

NLWJC - Kagan

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Women's Issues-Title IX [3]



Office of the Assistant Attorney General

Washington, D.C. 20035

DEC 1 1997

MEMORANDUM FOR ROBERT L. WEINER
Senior Counsel
White House Counsel's Office

ELENA KAGAN
Deputy Assistant to the President
for Domestic Policy

FROM: Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

SUBJECT: Status of Activities on Title IX and Federally
Conducted Education Programs Initiative

The purpose of this memorandum is to provide an overview of our objectives and proposed timetable with respect to the President's initiative on Title IX and federally conducted education and training programs. In summary, it is our objective to publish a proposed regulation to enforce Title IX by 24 agencies and to submit a draft Executive order for review by the end of this year. Publication of the proposed regulation will be difficult to achieve in this time frame, however, unless there is substantial coordination and prompt attention by all of the participating agencies, the Office of Federal Register (OFR), the Department's Office of Legal Counsel (OLC), and the Office of Management and Budget (OMB). Therefore, after you have reviewed this memo, I would like to discuss with both of you how communication to involved agencies from either of your respective offices may help ensure that the remaining activities receive prompt attention, so that we can meet our December 31, 1997, publication goal. I will address activities concerning Title IX and the Executive order in turn.

Actions to Invigorate Title IX

1. Preparation of Notice of Proposed Rulemaking

Our primary effort with respect to the invigoration of Title IX of the Education Amendments of 1972 is the development of a regulation that will be promulgated by 24 agencies. We are preparing a common rule; thus, one document will be published in

the Federal Register by all participating agencies that will show the common text and agency adoptions. Agency adoptions include definitions and minor revisions that are unique to that agency and the agency's adoption, or approval of, the text of the common rule.

Thus far, we have drafted the text of the notice of proposed rulemaking (NPRM), and obtained comments from the Department of Education (ED) and the Equal Employment Opportunity Commission (EEOC). The EEOC has authority to review the NPRM pursuant to Executive order 12067 and we solicited ED's opinions since our proposal is based on their Title IX regulation. We also have obtained preliminary comments from OFR as to form.

In addition, on November 21 and 24, 1997, copies of the draft regulation and agency adoption forms were delivered to the 24 participating agencies. We asked that agencies provide comments and return the adoption forms to us by December 10, 1997. Our correspondence to agencies also solicited information that we need to complete forms for purposes of the Paperwork Reduction Act. We also provided a copy of the NPRM to OLC for review.

As explained more fully below, in order to publish the NPRM in the Federal Register, the following steps must be completed:

1. Return of agency adoption forms and comments from agencies, and comments from OLC;
2. Incorporation of edits from agencies and OLC;
3. Submission to OMB for review and approval; and
4. Submission to OFR for review and printing.

In order for OFR to publish the NPRM, OFR must receive the draft in proper form with agency adoptions that are signed by the designated official. In many cases, agencies have identified the head of the agency as the individual who must sign proposed regulations. I have enclosed a list of those individuals designated to sign the regulation for each of the participating agencies. As stated above, we are providing agencies approximately two weeks in which to review the draft regulation and return the signed adoption. The agencies have been notified orally of the proposed edits; thus, they have some expectation of the text of the document. While we notified agencies of our proposed deadline of December 10, 1997, our experience is that we do not always receive timely responses, particularly when materials must be reviewed by the head of the agency. The Thanksgiving holiday and the tight time frame raise the specter that we will not receive all material, notwithstanding best efforts.

We do not expect substantial edits from the agencies; however, we do need time to review their responses. OLC also has suggested that they may have substantive comments on certain provisions. Upon incorporation of edits and any changes from OLC, the material then will be submitted to OMB for review. Upon their approval, the document then may be submitted to OFR for review. Of course, OFR also needs time to review the document prior to publication. It is my understanding that they receive a substantial amount of material for review for publication by year's end beginning in mid-December and, if we receive approval from the other agencies in rapid fashion, we will be part of the rush by agencies for year-end publication.

2. Department of Interior Participation in NPRM

I also wish to bring to your attention a matter concerning the Department of Interior (DOI). While DOI has expressed its interest in participating in the common rule, they have not determined the full reach, or limits, of Title IX as it applies to its programs. Based on discussions among our staff and employees of DOI, it is our understanding that DOI is reviewing the applicability of Title IX to programs, particularly schools, operated by Indian tribes, and considering what impact tribal sovereignty has on the reach of Title IX. If DOI decides that Title IX is applicable to schools run by tribes, it is possible that language may need to be added to the proposed regulation to accommodate the influence of tribal customs on certain programs in these schools. Notwithstanding our requests that DOI state its views in writing, we have not received any material to date. I have attached to this memorandum a letter that I sent to DOI regarding this matter. In response to my letter, staff at DOI have orally informed us that DOI likely will be seeking an extension, until December 31, 1997, to report their views, in part because of the recent appointment of the Assistant Secretary of Indian Affairs. I also will solicit informal views from OLC.

Given the complexities of these issues, it is unclear when this matter will be resolved, and it is unclear what impact this will have on the NPRM. Nevertheless, DOI can participate in the common rule because it has other programs subject to Title IX. If we proceed with publication of the NPRM and subsequently it is decided that additional language is needed to address Indian programs, this matter will need to be addressed in a supplemental notice in the Federal Register.

3. Delegation Agreement

On November 21, 1997, we distributed to ED, and the Departments of Health and Human Services (HHS), and Veterans Affairs (VA) a draft delegation agreement that will allow for the sharing of enforcement responsibilities with respect to recipient educational institutions that are funded by more than one agency.

This agreement will allow agencies that fund certain types of educational institutions to refer complaints to ED, HHS, and VA if the recipient educational institution also is funded by ED, HHS, or VA. For example, an agency may refer a complaint that concerns programs or activities of an elementary and secondary education system, and institutions of higher education and vocational education to ED; complaints regarding programs and activities involving schools of medicine, dentistry, nursing, other health-related schools to HHS; and matters concerning programs or activities of proprietary educational institutions (i.e., private, for profit, non-college degree granting institutions that provide technical and skilled training) to VA. Similar agreements exist for Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, but only a few such agreements exist to date for Title IX. Upon receipt of comments from ED, HHS, and VA, we will prepare a revised draft for submission to the remaining participating agencies. Once a document has been agreed upon by the participating agencies, it will be published in the Federal Register. We do not expect the agreement to take effect until issuance of the final rule.

Actions Regarding the Executive Order

As you know, on September 30, 1997, members of the Civil Rights Division and the Office of Legal Counsel met with you to discuss various issues associated with collecting inventories from Federal agencies and drafting an Executive order. We received guidance on several of these matters shortly thereafter. Since then, we have made numerous contacts and received at least an initial submission from all agencies.

Unfortunately, the Department of Defense (DOD) has not completed its inventory of federally conducted education programs, nor has it submitted data regarding what constitutes "military" programs, despite an agreement that we would receive this material by October 29, 1997. As was discussed at our meeting, in order to identify exceptions or draw distinctions between "military" and "civilian" programs in the order, we need to know what programs fall within each category. It is my understanding that the DOD Office of General Counsel is preparing a memorandum on the issue of an exemption for "military" programs, separate from efforts by the Equal Opportunity office to collect the inventory data from the multiple DOD entities. Given the lack of responsive data from DOD, I believe it is necessary that your office intervene at this point.

In addition, at your request, we drafted an interim report with respect to receipt of agency inventories and preparation of the Executive order. A copy of this draft was submitted to both

of you for comment. We can modify one sentence to report that we have received responses from all agencies yet need supplemental data from a few. We await your comments prior to submitting this report to the Attorney General.

We are continuing to explore other matters associated with the Executive order. It is possible that another meeting to discuss issues will be helpful as we continue in this process. Of course, I will keep you informed as our work progresses.

Please feel free to contact me at (202)514-6715, or Lisalyn Jacobs at (202) 616-2732, to discuss these matters.

Attachments



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

NOV 24 1997

Mr. John Leshy
Solicitor
U.S. Department of Interior
1849 C Street, N.W.
Room 6351
Washington, D.C. 20240

Mr. John Berry
Assistant Secretary - Policy,
Management, and Budget
U.S. Department of Interior
1849 C Street, N.W.
Room 1063
Washington, D.C. 20240

Dear Mr. Leshy and Mr. Berry:

As part of President Clinton's initiative to reinvigorate the enforcement of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. (Title IX), the Department of Justice (DOJ) is preparing a common rule to enforce Title IX. Representatives of the Department of Interior's (DOI's) Solicitor's office and Office for Equal Opportunity (OEO) have attended meetings held on June 30 and September 30, 1997, hosted by DOJ's Civil Rights Division's Coordination and Review Section, that have addressed the proposed text of this regulation. In addition, members of these offices have engaged in numerous telephone conversations with DOJ staff regarding the common rule. I understand that DOI has decided to participate in the notice of proposed rulemaking (NPRM) of the common rule, and the purpose of this letter is to address an issue that is unique to DOI's participation. For reference, I have enclosed a copy of the draft notice and the text for your agency's adoption of this rule.

Over the last few months, during several discussions on the common rule with members of DOI's OEO and the Solicitor's Office, Division of Indian Affairs, and more recently with the Bureau of Indian Affairs, DOJ staff raised the issue of whether schools operated by Indian tribes are subject to Title IX. DOJ staff preparing the common rule explained our need to know DOI's views, in writing, on this matter given the upcoming publication of the NPRM. While we are no longer asking agencies to publish an appendix that identifies programs covered by the proposed rule, the application of Title IX to tribally run schools remains a matter that DOI and DOJ need to address. If it is decided that

Title IX does apply to such schools, we would like your views as to whether additional provisions are desired in order to accommodate any operations within such schools. It also would be helpful for us to know, prior to issuance of the NPRM, if DOI believes that this regulation does not reach such schools.

Please note that because DOI has many programs apart from tribally run schools that fall within the scope of Title IX, we do not foresee that this issue would prevent DOI from participating in the NPRM. Because this issue may require special provisions, however, and the process is further complicated if it is addressed after publication of the NPRM, we need your input so that we may resolve this matter as quickly as possible. I appreciate the complexities of this issue; however, in order for us to assess what impact this issue may have on the NPRM, and because of time constraints on publishing this notice, we are requesting a memorandum that states DOI's view on whether Title IX applies to tribally operated schools by December 10, 1997.

For your information, I also have enclosed a copy of a letter addressed to Ms. E. Melodee Stith, Director, Office for Equal Opportunity, which sets forth a summary of the regulation and various steps that must be taken in order to complete this notice for publication in the Federal Register.

If you have any questions regarding this matter, please contact Ms. Loretta King, Deputy Assistant Attorney General, at (202) 616-1278 or Ms. Jennifer Levin, an attorney who is coordinating the common rule, at (202) 305-0025.

Thank you for your assistance.

Sincerely,



for Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

Enclosures

cc: Ms. E. Melodee Stith
Director
Office for Equal Opportunity



U.S. Department of Justice

Civil Rights Division

Coordination and Review Section
P.O. Box 66560
Washington, DC 20035-6560

NOV 24 1997

Ms. E. Melodee Stith
Director
Office for Equal Opportunity
U.S. Department of Interior
1849 C Street, N.W.
Mailstop 5221
Washington, D.C. 20240

Dear Ms. Stith:

I have enclosed for your review a draft notice of proposed rulemaking (NPRM) of a common rule prepared by the Department of Justice to implement Title IX of the Education Amendments of 1972, and the text for your agency's adoption of this rule.

Set forth below is a summary of the regulation and various steps that must be taken in order to complete this notice for publication in the Federal Register. Because of time constraints on publishing this notice, I ask for your continuing cooperation and timely response for the information and forms requested by December 3 or December 10, 1997, as noted.

As explained in prior meetings hosted by the Civil Rights Division's Coordination and Review Section, the text of this proposed regulation is based on the Department of Education's (ED's) Title IX regulation, with additions to reflect statutory amendments, one modification to be consistent with Supreme Court precedent, and procedural or schematic modifications to allow for publication as a common rule. To assist your review, our modifications to the ED regulation are reflected by shading for additions of new text and ~~strike-outs~~ for deletions of existing text.

In addition, I have enclosed the text for your agency's adoption of the rule. This form is based on the data you submitted, and, where appropriate, modifications based on subsequent conversations between Ms. Jennifer Levin and you or a member of your staff. We also have worked closely with the Office of Federal Register (OFR) as we prepared the NPRM and the agency adoptions. Based on certain OFR requirements, it was necessary to change some of the forms. For example, if the proposed list of subjects included terms that OFR does not accept, they were deleted. In addition, we were advised by OFR that the term or phrases "Civil rights, Sex discrimination, and Women" should be included as part of every agency's list of

subjects. Thus, these words were added when agencies did not include such language.

Further, some agencies are adding this regulation as a subpart to an existing part. Depending on whether the authority citations for the part are reported collectively or individually for each subpart, the authority citation for this adoption may include all sources of authority (statutes, Executive orders, etc.) that are appropriate to the entire part, or only the authority for the subpart on Title IX. Please pay particular attention to reviewing this text, where appropriate.

It is important that you take several steps in order that we may complete the process for publication of the NPRM in a timely manner:

1. Please ensure that the **agency adoption form is signed** and that the **original** is returned to the Department of Justice by **Wednesday, December 10, 1997**. If someone other than the name identified in fact signs the document, please type that person's full name and title beneath the name and title listed. The OFR will not accept a document that does not have the name and title of the signatory. It is essential that we have the document with the original signature. Please have this hand-delivered to:

Jennifer Levin
Attorney
Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
1425 New York Avenue, N.W., Room 4015
Washington, D.C. 20005

If you believe edits are needed to the form, please contact Ms. Levin as soon as possible. She can be reached by telephone at (202) 305-0025, or by facsimile at (202) 307-0595.

Please be advised that it is possible that the OFR will have additional edits to these forms. For that reason, we have limited the text on the signature page. Of course, we will notify you if OFR requires any edits. Since OFR accepts hand-written corrections, we likely can accomplish corrections without requiring you to submit modified forms for a second signature.

2. With the assistance of your agency Federal Register liaison, **notify the Office of Federal Register's CFR unit** of your reservation of the part or subpart designated for purposes of the Title IX regulation. In order to avoid a conflict

with another office within the agency that may choose the same location within the CFR, it is essential to notify the OFR CFR unit as soon as possible. They can be reached at (202) 523-3419.

3. Submit any comments on the proposed regulation to the Department of Justice by **Wednesday, December 10, 1997**. Comments may be delivered to Ms. Levin, sent by facsimile ((202) 307-0595), or if minimal in nature, addressed by telephone. Given time constraints, we cannot guarantee consideration of your comments if they are received after that date.
4. Paperwork Reduction Act requirements: Pursuant to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., two types of notices and approval from the Office of Management and Budget (OMB) are required; one notice for the regulation that includes information collection, and a second notice for the form itself. First, if a proposed regulation includes information collection requirements that fall within the scope of the Paperwork Reduction Act (PRA), a notice of this fact must be published with, or as part of, the NPRM. It is our view, in light of amendments to the PRA in 1995, that only assurance forms are subject to the Act. See 5 C.F.R. § 1320.3(h)(1).

We have incorporated notice of the PRA requirement into the NPRM (see pages 12-14). The NPRM currently explains that an assurance form is required when an applicant or recipient completes an application for Federal financial assistance from a participating agency for the first time or if there is a break in continuity of assistance from such agency. We estimate that approximately 25% of recipients seek assistance from more than one Federal agency; thus, we estimate that assurances would be required 1.25 times rather than once, per recipient. The public may comment on this information collection requirement, including comments on our assumptions about the burdens imposed.

In addition to the information included in the NPRM, forms that provide more detailed estimates of the time and financial burdens on government agencies and recipients relating to the assurance form must be submitted to OMB. We seek your views on our estimates, as well as certain other information in order that we may complete these forms on behalf of all participating agencies. We currently are

preparing the notice and associated forms based on the following assumptions and estimates:

1. Length of time for a recipient to fill out an assurance form: 20 minutes
2. Capital and startup costs to a recipient imposed by the assurance form requirement in the NPRM: None.
3. Operating and maintenance costs to a recipient imposed by the assurance form requirement in the NPRM: None.
4. Cost to the Federal government per recipient: \$7.00. This figure is based on:
 - a. Estimated cost to develop this form (broken down per recipient): \$.05
 - b. Salary of a GS-7/1 clerical worker who assembles, mails, receives, and processes the form (assuming half an hour total labor, and a salary of \$12.71/hour): \$6.35
 - c. Estimated cost of copying form (assuming two pages, \$.04 per page): \$.08
 - d. Estimated cost of supplies and postage: \$.50/form
 - e. Estimated cost of storing form (portion of file cabinet per form): \$.02

If you think these estimates are significantly in error, please provide your views with alternative cost assessments by Wednesday, December 3, 1997. In addition, please provide the following information by Wednesday, December 3, 1997:

1. An estimated number of recipients of Federal financial assistance from your agency who will complete an assurance form in FY 1998; and
2. An estimated number of how many recipients are colleges, universities, postsecondary schools, or other educational institutions.

We understand that you may not have sufficient data in order to provide an exact figure. Reasonable estimates are acceptable. Please include a brief description as to how the estimate was calculated. This need not be more than a few sentences.

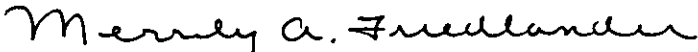
Second, as mentioned, apart from giving the public an opportunity to comment on the proposed information collections, an agency must also seek OMB approval and a control number for its information collection forms; in this case, the assurance form. If your agency does not have a control number from OMB for its assurance forms, and you choose to use a form that is different than the OMB standard assurance forms (SF 424b for non-construction programs or SF 424d for construction programs), you must have this form cleared by OMB. To do this, please contact the Clearance Officer of your agency. You will need to prepare notices of information collection review for publication in the Federal Register and to submit an application packet to OMB to obtain its approval of your form. This notice and approval process is distinct from that associated with the rule itself, and must be done by each agency.

Finally, please note that this draft NPRM has not yet been reviewed by the OMB or the Department of Justice's Office of Legal Counsel. If substantive changes are made by either office, we will so inform you.

Again, if you have any questions regarding the agency adoption form, please contact your agency Federal Register liaison or Ms. Levin at (202) 305-0025. If you have specific questions for the OFR, our contact at that office for this common rule is Ms. Ruth Pontius, Scheduling Unit, (202) 523-3187.

Thank you for your continued cooperation and prompt responses as we continue the process of preparing the common rule.

Sincerely,


Merrily A. Friedlander
Chief
Coordination and Review Section
Civil Rights Division

Enclosures

Individuals Signing Agency Adoptions for Title IX Common Rule

William M. Daley
Secretary of Commerce

L. M. Bynum
Alternate OSD Federal Register Liaison Officer
Department of Defense

Andrew Cuomo
Secretary of Housing and Urban Development

Brooks Yeager
Acting Assistant Secretary - Policy, Management, and Budget
Department of Interior

Janet Reno
Attorney General

Alexis M. Herman
Secretary of Labor

Bonnie R. Cohen
Under Secretary of State for Management

Rodney Slater
Secretary of Transportation

Robert E. Rubin
Secretary of Treasury

Hershel W. Gober
Acting Secretary for Veterans Affairs

Stewart A. Davis
Acting General Counsel
Corporation for National and Community Service

Carol M. Browner
Administrator
Environmental Protection Agency

James L. Witt
Director
Federal Emergency Management Agency

James M. Taylor
Acting Associate Administrator for Equal Employment Opportunity
General Services Administration

Linda Bell
Director, Policy, Planning, and Budget
Institute of Museum and Library Sciences

Daniel S. Goldin
Administrator
National Aeronautic and Space Administration

Jane Alexander
Chairman
National Endowment for the Arts

Michael S. Shapiro
General Counsel
National Endowment for the Humanities

Lawrence Rudolph
General Counsel
National Science Foundation

John C. Hoyle
Secretary of the Chairman
Nuclear Regulatory Commission

Aida Alvarez
Administrator
Small Business Administration

Frank Alford
Manager, Supplier and Diverse Business Relations
Tennessee Valley Authority

Jessalyn L. Pendarvis
Director, Office of Equal Opportunity Programs
Agency for International Development

Joseph Duffey
Director, U.S. Information Agency



Women's Issues -
Title IX

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

TELEFACSIMILE COVER SHEET

DATE: 10/19/97 TIME: 2:30

TO: ROB WENNER WAC
GLENA KAGAN - DPC

PHONE: 616-2732

FAX: 514-0293

FROM: LISA JACOBS
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
FAX NUMBER: 202-514-0293
PHONE: 202-_____

COMMENTS: DRAFT OF TITLE IX LETTER TO
THE PRES. IS ENCLOSED FOR
YOUR COMMENT.

NUMBER OF PAGES TRANSMITTED (INCLUDING THIS SHEET) 2
(max. 30 pages)

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DRAFT

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On June 17, 1997, the 25th anniversary of Title IX of the Education Amendments of 1972, as amended ("Title IX"), you directed executive departments and agencies to reinvigorate the enforcement of Title IX, and stated your intention to issue an Executive order prohibiting discrimination on the basis of race, national origin, and sex in federally conducted education and training programs. Given the incomplete data then available on the types of education and training programs conducted by the Federal government, you also directed executive departments and agencies to submit to the Department of Justice ("Department") an inventory of their education and training programs in order that the Department could review such material and prepare an appropriate order. The purpose of this letter is to provide a summary of actions to date with respect to the initiative on federally conducted education and training programs.

RAF
10/14/97

In mid-July, Isabelle Katz Pinzler, Acting Assistant Attorney General, Civil Rights Division, issued a memorandum to 93 executive departments and agencies that provided guidance and instructions on their preparation of an inventory of federally conducted education and training programs. In addition, the Civil Rights Division, which is coordinating this effort, has provided extensive advice by telephone to agency staff on a wide range of matters, including guidance or clarification as to whether certain programs should be reported.

At this time, we are pleased to report that we have received submissions from all but a few agencies, and that a few others are providing additional data to complete their reports. Given the complexity of this task and the summer holidays, the majority of agencies were diligent in their efforts to collect data from the multiple offices or entities within the agency.

The President
Page 2

Notwithstanding these efforts, however, a substantial number of responses were not received by the stated deadline of August 18, 1997, and many responses were submitted throughout the month of September. In addition, supplemental data from some agencies were received this month.

Currently, we are reviewing the agencies' inventories of federally conducted education and training programs. Examples of programs include: training on how to comply with statutes and regulatory programs; skills development for State and local agencies, or other specific audiences; internships for students which include educational components and/or academic credit; and workshops to teachers on specific topics in order to expand their respective programs and improve teaching techniques. In addition, we are also identifying issues that warrant research and analysis prior to our drafting of an Executive order. Certain agencies have raised concerns about subjecting certain programs to an Executive order, and we will ensure that these concerns are addressed fully. Members of the Civil Rights Division and the Department's Office of Legal Counsel have discussed certain issues with the White House counsel's office, and both offices within the Department will continue to examine these and other matters.

Given the delay in receipt of agency responses, the extensive reports submitted, and the range of issues involved, our review and analysis is proceeding, but not yet completed. The Civil Rights Division, with the assistance of the Office of Legal Counsel, will continue its work, and we will submit a proposed Executive order when this task is completed.

Respectfully,

Janet Reno

E. J. Dionne Jr.

Nothing Wacky About Title IX

Have you heard about the great program linked with less teenage pregnancy, higher high school graduation rates, the avoidance of abusive relationships and success later in life? It's called women's sports.

Americans have long seen organized sports as a good thing for boys and young men. Should we be surprised that they're good for girls and young women? That's why the battle over Title IX, regarding parity between men's and women's athletics at educational institutions, is important.

Title IX is one case where the government did what it set out to do. Before Title IX passed, 300,000 high school girls participated in competitive sports. Now, there are more than 2 million and counting. And there is performance, too, whether in women's basketball or in the record of American women at the Olympic games in Atlanta. Finally, there is fairness: Title IX lets women win athletic scholarships once open only to young men.

Critics of Title IX attack the law as affirmative action gone wild. They say the law requires schools to spend more on women's athletic programs even if the demand is low.

Now, if the law required Notre Dame to create a women's football team to match its men's football team, you could call it wacky. But it doesn't do that. To comply, a school must meet one of three tests. It can have the same percentage of female athletes as it has undergraduates. That is a quota. But no school has to meet that standard (and few, if any, do).

A school can also meet the terms of the law either by showing a "continuing history" of expanding athletic openings for women or by demonstrating that it fully accommodates the athletic "interests and abilities" of its students. "People aren't saying, 'Give us 51 percent,'" says Mary Duffy, an old friend and former editor in chief of Women's Sports and Fitness. "They're saying, 'Come on, take some steps.'"

Title IX, enacted 25 years ago, marks a large change in attitudes toward women and their aspirations. Because sports so affect boys and girls as they grow up, the way we treat women's sports may prove as important to changing social attitudes as anything else we do.

"If girls are socialized the way boys are to take part in sports," says Duffy, and "if boys and girls grow up with the idea that girls are strong and capable, it will change the way girls and women are viewed—by themselves and by society." Her take rings true to parents who see no reason why their daughters should be denied the fun and discipline that organized athletics offers their sons.

High school programs are important, Duffy says, because girls often give up sports when they reach adolescence. That's a shame, because studies, including one by the NCAA, find that women student athletes have higher graduation rates.

Criticisms of Title IX don't just come from sexists. When Brown University was sued by members of the school's women's gymnastic and volleyball teams for eliminating support for their sports, Brown won the backing of other universities worried about the economic pressures Title IX can create. But lower courts ruled in favor of the women, and the Supreme Court declined to hear Brown's appeal, leaving a rigorous interpretation of Title IX in effect.

No supporter of Title IX should pretend compliance will be painless. The big fight will involve football. It's the most expensive men's sport, requiring so many players (for offense, defense and special teams) and so much scholarship money. Because football is seen as so important to alumni fund-raising, less telegenic men's sports—wrestling (my favorite sport), swimming and golf—have borne the brunt of cutbacks. It's easier to cut teams for men than to add them for women.

Football is used to getting the biggest chunk of the pie," says Rachel Zuk of the Women's Sports Foundation, and football supporters "want other men's sports and women to divide up the rest."

Instead of whining about quotas, we should face up to this collision of interests. Football, a game I enjoy, may take a hit (though the National Football League, which uses colleges as a training ground, might help by paying for this service).

The difficulties can be overcome. As the Washington Post pointed out recently, universities such as Michigan, Wisconsin and Stanford have complied "without any noticeable diminution of programs for men."

By refusing to take up Brown's challenge, the Supreme Court sent a message—not for sports quotas, but for a rather old idea that organized athletics are good for young people. That includes women as well as men.

Women's issues -
Title IX

 Maria Echaveste

06/03/97 09:27:10 AM

Record Type: Record

To: MCHUGH_L @ A1 @ CD @ LNGTWY, Ann F. Lewis/WHO/EOP
cc: Sylvia M. Mathews/WHO/EOP, Elena Kagan/OPD/EOP, Robin Leeds/WHO/EOP
Subject: Suggested Response if McCurry asked about Title IX lawsuits

I consulted with Elena on how we should respond if asked about this issue.

Background: Yesterday, the National Women's Law Center filed 25 complaints against 25 colleges and universities (one for each year that Title IX has been law) alleging sex discrimination under Title IX with the Office of Civil Rights, Department of Education. Title IX prohibits discrimination based on sex at federally funded institutions. The Office of Civil Rights has 135 days to review the complaints and if found meritorious, OCR mostly likely will negotiate with the school in question to address the complaint.

Proposed Response: These complaints were filed yesterday and we are unaware of the details alleged in the complaints. The Office of Civil Rights has 135 days to determine whether the complaints are valid and it should be allowed to complete its work. It is not appropriate for the White House to comment while OCR is conducting its review.

The New York Times

How the
IBM Internet
Solutionscores big!
Turning IBM
into IBM customers.

IBM

Women's Issues -

Title IX

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June 16, 1997

For Women, 25 Years of Title IX Has Not Levelled Playing Field

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Forum

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By **MARCIA CHAMBERS**

Twenty-five years have passed since the federal government mandated that women's athletic programs in schools be equitable with men's. President Clinton and female sports pioneers will be commemorating the anniversary in Washington Tuesday.

But the celebration is no victory party. For all the progress women have made, they are still far behind the men on the playing fields.

Rollin Haffer is well aware of the persistent gap. Ms. Haffer, whose legal battle with Temple University in the 1980s helped define the federal law called Title IX, will be at the Old Executive Office Building, celebrating the original spirit of the law with President Clinton. But her excitement is tempered by the knowledge that the vast number of colleges and universities are still not in compliance with Title IX, which prohibits discrimination at any educational institution that receives federal funds. Title IX applies to all educational programs, not just athletics, although it has become the standard-bearer for women's equity in athletics.

"I think it's a very positive message that the Clinton administration is showing support of Title IX in this way," said Ms. Haffer, a 39-year-old physical education teacher for developmentally disabled children in Huntington, N.Y.

Ms. Haffer is concerned, though, that "so few schools are in compliance" nearly two decades after her lawsuit was settled.

Even the National Collegiate Athletic Association's executive director, Cedric W. Dempsey, called the results of the group's recent follow-up study to its 1992 gender equity survey "disappointing."

