

## QUICK REFERENCE: TITLE IX FACTOIDS

Compiled by the Women's Sports Foundation  
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- **Thirty years after the passage of Title IX, the Women's Sports Foundation estimates that fully 80% of all schools and colleges are still out of compliance with the law that prohibits sex discrimination in athletic programs.**  
- *Women's Sports Foundation, 2002*
- **GOOD NEWS: Since Title IX was enacted 30 years ago, female high school athletic participation has increased by 847%.**
- **BAD NEWS: Male athletes still receive 1.1 million more participation opportunities than their female counterparts.**  
- *NFHS Participation Statistics, 2001*
- **GOOD NEWS: 54% of our college students are female.**
- **BAD NEWS: Female college athletes receive only:**
  - 36% of sports operating dollars,
  - 42% of college athletic scholarship dollars, and
  - 32% of athletic team recruitment spending,  
- *1999-2000 NCAA Gender-Equity Report*
- **Male athletes annually receive \$133 million more athletic scholarship dollars than female athletes!**  
- *1999-2000 NCAA Gender-Equity Report*
- **79% of the American public supports Title IX, the law that prohibits schools and colleges from discriminating on the basis of sex.**  
- *2000 Wall Street Journal/NBC News Poll*
- **Only 3 of 51 heads of state high school athletic associations are female**  
- *NFHS Participation Statistics, 2001*
- **Title IX Fact: in 1972, only 1 in 27 high school girls played varsity sports**  
- **In 2001, 1 in 2.5 high school girls played varsity sports.**  
- *NFHS Participation Statistics, 2001*
- **Although more young women are participating in college sports than ever before, women are not choosing to pursue sports related careers:**

<u>College Athletics Jobs</u>	<u>% female</u>
Athletic director	16.9%
Sports information director	12.3%
Athletic trainer	27.8%
Head coach of women's sport team	44%
Head coach of men's sport team	2%

  
- *R. Vivian Acosta and Linda Jean Carpenter, unpublished manuscript, Women in Intercollegiate Sport, 2002*
- **Title IX passed in 1972 and both men's sports participation in both high school and college has increased since then:**

	<u>1972</u>	<u>2001</u>
High School Male Athletes	3,666,917	3,921,069
College Male Athletes (NCAA)	170,384	208,866
High School Female Athletes	294,015	2,784,154
College Female Athletes (NCAA)	29,977	150,916

  
- *NFHS and NCAA Participation Statistics, 2001*

- **Title IX is not responsible for the elimination of men’s sports. Sports programs are eliminated for many reasons. 2/3 of the schools who have added women’s sports to comply with Title IX did not eliminate any men’s sports. In some cases, when sports are eliminated, they are simply replaced by other more popular sports. Also, the statement implies that women’s sports program have not been eliminated. Between the period 1981-1982 and 1998-1999 there were numerous such “adds and drops” of sports teams. For example:**

**Men’s Teams Discontinued**

Wrestling - 171  
 Tennis - 84  
 Gymnastics - 56

**Women’s Teams Discontinued**

Gymnastics - 100  
 Fencing - 31  
 Field Hockey - 28

**Men’s Teams Added**

Soccer +135  
 Baseball + 85  
 Basketball + 82

**Women’s Teams Added**

Track +243  
 Lacrosse +108  
 Swimming +101

*- GAO Report- Four-Year Colleges’ Experiences Adding and Discontinuing Teams, 2001*

**TITLE IX**  
**MYTHS AND COMMONLY ASKED QUESTIONS AND ANSWERS**

Compiled by the Women’s Sports Foundation  
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## 2. TITLE IX MYTHS

(provided by the National Women's Law Center)

### **MYTH: Title IX requires quotas for women.**

**FACT:** Title IX requires that women and girls be given equal opportunities to participate in athletics. Because Title IX allows sports teams to be segregated by gender, in essence it allows schools themselves to decide how many teams they will sponsor and how many slots they will allocate for female, as compared to male, students. Title IX does not in any way require quotas; it simply requires that schools allocate these slots in a nondiscriminatory manner.

Title IX provides three wholly independent ways for schools to show that they provide nondiscriminatory participation opportunities: (1) that the percentages of male and female athletes are substantially proportionate to the percentages of male and female students; *or* (2) that the school has a history and continuing practice of expanding opportunities for the under-represented sex; *or* (3) that the school has fully and effectively accommodated the interests and abilities of the under-represented sex, even if it doesn't meet either of the other two prongs of the test. Schools may choose the prong under which they want to comply.

The evidence contradicts the popular notion that schools are primarily choosing to comply under prong one of the three-part test. From 1994 through 1998, for example, the Office for Civil Rights reviewed 74 cases that involved Title IX's participation requirements. In these, only 21 schools, or less than one-third, chose to comply with prong one of the three-part test; the rest of the schools complied under prongs two or three.

