



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: SEX EQUITY IN PHYSICAL EDUCATION PROGRAMS

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ROUTING
All Locations
Administrators
Physical Education Teachers

PURPOSE: The purpose of this bulletin is to inform administrators and teachers of sex equity laws and regulations which apply to school physical education programs.

MAJOR CHANGES: This replaces Bulletin No. M-62 (Rev.) of the same subject dated July 24, 1998, from the Office of the Deputy Superintendent, Instruction and Curriculum. The content has been updated to reflect current policy, and provide a list of contact persons with their telephone numbers.

BACKGROUND: Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in education programs or activities receiving federal financial assistance. Specifically, it states:

“No person in the United States shall, on the basis of sex, be excluded from participating, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...”

Current Title IX regulations generally prohibit single-sex classes or activities. The regulations state that schools must not provide any course or otherwise carry out any of its education programs or any activities separately on the basis of sex, or require or refuse participation by any of its students on such basis, including physical education classes.

Title IX regulations recognize two categorical exceptions for specific types of classes that may be segregated by sex. Those exceptions are:

1. Physical education classes during participation in sports the purpose or major activity of which involves bodily contact, and
2. Portions of classes in elementary and secondary schools which deal exclusively with human sexuality.



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The current regulations also permit schools to group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

It is a policy of the State, as well as of the Los Angeles Unified School District (District), that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the student enrolled in these classes and courses. Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

While instruction in all physical education classes is coeducational, there is no prohibition against the grouping of students by ability during physical education activities when students are assessed by objective standards of individual performance without regard to sex and all students are involved in the same physical activity or conceptual learning experience at the same time.

GUIDELINES: GENERAL ASSISTANCE

The following questions and answers are offered to assist administrators and teachers in complying with Title IX legislation:

1. Question: In a self-contained elementary physical education class, is it permissible to:
 - have boys' teams play against girls' teams?
 - allow separate boys' and girls' games?

Answer: Organization by gender for instruction is prohibited. Only differences by ability are allowed. Separation for actual participation in contact sports is permitted, although not required.

2. Question: Does the physical education department have to develop a single grading standard for both boys and girls?

Answer: Each teacher does not have to grade the same; however, the individual teacher must use one objective standard for his/her students. If the standard has the result of discriminating against one sex in physical skills, adopt a neutral standard, or, if none exists, then standards can be different by sex.



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3. Question: Can schools have separate physical education departments for men and women teachers?

Answer: No. Staff may not be divided on the basis of sex and the physical limitations of a school site do not define the department.

4. Question: Can schools request a male substitute for a male physical education teacher due to locker room supervision?

Answer: No.

5. Question If wrestling and volleyball are being taught in one unit, can the class be separated into boys for wrestling and girls for volleyball?

Answer: There can be no separation by sex for instruction in wrestling techniques and strategies. However, students may be separated for the practical aspect of wrestling.

6. Question: Must classes such as modern dance and football which only attract one gender be eliminated?

Answer: No. Such classes are permitted as long as there is:

- equal opportunity for both sexes to join,
- no adverse scheduling, and
- no adverse counseling.

7. Question: Do physical education classes have to have a ratio of at least 80 percent of one sex to 20 percent of the other to be in compliance?

Answer: No. All classes must be open and records must show that affirmative steps have been taken to counsel and to offer classes to all students. If an investigation were to be conducted, however, classes with more than 80 percent enrollment of one sex might come under closer scrutiny.

8. Question: In devising an elective program, what factors should be considered to ensure full compliance with Title IX?



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Answer: All course descriptions should indicate that there are no sex restrictions. The method of scheduling should avoid aversive scheduling practices. For example, no single activities should be placed opposite each other such as wrestling and modern dance.

Counseling practices should encourage students to enroll in any class. If there are grouped activities, one should not be more attractive to one gender than to the other.

(Example: tennis/dance vs. wrestling/weight-lifting)

The key is to eliminate the effects of past discrimination by taking positive steps.

9. Question: When scheduling students for physical education, must the class be 50 percent boys and 50 percent girls?

Answer: No. Scheduling cannot be on the basis of sex. If purposely sex-segregated, there is a violation. However, if the intention is to sex-integrate, there is no violation. The key is the effect of the scheduling.

10. Question: Can a self-defense class which includes a unit on rape and sexuality be sex segregated?

Answer: Classes dealing exclusively with sex and sexuality may be separated on the basis of sex.

11. Question: Can the male teacher take the boys on one side of gym, and the female teacher teach the girls on the other side of the gym during team teaching?

Answer: No. This is sex-segregated physical education even though it is in the same room. Classes must have non sex-based criteria for grouping.

12. Question: Can locker room supervision be considered a bona fide condition of employment for physical education teachers?

Answer: No. The job is that of being a teacher. Locker room supervision is not the job. If a school is hiring a locker



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room attendant only, then it may be a bona fide condition of employment.

13. Question: How often does a school have to re-evaluate their physical education program to ascertain if there is compliance?

Answer: Continuous ongoing evaluation is required of the school. The California Department of Education also conducts compliance reviews through their Coordinated Compliance Review process.

14. Question: Can there be co-chairpersons in the physical education department?

Answer: Yes, as long as positions are not designated by sex. Duties should not be designated and divided on the basis of sex.

15. Question: Can a school continue with an elective program that results in sex-segregated classes?

Answer: Yes, as long as affirmative steps have been taken to overcome the effects of past discrimination.

GUIDELINES FOR RESPONDING TO TITLE IX DISCRIMINATION COMPLAINTS RELATING TO PHYSICAL EDUCATION

Both federal and state laws provide for complaint procedures for individuals who wish to file discrimination complaints. Anyone who wishes to make a charge of discrimination relating to District physical education programs, may file a complaint either under the District's "Title IX Policy/Grievance Procedure" or under the District's "Uniform Complaint Procedures."

If equal access complaints arise that relate specifically to transgender and gender nonconforming students in relation to restroom or locker room accessibility or general access to sports and physical education classes, please refer to the District reference guide, "Transgender and Gender Nonconforming Students—Ensuring Equity and Nondiscrimination."

Please see the "Related Resources" section of this bulletin for further information regarding complaint procedures and ensuring equal access to all components of the educational program, including physical education.



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AUTHORITY: This is a policy of the Superintendent of Schools. The following legal standards are applied in this policy:

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, et. seq.

Title IX Regulations, Title 34, Code of Federal Regulations, §106

California Education Code, §221.5 – 231.5

“Guidelines Regarding Single Sex Classes and Schools,” United States Department of Education, Office of Civil Rights,
<<http://www.ed.gov/about/offices/list/ocr/t9-guidelines-ss/html>>

RELATED RESOURCES: Policy Bulletin No. L-4, Subject, “Title IX Policy/Grievance Procedure,” issued by the Office of the General Counsel, dated August 15, 2001

Reference Guide, REF-1557, “Transgender and Gender Nonconforming Students—Ensuring Equity and Nondiscrimination,” issued by the Office of the General Counsel, dated February 15, 2005

“Uniform Complaint Procedures” Memorandum – issued annually by the Specially Funded and Parent/Community Programs Division

ASSISTANCE: For assistance or further information, please contact:

Jeanie Leighton, Director, Middle School Programs/
Instructional Support Services, at (213) 241-6040

Deanne Neiman, Director, Educational Equity Compliance Office/
Office of the General Counsel, at (213) 241-7682

Chad Fenwick, Advisor, K-12 Physical Education, at (213) 241-4556