2020-2021 EQUITY RESOURCE MANUAL

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<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title IX – Introduction ......................................................... 1</td>
</tr>
<tr>
<td>Title IX - Frequently Asked Questions ........................................... 2</td>
</tr>
<tr>
<td>Title IX – Booster Club Frequently Asked Questions ........................... 5</td>
</tr>
<tr>
<td>Interest Survey Evaluation ........................................................... 6</td>
</tr>
<tr>
<td>Title IX Athletic Interest and Needs Assessment Survey ......................... 7</td>
</tr>
<tr>
<td>Booster Club Information ............................................................... 8</td>
</tr>
<tr>
<td>Transgender Participation Information <em>(updated 11/2019)</em> .................... 10</td>
</tr>
<tr>
<td>Reference/Resources ....................................................................... 13</td>
</tr>
</tbody>
</table>
Title IX was the first comprehensive federal law to prohibit sex discrimination against students and employees of educational institutions. Title IX benefits both males and females, and is at the heart of efforts to create gender equitable schools. The law requires educational institutions to maintain policies, practices and programs that do not discriminate against anyone based on sex. Under this law, males and females are expected to receive fair and equal treatment in all arenas of public schooling: recruitment, admissions, educational programs and activities, course offerings and access, counseling, financial aid, employment assistance, facilities and housing, health and insurance benefits, marital and parental status, scholarships, sexual harassment, and athletics.

_No person in the United States shall, on the basis of sex, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal assistance._ – Title IX of Education Amendments of 1972 to the Civil Rights Act of 1964.
The following are frequently asked questions about Title IX. The answers are intended to improve awareness and to encourage educators, students, administrators, coaches, athletes and community members to advocate for these rights.

**What school levels are covered by Title IX?**
Title IX protects students, faculty and staff in federally funded education programs. Title IX applies to all elementary and secondary schools, colleges and universities. It also applies to programs and activities affiliated with schools that receive federal funds (such as internships or School-to-Work programs) and to federally funded education programs run by other entities such as correctional facilities, health care entities, unions and businesses.

**Who is responsible for enforcing Title IX?**
Every school, by law, is required to designate a Title IX Coordinator. Contact information for the Title IX Coordinator must be readily available to school faculty, staff and students. Title IX coordinators as well as all faculty, students, coaches, and community members can file a complaint of Title IX violation with the Office of Civil Rights. Anonymity is maintained and institutions are prohibited from retaliating against any complainant.

**Is there a penalty for Title IX non-compliance?**
Yes! Schools can lose federal funds for violating the law. Although most institutions are not in compliance with Title IX, no institution has actually lost any federal money. Schools have, however, had to pay substantial damages and attorney fees in cases brought to court.

**How do athletics comply with Title IX?**
Title IX requires that schools, which receive federal funding, provide equal opportunities for members of both sexes. It addresses the availability, quality and kind of benefits, and the opportunities and treatment that athletes receive. There are three basic aspects of Title IX as applied to athletics:

1. **Participation:** Title IX is not a quota system. Every institution has three options to demonstrate fairness in athletic opportunities. Schools can show that they comply with Title IX if they can demonstrate any one of the following:
   - Substantially proportionate athletic opportunities for male and female athletes;
   - A history and continuing practice of expanding opportunities for the under-represented sex;
   - Full and effective accommodation of the interests and abilities of the under-represented sex. Schools do not necessarily need to offer identical sports, yet they do need to provide an equal opportunity for females to play in sports of interest.
2. **Athletic Aid:** The total amount of athletic aid must be substantially proportionate to the ratio of female and male athletes. For example, consider a college with 90 female athletes and 115 male athletes and a scholarship budget of $100,000. An equitable distribution of funds would award $44,000 in scholarship aid to female athletes and $56,000 to males.

3. **Additional Athletic Program Components:** Title IX also mandates equal treatment in the provision of:

- [✓] Coaching
- [✓] Game and practice times
- [✓] Medical and training facilities
- [✓] Publicity
- [✓] Travel per diem allowances
- [✓] Fundraising
- [✓] Equipment and supplies
- [✓] Locker rooms
- [✓] Practice and competitive facilities
- [✓] Concessions
- [✓] Tutoring opportunities
- [✓] Charitable contributions

The standard for compliance is one of quality rather than quantity. The actual amount of money spent on women’s and men’s programs may differ as long as the quality of facilities and services for each program achieve parity. For example, equipment needed for men’s football may cost more than equipment needed by women’s field hockey. Title IX compliance is achieved as long as both teams are given equipment of comparable quality. However, Title IX is violated if a community builds a state-of-the-art field and locker facilities for males, but requires female athletes to share a field owned by a local community center. In this example, quality of facilities is far from equitable, and Title IX is violated.

