



Published on Sports Management Resources

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## [Managing the Cost of Gender Eq...](#)

[Donna A. Lopiano, Ph.D](#)

[President](#)

Few athletics programs are currently fully in compliance with Title IX, the federal law that prohibits sex discrimination in educational institutions that are recipients of federal funds. What is the most sensible approach to achieving compliance without breaking the bank and how should a school handle gender equity complaints when it knows it is not yet in compliance?

Let's assume that an education institution is out of compliance with Title IX and consider some of the costs of "inequality":

- **Complaints and Lawsuits.** Parents, increasingly concerned about the cost of higher education and the financial opportunities presented by college athletics scholarships, are more insistent on their daughters and sons being treated equally in sports. The educational institution practicing inequality in athletics is just one short step away from a parent or fan filing Title IX complaint to the Office of Civil Rights in the Department of Education (OCR) or a lawsuit brought by a group of athletes and their parents. Going through an OCR investigation will result in the loss of considerable administrative time during the investigation process and a lawsuit could generate

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over \$1 million in legal costs, especially if the plaintiffs prevail and the school becomes liable for both its own and the plaintiff's attorney's fees.

- **Reputation and Integrity.** More than the staff time and dollars, the highest cost may be the reputation of the academic institution. In our media culture, Title IX disputes are well covered by local and national newspapers and the electronic media. Such public embarrassment strikes at the heart of institutional integrity.
- **Financial Crisis.** If the institution is found out of compliance, the courts or OCR are going to require compliance immediately or according to a time schedule that will not be at the convenience of the educational institution and the cost of compliance will not be an anticipated budget line item. The immediate and continuing costs of compliance will have financial ramifications over quite a few years.
- **Other Complications.** There have been recent multi-million dollar judgments against institutions where athletics directors have terminated the employment of coaches because they express Title IX concerns (Title IX also prohibits retribution against 'whistle blowers'). In these cases, litigation includes full scale Title IX compliance as well as employment issues.

These are all good reasons why every educational institution should know whether they are currently in compliance with Title IX.

If an institution is not in compliance with the law, what will be the cost of compliance and how can this cost be distributed over a period of time so that a financial crisis is avoided? Chances are good that if an institution acknowledges its gender equity deficiency and has a reasonable plan to come into compliance, a parent will not sue or file a complaint. So a first priority is getting a 3-5 year gender equity plan in place, keeping your fingers crossed that a complaint or lawsuit doesn't happen during this period.

What if the parent is adamant about an immediate remedy because his or her daughter will not benefit from a longer term plan? The school should have a response strategy that makes handling the parent's concern a priority. Having testified in over 25 Title IX court cases as an expert witness (in all of which, the complainant prevailed), the alternative scenario is crystal clear. In every case in which the educational institution knows they are not in compliance with the law and gets into a confrontation with the parent, digging in its heels, thinking that their deep pockets will prevail or the student will be graduating soon, the institution finds that what started as a small and relatively 'cheap' problem to fix in one sport expands into a full-blown Title IX complaint or lawsuit covering all sports. The result is both a costly and highly visible media fight unbecoming to the reputation of the institution. Therefore, if the institution is not in compliance and parents or athletes raise Title IX complaints, every effort should be made to be immediately responsive to such concerns, putting these fixes at the top of the priority list in order to reduce the risk of litigation.