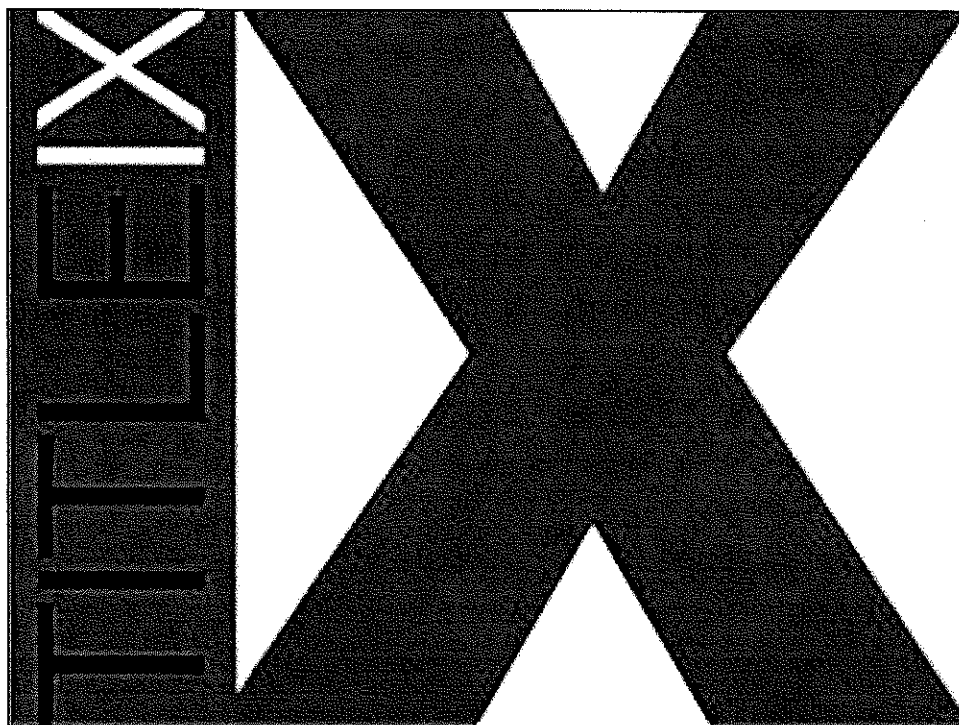


Worcester – School Admin.  
Workshop – Summer 2015  
Title IX Issues

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## Federal Statutes – Title IX

- Title IX of the Education Amendments of 1972 (Title IX), prohibits discrimination on the basis of sex. Title IX provides that “no person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

## **TITLE IX:**

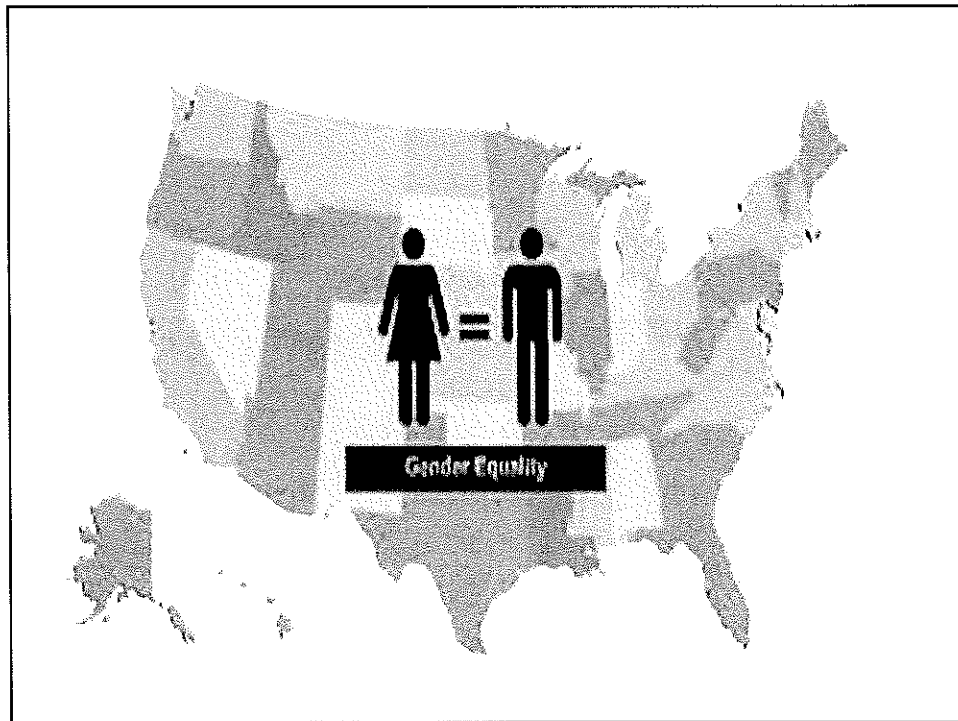
No person in the United States shall, on the basis of sex, be excluded from participation in, be