Ms. Haffer, a badminton player from Long Island, received a tuition scholarship

to play for Temple in 1977. "I thought I had been handed the world," said Ms. Haffer, who was the first member of her family to go to college. "Then when I arrived at Temple I heard what the guys were getting."

She led a class-action federal lawsuit three years later that was settled by a consent decree in 1988. Temple agreed to a number of changes, including adding teams, making scholarships more equitable, upgrading equipment, providing trainers and training facilities for women and equalizing travel and meal expenses. The judge held that Title IX applied to intercollegiate athletics programs regardless of whether they receive financial aid. At the time, Temple faced the loss of \$19 million in federal funds if it did not comply.

Nineteen years later, women represent half of all students in the nearly 300 Division IA colleges. Thirty-four percent of all athletes are women, up from 29 percent five years ago.

But the NCAA's gender equity study, released last month, found that the funding for men's athletics continues to dwarf the money spent on women's sports. The money each college spent on women's athletics rose from an average of \$263,000 per year to \$663,000 over the last five years, but men's budgets soared from about \$1.5 million to more than \$2.4 million.

Dempsey said he is concerned at the direction some schools are moving in. Men's playing opportunities actually shrunk, as many schools cut so-called minor sports such as golf and wrestling so they could pay for women's programs without cutting into the football budget.

Jeffrey Orleans, who as a young lawyer for the Justice Department helped draft the regulations for Title IX and now administers intercollegiate athletics for the Ivy League, said, "We have made some progress, less than we could have and less than we should have."

A less charitable assessment was given by Christine Grant, who is director of women's athletics at the University of Iowa and one of the leading experts on Title IX. "The results are pathetic," she said.

Why is it so hard to get to gender equality in athletics? The law's requirements, as interpreted by the Office for Civil Rights, which enforces Title IX, are seemingly straightforward. There is a three-pronged test: A college may show that the ratio of female athletes to male athletes is substantially proportionate to the ratio of female students to male students. Failing that, the college can show that it is moving in the right direction and has a plan to get there in a reasonable number of years. Failing that, it can show that there is no unmet need among the under-represented class, which is usually, but not always, women.

Over all, there have been three main problems in trying to achieve gender equity in athletics: an initial lack of leadership and foot-dragging by the NCAA and its schools; initially feeble enforcement efforts by the Office for Civil Rights and, until recently, a cloudy understanding of what the nation's top appeals courts

would require of schools:

Title IX met early hostility from the NCAA, which at the time represented men only. In 1974, the NCAA supported a congressional amendment to exclude intercollegiate sports from Title IX. When that failed, the NCAA sued the Government to get Title IX's regulations declared illegal. That case was dismissed. In recent years, the NCAA has taken a more hospitable view of Title IX.

The colleges and universities that comprise the NCAA are under the control of their presidents, but as a practical matter, athletic affairs in Division IA are largely in the hands of athletic directors and coaches, particularly in football and men's basketball. This is the world that largely finances the NCAA, whose major source of income is television contracts, especially from the men's basketball tournaments in March.

Ms. Grant has called on the NCAA to create a blue-ribbon panel that would recommend true cost-reduction reforms in athletics. For one thing, she said, the so-called revenue producing college sports, like football and basketball, are usually not revenue producing at all.

"They never tell you what expenses they incur to make whatever profit they earn, and few earn a profit," she said.

Dempsey, the NCAA director, said he is committed to Title IX's goals and believes that change can be achieved through pressure.

"We must keep pressure on these institutions to address that need," he said. One form of pressure is that the NCAA requires Division IA schools to provide a plan for gender equity as part of a school's certification.

A different kind of pressure can be applied by the Office for Civil Rights, but the federal agency has a reputation of being slow to investigate and slow to act and has never removed federal funds from any school.

Mary Frances O'Shea, the national coordinator of Title IX Athletics for the Office for Civil Rights, said: "The office I think has been unfairly criticized for taking as some people say an undue amount of time to investigate, not realizing that one cannot make those judgment calls unless you look thoroughly at it."

However, that argument was summarily dismissed by Arthur Bryant, one of the plaintiff's lawyers in the recent Brown University Title IX case and the executive director of Trial Lawyers for Public Justice.

"There is no question that if the federal government said we want compliance and we want reports from each and every university in the country in the next two months, the schools would come up with a plan and get into compliance," Bryant said. "Instead, the primary enforcement of the law has come from private lawsuits, which underscores the ability of private citizens to enforce the law, but

on the other hand surely isn't the best law enforcement approach in the country."

The Brown case drew national attention because the three-pronged test from the Office for the Civil Rights was upheld. The university's attorneys argued that the cornerstone of achieving "substantial proportionality" in athletics was affirmative action and quotas.

The Appeals Court rejected that argument, in a 2-1 decision, saying that the case centered on discrimination. "Notwithstanding Brown's persistent invocation of these inflammatory terms, this is not an affirmative action case," the appeals court decision said.

Brown's appeal to the Supreme Court was supported by scores of other schools and groups. In April, The Supreme Court denied review, letting the lower court rulings stand.

That means that the Supreme Court believes the district courts applied the law correctly when they found Brown illegally discriminated against its female athletes. The case has far-reaching significance because four other Federal appeals circuits have agreed with the ruling.

"They still will not admit it," said Amy Cohen, the lead plaintiff in the Brown case, who is now a school teacher in Baltimore. "But I hope inside Brown has learned something."

Anita DeFranz, an Olympic rower and U.S. member of the International Olympic Committee, said that what is required after the Brown case is a change in attitude. "The entire athletics department must appreciate female and male athletes," she said. "They must serve their entire student body and not simply concentrate on creating football champions."

Ms. Grant said the insistence on equal treatment is broad. "Parents are demanding parity for their daughters as well as their sons," she said. "Indeed, the fathers of talented young women are the most impatient feminists I have ever met."

At the NCAA, Dempsey agreed that attitude is a huge problem.

"We are trying to address that," he said. "We are trying to change a culture. It is more difficult than it might appear."

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Marcia Greenberger

6-13-97

Women's issues -
Title IX

We recog each ags must promulgate reg.
(under statute)

DOT - dualled model T.IX reg -
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(training would be
employees - they're
not covered)
↓
under r. VII.

**TITLE IX 25TH ANNIVERSARY CELEBRATION
INTERNAL QUESTIONS AND ANSWERS
JUNE 17, 1997**

Q: What is Title IX?

Title IX of the Education Amendments of 1972, which passed 25 years ago on June 23, 1972, prohibits sex discrimination in federally assisted education programs. One of the nation's landmark civil rights laws, Title IX has helped bring about profound changes in American education by improving the educational opportunities for millions of young Americans.

Q: What is the President doing today to commemorate this occasion?

Joined by the First Lady, Secretary Riley and several remarkable women whose lives have been touched by Title IX, the President will recognize the significant progress our nation has made in increasing educational and related job opportunities for millions of American women and girls. He will receive a report on the progress Title IX has made from Secretary of Education Richard Riley, entitled *Title IX: 25 Years of Progress*.

Most important, the President will commemorate the anniversary of Title IX by announcing new steps to address sex discrimination.

Q: What new steps will the President announce?

The President will sign and issue an executive memorandum designed to strengthen Title IX enforcement and extend Title IX's principle of nondiscrimination to areas not currently covered by the law. The Executive Memorandum:

- Directs each federal agency to develop a plan to enforce Title IX and requires all federal agencies to report to the President on measures to ensure effective enforcement. Each agency's new plan must include a description of the agency priorities for enforcement, methods to make recipients of federal financial assistance aware of their obligation not to discriminate, and grievance procedures to handle Title IX complaints.
- Addresses discrimination on the basis of sex, race, color and national origin in all federally *conducted* education programs and activities. Currently, Title IX generally prohibits discrimination based on sex -- and Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin -- in education programs or activities that *receive federal assistance*. However, these laws do not apply to comparable education programs or activities that are *conducted by the federal government*. Today's directive will take action against discrimination in education programs or activities conducted by the federal government. This measure will hold the federal government to the same standards of non-discrimination in educational

opportunities that now apply to non-federal education programs receiving federal assistance.

Q: Why is the President issuing this Executive Memorandum?

A: The twenty-fifth anniversary of the passage of Title IX of the Education Amendments of 1972 is a time to celebrate the enormous accomplishments that have been made in achieving equal educational opportunities for women and girls. But the President also recognizes that more needs to be done to achieve this goal.

Q. How will Title IX enforcement improve with this Executive Memorandum?

A. The Executive Memorandum requires that each federal department and agency develop a rigorous new plan to enforce Title IX and requires all federal agencies to report to the President on measures to ensure effective enforcement. Each agency's new plan must include a description of the agency priorities for enforcement, methods to make recipients of federal financial assistance aware of their obligation not to discriminate, and grievance procedures to handle Title IX complaints.

Q: Why does the President plan to issue an Executive Order addressing discrimination based on race, national origin, and sex in federally conducted education programs?

A: The President believes that we should hold the federal government to the same standards of non-discrimination in educational opportunities that now apply to non-federal education programs receiving federal assistance. Currently, Title IX generally prohibits discrimination based on sex -- and Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin -- in education programs or activities that *receive federal assistance*. However, these laws do not apply to comparable education programs or activities that are *conducted by the federal government*. Today's directive will take action against discrimination in education programs or activities conducted by the federal government.

Q: Is there currently a big problem with discrimination in education programs conducted by federal agencies?

A: We are not aware of any major problem areas. However, we also are aware that discrimination frequently is covert and subtle, so it is difficult to gauge how extensive it may be. We expect that the President's Executive Order will do two things: (1) it will specifically forbid discrimination based on race, national origin, or sex in federally conducted education programs, and (2) it will require that grievance procedures be put in place so that students in those programs and their parents will have a system available to them to resolve complaints about discrimination. Thus, federal agencies will be held to the same high standards that apply to state and local governments and private institutions that offer federally-assisted education programs.

Q: What process does the Executive Memorandum call for to make sure that these things get done?

A: The memorandum directs all federal departments and agencies to do two things. First, the departments and agencies must report to the President within 90 days, following consultation with the Attorney General, on measures to ensure effective enforcement of Title IX. The Attorney General will coordinate the implementation of these measures. Second, the departments and agencies must submit reports to the Attorney General within 60 days, in which they describe their federally conducted educational programs and address any special issues that need to be addressed in preparing an Executive Order. The President directs the Attorney General to report to him within 60 days after receiving the reports with the results of her review and a proposal for an appropriate and effective Executive Order that addresses discrimination based on sex, race, color and national origin in federally conducted education programs and activities.

Q: Why didn't the President just issue the Executive Order, instead of asking for a study to be done?

A: The President has not simply directed that a study be done. Rather, he has expressed his intent to issue an Executive Order and directed that information be collected that will be needed to develop the terms of the Executive Order. Federal agencies offer numerous education programs. For example, the Department of Agriculture offers education programs for farmers and others, the Coast Guard offers boater safety training, and the Federal prisons provide educational instruction for inmates. Additionally, the Department of Defense and the Bureau of Indian Affairs each operate school systems. The President wants to be certain that he and the Attorney General have all the necessary information to close the "coverage gap" and to make sure no inequitable "loop holes" remain. At the same time, just as is the case under Title IX, it may be appropriate to include certain exemptions in the Executive Order. The study will also ensure that unique situations are covered fairly and adequately.

Q: Why are only education programs included in the President's directive concerning the Executive Order?

A: We are commemorating the 25th anniversary of Title IX of the Education Amendments of 1972, and Title IX is limited to Federally assisted education programs. This initiative to extend the principles of Title IX -- and Title VI concerning racial discrimination -- to federally conducted programs does not preclude issuing similar Executive Orders to cover other programs in the future.

Q. What kinds of education programs will be covered by the Executive Order?

A: We expect that all civilian education programs conducted by Federal agencies will be covered. These include academic, research, extracurricular and occupational training programs

unrelated to federal employment. Also included are schools operated by the Department of Defense for children of eligible personnel, schools operated by the Bureau of Indian Affairs, and education fellowships awarded directly to students by Federal agencies. There currently is no comprehensive list of such programs, and creating that list is one of the important purposes of the President's directive.

Q: Will the Executive Order apply to military educational and training programs?

A: Just as Title IX exempts from its coverage educational institutions whose primary purpose is to train individuals for the military services of the United States, we expect that military training conducted by the Department of Defense will be exempted from coverage under the Executive Order. However, we expect that civilian educational programs such as schools operated by the Department of Defense for the children of eligible personnel would be covered by the order.

Q: Does the President have the authority to ban discrimination on the basis of race, national origin, or sex in Federally conducted education programs?

A: Yes, the President does have the authority to prohibit such discrimination in programs conducted by Federal agencies. The President's Executive Order will not make the specific provisions of Title IX and Title VI applicable to Federal agencies. However, the President does have the authority to require the application of the nondiscrimination principles embodied in those statutes to the Federal education programs for which he is -- ultimately -- responsible.

Q: Will the Executive Order provide students with a "private right of action" -- meaning the right to sue the Federal Government over alleged discrimination?

A: That is an issue that will have to be addressed by the Attorney General. However, one of the primary purposes of the Executive Order is to require Federal agencies to establish administrative grievance procedures within each agency offering educational programs so students and their parents have a place to go to file complaints and an administrative avenue for resolving those complaints.

Q. Why doesn't the President's memorandum address discrimination based on disability in federally conducted education programs?

A. Discrimination based on disability in federally conducted programs is already covered by section 504 of the Rehabilitation Act of 1973.

Q: What is the report that Secretary Riley will present?

Today, Secretary of Education Richard Riley will present to the President *Title IX: 25 Years of Progress*. Produced by the Department of Education, the report documents the profound changes since the enactment of Title IX in American education and the resulting improvements in the

educational and related job opportunities for millions of American women and girls. The report also points to what remains to be done to reach equality in education.

Q. What does the Department of Education report find?

This report shows that, twenty-five years after its passage, Title IX has helped bring about profound changes in American education and the resulting improvements in the educational and related job opportunities for millions of young Americans.

- In 1994, 27 percent of both men and women had earned a bachelor's degree, whereas in 1971, about 18 percent of young women and 27 percent of young men had completed 4 or more years of college.
- In 1994, women received 38 percent of medical degrees and 43 percent of law degrees, whereas in 1972, women earned only 9 percent of medical degrees and 7 percent of law degrees.
- Today, over 100,000 women participate in intercollegiate athletics— a four-fold increase since 1971.
- In 1996, 2.4 million high school girls represented 39 percent of all high school athletes, compared to only 300,000 or 7.5 percent in 1971.

However, the report also shows that, even with the many advances women have made in academics, employment and athletics, we still need to recognize some dismaying facts that exist today in our efforts to achieve equality:

- In athletics, there are still about 24,000 more boys' high school varsity teams than girls' teams, women receive only one-third of all collegiate athletic scholarships, and operating expenditures for women's college sports programs represents only 23 percent of the total operating expenses.
- Although women earn half of all college degrees, they are still less likely than men to earn bachelor's or advanced degrees in high-paying fields such as engineering, mathematics and computer and physical sciences— fields in which women are under represented.

Even though women make up half of the labor market, they are often paid less than men. For example, in 1993, women who had majored in the natural sciences earned 15 percent less than men who majored in the same field.

June 17, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs and Activities

As we commemorate the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, we should pause to recognize the significant progress our nation has made in increasing educational possibilities for girls and women and recommit ourselves to the goals of this important legislation. Title IX has broken down barriers and expanded opportunities -- opening classroom doors, playing fields, and even the frontiers of space to girls and women across this country.

My Administration is working hard to expand further opportunities for women and girls. We have stepped up enforcement of civil rights statutes in areas such as access to advanced math and science programs. We have issued policy guidance on racial and sexual harassment and on ensuring equal opportunities in intercollegiate athletics. We have aggressively litigated cases presenting significant issues of discrimination, including cases challenging the exclusion of women from VMI and the Citadel. My Administration has also sponsored an education campaign to help young girls build skills, confidence and good health. Finally, my Administration has reaped the benefits of an ever increasing pool of superbly qualified women, making it possible for me to appoint record numbers of women to my Cabinet, judicial posts, and to high levels of decision-making throughout the federal government.

Yet more needs to be done. Our nation is stronger when all of our citizens have the opportunity to reach their full potential and contribute to our society. Today, I am announcing two important next steps in our fight to reach true equality in education.

First, I am directing executive departments and agencies to develop vigorous, new Title IX enforcement plans. We must ensure that all federal agencies that provide financial assistance to education programs or activities take all necessary steps to ensure that programs and institutions receiving federal money do not discriminate on the basis of sex.

I therefore direct all heads of executive departments and agencies that provide financial assistance to education programs or activities, following consultation with the Attorney General, to report back within 90 days on measures to ensure effective enforcement of Title IX. This should include a description of department or agency priorities for enforcement, methods to make recipients of federal financial assistance aware of their obligation not to discriminate, and grievance procedures to handle Title IX complaints. In accordance with Executive Order 12250, the Attorney General should coordinate implementation of these measures.

Second, I am asking executive departments and agencies to take appropriate action against discrimination in education programs or activities conducted by the federal government. Currently, Title IX generally prohibits discrimination based on sex, and Title VI of the Civil Rights Act of 1964 generally prohibits discrimination on the basis of race, color, or national origin in education programs or activities that *receive* federal financial assistance. However, these laws do not apply to comparable education programs or activities that are *conducted* by the federal government. I believe it is essential that the federal government hold itself to the same principles of nondiscrimination in educational opportunities that we now apply to education programs and activities of state and local governments and private institutions receiving federal financial assistance. Applying these principles to appropriate federally conducted education programs and activities will complement existing laws and regulations that prohibit other forms of discrimination in federally conducted education programs -- including discrimination against people with disabilities (prohibited by the Rehabilitation Act of 1973) and discrimination based on race, color, religion, sex or national origin against federal employees (prohibited by Title VII of the Civil Rights Act of 1964).

I therefore direct all heads of executive departments and agencies to report to the Attorney General within 60 days:

- (1) identifying and describing education programs or activities conducted by the executive department or agency (including the approximate budget and size of the program). An education program or activity includes any civilian academic, extracurricular, research, occupational training, or other education activity conducted by the Federal government. Examples of federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of eligible personnel; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students; and
- (2) describing any substantive or procedural issues that might arise under these education programs or activities related to prohibiting discrimination based on sex, race, color and national origin in the program or activity, in order to aid in determining where application of remedial efforts would be appropriate.

On the basis of these reports, I intend to issue an Executive Order implementing appropriate restrictions against sex, race, color, and national origin discrimination in federally conducted education programs. I direct the Attorney General to report to me within 60 days after receiving these reports with the results of her review and a proposal for an appropriate and effective Executive Order.

A CELEBRATION OF THE 25TH ANNIVERSARY OF TITLE IX

U.S. DEPARTMENT OF EDUCATION "TITLE IX: 25 YEARS OF PROGRESS"

JUNE 17, 1997

Today, the U.S. Department of Education is releasing "Title IX: 25 Years of Progress," a report which summarizes the status and accomplishments of women and girls due to Title IX initiatives and programs. The following are highlights from the report.

Monday, June 23, 1997 marks the 25th anniversary of the signing of Title IX of the Education Amendments of 1972. Title IX, one of the nation's landmark civil rights laws, was enacted by Congress to eliminate sex discrimination in all aspects of American education – in the classroom, in course offerings, in the school workplace, and on the athletic fields.

Title IX has brought down many barriers that once prevented girls and women from choosing the educational opportunities and adult careers they would have liked to pursue. Indeed, the barriers were so ingrained, they affected all women, regardless of who they were. For instance, in 1966, Luci Baines Johnson, the daughter of President Lyndon Johnson, was refused readmission to Georgetown University's school of nursing after her marriage because the school did not permit married women to be students.

Twenty-five years after its passage, Title IX has helped bring about profound changes in American education and the resulting improvements in the educational and related job opportunities for millions of young Americans.

PROGRESS IN ACADEMICS

- In 1994, 27 percent of both men and women had earned a bachelor's degree. In 1991, about 18 percent of young women and 27 percent of young men had completed 4 or more years of college.
- In 1992, women earned the majority of master's degrees (191,000), whereas the majority of master's degrees were conferred to men in 1977 (161,800).
- In 1994, women received 38 percent of medical degrees and 43 percent of law degrees. In 1972, women earned only 9 percent of medical degrees and 7 percent of law degrees.

PROGRESS IN ATHLETICS

- Today, over 100,000 women participate in intercollegiate athletics– a four-fold increase since 1971.
- In 1996, 2.4 million high school girls represented 39 percent of all high school athletes, compared to only 300,000 or 7.5 percent in 1971.



- American women won a record 19 Olympic medals in the 1996 Summer Olympic Games.

In athletics, Title IX compliance is governed by a three part test. Colleges and universities that are attempting to comply with Title IX in terms of increased sports participation for women are required to be in compliance with only one part of that test. The three parts of this test are:

- Participation opportunities for men and women are “substantially proportionate” to their respective undergraduate enrollments.
- The institution has a history and continuing practice of program expansion that is responsive to the developing interests and abilities of the under represented sex (typically female).
- The institution is meeting the interests and abilities of its female students even where there are disproportionately fewer females than males participating in sports.

THE NEXT TWENTY-FIVE YEARS

Today, even with the many advances women have made in academics, employment and athletics, we still need to recognize some dismaying facts in our efforts to achieve equality:

- In athletics, there are still about 24,000 more boys’ high school varsity teams than girls’ teams, women receive only one-third of all collegiate athletic scholarships, and operating expenditures for women’s college sports programs represents only 23 percent of the total operating expenses.
- Although women earn half of all college degrees, they are still less likely than men to earn bachelor’s or advanced degrees in high-paying fields such as engineering, mathematics and computer and physical sciences— fields in which women are under represented.
- Even though women make up half of the labor market, they are often paid less than men. In 1993, women who had majored in the natural sciences earned 15 percent less than men who majored in the same field.



Title IX:

25 Years of Progress

Introduction

On the 25th anniversary of Title IX it seems fitting to suggest that America is a more equal, more educated and more prosperous nation because of the far-reaching effects of this legislation. Much has been accomplished in the classroom and on the playing field and we have many reasons to celebrate the success of Title IX in expanding our nation's definition of equality. With Title IX, we affirm what can be accomplished when we allow all Americans—men and women—an equal opportunity to be their best.

What strikes me the most about the progress that has been achieved since Title IX was passed in 1972 is that there has been a sea change in our expectations of what women can achieve. More important, women have shown skeptics again and again that females are fully capable of being involved as successful and active participants in every realm of American life. Women astronauts from Sally Ride to Shannon Lucid have made their mark in space even as Mia Hamm and Michelle Akers have led the women's national soccer team to Olympic glory and the World Championship. Women have entered the medical and legal professions in record numbers and we have seen a fourfold increase in women's participation in intercollegiate athletics.

The great untold story of success that resulted from the passage of Title IX is surely the progress that has been achieved in education. In 1971, only 18 percent of all women, compared to 26 percent of all men, had completed four or more years of college. This education gap no longer exists. Women now make up the majority of students in America's colleges and universities in addition to making up the majority of recipients of master's degrees. Indeed, the United States has become a world leader in giving women the opportunity to receive a higher education.

Accompanying this untold story of success is the too frequently told story of the barriers that women continue to encounter—despite their history of accomplishments and despite the history of the legislation that protects them from such barriers. Too many women still confront the problem of sexual harassment, women still lag behind men in gaining a decent wage, and only one-third of all intercollegiate athletic scholarships are granted to women. Clearly, much more remains to be done to ensure that every American is given an equal opportunity to achieve success without encountering the obstacle of gender bias.

But of this I am sure: somewhere in America today there are young women who are studying hard and achieving success on the athletic field who even now may be thinking hard about their careers as scientists, business owners, basketball players, or even the possibility of becoming president of the United States. They may not know of the existence of Title IX, but Title IX will be there for them should any of them encounter a skeptic who does not believe that they can succeed and be part of the American Dream.

Richard W. Riley
U.S. Secretary of Education

Indicators of Progress Toward Equal Educational Opportunity Since Title IX

College Enrollment and Completion:

- ★ In 1994, 63 percent of female high school graduates aged 16-24 were enrolled in college, up 20 percentage points from 43 percent in 1973.
- ★ In 1994, 27 percent of both men and women had earned a bachelor's degree. In 1971, 18 percent of young women and 26 percent of young men had completed four or more years of college.

Graduate and Professional Degrees:

- ★ In 1994, women received 38 percent of medical degrees. When Title IX was enacted in 1972, 9 percent of medical degrees went to women.
- ★ In 1994 women earned 38 percent of dental degrees, whereas in 1972 they earned only 1 percent of them.
- ★ In 1994 women accounted for 43 percent of law degrees, up from 7 percent in 1972.
- ★ In 1993-94, 44 percent of all doctoral degrees awarded to U.S. citizens went to women, up from only 25 percent in 1977.

Participation in Athletics:

- ★ Today, more than 100,000 women participate in intercollegiate athletics—a fourfold increase since 1971.
- ★ In 1995, women comprised 37 percent of college student athletes, compared to 15 percent in 1972.
- ★ In 1996, 2.4 million high school girls represented 39 percent of all high school athletes, compared to only 300,000 or 7.5 percent in 1971. This represents an eightfold increase.
- ★ Women won a record 19 Olympic medals in the 1996 Summer Olympic Games.

International Comparisons:

- ★ In the United States, 87 percent of women 25-34 years old had completed high school in 1992, far more than their counterparts in West Germany, the United Kingdom, France, Italy, and Canada.
- ★ In the United States in 1992, 23 percent of women 25-34 years old had completed higher education degrees, which is significantly higher than for women in France and Japan (12 percent each), the United Kingdom and West Germany (11 percent each), or Italy (7 percent).

Legislation:

In addition to Title IX, three pieces of supporting and related legislation have been enacted:

- ★ The Women's Educational Equity Act of 1974 provides for federal financial and technical support to local efforts to remove barriers for females in all areas of education through, for example, the development of model programs, training, and research.
- ★ Title IV of the Civil Rights Act of 1964 provides for support to schools to comply with the mandate for nondiscrimination by providing funds for regional Desegregation Assistance Centers and grants to state education departments for providing more equitable education to students.
- ★ The 1976 amendments to the Vocational Education Act of 1963 require states to act affirmatively to eliminate sex bias, stereotyping, and discrimination in vocational education.

Title IX:

A Sea Change in Gender Equity in Education

Athletic competition builds character in our boys. We do not need that kind of character in our girls.—Connecticut judge, 1971

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational programs or activity receiving federal financial assistance.—From the preamble to Title IX of the Education Amendments of 1972

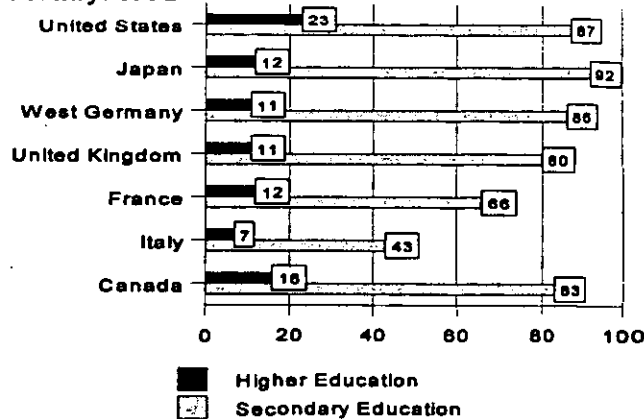
Civil rights laws have historically been a powerful mechanism for effecting social change in the United States. They represent a national commitment to end discrimination and establish a mandate to bring the formerly excluded into the mainstream. These laws ensure that the federal government delivers on the Constitution's promise of parity so that every individual has the right to develop his or her talents.

Title IX of the Education Amendments of 1972 bolsters this national agenda and prohibits sex discrimination in federally assisted education programs. Modeled on Title VI of the Civil Rights Act of 1964 prohibiting race, color, and national origin discrimination, it was followed by three other pieces of civil rights legislation: Section 504 of the Rehabilitation Act of 1973 prohibiting disability discrimination; the Age Discrimination Act of 1975; and Title II of the Americans with Disabilities Act of 1990 prohibiting disability discrimination by public entities.

Twenty-five years after the passage of Title IX, we recognize and celebrate the profound changes this legislation has helped bring about in American education and the resulting improvements in the educational and related job opportunities for millions of young Americans. While no definitive study has been done on the full impact of Title IX, this "snapshot" report suggests that Title IX has made a positive difference in the lives of many Americans.

Substantial progress has been made, for example, in overcoming the education gap that existed between men and women in completing four years of college. In 1971, 18 percent of women high school graduates were completing at least four years of college compared to 26 percent of their male peers. Today, that education gap no longer exists. *Women now make up the majority of students in America's colleges and universities in addition to making up the majority of those receiving master's degrees. Women are also entering business and law schools in record numbers. Indeed, the United States stands alone and is a world leader in opening the doors of higher education to women.*

Figure 1.—Percentage of 25- to 34-Year-Old Females Completing Secondary and Higher Education, by Country: 1992



SOURCE: Organization for Educational and Cultural Development (OECD), *Indicators of Education Systems, OECD Education Statistics, 1985-1992*.

