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## [A “Tiering” Caution on Differe...](#)

[Christine H.B. Grant, Ph.D.](#)

[Deceased](#)

At some institutions, sports have been officially tiered i.e. supported and treated in significantly different fashions. When this occurs, it is important to realize that to select an equal number of men's and women's sports to be in the top tier will NOT be in compliance with Title IX if one of these sports is football. For example:

### TIER I

Men's Sports	#S-As	Women's Sports	#S-As
Football	104	Volleyball	14
Basketball	15	Basketball	15
Baseball	33	Soccer	25
TOTAL	152	TOTAL	54
Percentage	75%	Percentage	25%

This institution would be out of compliance with Title IX since the law requires that the percentage of women in Tier 1 be the same as the proportion of women athletes at that institution. In this example, if the athletic population were 53% male and 47% female, then compliance with Title IX would necessitate

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something akin to the following chart:

TIER 1

Men's Sports	#S-As	Women's Sports	#S-As
Football	104	Volleyball	14
Basketball	15	Basketball	15
Baseball	33	Soccer	25
		Softball	19
		Rowing	62
TOTAL	152	TOTAL	135
Percentage	53%	Percentage	47%

At institutions where there has been no official tiering of sports but where there are significant differences in how football and/or men's basketball are treated in comparison to women's sports, a complaint of discrimination can be filed. Although most complaints and/or lawsuits in the last few decades have primarily dealt with participation violations, it is likely that there will be an increasing number of complaints and/or lawsuits that will deal with the disparate treatment of female student-athletes. An institution would be well advised to conduct an internal review in order to ensure that it is not vulnerable to complaints in this area.

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