### **MYTH: Title IX requires cutting men's teams.**

**FACT:** There is nothing in Title IX or its implementing regulations and policies that requires schools to cut men's teams. In fact, a recent study by the General Accounting Office found that 72% of schools that added teams between the 1992-1993 and 1999-2000 school years did so without discontinuing any teams. Men's athletics budgets still far outstrip women's budgets, moreover. While women are 53% of the student body at Division I colleges, for example, they get only 36% of overall athletic operating budgets.

The real culprits in schools' decisions to cut men's minor sports teams (such as wrestling and gymnastics) are bloated budgets for football and men's basketball, which consume the vast percentage of all of the resources devoted to sports.

### **MYTH: Women are less interested in sports than men.**

**FACT:** Development of women's interest in sports since the enactment of Title IX shows irrefutably that interest reflects opportunity. While fewer than 30,000 women participated in college sports prior to Title IX, today that number exceeds 150,000 — five times the pre-Title IX rate. Women's participation continues to be hampered by discriminatory barriers today; to accept that women are less interested in sports than men would simply freeze into place existing discrimination and curtail opportunities at artificially limited levels.

### **MYTH: Women are no longer the victims of discrimination in sports.**

**FACT:** Despite Title IX's considerable successes, the playing field is far from level. While 53% of the students at Division I schools are women, for example, female athletes in Division I receive only 43% of the opportunities to play and only 32% of athletic recruiting budgets. Spending on men's sports also continues to vastly exceed spending on women's sports. While systematic data on athletics at the high school level are not available, moreover, the disparities there appear to be equally great.

## **COMMONLY ASKED QUESTIONS AND ANSWERS**

### **3. TITLE IX BACKGROUND**

**Q: What is Title IX?**

**A:** Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in any educational program or activity that is a recipient of federal funds:

*“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 educational program or activity receiving Federal financial assistance.”*

- Athletics, drama, band, and other extracurricular student activities are considered to be educational programs under this law.
- Title IX also prohibits all forms of sex discrimination in federally funded educational institutions, including sexual harassment, discrimination in admissions and counseling, discrimination against married or pregnant students, etc.

**Q: Which schools must comply with Title IX?**

**A:** Title IX applies to educational institutions that receive any federal funds — whether public or private.

- Almost all private colleges are covered because they receive federal funding through federal financial aid programs used by their students. Many private elementary and secondary schools receive federal funding through various programs as well.

**Q: How is Title IX applied to athletics?**

**A:** There are three basic parts of Title IX as it applies to athletics:

- Participation: requires that women be provided with an equal opportunity to participate in sports (not necessarily the identical sports in which men participate, but rather an equal opportunity to play the sports in which they are interested). Note: Participation opportunities are numbers of participants not numbers of teams.
- Scholarships: requires that female athletes receive athletic scholarship dollars proportional to their participation (e.g., if there is a 50-50 male/female athlete ratio and a \$200,000 scholarship budget, the budget must be split evenly).
- Other benefits: requires equal treatment in the provision of (1) equipment and supplies, (2) scheduling of games and practice times, (3) travel and daily allowance, (4) access to tutoring, (5) coaching, (6) locker rooms, (7) practice and competitive facilities, (8) medical and training facilities and services, (9) publicity and promotions, (10) recruitment of student athletes, and (11) support services.

### **4. ALLEGATION OF PARTICIPATION “QUOTAS” (PROPORTIONALITY)**

**Q: Does Title IX require athletic program participation to be proportional to the number of males and females in the general student body?**

**A:** No. Every institution has three options to meet the participation standard of Title IX, only one of which is to provide athletic participation opportunities in substantial proportion to each institution’s gender enrollment. They only need to meet one of the following options:

- Option 1: Compare the ratio of male and female athletes to male and female undergraduates; if the resulting ratios are close, the school is probably in compliance with the participation standard. Note: This option is commonly referred to as the “proportionality” option.
- Option 2: Demonstrate that the institution has a history and continuing practice of program expansion for the underrepresented gender.
- Option 3: Demonstrate that the institution has already effectively accommodated the interests and abilities of the underrepresented gender.

From 1994 through 1998, for example, the Office for Civil Rights reviewed 74 cases that involved Title IX’s participation requirements. In these, only 21 schools — or less than one-third — chose to comply with prong one of the three-part test; the rest of the schools complied under prongs two or three.

**Q: Why does the proportionality prong of Title IX’s three-part participation test not require quotas and why it is fair?**

- A:** 1. There is no numerical requirement that schools have to follow to show they are giving their male and female students equal participation opportunities. (This is because there are two other ways schools can show they are being fair in providing men and women opportunities to play - prongs two and three of the test.)
2. Even if proportionality were the only prong, it would still not require quotas because the word “quota” suggests that men and women are competing for the same spots and that by giving opportunities to women, men lose those same opportunities. This is NOT the case in athletics, which is unique because men and women have separate teams and they do not compete against each other for the same spots on teams. The word “quota” is used by those attacking Title IX because it is a hot-button word that conjures up images of admissions or employment contexts where all groups are competing for the same spots, and by setting aside a certain number for one group, members of other groups may lose out.
3. Title IX requires that opportunities to play sports be distributed fairly among men and women. There has to be some way to measure this and the proportionality prong is simply ONE way of doing so.
4. The proportionality prong and the three-part test are consistent with the nation’s civil rights laws.