As this report makes clear, many barriers have been brought down that once prevented girls and women from choosing the educational opportunities and adult careers they would have liked to pursue. The history of this progress begins 25 years ago with the passage of Title IX.

The Legislative Road to Title IX

As the women's civil rights movement gained momentum in the late 1960s and early 1970s, Americans began to focus attention on inequities that inhibited the progress of women and girls in education. The issue of sex bias in education moved into the public policy realm when Representative Edith Green (Ohio) introduced a higher education bill with provisions regarding sex equity. The hearings that Green held were the first ever devoted to this topic and are considered the first legislative step toward the enactment of Title IX.

Women Not Admitted

Virginia state law prohibited women from being admitted to the College of Arts and Sciences of the University of Virginia, the most highly rated public institution of higher education in the state. It was only under court order in 1970 that the first woman was admitted.—Kirstein v. Rector and Visitors of University of Virginia, 309 F.Supp. 184 (E.D. Va. 1970).

Congressional activity on the issue increased, and in 1971 several education bills that included sex discrimination proposals were introduced in the House. In the Senate, amendments by Senators Birch Bayh (Indiana) and George McGovern (South Dakota) to an omnibus education proposal outlawed sex discrimination in higher education programs. In total, five proposals—all different—in the House, Senate, and White House proposed to end sex discrimination in education. Although there was growing agreement that sex discrimination in education should

end, there was little agreement as to the best methods for reaching that goal. It took a House-Senate Conference Committee several months to settle on the more than 250 differences between the House and Senate education bills, 11 of which spoke to sex discrimination. The final legislation—the provision against sex discrimination—became Title IX.

Married Women Not Wanted

Luci Baines Johnson, the daughter of President Lyndon Johnson, was refused readmission to Georgetown University's school of nursing after her marriage: in 1966, the school did not permit married women to be students.

Title IX was adopted by the Conference Committee and sent to the full Senate, which approved it on May 22, 1972. It then went to the House, and was passed on June 8. President Nixon signed Title IX on June 23, and on July 1 it went into effect. While developing the implementing regulation for Title IX, the then-U.S. Department of Health, Education and Welfare (HEW) received more than 9,700 comments. The final regulations were published on July 20, 1974. President Gerald Ford signed the Title IX regulations on May 27, 1975 and they were then submitted to Congress for review.

Everyone Benefits from Title IX

Title IX prohibits institutions that receive federal funding from practicing gender discrimination in educational programs or activities. Because almost all schools receive federal funds, Title IX applies to nearly everyone. The Office for Civil Rights in the U.S. Department of Education is charged with enforcing the civil rights and regulations in education, extending protection to

- about 51.7 million elementary and secondary school students;
- about 14.4 million college and university students;
- almost 15,000 school districts;
- more than 3,600 colleges and universities;
- more than 5,000 proprietary schools; and
- thousands of libraries, museums, vocational rehabilitation agencies, and correctional facilities.

Achieving Success Under Title IX

Title IX, as a landmark civil rights law, profoundly affects all aspects of schooling by requiring equal opportunity for females and males. By extension, it also affects equity in the labor market. The following highlights suggest many of the significant developments in gender equity that can be linked to Title IX.

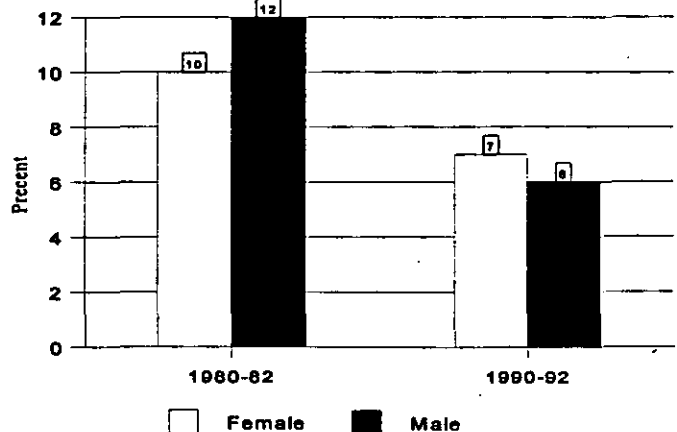
Changing Expectations

Since its passage in 1972 Title IX has had a profound impact on helping to change attitudes, assumptions and behavior and consequently our understanding about how sexual stereotypes can limit educational opportunities. We now know, for example, that gender is a poor predictor of one's interests, proficiency in academic subjects, or athletic ability. As the First Circuit Court of Appeals noted in a recent Title IX case, "interest and ability rarely develop in a vacuum; they evolve as a function of opportunity and experience." Decision making in schools and in the labor market that relies on gender to assess what students and employees know and are able to do is both archaic and ineffective.

Lowering the drop-out rate

Title IX has played a part in lowering the dropout rate among high school females who become pregnant or have a child. The law prohibits schools from suspending, expelling, or discriminating against them in educational programs and activities due to their status as mothers. In addition, because becoming pregnant and having a child while in high school correlate strongly with dropping out of school, many school districts have opened alternative schools for this population to help them persist in school and graduate. The results are very positive: although the childbearing rates rose between 1980 and 1990 from fewer than 1 percent to 2.5 percent, dropout rates declined 30 percent during the same period, precisely at a time when graduation requirements were raised.

Figure 2.—Dropout Rates for Grades Ten to Twelve, by Sex: 1980-82 and 1990-92



SOURCE: National Center for Education Statistics, *A Comparison of High School Dropout Rates in 1982 and 1992*, Table 9.

Teenage Mother Allowed to Graduate

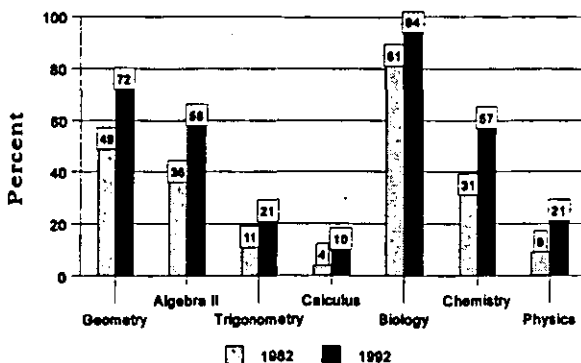
A parent in the Chicago area contacted the U.S. Department of Education's Office for Civil Rights (OCR) when her teenage daughter—who had given birth earlier in the year—was denied the opportunity to take a final examination because the teacher disapproved of the girl's pregnancy and her excused absences from school due to childbirth. Without a grade on the final exam, the student would not be allowed to graduate. OCR contacted the school district and received assurance that the student could take her exam. She did, and received her diploma.

Increasing the opportunities in math and science

The United States is among only 11 of 41 countries in the recently released Third International Math and Science Study with no gender gap in grade 8 mathematics and science. A gender gap still exists, however, in science achievement at the 12th-grade level for females. According to the National Center for Education Statistics, male students were more likely than females to increase their science proficiency level between 8th and 12th grades, 56 and 51 percent respectively.

Overall, both male and female students were more likely to take more sophisticated mathematics courses by 1992 than they were in 1982, with females less likely than males to take remedial mathematics, more likely to take Algebra II, and just as likely to take trigonometry and calculus. The same is true for advanced science courses, with females more likely than males to study biology and just as likely to take chemistry, and boys more likely to study physics. In 1994, 68 percent of females took algebra, 70 percent took geometry, and 9 percent took calculus—similar to the percentage of males taking those courses. In the same year, 95 percent of females took biology and 59 percent took chemistry—higher than the rates of 92 and 53 percent, respectively, for their male classmates.

Figure 3.—Percentage of High School Female Graduates Taking Selected Mathematics and Science Courses: 1982 and 1992



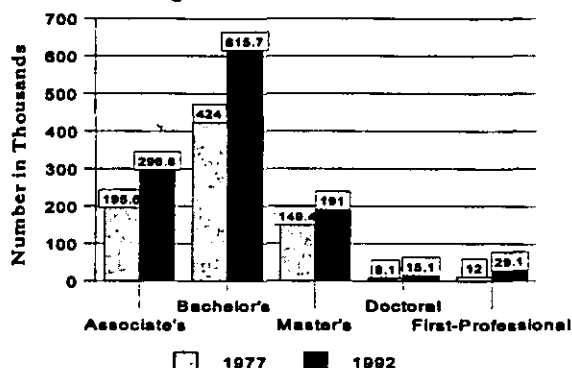
SOURCE: National Center for Education Statistics, *The 1990 High School Transcript Study Tabulations 1993*, based on *The High School and Beyond Transcript Study* and the *National Education Longitudinal Study (NELS: 88) Transcripts, 1992*.

In college, many more women are majoring in math, as evidenced by the proportion of undergraduate degrees in math awarded to women: 47 percent in 1992, compared to 27 percent in 1962. This may be the result of the advances made in their preparation in high school in math and science during the decade 1982-1992, as shown in figure 3.

Increasing the completion of postsecondary, graduate and professional degrees

Women are now graduating from college in record numbers and for the first time in America's history their numbers are proportionate to those of men: by 1994, women were earning bachelor's degrees at the same rate as men, with both at 27 percent. In 1971, however, only 18 percent of young women had completed four or more years of college compared to 26 percent of young men. By 2006, women are projected to earn 55 percent of all bachelor's degrees.

Figure 4.—Number of Degrees Conferred on Females by Institutions of Higher Education: 1977 and 1992



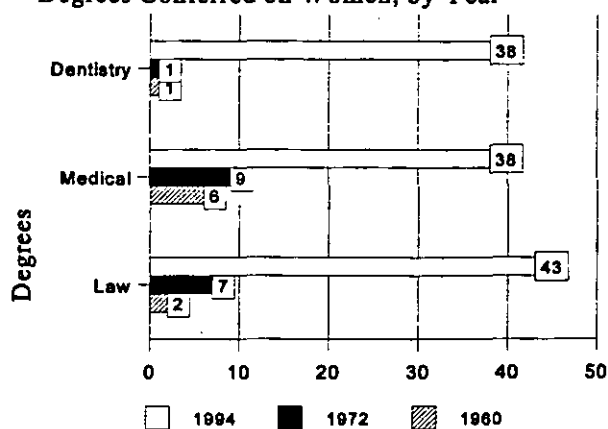
SOURCE: National Center for Education Statistics, *Digest of Education Statistics 1994*, Table 234.

In 1992, women also earned the majority of associate's (296,800) and master's degrees (191,000), reversing the 1977 pattern of men earning the majority of them (207,500 and 161,800, respectively).

Between 1977 and 1994, the number of U.S. women earning doctoral degrees almost doubled, from just over 7,500 to almost 14,000. This represents a jump from 25 percent in 1977 to 44 percent in 1994 of total doctoral degrees conferred.

During the same time period, the percentage of first-professional degrees earned by women also rose dramatically: from 7 percent to 43 percent of all law degrees; from 9 percent to 38 percent of all medical degrees; and from 1 percent to 38 percent of all dental degrees. In veterinary science and pharmacy women earned the majority of degrees in 1994.

Figure 5.—Percentage of First-Professional Degrees Conferred on Women, by Year



SOURCE: National Center for Education Statistics, *Digest of Education Statistics 1996*, Table 254.

In certain nontraditional areas such as business, women's degrees increased dramatically from 8 percent in 1962 to 47 percent in 1992. This development in particular is expected to have a profound impact on women's earnings potential: women who choose careers in nontraditional fields can expect to have lifetime earnings that are as much as 150 percent of those of women who choose careers in traditional fields.

"My personal experience has shown me that while the situation for women in science in the United States is by no means perfect, it is the best one in this world of ours."—Dominique Homberger, Swiss-born professor of zoology, Louisiana State University

Women are also increasing the number of science classes they take in college. In the biological sciences, for example, women earned only 28 percent of college degrees in 1962 but increased their proportion to 52 percent by 1992. The gap between men's and women's master's degrees in the life sciences, physical sciences, engineering and computer sciences has also narrowed over time. In 1950, only 175 women received bachelor's degrees in engineering—compared to more than 52,000 men. By 1966, women were earning a greater number of engineering degrees, but the proportion of the total was still less than one-half of 1 percent. By 1991, it had risen to more than 15 percent.

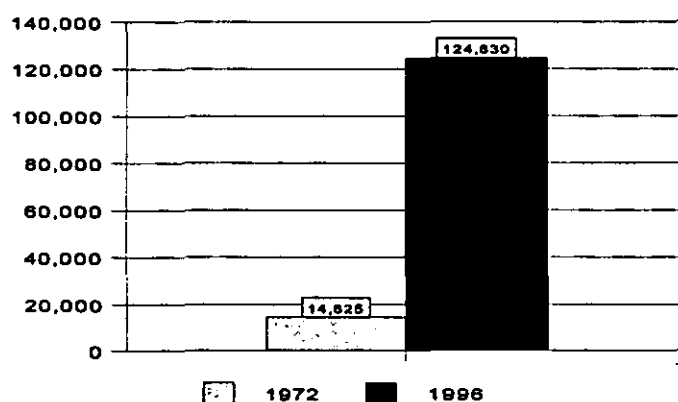
As the number of women who study the sciences increases, so does the proportion of women who receive graduate degrees in those fields. In 1993, women earned 20 percent of doctorates in science and engineering, up from less than 9 percent in 1973. At all levels—bachelor's, master's and doctoral—women's rates of receiving degrees have risen significantly in the fields of mathematical, physical, and biological sciences and engineering.

Opening up the professions and opportunities for employment

The many gains that have been made in giving women new opportunities to advance their education have had and continue to have a direct impact in opening up the professions and giving women the opportunity to seek employment in nontraditional fields. In 1993-94 women made up 58 percent of postsecondary vocational education students.

Women have also made significant inroads in speciality fields. For example, the proportion of women gynecologists/obstetricians rose from 8 percent in 1970 to 39 percent in 1995, an increase similar to increases in their numbers in the field of medicine overall. Just as medical schools had discouraged young women from admission, so had some nursing schools discouraged young men. In 1972, the rate of men graduating with nursing degrees was only 1 percent. In 1996, the rate rose to 5 percent.

Figure 6.—Number of Men in Nursing: 1972 and 1996



SOURCE: American Nurses Association 1972 Inventory of Registered Nurses, "Nations Nurses," National Sample Survey of Registered Nurses, March 1996, Unpublished.

Increasing participation in athletics

Title IX has helped girls and women participate in interscholastic and intercollegiate athletics in far greater numbers than they had in the past. When Title IX became law, dramatic change was needed to level the playing fields of this nation's schools and to change the perception of the place of girls and women on them. Just one year before the enactment of Title IX, in 1971, a Connecticut judge was allowed by law to disallow girls from competing on a boys' high school cross country team even though there was no girls' team at the school. And that same year, fewer than 300,000 high school girls played interscholastic sports. Today, that number is 2.4 million.

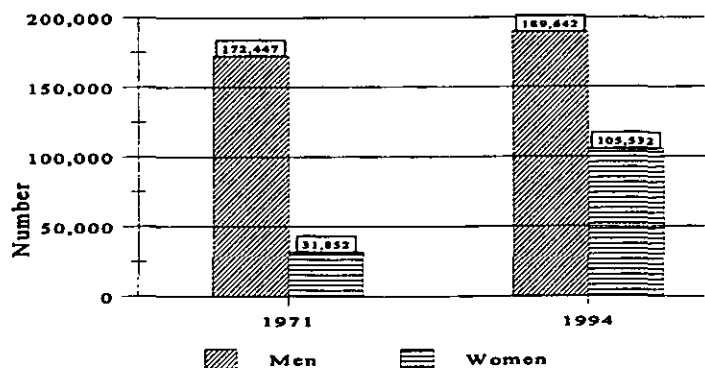
The rise of women's basketball is illustrative of the dramatic changes that have taken place since the enactment of Title IX. In 1972, 132,299 young girls played high school basketball. In 1994-95 the number had increased to 412,576, an increase of over 300 percent. In the last two years, women's basketball has come of age with the gold-medal victory of the American women's basketball team at the 1996 Olympics, the increased media attention to the NCAA women's basketball tournament, and the development of two professional women's basketball leagues.

"Without Title IX, I'd be nowhere."—Cheryl Miller, Olympic athlete
Outstanding member of 1984 gold medal women's basketball team

In addition, girls and women are increasingly participants in sports that have traditionally been seen as out-of-bounds for women, including lacrosse, wrestling, soccer, rugby and ice hockey. In one sport that is increasingly a favorite for young girls—soccer—the results have led to a world championship. In 1996, the U.S. national soccer team captured the first-ever women's Olympic medal in this sport before a crowd of 76,481, and in doing so established its position as the world's premier woman's soccer program.

In many ways, the very image of American women in the sports arena is being redefined by the many accomplishments of women in athletics. Women are now seen as sports stars in their own right, from Mia Hamm in soccer to Sheryl Swoopes in basketball. The inspiring story of Dr. Dot Richardson, the captain of the American Olympic softball team, who immediately left her triumph in Atlanta to begin her

Figure 7.—Intercollegiate Athletics Participation in NCAA Member Institutions, by Sex: 1971 and 1994



SOURCE: U.S. General Accounting Office, *Intercollegiate Athletics: Status of Efforts to Promote Gender Equity*, October 25, 1996; *Federal Register*, December 11, 1979.

medical residency, exemplifies just what has been accomplished on the field and off as a result of Title IX.

Dot Richardson - Olympian

Dot Richardson was 10 years old, playing catch in an Orlando, Florida, park when a man noticed her exceptional arm and asked if she wanted to play on his Little League team. Richardson was thrilled. "We'll just cut your hair short," said the coach, "and call you Bob." Richardson never believed that ball playing was reserved for boys. She went on to become a four-time All-American in college and was named NCAA player of the decade for the 1980s. She graduated as a physician from the University of Louisville Medical School, often ending 20-hour hospital shifts with workouts and practice so that she could compete in 1996 in the first women's softball appearance in the modern Olympic Games. She hit the first home run in Olympic softball history, helping the U.S. team win the gold medal. Richardson is now a resident in orthopedic surgery at the University of Southern California.

Increasing athletic scholarships

Before the passage of Title IX, athletic scholarships for college women were rare, no matter how great their talent. After winning two gold medals in the 1964 Olympics, swimmer Donna de Varona could not obtain a college swimming scholarship: for women, they did not exist. It took time and effort to improve the opportunities for young women: two years after Title IX was voted into law, an estimated 50,000 men were attending U.S. colleges and universities on athletic scholarships—and fewer than 50 women. In 1973, the University of Miami (Florida) awarded the first athletic scholarships to women—a total of 15 in golf, swimming, diving, and tennis. Today, college women receive about one-third of all athletic scholarship dollars.

Athletic Facilities at Fresno State University, California

Fresno State University had spent more than \$15 million on state-of-the-art facilities for men while it had spent about \$300,000 on the women's athletic facilities, which were considered substandard. Despite this, Fresno State captured 9 of the last 12 softball conference championships, and 5 current or former members of the Fresno State softball team were on the U.S. Olympic softball team. To meet the requirements of Title IX, Fresno State completed an ambitious plan costing more than \$8 million to provide equity in athletic facilities for women. A new building for women athletes houses four new team rooms. In addition, the women's Fresno State Bulldog Softball team has a new stadium, seating more than 2,500 fans. When the team last played their traditional rival, bleachers were added for the more than 5,000 people who filled the stadium. Coach Margie Wright, who was also a coach on the gold medal Olympic softball team, tells her Fresno State athletes that they got the stadium because of their hard work.

Achieving equal opportunity for women in intercollegiate sports has not been an easy task. Some colleges have faced budgetary restraints and others simply have been reluctant to change the status-quo. Given the fact, however, that no federal Courts of Appeals have ruled against Title IX's athletic provisions, it is clear that the immediate challenge for our nation's higher education community is to find positive ways to comply with the law.

Here it is important to recognize that there is no mandate under Title IX that requires a college to eliminate men's teams to achieve compliance. The thought that "if women are to gain opportunities, then men must lose opportunities," presents a false dichotomy. As with other educational aspects of Title IX, and according to the expressed will of Congress, the regulation is intended to expand opportunities for both men and women.

Title IX: Student Participation in Athletics

In the assessment of the "interests and abilities" portion of the Title IX regulations, a three part test governs. As the name suggests, this test consists of three separate and distinct parts. All that is required under Title IX is that an institution be in compliance with one part of that test. No one part of the test is the predominant or "true" measure of compliance. The three parts of the test are:

Part One: Substantial Proportionality. This part of the test is satisfied when participation opportunities for men and women are "substantially proportionate" to their respective undergraduate enrollments.

Part Two: History and Continuing Practice. This part of the test is satisfied when an institution has a history and continuing practice of program expansion that is responsive to the developing interests and abilities of the underrepresented sex (typically female).

Part Three: Effectively Accommodating Interests and Abilities. This part of the test is satisfied when an institution is meeting the interests and abilities of its female students even where there are disproportionately fewer females than males participating in sports.

Opening up avenues of achievement through athletics

The critical values learned from sports participation—including teamwork, standards, leadership, discipline, self-sacrifice and pride in accomplishment—are being brought to the workplace as women enter employment in greater numbers, and at higher levels than ever before. For example, 80 percent of female managers of Fortune 500 companies have a sports background. Also, high school girls who participate in team sports are less likely to drop out of school, smoke, drink or become pregnant. It is no surprise, then, that 87 percent of parents now accept the idea that sports are equally important for boys and girls.

"I Should Watch...They Should Compete"

"As a child, I loved athletics and physical activities. I was talented, but my talent was not appreciated or approved of by most. I watched my brothers compete on school teams. It didn't matter that in the neighborhood pick-up games, I was selected before my brothers. Society dictated that I should watch, and that they should compete. So at home in the backyard, I would catch as my brother worked on his curve ball, I would shag flies as he developed his batting prowess and, as I recall, I frequently served as his tackling dummy. The brother I caught and shagged for, and for whom I served as a tackling dummy, went on to Georgetown University on a full athletic grant. He later became vice president of a large banking firm. So, while I rode in the backseat on the bus of opportunity during my lifetime, I want my daughter's daughter and her peers to be able to select a seat based on their abilities and their willingness to work. Don't deny them the things that I dreamed of."—Excerpts of a letter sent to OCR in spring 1995 by Joan Martin, Senior Associate Director of Athletics, Monmouth University, New Jersey

The Next 25 Years

This report, celebrating the 25th anniversary of the enactment of Title IX, has focused on the many gains girls and women have made since 1972 in education and employment. These gains represent a great deal of work by many Americans, men and women, but we still have more to do. As this report was being prepared an obituary noted that Rose Will Monroe, the model for the famous World War II poster of "Rosie the Riveter," had passed away. The death of Rose Will Monroe reminds us that long before Title IX became law, women were willing to enter the job market in fields from which they are still sometimes excluded.



Even today as we acknowledge the many advances women have made in academics, employment and athletics, we still need to recognize some dismaying facts in our efforts to achieve equity. While sex discrimination is no longer routinely accepted in education and has been prohibited since Title IX became law, the incidences of sexual harassment and assault that are continually reported show that freedom from threats to learning still has not been achieved. In response, the Office for Civil Rights of the Department of Education has released its final policy guidance on sexual harassment to help educators recognize sexual harassment and formulate age-appropriate responses to prevent or resolve sexual harassment.

Sexual Assaults and Threats in High School

In one school district, a disabled sophomore high school student was sexually harassed by her male music teacher. She filed a complaint under Title IX revealing that her school district ignored her complaints about the teacher's behavior. As a result, the school district agreed to place the student in another district and to pay all related costs including \$2,000 for counseling fees.

In another school district, several female high school students turned to the Office for Civil Rights for help in stopping sexually harassing threats and comments that occurred for a three-year period. As is typical in these types of cases, one female student had developed ulcers and other problems due to continual stress. As a result of Title IX the school district developed disciplinary guidelines to address sexual harassment of students.

Other conditions that inhibit equal opportunity in education and the workplace remain:

- ▶ Although women earn half of all college degrees, they are less likely than men to earn bachelor's degrees in computer science, engineering, physical sciences, or mathematics. At still higher levels of education, they account for only 17 percent of doctoral degrees in math and physical science, 14 percent of doctoral degrees in computer science and 7 percent of doctoral degrees in engineering. This gap takes on more significance still in the labor market where salaries are among the highest in mathematics/computer science and engineering— fields in which women are underrepresented. Without more equity in these fields at all levels, women will remain at the low end of positions and the pay scale in the information age.
- ▶ At the high school level, there are still about 24,000 more boys' varsity teams than girls' teams, women receive only one-third of all athletic scholarships in college, and, between 1992 and 1997, overall operating expenditures for women's college sports programs grew only 89 percent compared to 139 percent for men, representing only 23 percent of the total operating expenses.
- ▶ Even though women make up half of the labor market, not only are they underrepresented in jobs in scientific fields, but they are often paid less than men. In 1993, only 18 percent of employed recent female science and engineering graduates worked in science and engineering occupations, compared to 35 percent of their male counterparts. In the same year, women who had majored in the natural sciences earned 15 percent less than men who majored in the same field.
- ▶ Despite women's large gains toward equal educational attainment and their accompanying gains in labor force participation, their earnings are only 80 percent of the earnings of their male counterparts with the same education—\$26,000 vs \$32,000, respectively, for graduates of 4-year colleges in 1993.

President Clinton frequently reminds us that "We do not have a person to waste" if we are to ensure the well-being of our people and the competitiveness of the nation. Twenty-five years ago, America began the long process of eradicating discrimination based on gender and has since moved forward. There have been peaks and valleys in this process, and we cannot ignore the reality that inequality and discrimination still remain here in 1997.

Yet, the American people have never turned away from the goal of making sure that all Americans, regardless of gender, are given an equal opportunity to get a good education, to compete in the athletic arena, and to work in a job or a profession for which they are well qualified. Title IX, today and in the future, represents and reflects this American commitment to equality.

Women's Issues - Title IX

**PRESIDENT CLINTON COMMEMORATES 25TH ANNIVERSARY OF TITLE IX
BY ANNOUNCING NEW STEPS TO ADDRESS SEX DISCRIMINATION
June 17, 1997**

*"...Until all women have an equal opportunity to develop their full potential and to make c
are accepted and welcomed by our society, our freedom as a nation will be incomplete."*

-President Bill Clinton, Women's Equality Da

Proclamation

Today, President Clinton will host an event at the White House to commemorate the 25th anniversary of Title IX of the Education Amendments of 1972 and recognize the significant progress our nation has made in increasing educational and related job opportunities for millions of American women and girls.

Title IX of the Education Amendments of 1972, one of the nation's landmark civil rights laws, has made great strides toward eliminating sex discrimination in all aspects of American education -- in the classroom, in course offerings, in the school workplace, and on the athletic fields. Title IX generally prohibits sex discrimination in education programs and activities that receive federal assistance.

**President Clinton Directs Agencies to Develop Tough New Enforcement Plans
and Extend the Principles of Title IX to Federal Education Programs**

Today, the President will sign and issue an executive memorandum designed to strengthen Title IX enforcement and extend Title IX's principle of nondiscrimination to areas not currently covered by the law. The executive memorandum:

- **Directs each federal agency to develop a plan to enforce Title IX and requires all federal agencies to report to the President on measures to ensure effective enforcement.** Each agency's new plan must include a description of the agency priorities for enforcement, methods to make recipients of federal financial assistance aware of their obligation not to discriminate, and grievance procedures to handle Title IX complaints.
- **Addresses discrimination on the basis of sex, race, color and national origin in all federally *conducted* education programs and activities.** Currently, Title IX generally prohibits discrimination based on sex -- and Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin -- in education programs or activities that *receive federal assistance*. However, these laws do not apply to comparable education programs or activities that are *conducted by the federal government*. Today's directive will take action against discrimination in education programs or activities conducted by the federal government. This measure will hold the federal government to the same standards of non-discrimination in educational opportunities that now apply to non-federal education

programs receiving federal assistance.

President Clinton Receives Report Documenting Tremendous Progress Under Title IX

Today, the Secretary of Education Dick Riley will present to the President *Title IX: 25 Years of Progress*. Produced by the Department of Education, this report documents the profound changes since the enactment of Title IX in American education and the resulting improvements in the educational and related job opportunities for millions of young Americans, particularly women and girls. The report also points to what remains to be done to reach equality in education.

Building on a Strong Commitment to Expand Opportunities for Women and Girls

Since President Clinton took office, he has worked hard to expand opportunities for women and girls. The Clinton Administration has: stepped up enforcement of civil rights statutes in areas such as access to advanced math and science programs; issued policy guidance on racial and sexual harassment and on ensuring equal opportunities in intercollegiate athletics; aggressively litigated cases presenting significant issues of discrimination, including cases challenging the exclusion of women from VMI and the Citadel; and sponsored an education campaign to help young girls build skills, confidence and good health.

Women's issue - Title IX
S.L.C.

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105TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Ms. MOSELEY-BRAUN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend section 485(g) of the Higher Education Act of 1965 to make information regarding men's and women's athletic programs at institutions of higher education easily available to prospective students and prospective student athletes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress makes the following findings:

5 (1) Since enactment in 1972, title IX of the
6 Education Amendments of 1972 (20 U.S.C. 1681 et
7 seq.) has played a vital role in expanding the athletic

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2

1 opportunities available to American girls and
2 women.

