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Title IX in Athletics: Equity, Compliance, and Emerging Challenges

Albizu University
August 19, 2025
Presented By: Debbie Osgood,
Shareholder

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The slide has a dark blue header with the word 'Agenda' in white. Below the header is a white area containing a bulleted list of agenda items. The Hogan Marren Babbo & Rose, Ltd. logo is in the bottom left corner, and a copyright notice is in the bottom right corner.

Agenda

- Introduction and Legal Overview
- Sex Equity in Athletic Programs: Title IX/State Law
- Transgender Athlete Participation
- Name, Image, and Likeness (NIL)
- Equity in Athletics Disclosure Act (EADA)
- Q&A

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Steps Going Forward

1. **Title IX:**
 - Conduct an assessment of athletics interest and abilities of fulltime undergraduate students.
 - Address benefits provided to male and female athletes and address any disparities.
2. **Transgender Athletes:** Generally banned from intercollegiate athletics.
3. **NIL:** Monitor institutional activities that promote or arrange NIL deals and track NIL-related benefits facilitated or supported by the University.
4. **Complete EADA Survey in October 2026.**

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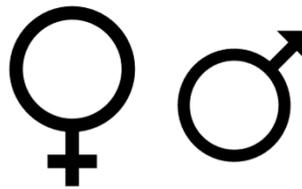


Opening the Playbook: Title IX and Athletics

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Legal Framework

- Title IX of the Education Amendments of 1972
 - *“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.”*



Legal Framework

- Title IX of the Education Amendments of 1972
- Florida State Law
- National Association of Intercollegiate Athletics (NAIA):
<https://www.naia.org/rise/resources/title-ix>

Legal Framework

- Title IX Regulations – 34 C.F.R. § 106.41
 - *“No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.”* 34 C.F.R. § 106.41(a).

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Enforcement

- Private lawsuits
- U.S. Department of Education
 - Office for Civil Rights (OCR)
- U.S. Department of Justice
 - Civil Rights Enforcement Unit
 - Civil Rights Fraud Initiative (announced May 2025)

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Legal Framework

- Title IX Regulations – 34 C.F.R. § 106.41
 - “A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide **equal athletic opportunity** for members of both sexes.” 34 C.F.R. § 106.41(c).



Title IX in the Athletics Context

- Three Core Areas of Compliance
 1. **Participation** → Equal opportunity to participate in sports
 2. **Scholarships** → Equitable distribution of athletic financial aid based on participation rates
 3. **Treatment and Benefits** → Equal quality of facilities, equipment, scheduling, coaching, etc.



Equity in Action: Understanding the Core Compliance Areas

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Participation

- Three-Part Test → Institutions can demonstrate participation equity by meeting **any one** of the following parts:
 1. Substantial Proportionality
 - Participation opportunities for each sex are substantially proportionate to full-time undergraduate enrollment
 2. History and Continuing Practice of Program Expansion
 - Demonstrated record and ongoing efforts to expand opportunities for the underrepresented sex
 3. Full and Effective Accommodation
 - Fully and effectively meeting the interests and abilities of the underrepresented sex

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Participation

MIAMI Fall 2024

| | Total | Male | Male % | Female | Female % |
|--------------|-------|------|--------|--------|----------|
| All Students | 818 | 117 | 14% | 701 | 86% |
| Undergrad | 287 | 41 | 14% | 248 | 86% |

Participation

Part 1: PROPORTIONALITY

If choosing to meet Part 1, the institution must offer participation opportunities proportionate to the full-time undergraduate enrollment. So, if women are 86% of the full-time undergraduate students, then **86% (or very close to 86%) of the intercollegiate athletes should be women.**

Participation

Part 2: HISTORY

Institutions can meet Part 2 by showing that it has added opportunities for the underrepresented athletes as their interests and abilities have developed and evolved. This usually means adding a team or teams or adding opportunities on existing teams. Program expansion means increasing the number of participants for the underrepresented gender (for Albizu, this is currently women) .

Participation

PART 3: FULL ACCOMMODATION

- To meet Part 3, an institution must offer every team for the underrepresented gender (e.g. women) for which there is sufficient interest and ability for a viable team, and sufficient competition for that team.
- Determining interest and ability means evaluating:
 - **results of any interest surveys**
 - club and intramural sports participation
 - high school participation in normal recruitment areas
 - community programs – AAU, traveling teams, etc.
- If there is sufficient interest and ability for a team, then the final factor is determining sufficient competition in the institution's normal competitive region (the geographic area in which the institution's athletes primarily compete).