## Federal Statutes – Title IX

- Title IX has been held to be violated if unequal participation is found to exist between male and female athletes in a school or school district
- Are participation opportunities substantially proportionate to their respective enrollments
- Can school show history of program expansion responsive to developing interests
- Can it be demonstrated that the interests of that sex are fully and effectively accommodated
- Ollier v. Sweetwater Union (CA) (9/19/14)

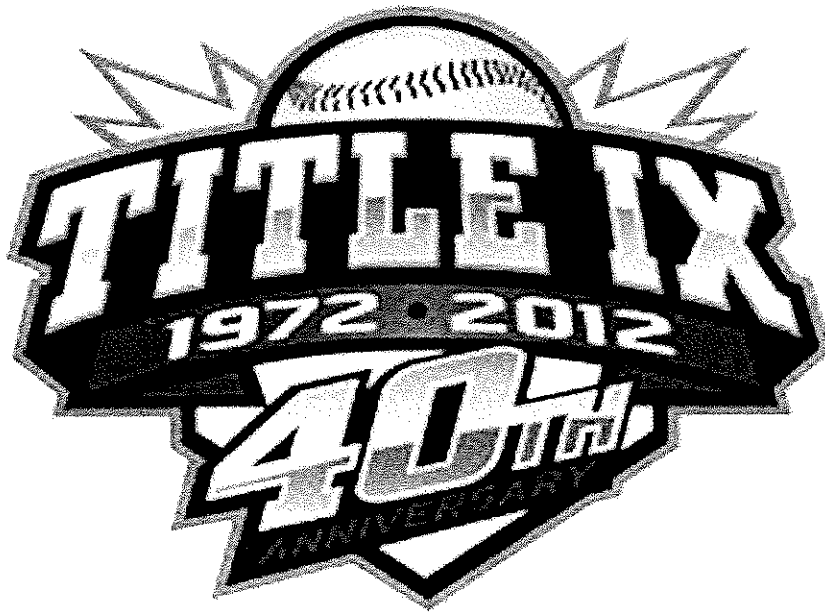
## Federal Statutes – Title IX

- A Title IX lawsuit in NY resulted in a settlement where the school district agreed to build a new softball facility with permanent dugouts, good drainage, outfield fencing, a scoreboard, and other amenities to rectify the substandard playing field provided for girls games
- The district had a practice of renting a nearby stadium for boys baseball home games but did not rent the same or similar facilities for the girls
- Myers v. Batavia City Sch. Dist. (NY) (6/4/14)