3 (2) Prior to the enactment of such title IX,
4 fewer than 32,000 women competed in intercolle-
5 giate athletics, women received only 2 percent of
6 schools' athletic budgets, and athletic scholarships
7 for women were practically nonexistent.

8 (3) In 1997, more than 110,000 women com-
9 peted in intercollegiate sports, and women account
10 for 37 percent of college varsity athletes.

11 (4) While such title IX has been very success-
12 ful, a significant gap remains between the athletic
13 opportunities available to men and the athletic op-
14 portunities available to women.

15 (5) According to a 1997 study by the National
16 Collegiate Athletic Association, female college ath-
17 letes receive only 25 percent of athletic operating
18 budgets, 38 percent of athletic scholarship dollars,
19 and 27 percent of the money spent to recruit new
20 athletes.

21 (6) While women represent 55 percent of the
22 students attending institutions of higher education,
23 women comprise only 37 percent of the athletes at-
24 tending institutions of higher education.

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1 (7) There is substantial evidence that women
 2 and girls who participate in athletics have better
 3 physical and emotional health than women and girls
 4 who do not participate, and that participation in
 5 athletics can improve academic achievement.

6 (8) Easily accessible information regarding the
 7 expenditures of institutions of higher education for
 8 women's and men's athletic programs will help pro-
 9 spective students and prospective student athletes
 10 make informed judgments about the commitments of
 11 a given institution of higher education to providing
 12 athletic opportunities to male and female students
 13 attending the institution.



14 **SEC. 2. PURPOSE.**

15 It is the purpose of this Act to make information re-
 16 garding men's and women's athletic programs at institu-
 17 tions of higher education easily available to prospective
 18 students and prospective student athletes,

and to increase the athletic opportunities

19 **SEC. 3. INFORMATION AVAILABILITY.**

20 Section 485(g) of the of the Higher Education Act
 21 of 1965 (20 U.S.C. 1092(g)) is amended—

available to women at these institutions

22 (1) by redesignating paragraphs (4) and (5) as
 23 paragraphs (5) and (6), respectively; and

24 (2) by inserting after paragraph (3) the follow-
 25 ing:

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S.L.C.

1 “(4) OFFICE FOR CIVIL RIGHTS.—(A) Each in-
 2 stitution of higher education described in paragraph
 3 (1) shall provide to the Assistant Secretary for Civil
 4 Rights of the Department the information contained
 5 in the report described in paragraph (1).

*within 15 days of
 when they are
 required to
 make this
 information
 available to
 the public.*

6 “(B) The Assistant Secretary for Civil Rights
 7 shall annually prepare a report regarding the infor-
 8 mation received under subparagraph (A) for the
 9 year. The report shall—

*by April
 1 of each
 year* →

10 “(i) summarize the information and iden-
 11 tify trends in the information;

12 “(ii) aggregate the information by divisions
 13 of the National Collegiate Athletic Association;
 14 and

15 “(iii) contain information on each individ-
 16 ual institution of higher education.

17 “(C) The Secretary shall ensure that the report
 18 described in subparagraph (B) is made available on
 19 the Internet *within a reasonable period of time.*

20 “(D) The Assistant Secretary for Civil Rights
 21 shall establish a toll-free telephone service— *within a reasonable
 period of time*

22 “(i) to provide the public with information
 23 regarding reports described in subparagraph
 24 (B); and

→ *add (ii) to provide ... information
 collected in subparagraph (A); and*

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5

(iii)
1 (ii) to respond to inquiries from the pub-
2 lic regarding the provisions of title IX of the
3 Education Amendments of 1972.

4 “(E) The Assistant Secretary for Civil Rights
5 shall use the information provided by institutions of
6 higher education under paragraph (1) to ensure ~~compliance~~ ^{OK}
7 compliance with title IX of the Education Amend-
8 ments of 1972.

9 “(F) The Assistant Secretary for Civil Rights
10 shall notify, not later than 180 days after the date
11 of enactment of this paragraph, all secondary
12 schools in all States regarding the availability of the
13 information reported under subparagraph (B) and
14 the information made available under paragraph (1),
15 and how such information may be accessed.

Women's Issues -
Title IX

June 12, 1997

MEMORANDUM

TO: Phil Kaplan
FR: Nicole Rabner
RE: Executive Memorandum on Title IX

Elena Kagan asked me to forward to you for appropriate internal WH review the attached working draft of an executive memorandum on Title IX, which is planned to be signed and issued on Tuesday, June 17th in conjunction with President's event to commemorate the 25th anniversary of the passage of Title IX. FYI, there is some discussion about having the President sign the memorandum during the event.

Mac Reed of OMB Counsel has been involved in our process to develop the attached document, and he does not intend to do a full agency clearance. The most appropriate agencies (DOE, DOJ, DOD, and DHHS) have been involved in the development of this memorandum.

Please note that an additional, substantive paragraph may be added on Monday morning, pending ✓
further discussions.

6/12/97 7:45 pm DRAFT

June 17, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Addressing Discrimination on the Basis of Sex, Race, Color and
National Origin in Federally Conducted Education Programs and Activities

As we commemorate the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, we should pause to recognize the significant progress our nation has made in increasing educational possibilities for girls and women and recommit ourselves to the goals of this important legislation. Title IX has broken down barriers and expanded opportunities -- opening classroom doors, playing fields, and even the frontiers of space to girls and women across this country.

My Administration has benefited from the expanded educational opportunities that Title IX has provided for American women and girls. I am proud to have appointed record numbers of women to my Cabinet and to high levels of decision-making throughout the federal government. My Administration is working hard to expand opportunities for women and girls further by ... [SPECIFIC EXAMPLES OF ADMINISTRATION ACCOMPLISHMENTS TO BE ADDED]

Yet more needs to be done. Our nation is stronger when all of our citizens have the opportunity to reach their God-given potentials and contribute fully to our society. Today, I am announcing an important next step in our fight to reach true equality in education. Currently, Title IX generally prohibits discrimination based on sex, and Title VI of the Civil Rights Act of 1964 generally prohibits discrimination on the basis of race, color, or national origin in education programs or activities that receive federal financial assistance. However, these laws do not apply to comparable education programs or activities that are conducted by the federal government. I intend to take appropriate action against discrimination in education programs or activities *conducted* by the federal government as well.

I believe it is essential that the federal government hold itself to the same standards of nondiscrimination in educational opportunities that we now apply to education programs and activities of state and local governments and private institutions receiving federal financial assistance. This action will complement existing laws and regulations that prohibit other forms of discrimination in federally conducted education programs -- including discrimination against people with disabilities (prohibited by the Rehabilitation Act of 1973) and discrimination based on race, color, religion, sex or national origin against federal employees (prohibited by Title VII of the Civil Rights Act of 1964).

I therefore direct all heads of executive departments and agencies to report to the Attorney General within ninety days:

(1) identifying and describing education programs or activities conducted by the executive department or agency (including the approximate budget and size of the program). An education program or activity includes any civilian academic, extracurricular, research, occupational training, or other education activity conducted by the Federal government. Examples of federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of military personnel here and overseas; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students.

(2) describing any substantive or procedural issues that might arise under these education programs or activities related to prohibiting discrimination based on sex, race, color and national origin in the program or activity.

On the basis of these reports, I intend to issue an Executive Order implementing appropriate restrictions against sex, race, color, and national origin discrimination in federally conducted education programs. I direct the Attorney General to report to me within 120 days after receiving these reports with the results of her review and a proposal for an appropriate and effective Executive Order.

Women's Issues -

Title IX

UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202



PURPOSE: INFORMATION

OPTIONS MEMORANDUM

DATE: June 10, 1997

TO: The Secretary
Through: DS _____
ES _____

FROM: Judith A. Winston *JAW*
General Counsel and Acting Under Secretary

Norma V. Cantu *Norma V. Cantu*
Assistant Secretary
Office for Civil Rights

SUBJECT: Title IX Initiatives

In preparation for the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, you have asked us to examine the feasibility of several potential administrative initiatives to further implement Title IX. Ideally, an initiative(s) would be announced at a White House event commemorating Title IX to be held on June 17, 1997. Below, we discuss our recommendations regarding each proposal.

These options are the subject of ongoing discussions coordinated by Elena Kagan of the Domestic Policy Council and also involving the Department of Justice. The discussion below reflects the concerns and approaches that have come out of those discussions.

Option I. Executive Order Prohibiting Discrimination Based on Sex in Federally Conducted Education Programs

Recommendation: This order would prohibit discrimination in educational activities conducted directly by federal agencies, such as schools administered by the Defense Department or research conducted directly by federal agencies. We recommend this option -- as long as it is drafted to also prohibit race and national origin discrimination -- because we believe that the

federal government should, by its own conduct, lead the Nation's efforts to ensure equal educational opportunity. However, we do not believe that it is feasible to address adequately by June 17th a wide range of issues concerning its application. Accordingly, we recommend having the President issue a directive informing department and agency heads of his intent to issue this executive order, and directing them to promptly provide information to the Attorney General that would enable the administration to effectively develop and implement such an executive order. We have attached a draft, proposed directive for your consideration. ✓

Background: Title IX protects participants in education programs or activities from sex-based discrimination by recipients of federal funding. Thus, an executive order directed at federally conducted programs technically would not further the implementation of Title IX because Congress intended only that Title IX reach federally assisted programs. Instead, the proposed executive order would for the first time require the federal government to hold itself to the same standard of nondiscrimination that we now apply to the educational programs and activities of state and local governments and private institutions.]

Since an executive order prohibiting sex discrimination in federally conducted programs would not be tied to the Title IX statute, however, several issues arise: Should the executive order be limited to sex-based discrimination in federally conducted education programs or activities (Title IX is limited to educational programs or activities receiving federal financial assistance) or instead, should it apply to any federally conducted programs? Should the executive order exempt some, or all, of the institutions and activities that Congress exempted from Title IX's reach, such as military institutions and father-son, mother-daughter activities, et cetera? Should the Executive Order be limited to sex-based discrimination, or should it create similar protections to those found in Title VI of the Civil Rights Act of 1964 by prohibiting discrimination based on race or national origin in federally conducted programs?¹ What would be the administrative enforcement mechanism for the executive order?

These questions indicate the difficulty of fully developing and implementing an executive order prohibiting discrimination in federally conducted programs by June 17th. As an initial matter, we think it would be extremely problematic to extend the type of protections found in Title IX to participants in federally conducted programs without also similarly extending the protections of Title VI. If race discrimination is covered by this initiative, and we strongly believe that it should be, we would recommend that the initiative still be limited to federally conducted education programs. This would be more consistent with a celebration of Title IX, since it is tied more closely to the goals of Title IX, and it would allow the executive order to be developed more promptly. ✓

Even if the executive order is limited to federally conducted education programs, we do not

¹Disability-based discrimination in federally conducted programs is already prohibited by the Rehabilitation Act of 1973. 29 U.S.C. § 791.

believe that there presently exists sufficient information about the nature of these federal programs and activities to determine the appropriate terms of the order.² There may be certain activities that appropriately should be exempted. For instance, it is possible that an overly broad prohibition against different treatment based on sex might interfere with certain religious or tribal customs in place at schools run by the Bureau of Indian Affairs, or might interfere with legitimate operational decisions of federal prisons. In addition, certain agencies may raise issues regarding whether they have sufficient or appropriate resources to enforce the executive order. Unfortunately, there clearly is insufficient time before June 17th for appropriate decision-making on these complex and sensitive issues.³

Proposed Directive: The Department's draft, proposed Presidential directive clearly states that the President will issue an executive order prohibiting discrimination based on gender, race, and national origin in federally conducted programs. It also provides federal departments the opportunity to identify affected programs and activities and to consider any substantive or procedural issues that might arise related to prohibiting discrimination in these programs and activities. Thus, the proposed directive allows the President to celebrate the anniversary of Title IX with a renewed, substantive commitment to ending discrimination in education programs and activities. At the same time, it ensures that the administration promptly obtains sufficient information to ensure that the prohibition effectively can be implemented.

Option II. Executive Order Requiring Agencies to Enforce Title IX in Federally Assisted Programs

Recommendation: While we believe that administrative enforcement of Title IX may be incomplete, we do not recommend this option at this time because of the need to discuss

²It is also possible to limit an executive order to prohibiting discrimination based on sex, race, and national origin in Department of Defense schools. Based on our preliminary research, it appears that there is no general prohibition against discrimination at these schools. This more limited option, however, would not obviate the need to obtain information about the extent and nature of the affected programs. An executive order would need to be developed by, or at least after detailed discussions with, Department of Defense staff, and the executive order would need to address issues and concerns raised by them. We remain concerned as to whether informed decisions involving the Department of Defense can be made by June 17th.

³ We should also note that the effect of this type of executive order would be limited by the fact that it would not create rights judicially enforceable in private law suits. See Zhang v. Slattery, 55 F.3d 732 (2nd Cir. 1995) ("there is no private right of action to enforce obligations imposed on executive branch officials by executive orders") (citations omitted); In re Surface Mining Regulation Litig., 627 F.2d 1346, 1357 (D.C. Cir. 1980) (holding that executive orders without specific foundation in Congressional action are not enforceable in private civil suits).

further the implications of issuing extensive regulations by many agencies to implement it. |

Background: Title IX prohibits discrimination based on sex in any education program or activity that receives federal financial assistance. It applies to every federal agency that provides financial assistance to education programs or activities, and requires each of these agencies to promulgate rules, regulations, or orders of general applicability to ensure compliance with the law by its recipients. Nevertheless, only a handful of agencies currently have Title IX regulations or complaint procedures.⁴ Where these are lacking, recipients of federal funds may be unaware of their obligation not to discriminate based on sex, and participants in these federally assisted education programs may be unaware that federal law protects them from sex discrimination. An appropriate executive order could be effective in closing this potential enforcement gap.⁵ ✓

However, because the statute requires that affected agencies develop regulations in order to implement Title IX, the administration cannot step up enforcement by these agencies without first requiring them to develop Title IX regulations. The Department of Justice and we are very concerned that it is not the appropriate time to seek public comment and Congressional review of new Title IX regulations, which could raise concerns about an extensive new regulatory effort. We believe any benefit of closing a potential gap in Title IX enforcement is outweighed by these concerns. }

Option III. Amend the Equity in Athletics Disclosure Act (EADA) to Mandate Disclosure to the Secretary of Education

Recommendation: We do not recommend this option because it is not fully consistent with the EADA statute or with the Department's policies.

⁴ Although we do not have a complete or accurate listing of federally assisted education programs, we believe that the majority of education programs assisted by federal funds fall within the jurisdiction of the Department of Education. Therefore, we do not have reason to believe there is a widespread or significant absence of Title IX enforcement in the absence of regulations or compliance procedures.

⁵ You should be aware that if a recipient also receives federal financial assistance from the Department of Education, enforcement lapses, if any, may be alleviated because the recipient would be subject to the Department's Title IX regulation. 34 C.F.R. Part 106. This regulation requires recipients to execute an assurance of compliance; to designate a person to coordinate its compliance obligations; to adopt grievance procedures to resolve Title IX complaints; and to notify participants in its education program about its nondiscrimination policy and grievance procedures. Many, but not all, recipients subject to Title IX also receives funding from the Department.

Background: The EADA requires colleges and universities annually to provide data on their men's and women's intercollegiate athletic program. The annual reports must be made available to students, parents, and the public upon request. The Department's implementing regulations state that the statute does not require that the information be submitted to the Secretary. Arguably, the regulation could be changed to require mandatory filing of EADA reports with the Department as part of a gender equity initiative. However, we recommend against this proposed initiative for several reasons. First, an athletics initiative would not reflect the Secretary's primary education priority -- to raise academic standards. Second, the Secretary does not believe that it is appropriate to celebrate Title IX by increasing regulatory and paperwork burdens on schools. The existing EADA regulations were drafted to give schools as much flexibility as the statute permitted, and a new regulation mandating disclosure to the Department would be inconsistent with this goal. Such a mandate also is arguably inconsistent with the language of the statute, which requires disclosure only upon request of students, parents, and the public.

We would be pleased to discuss these options at your pleasure.

Attachment

**Memorandum on Gender, Race, and National Origin Discrimination in Federally
Conducted Education Programs and Activities**
June 17, 1997

DRAFT

Memorandum to Heads of Executive Departments and Agencies

Subject: Gender, Race, and National Origin Discrimination in Federally Conducted Education Programs and Activities

I will be issuing an executive order prohibiting gender, race, and national origin discrimination in any education program or activity conducted by the federal government.

It is fitting to announce this initiative, on the eve of the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, as we reflect on the tremendous inroads that we have made against sex discrimination in federally assisted education programs. With the passage of Title IX in 1972 and Title VI of the Civil Rights Act in 1964, Congress made clear that gender, race, and national origin discrimination will not be tolerated in education programs that receive financial assistance from the federal government.

Although a great deal more needs to be done to ensure equal educational opportunities -- recent reports, for instance, show an increase in incidents of hostility and harassment directed at students because of their gender, race, or the language they speak at home -- we can see the benefits of these laws all around us. The passage of Title VI dramatically succeeded in opening access to many education programs to racial and national origin minorities, and significant educational and professional advancement have been achieved. Similarly, Title IX has expanded educational opportunities for girls and women in advanced mathematics and science, nontraditional vocational activities, and athletics.

The federal government has an obligation to lead the Nation's efforts to ensure equal educational opportunity. This has been my goal since the start of this administration. I have appointed more women and minorities to senior administration positions and judicial posts than any administration. I also established the President's Interagency Council on Women, the White House Office of Women's Initiatives and Outreach, the Interagency Council on Women's Business Enterprise, and the Department of Justice's Violence Against Women Office. Similarly, I have established [initiatives for minorities].

Today, I am announcing my intention to go farther towards this goal. I believe it is essential that the federal government hold itself to the same standards of nondiscrimination that we now apply to the educational programs and activities of state and local governments and private institutions that receive federal financial assistance. To this end, I intend to issue an executive order prohibiting discrimination based on gender, race, and national origin in all federally conducted education programs. (Disability-based discrimination in federally conducted programs is already prohibited by the Rehabilitation Act of 1973.) The executive order will protect from discrimination participants in federally conducted education programs. It will not prohibit discrimination against federal employees because laws and regulations already exist

prohibiting such discrimination and providing mechanisms for handling employment discrimination complaints by federal employees.

To implement this initiative, I direct all heads of executive departments and agencies to report the following information to the Attorney General within [60] days of the date of this memorandum:

(1) Identify and describe all education programs or activities conducted by the executive department or agency, including the approximate budget and size of the program. An education program or activity includes any academic, extracurricular, research, occupational training, or other education activity conducted by the federal government. Examples of federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of military personnel here and overseas; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students.

(2) Describe any substantive or procedural issues that might arise under these programs or activities related to prohibiting discrimination based on gender, race, and national origin in the program or activity.

I also direct the Attorney General to review these reports and to provide to me within [120] days of the date of this memorandum a proposed executive order effectively implementing a prohibition against gender, race and national origin discrimination in federally conducted education programs.

DRAFT

Women's Issues -
Title IX

Fraud Breuninger

Draft Title IX Directive

Background

Despite twenty-five years of progress under Title IX of the Education Amendments, we have not yet achieved the goal of gender equity in all levels of schooling. Girls and women confront barriers that impede their access and success in math, science, and other non-traditional fields. Sexual harassment is pervasive in too many schools. Disparities in opportunities to participate in athletics programming is the norm. In short, we have a long way to go before the playing field is indeed level.

Sex discrimination in education not only impedes educational opportunities for girls and women; it deprives the nation of talented individuals, and it prevents us from achieving the best education system in the world. In this connection, the federal government must take the lead in assuring that all education programs and activities receiving federal financial assistance provide equal opportunity to girls and women, making Title IX's promise of gender equity in education a reality.

Because Title IX covers any educational program or activity that receives federal financial assistance, every Executive agency funding such programs has the authority to enforce the statute's mandate. (Yet, only four agencies have Title IX regulations.) Moreover, the persistence of sex discrimination in education indicates that a systemic effort to remove barriers to women and girls is necessary. All Executive agencies must rededicate their Title IX enforcement efforts:

I. Adopt Title IX Regulations. Only four federal agencies have Title IX regulations, despite the fact that every agency that funds education programs or activities has Title IX enforcement authority. All federal agencies lacking Title IX regulations should follow the lead of the Department of Education and adopt the implementing regulation promulgated in 1975, and all policy guidances relating to Title IX.

II. Develop a Title IX Enforcement Plan. Each agency should develop a plan for ensuring that the education programs and activities they fund comply with Title IX. This includes conducting compliance reviews and undertaking enforcement actions focusing on several critical areas:

Access to Math and Science. Gender gaps in testing and participation rates in these areas are small during the elementary school years. But as students progress through the school system, the gaps grow. For example, ...As a result, girls and women are underrepresented in these fields and in related employment opportunities. Federal agencies must take steps to ensure that women and girls have access to and participate in the math and science programs they fund, such as scholarship and fellowship programs.



Access to Non-traditional Occupations. Sex segregation is a fact of life in too many career education programs. For example, in 1992, the National Assessment of Vocational Education showed that men were 72 percent of enrollees in technical education, while women comprised 70 percent of health education enrollees. The School-to-Work Opportunities Act provides one mechanism for ensuring that women and students of color are exposed to careers not traditional for their gender and race in state-developed school-to-work programming, but the federal agencies also must make a systemic effort to ensure that women are not being tracked into training that leads to the low-skill, low-wage jobs of the past.

Sexual Harassment. Studies show that sexual harassment is rampant in schools, with upwards of 80 percent of girls in elementary and secondary schools reporting that they have been impacted by this form of sex discrimination. Sexual harassment is a tremendous barrier to educational opportunities, particularly for girls and women pursuing non-traditional areas, as evidenced by the Mitsubishi case. This year, the Department of Education exercised great leadership in issuing policy guidance regarding sexual harassment. Federal agencies should adopt these guidelines and ensure that the institutions they fund have strong, effective policies designed to prevent harassment in the first instance.

Athletics Participation. We know that participation in sports is critical to girls' and women's health. It also can open doors to educational opportunities. However, the vast majority of educational institutions still do not provide women with their fair share of resources, scholarships, and programming. For example, in 1997, women college athletes received only 25% of athletic operating budgets, 38% of athletic scholarship dollars, and 27% of funds to recruit new athletes. Federal agencies funding such activities must take aggressive measures to ensure that expenditures, participation rates, and scholarship opportunities are made available to women and girls on an equal basis.

Because Title IX means that tax dollars not be used to further sex discrimination, under any circumstances, Federal agencies must examine the education programs or activities they fund to identify and eliminate inequities in these areas, as well as any others.

iii. **Follow-up on Agency Activity.** Finally, federal agencies funding education programs or activities will report on their progress enforcing Title IX to the Department of Justice, through its coordination and review authority, and/or and interagency task force. The DOJ/task force will examine the agency reports and compile an annual report on the Federal government's progress on gender equity to be presented to the White House one year from today. In addition to assessing the progress of the Executive agencies, the report should include recommendations for improving the

government's performance and establish a plan for ongoing efforts to combat sex discrimination in education.

Draft Executive Order

Under and by virtue of the authority vested in me as President of the United States by the Constitution and the statutes of the United States, it is ordered as follows:

Nondiscrimination on the basis of sex in federally conducted education programs or activities

- (1) No person shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity [as defined in 20 U.S.C. Sec. 1687] conducted by any Executive agency [or by the United States Postal Service – mirroring Section 504 language].

Applicability

- (2) This Order applies to all allegations of discrimination on the basis of sex in education programs or activities conducted by the agency, except for complaints of sex discrimination in employment. [a procedure exists already for such complaints. See 29 C.F.R. 1614.]

Compliance

- (3) Each Executive Agency shall use the procedures for compliance with Section 504 of the Rehabilitation Act promulgated by the Department of Justice,¹ 28 C.F.R. 39.170, with the following exception:
 - (a) "Responsible Official" means the Director of Equal Employment Opportunity or his or her designee at each agency;
 - (b) "Complaint Adjudication Officer" means the complaint adjudication officer appointed by the head of the agency's Office for Civil Rights;
 - (c) Complaints may be delivered or mailed to the head of an agency, the Responsible Official, or agency officials;
 - (d) Agencies are not required to notify the Architectural and Transportation Compliance Board that a complaint has been made.

¹ Other federal agencies' enforcement schemes are based largely on the regulations DOJ promulgated in the early 1980's.

Women's Issues -
Title IX



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

DRAFT

OPTIONS MEMORANDUM

To:

From: The Acting Under Secretary/General Counsel
Assistant Secretary for Civil Rights

Subject: Title IX Initiatives

In preparation for the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, you have asked us to examine the feasibility of several potential administrative initiatives to further implement Title IX. Ideally, an initiative(s) would be announced at a White House event commemorating Title IX to be held on June 18, 1997. Below, we discuss our recommendations regarding each proposal.

Option I. Executive Order Requiring Agencies to Enforce Title IX in Federally Assisted Programs

Recommendation: For the following reasons we recommend issuance of an executive order that would step up enforcement of Title IX in federally assisted programs as the best mechanism for commemorating the anniversary of Title IX. At present, administrative enforcement of Title IX is incomplete. A renewed commitment to complete the job set out by Title IX would be a laudatory effort, and would appropriately focus public attention on the original goals of Title IX. We also believe that it is feasible to develop this executive order by June 18th, and we have attached a draft, proposed executive order for your consideration.

Background: Title IX prohibits discrimination based on sex in any education program or activity that receives federal financial assistance. It applies to every federal agency that provides financial assistance to education programs or activities, and requires each of these agencies to promulgate rules, regulations, or orders to ensure compliance with the law by its recipients. However, only a handful of agencies currently have Title IX regulations or complaint procedures. Where these are lacking, recipients of federal funds may be unaware of their obligation not to discriminate based on sex, and participants in these federally assisted education programs may be unaware that federal law protects them from sex discrimination. We believe an appropriate executive order would be effective in closing this enforcement gap.¹

¹ If a recipient also receives federal financial assistance from the Department of Education, enforcement lapses may be alleviated because the recipient would be subject to the Department's Title IX regulation. 34 C.F.R. Part 106. This regulation requires recipients to execute an assurance of compliance; to designate a person to coordinate its compliance obligations; to adopt

Proposed Executive order: The Department's proposed executive order requires every federal agency that is authorized to extend federal financial assistance to education programs or activities to put in place an effective Title IX compliance program. All proposed compliance plans would be submitted to the Attorney General for review.

Under the executive order, federal agencies are directed to obtain assurances of compliance with Title IX from their education program recipients as a condition of approval for federal funds. This puts recipients on notice of their Title IX obligation not to discriminate based on sex. In order that program participants are aware that they are protected from discrimination, the executive order also instructs federal agencies to require their recipients, as a condition of their receipt of federal funds, to develop, and describe how they will publicize, a policy against sex discrimination and grievance procedures to handle Title IX complaints.

Finally, the executive order instructs federal agencies that they must require recipients to inform program participants about how they can file a Title IX complaint with the federal agency. To avoid duplication and ensure efficiency, the executive order informs federal agencies that they can delegate their obligation to investigate Title IX complaints to an agency that has the capacity to enforce Title IX (such as the Department of Education). In the past, the Department of Education did not accept delegations from agencies without Title IX regulations. However, we believe that in the absence of implementing regulations, we have the authority to enforce the Title IX statute, and thus we will accept delegations from other agencies regardless of the status of their Title IX regulations.

The proposed executive order does not require federal agencies to implement their enforcement programs through regulations. Instead, federal agencies could inform recipients of these requirements as part of an application for, or as part of the documentation establishing, a contract or grant of federal financial assistance. This approach would be more expeditious and less burdensome than developing Title IX regulations. We also believe that it is not the appropriate time to seek public comment on new Title IX regulations. You should be aware that some federal agencies may be constrained by their own legislation from implementing these requirements without issuing regulations subject to formal rulemaking. Our understanding, however, is that very few, if any, other federal agencies are restricted in this regard. Thus, we believe the proposed executive order strikes the appropriate balance by significantly closing the gap in Title IX enforcement without creating additional regulatory burdens.

grievance procedures to resolve Title IX complaints; and to notify participants in its education program about its nondiscrimination policy and grievance procedures. However, not every recipient subject to Title IX also receives funding from the Department.

Option II. Executive Order Prohibiting Discrimination Based on Sex in Federally Conducted Programs

Recommendation: We would not recommend this option because we do not believe that it is feasible to address adequately by June 18th the need for and proper scope of such an executive order -- including its application to race and national origin -- as well as a wide range of difficult issues concerning its application.

Background: Title IX protects participants in education programs or activities from sex-based discrimination by recipients of federal funding. Thus, an Executive Order directed at federally conducted programs technically would not further the implementation of Title IX because Congress intended only that Title IX reach federally assisted programs. Instead, the proposed executive order would for the first time protect participants in federally conducted programs from sex-based discrimination by the federal government.

