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2011 NMSBA SCHOOL LAW CONFERENCE
June 10-11, 2011

REPORTING UNDER THE NEW MEXICO SCHOOL ATHLETICS EQUITY ACT

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School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-2 (2009) provides that . “Each public school shall operate its program in a manner that does not discriminate against students or staff on the basis of gender.”
- PED shall collect annual data from public schools on their athletics programs.
- Each public school shall collect and submit the prior-year data required in SAEA in a format required by PED.



School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-3 (2009)
- The data submitted shall include:
 - by August 31, 2011, the following information pertaining to enrollment:
 - (1) the total enrollment in each public school as an average of enrollment at the eightieth and one hundred twentieth days of the school year;
 - (2) student enrollment by gender;
 - (3) total number of students participating in athletics;
 - (4) athletics participation by gender; and;
 - (5) the number of boys' teams and girls' teams by sport and by competition level;

SAEA AND FEDERAL STANDARDS

- Reporting requires all the data on first test of Title IX
- First test
 - Participation of female student athletes in the school district's/school's athletics program is *substantially proportional* to the percentage of females enrolled in the school district/school's
 - No requirement for strict proportionality
 - No clear rule setting a definitive percentage
 - 3% is okay
 - 7% is not

School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-3 (2009)
- The data submitted shall include:
 - by August 31, 2011, the following information pertaining to athletic directors, coaches and other school personnel:
 - (1) the name and gender of each public school's athletic director;
 - (2) the name of each team's coaches and other team personnel, with their gender, job title and employment status, such as full-time, part-time, contract or seasonal, specified;
 - (3) the coach-to-athlete and staff-to-athlete ratio for each team; and;
 - (4) the stipend or other compensation for coaching paid to coaches of boys' teams and to coaches of girls' teams for each public school;

FEDERAL COMPLIANCE ISSUES UNDER TITLE IX BUT NOT REPORTED

Athletics

- Compliance is an examination of the overall benefits and opportunities provided to girls' athletics compared to boys' athletics on a **program** level.
 - Compliance = overall benefits/opportunities
 - **NOT** boys' soccer = girls' soccer

FEDERAL COMPLIANCE ISSUES UNDER TITLE IX BUT NOT REPORTED

Athletics

- Proportionality of benefits and opportunities--
- **NOT** \$ girls = \$ boys
- Must be able to demonstrate amount, quality and suitability of equipment is equivalent



Cheerleading as a Sport



- NMAA—current sanctioning as a sport
 - Sideline cheer to be part of sport
 - New program will mimic a current varsity sport in tournament play.
 - Golf
 - Tennis
 - **NMAA obtained OCR blessing on the sport.**

Cheerleading as a Sport

- Title IX Audit
 - Count with cheerleading
 - Count without cheerleading
- Reporting/Certification of Superintendent
 - Admission of violation of Title IX
- Potential Liability
 - Violation leads to award of money damages and changes controlled by OCR

Cheerleading as a Sport

- NMAA gets sport approved by OCR
 - Cheerleading athletes count
 - Sport is funded by School District
 - No need to cut teams or sports



School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-4 (2009)
- Each public school shall make its data available to the public, including all materials relied upon to compile the data.
- Each public school shall inform all students at the public school of their right to review the data.
- PED shall publish the following information:
 - (1) each public school's data; and
 - (2) a list of public schools that did not submit fully completed data.

School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-4 (2009)
- Each public school shall maintain its data and all materials relied upon to complete the data for at least three years.
 - Statute of Limitations for Title IX cases.
- Each public school shall publish its data in a newspaper of general circulation in the state or make the data available on a publicly accessible web site.



School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-5 (2009)
- Each public school shall submit an assurance of compliance with Title IX to its local school board or governing body and provide a copy to PED no later than August 31 of each year.
- The assurance shall be signed by the superintendent or the head administrator of the charter school.
- PED shall publish, in a newspaper of general circulation in the state or on a publicly accessible web site, a list of public schools that fail to submit the assurance of compliance with Title IX.

School Athletics Equity Act

- **REPORT TO GOVERNOR AND LEGISLATURE.**
 - N.M. Stat. Ann. § 22-31-6 (2009)
 - Beginning December 1, 2011, PED shall submit annually a report on the School Athletics Equity Act to the Governor and the Legislature, including a summary of the data received from the public schools.
 - The report shall include recommendations on how to increase gender equity in athletics in public schools.
 - PED shall post the report on its web site.