**Does Title IX require male athletic opportunities be cut?**

No, Title IX is designed to create parity in athletic opportunity and quality of experience for men and women. It is a school’s choice to cut men’s programs in an effort to comply with the law or to meet budget constraints. However, Title IX is not intended to be a zero-sum game. Title IX is intended to ensure equality for both males and females.

**How does Title IX impact what courses a school offers?**

Institutions may not provide separate courses and activities based on sex and may not require or prohibit participation in these programs based on gender. Some exceptions to this, however, are allowed. Sex education and human sexuality courses at the elementary and secondary levels may be, but are not required to be, offered separately. Generally, physical education classes may not be segregated. Separation is permitted within classes during wrestling, boxing, rugby, ice hockey, football, basketball, and other activities involving significant bodily contact. In intramural sports, separate teams for each sex are permissible in contact sports.
Are predominantly male or female choruses a violation of Title IX?
No. In choral groups where vocal range and quality are a requirement of the type of music or part being performed, single sex or predominantly male or female groups are permitted.

Does Title IX prohibit bias in textbook content?
No. Because of concern over potential conflict with First Amendment rights, Title IX does not address the use of specific texts or curriculum materials. Title IX does, however, suggest that institutions monitor content to ensure that the curriculum promotes understanding of the perspectives of both sexes and their roles in history. Bias and stereotyping in instructional practice, content, and materials should be avoided.

Under Title IX are students and teachers protected from sexual harassment?
Yes, sexual harassment is a form of prohibited sex discrimination, and both students and teachers may recover monetary damages. Title IX prohibits sexual harassment in all school programs and activities in school facilities or in other locations when the school is the sponsor of the activity.

Are male students protected under Title IX?
Yes, both male and female students are protected from harassment regardless of who is committing the harassing behavior.

Are Title IX rights granted to pregnant students?
Yes. Schools may not discriminate against an enrolled student in academic or non-academic activities because of pregnancy, birth of a child, false pregnancy, miscarriage, or termination of pregnancy unless the student opts to participate in an alternate, comparable activity.

Who Enforces Title IX?
Title IX is enforced by the Office for Civil Rights (OCR) of the US Department of Education. The CHSAA Liaison serves as a resource and informational agent to our member schools.
**Does Title IX apply to booster clubs and other types of (similar) support for athletic teams?**

Yes. If the school permits an individual or group to donate funds for the benefit of a specific gender or sport, it must also make sure that benefits and services are equivalent for both sexes.

**If the men’s baseball team receives money from outside sources (i.e., a sponsorship or booster club), is the women’s softball team entitled to receive the same benefits as were provided by the booster money used for the men’s team?**

Title IX applies to all institutional revenues used for athletics, including donations from “boosters” or “sponsors” that are designated for specific teams. When an institution allows a specific team to have a sponsor and the sponsor specifies that the money be used for a particular purpose or go only to the baseball team, the institution may accept the money with the restriction specified by the sponsor, but in so doing, cannot use the circumstance as justification for discrimination. It must find resources from somewhere else to make sure that the women’s sports programs have the same benefits as the men’s sports programs. These benefits do not have to match by sport (i.e., men’s baseball and women’s softball) because “equal opportunity” under Title IX is determined by looking at the men’s program as a whole vs. the women’s program as a whole (not comparing one sport for men to the same sport for women). On the whole, considering all men’s and women’s sports, the school or university is obligated to distribute all of its resources (and the sponsor money is a university resource once the university accepts it) in a non-discriminatory manner.

**What is the ideal model for booster clubs?**

Booster club funds, donations and contributions should be placed in a general fund that supports all teams. Individual booster allocations can create inequities in outside athletic contributions (i.e., uniforms, travel, media visibility, etc.). The district/school becomes liable for providing equitable resources that are gained from booster club allocations to individual sport programs.
Based on the results of the bona fide survey and the informational meeting, the local school system shall determine whether there is sufficient interest to field a team in a particular sport. If it is determined that there is sufficient interest, the local school system must provide the additional sport if currently there are not equal athletic opportunities for members of both genders, or if the sport is a scholarship sport. If there is not sufficient interest or if there are no interscholastic teams participating in such sport with which to compete, the local school system is not required to field the team. If there is sufficient interest in multiple sports, a local school system is only required to offer enough sports to ensure that equal athletic opportunities for members of both genders are provided. For example, if a local school system determines that there is sufficient interest in both girls’ soccer as well as girls’ basketball, but to attain equality only requires adding one of the sports, the local school system is only required to add the one to attain equal opportunities. However, a local school system is encouraged to provide as many athletic opportunities beyond what is required, as they wish.
Title IX Athletic Interest and Needs Assessment Survey

Name__________________________________________ Phone____________________________

Address________________________________________ [ ] Male [ ] Female

Ethnicity__________________________ (optional) Age______________________ (optional)

Student Status:  8th ______  9th______  10th_______ 11th_______

For each sport listed below, please enter a number from the following list that describes your experience with or interest regarding that sport.