Since an executive order prohibiting sex discrimination in federally conducted programs would not be tied to the Title IX statute, several issues arise: Should the executive order be limited to sex-based discrimination in federally conducted education programs or activities (Title IX is limited to educational programs or activities receiving federal financial assistance) or instead, should it apply to any federally conducted programs? Should the executive order exempt some, or all, of the institutions and activities that Congress exempted from Title IX's reach, such as military institutions and father-son, mother-daughter activities, et cetera? Should the Executive Order be limited to sex-based discrimination, or should it create similar protections to those found in Title VI of the Civil Rights Act of 1964 by prohibiting discrimination based on race or national origin in federally conducted programs?² What would be the administrative enforcement mechanism for the executive order? Finally, would persons aggrieved by violations of the executive order have a right to bring a private law suit against the federal government?

These questions indicate the difficulty of developing this option. As an initial matter, we think it would be extremely problematic to extend the type of protections found in Title IX to participants in federally conducted programs without also similarly extending the protections of Title VI. However, including Title VI in this initiative would diminish the Administration's focus -- appropriate to a celebration of Title IX -- on discrimination against women and girls. It would also arguably raise expectations that the executive order, like Title VI, should apply to all federally conducted programs and activities.

Yet even if the executive order were limited to federally conducted education programs, we do not believe that there is sufficient information about the exact nature of these federal programs

²Disability-based discrimination in federally conducted programs is already prohibited by the Rehabilitation Act of 1975. 29 U.S.C. § 791.

and activities, and about whether, and to what extent, problems of discrimination exist, to determine the appropriate terms of the order. There may be certain activities that appropriately should be exempted. For instance, it is possible that an overly broad prohibition against different treatment based on sex might interfere with certain religious or tribal customs in place at schools run by the Bureau of Indian Affairs, or might interfere with legitimate operational decisions of federal prisons. Also, because we have no information that indicates that sex-based discrimination is a problem in federally conducted programs, an executive order may not be an efficient use of enforcement resources. Finally, without more information about the nature and extent of any discrimination, it would be difficult to determine where enforcement authority should be placed. Unfortunately, there clearly is insufficient time before June 18th for appropriate decision-making on these very complex and sensitive issues.³

Suboption IIA. Executive Order Prohibiting Sex Discrimination in Department of Defense Schools

It is also possible to limit an executive order to prohibiting sex-based discrimination in Department of Defense schools. Based on our preliminary research, it appears that there is no general prohibition against sex discrimination at these schools. This more limited option, however, still raises significant concerns. First, as discussed above, we believe that any executive order affecting sex discrimination in federally conducted programs, would also have to reach discrimination based on race and national origin. Second, this option would not obviate the need, discussed above, to obtain information about the nature of the affected programs and the extent of discrimination in those programs, if any. Accordingly, an executive order would need to be developed by, or at least after detailed discussions with, Department of Defense staff, and the executive order would need to address issues and concerns raised by them. We remain concerned as to whether informed decisions involving the Department of Defense can be made by June 18th.

Option III. Amend the Equity in Athletics Disclosure Act (EADA) to Mandate Disclosure to the Secretary of Education

Recommendation: We do not recommend this option because it is not fully consistent with the EADA statute or with the Department's policies.

Background: The EADA requires colleges and universities annually to provide data on their

³ We are also concerned that the effect of this type of executive order would be limited by the fact that it would not create rights judicially enforceable in private law suits. See Zhang v. Slattery, 55 F.3d 732 (2nd Cir. 1995) ("there is no private right of action to enforce obligations imposed on executive branch officials by executive orders") (citations omitted); In re Surface Mining Regulation Litig., 627 F.2d 1346, 1357 (D.C. Cir. 1980) (holding that executive orders without specific foundation in Congressional action are not enforceable in private civil suits).

men's and women's intercollegiate athletic program. The annual reports must be made available to students, parents, and the public upon request. The Department's implementing regulations state that the statute does not require that the information be submitted to the Secretary. Arguably, the regulation could be changed to require mandatory filing of EADA reports with the Department as part of a gender equity initiative. However, we recommend against this proposed initiative for several reasons. First, an athletics initiative would not reflect the Secretary's primary education priority -- to raise academic standards. Second, the Secretary does not believe that it is appropriate to celebrate Title IX by increasing regulatory and paperwork burdens on schools. The existing EADA regulations were drafted to give schools as much flexibility as the statute permitted, and a new regulation mandating disclosure to the Department would be inconsistent with this goal. Such a mandate also is arguably inconsistent with the language of the statute, which requires disclosure only upon request of students, parents, and the public.

I would be pleased to discuss these options at your pleasure.

DRAFT

Executive Order XXXXXX of June XX, 1997

Enforcement of Civil Rights Protections Against Sex Discrimination in Education Programs

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1682), and in order to provide, under the leadership of the Attorney General, for the consistent and effective enforcement of the statute and regulations prohibiting discriminatory practices based on sex in education programs receiving Federal financial assistance, it is hereby ordered as follows:

Section 1. Each executive department and designated agency that provides Federal financial assistance for education programs under the jurisdiction of Title IX shall appoint a senior official, who is a full-time officer of the Federal Government and who is responsible for management or program administration, to report directly to the department or agency head concerning implementation of this Executive Order and to serve as liaison with the Attorney General concerning implementation of this Executive Order and the enforcement of Title IX in education programs.

Section 2. Each department or agency that provides Federal financial assistance for education programs under the jurisdiction of Title IX shall undertake an effective enforcement program by developing standards and procedures for receiving complaints and conducting investigations under Title IX within 120 days of this Executive Order. Such standards and procedures, thereafter, shall be submitted to the Attorney General for review pursuant to Section 1-202 of Executive Order 12250 of November 2, 1980.

Section 3. The standards and procedures for each department or agency under Section 2, above, shall include provisions requiring that each recipient of funding for an education program or activity, which has not already done so, shall (1) sign an assurance of compliance with Title IX as an initial condition for receipt of Federal financial assistance, (2) furnish beneficiaries of the education program with information concerning their rights under Title IX, (3) conduct a self-evaluation of its policies and practices for compliance with Title IX, (4) modify any of its policies and practices that do not conform with Title IX, and (5) adopt a system for the recipient's resolution of complaints of noncompliance with Title IX by beneficiaries of its education program. ↓

Section 4. The standards and procedures for each department or agency under Section 2, above, also shall include provisions for providing information and technical assistance to recipients of funding for an educational program or activity on their Title IX obligations and for the investigation of complaints received under Title IX, which may include the publication in the Federal Register of a delegation agreement between the department or agency and the Department of Education or other appropriate department or agency for the delegation of

certain civil rights compliance functions. All such delegation agreements shall comply with the requirements issued by the Attorney General under Section 1-207 of Executive Order 12250 and any applicable statutes and regulations and shall be developed in consultation with the Attorney General and the Secretary of Education or other department or agency, or their designees.

Section 5. The Attorney General shall periodically report to the President on the implementation of this Executive Order. These reports shall identify efforts made by departments and agencies to enforce Title IX's mandate prohibiting sex discrimination in Federally assisted education programs. These reports shall also include any advice and appropriate recommendations for improving the effective implementation of Title IX.

Section 6. Nothing in this Order revokes any part of Executive Order 12250.

The White House
June XX, 1997

June 11, 1997

MEMORANDUM FOR DISTRIBUTION

FROM: Jennifer Klein, DPC
Nicole Rabner, DPC

RE: Executive Memorandum on Title IX

Attached please find a working draft of the executive memorandum on Title IX, which announces the President's intention to issue an executive order to prohibit discrimination on the basis of sex, race color and national origin in federally conducted education programs and activities. Please bring your comments and edits to the meeting tomorrow at 9:00 am in Room 211 OEOB (please call Laura Emmett for clearance at 202/456-5565), or call Nicole Rabner today with comments at 202/456-7263.

Distribution:

Elena Kagan, DPC
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Kris Balderston, WH Cabinet Affairs
Judy Miller, DOD
Carolyn Becraft, DOD

6/11/97 DRAFT

June 17, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Prohibition of Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs and Activities

As we commemorate the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, we should recognize the significant progress we have made in increasing educational possibilities for girls and women and recommit ourselves to the goals of this important legislation. Title IX has broken down barriers and expanded opportunities -- opening classroom doors, playing fields, and even the frontiers of space to girls and women across this country.

Since I took office, we have [FILL IN WITH EFFORTS TO IMPROVE EQUALITY IN EDUCATION. EXAMPLES IN FIRST DRAFT WERE NOT RELATED TO EDUCATION.]

Yet more needs to be done. Recent reports indicate an increase in incidents of hostility and harassment directed at students because of their gender, race, or the language they speak at home. [OTHER SPECIFIC EXAMPLES.]

Today, I am announcing an important next step in our fight to reach true equality in education. Currently, Title IX prohibits discrimination based on sex, and Title IV of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any education program or activity that receives Federal financial assistance. However, these laws do not apply to programs or activities that are conducted by the Federal government. I intend to issue an Executive Order prohibiting discrimination in programs or activities *conducted* by the Federal government as well.

I believe it is essential that the Federal government hold itself to the same standards of nondiscrimination in educational opportunities that we now apply to educational programs and activities of state and local governments and private institutions receiving Federal financial assistance. This will build on existing laws and regulations that already prohibit other forms on discrimination in Federally conducted education programs -- including discrimination against people with disabilities (prohibited by the Rehabilitation Act of 1973) and discrimination against Federal employees (prohibited by Title VII).

I therefore direct all heads of executive departments and agencies to, within [30/60] days of the date of this memorandum, report to the Attorney General:

- (1) identifying and describing education programs or activities conducted by the

executive department or agency (including the approximate budget and size of the program). An education program or activity includes any academic, extracurricular, research, occupational training, or other education activity conducted by the Federal government. [OKAY TO INCLUDE EXAMPLES?] Examples of Federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of military personnel here and overseas; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students.

[DO WE NEED THIS PARAGRAPH OR CAN WE REPLACE IT WITH A CLAUSE IN PARAGRAPH 1 LIKE -- WHERE APPLICATION OF THESE REMEDIAL EFFORTS WOULD BE APPROPRIATE? (2) describing any substantive or procedural issues that might arise under these programs or activities related to prohibiting discrimination based on gender, race, color and national origin in the program or activity.]

I further direct the Attorney General to review these reports and to provide to me within [60/120] days of the date of this memorandum a proposed Executive Order effectively implementing a prohibition against sex, race, color, and national origin discrimination in Federally conducted education programs.

Women's Issues - Title IX

Memorandum on Gender, Race, and National Origin Discrimination in Federally Conducted Education Programs and Activities

June 17, 1997

*Memorandum to Heads of Executive Departments and Agencies***Subject: Gender, Race, and National Origin Discrimination in Federally Conducted Education Programs and Activities**

I will be issuing an executive order prohibiting gender, race, and national origin discrimination in any education program or activity conducted by the federal government.

It is fitting to announce this initiative, on the eve of the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, as we reflect on the tremendous inroads that we have made against sex discrimination in federally assisted education programs. With the passage of Title IX in 1972 and Title VI of the Civil Rights Act in 1964, Congress made clear that gender, race, and national origin discrimination will not be tolerated in education programs that receive financial assistance from the federal government.

Although a great deal more needs to be done to ensure equal educational opportunities -- recent reports, for instance, show an increase in incidents of hostility and harassment directed at students because of their gender, race, or the language they speak at home -- we can see the benefits of these laws all around us. The passage of Title VI dramatically succeeded in opening access to many education programs to racial and national origin minorities, and significant educational and professional advancement have been achieved. Similarly, Title IX has expanded educational opportunities for girls and women in advanced mathematics and science, nontraditional vocational activities, and athletics.

The federal government has an obligation to lead the Nation's efforts to ensure equal educational opportunity. This has been my goal since the start of this administration. I have appointed more women and minorities to senior administration positions and judicial posts than any administration. I also established the President's Interagency Council on Women, the White House Office of Women's Initiatives and Outreach, the Interagency Council on Women's Business Enterprise, and the Department of Justice's Violence Against Women Office. Similarly, I have established [initiatives for minorities].

Today, I am announcing my intention to go farther towards this goal. I believe it is essential that the federal government hold itself to the same standards of nondiscrimination that we now apply to the educational programs and activities of state and local governments and private institutions that receive federal financial assistance. To this end, I intend to issue an executive order prohibiting discrimination based on gender, race, and national origin in all federally conducted education programs. (Disability-based discrimination in federally conducted programs is already prohibited by the Rehabilitation Act of 1973.) The executive order will protect from discrimination participants in federally conducted education programs. It will not prohibit discrimination against federal employees because laws and regulations already exist

prohibiting such discrimination and providing mechanisms for handling employment discrimination complaints by federal employees.

To implement this initiative, I direct all heads of executive departments and agencies to report the following information to the Attorney General within [60] days of the date of this memorandum:

(1) Identify and describe all education programs or activities conducted by the executive department or agency, including the approximate budget and size of the program. An education program or activity includes any academic, extracurricular, research, occupational training, or other education activity conducted by the federal government. Examples of federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of military personnel here and overseas; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students.

(2) Describe any substantive or procedural issues that might arise under these programs or activities related to prohibiting discrimination based on gender, race, and national origin in the program or activity.

I also direct the Attorney General to review these reports and to provide to me within [120] days of the date of this memorandum a proposed executive order effectively implementing a prohibition against gender, race and national origin discrimination in federally conducted education programs.

TO: Melanne Verveer
Elena Kagan
FROM: Jennifer Klein *J.K.*
DATE: 6/5/97
RE: Title IX Meeting

Attached please find the memo prepared by the Department of Education on the policy options we are considering for the Title IX anniversary. I have not distributed it because it has not yet been cleared by the Department, but I thought it would be helpful to you for this afternoon's meeting.

As you can see, the Department does not recommend issuing an Executive Order prohibiting discrimination in federally conducted education programs on the basis of sex. They are concerned that: (1) we will not know before June 17 (the date of the event) which programs will be affected; and (2) we should not issue an order on sex discrimination but not on discrimination based on race and national origin. As Elena and I discussed, I have raised the possibility of doing an Executive Order directing federal agencies to compile a list of programs that would be covered unless there were a persuasive reason not to include them. We should discuss this, as well as their second concern, further at the meeting.



AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN

NANCY ZIRKIN
GOVERNMENT RELATIONS DIRECTOR

*Women's Issues -
Title IX*

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EXECUTIVE SUMMARY

TITLE IX AT 25

REPORT CARD ON GENDER EQUITY

| SUBJECT | FIRST 25 YEARS |
|--|-----------------------|
| Access to Higher Education | <i>B-</i> |
| Athletics | <i>C</i> |
| Career Education | <i>C</i> |
| Employment | <i>C-</i> |
| Learning Environment | <i>C-</i> |
| Math and Science | <i>C+</i> |
| Sexual Harassment | <i>D+</i> |
| Standardized Testing | <i>C</i> |
| Treatment of Pregnant and Parenting Students | <i>C+</i> |

A Report of the National Coalition for Women and Girls in Education

June 23, 1997 CLINTON LIBRARY PHOTOCOPY

B-

Title IX has provided women with much greater access to colleges and universities. Yet barriers persist, including sex segregation and disparities in scholarship awards.

Before Title IX

- ☞ Many colleges and universities set quotas limiting women's admission and subjected women to tougher admissions criteria.
- ☞ Female applicants to doctoral programs often had to explain how they would combine a career with family
- ☞ Schools gave preference to men in the award of scholarships, fellowships, and loans.

Progress to Date

- ☞ Many financial aid programs have been modified to facilitate women's access to higher education.
- ☞ Women earn more than half of the associate's, bachelor's, and master's degrees, but still lag behind men at the doctoral level, earning just 39 percent of doctoral degrees.
- ☞ Women are still underrepresented in math and science, fields that have been hostile to women.

Improvement Needed

- ☞ Congress should amend the new welfare law to allow women to pursue postsecondary education by allowing college study and work study to count toward a welfare recipient's work requirement.
- ☞ Educational institutions should develop programs and support systems to encourage women to enter and stick with math and science fields.

ATHLETICS

C

Given that women and girls were virtually closed out of school sports before Title IX, significant progress has been made. Yet females still have substantially fewer opportunities and incentives to participate in sports.

Before Title IX

- ☞ Girls were just 1 percent of all high school athletes. Fewer than 32,000 women competed in intercollegiate athletics.
- ☞ Athletic scholarships for women were virtually nonexistent.
- ☞ Athletic opportunities for female students frequently were limited to cheerleading.
- ☞ Female college athletes received only 2 percent of overall athletic budgets.

Progress to Date

- ☞ Girls account for 40 percent of all high school athletes. Women are 37 percent of all college varsity athletes.
- ☞ Female athletes receive only 23 percent of athletic scholarship dollars, 38 percent of athletic scholarship dollars, and 27 percent of athletic recruiting dollars.
- ☞ The number of women coaches in college athletics has decreased, down to 48 percent from 90 percent in the 1970s.

Improvement Needed

- ☞ The U.S. Department of Education's Office for Civil Rights (OCR) should step up its enforcement in this area.
- ☞ Congress should require federally funded institutions to publicly disclose information regarding athletic equity.
- ☞ The NCAA should push institutional members to comply with Title IX.

CAREER EDUCATION

C

Title IX has opened opportunities for women and girls to receive training in non-traditional careers, an area clearly off limits before 1972. But not all doors are yet open.

Before Title IX

- ☞ High schools typically segregated vocational education classes by sex: girls took home economics, boys took shop.
- ☞ At the postsecondary level, women trained for low-wage, traditionally female jobs in health and cosmetology; men trained for jobs in trade and industry and technical occupations.
- ☞ Certain vocational schools, such as automotive and aviation schools, were reserved for men.

Progress to Date

- ☞ Men remain clustered in high-skill, high-wage job tracks, while women predominate in low-wage, traditionally female tracks, even in new School-to-Work programs.
- ☞ Congress is poised to repeal state requirements that successfully have helped women, particularly displaced homemakers and single parents, gain access to non-traditional occupations.

Improvement Needed

- ☞ Congress should reject proposals to eliminate sex equity programs.
- ☞ OCR should enforce Title IX's requirements in School-to-Work and vocational education, targeting gender-based and sexual harassment that discourage women from entering non-traditional occupations.

C-

After 25 years of Title IX and a Supreme Court decision declaring that Title IX prohibits sex discrimination in employment in educational institutions, women have made progress, but there is still room for improvement. One pattern remains especially evident: Women's numbers tend to decrease as their rank in the career ladder or the prestige of the educational institution increases.

Before Title IX

- ☞ Women lacked tenure in colleges and universities, particularly in elite institutions.
- ☞ Women were promoted at slower rates and received smaller salaries than their male counterparts.
- ☞ Women had little access to high-level administrative positions and few opportunities to head colleges and universities, even women's institutions.

Progress to Date

- ☞ Women on college and university faculties have increased from 18 percent to nearly 30 percent; however, women earn closer to 40 percent of all doctoral degrees.
- ☞ Women are 73 percent of elementary and secondary school teachers, but only 35 percent of principals.
- ☞ Women generally remain in the lower faculty ranks at all levels.
- ☞ Pay inequities between males and females persist at all levels.
- ☞ Women head more than 450 educational institutions, leading just 13 percent of all such institutions.

Improvement Needed

- ☞ OCR should target employment discrimination in its enforcement.
- ☞ Schools should monitor and train search committees so that they understand and can address the barriers to hiring women, and ensure that men and women at all ranks and within all units are treated equitably.

LEARNING ENVIRONMENT

C-

Title IX outlaws policies and practices that discriminate on the basis of sex. But since its passage, research has shown that more subtle forms of discrimination generally outside Title IX's scope also affect girls' ability to learn. This discrimination can contribute to a classroom climate that is chilly or even shattering for females.

Before Title IX

- ☞ Female and male students were treated differently—for example, girls' math problems dealt with recipes, while boys' math problems dealt with high finance.
- ☞ Girls and women were virtually invisible in the curriculum.
- ☞ Education and textbooks reinforced stereotypes about male and female students and people of color, setting the stage for disparate expectations for students.

Progress to Date

- ☞ Many educators have integrated strategies that enhance treatment for all students.
- ☞ Some text selection committees analyze books for gender, as well as race, ethnicity, and class bias.
- ☞ Still, female students typically get less attention, encouragement, praise, and criticism than male students.

Improvement Needed

- ☞ Congress should reinstate federal efforts to provide schools with materials and strategies to improve the classroom climate.
- ☞ Educators should continue receiving training to overcome bias and discriminatory practices in classrooms.

MATH AND SCIENCE

C+

Title IX removed many barriers to women and girls in the non-traditional fields of math and science, areas critical to success in an increasingly technological world. But disparities based on gender still exist in achievement and participation rates in these disciplines. And college-level science and math departments are often hostile environments for women, which discourages their participation.

Before Title IX

- ☞ Some schools steered girls away from math and science classes, even excluding girls from math and science clubs altogether.
- ☞ Boys outnumbered and outperformed girls in math and science.

Progress to Date

- ☞ Girls' participation rates in elementary and secondary school have increased, but drop as women advance in higher education.
- ☞ Although girls' achievement is approaching that of boys, a gender gap persists, which increases with the grade level.
- ☞ Large gender gaps persist in performance on high-stakes tests such as the math SAT, although that gap has decreased from 44 to 35 points.

Improvement Needed

- ☞ OCR and other federal agencies should identify and address the factors causing women's participation rates in math and science to decline in higher education.
- ☞ Educators should ensure that girls are active participants in math and science classes and encourage them to pursue related careers.

D+

Sexual harassment is widespread, affecting female students in elementary through post-graduate schools. Although sexual harassment is a significant barrier to education, many institutions lack or fail to enforce policies to combat this form of sex discrimination. As a result, sexual harassment too frequently causes female students to avoid certain areas in their school or particular classes, even discouraging them from attending their educational institutions altogether.

Before Title IX

- Without a law prohibiting sex discrimination in education, there was no legal protection against sexual harassment in this context.

Progress Report

- Sexual harassment in school is pervasive. Studies show that 81 percent of 8th through 11th graders, 30 percent of undergraduates, and 40 percent of graduate students have experienced sexual harassment.
- Research has shown that sexual harassment causes female students to lose interest in school and diminishes their academic performance.
- Few schools have or effectively enforce sexual harassment policies, failing to address even the most severe forms of sexual harassment.

Improvement Needed

- OCR should increase enforcement in this area, including conducting targeted compliance reviews.
- Schools should adopt and enforce strong, comprehensive sexual harassment policies.
- Educators should incorporate teaching methods to address and eliminate sexual harassment in the classroom.

STANDARDIZED TESTING

C

Standardized tests have long played a major role in allocating educational opportunities to our nation's students—opportunities that, in turn, provide the gateway to success in competitive job markets and the key to economic security. But for female students, these tests frequently have been a gatekeeper, barring access to progress.

Before Title IX

- Scoring gaps existed in a wide variety of tests, including vocational and college admissions exams.
- Institutions relied on these standardized tests, despite questions about their predictive capability, which had a harmful impact on educational and economic opportunities for women and girls as well as students of color.

Progress Report

- Some schools and awards no longer rely so heavily on applicants' scores.
- Significant gender gaps persist in performance on high-stakes standardized tests used for admissions and scholarships.
- These gaps continue to affect educational benefits available to girls and women, such as scholarships and academic programming.

Improvement Needed

- The Department of Education should vigorously examine proposed instruments for national testing of fourth and eighth graders to ensure their validity.
- Educational institutions should rely on a combination of standardized tests and other measures such as grades to evaluate students' academic potential.

TREATMENT OF PREGNANT AND PARENTING STUDENTS

C+

Teen pregnancy generally marked the end of a student's educational career. Legal protections established by Title IX changed this, but more work is needed to ensure that pregnant and parenting students can get the education so necessary to support their families.

Before Title IX

- Pregnant students were often expelled from school and not welcomed back after they gave birth.
- Separate programs for pregnant girls and teen mothers often focused on non-academic curriculum.

Progress Report

- Most schools have eliminated explicit policies expelling pregnant students or requiring them to attend separate programs.
- Many guidance counselors steer pregnant students to separate, less rigorous schools.
- Some schools deny pregnant students the opportunity to make up missed classes, or otherwise take steps designed to make school attendance more difficult.

Improvement Needed

- OCR should target enforcement efforts on subtle forms of discrimination against pregnant and parenting students.
- The Department of Education should inform the public, educators, and parents of the rights of pregnant and parenting students under Title IX.
- Educators should ensure that pregnant and parenting students are allowed full access to the curriculum.

TITLE IX AT 25

REPORT CARD ON GENDER EQUITY

Surveying the educational landscape confronting women and girls more than two decades ago, former Representative Edith Green concluded:

“Our educational institutions have proven to be no bastions of democracy.”

She was right. From separate entrances for male and female students and quotas restricting women’s access to medical school, to prohibitions against female students taking courses such as auto mechanics or criminal justice, sex discrimination in education was a fact of life.

But a new day was ahead, thanks to leaders such as Green and former Senator Birch Bayh.

They sponsored, and in 1972 Congress enacted, Title IX of the Education Amendments, the federal mandate against sex discrimination in education. Congress used the broadest terms possible to signal loudly and clearly that gender no longer could dictate educational opportunities. Twenty-five years later, there is no question that Title IX has opened doors previously closed to women and girls. But is that the end of the story?

The *Report Card* by the National Coalition for Women and Girls in Education (NCWGE) celebrates the progress thus far. And it recognizes how far the nation has to go to achieve gender equity in education.

The *Report Card* examines critical areas—such as access to higher education, learning environment, math and science, and sexual harassment—and grades the nation’s efforts to implement Title IX based on such indicators as women’s participation rates, enforcement actions by the federal government, and legal developments.

The grading scale is as follows:

- A - Equitable: Gender and other areas of diversity respected and affirmed.
- B - Substantial Progress: Elimination of most gender-based barriers.
- C - Some Progress: Some barriers addressed, but more improvement necessary.
- D - Little Progress: Significant gender-based barriers remain.
- F - Failure: No progress in 25 years.

With just a C average, the nation has a lot of work to do before Title IX’s goal of eliminating sex discrimination in education is a reality. The *Report Card’s* Action Agenda provides policymakers and educators with a blueprint for tackling the persistent barriers to make the grade for gender equity in the next 25 years and beyond.

“No person in the United States 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 of the Education Amendments of 1972
20 U.S.C. Section 1681

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The Coalition for Women and Girls in Education (NCWGE) represents more than 50 diverse national organizations committed to improving educational opportunities and equality for women and girls in all aspects of education. NCWGE member organizations include:

Academy for Educational Development
American Association for the Advancement of Science
American Association of School Administrators
American Association of University Professors
American Association of University Women
American Civil Liberties Union
American Council on Education
American Educational Research Association
American Federation of Teachers
American Psychological Association
Association for Women in Science
Association of Junior Leagues
Association of Teacher Educators
Business & Professional Women/USA
Center for Advancement of Public Policy
Center for Women's Policy Studies
Council of Chief State School Officers
FairTest
Federation of Organizations for Professional Women
Feminist Majority Foundation
Gaiser Middle School
Gallaudet University
Girl Scouts of the USA
Girls Incorporated
Ms. Foundation for Women
Myra Sadker Advocates for Gender Equity
National Alliance for Partnerships in Equity
National Alliance of Vietnamese American Service Agencies
National Association for Girls & Women in Sports
National Association for Women in Education
National Association of Collegiate Women Athletic Administrators
National Coalition for Sex Equity in Education
National Commission of Working Women
National Council of Administrative Women in Education
National Council of Negro Women
National Education Association
National Organization for Women
National Organization for Women, Legal Defense and Education Fund
National Women's History Project
National Women's Law Center
National Women's Political Caucus
Parent and Teacher Association
Trial Lawyers for Public Justice, P.C.
U.S. Student Association
United Church of Christ Board for Homeland Ministries
WAVE, Inc.
Women and Foundations, Corporate Philanthropy
Women's Bureau
Women's Legal Defense Fund
Women's Research & Education Institute
Women's Sports Foundation
Women Work!

Verna Williams, Chair
National Coalition for Women and Girls in Education
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TITLE IX AT 25

REPORT CARD ON GENDER EQUITY

| SUBJECT | FIRST 25 YEARS |
|--|-----------------------|
| Access to Higher Education | <i>B-</i> |
| Athletics | <i>C</i> |
| Career Education | <i>C</i> |
| Employment | <i>C-</i> |
| Learning Environment | <i>C-</i> |
| Math and Science | <i>C+</i> |
| Sexual Harassment | <i>D+</i> |
| Standardized Testing | <i>C</i> |
| Treatment of Pregnant and Parenting Students | <i>C+</i> |

A Report of the National Coalition for Women and Girls in Education

June 23, 1997

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The National Coalition for Women and Girls in Education (NCWGE) is a nonprofit organization of more than 50 organizations dedicated to improving educational opportunities and equality for women. Established in 1975, the Coalition has been a major force in developing national education policies that benefit women and girls of all racial and ethnic groups, as well as women and girls with disabilities.