**Q: Does Title IX enforce a quota?**

**A:** Title IX’s requirement that an institution accommodate female students as well as it accommodates male students does not require quotas. The so-called “proportionality standard” is only one of three independent tests for compliance, and the other two are not numerical. A requirement is a “quota” when you *must* use a mathematical requirement. Title IX does not require that a school use the proportionality standard.

**Q: Is the “proportionality prong” fair to men?**

**A:** Yes. It is fair to both genders for two reasons: first, it applies to either gender if they are similarly situated as the underrepresented population; and second, it represents only one option for satisfying Title IX’s requirements. The proportionality prong was designed to function as a quick mathematical assessment that would enable schools to calculate whether they are in compliance with the law. If a school does not meet proportionality, it can choose the other two options to indicate compliance. The second option, adding a sport every two to three years, is one of the weaker civil rights standards in existence, tantamount to allowing schools to demonstrate compliance by certifying that they are “trying.” The reason that schools object to the proportionality requirement is that they have disregarded the requirement of the law for 20 years, failed to promote female club sports to varsity status, and thus, put themselves in the position of being unable to take advantage of either the “gradually adding teams” option or the “prove you have met interest” option. They forced themselves into a corner by not taking advantage of the easiest ways to comply and are now arguing that the most difficult way to comply is too onerous.

## 5. PARTICIPATION

**Q: Has Title IX increased female participation over the last 30 years?**

**A:** Yes. Since the passage of Title IX, increases in athletic participation for both males and females have occurred at both the high school and collegiate levels.

- In 1970, only 1 out of every 27 high school girls played varsity sports. Today, that figure is one in 2.5.
- High school female participation increased from 294,015 in 1971 to 2,784,154 in 2001, an 847% increase; but male athletes still receive 1.1 million more participation opportunities.
- College female athletic participation has increased by 403 percent, from 30,000 to 150,916.

*-NFHS and NCAA Participation Statistics, 2001*

**Q: At the high school level, do males and females have equal participation opportunities?**

**A:** No. High school varsity athletic participation (2001):

Girls	2,784,154
Boys	3,921,069

*-NFHS Participation Statistics, 2001*

**Q: Have males lost athletic opportunity since the passage of Title IX?**

**A:** No.

Female High School and Collegiate Participation

		1971-1972	2000-2001	Percent Increase
High School Varsity Athletes	Female	294,015	2,784,154	847 percent
	Male	3,666,917	3,921,069	6.9 percent
Collegiate Varsity Athletes (NCAA)	Female	29,977	150,916	403 percent
	Male	170,384	208,866	22.6 percent

*-NCAA Data, and the National Federation of State High School Associations in 2000*

**Q: Does Title IX require an equal number of teams for male and female athletes?**

**A:** No. Title IX deals with participation opportunities or number of individual participation slots for males and females to play — not numbers of teams.

**Q: Can cheerleading be considered a varsity sport?**

**A:** No in the case of traditional cheerleading where cheerleaders perform at athletic events and participating in no or few cheerleading competitions each year. Yes if the cheerleading team has a coach, practices as frequently as a regular varsity team, and competes against other cheerleading teams on a regular basis and more frequently than it appears to cheer for other teams.

**Q: Is any sport excluded from Title IX?**

**A:** No. All sports at an institution are included under Title IX. During the 1970s, there were four efforts to amend Title IX to exclude football, and each effort failed. Many people say that football should be excluded because women do not participate in this sport. Women do participate in football in high school. Men, in general, do not play on varsity softball or field hockey teams. The point is that students of both genders should have the right to participate in the sports in which they are interested. Also, there are Title IX exceptions already created for football and other sports that may be more expensive or require different types of expenditures related to the nature of the sport rather than the gender of the participant.

## 6. ISSUES RELATED TO FOOTBALL

**Q: Should football be excluded from Title IX coverage?**

**A:** No. No sport should be excluded from Title IX compliance. Males are entitled to participate in the sports in which they have an interest, and females are entitled to participate in the sports in which they have an interest.

- The point is that if male athletes prefer to concentrate a large number of their participation opportunities in one sport, that's fine. By contrast, if female athletes prefer to spread their participation opportunities across numerous sports, that's fine too.
- Affording special consideration to football because it brings in more revenues than other sports would permit an economic justification for discrimination. This would allow an institution to say, "We're sorry we can't afford to give your daughter the same opportunity to play sports as your son because football needs more money." Would we ever allow an institution to discriminate against students with disabilities by saying, "We're sorry we can't build ramps to allow your child's wheelchair access to classrooms as required by law. We needed to use the money for another reason."