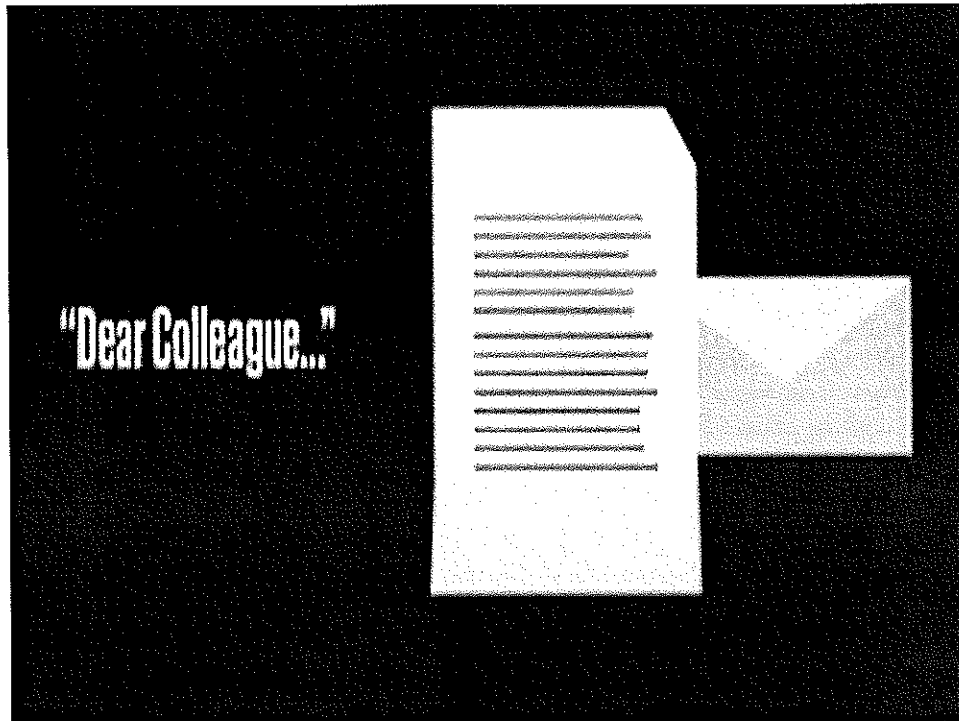
## Federal Statutes – Title IX

- A March 2013 decision by the U.S. Department of Education under its Title IX authority required the immediate tear down of improvements to baseball field bleachers that were not matched at the adjacent girls softball field
- The bleachers had been purchased by donors from the Plymouth High School Baseball Boosters Club and installed by volunteers
- Comparable funding was not pursued or then available for renovation of the softball bleachers



## Federal Statutes – Title IX

- A Title IX lawsuit in IN resulted in a settlement where the Franklin County School District agreed to cease the practice of only scheduling boys basketball games on “prime time” Friday or Saturday nights with girls games on other nights
- The Consent Decree to schedule girls and boys basketball games equally on Friday and Saturday nights set a legal precedent for the entire state of Indiana
- Parker v. Franklin County Schools (IN) (10/16/12)



## Federal Statutes – Title IX

- Dear Colleague Letters (DCL)
  - DCL is a misnomer in every way
  - Most are re-interpreting decades old laws
  - DCLs have become a new source of “law”
  - The number of DCLs are growing rapidly
  - Educators are uniformly considered as violators
  - DCLs are written as “How To” guides for lawsuits

## Federal Statutes – Title IX

- Dear Colleague Letters (DCLs) are sent to all Districts by the US Dept. of Educ. (DOE)
- In 2010 DOE issued one (1) DCL
- In 2011 DOE issued two (2) DCLs
- In 2012 DOE issued one (1) DCL
- In 2013 DOE issued three (3) DCLs
- In 2014 DOE issued six (6) DCLs
- In 2015 DOE has so far issued two (2) DCLs
- There are potential another (10+) DCLs in the pipeline

## Federal Statutes – Title IX

- Title IX Dear Colleague Letters (DCLs)
- Oct. 26, 2010 - Bullying --Title VI, Title IX, 504
- Apr. 4, 2011 - Sexual Assault – Title IX
- June 14, 2011 - LGBT/Harassment/Bullying
- April 29, 2014 - Guidance Issued on Responsibilities of Schools to Address Sexual Violence, Other Forms of Sex Discrimination