1. Not interested in this sport
2. Interested in this sport as a spectator
3. Interested in taking a class in this sport
4. Participated in this sport in high school, community/club
5. Interested in participating in this sport at ________________ high school (coach will contact you)

   _____Badminton   _____Ice Hockey   _____Softball Slow-pitch
   _____Baseball     _____In-Line Hockey  _____Swimming
   _____Basketball   _____Lacrosse       _____Tennis
   _____Bowling      _____Pom/Dance      _____Track & Field
   _____Cheer        _____Rodeo          _____Volleyball
   _____Cross Country _____Rugby          _____Wrestling
   _____Field Hockey  _____Skiing        _____Other sports suggestions
   _____Football     _____Soccer         __________________________
   _____Golf         _____Softball Fast-pitch
   _____Gymnastics

Comments:_________________________________________________________________________________
__________________________________________________________________________________________

Note: some sports currently exist at ________________________ high school feel free to add any sport(s) in the “other sports suggestion” section. We will review comments for possible consideration for future additions or added levels.

Thank you for allowing us to make our Athletic Department more responsive to your needs.

Please return to __________________________ by ________________________________________

__________________________________________
Booster Club Definition

- As districts face shrinking budgets, they rely increasingly on booster clubs to provide financial support for extracurricular activities.
- Booster clubs provide parents and interested community members a means to support extracurricular activities beyond serving as mere spectators. Booster clubs hold fundraisers, organize banquets, and donate merchandise to schools.

Booster Club Funding

- Booster clubs, athletic/activity foundations, or similar named outside organizations may be formed for the purpose of providing additional financial assistance to specific teams or general athletic/activity programs.
- Any benefits provided by the outside organizations, which can include monetary contributions, facility improvements, equipment, transportation, awards, additional team support, etc., are subject to applicable State/Federal Regulations.
- All booster club or similar donations to sport specific teams or general athletic/activity funds by outside organizations must be approved by school and/or district administration.

Current Constitution Bylaws

- Source of Salaries – All salaries or remuneration for the fulfillment of the school district coaching/director contract must come as direct payment from the employing school district or private school governing body. Acceptance of additional pay, gratuities or any other remuneration either in money or merchandise from any organization or group outside of the school itself is a violation of this regulation. Recognized outside groups such as “booster” groups may make a donation to the school’s or district’s general activities fund, but may not specify any monies be utilized for the payment of salaries for Advisor A, Coach B, etc. This regulation, on the other hand, does not prevent school employees from receiving gifts or awards of no intrinsic value.
- **Question** – Can an outside group (i.e. Booster Club) help fund a specific school/athletic program? **Answer** – Yes
- **Question** – Can a Booster Club pay a coach directly for his/her coach’s salary? **Answer** – No, all funds must be given to the school for distribution.
Administrative Control

- The two main concerns with booster club operations are equity and administrative oversight. School administrators have a legal and social responsibility to be involved in every aspect of private and organized fundraising contributions, and donations that are connected to their programs.

- Private fundraising is permissible under Title IX. Outside donations from businesses community members or parents are treated as private funds even if the school doesn’t have a formal “booster club”. A school district that accepts outside financial assistance and allows vast gender/sport differences to benefit from the (donator/booster funds) may encounter claims it has violated Title IX. The school becomes liable in the event that benefits and services are not equivalent for both sexes (Title IX Athletics Investigator Manual, OCR).

- Administrator’s must develop written policies and procedures to ensure that benefits to gender equity are maintained whenever the District and/or individual schools within the District make budgetary decisions on donations.

- Train all District activity/athletic administrators, principals and coaches regarding the acceptance of donations. The training should include information on the District’s donation policy, the proper procedure for the District to accept donations, and how the District’s acceptance of donations is affected by the requirements of gender equity.

- Provide a copy of the District’s donation policy to all booster clubs, team sponsors, donors and any other contributors.
## CHSAA Transgender Inclusion Bylaw & Policy

**Bylaw 300.**

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<td>1. The Colorado High School Activities Association is committed to ensuring that all students have equal access and opportunities to participate in CHSAA sponsored activities and athletics.</td>
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<td>2. Member schools shall ensure that all students have equal access and opportunities to participate in activities and athletics without unlawful discrimination based on disability, race, creed, color, gender, sexual orientation, religion, age, national origin, or ancestry.</td>
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<td>3. The Colorado High School Activities Association recognizes the right of transgender student-athletes to participate in interscholastic activities free from unlawful discrimination based on sexual orientation. In order to insure appropriate gender assignment for purposes of athletic eligibility, a transgender student-athlete's home school will perform a confidential evaluation to determine the gender assignment for the prospective student-athlete. The CHSAA will review athletic eligibility decisions based on gender assignment of transgender student-athletes in accordance with its approved policies and appeals procedures.</td>
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### CHSAA Inclusion Policy

The Colorado High School Activities Association (CHSAA) Board of Directors approved this policy and process to address the eligibility of transgender/transitioned/student-participants in CHSAA sanctioned activities/athletics.