**Q: Does Title IX enforcement hurt football programs?**

- No. Football programs already receive protection under Title IX as mandated by the Javits Amendment, which allows increased expenditures based on "the nature of a sport" (i.e., football uniforms and protective equipment cost more than uniforms in other sports).
- Some have argued for the exclusion of football from Title IX not only because it costs more to fund a football program, but because it earns more money, and thus funds other sports. This is a myth. Among NCAA football programs in all competitive divisions, 81% spend more than they bring in and contribute nothing to other sport budgets. Even among Division I-A football programs, more than a third are running deficits in excess of \$1 million per year.
- Football programs, football participation and football budgets have continued to grow during the 30 years since Title IX was adopted.

## 7. ELIMINATION OF TEAMS

**Q: Does Title IX mandate decreases in opportunities for male athletes in order to provide increased opportunities for females to participate?**

**A:** No. Title IX’s purpose is to create the same opportunity and quality of treatment for female athletes as is afforded male athletes. The law does not require reductions in opportunities for male athletes.

- Some educational institutions have chosen to eliminate men’s non-revenue sports and maintained that this was necessary in order to comply with Title IX, thereby making women’s programs the easy scapegoat to blame for the loss of these men’s programs. However, it is the school’s choice to cut back in this unfortunate manner. The school could just as easily maintain all sports but just giving every sport a smaller athletic department budget allocation.
- Title IX is not to blame for school priorities that shortchange men’s minor sports. During the 1980s, when few schools were expanding opportunities for women to play sports, men’s minor sports were eliminated in order to spend more money on football and other men’s revenue-producing sports.
- Cutting men’s sports is not the intent of Title IX. The intent of Title IX is to bring treatment of the disadvantaged gender up to the level of the advantaged group.

**Q: Is there a solution for schools so that they do not need to cut men’s programs?**

**A:** Yes.

- Institutions can choose to fund all sports in the same manner and divide the budget pie evenly, giving every sport a smaller piece of the pie.  
Analogy: A family has two children, one who participates in football and one who wrestles. Both children go to sport lessons and summer camps. The family then has a third child, a girl who wishes to play and the family’s income does not change. Would the family eliminate a child or tell their new child they couldn’t play? No, the family would use its existing funds differently, making every effort to give every child a chance to play but limiting activities based on a smaller piece of the family budget.
- Institutions can choose to split the financial pie differently, using a tiered approach, keeping all of their sports but funding them at differing levels.  
Example: An equal number of males and female athletes would be funded at a very high level. Then, the institution would structure another lower level of funding, for an equal number of male and female participants in their respective sports. Possibly, the institution could structure even another lower level of funding to ensure participant access to sport programs at a basic level. Instead of all sports awarding scholarships to athletes, sports at the highest level would have full scholarships, sports at level two would have only half the permissible number of scholarships and level three sports would have no scholarships. With this approach, institutions can maintain all of their varsity programs with the same amount of money.

**Q: Is wrestling being eliminated because of Title IX?**

**A:** No.

- During the period 1984 through 1988, when Title IX was not enforced due to a Supreme Court decision subsequently reversed by the Civil Rights Restoration Act of 1988, wrestling programs declined from 342 to 289.
- Sports programs are eliminated for many reasons. Two thirds of the schools who have added women’s sports to comply with Title IX did not eliminate any men’s sports. In some cases, when sports are eliminated, they are simply replaced other more popular sports. Also, the question implies that women’s sports programs have not been eliminated. Between the period 1981-1982 and 1998-1999 there were numerous “adds and drops” of men’s and women’s sports teams. For example:

<b>Men’s Teams Discontinued</b>		<b>Women’s Teams Discontinued</b>	
Wrestling	- 171	Gymnastics	- 100
Tennis	- 84	Fencing	- 31
Gymnastics	- 56	Field Hockey	- 28
<b>Men’s Teams Added</b>		<b>Women’s Teams Added</b>	
Soccer	+135	Track	+243
Baseball	+ 85	Lacrosse	+108
Basketball	+ 82	Swimming	+101

*- GAO Report- Four-Year Colleges’ Experiences Adding and Discontinuing Teams, 2001*

- Most experts believe that schools eliminating men’s sport teams are doing so because they want to maintain the funding and competitive division status of a limited sports program. While they can keep all sports at lower funding levels, philosophically they do not wish to do so.

**Q: Are men’s intercollegiate sports vanishing in this country?**

**A:** No. Male participation opportunities have increased since 1972, and men still receive nearly 28% more participation opportunities than females.

- Male participation has grown at both the collegiate and high school level since 1972.
- Unfortunately for the sports being dropped, schools are choosing to offer other sports.
- Since 1982, at the NCAA and NAIA level, football participation has increased by 14%, baseball by 22%, lacrosse by 48% and basketball by 9%.

*-GAO Report- Four-Year Colleges’ Experiences Adding and Discontinuing Teams, 2001*

**Q: Are there any legal grounds for reinstatement when a college drops its entire athletic program?**

**A:** No, any academic or athletic program area can be dropped without legal recourse at any institution. If an institution wants to drop both its men’s and women’s entire sport programs, that is permissible.