NCWGE thanks the following members for their commitment and the extensive time they contributed to complete the *Report Card*:

Judy Appelbaum, National Women's Law Center
Stephanie Bergman, National Women's Law Center
Deborah Brake, National Women's Law Center
Cindy Brown, American Association of University Women
Sharon Jenkins, National Women's Law Center
Gabrielle Cassell Lange, American Association of University Women
Phyllis Lerner, National Women's History Project
Jill Miller, Women Work!
Bernice Sandler, National Association for Women in Education
Verna Williams, National Women's Law Center
Nancy Zirkin, American Association of University Women

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Cindy Brown, American Association of University Women
Jocelyn Frye, Women's Legal Defense Fund
Sandra Johnson, National Council of Administrative Women in Education
Adele Kimmel, Trial Lawyers for Public Justice
Phyllis Lerner, National Women's History Project
Bernice Sandler, National Association for Women in Education
Jennifer Tucker, Center for Women Policy Studies

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CLINTON LIBRARY PHOTOCOPY

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INTRODUCTION

One of the great failings of the American educational system is the continuation of corrosive and unjustified discrimination against women. It is clear to me that sex discrimination reaches into all facets of education—admission, scholarship programs, faculty hiring and promotion, professional staffing, and pay scales. ... The only antidote is a comprehensive amendment such as the one now before the Senate.

With these words, 25 years ago former Senator Birch Bayh introduced a measure designed to end the myriad discriminatory practices confronting women and girls in educational institutions. This provision, enacted as Title IX of the Education Amendments of 1972, is the federal mandate against sex discrimination in education.

Using the broadest terms possible, Congress intended to assure that girls and women no longer would be constrained by “corrosive and unjustified” gender bias in education, signaling loudly and clearly that the days when gender dictated educational opportunities in schools, colleges, or universities receiving taxpayer dollars were over.

As we celebrate the 25th anniversary of Title IX’s enactment, it is fitting to assess the nation’s progress towards Congress’s goal of ending sex discrimination in education. From today’s vantage point, there is no question that Title IX has had a significant impact on women and girls.

Indeed, a glimpse into the pre-Title IX era is instructive. Before Title IX, schools, from elementary through postsecondary levels, limited the participation of girls and women in opportunities both large and small. Many colleges and professional schools

Title IX of the Education Amendments

No person in the United States 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.

20 U.S.C. Section 1681

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had quotas limiting the number of women that could attend. Athletics programming for girls generally consisted of cheerleading. With the exception of historically black colleges and universities, virtually no college offered women athletic scholarships. Many high schools prohibited boys from taking home economics; girls could not take auto mechanics. Female elementary and secondary school teachers frequently had to leave their jobs when they married or became pregnant. Pregnant and parenting students frequently were not allowed to attend school at all. Some schools even forbade girls from serving on the safety patrol. In short, as former Representative Edith Green, Title IX's sponsor in the House, noted, "Our educational institutions have proven to be no bastions of democracy."

Title IX was intended to be a "strong and comprehensive" measure that would tackle all those forms of discrimination, and more. Lawmakers intended Title IX to address every aspect of education—from admissions and tracking to glass ceilings that kept women from reaching the highest ranks of academia. In so doing, Title IX was intended

not only to open the doors to educational opportunities formerly closed to women and girls, but also to provide avenues for enhancing their economic futures. Title IX was the nation's promise for ensuring that the talents of half its citizens—women—no longer would be constricted by discrimination.

Twenty-five years later, educational opportunities for girls and women have increased, thanks to Title IX, but there is room for improvement. As the following progress reports make clear, Title IX has helped women and girls make strides in gaining access to higher education, athletics programming, and other areas, such as science and engineering. But many barriers remain.

No Girls Allowed

Some barriers to education for women and girls before Title IX:

- **Many schools and universities had separate entrances for male and female students.**
- **Female students were not allowed to take certain courses, such as auto mechanics or criminal justice.**
- **Some high school and college marching bands would not allow women to play.**
- **Most medical and law schools limited the number of women admitted to 15 or fewer per school.**
- **Many colleges and universities required women to have higher test scores and better grades than male applicants to gain admission.**
- **Women living on campus were not allowed to stay out past midnight.**
- **Women faculty members were excluded from the faculty club and encouraged to join the faculty wives club instead.**

Too many girls and women still confront “No Trespassing” signs throughout educational institutions. Women remain underrepresented in critical areas such as math and science. Colleges and universities continue to give short shrift to women’s athletics, spending the lion’s share of money on men’s programming. Scoring gaps persist in standardized testing, limiting women’s access to educational institutions, financial aid, and careers. Non-traditional job training programs leading to high-skill, high-wage jobs are still hostile places for women, where they confront the most severe forms of harassment. Few women, particularly women of color, have broken the glass ceiling that keeps the top ranks of positions in colleges and universities primarily the preserve of men. Sexual harassment, which was not even defined as a legal concept in 1972, now has been identified as a barrier to students at every level of education. We owe it to our daughters to improve our performance on Title IX by removing these obstacles.

The progress reports that follow examine these persistent obstacles through the prism of 25 years of Title IX and assess how far we’ve actually come in making Congress’s goal a reality—and how far we as a nation have yet to go.

Room for Improvement

True gender equity remains elusive, despite 25 years of Title IX. For example:

- **Less than 20 percent of full professors in colleges and universities are women.**
- **Women’s college athletics programs receive on average 25 percent of the athletics budget.**
- **The number of women coaches in colleges and universities has decreased over the past 25 years—from coaching 90 percent of women’s teams to coaching only 48 percent today.**
- **Sex segregation persists in career education, including School-to-Work. Seventy percent of women in vocational education study the health professions; in contrast, 77 percent of men study trade and industry.**
- **Sexual harassment is pervasive in schools—81 percent of students surveyed have experienced some form of it.**

PROGRESS REPORTS

The NCWGE *Report Card* examines the state of gender equity in education in nine key areas: access to higher education, athletics, career education, employment, learning environment, math and science, sexual harassment, standardized testing, and treatment of pregnant and parenting students.

The progress reports grade the nation's efforts to implement Title IX, based on a variety of indicators, such as women's participation rates, enforcement actions by the federal government, and legal developments. Based on these indicators, the progress reports assess how far the nation has come in realizing Title IX's goal of eliminating sex discrimination in education. The grading scale is as follows:

- A - Equitable: Gender and other areas of diversity respected and affirmed.
- B - Substantial Progress: Elimination of most gender-based barriers.
- C - Some Progress: Some barriers addressed, but more improvement necessary.
- D - Little Progress: Significant gender-based barriers remain.
- F - Failure: No progress in 25 years.

So, how did the nation fare? As the chart to the right indicates, the nation has made some progress, but there is much room for improvement. The Action Agenda that accompanies this *Report Card* provides concrete suggestions about how the nation can make the grade for gender equity in the next 25 years and beyond.

| Progress Toward Gender Equity | |
|---|-----------|
| Subject | Grade |
| Access to Higher Education | <i>B-</i> |
| Athletics | <i>C</i> |
| Career Education | <i>C</i> |
| Employment | <i>C-</i> |
| Learning Environment | <i>C-</i> |
| Math and Science | <i>C+</i> |
| Sexual Harassment | <i>D+</i> |
| Standardized Testing | <i>C</i> |
| Treatment of Pregnant and Parenting Teens | <i>C+</i> |

Access to Higher Education

B-

Title IX has made great inroads in higher education, providing women with much greater access to our nation's colleges and universities, which is as critical to their economic well-being and success today as it was in 1972 when Congress enacted the statute. Title IX has helped reduce sex discrimination, most notably in admissions standards, to the benefit of women and men alike. But other barriers to higher education persist, including sex segregation and disparities in financial aid awards, among others.

Admissions. Up until the 1970s, a great many of the nation's colleges and universities—private and public—simply excluded women outright. Institutions that admitted women welcomed them with a maze of obstacles including quotas, requirements to live in limited on-campus housing, and tougher admissions criteria. Other colleges and universities strictly scrutinized whether women applicants were serious about pursuing a degree, based on their assumptions that women were most interested in marriage and children. In college interviews, women applicants to doctoral programs often had to explain how they would combine a career with a family. Admissions policies too frequently were guided by traditional attitudes about the “proper” place of women and the widespread belief that women would drop out of school to take their “rightful” place in the home. As a result, many colleges and universities limited women's entry to ensure that only the most “committed” students—men—would have access to educational opportunities.

Twenty-five years later, most such overt practices have been eliminated throughout higher education. Women have walked through these newly opened doors of opportunity in ever increasing numbers across the board:

Title IX Snapshot

- **Harvard University, which opened its doors in 1636, did not admit women until 1943.**
- **The University of Virginia excluded women until 1970.**
- **The University of North Carolina limited the number of women by requiring them to live on campus, where there was little housing. Men, in contrast, could live anywhere they wanted.**
- **Women seeking admission to the New York State College of Agriculture in the early 1970s needed SAT scores 30 to 40 points higher than men.**

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| Percentage of Degrees Awarded to Women | | |
|---|----------------|--------------------------------|
| Degree | 1971-72 | 1996-97 (Projected) |
| Associate of Arts | 45 | 60 |
| Bachelor of Arts | 44 | 56 |
| Master of Arts | 41 | 51 |
| Ph.D. | 16 | 39 |
| First Professional | 6 | 40 |

Women clearly have made gains in achieving access to higher education, as these figures demonstrate. However, women still lag behind their male counterparts in earning doctoral and professional degrees, which is especially striking in light of the number of women receiving bachelor's degrees.

Financial Aid. Twenty-five years ago, just as today, financial aid meant the difference between pursuing higher education and abandoning that dream. Prior to Title IX, many colleges and universities kept women from receiving this critical assistance by:

- restricting the most prestigious scholarships, such as the Rhodes Scholarship, to men;
- giving preference to men in the award of other scholarships, fellowships, and loans;
- withholding financial aid from women who were married, pregnant, or parenting, or from part-time students, who were more likely to be women;
- failing to allow for child care expenses; or
- tracking women into low paying work-study jobs.

Title IX meant an end to many policies and practices denying women financial aid. Over the past 25 years, financial aid programs have been modified to facilitate women's access into higher education, recognizing that many women must support not only themselves, but also their families, as they pursue degrees. Women make up almost 60 percent of part-time students and 58 percent of students over 24. Women who attend a postsecondary institution also are twice as likely as men to have dependents, and three times as likely to be single parents. To make higher education more accessible to these students, Congress enacted several key provisions in the 1986 reauthorization of the Higher Education Act. For example, Pell Grants and campus-based aid are now awarded to part-time students as well as full-time students. In addition, Pell Grants include an allowance for child care expenses as part of calculating the cost of attendance. Moreover, all students are allowed to waive the value of their home in the calculation of expected family contribution to determine eligibility for financial aid.

However, despite these advances, disparities still exist in the distribution of financial aid. For example, according to a 1997 study by the National Collegiate Athletic Association (NCAA), women athletes receive only 38 percent of scholarship dollars: for that year, men received a whopping \$1.5 million in athletics scholarships, compared to just \$634,689 for women. In addition, although Title IX allows educational institutions

to take affirmative steps to remedy past discrimination, it also allows colleges and universities to exclude women from certain scholarships that have no remedial purpose whatsoever. Title IX's implementing regulation permits schools to administer scholarships created under a will, bequest, or other legal instrument that is sex specific: for example, scholarships exist for male engineering students who are members of the Sigma Chi Fraternity, men from New Jersey, or men who attended certain high schools. Unlike many scholarships targeting women and people of color, these scholarships do not remedy past discrimination; in fact, they help men gain access to fields in which they already are well represented.

Sex Segregation in Courses. Even though growing numbers of women receive degrees in all levels of postsecondary education, they continue to be underrepresented in non-traditional fields that lead to greater earning power upon graduation. Women continue to be clustered in areas traditional for their gender. Data from 1992-1993, for example, show that women received 77 percent of the undergraduate education degrees, 73 percent of psychology degrees, and 66 percent of English degrees. In contrast, women earned only 26 percent of undergraduate degrees in computer and information sciences, 18 percent of the physics degrees, and fewer than 15 percent of all undergraduate engineering degrees. This pattern of sex segregation directly limits women's earning power upon graduation because careers in math and the sciences frequently result in higher pay. For example, in 1996 engineers had median weekly earnings of \$949; in contrast, elementary school teachers' median weekly earnings that year were \$662, about 30 percent less.

Sex segregation is even more acute among women pursuing doctoral degrees, where they already are underrepresented. For the academic year 1993-94, women received 22 percent of all mathematics doctorate degrees, 15 percent of doctorates awarded in computers and information sciences, 12 percent of physics doctorate degrees, and only 11 percent of all doctorates awarded in engineering. Women earned doctorates

Room for Improvement

- **Women still lag behind men in earning doctoral and professional degrees.**
- **Disparities regarding athletics scholarships persist.**
- **Some scholarships still are reserved for men.**
- **Women are underrepresented in math and science, due, in large part, to the hostile environment many confront in these areas.**
- **Educational institutions are moving to dismantle affirmative action programs that have increased access to women and students of color.**
- **Low-income women have lost an avenue to higher education because of the new welfare law.**

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in areas traditional for their gender, earning 61 percent of all psychology doctoral degrees, 60 percent of foreign language doctoral degrees, and 59 percent of education doctoral degrees. Women's underrepresentation in math and science-related fields affects more than their earning potential. It also limits the numbers of women university professors in these fields, who, in turn could encourage more young women to enter math and science programs.

The hostile environment many women encounter in the sciences, mathematics, and engineering no doubt plays a great role in women's underrepresentation in these fields. Research has shown that women pursuing math and science in higher education face outright hostility in too many instances:

- deliberate sabotaging of female students' experiments;
- constant comments that women do not belong in certain departments or schools;
- interspersing slide presentations with pictures of nude women, purportedly to "liven up" the classroom; or
- sexual harassment in laboratory or field work, causing women to avoid these settings altogether.

Less blatant forms of sexism also are commonplace and make the environment equally unpleasant. For example:

- Male faculty may be reluctant to work with women because they question their competence.
- Male students may exclude women from study groups and project teams.
- Male students who do work with women may try to dominate projects.
- Many faculty refuse to incorporate the work of women in math and science in the curriculum, reinforcing women's invisibility in these areas.

The "chilly" climate for women, coupled with the small number of female faculty in math, sciences, and engineering, effectively limit women's access to these fields and, in so doing, close off important career alternatives for women.

Limiting Access in the Future. Recent policy developments threaten women's access to higher education, signaling a retrenchment of the progress made through 25 years of Title IX. For example, in 1996, the Congress and President Clinton approved a new welfare law that prohibits women receiving public assistance from attending a post-secondary institution as a means of meeting their work requirement. Prior to this law, states had the discretion to allow welfare recipients to attend a two-year or four-year college. These women are now denied a path that could lead to self-sufficiency.

In addition, recent assaults on affirmative action could mean the end of programs that have helped women redress past sex discrimination and enhanced their educational

opportunities, particularly in areas where they have been and continue to be underrepresented, such as math and science. The 1996 passage of California Proposition 209 and the *Hopwood v. State of Texas* decision may give impetus to colleges and universities, in many cases unnecessarily, to dismantle the current policies and impede access to higher education for women and people of color.

Grade: *B-*

Recommendations:

- The U.S. Department of Education should submit an annual report to Congress detailing disbursement of financial aid, loans and grants, and awards in higher education disaggregated by race and gender. The Department also should provide recommendations for addressing disparities in financial aid distribution.
- The Department of Education and other federal agencies funding higher education programs should target Title IX enforcement to address discriminatory practices that discourage women from pursuing math and science majors.
- Educational institutions should provide opportunities to encourage women to enter math and science fields of study and develop programs designed to increase women's retention in these areas.
- Congress should amend the welfare law to allow women on welfare the opportunity to pursue postsecondary education and to allow college study and work study to count toward a welfare recipient's work requirement.
- The Department of Education should clarify legally acceptable forms of affirmative action in education for women and people of color and encourage their use.
- Congress should restore funding to the Patricia Roberts Harris Fellowships to encourage women and students of color to enter master's, professional, and doctoral programs where they are underrepresented.

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Athletics

C

For many, Title IX is synonymous with expanded opportunity in athletics. A tribute to its promise is evidenced by the impressive achievements of the nation's women athletes during the 1996 Olympics and the resurgence of professional women's basketball. Given that women and girls were virtually closed out of most athletic opportunities in schools before Title IX, strides have been made toward equal opportunity for girls and women across the board, progress of importance that extends well beyond the playing field.

A 1997 study commissioned by the President's Council on Physical Fitness and Sports found that girls who play sports have better physical and emotional health than those who do not. Other studies have linked sports participation to reduced incidence of breast cancer and osteoporosis later in life. Yet girls are twice as likely to be inactive as boys and have substantially fewer opportunities and incentives to participate in sports. Much distance remains between the current status of girls and women in sports and the ultimate goal of gender equity.

Participation Rates and Resource Allocation. Women and girls looking for opportunities for athletic competition did not have many resources prior to 1972—for many, the choice was cheerleading or securing a good view in the bleachers as a spectator. In 1971, fewer than 300,000 girls participated in varsity athletics at their high school, comprising a mere one percent of all high school varsity athletes. The outlook for college students was equally grim: before Title IX, fewer than 32,000 women competed in intercollegiate athletics.

Low participation rates mirrored the lack of commitment to providing athletics programming for women, as evidenced by the small amount of money allocated for such

| Girls' High School Athletics Participation Rates | | |
|---|---|---------------------------------------|
| Year | Girls in High School Varsity Athletics | Percentage of Varsity Athletes |
| 1971 | <300,000 | 1 percent |
| 1996 | 2.4 million | 40 percent |

activities. Before Title IX, female college athletes received only 2 percent of overall athletic budgets. Athletic scholarships for women were virtually nonexistent. Title IX's enactment has changed the playing field sig-

nificantly. By 1996, nearly 2.4 million girls participated in athletics, representing 40 percent of varsity athletes in high school—accounting for a 800 percent increase from

| Disparities in Funding Intercollegiate Athletics for 1997 | | |
|--|-----------------------|-----------------------|
| Athletics Expense | Men's Sports | Women's Sports |
| Scholarships | \$1.05 million | \$634,689 |
| Recruiting | \$133,303 | \$49,176 |
| Head Coaches Salaries | \$303,456 | \$216,419 |
| Operating Expenses | \$1.2 million | \$338,600 |

1971 in the number of girls participating. The progress on college campuses also has been impressive. Today, more than 110,000 women compete in intercollegiate sports, accounting for 37 percent of college varsity athletes. The number of female college athletes competing in Division I (the most competitive of the three NCAA Divisions) has increased 22 percent since 1992.

While significant, these gains still leave girls and women without their fair share of opportunities to compete. Only 9 percent of Division I colleges provide athletic opportunities for women within 5 percentage points of women's share of enrollment. Even among Division I schools that do not sponsor football, only 16 percent even come close to providing women with athletic opportunities in proportion to women's enrollment in the student body.

Although the resources and benefits allocated to female athletes also have improved significantly since Title IX's passage, they still fall far short of what equity requires.

- Since Title IX was passed, for every new dollar spent on college sports for women, two new dollars have been spent on college sports for men.
- According to a 1997 study by the NCAA, female college athletes still receive only 23 percent of athletic operating budgets, 38 percent of athletic scholarship dollars, and 27 percent of the money spent to recruit new athletes.
- On a per-athlete basis, female athletes received \$4,100, \$2,000, and \$1,900 per student-athlete in Divisions I-A, I-AA, and I-AAA, respectively, compared to the \$8,000, \$2,400, and \$2,500 received by their male counterparts in 1997.

National data on expenditures do not exist for girls' and boys' interscholastic sports, although anecdotal evidence suggests that the disparities are even greater at the elementary/secondary level.

Coaches and Administrators. Female coaches and athletic administrators have not seen anything approaching the level of improved opportunity as have female athletes since Title IX's enactment, backsliding rather than advancing toward equity in many instances. In the early 1970s, women coached 90 percent of women's college teams. By

Room for Improvement

- Since 1972, for every new dollar spent on women's college sports, two new dollars have been spent on men's college sports.
- The number of women coaches in college athletics is *decreasing*.
- Very few colleges provide women with athletic opportunities in proportion to women's enrollment in the student body.
- Enforcement activity in athletics at every educational level has been virtually nonexistent.

the 1995-1996 school year, women coached only 47.7 percent of women's intercollegiate athletic teams overall, the second lowest total in 19 years. In only 7 of the 24 sports recognized by the NCAA do women hold more than half of the head coaching jobs. High school teams also have seen this decline in women coaches. Compared to the 1970s, when women coaches frequently led

girls' high school teams, a 1992 study found that women coached only 36 percent of girls' sports teams. The loss of coaching jobs in women's sports has not been offset by a corresponding increase in opportunities for women to coach men's teams. Women are virtually shut out of these jobs, holding only 2 percent of the coaching positions in men's college sports.

Women's college basketball is the one exception to diminishing coaching opportunities for women. The number of women intercollegiate basketball coaches has been on the rise, with women now holding 64 percent of head coaching jobs—an 11 percent increase over the low of 58.5 percent in 1988. This lone bright spot does little to address the dwindling opportunities for qualified female coaches and the attendant decrease in much needed role models for women athletes.

The impact of sex segregation in the coaching market is exacerbated by the striking disparity in the salaries paid to coaches of men's and women's teams. In men's basketball, for example, the median compensation for coaches is three times that of coaches for women's basketball. Similar inequities exist in coaching salaries for other men's and women's sports.

Title IX Enforcement. The record of Title IX enforcement in interscholastic and intercollegiate athletics in the past 25 years is fair at best, as evidenced by the persistent disparities highlighted above. In 1975, the Department of Education's Office for Civil Rights (OCR) issued general Title IX regulations, which included a requirement of equal athletic opportunity across the board regarding participation opportunities, athletic scholarships, and the treatment and benefits provided to athletes, among other areas. The regulations allowed colleges and high schools a three-year phase-in period, and allowed elementary schools a one-year phase-in period. OCR explained Title IX's require-

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ments and the regulations in greater detail through a Policy Interpretation issued in 1979. However, enforcement was largely nonexistent throughout the 1980s, in part because of the Supreme Court's 1984 decision in *Grove City College v. Bell*, which limited Title IX's application to specific programs within schools that directly received federal funds (usually not the case for athletic programs), rather than entire institutions receiving federal funds. Congress overturned this decision a few years later.

With the full scope of Title IX restored in 1987, and with colleges responding to budget constraints by cutting already beleaguered women's teams, Title IX enforcement began again. The 1990s have witnessed the creation of a uniform body of law in the courts protecting the right to equal athletic opportunity, despite strenuous objections by defendants that men purportedly are more interested in playing sports than women and therefore deserve greater athletic opportunities. Progress has been made largely on a case-by-case basis, with gains gradual and piecemeal.

Moreover, women's progress, albeit limited, has sparked a backlash by Title IX opponents who have argued to Congress and the media that Title IX has gone "too far" and has "hurt" men's sports. After holding hearings on this issue in May of 1995, some members of Congress asked OCR to revisit its 1979 Policy Interpretation and consider whether it should weaken the standards it articulated. In response, OCR strongly affirmed its longstanding interpretation, enhancing it with an explanation of how institutions can and must fully comply with the law.

Beyond this policy statement, it is important for OCR to increase its enforcement activity. OCR conducted only two compliance reviews for intercollegiate athletic programs in 1995, none in 1996, and has announced no plans to conduct any in 1997. While OCR attributes this inaction to the relatively small number of complaints it receives in this area, the number of complaints filed with OCR is a poor indication of the need for enforcement, as few students and parents are aware of Title IX's requirements regarding athletics or have the information required to compare treatment of female and male athletes in their schools. Moreover, the rapidly increasing number of intercollegiate and interscholastic athletic complaints filed with courts in recent years belies OCR's assessment, suggesting that the low level of complaints filed with OCR may have more to do with OCR's inadequate record of enforcement rather than any shortage of grievances. In light of the continuing reluctance of some schools and colleges to provide equal athletic opportunity to their female students and the snail's pace at which others are proceeding, OCR should step up the pace of its enforcement activity.

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Grade: *C*

Recommendations:

- Congress should strengthen the Equity in Athletics Disclosure Act to require colleges and universities to provide information on gender equity in their athletic programs to one central government office, which would serve as a repository for the information.
- Congress should enact a similar sunshine law requiring federally funded high schools to disclose publicly information regarding athletic equity.
- The NCAA should enact strong measures to push their member institutions toward Title IX compliance, such as capping excessive athletic expenditures to free more resources to expand women's programs.
- OCR should step up its enforcement in this area by initiating more compliance reviews and increasing its outreach to educate students and educational institutions about what Title IX requires.

Career Education

C

Title IX has made training for non-traditional careers possible for girls and women. This option clearly was off limits to female students before 1972, when schools routinely denied girls the opportunity to take classes in shop, manufacturing, architectural drafting, or ceramics, or even to attend certain vocational schools. Girls were directed to classes where they would learn to cook and sew. Title IX's passage meant that schools no longer could shut the doors to certain courses on the basis of gender. However, 25 years later, patterns of sex segregation persist that must be addressed.

Separate and Unequal. Before Title IX, the vocational education system was predominantly sex segregated. In high school, girls took home economics and boys took shop. There was testimony during the Title IX hearings that in New York, for example, certain specialized vocational high schools were reserved for men: automotive, aviation, food, and maritime trades. At the postsecondary level, young women trained for low-wage, traditionally female jobs in health occupations and cosmetology, while young men trained for higher-wage, traditionally male jobs in trade and industry and technical occupations. Educational institutions could, and did, legally deny girls and women entry into training deemed "inappropriate" for females.

Increasing Access to Non-traditional Areas. Title IX ended these restrictions. In addition, Congress, in 1978, during the reauthorization of vocational education legislation, required each state to hire a sex equity coordinator who would carry out functions designed to make the vocational education system more equitable and improve the access of women and girls into training from which they had previously been denied. However, except for \$50,000 to support the sex equity coordinator's position, Congress provided no federal funding whatsoever to carry out these functions, although it was a permissible use of funds.

Research by the National Institute of Education in 1981 found that states spent less than one percent of all their basic grant money for support services for women seeking to enter non-traditional vocational education, displaced homemakers, and child care. Only 0.2 percent of all state and local matching funds went for these purposes. The study concluded that most states used "paltry sums," making only a token gesture toward providing services for displaced homemakers, and relied on "symbolic gestures," rather than providing real avenues for women to pursue non-traditional enrollment.

Congress changed this in 1984 during the reauthorization of vocational education by requiring states to spend a specific percentage of their basic grant money to make training opportunities available to women. Congress required each state to set aside 8.5 percent (decreased to 7 percent in 1990) for displaced homemakers, single parents, and single pregnant teens, and 3.5 percent (changed to 3 percent in 1990) for programs designed to eliminate sex bias and sex stereotyping in vocational education. Since that time, the number of programs serving displaced homemakers/single parents has grown from 435 to more than 1,300. By 1997, the number of sex equity programs numbered more than 1,400.

Success of Sex Equity Programs. More than 400,000 single parents and displaced homemakers are served each year as a result of the vocational education legislation requirements. Data show that these programs help participants increase their wages and decrease their dependence on welfare.

For example, in Florida 81 percent of participants earned incomes of less than \$10,000 per year at the time of entry into a displaced homemaker/single parent program. After completing the program, the state found that 71 percent of participants were employed in Florida, earning an average income of \$20,676 per year—doubling their incomes at the time of enrollment. In Arizona, a survey showed that participants' median hourly wage increased from \$4.50 to \$6.00, as did the median hours they worked—from 20 to 36 hours per week. Arizona also saw the percentage of participants in non-traditional jobs rise from 7 to 17 percent.

These programs have benefited not only participants, but also the states providing the services. For example, in Pennsylvania 85 percent of participants were living at or below 150 percent of the poverty level at the time of enrollment. Only 4 percent of participants were employed; 14 percent were considered underemployed; and 82 percent were unemployed. Sex equity programs resulted in increased employment, such that Pennsylvania has calculated a savings of \$1,966,524 per year due solely to reductions in public assistance—a 56 percent return to the state on the total Perkins funds used for sex equity and displaced homemaker/single parent programs.

Persistent Sex Segregation. The National Assessment of Vocational Education (NAVE) in 1992 showed vocational education majors continue to be highly sex-segregated. Female students were only 23 percent of enrollees in trade and industry, but 70 percent of enrollees in health. Students concentrating on technical education are 72 percent male.

Congress enacted the School-to-Work Opportunities Act in 1994 in order to ensure that all students—male and female—acquired the education and training that would

lead to high-skill, high-wage jobs and diminish the stubborn sex segregation. However, career tracks are readily identifiable by gender. In addition, little attention has been paid to ensure that School-to-Work programs truly serve all students, as the law requires. For example, School-to-Work programs identified as "promising" by Jobs for the Future have made little progress in ensuring that sex segregation is not a problem. The Craftmanship 2000 program in Tulsa, Oklahoma, which offers a program in metalworking, is predominately male: women make up only 21 percent of enrollees. In contrast, the Kalamazoo County Health Occupations Program in Michigan is overwhelmingly comprised of women—77 percent of enrollees are female, 22 percent are male. The federal School-to-Work Office has yet to undertake a systemic effort to ensure that the state efforts to build school-to-work systems do not replicate this pattern.

Non-traditional Occupations—Key to a Living Wage. The importance of increasing women's and girls' access to non-traditional career opportunities is clear. In 1992 the Bureau of Labor Statistics found that women in these jobs earn 20 to 30 percent more than women in traditional occupations. Yet, only 6.6 percent of all working women were employed in such occupations. These jobs are of particular importance for women who are single mothers and displaced homemakers. The 1990 census data revealed that these women have higher poverty rates—42 percent for displaced homemakers and 44 percent for single mothers, compared to 11 percent for all adult householders. Still, single mothers and displaced homemakers were overrepresented in low-wage service jobs. Education level is the most important factor in determining the likelihood that displaced homemakers and single mothers will live in poverty.