For the purposes of this policy, the following definitions will apply:

1. The term “sexual orientation” means a person’s orientation toward heterosexuality, homosexuality, bisexuality, transgender status or another person’s perception thereof.
2. The term “gender identity” means an individual’s internal sense of gender.
3. The term “sex assigned at birth” refers to the sex designation recorded on an infant’s birth certificate should such a record be provided at birth.
4. The term “transgender” describes those whose gender identity is different from the sex they were assigned at birth.
5. The term “gender expression” means external appearance, characteristics or behaviors typically associated with a specific gender.
6. The term “gender fluid” means denoting or relating to a person who does not identify themselves as having a fixed gender.
7. The term “detransition” means the cessation or reversal of a transgender identification or gender transition, whether by social, legal or medical means.
8. The term “covered entity” means any person, business, or institution required to comply with the antidiscrimination provisions of the law.

9. Unlawful harassment includes severe or pervasive conduct that creates an environment that is subjectively and objectively hostile, intimidating, or offensive on the basis of gender identity, gender expression, or sexual orientation. Prohibited conduct includes, but is not limited to, the following:
   a. Asking unwelcome personal questions about an individual’s gender identity;
   b. Intentionally causing distress to an individual by disclosing to others the individual’s sexual orientation or transgender status;
   c. Using offensive names or terminology regarding an individual’s gender identity, gender expression, or sexual orientation; or
   d. Deliberately misusing an individual’s preferred name, form of address, or gender-related pronoun.

Policy Privacy:
All discussions and documentation in each level of the process either by a member school and/or CHSAA shall be kept confidential unless the student and family make a specific request.

Procedures:
The student’s member school will be the first point of contact for determining the student’s eligibility to participate in CHSAA sanctioned event(s). The student and parent(s)/guardian must notify the school in writing that the student has a consistent gender identity different than the student’s gender assigned at birth and list the sanctioned event(s) in which the student would like to participate. The consistent gender identity as stated in the school letter will be the gender recognized for the entirety of the students participation in CHSAA athletics/activities. (See Detransition Policy) A transgender student shall participate in accordance with their gender identity, and CHSAA Bylaw 2850.3 shall still apply.

The school may use the following criteria to determine participation:
   • Current transcript and school registration information
   • A written statement from the student affirming their gender identity.

The school may consider but may not require the following information, if it is voluntarily provided by the student or their parent/guardian:
   • Documentation from individuals such as, but not limited to, parents, friends, and/or teacher, which affirm that the actions, attitudes, dress and manner demonstrate the student’s gender identity.
   • Written verification from an appropriate health-care professional (doctor, psychiatrist, psychologist) of the student’s gender identity.
   • Medical documentation (hormonal therapy, sexual re-assignment surgery, counseling, medical personnel, etc.)

Gender Fluid:
Students that want to participate in CHSAA athletics and activities, must select one gender to participate. The process for gender identification and notification to the school is the same as stated above. Any subsequent detransition by a gender fluid student must also follow the detransition policy as stated below.
**Detransition Policy:**
Students that detransition after competing in their consistent gender identity at the high school level, must notify the school in writing of their intent to detransition and apply via written request to the school for further eligibility. The decision to approve the request will be made at the local level.

**Areas of Awareness for Schools:**
- Have a plan in place and be proactive.
- Use correct names/pronouns according to the student’s self-identification and permit the student to dress according to gender identity and or expression.
- Allow restroom and locker room access consistent to gender identity.
- Educate teachers, counselors, coaches, administrators, parents and students on transgender inclusion and awareness.

**Resources:**
- CHSAA Contact:
  Bethany Brookens, Assistant Commissioner
  14855 E. Second Avenue – Aurora, CO 80011
  Office Phone: 303-344-5050
  Office E-mail: bbrookens@chsaa.org
REFERENCES/RESOURCES

- Bethany Brookens, CHSAA Assistant Commissioner Equity Liaison – Colorado High School Activities Association – bbrookens@chsaa.org

- U.S. Department of Education
  www.ope.ed.gov/athletics

- Western Division – OCR
  Ocr_denver@ed.gov

- Gender Spectrum Website & Resources
  https://www.genderspectrum.org/

- Colorado Diversity Equity & Community Engagement
  University of Colorado at Boulder
  For more information, please contact the Office of Diversity of Equity at 303-735-1332.

This brochure is the completed works of the 2005 CHSAA Equity Committee and is updated each year. The manual was created with numerous written and verbal references/resource materials.