**Q: Can an established women’s team be eliminated, and different women’s team added in its place?**

**A:** If the institution is in compliance with Title IX participation requirements (i.e. percentage of female athletes is the same as the proportion of female students), it can replace an existing women’s team with a different women’s team. However, if female athletes are underrepresented, the school cannot eliminate any women’s sport until it comes into compliance. Thus, when female athletes are underrepresented, the institution must continue to add women’s sports without eliminating existing women’s programs until the interests and abilities of underrepresented gender are met (as defined by the three-prong test of Title IX’s participation provision).

## **8. BENEFITS AND TREATMENT**

**Q: The boys’ teams receive letter jackets from the booster club at the end of the year while the girls’ teams receive certificates from the school. Is this a Title IX violation?**

**A:** Yes. If permission is given by the athletic director for an action or expenditure that benefits the boys’ programs, a similar benefit must be provided to the girls’ programs.

**Q: Is it a violation of Title IX when cheerleaders, pep squads and/or bands are provided for men’s athletic events but not for women’s athletics events?**

**A:** Yes. Cheerleaders, pep squads, and bands are considered publicity services. If they are provided for the men’s program, they must be provided for the women’s program.

**Q: Our high school girls play at 4:00 p.m. on Fridays, and the boys play at 7:00 p.m. on Fridays. Is this a violation of Title IX?**

**A:** Yes. Later times for games are more valued because parents, friends, and spectators can more easily attend.

- In order to comply with Title IX, many schools flip-flop early and late starting times for men’s and women’s teams.

## **9. FUNDING**

**Q: Does Title IX require that equal dollars be spent on men’s and women’s sports?**

**A:** No. Equal expenditures are not required by Title IX. However, with regard to scholarships, dollars must be spent on males and female athletes proportional to their participation in the athletic program.

- In areas other than scholarships, the standard is one of “quality” rather than dollars spent. For example, if a school spends \$700 outfitting a male football player, it does not have to spend \$700 outfitting a female lacrosse player. However, male and female athletes must be provided with the same “quality” of uniforms, and they must be replaced under the same circumstances.
- Unequal budgets can also affect the number of athletes on a team. Insufficient funds may not permit a coach to supply the necessary equipment, uniforms, and travel costs to a large number of players. Such disparities may violate Title IX.

**Q: Does Title IX require identical sport programs, treatment and services for males and females?**

**A:** Yes.

- Males and females can participate in different sports. Title IX requires that the athletic programs meet the interests and abilities of each gender.
- Under Title IX, a male team is not compared to the female team in the same sport. The Office for Civil Rights examines the total program afforded to male athletes and the total program afforded to female athletes and then decides whether each program meets the standard of equal treatment.
- Title IX does not require that each team receive exactly the same services and supplies. Rather, it requires that the men’s program and the women’s program receive the same level of service, facilities, and supplies. Variations within the men’s program and within the women’s program are allowed.

**Q: After 30 years of Title IX, are colleges providing equal benefits?**

**A:** No. 54% of our college students are female, but college female athletes receive 36% of sports operating dollars, 42% of college athletic scholarship dollars and 32% of athletic team recruitment spending.

*-1999-2000 NCAA Gender-Equity Report*

**Q: Are most schools and colleges in compliance with Title IX?**

No. Current estimates are that 80% or more of all colleges and universities are not in compliance.

- At the high school level, financial data are unavailable.
- While equal expenditures are not required by Title IX, the funding discrepancies in various areas are good clues to probable unequal treatment.
- Scholarship expenditures must be made proportional to percentages of males and females in the student body.

	<b>Division I-Overall</b>		<b>Division I-A</b>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
Undergraduates	47%	53%	48.9%	51.1%
Athletes	59%	41%	61%	39%
Operating Expenses	64%	36%	67%	33%
Recruiting Expenses	68%	32%	71%	29%
Scholarships	57%	43%	60%	40%
Head Coach Salaries	59%	41%	62%	38%
Asst. Coach Salaries	72%	28%	74%	26%

	<b>Division I-AA</b>		<b>Division I-AAA</b>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
Undergraduates	45.5%	54.5%	42.5%	57.5%
Athletes	60%	40%	52%	48%
Operating Expenses	62%	38%	55%	45%
Recruiting Expenses	66%	34%	55%	45%
Scholarships	57%	43%	48%	52%
Head Coach Salaries	57%	43%	55%	45%
Asst. Coach Salaries	72%	28%	55%	45%

	<b>Division II</b>		<b>Division III</b>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
Undergraduates	43.5%	56.5%	44.3%	55.7%
Athletes	62%	38%	60%	40%
Operating Expenses	66%	34%	59%	41%
Recruiting Expenses	65%	35%	65%	35%
Scholarships	59%	41%	NA	NA
Head Coach Salaries	54%	46%	55%	45%
Asst. Coach Salaries	72%	28%	69%	31%

*- 1999-2000 NCAA Gender-Equity Study*

**Q: Does Title IX apply to booster clubs and other similar types of support for athletic teams?**

**A:** Yes. If the school permits an individual or group to donate funds for the benefit of a specific gender or sport, it must also make sure that benefits and services are equivalent for both sexes.

