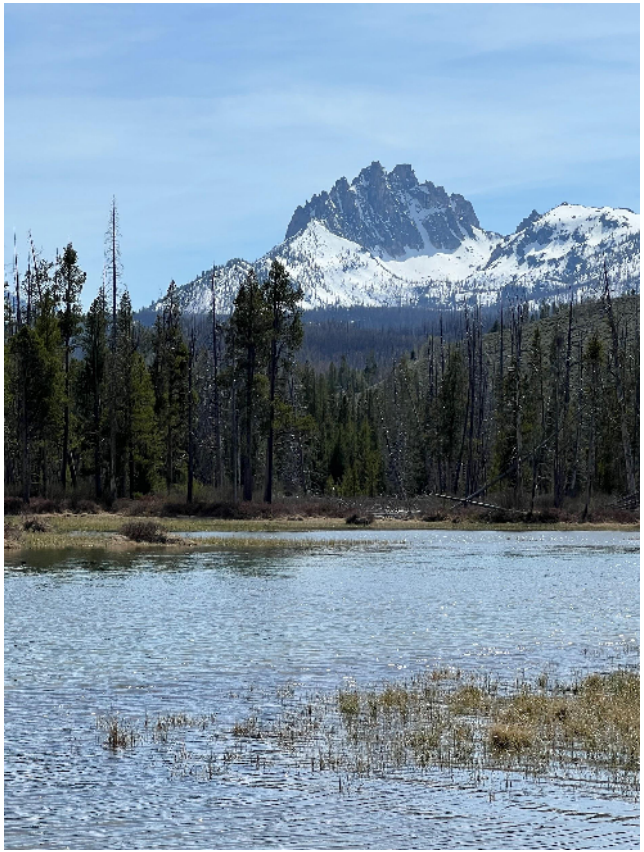
What (not) to do?

Schools generally cannot:

- Automatically remove pregnant students from athletics
- Require physician clearance unless uniformly required
- Penalize students for pregnancy-related absences

Districts should ensure:

- equal reinstatement opportunities,
- non-discriminatory return-to-play practices,
- and access to academic accommodations



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Questions from participants:

1. Sex based discrimination v. Sexual Harassment
    a. Sexual harassment allegations trigger the T9 process
    b. Complaint, notice, etc
    c. Sex discrimination complaints use civil rights grievance procedures.
    d. Both are subject to OCR investigations
    e. Both apply “deliberate indifference”

2. Investigation tips
    a. Start broad, focus late.
    b. Involve parents
    c. Record
    d. Have a second person present
    e. Explain mandatory reporting duties

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Year End Review

- District Obligations
- Investigations
- Decision making
- Informal Resolution
- Advisors
- Appeals
- OCR

Next year:

- Intensive one day
- Title IX and sports
- ?

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Questions?

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Next Training:

District Requirements under Title IX
August 11, 2026