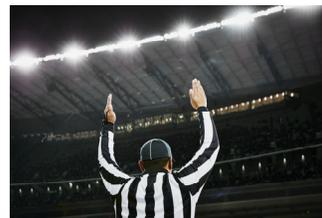
Scholarships and Financial Aid

- Requirement: Total athletic financial aid for each sex must be substantially proportionate to that sex's share of total athletes
- OCR Evaluates:
 - Total dollar amount awarded to male vs. female athletes
 - Variance from proportionality (1% or less is generally acceptable)
 - Nondiscriminatory reasons for differences (e.g., tuition differentials)
- Best Practice: Compare aid distribution to participation rates annually and document adjustments
- BOTTOM LINE: If women are 50% of the institution's intercollegiate athletes, then 50% of the athletic financial aid should be given to women.

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Equal Treatment and Benefits

- Institutions must ensure equal treatment, services, and benefits in:
 - Facilities (practice and competition)
 - Equipment and supplies
 - Scheduling (games, practices, seasons)
 - Coaching and academic tutoring (availability, assignments, pay)
 - Medical and training services
 - Travel and per diem
 - Publicity and marketing
 - Housing and dining (if provided)
 - Recruitment*



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Equal Treatment and Benefits

- Questions to Consider – **Facilities**
 - Are practice and competitive facilities equally available to both sexes at desirable times?
 - Are practice and competitive facilities maintained equally?
 - Do women and men have locker rooms of equivalent quality and size?
 - Are spectator seating and scoreboards provided equally?
 - Are the conditions of playing fields, courts, and pools equal?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

Equal Treatment and Benefits

- Questions to Consider – **Equipment and Supplies**
 - Does the institution provide uniforms and athletic paraphernalia (gym bags, towels, jackets, travel bags, rings, etc.) of similar quality and quantity for women and men?
 - Are uniforms and equipment paid for in the same manner for both sexes?
 - Are the replacement schedules for equipment and uniforms the same for women's teams and men's teams?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

Equal Treatment and Benefits

- Questions to Consider – **Scheduling**
 - Do men's teams and women's teams have equal amounts of practice time (hours of practice, days per week)?
 - Are the numbers of competitive events for men's and women's teams equal?
 - Are practice and competition times equally desirable for both sexes?
 - Do women and men lose similar amounts of academic time due to practices and games?
 - Do the competitive schedules provide equal quality competition?
 - Are postseason opportunities equal?

Source: https://nwlc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Equal Treatment and Benefits

- Questions to Consider – **Coaching**
 - Is the ratio of coaches to players equal for men's and women's teams?
 - Does the institution provide the same quality coaches for men's and women's teams?
 - Do coaches of women's teams and men's teams receive equal salaries for equal work?
 - Do coaches of women's teams and men's teams have equal "other duties" (e.g., teaching versus full-time coaching)?
 - Do coaches of women and men have equal support staff and office resources to handle paperwork, hire officials and line fields, set up the gym, etc.?
 - Are quality officials (referees, umpires, linespeople, etc.) provided equally?
 - Are assistant coaches equally available?

Source: https://nwlc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Equal Treatment and Benefits

▪ Questions to Consider – Academic Tutoring

- Are tutors equally available to men and women? For equal amounts of time?
- Are the numbers of students for whom tutoring is provided in an academic term equal for men and women?
- Does the institution provide the same quality tutors for men and women?
- Do tutors for women and men receive equal salaries for equal work?



Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

Equal Treatment and Benefits

▪ Questions to Consider – Medical and Training Services

- Are weight training and conditioning facilities equally available and of equal quality for both sexes?
- Are medical personnel provided equally (both for annual physicals and at games)?
- Are qualified athletic trainers or auxiliary coaches (strength, sports psychology, etc.) provided equally?
- Is health, accident, or injury insurance equally available?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

Equal Treatment and Benefits

- Questions to Consider – **Travel and Per Diem**
 - When women and men travel to games, do they get meals at similar types of establishments?
 - Are pre-game meals, snacks, etc. provided equally?
 - Do women and men have similar modes of transportation to away games?
 - When extensive travel is required, are accommodations equal?
 - Does the institution provide equal amounts of money for food to women's teams and men's teams when they travel?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Equal Treatment and Benefits

- Questions to Consider – **Publicity and Marketing**
 - Is coverage of female and male athletes in the institution's newspaper/media equal?
 - Are the institution's publicity personnel equally available?
 - Are cheerleaders, pep bands, drill teams, etc. equally provided for men's teams and women's teams?
 - Are athletic awards and recognitions equal?
 - Are the quantity and quality of press guides, press releases, game programs, etc. equal?
 - Is the institution treating men and women equally with respect to endorsement contracts and the opportunity to make money from the use of their names, images, and likenesses? (More on this later)

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Equal Treatment and Benefits

- Questions to Consider – **Housing and Dining**
 - Is the quality of housing provided to men and women equal?
 - Are men and women treated equally with respect to their meal plans and cafeteria services?
 - Does the institution provide equal housing and dining arrangements for male and female athletes when they are on campus during breaks or when the dorms are closed?
 - Are pre-game meals, drinks, and supplements provided equally before home games?
 - Are the policies for providing special housing and/or dining arrangements and the quantity and quality of special housing and/or dining arrangements equal for men and women?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Equal Treatment and Benefits

- Questions to Consider – **Recruitment**
 - Are the institution's recruitment policies and methods equal for women and men?
 - Are the numbers of recruitment personnel and the numbers of recruitment trips made by personnel equal for men and women?
 - Are the amounts of time coaches spend recruiting equal for men and women?
 - Are men and women treated equally with respect to recruitment budgets?
 - Are other recruitment resources (transportation, brochures, etc.) equally provided?
 - Are the numbers of prospective student-athletes who visit the campus and the quality of their visits (meals, transportation, entertainment, etc.) equal for men's and women's teams?

Source: https://nwc.org/wp-content/uploads/2023/03/final_nwlc_KeepingScore.pdf

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Emerging Issues: Transgender Athlete Participation

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Current Landscape

- White House Executive Actions
 - E.O. 14168, “Defending Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” (Jan. 30, 2025)
 - E.O. 14201, “Keeping Men Out of Women’s Sports” (Feb. 5, 2025)
- Updated NCAA Policy (Feb. 6, 2025)
 - Limits competition in women’s sports to student-athletes assigned female at birth.
 - Permits student-athletes assigned male at birth to practice with women’s teams and receive benefits such as medical care while practicing.
 - Policy applies to all student-athletes, regardless of previous eligibility reviews under NCAA’s prior transgender participation policy.
- Florida Fairness in Women’s Sports Act (2021)
- NAIA Policy: bans participation of transgender athletes

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Name, Image, Likeness, and Title IX: NIL's Intersection with Equity

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Current Landscape

- Biden Administration Guidance (Dec. 2024)
 - Stated that payments to student-athletes, such as from revenue-sharing agreements or NIL deals, should be considered “athletic financial assistance.”
 - As a result, these payments must be distributed proportionately between male and female athletes under Title IX to ensure gender equity.
- Trump Administration Rescission of Guidance (Feb. 2025)
- Where does this leave things?



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EQUITY IN ATHLETICS DISCLOSURE ACT

U.S. DEPARTMENT OF EDUCATION

EADA Equity in Athletics Disclosure Act

Glossary Help

2024 Equity in Athletics Disclosure Act Survey

Survey is Closed

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Equity in Athletics Disclosure Act

1. Requires colleges and universities to prepare an annual report to the U.S. Department of Education on athletic participation, staffing, and revenues and expenses, by men's and women's teams.
2. Equity in athletics data is available on the Department's website at: <http://ope.ed.gov/athletics>.
3. Survey must be completed annually by October 15.

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Steps Going Forward

1. **Title IX:**
 - Conduct an assessment/survey of athletic interests and abilities.
 - Address disparities proactively before OCR involvement
2. **Complete EADA Survey in October 2026.**
3. **Transgender Athletes:** Comply with NAIA guidance.
4. **NIL:** Monitor institutional activities that promote or arrange NIL deals and track NIL-related benefits facilitated or supported by the University.

Questions?





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