- It is permissible for a school to accept booster club money to provide a benefit for the football team and not require the booster club to provide equal benefits for an equal number of female participants. However, it must find the funding from other sources to insure equal benefits.

## 10. INTEREST AND ABILITY

### **Q: Are females less interested in sports than males?**

**A:** No. There is no evidence suggesting girls are inherently less interested in sports than boys. We do know that at an early age (six to nine years old), they are equally as interested. However, participation opportunities decline sharply as girls get older.

- The participation rate of boys, almost twice that of girls, reflects the opportunities that are offered to them — not lack of interest on the part of girls.
- A combination of lessened opportunities to play (no teams), negative peer group support for girls who do play sports, and a lack of encouragement combine to cause girls to drop out of sports at a rate that is six times greater than boys by the age of 14.

### **Q: How does the Office of Civil Rights gauge the interests and abilities prong of compliance?**

**A:** If a school does not meet the proportionality option (percentage of females and males participating in sport equals percentage of females and males attending the school or college), and does not meet the second option of demonstrating that it has regularly increased participation opportunities for the underrepresented gender over time, the school can still satisfy Title IX by demonstrating that its sports program already meets the interests and abilities of its students. It can demonstrate this by showing that there are no sports clubs on campus or other groups of female athletes who are requesting varsity athletic opportunities, by showing that it is already offering a broad array of sports for women that reflects the participation interests of girls in that state or school district, or by adding a sport in which there appears to be interest and then showing that females did not take advantage of this opportunity.

## 11. ASSESSMENT OF TITLE IX COMPLIANCE

### **Q: How do I know if my school is in compliance with Title IX?**

**A:** Only the courts can ultimately determine compliance with the law. However, here are several suggestions on how to inquire about Title IX compliance at your school or college.

- Ask. Every school, by law, is required to have a Title IX Coordinator. Find out who this person is and ask them about the school's compliance. Title IX covers many areas, from participation numbers to quality of available coaching. If the school doesn't have a Title IX Coordinator, report it to the Office for Civil Rights (OCR) at the U.S. Department of Education.
- At the high school level, find out if the school is accommodating the sports interests of both boys and girls. Are there programs not being offered for girls where there exists substantial interest in fielding a program? Compare the number of participation opportunities available to boys (not the number of teams but the actual number of players) to the number of opportunities for girls.
- At the college level, it has become a little easier for anyone to find out if an institution is in compliance. In 1994, Congress passed the Equity in Athletics Disclosure Act (EADA), which requires all institutions of higher education to report each year on athletic participation numbers, scholarships, program budgets and expenditures, and coaching salaries by gender. This information is available at <http://ope.ed.gov/athletics/>. As it is broken down by gender, it's easy to see whether an institution is being equitable.
- Grade your school at [www.GeenaTakesAim.com](http://www.GeenaTakesAim.com).

### **Q: Who is responsible for enforcing Title IX?**

**A:** The Office of Civil Rights (OCR) in the U.S. Department of Education (DOE)

- Schools and colleges are responsible for complying with federal law.
- The OCR is specifically charged with enforcing the law. Anyone can file an OCR complaint and the identity of the complaining party will be kept confidential.
- Finally, courts enforce Title IX because affected parties have an individual right to sue (and courts may award damages).

### **Q: What is the penalty for non-compliance with Title IX?**

**A:** The ultimate penalty for non-compliance is withdrawal of federal funds from the offending institution. Institutions may also be required by a court or the OCR to make changes in their programs and to pay damages to injured students for their lost opportunities.

- Although most institutions do not comply with Title IX, no institution has lost any federal funds as a result of non-compliance with Title IX. The OCR states that it does not have sufficient staff or budget fully to enforce Title IX.
- Almost every student-athlete who has gone to court with a Title IX complaint has been successful. Institutions have had to pay substantial damages and attorneys' fees in cases brought to court.

### **Q: Are institutions prohibited from retaliating against persons who file Title IX complaints or lawsuits?**

**A:** Yes. Retribution is prohibited.

- However, there are many coaches of women's teams who have complained about Title IX violations and who have not had their contracts renewed, ostensibly for other reasons.

**Q: Does the Office of Civil Rights put as much emphasis on Title IX cases as it does on other types of civil rights violations such as race and disability discrimination?**

**A:** We do not know the answer to this question. The only way to come up with an accurate answer would be to ask the Office of Civil Rights for information on the number of investigations it conducts in all three areas.

**Q: Can a former female athlete sue her institution for failure to provide past and current athletes equal opportunities? Can she file an official Office of Civil Rights complaint?**

**A:** Yes, she can sue her institution as long as the suit involves a claim that there are damages. For example, the former athlete can sue her institution for past discrimination by arguing lost scholarship opportunities. However, she must file an Office of Civil Rights complaint within 180 days of the alleged discrimination or within 60 days from the last step in an internal grievance process.

**Q: Do you think there will be a time when we will not need Title IX?**

**A:** All civil rights laws are statements of social justice values. The Civil Rights Act, Title IX, and the Americans with Disabilities Act are all important laws that should remain on the books to protect the citizenry from discrimination on the basis of race, gender or disability. They are both a protection and important statements of the values of our society. They should remain in force in case anyone doubts the commitment of our country to the values they project and protect.