Congress will be reauthorizing vocational education legislation in the summer of 1997. In the current climate of "devolution," some members of Congress have indicated they do not favor continued set-aside requirements, even in the face of data demonstrating their success. Some lawmakers also are disinclined to continue to require states to employ a full-time sex equity administrator, even though it is likely that states will discontinue these efforts altogether. Other

Room for Improvement

- **Sex segregation persists in vocational education—men are clustered in high-skill, high-wage job tracks; women in the low-wage, traditionally female tracks.**
- **New School-to-Work programs also are segregated by sex.**
- **Congress is poised to eliminate programs that have encouraged women to pursue non-traditional occupations, despite their proven success in moving women to self-sufficiency.**

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lawmakers show some interest in continuing to require states to carry out the sex equity functions.

Grade: C

Recommendations:

- Congress should maintain funding levels for sex equity programs and services, including supportive services and professional development for non-traditional training, and maintain the state equity leadership position and the related functions.
- Congress should establish a uniform data collection system for evaluating state efforts at achieving equity and accountability standards that measure progress in sex equity and establish an incentive program rewarding states that annually increase the number of students trained and placed in non-traditional careers.
- The federal School-to-Work Office and the Departments of Labor and Education should develop strategies to ensure that recipients of School-to-Work funds are building gender equitable systems, starting with site visits to assess state efforts at serving girls, young women, as well as other underserved populations.
- The federal School-to-Work office should develop a data collection system that tracks the numbers of women entering and pursuing non-traditional occupations. Data should be disaggregated to examine the progress of women of color.
- The Office for Civil Rights should enforce Title IX's requirements in the School-to-Work setting as well as in vocational education, paying particular attention to addressing the causes of sex segregation, such as gender-based and sexual harassment.

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Employment

C-

The hearings leading up to the passage of Title IX were replete with statistical and anecdotal information highlighting the second-class status of women working in educational institutions. At that time, employment for women in education was characterized by:

- lack of tenure in colleges and universities, particularly elite institutions;
- nepotism rules that locked women out of teaching positions where their husbands were employed;
- slower promotion rates than those of their male counterparts;
- smaller salaries than those of their male colleagues;
- little access to high-level administrative positions; and
- virtually no opportunities to head colleges and universities, even in women's institutions.

After 25 years of Title IX and a Supreme Court decision declaring that Title IX prohibits employment discrimination based on sex in education, there has been progress, but there is much room for improvement. Notably, a pattern so evident at the time lawmakers debated Title IX persists: namely, women's numbers tend to decrease as the rank in the career ladder or the prestige of the educational institution increases. Women still have a long way to go to attain full equality with men in employment in educational institutions.

Women on Faculties. Before Title IX, career opportunities for women in education were concentrated in elementary and secondary classrooms across the country. At the hearings for Title IX, there was testimony that women were about 68 percent of teachers in elementary and secondary schools, 22 percent of elementary school principals, and just 4 percent of high school principals. In addition, witnesses testified that the National Education Association (NEA) found only two women among 13,000 school superintendents.

In higher education, the picture was no better. In the early 1970s, women comprised about 18 percent of the teaching faculty in colleges and universities in this country, clustered primarily in institutions that served women. For example, women accounted for 40 percent of the faculties in teachers' colleges.

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| Percentage of Women Teaching in Higher Education | | |
|---|-------------|-------------|
| Status | 1970 | 1993 |
| Full Professors | 8.7 | 17 |
| Assistant Professors | 19.4 | 30 |
| Associate Professors | 15.1 | 42 |
| Instructors | 32.5 | 49 |

Twenty-five years after Title IX's enactment, women have improved their numbers on faculties, but remain significantly underrepresented in top positions. During the 1993-94 school year, the most recent year for which data is available, approximately 73 percent of elementary and secondary school teachers were women, but only 35 percent of school principals were women.

Women now make up less than 30 percent of all faculty members in colleges and universities, which is particularly striking since women earn closer to 40 percent of all doctoral degrees. Women are most numerous at two-year public colleges, making up 37.9 percent of faculty members, and are least represented on faculties at private four-year colleges and universities with significant research facilities, where they are only 19.5 percent of the faculty. Before Title IX, women were 10 percent of the faculty at such institutions.

In addition to making up a minority of the teaching faculty at colleges and universities around the country, women generally have remained in the lower faculty ranks, just as was true before Title IX's enactment. A study by the NEA cited during Title IX's hearings found that women made up 32.5 percent of instructors, 19.4 percent of assistant professors, 15.1 percent of associate professors, and 8.7 percent of full professors. Only 9 percent of women who embarked on college teaching careers attained the rank of full professor at that time. Women were promoted far more slowly than their male counterparts, and they often lacked tenure.

In 1993, women were 17 percent of all full professors, 30 percent of associate professors, 42 percent of assistant professors, and 49 percent of instructors. Women of color made up 1.9 percent of full-time professors. Forty-one percent of all female faculty were employed part-time, compared to 29 percent of male faculty. In 1994, 72 percent of all male teachers were tenured, compared to only 48 percent of female faculty.

Women in Administration. When Title IX became law, women were noticeably absent at the administrative level in educational institutions across the country. Women reached the rank of department chair at the absurdly low level of less than one percent.

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The number of women college presidents—less than 150—was incredibly low, even at women's colleges.

Today, more than 450 educational institutions are headed by women. However, there are approximately 3,400 institutions of higher learning in this country, which means fully 87 percent are headed by men. Women administrators are more likely than men to hold positions in external affairs and student services than in executive, administrative, and academic affairs. Within each of these administrative categories, women on average are employed at lower ranks and earn lower salaries than their male counterparts. Salary differences are especially prevalent in the upper ranks.

Wage Gaps. Equal pay for equal work has not been a reality for women employed in educational institutions. Before Title IX, women received smaller salaries than their male colleagues at all faculty ranks, and the wage gaps increased as they progressed up the career ladder. During the hearings on Title IX, there was testimony that women professors received an average salary of \$11,649, compared to \$12,768 for men.

Women still have not achieved parity 25 years later. According to the American Association of University Professors, the average salary for women full professors for academic year 1996-1997 was \$60,681. In contrast, male full professors earned on average \$69,569. Women thus earned only 87 percent of the salaries received by their male counterparts. Similar gaps exist for women associate and assistant professors: women associate professors earned only 93 percent of the salaries earned by their male counterparts, and women assistant professors earned 93 percent. Thus, 25 years after Title IX became law, women are still being paid significantly less than their male counterparts.

As in higher education, the salaries of women teachers and principals in elementary and secondary education continue to lag behind the salaries of their male counterparts. For example, the average base salary for full-time female teachers in public elementary schools during the

Room for Improvement

- **Women are less than 35 percent of school principals.**
- **Women are 17 percent of all full professors. Women of color are only 1.9 percent of full professors. Women are least represented at elite educational institutions, making up just 19.5 percent of the faculty.**
- **Research indicates that women faculty are evaluated more harshly by their colleagues and students than male faculty.**
- **Women head 13 percent of colleges and universities.**
- **Pay inequities persist: women full professors earn 87 percent of the salaries their male counterparts receive; women elementary school teachers earn 92 percent of the salaries their male counterparts receive.**

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1993-94 school year was \$33,384, compared to \$36,182 for men; the average base salary for full-time female teachers in private elementary schools was \$21,657, compared to \$28,948 for men. Salaries for male and female principals in public elementary schools had the smallest discrepancy: women principals had an average salary of \$54,736 while male principals average \$54,922. In private elementary schools, the average salary for women principals was \$27,701, compared to \$32,039 for men.

The persistence of these disparities is troubling given that the Supreme Court ruled in 1982 in *North Haven Board of Education v. Bell* that Title IX prohibits sex discrimination in employment in federally funded education programs. Despite this decision, many lower courts have held that Title VII—the federal statute that prohibits discrimination in employment based on gender, among other characteristics—provides the exclusive remedy for individuals alleging employment discrimination based on sex in federally funded educational institutions. Some courts appear reluctant to allow plaintiffs to recover damages for employment discrimination under Title IX because the statute does not have a cap on damages (which Title VII does).

Title IX clearly was intended to protect women from discrimination by educational institutions in the employment context. Yet, despite this clear intent and a Supreme Court decision affirming this proposition, women still lag behind men in nearly every aspect of faculty and administrative employment at educational institutions. While the gaps may have closed to some extent in the years since Title IX became law, significant disparities persist.

Grade: C-

Recommendations:

- OCR should include employment issues in its enforcement efforts, including conducting compliance reviews, collecting data regarding the status of women employed in educational institutions, and referring cases of noncompliance to the Department of Justice.
- The Departments of Education and Justice and the Equal Employment Opportunity Commission should collaborate on reinstating data collection of employment data from elementary and secondary school systems, as well as the schools within such systems or districts. This practice was discontinued in 1996. In addition, similar efforts should be made regarding institutions of higher learning. Such data is critical for civil rights enforcement.

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- Postsecondary institutions should gather their own statistical information, such as data regarding salaries, benefits, promotions, special perquisites, awards, grants, course load, advising load, and committee assignments, to determine if men and women at all ranks and within all units are treated equitably.
- Administrators at postsecondary institutions should monitor and train search committees so that they understand and can address the barriers to hiring women.
- Postsecondary institutions should ensure that each search committee includes an affirmative action “advocate”—not necessarily a woman or a person of color—who works to ensure that the committee treats all candidates fairly.
- Postsecondary institutions should develop an exit interview process to solicit information about the climate for women and other issues from faculty members and staff who leave for other employment, whatever the reason.

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Learning Environment

C-

Title IX's passage outlawed policies and practices that discriminate on the basis of sex in education, including overt discrimination, sexual and gender-based harassment, and blatant bigotry. However, more subtle forms of discrimination that generally do not fall within Title IX's scope often contribute to a classroom climate that is "chilly" or even shattering for females. Title IX, in large part, has paved the way for research regarding the chilly climate—including teacher expectations, interactions between teachers and students, and the content of what students actually learn. While many of these elements are not covered by Title IX, these factors have a great impact on the extent to which students can benefit from education programs. In this regard, an examination of the learning environment is critical to assessing the nation's progress toward achieving gender equity in education.

Classroom Effectiveness and Instructional Strategies. Twenty-five years ago, the co-ed classroom was filled with gender stereotypes and segregation. Class tasks like housekeeping or handling messages were designated by gender. Reading was deemed the girls' arena; math and science were set aside for boys. Textbooks to educate teachers reinforced stereotypes about male and female students and set the stage for disparate expectations of students. For example, one textbook informed teachers that girls had an advantage over boys in reading because they had an innate ability to sit still.

Even today, at all levels of education, males and females often are treated differently, even by the best-intentioned teachers. Girls and women typically get less attention, less praise, less criticism, and less encouragement. When males speak, teachers often engage in a dialogue with them, while girls and women are more likely to receive the ubiquitous "uh-huh." College women frequently are interrupted more often and called upon less in many classes. These and other subtle behaviors are often unnoticed by faculty or by students, but they create a chilly climate that dampens female students' ambitions and diminishes their self-esteem and confidence, which in turn, can affect their academic performance.

In elementary and secondary schools, these differences exist as well. Females frequently receive better report card grades, perhaps in part for their quiet and agreeable behaviors. Males, on the other hand, who are socialized to be active and aggressive, find that these same behaviors in the classroom are unacceptable. Thus, males, particularly

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males of color, get disciplined more often and more harshly. Paradoxically, this better behavior by females frees the teacher to focus upon males, not only for discipline, but for instruction as well. The result is that boys benefit with more chances to answer, demonstrate knowledge, and think critically. Just as in the context of higher education, teachers in elementary and secondary schools provide males with more frequent and more precise feedback, including acceptance, praise, criticism, and remediation, all of which promote and direct their achievement. Thus, as documented, for example, by a 1992 study by the AAUW Educational Foundation, females with special needs or talents are too often underrepresented in educational programs for students with learning disabilities or for gifted students. Similarly, male and female students of color are at an extra risk of being misplaced or overlooked in these programs.

Curricular Materials and Learning Environments. Until the 1970s, females and people of color would rarely find themselves reflected in educational materials that were dominated by the information and actions of males. For example, there was testimony during Title IX's hearings that 72 percent of stories in a total of 144 readers used in New York City schools focused on boys. The boys depicted in readers typically were active, playing games, making things, learning, or working with their fathers, for example. In contrast, the remaining stories about girls depicted them as passive, engaging in activities such as playing with kittens, getting into trouble, and being helped out by their brothers. There also was testimony that teachers made assignments to students that reflected gender stereotypes. Math problems for young women involved recipes, while such problems for young men involved high finance. Higher education was no better. For example, researchers Myra and David Sadker found in a targeted 1979 study that no teacher education textbooks discussed women's role in the history of American education.

At the postsecondary level, women's studies programs emerged in the early 1970s as one challenge to the invisibility of women in the

The Unwritten Curriculum

A 1979 study of textbooks for educators found this grammar lesson for children that sends not-so-subtle messages about gender and ethnicity:

- John works.**
- Julio gardens.**
- Mary teaches.**
- Ramon farms.**
- Enrique drives a truck.**
- Mr. Jones practices law.**
- Marianna cooks.**
- Mrs. Chacon makes dresses.**
- Mr. Acosta plays chess.**
- Larry studies at the university.**

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college curriculum. At that time, there were only 17 courses nationwide offered in women's studies in colleges and universities. According to the National Women's Studies Association, that number has mushroomed to thousands, with universities and colleges offering more than 600 programs in which students can major, minor, or earn a certificate in women's studies. Despite the emergence of women's studies, however, climate issues still affect women in higher education, particularly women pursuing math, science, or engineering. Women in these fields frequently encounter indifference, exclusion, and outright hostility in the form of gender-based and sexual harassment. This environment impedes women's access to math and the sciences, two areas with significant earning potential.

At the elementary and secondary level, there have been a number of strides made toward improving the learning environment for all students. For example, several schools have incorporated diverse learning strategies and reinforced a broader understanding of intelligences, so that expectations can be both high and realistic for all. Staff developers, teacher trainers, and teacher educators in some schools have integrated equitable and effective instruction that has enhanced classroom treatment for every student. Researchers continue to investigate the treatment of students and provide gender (and related diversity) focused research results for the whole educational community.

Similarly there have been advances regarding curriculum and classroom materials that have benefited all students. Several school systems have text selection committees that use objective assessment tools to analyze books for gender equity (as well as race, ethnicity, and class) to overcome underrepresentation, stereotyping, and other forms of bias. Educational leaders and curriculum developers have worked with publishers to develop better and more inclusive materials. Federal or other public funding has led to the creation of special programs and distribution of materials that are diverse and exciting. Advanced technologies (computer hardware and software and Internet access) that are gender attuned and avoid traditional and stereotypic products have been developed. Many teachers have supplemented biased or dated resources with new and better materials.

Research also caused educators to focus on the physical environment of the classroom as a barometer of the climate. For example, the desks and students are often segregated by sex. Teachers find themselves focusing instruction or management in "hot" areas of the room, which is often the center or male section of the class. Images on the walls—from posters and pictures to prose and codes of conduct—reinforce the dominance and power of males and masculine activities. Linguistic bias supports females' invisibility, with words like "he" and "mankind," terms that exclude and minimize the

presence and position of females.

The classroom is filled with messages and meanings, coming from the images that are displayed and the language that is used. If the range of materials used to teach students is gender-biased, it is inevitable that the learning will be.

State educational agencies funded by Title IV of the Civil Rights Act of 1964 have helped educational institutions address gender bias, as well as discrimination based on race and ethnicity. Title IV agencies have provided schools with materials, curricula, and strategies to improve the classroom climate. However, Congress decided not to fund these important activities for fiscal years 1996 and 1997. As a result, only four states have continued to provide this assistance, despite the great need for and Title IX's mandate to ensure that students are provided a non-discriminatory environment in which to learn.

Room for Improvement

- **Across the board, female students typically get less attention, praise, criticism, or encouragement than male students.**
- **Teachers' focus on male students means that female students with special needs or talents are underrepresented in educational programs for students with learning disabilities or for gifted students.**
- **Congress's decision to eliminate Title IV state educational agencies means that most schools are without a critical source of materials, curricula, and other resources to promote educational equity.**

Grade: C-

Recommendations:

- Congress should reinstate funding for Title IV state educational agencies, which have helped schools across the country improve the classroom environment for all students.
- Educators should instruct students about individual similarities and differences, on acknowledging and respecting gender diversity, and on becoming advocates for themselves and others.
- Educators should make achieving gender equity a key priority and continue receiving training to overcome bias and discriminatory practices in classrooms.
- Educational institutions should comply with Title IX's requirements, including assessing and correcting practices that lead to inequitable treatment of students.
- Scholars should conduct additional gender-focused research, examining student treatment in single-sex, dominant sex, bi-racial, multicultural, and "homogeneous" classrooms.

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Math and Science

C+

The enactment of Title IX 25 years ago removed many barriers to women and girls in the non-traditional fields of math and science, areas critical to their success in an increasingly technological world. However, disparities based on gender still exist in achievement and participation rates in these disciplines. Gender differences in math and science start small and grow as students reach secondary school, where boys outperform girls on standardized tests and participate in math and science classes at higher rates. In postsecondary schools, young men go on to major in math and the sciences in rates that exceed those of young women, many of whom are shut out of the career opportunities these fields can provide.

Exclusion and Underachievement. Before Title IX, educators, guided by stereotypes that girls could not achieve in math and science, sometimes steered high school girls from higher-level math and science classes and frequently excluded them from extracurricular activities such as science and math clubs. Not surprisingly, girls' achievement in science and math courses was lower than that of their male counterparts.

Science: The 1969-70 National Assessment of Education Progress (NAEP) of the country's students in science found grade school and middle school boys outscored girls by an average 5 points; in high school, the gap increased to 17 points. Today, the disturbing pattern persists, but the high school gap has shrunk to 11 points, thanks in part to Title IX.

Performance levels also vary by gender. Among eighth graders, the 1977 NAEP found 14 percent of boys performing at the highest levels, compared to only 9 percent of girls, a 5-point gap. In high school, the gap grew to a yawning 21 points, with 61 percent of senior boys performing at the highest levels, compared to only 40 percent of senior girls. The past 25 years have done little to close the gap: 1994 NAEP data (more recent NAEP data use different measures and therefore cannot be compared easily against 1970s data) recorded the same 10-point gap for eighth graders and an only slightly improved 19-point gap for high school students.

Math: Just as in the case of science, the gender gap in math starts out small in the early grades and grows by high school. The 1973 NAEP found that girls narrowly outscored boys at the fourth- and eighth-grade levels; by high school, however, girls had

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fallen behind by 8 points. By 1994 girls had lost their early edge but had moved up in high school to within 5 points of boys.

Performance levels vary by gender in math, just as in science. In 1978, 10 percent of senior boys performed at the highest math level, compared to 5 percent of senior girls. This gap also has narrowed: 1994 NAEP data measured the gap of high math proficiency at 3 points. However, on high-stakes tests, such as the SAT, the gap is much greater. Although girls' performance on the math SAT has improved somewhat, College Board data show boys still outscored girls by 35 points in 1996, compared to 44 points in 1972.

The persistence of the gender gap in high school—and its tendency to grow as students advance in grade—continues to be a subject of great concern. This gap continues in higher education and in careers in math- and science-related fields. According to the American Association of University Women, gender differences in confidence—students' belief in their ability to learn and perform well—correlate strongly with interest in math and science. Girls doubt their confidence in math and science more often than boys.

Participation Rates. Girls' participation rates have unquestionably increased since the passage of Title IX. For example, as recently as 1986, only 8 percent of high school senior girls had taken physics compared to 14 percent of boys; 39 percent of senior girls had taken chemistry compared to 42 percent of boys. By 1994, 16 percent of high school senior girls had taken physics and 55 percent had taken chemistry. And schools can no longer stop girls from taking part in math- and science-related extracurricular activities.

However, female students' participation rates decline once they enter postsecondary institutions, and steadily decrease as degree level increases. For example, in 1994:

- In biology, women received 51 percent of bachelor's degrees, but only 41 percent of doctoral degrees.
- In computer sciences, women received 28 percent of bachelor's, 26 percent of master's, and 15 percent of doctoral degrees.

Room for Improvement

- **The gender gap persists in girls' science and math achievement as measured by the NAEP, starting small in elementary school, and increasing in high school.**
- **In high-stakes tests, such as the math SAT, large gaps persists, with girls scoring 35 points less than boys.**
- **Female students' low participation rates in math and science classes decline as they advance in higher education.**

- Women's participation in engineering stays small and shrinks, with women receiving 15 percent of bachelor's degrees, 15 percent of master's degrees, and 11 percent of doctoral degrees.

As discussed in the section titled "Access to Higher Education," the drop in female students' participation rates in math and science likely is due, in part, to the hostile environment they encounter in these fields. Women students frequently are regarded as tokens in math or science and excluded from full participation in laboratory and field work, or experience sexual and gender-based harassment in these settings.

In addition, research shows that girls lag behind in computer usage. Although more girls in school are using computers for homework and telecommunicating, extracurricular activities such as computer clubs and contests are still overwhelmingly male. Although software companies are now marketing to girls, the games often rely on sexist plots such as mall shopping and nabbing a boyfriend. Although more girls are taking lower-level computing courses, only 16 percent of Advanced Placement computer science test takers are girls. We still have a long way to go.

Steps Forward. Teaching methods already exist to encourage and engage all students and to otherwise decrease or eliminate the gender gaps in math and science. However, educators and administrators must begin to employ these teaching methods in earlier grades if the gender gap is to disappear. Further, educators and administrators must look for ways to encourage girls to pursue math and science while in secondary school so that more women will enter these fields in college and pursue related careers.

Grade: C+

Recommendations:

- Congress should increase and target funding for the Eisenhower Professional Development program so teachers can learn techniques to close the gender gap in math and science.
- Educators should ensure that girls are active participants in science and math classes in order to maximize their understanding of these fields.
- OCR should step up its enforcement by conducting compliance reviews to determine the causes for women's decreased participation in math and science in higher education and by taking action against those educational institutions that allow hostile environments in these areas to persist.

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Sexual Harassment

D+

Assessing the progress of the nation's schools in confronting sexual harassment is a challenge, since this form of sex discrimination first was recognized in the employment setting in 1976, fully 12 years after Congress enacted Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in the workplace, and four years after Title IX's enactment. Just as in the employment context, sexual harassment in school is a barrier of imposing proportions to girls and women trying to move ahead, affecting female students in educational institutions ranging from elementary schools to post-graduate schools.

The Supreme Court made clear in its unanimous 1992 decision in *Franklin v. Gwinnett County Public Schools* that Title IX prohibits this form of sex discrimination. Despite this clear statement, the pervasiveness of sexual harassment and the devastating impact it has on its victims and their ability to pursue an education remain constant. Simply put, sexual harassment remains a significant impediment to gender equity for girls and women across the board.

Looking Back. There are no benchmark data from the early 1970s regarding sexual harassment; however, the effort to combat and eradicate this barrier reaches back to just a few years after Title IX's enactment. In 1977, one year after the first district court decision recognizing sexual harassment in the workplace, a district court, in *Alexander v. Yale University*, identified such misconduct in colleges as a violation of Title IX. The court found that Title IX prohibits making educational benefits contingent upon sexual demands, a form of sexual harassment now known as "quid pro quo." Three years later, in 1980, the National Advisory Council on Women's Educational Programs recommended that OCR issue a federal policy on sexual harassment so that schools and colleges would understand their responsibility to stop or prevent sexual harassment. During the mid-1980s, two federal courts issued opinions in cases involving medical students, again recognizing sexual harassment as a violation of Title IX. In 1992, the Supreme Court ruled in *Franklin*, a case involving a high school student subjected to a sexually hostile environment created by a teacher, that Title IX prohibits sexual harassment. It also ruled that persons harmed when schools violate the statute may recover damages.

Sixteen years after the National Advisory Council on Women's Educational Programs made its recommendation, OCR issued a policy guidance on sexual harassment. This

long-awaited policy fills an important need, outlining Title IX's requirements in this area and providing schools with much needed help in defining, addressing, and preventing sexual harassment. The guidance makes clear that inaction is never the right response to sexual harassment and urges schools to adopt policies and procedures that help prevent such misconduct in the first instance.

Despite these significant advances, some recent court decisions threaten to limit students' protection from sexual harassment, harking back to the days when courts dismissed such misconduct as a "personal" matter, which employers should not be expected to control. For example, one federal district court dismissed a Title IX claim of student-to-student sexual harassment in 1994, reasoning that student actions are not programs or activities for purposes of Title IX. In 1996 a federal appeals court ruled that schools can be liable for student-to-student sexual harassment only when they treat the complaints of boys differently than those of girls—effectively advising schools to ignore complaints of all students. These court opinions suggest that sexual harassment is just a fact of life that should be tolerated and not regulated or eradicated through the judicial system, an attitude long abandoned in the context of employment. These decisions ignore the scope of the problem and the impact harassment has on its victims' ability to receive an education.

The Scope of Sexual Harassment. Sexual harassment is widespread, affecting girls and boys, students in elementary through postsecondary schools. Originally, efforts to address sexual harassment focused on students harassed by faculty. In recent years, addi-

The Pervasive Reach of Sexual Harassment

- **81 percent of eighth through 11th graders surveyed have experienced sexual harassment.**
- **79 percent of eighth through 11th graders reporting harassment say they were targeted by another student.**
- **Approximately 30 percent of undergraduate students and 40 percent of graduate students surveyed have experienced sexual harassment.**
- **Approximately 90 percent of post-secondary students reporting harassment say they were harassed by another student.**

tional focus has been placed on student-to-student harassment.

Regardless of the form, research has shown sexual harassment to be a barrier to students across the board as they pursue educational opportunities.

According to a 1993 study by the American Association of University Women (AAUW) Educational Foundation, 81 percent of students surveyed in eighth through 11th grades had experienced some form of sexual harassment, with girls experiencing

harassment at a slightly higher rate than boys—85 percent versus 76 percent, respectively. Similar results were reported most recently by a 1996 survey conducted by the USA Today/Weekend. AAUW found that sexual harassment had a stronger emotional impact on girls, causing many to lose interest in school and diminishing their academic performance.

Sexual harassment affects students of all ages. The AAUW Educational Foundation's study found African American girls experienced harassment even before they reach grade six. Other studies indicate that, at the college level, approximately 30 percent of undergraduates and 40 percent of graduate students had experienced some form of sexual

harassment, with student-to-student sexual harassment the most common occurrence by far—about 90 percent of students reported experiencing this form of harassment. The breadth of the problem also is reflected in the increasing number of complaints filed at the Department of Education's Office for Civil Rights. In 1988, OCR received 28 sexual harassment complaints; by 1996, that number had increased to 152.

Inaction by Educational Institutions. The detrimental effects of sexual harassment are only compounded by schools' failure to have policies and procedures in place to address this issue meaningfully. For example, only 8 percent of the respondents to a study conducted in 1993 by the NOW Legal Defense and Education Fund and Wellesley College Center for Women reported that their school had and enforced a policy on sexual harassment. Schools without policies are less likely to take action against an alleged harasser: schools with policies took action in 84 percent of cases, compared to schools without policies doing so only 52 percent of the time. Some schools have adopted policies, such as Framingham High School in Massachusetts, which enlists the support of all teachers to help students who have been harassed.

Combating Sexual Harassment: Effective Sexual Harassment Policies

The first step in preventing sexual harassment is developing an effective policy to combat it. Some key elements include:

- **User-friendly language, demonstrating the institution's commitment to ending sexual harassment and other forms of harassment.**
- **Definition of sexual harassment, making clear that harassment is a violation of Title IX. The definition should include examples of prohibited conduct.**
- **Procedures to be followed for making formal and informal complaints of sexual harassment, identifying the contact person.**
- **Provisions to protect victim's confidentiality and ensure no retaliation.**
- **Description of other legal remedies available to victims, including filing a complaint with the regional OCR office.**
- **Wide accessibility of the policy throughout the institution.**

However, far too many schools have not developed meaningful policies that are comprehensible and accessible to students and parents.

Title IX Enforcement. As useful as the newly released sexual harassment policy guidance is, it is no substitute for systemic and targeted enforcement on the part of OCR. Beyond issuing the guidance and addressing individual Title IX complaints in this area, OCR has not made use of its authority to conduct compliance reviews to ensure that educational institutions have policies in place and are addressing sexual harassment appropriately. In addition, OCR needs to make a greater effort to ensure that educational institutions are aware of the new policy and their obligations under Title IX. This important piece of the enforcement effort is critical to eradicating sexual harassment.

Grade: *D+*

Recommendations:

- OCR should increase its enforcement, making use of its authority to conduct compliance reviews and refer cases to the Department of Justice.
- OCR should work systematically with community-based organizations and advocacy organizations to heighten awareness and conduct technical assistance about sexual harassment and the new policy guidance.
- Other federal agencies should adopt OCR's sexual harassment policy guidance and devise and pursue their own enforcement strategies for the education programs and activities they fund.
- Educational institutions should adopt strong, comprehensive, and comprehensible sexual harassment policies and enforce them.
- Educators should recognize that sexual harassment is a symptom of ongoing gender bias and incorporate teaching methods to address and eliminate this form of discrimination in the classroom.