**SEXUAL ASSAULT** **AWARE RESPECT** **EMPOWER** **SAFETY** **EDUCATION**  
**WHAT IT IS** **COUNSEL COMMUNICATE** **REPORT** **WHAT TO DO** **WHERE TO GO** **SUPPORT**

## Federal Statutes – Title IX

- Title IX's prohibition against sex discrimination includes both sexual harassment and sexual violence of students by faculty, staff and other students. [Title VII covers applicants, employees and guests]
- Title IX does not prohibit discrimination on the basis of sexual orientation. Nonetheless, sexual harassment or violence directed at a GLBT student that is sufficiently severe may constitute actionable sexual harassment under Title IX.

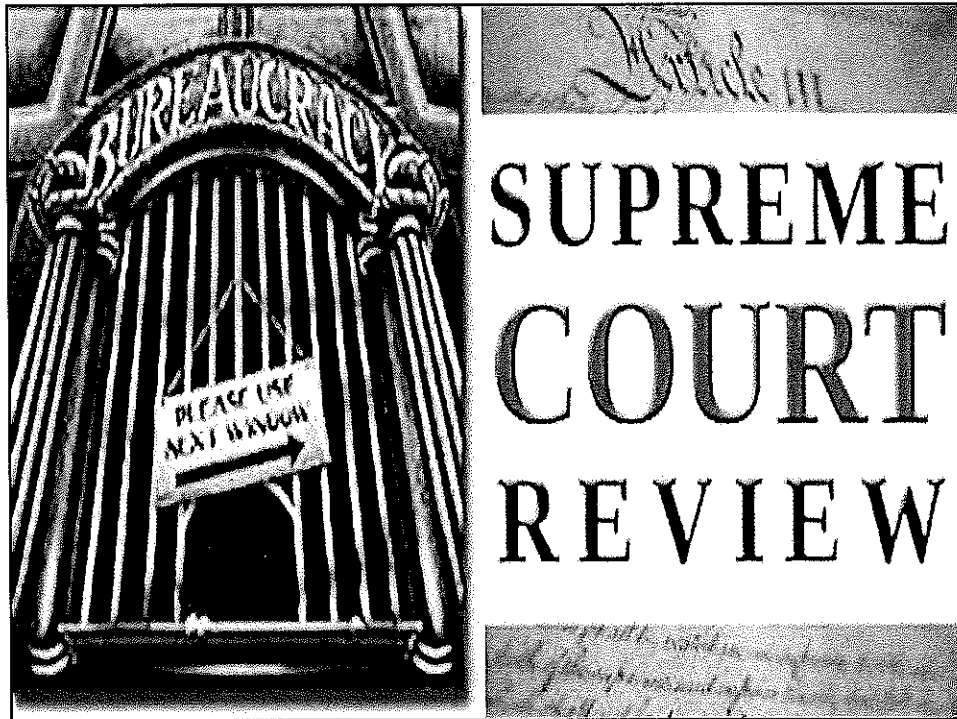


## Federal Statutes – Title IX

- Title IX's Sexual Harassment defined:
- Unwelcome conduct of a sexual nature includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- Student-to-student harassment: creates hostile environment if conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program.

## Federal Statutes – Title IX

- Title IX's Sexual Violence defined:
- Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol
- An individual also may be unable to give consent due to an intellectual or other disability
- May include rape, sexual assault, sexual battery, and sexual coercion



## Federal Statutes – Title IX

- The recent case of *Doe v. Board of Educ. of Prince George's County* (MD) questioned the liability standard to be applied in student-on-student harassment cases deliberate indifference or a negligence standard
- The *Davis* standard just reaffirmed by the Fourth Circuit requires proof of actual knowledge by school officials to prevail
- In *Doe*, they sought to change the standard to what school officials should have known as urged in a recent DCLs from US DOE