**Q: Is there anything about the current enforcement of Title IX that you would change?**

**A:** While progress has been made, the majority of high schools and colleges are not in compliance with Title IX. The Office of Civil Rights does not enforce Title IX, which means that parents must go to the courts to ensure that their daughters are treated fairly. Numerous Title IX cases have been brought to courts, with the plaintiffs prevailing in every case. But not all parents can afford this remedy. A system has to be put in place where the OCR more aggressively enforces the law to provide a remedy for our daughters – rather than forcing them into the courts. If OCR made an example of one institution by initiating the procedures for withdrawal of federal funds, educational institutions would get the message.

**Q: Do you think the enforcement of Title IX has changed much since the 1970s?**

**A:** The Office of Civil Rights is conducting far fewer investigations on its own (6 in 2000; 2 in 2001), despite the significant number of outstanding high school and college complaints (402 high school and 106 college complaints over the past three years). Thus, more parents have started going to court because the Office of Civil Rights has not been effective. A greater number of cases are being brought to court and actually being litigated.

**Q: Many universities are still not in compliance with Title IX 30 years after it was passed, yet no institution has ever lost federal funding. Without proper manpower and resources, how can the Office of Civil Rights ever be expected to properly enforce Title IX?**

**A:** Funds available for enforcement is not the issue. All OCR would have to do to send a clear message of its intent to enforce the law would be to start the process for withdrawal of federal funds in the case of one institution that is not in compliance with Title IX. Then all schools would fall into line and comply with Title IX. It would resemble the “death penalty” that the NCAA applied only once, to SMU’s football program. It is an important penalty.

**Q: Are there other methods of encouraging compliance besides taking away all federal dollars from a college?**

**A:** Title IX is not an unusual law with regard to this penalty. This is the mechanism by which the government normally gives funds to schools, on the condition that they comply with federal laws. To suggest that athletics should be an exception from the norm would be to carry the excesses of American sport to a ludicrous extreme.

## 12. PUBLIC OPINION

**Q: Does the public support Title IX?**

**A:** Title IX has widespread public support.

- A 2000 *NBC News/Wall Street Journal* poll asked:

“Title IX is a federal law that prohibits high schools and colleges that receive federal funds from discriminating on the basis of gender. Title IX is most commonly invoked to ensure equal participation opportunities for girls and women in high school and college athletics. Do you approve or disapprove of Title IX as it is described here?”

The results were:

- 79% approved of Title IX,
- 14% disapproved of Title IX,
- 4% did not know enough about it, and
- 3% were unsure.

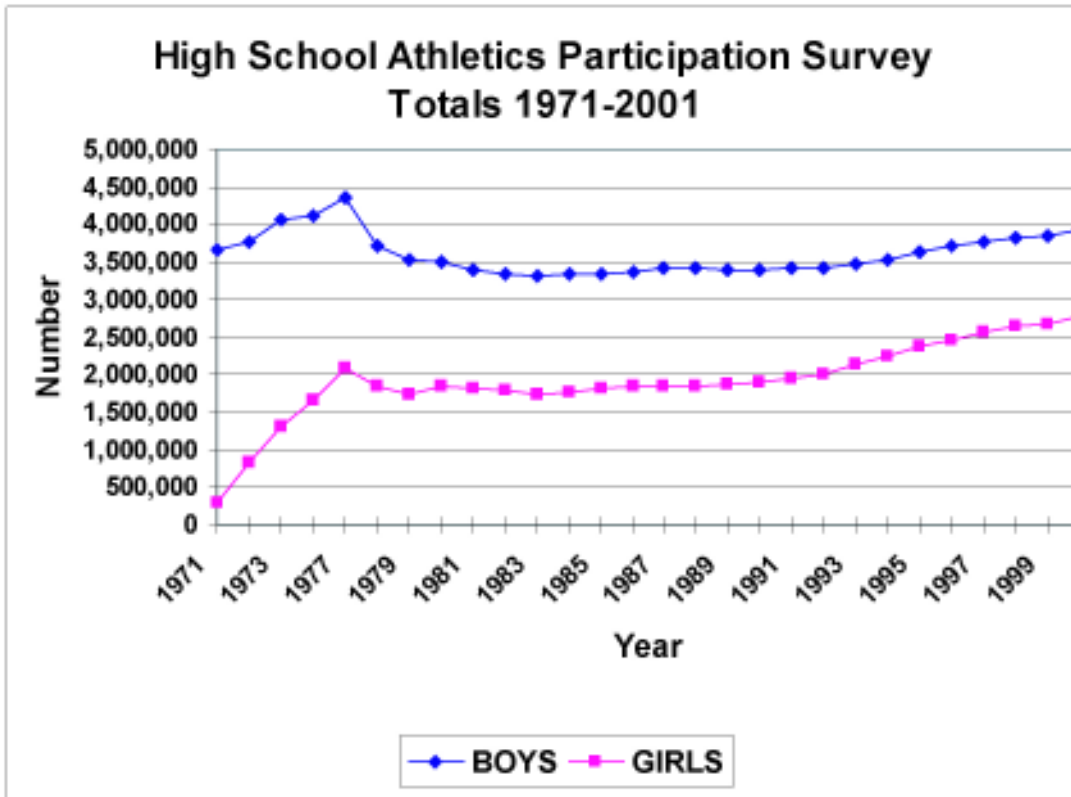
“To comply with Title IX, many schools and universities have had to cut back on resources for men’s athletic programs and invest more in women’s athletic programs to make the programs more equal. Do you approve or disapprove of cutting back on men’s athletics to ensure equivalent athletic opportunities for women?”