NMAA

Repository for PED Reporting

- Use the NMAA's MVP system.

School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-3 (2009)
- The data submitted shall include:
 - by August 31, 2012, an accounting of the funding sources that are used to support the school's athletics programs and to which teams those funds are allocated; funding sources include state funding, federal funding, fundraising or booster clubs, game and concession receipts, gate receipts, cash or in-kind donations, grants and any other source;

School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-3 (2009)
- The data submitted shall include:
 - by August 31, 2012, the following information regarding expenses, including:
 - (1) any capital outlay expenditures for each public school's athletics programs;
 - (2) the expenditures for each public school's athletics programs; and
 - (3) the expenditures for individual teams, including travel expenses such as transportation, meal allowances and overnight accommodations; equipment; uniforms; facilities; facilities improvements; publicity expenses; awards; banquets; insurance; and any other expenses incurred by each team; and

School Athletics Equity Act

- N.M. Stat. Ann. § 22-31-3 (2009)
- The data submitted shall include:
 - by August 31, 2012, a statement of benefits and services to each team, including:
 - (1) replacement schedules for equipment, uniforms and supplies;
 - (2) practice and game schedules;
 - (3) access to locker rooms, weight rooms and practice, competitive and training facilities; and;
 - (4) assistance in obtaining scholarships.

COMPLIANCE ISSUES



Booster clubs, donations and fundraiser impact

- Donations to and fundraising on behalf of athletic teams may cause an imbalance in the benefits or opportunities provided by the School District's athletic program.
 - **It is not where the money comes from it is what you spend the money on.**
 - Anything a student receives from a booster club or from fundraising is a benefit or opportunity to the student regardless of its source.
 - **It is not how much money you spend it is what you spend the money on.**
 - The benefit or opportunity is what the booster club or fundraising got for the student.

COMPLIANCE ISSUES



Booster clubs, donations and fundraiser impact

- Disproportionate benefits from team booster clubs or from fundraising may require reallocation of budgeted funds from teams receiving donations/fundraising to teams which are not.
- Knowledge of what benefits and opportunities students-athletes are receiving and from what source is important for the School District to ensure its Title IX compliance.
- Reallocation of school funds or refusal to accept the benefits or opportunities resulting from donations from booster clubs and fundraising may be only means by which the School District can be Title IX compliant.

School District's relationship with Booster Clubs

- **School Related**
 - The Booster Club is a PTO
 - Subject to School District audit
 - Part of the School District
- **Outside Group**
 - 501(c) Non-profit or Corporation
 - Not subject to audit by School District
 - Subject to Donations policy or other regulations from School District on use of school logo, name and access to students or facilities.
 - Memorandum of Understanding

School District's relationship with Booster Clubs

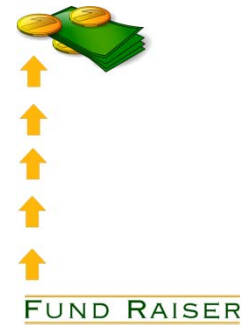
- Potential Issues with Booster Clubs effecting Title IX compliance and potentially subjecting the School District to liability:
 - Donations or services affecting the balance of benefits or opportunities between boys' athletic program and girl's athletic program.
 - Providing unknown benefits and opportunities
 - Payment to Coaches
 - Money becomes public funds and requires equivalence under Title IX
 - Collegiate eligibility of students
 - Harm to student

Fundraising



- A student receiving money for the purpose of a school sport and because of his or her status as a student-athlete in the School District turns the money into public funds.
- A coach receiving money for the purpose of a school sport and because of his or her status as a coach for the School District turns the money into public funds.

Fundraising



- The Board of Education has control of all public funds related or pertaining to the School District.
- Expenditure of public funds must comply with applicable law and regulation.
- The School District must account for all public funds received and expended related to the School District and its students.

School District Response

- Conduct a Title IX Audit
 - Work with the NMAA
 - Review numbers as to enrollment and participation in athletics
 - Surveys of interest
 - Finances in athletics
 - Benefits to each team
 - Review of booster clubs



School District Response

- Begin making necessary changes now
 - Be open with parents, coaches and public
 - Address threats of litigation and complaints to OCR
 - Work with booster clubs
 - One combined booster club for all sports
 - Memorandum of Understanding
 - Donations policy
 - Control of name and logo
 - Control of athletes.

Questions



- Thank you

Contact Information



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