



Association of
Title IX Administrators

Time with IX: eSports & Title IX

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What is eSports?

eSports

- Represents a segment of the gaming industry fixated on professional levels of competitive video game play aimed at
 - Entertaining viewership
 - Promoting rivalry
 - Elevating production
- Organized, competitive, multiplayer video gaming, often played for spectators in leagues and tournaments

Collegiate eSports

- eSports within colleges and universities
- Generally Collegiate eSports have
 - Official teams
 - Coaches
 - Scholarships
 - Dedicated arenas
- Collegiate eSports:
 - Fosters teamwork
 - Communication
 - Academic opportunities



National Junior College Athletic Association eSports (NJCAA E)

NJCAAEE Defined

- NJCAAEE is the leading international competitive body for two-year college eSports
- Provides institutions with
 - Competition
 - National championships
 - Recognition
- Focused on growing enrollment in member institutions
- Is a member-focused association of over 200 institutions

NJCAA Role

- Hosts eSports and gaming activity through:
 - Two tiers of competitive regular seasons
 - Split by divisional formats focused on giving everyone the experience they are looking for;
 - Tier 3 level of activity that anyone you consider a part of your community can enjoy;
 - General community engagement events; and,
 - Special tournament activities that allow not only students, but faculty, staff, alumni, and more diverse gaming and esports opportunities

eSports & Title IX

Biediger v. Quinnipiac University (QU)

728 F. Supp. 2d 62 (D. Conn. 2010)

The Facts:

- In 2009 QU dropped its women's volleyball, men's golf, and outdoor track and field teams
- At the same time, QU established a competitive cheer team
- Members of the QU women's volleyball team filed a lawsuit alleging the university was denying women equal athletic opportunities in violation of Title IX
- In 2010, a federal district court issued a permanent injunction barring QU from disbanding the volleyball team
 - The court ruled QU had artificially increased women's team rosters and decreased men's team rosters to be in compliance Title IX

Biediger v. Quinnipiac University

728 F. Supp. 2d 62 (D. Conn. 2010)

The Facts:

- The plaintiffs said opportunities on the competitive cheerleading team should not be counted at all toward Title IX compliance because the activity was not considered an intercollegiate varsity sport
- The district court agreed
 - The 2nd Circuit panel upheld the district court.
- Both the district court and the appeals court concluded that competitive cheerleading did not yet qualify as a sport
 - National Collegiate Athletic Association (NCAA) has not recognized it as a sport or as an emerging sport, which would give it a presumption of recognition for Title IX purposes under the Department of Education (ED) rules
 - ED has never said competitive cheerleading could be counted for Title IX compliance

Biediger v. Quinnipiac University, Cont.

728 F. Supp. 2d 62 (D. Conn. 2010)

- The appeals panel said
 - “Application of a uniform set of rules for competition and the restriction of competition to contests against other varsity opponents are the touchstones of a varsity sports program. Those features ensure that play is fair in each game, that teams’ performances can be compared across a season, and that teams can be distinguished in terms of quality.”

Navarro et al v. Florida Institute of Technology, Inc. (FIT)

2023 WL 2078264 (M.D. Fla. Feb. 17, 2023)

- June 2022, FIT informed student athletes that they would eliminate five athletic programs including men's rowing
- Student athletes were told they could still participate in rowing by creating a club team
- FIT eliminated four additional teams between 2019 and 2022
- October 24, 2022, six male student athletes filed a complaint against FIT alleging
 - Violation of Title IX, 20 U.S.C. § 1681 equal participation
 - Equal treatment
 - Equal scholarship opportunities

Navarro et al v. FIT: Explanation of Allegations

- Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 equal participation
 - Plaintiffs alleged that:
 - At the time FIT eliminated the men’s rowing team, the university was out of compliance with Title IX
 - The university had been out of compliance with participation opportunities for men based on the overall population of the university from 2014-2015 to 2020-2021
- Equal treatment;
 - Plaintiffs alleged that downgrading the men’s rowing program to club status meant they were not treated equally with other women’s varsity sports
 - Additionally, club teams at FIT self-fund coaches, equipment and operations costs based on student fees and donations and therefore, it would prevent students from joining the team

Navarro et al v. FIT: Explanation of Allegations, Cont.

- Equal scholarship opportunities;
 - Plaintiffs alleged that from 2004-2005 to 2020-2021, male student athletes lost out on \$10,500,000 in financial aid
- Preliminary injunction
 - Plaintiffs sought an injunction against FIT because they wanted the university to reinstate the rowing program
 - They claimed that FIT would not be harmed, but the rowers have been harmed by the university cutting their program

Navarro et al v. FIT: FIT and Court Response

- FIT argued that they met Title IX Compliance through eSports participation
- The court ordered the reinstatement of the men's rowing team after finding the school likely violated Title IX by not having a "substantially proportionate" number of male/female athletic opportunities
- The court concluded it could not find that FIT's eSport program provided athletic opportunities under Title IX; Court findings included:
 - Title IX does not have a specific definition of the term "sport"
 - eSports does not require athletic ability
 - There were more than 13 different video games recognized in eSports competition, with none of the rules for the games promulgated by an eSports national governing organization
 - eSports governance associations have no control over the rules of each game itself
 - FIT's eSports program did not recruit off-campus or compete in a progressive playoff system

Takeaways from Court Cases

- To “count” as a sport under Title IX, a sport must:
 - Be recognized as a sport or as a so-called emerging sport by NCAA
 - Be identified as a sport for Title IX purposes by the ED
 - Have a uniform set of rules for competition and the restriction of competition to contests against other varsity opponents
- Sports can evolve to count towards Title IX compliance

Developing Legal Landscape of Title IX and eSports

- One federal court ruled that eSports was not a sport under Title IX
 - eSports athletes could not be counted as athletic opportunities
 - Nonetheless, institutions offer eSports scholarships
- NCAA does not recognize eSports as a sport
 - Other associations like NJCAA and various eSports associations are continuing to standardize eSports and develop governing bodies
 - International Olympic Committee (IOC) created the Olympic eSports Games, with the first games scheduled for 2025 in Saudi Arabia

eSports Considerations

- Proportionality issues
- Internet culture in eSports leading to harassment concerns
- Competitions often take place outside the U.S. or involve teams/players outside the U.S.
- Need to differentiate between institutional play and recreational play
- Training for eSports athletes and coaches

Discussion Points

- Is it sex dominated?
- Toxicity factor
- Sustainability of prize pool competition



Questions?

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