Standardized Testing

C

Standardized tests have long played a major role in allocating educational opportunities to our nation's students—opportunities that, in turn, are the gateway to success in competitive job markets and the key to economic security. But for female students, these tests frequently have been a gatekeeper, barring access to progress.

Before Title IX's enactment, many schools not only administered tests in a gender-biased manner, but also interpreted test results in a way that reflected stereotypes rather than providing real insight into students' interests and capabilities. For example, in the 1960s and early 1970s, there were two versions of the Strong Vocational Interest Blank, a commonly used vocational test: pink for young women and blue for young men. On this test, young men were asked whether they'd like to be President; in contrast, young women were asked whether they'd like to be the wife of the President.

Other less blatantly biased tests have been shown over the past 25 years to be flawed assessment tools that unfairly disadvantage girls. Title IX has provided a means for ensuring tests are designed and used in a manner that is free from gender bias. While a number of constructive steps have been taken since the law's enactment to eliminate these biases, it is imperative that such tests continue to be scrutinized closely for fairness, particularly since increased emphasis is now being placed on standardized testing in the context of national education reform.

Gender Gaps. There is a substantial record of disparities in scoring between male and female students on many standardized tests dating from before Title IX's enactment and continuing over the last 25 years, gaps that have had a harmful impact on educational and economic opportunities available to women and girls, as well as students of color. Under Title IX, tests must be valid predictors of success in the areas being tested. In other words, the test must measure what it purports to measure. If the test does not, and if it produces a scoring deficit for one sex, it has a discriminatory impact on the members of that sex and is unlawful.

Gaps in scoring have appeared on the most frequently used vocational aptitude tests in secondary schools, the Armed Services Vocational Aptitude Battery (ASVAB) and the Differential Aptitude Test (DAT), and on career interest inventories. Secondary schools have long relied on these tests for career counseling and vocational education placement, even without evidence showing that they are valid measures of future performance.

Schools that rely on such tests frequently use the results to steer young women into careers that are traditional for their sex, with lower earning power and fewer opportunities for upward mobility.

The past 25 years also have seen gender gaps in college admissions tests. Since 1972, females consistently have scored lower than males on the SAT, in both the verbal and math sections of the test, with girls falling behind boys in math by as many as 61 points. In 1996, the average combined SAT score of boys was still 39 points higher than that of girls, a pattern that persisted within every racial and ethnic group. There also are disparities in the PSAT, used for college scholarships, and the ACT, used for college admissions, as well as most examinations for admission to professional and graduate school. As with the tests used in the vocational setting, there are questions regarding whether these tests accurately predict students' achievements. For example, research has shown that the SAT, which is designed to be an indicator of first-year college performance, underpredicts females' performance: while young women score lower than young men on the SATs, they earn higher grades when matched for the same courses in all subjects in their first year in college.

The Educational Testing Service (ETS) issued a report in 1997 concluding that while there are some important differences in the performance of boys and girls on standardized tests, the average differences are small. The ETS study, however, confirms that large gender disparities persist on the high-stakes tests such as the SAT and PSAT. The report does not refute ETS's earlier acknowledgment that the SAT underpredicts women's college performance while overpredicting that of male students. The ETS contends that the gaps that do exist on high-stakes tests are in part the result of differences in interests and experiences, rather than biases in testing. The fact that women earn higher grades in the same subjects appears to belie this justification.

Whatever its causes, the gender gap on the PSAT and the SAT has a demonstrable impact on girls and women in several ways. Results on these tests directly affect a student's chances of gaining admission to the college of her choice. They frequently are the basis for selecting students for participation in programs for "gifted and talented" youth.

| Mean Combined SAT Scores | | | |
|--------------------------|------|--------|------------|
| Year | Male | Female | Gender Gap |
| 1972 | 959 | 913 | 46 |
| 1996 | 1034 | 995 | 39 |

In addition, they are a major factor in determining eligibility for valuable college scholarships. For example, each year more than one million high school

juniors compete for a share of the \$27 million awarded through the prestigious National Merit Scholarships, which are based solely on PSAT scores. Because girls, on average, score significantly lower than boys on the PSAT, they receive only 40 percent of the Merit Scholarship awards even though they are 56 percent of the test-takers.

Closing the Gaps. In 1997, the College Board and ETS, which administer and design the PSAT (along with the SAT), agreed to revise the PSAT to include a test of written English to better reflect important educational priorities, as part of a settlement of a complaint

filed with the Education Department's Office for Civil Rights (OCR). It remains an open question whether this revision will, in fact, close or reduce the gender gap. The complaint alleged that the PSAT was gender biased in violation of Title IX and that it hurt young women because National Merit Scholarships, the eligibility for which is based on PSAT scores, were awarded disproportionately to male candidates. In addition to settling this complaint, the College Board has stated that it already eliminates questions that are determined to favor one gender unfairly over the other, in an effort to make all of its tests as fair as possible.

Other efforts have been made to reduce unfair uses of standardized tests, beyond the agreement on the PSAT. Many colleges no longer require applicants for admission to submit SAT or ACT scores. And some scholarships no longer are based solely on test scores. For example, in 1989 a federal court held in *Sharif v. New York State Education Department* that the State of New York no longer may rely exclusively on SAT scores to determine the award of state Regents and Empire State college scholarships because such reliance had a discriminatory impact on female students in violation of Title IX: the record showed that while boys were 47 percent of the scholarship competitors, they received 72 percent of the Empire Scholarships and 57 percent of the Regents Scholarships. The court ordered the state to award these scholarships in a manner that

Room for Improvement

- **Scoring gaps have appeared in a wide variety of tests: the Armed Services Vocational Aptitude Battery, the Differential Aptitude Test, the SAT, PSAT, and other tests for admission to professional and graduate school.**
- **Reliance in tests persists despite questions about their predictive validity. For example, research shows the SAT underpredicts young women's performance in college.**
- **The gaps affect educational benefits available to girls and women. For example, girls receive only 40 percent of National Merit Scholarships, even though they are 56 percent of test-takers for the PSAT, the sole criterion for these awards.**

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more accurately measures students' high school achievement. As soon as the state began to take grades into consideration, the scholarship awards became more equitably distributed among male and female students.

Persistent Scoring Differentials. While these are laudable steps forward, and gender differences on many standardized tests are in fact declining, significant differences remain in many areas. For example, while the gender gap in math appears to be diminishing, there is evidence that gender differences on science tests for students aged 9, 13, and 17, as tracked by the National Assessment of Educational Progress (NAEP), have not declined and may be increasing, even though girls receive grades in science that are as high as or higher than those of boys. It is therefore critical that standardized tests continue to receive close scrutiny to ensure that their design is not biased and that they are used only for purposes for which their predictive validity has been demonstrated. The need for vigilance is particularly acute since attacks on affirmative action have prompted some colleges to rely more heavily on standardized tests in their admissions decisions, and current proposals by the Clinton Administration would make nationwide, standardized fourth-grade reading and eighth-grade math tests the centerpiece of an effort to improve this country's educational performance. Holding schools accountable for their effectiveness in educating our nation's students is a worthy objective, but the drive for education reform must not be allowed to run roughshod over our commitment to testing that is fair to all students.

Grade: C

Recommendations:

- National efforts to test students' proficiency in math and reading should include rigorous examination of the proposed test instruments to ensure they are valid for their stated purposes.
- OCR should monitor closely the ETS/PSAT settlement to ensure that the revised test is fair and does not perpetuate disparities in eligibility for National Merit Scholarships. OCR also should evaluate other tests, such as the armed forces vocational tests, to ensure that they are valid for their stated purposes.
- Educational institutions should not rely alone on standardized tests as measures of students' achievement or academic potential; they should examine other forms of assessment that better reflect students' level of accomplishment and learning style.

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Treatment of Pregnant and Parenting Students

C+

Twenty-five years of Title IX have kept school doors open for pregnant and parenting students, for whom education is the pathway to economic self-sufficiency. However, more work is necessary to ensure that pregnant and parenting teens continue their education. The stakes for these young mothers and their families are especially high now that the nation's welfare system has been altered, placing lifetime limits on the amount of available public assistance.

Closed Doors to Young Parents. Before Title IX was enacted, teen pregnancy generally marked the end of a student's educational career. Students who became pregnant were typically told to leave school so that other students would not be "infected" by what school administrators viewed as a bad example. Teen mothers were not always welcome to return to school after giving birth, particularly if they were unmarried. Although some separate schools for pregnant students and young mothers did exist, they often focused exclusively on so-called "relevant" learning, such as parenting classes, nutrition, and child development courses. Title IX's enactment meant an end to these practices; however, more efforts are necessary to ensure that pregnant and parenting teens may continue their education and move closer to self-sufficiency.

Making Education Accessible. Title IX's proscription against sex discrimination encompasses policies that limit educational opportunities for pregnant and parenting students. The Department of Education made this fact clear in Title IX's implementing regulation, released in 1975. The regulation interpreted Title IX to prohibit schools receiving federal funds from discriminating against students on the basis of pregnancy or marital status, and from discriminating against parenting students on the basis of sex. Under the regulation, schools may not exclude a student from any school program or activity on the basis of that student's pregnancy or related condition. In addition, schools must provide pregnant students with an excused medical leave of absence for a period of time deemed reasonably necessary by that student's doctor, and must reinstate that student to the same status she held when her leave began. While schools may operate separate programs for pregnant and parenting teens, such programs must be completely voluntary, and must be comparable to the instructional programs provided to non-pregnant students. In all other respects, schools must treat pregnancy and related conditions no worse than they treat any other temporary disability that students may experience.

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Persistent Discrimination. Despite the important legal protections established by Title IX, many schools continue to treat pregnant and parenting students as second-class citizens. The competing demands of pregnancy and parenthood make school burdensome under the best of circumstances; additional barriers can make it intolerable. Consequently, even the most subtle forms of discrimination can be enough to push these students out of the classroom.

For the most part, schools no longer have explicit policies expelling pregnant students or requiring them to attend separate school programs. However, even this most blatant violation of Title IX still occurs in some schools. For example, until a complaint was filed with the Office for Civil Rights in 1993, the St. Louis public school system had a written policy requiring all pregnant elementary and secondary students to attend a separate school for pregnant students in the district. The school system revised its policy to comply with Title IX after the complaint was filed. Similarly, an Indiana school district was found by OCR to violate Title IX by excluding pregnant students from school. Other significant, if infrequent, reports of school policies explicitly barring pregnant students from school continue to surface.

While national data documenting school practices and policies toward pregnant and parenting students does not exist, anecdotal evidence suggests that other, more subtle types of discrimination against this population occur much more frequently than outright expulsion. For example, some schools require pregnant students to submit frequent letters from a doctor certifying that they are able to stay in school, while students with other temporary disabilities are not subjected to such a requirement. Rather than comply with this additional burden, some pregnant students drop out of schools. Some school officials deny pregnant students the opportunity to do make-up work for missed class time, even though other students who miss school for health reasons are permitted to do so. Many guidance counselors informally counsel pregnant and parenting students to

**Ongoing Discriminatory Practices
Against Pregnant and Parenting Students**

- **Excluding pregnant students from school.**
- **Denying pregnant students the opportunity to make up missed classes.**
- **Requiring pregnant students to attend a separate, frequently less rigorous, school or counseling designed to steer pregnant students to such a school.**

attend a separate school, without informing them that they have the right to remain in their regular school programs. While separate schools for pregnant and parenting students have improved since Title IX was passed, many such schools still shortchange their students with an inferior academic curriculum and a primary focus on parenting and

homemaking skills. Pregnant students are not always treated the same as other temporarily disabled students with respect to home instruction programs, excused absences, and special accommodations in scheduling and facilities to enable students to continue their education. Finally, many pregnant and parenting students report a hostile reaction by school teachers and administrators to their situation, making them wish they could disappear from view. Unfortunately, a substantial number of them do.

Impact of Discrimination. Although high school completion rates for pregnant students and teen mothers have increased dramatically since Title IX was passed, much progress remains to be made. Pregnancy and/or parenting are still the most commonly cited reasons why girls drop out of school, accounting for about one half of the female dropout rate and one quarter of the total dropout rate. About half of all young women who give birth at age 17 or younger do not complete high school. This is particularly true for young women of color, whose birth rate exceeds that of white women: the birth rate for Latinas is 13 percent; that of African American women is 19 percent; for white women, 8 percent.

The importance of education to pregnant and parenting teens cannot be overstated. Young mothers who stay in school are much more likely to achieve long-term financial self-sufficiency than young mothers who do not. The children of young mothers also benefit when their mothers finish school. There is a strong correlation between the educational attainment of mothers who give birth in their teens and that of their children.

Grade: C+

Recommendations:

- The Office for Civil Rights should step up enforcement by targeting subtle forms of discrimination against pregnant and parenting students, such as informal counseling practices and use of excused absences.
- OCR also should undertake a public education campaign to inform school administrators, teachers, parents, and students of the rights of pregnant and parenting students under Title IX.
- Administrators in schools and postsecondary institutions should ensure that pregnant females are allowed full access to the curriculum unless there is a medical directive from the student's physician.

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ACTION AGENDA

How can we as a nation achieve gender equity? The following Action Agenda provides recommendations designed to create a blueprint for change and move us closer to achieving Title IX's goal of eliminating sex discrimination in education.

This list of recommendations for Congress, administrative agencies, and educational institutions is not exhaustive; people working on these issues undoubtedly will develop additional strategies. However, the Action Agenda, in tandem with efforts by students, parents, and educators in communities throughout the country, can help ensure that gender is not a barrier to educational opportunity.

What Can Policymakers Do?

President Clinton and congressional leaders, both Democrats and Republicans, have identified education as a top priority. Ensuring that educational opportunities are available to all students—irrespective of gender—is critical to providing the students with the training necessary to make the nation competitive in an increasingly global economy. To that end, Congress should take the following steps:

- **Amend the welfare law to allow women on public assistance to pursue post-secondary education** and to allow college study and work study to count toward a welfare recipient's work requirement.
- **Restore funding to the Patricia Roberts Harris Fellowships** to encourage women and students of color to pursue master's, professional, and doctoral programs in areas where they are underrepresented.
- **Strengthen the Equity in Athletics Disclosure Act** to require colleges and universities to provide information on gender equity in their athletic programs to one central government office. In addition, Congress should enact a similar sunshine law to require high schools to disclose publicly information regarding athletic equity.

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- **Reinstate funding for Title IV state educational agencies**, which have provided schools with important assistance in their efforts to provide a non-discriminatory learning environment.
- **Maintain funding levels for sex equity programs and services** in reauthorizing vocational education legislation, including supportive services and professional development for non-traditional training.
- **Establish a uniform data collection system for evaluating state efforts at achieving equity** in vocational education and accountability standards that measure progress in sex equity in this area.
- **Establish an incentive program rewarding states for successful equity activities**, particularly states that annually increase the number of students trained and placed in non-traditional careers.
- **Increase and target funding for the Eisenhower Professional Development Program** so teachers can learn techniques to close the gender gap in math and science.

What Can the President and Administrative Agencies Do?

Every administrative agency that provides funding for educational programs or activities has the authority and the responsibility for enforcing Title IX. However, after 25 years, only four such agencies have adopted regulations to enforce the law. Although the Department of Education's Office for Civil Rights is the lead agency for Title IX enforcement, other agencies can and should take proactive measures to make Title IX's mandate a reality. The following steps are critical:

- **Adopt the Title IX regulation promulgated by the Department of Education**, including all policy guidances that implement Title IX's mandate, particularly the recently released policy on sexual harassment.
- **Develop a comprehensive enforcement plan regarding Title IX** that includes conducting compliance reviews in key areas where barriers persist, such as employment, women's participation in math and science, sexual harassment, athletics programming, and access to non-traditional employment. Such a plan also should include coordinating with the Department of Justice to refer cases of noncompliance.
- **Develop a comprehensive strategy for heightening awareness regarding Title IX's requirements concerning sexual harassment**, which includes informing school superintendents and presidents of colleges and universities about the new sexual harassment policy guidance, working with community-based and advocacy organizations, and conducting public education.
- **Ensure that new national testing initiatives result in fair testing instruments** that measure students' performance and achievements in a non-biased manner. This

recommendation applies to the Department of Education, which is taking the lead on this policy initiative.

- **Develop a proactive leadership strategy to insure that School-to-Work is implemented in a gender equitable manner.** The federal School-to-Work Office and the Departments of Labor and Education should develop strategies to ensure that recipients of School-to-Work funds are building gender equitable systems, starting with site visits to assess state efforts at serving girls and young women as well as other underserved populations.
- **Expand Title IX to cover federally conducted education programs or activities** such as the Department of Defense school system, which encompasses a great many institutions, and fellowships administered by the National Science Foundation. At present, many of these programs are not covered by Title IX.

What Can Educational Institutions Do?

Comply with Title IX's requirements. This includes the following:

- **Designate at least one person as Title IX coordinator** to organize efforts to comply with Title IX and to investigate any Title IX complaints. Ensure that this person carries out the duties of educating faculty, students, and staff concerning their rights, their responsibilities, and the requirements of Title IX. The Title IX coordinator or some other person also could be charged with developing and implementing programs that promote educational equity. Institutions also should provide adequate staff and financial resources to carry out these important tasks. In many colleges and universities, the Title IX/equity coordinator could work closely with a committee, task force, or commission on the status of women.
- **Inform all students and employees of the person(s) responsible for Title IX compliance.** Include the name(s), office address(es), and telephone number(s).
- **Adopt and publish Title IX grievance procedures for both student and employee complaints, including complaints of sexual harassment.**
- **Develop specific and continuing strategies to ensure that everyone in the institution knows about your policy of non-discrimination.** Groups to notify about the policy include admission and recruitment personnel and representatives (both students and employees), applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and unions or professional organizations holding collective bargaining or professional agreements with the institution. Your policy should also inform people that inquiries about Title IX can be referred to the designated Title IX person or the Assistant Secretary for Civil Rights, U.S. Department of Education, Washington, DC 20201-2516.

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- **Ensure that the notice of non-discrimination is prominently placed in each announcement, bulletin, catalogue or application form** used in connection with students or employees as well as in recruiting students and employees. (Colleges recruiting athletes should be sure that this notification appears in materials sent to prospective athletes.)
- **Ensure that all programs facilitated by the institution do not discriminate on the basis of sex.** For example, the institution must develop and implement a procedure to assure that programs it does not operate but requires or otherwise considers a part of its programming, such as co-op placements sponsored by professional organizations or internships, are non-discriminatory. Institutions also should take reasonable steps to ensure that housing opportunities it does not provide directly—but which it solicits, lists, approves, or helps make available—are provided in a non-discriminatory manner. This means that housing must be proportionate in quantity and comparable in quality and cost for students of both genders.
- **Ensure that any agency, organization, or person who receives assistance from the institution for the purpose of making employment available to students does so without discriminating on the basis of sex.**
- **Develop and use internal procedures for ensuring that student counseling and appraisal materials do not discriminate on the basis of sex.**
- **Take action to ensure that classes that are disproportionately represented by one gender are not the result of sex discrimination** in counseling or appraisal materials, in the use of these materials, or by academic or guidance counselors.
- **Develop and implement procedures to ensure overall non-discrimination in disbursement of financial aid,** if the institution provides any single-sex financial assistance established by wills, bequests, or similar legal instruments. If financial aid is given to athletes, provide “reasonable opportunities” for athletic scholarships and grants-in-aid for each sex in proportion to the number of each sex participating in intercollegiate athletics.
- **Ensure that any separate class, activity or program offered to pregnant students is comparable to those offered to non-pregnant students.**

As stated previously, this list is not exhaustive; there are many more strategies that will help move the nation toward gender equity. In addition, students, parents, and educators have an important role to play in ensuring that educational institutions live up to their obligations under the law. These communities should determine the steps they will take to help the nation make the grade for gender equity in education in the next 25 years and beyond.

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USA Weekend, "The Difference Between Girls and Boys," September 8, 1996, p. 4.

Verna Williams, "In Search of a Vision: Gender Equity in Education in the Clinton Administration," *New Challenges: The Civil Rights Record of the Clinton Administration Mid-term*, 131 (Citizens' Commission on Civil Rights, 1994).

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Katherine Connor and Ellen Vargyas, "The Legal Implications of Gender Bias in Standardized Testing," 7 *Berkeley Women's Law Journal* (1992).

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P. Rosser, *The SAT Gender Gap: Identifying the Causes* (Center for Women Policy Studies, 1989).

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Treatment of Pregnant and Parenting Students

Deborah Brake, *Goals 2000 and Pregnant and Parenting Teens: Making Education Reform Attainable for Everyone* (National Women's Law Center, March 1995).

Deborah Brake, "Legal Challenges to the Educational Barriers Facing Pregnant and Parenting Adolescents," 28 *Clearinghouse Review* 141 (June 1994).

Center for Population Options, "Adolescent Childbearing and Educational Attainment" (CPO fact sheet) (on file with the National Women's Law Center).

Lorraine Coleman, Presentation to the Congressional Women's Caucus, Gender Equity in Education Forum, March 7, 1996 (on file with the National Women's Law Center).

Margaret Nash and Margaret Dunkle, *The Need for a Warming Trend: A Survey of the School Climate for Pregnant and Parenting Teens* (May 1989).

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Division of Evaluation and Research, St. Louis Public Schools, the Continued Education Project, Parent-Infant Interaction Program, and Services for Pregnant and Parenting Students in the St. Louis Public Schools (May, 1991, revised October 1991) (on file with the National Women's Law Center).

Action Agenda Resource List

34 C.F.R. Sec. 106.1 *et seq.*

Julie K. Ehrhart and Bernice R. Sandler, National Association for Women in Education, Washington, DC. Examines gang rapes and contains more than 100 recommendations for preventing and dealing with sexual assault (including but not limited to gang rape). Although aimed at colleges, many of the recommendations will also be appropriate for high school programs and policies.

Martha J. Langelan, *Back Off! How to Confront and Stop Sexual Harassment and Harassers* (Simon and Schuster, 1993). Describes many strategies for women and girls on dealing with sexual harassment when it occurs, whether in the playground, at work, or on the street. Very useful for students at all levels and those working with them.

Office for Civil Rights, U.S. Department of Education, *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, Federal Register, March 13, 1997, Vol. 62, Number 49. Copies can be obtained by calling or writing the U.S. Department of Education or your Senator or Representative in Congress.

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Jean O'Gorman Hughes and Bernice R. Sandler, *Friends Raping Friends: Could It Happen To You?* (National Association for Women in Education, Washington, DC). Aimed at students, the booklet describes how date rape usually occurs, what to do to avoid situations that might lead to date rape, what to do if raped, and effects of rape.

Jean O'Gorman Hughes and Bernice R. Sandler, *Peer Harassment: Hassles for Women on Campus* (National Association for Women in Education, Washington, DC). Contains more than 60 recommendations for preventing and dealing with student-to-student harassment.

Bernice R. Sandler, *Women at Work in the Classroom, Or Why It Still Hurts to be a Woman In Labor* (National Association for Women in Education, Washington, DC, 1993). Describes how both male and female students often treat women faculty differently than male faculty. Contains more than 60 recommendations.

Bernice R. Sandler, Jean O'Gorman Hughes, and Mary DeMouy, *It's All in What You Ask: Questions for Search Committees to Use* (National Association for Women in Education, Washington, DC). Contain about 60 questions to ask prospective faculty members and administrators to determine if a candidate is aware of and responsive to women's issues. Although developed for colleges, many of the questions would be equally appropriate for primary and secondary schools.

Bernice R. Sandler, Lisa A. Silverberg, and Roberta M. Hall, *The Chilly Classroom Climate: A Guide for to Improve the Education of Women* (National Association for Women in Education, 1325 18th Street N.W., Suite 210, Washington, DC 20036-6511). Describes more than 50 ways in which women college students are treated differently than men and offers more than 260 recommendations aimed primarily at administrators and faculty.

Bernice R. Sandler and Robert J. Shoop, *Sexual Harassment on Campus: A Guide for Administrators, Faculty and Students* (Allyn and Bacon, 1997). Also includes chapters on legal background, peer harassment, computer harassment, sexual harassment policies, and how to handle complaints both formally and informally.

Bernice R. Sandler, Lisa A. Silverberg, and Roberta M. Hall, "Part IV: Gender and the Faculty Evaluation Process" in *The Chilly Classroom Climate*, pp.57-63. Summarizes recent research on how women may be evaluated more harshly by their colleagues and their students, and provides more than 20 recommendations.

Robert J. Shoop and Jack W. Hayhow, Jr. *Sexual Harassment In Our Schools: What Parents and Teachers Need to Know to Spot It and Stop It* (Allyn and Bacon, 1994). Also covers policies and programs. Aimed at primary and secondary school educators and parents.

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The Coalition for Women and Girls in Education (NCWGE) represents more than 50 diverse national organizations committed to improving educational opportunities and equality for women and girls in all aspects of education. NCWGE member organizations include:

Academy for Educational Development
American Association for the Advancement of Science
American Association of School Administrators
American Association of University Professors
American Association of University Women
American Civil Liberties Union
American Council on Education
American Educational Research Association
American Federation of Teachers
American Psychological Association
Association for Women in Science
Association of Junior Leagues
Association of Teacher Educators
Business & Professional Women/USA
Center for Advancement of Public Policy
Center for Women's Policy Studies
Council of Chief State School Officers
FairTest
Federation of Organizations for Professional Women
Feminist Majority Foundation
Gaiser Middle School
Gallaudet University
Girl Scouts of the USA
Girls Incorporated
Ms. Foundation for Women
Myra Sadker Advocates for Gender Equity
National Alliance for Partnerships in Equity
National Alliance of Vietnamese American Service Agencies
National Association for Girls & Women in Sports
National Association for Women in Education
National Association of Collegiate Women Athletic Administrators
National Coalition for Sex Equity in Education
National Commission of Working Women
National Council of Administrative Women in Education
National Council of Negro Women
National Education Association
National Organization for Women
National Organization for Women, Legal Defense and Education Fund
National Women's History Project
National Women's Law Center
National Women's Political Caucus
Parent and Teacher Association
Trial Lawyers for Public Justice, P.C.
U.S. Student Association
United Church of Christ Board for Homeland Ministries
WAVE, Inc.
Women and Foundations, Corporate Philanthropy
Women's Bureau
Women's Legal Defense Fund
Women's Research & Education Institute
Women's Sports Foundation
Women Work!

Verna Williams, Chair
National Coalition for Women and Girls in Education
c/o National Women's Law Center
11 Dupont Circle N.W., Suite 800
Washington, DC 20036
202/588-5180

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Women's issues -
Title IX

5-12 Title IX.

1. Military schools not covered by T. IX.

What are facts?

Acads explicitly exempted.

2. Directive to agencies - recommitment to T IX.

(adopt DoEd regs)

What they can do to open up ed ops for w.

in partic areas (math, sci etc.) in

future - new generation

3. Progs not covered by TIX

NSF; others?

Event - tent or lawn etc Costs \$. They'll raise?
or smaller?

Human face - who to have?

DoEd - what doing?

5-16-97 Marsha Greenberger - Title IX

1. DoD schools -

Carolyn Burr aft / commander - no probs w/ principles
 No problem w/ doing - not in massive noncompliance, study.
 - sports (prob no diff than now)
 (who MG. Think not many schools are in compliance - so not so clear that CB is right)
 2 fewer slots for w. than men
 - sexual har. policies - no tolerance policy (so that's not apud)
 TIX also negs that ent. mech not up.
 never really looked at implementation

DIA? sovereignty issue? / - voted 2?

cut mech for this?
 obviously not cut off of funds

2. Federally conducted programs - Pinzler

504 ^{Rehab Act} covers all f.c. progs - not just ed progs.
 so no one's ever made list of what's ed.
 memo to IP - listed almost 2 -

Penter had only compiled list of Winsten.
 all ed progs that put huds (she will try to find)
 + to conducts

3. Federal directive - TIX compliance.

4 dep'ts have TIX negs - HHS, Ed, Energy, WDA
 Some have memos to Ed delegating auth. authority
 as to term of funds (but not much of this!)

(all have offices of civil rights) →

should adopt TIX negs by ref + each have ent plan as TIX.
~~that would~~

Q: What is under juris of each of these dep'ts?

~~If DOT, ... gives~~
 Example - HHS give to NCAA - to in summer sports
 v. more initiative.

Fictional example - HHS gives \$ to hospital ~~for~~ ^{training} for nurse aids -
(It doesn't have to go directly to the school)
each fed. funded entity has to comply w/
T. IX in all its prog.

Only if using any resources for Title IX.

perhaps other public topics → school-to-work
sex harassment

math/science tech-teaching?

scholarships/fellowships

athletics

Release-Title IX-Report card -

nation's progress toward gender equality.

press
conf.

→ active agenda -

refer to press initiative at press conf.?

→ One leg proposal -

Equity in Ath Disclosure Act

Not very user friendly.

Poss piece of leg -

lawyer; req schools to supply data to OCR.

Want to keep T. IX out of conference ^{agenda}