The results were:

- 76% approved of cuts,
- 19% did not approve of cuts, and
- 5% were unsure

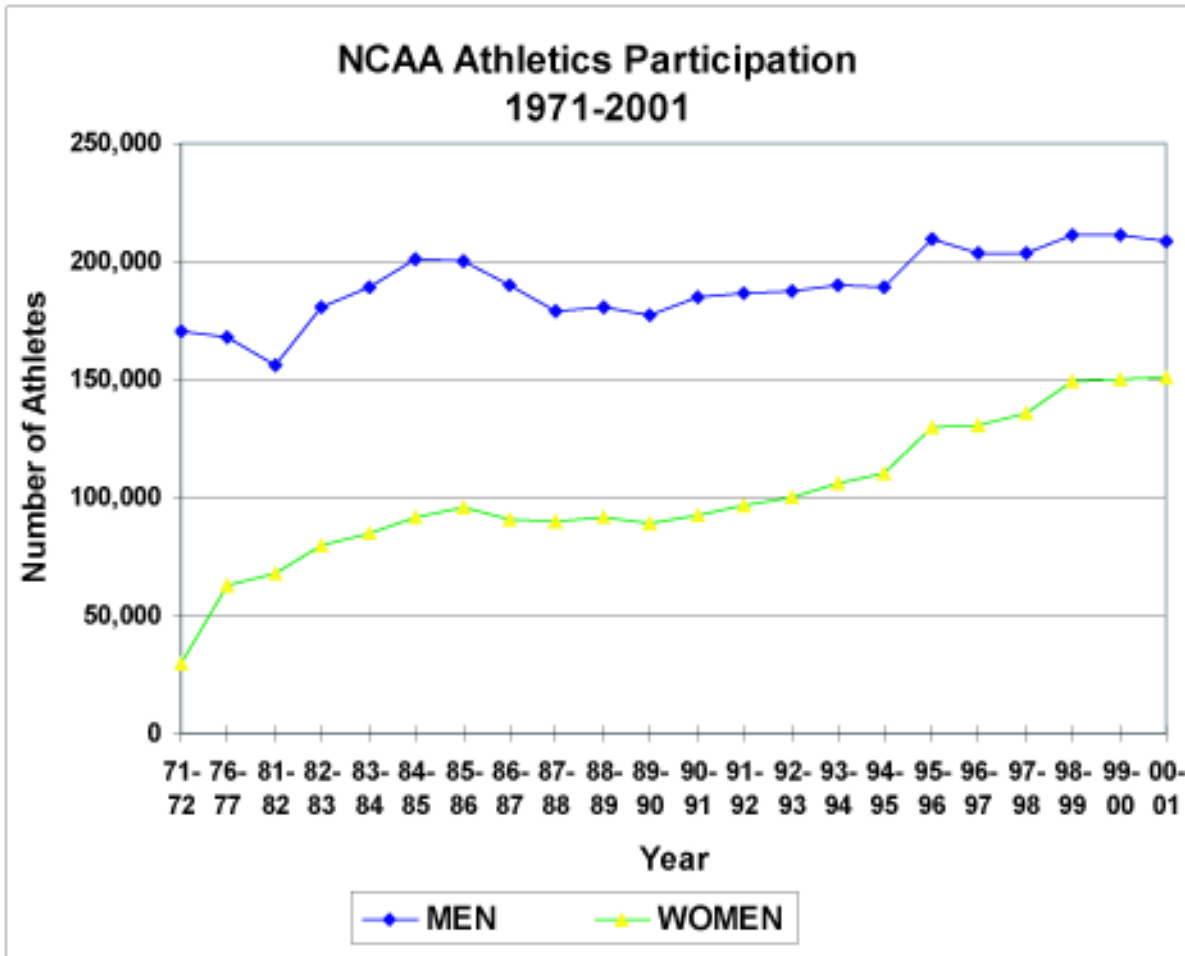
*- Source: NBC News/Wall Street Journal poll of 2,010 adults across the country from June 14-18, 2000; margin of error of 2.2 percentage points*

# APPENDIX A



— National Federation of State High School Associations, 2001

# APPENDIX B



— NCAA Year-By-Year Sports Participation 1982-2001, Sports and Recreation Programs of Universities and Colleges 1957-82 (NCAA)