

Title IX at 30: Athletics Receive C+

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Athletics

For many, Title IX is synonymous with expanded opportunities in athletics. Its success is evidenced by women's and girls' increased participation in sports, the impressive achievements of the nation's female athletes, stunning advances in each summer and winter Olympic Games, and the creation of nationally televised professional women's basketball and soccer leagues over the last five years. It takes a large and vibrant base of general sports participants and 15 to 20 years of elite athlete support to create an Olympic gold medalist or professional athlete; years in which an athlete is given access to quality coaching, sports facilities, weight rooms, athletic scholarships and quality competition. Women and girls were virtually precluded from taking advantage of most athletic opportunities in schools before Title IX, but we are beginning to see the outcome of equal opportunity on the playing fields.

But Olympic medals and professional sports contracts are not what Title IX is all about. Rather, the quest for equal opportunity in sport has always been about the physiological, sociological and psychological benefits of sports and physical activity participation. Research studies commissioned by the Women's Sports Foundation in 1998 and 2000 found that girls who play sports enjoy greater physical and emotional health and are less likely to engage in a host of risky health behaviors (i.e., drug use, smoking, drinking) than non-participants.¹ Other studies have linked sports participation to reduced incidences of breast cancer and osteoporosis later in life.² Yet girls are twice as likely to be inactive as boys, and enjoy nearly 30% fewer opportunities to participate in both high school and college sports.³ Much distance remains between the current status of women and girls in sports and the ultimate goal of gender equity.

Participation Rates and Resource Allocation. Prior to 1972, women and girls looking for opportunities for athletic competition were more likely to become cheerleaders or secure places in the bleachers as spectators. In 1971, fewer than 295,000 girls participated in varsity athletics in American high schools, comprising a mere seven percent of all high school varsity athletes. The outlook for college women was equally grim: before Title IX, fewer than 30,000 females competed in intercollegiate athletics. Low participation rates reflected the lack of institutional commitment to providing athletics programming for women. Before Title IX, female college athletes received only two percent of overall athletic budgets. Athletic scholarships for women were effectively nonexistent.

Title IX's enactment has changed the playing field significantly. By 2001, nearly 2.8 million girls participated in athletics, representing 41.5 percent of varsity athletes in American high schools—more than an 847 percent increase from 1971.⁴ The progress on college campuses also has been impressive. Today, 150,916 women compete in intercollegiate sports, accounting for 43 percent of college varsity athletes—an increase of more than 403 percent from 1971.⁵ Contrary to

media reports, men's participation levels at both the high school and college level have increased. See Figure 1, Figure 2 and Table 1.

While significant, these gains still stop short of providing girls and women with their fair share of opportunities to compete. In the 1999-2000 year, female students represented approximately 54.2 percent of the student body at four-year colleges.⁶ Yet, only 23 percent of all NCAA Division I colleges provided athletic opportunities for women within five percentage points of female student enrollment. This percentage is up from nine percent for the 1995-1996 season.⁷

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. After 30 years, the gap is still significant and closing much too slowly. Institutions are not exercising restraint on men's sports expenditures while women's sports catch up. See Table 2.

- In the past four years, for every new dollar going into athletics at the Division I and Division II level, male sports receive 58 cents while female sports receive 42 cents.⁸
- Male athletes receive \$133 million, or 36 percent more, than female athletes in college athletic scholarships each year at NCAA member institutions.⁹
- On a per-athlete basis, colleges spent an average of \$2,983, \$1,199 and \$770 per female athlete in Divisions I, II and III, respectively, compared to the \$3,786, \$1,455 and \$745 spent on male athletes.¹⁰

National data on expenditures do not exist for girls' and boys' interscholastic sports, but anecdotal evidence suggests that similar financial disparities also exist at the elementary/secondary level.

Coaches, Administrators and other Athletic Personnel. Female coaches, athletic administrators, and women in other sports positions have not shared in the improved opportunities enjoyed by female students and athletes since Title IX's enactment. In the early 1970s, women head coaches led 90 percent of women's collegiate teams. By the 2001-2002 school year, female head coaches led only 44 percent of women's intercollegiate athletic teams, the lowest total since the passage of Title IX. This number is down from 47.7 percent in 1995-1996. Since 2000, 90 percent of the available head-coaching positions in women's athletics have gone to men.¹¹ A similar decline in the percentage of women coaching girls' teams can be witnessed at the high school level.

To make matters worse, the loss of coaching opportunities in women's sports has not been offset by a corresponding increase in opportunities for women to coach men's teams. To the contrary, women are virtually shut out of these jobs, holding only two percent of the coaching positions in men's collegiate sports, a percentage that has remained constant over the last 30 years. Currently, there are no indications that the downward trend is slowing.

Women's college basketball, considered by most to be the greatest economic success among all women's collegiate sports, is one of few exceptions to diminishing coaching opportunities for women. The number of women intercollegiate basketball coaches has remained relatively constant over the past 10 years, with women currently holding 62.8 percent of these head coaching jobs.¹²

However, among 24 women's NCAA championship sports, female coaches are in the majority in only seven.¹³ See Table 3.

The impact of such sex discrimination on coaching opportunities for women is exacerbated by the striking disparity in the salaries paid to coaches of men's and women's teams. At the Division I level, men's basketball head coaches average \$149,700. By contrast, women's basketball head coaches average \$91,300 or 61 cents to the dollar paid to head coaches of men's basketball. This trend continues at the assistant coach level, where men's basketball assistant coaches average \$44,000 while women's basketball assistant coaches average \$34,000.¹⁴ Only in the sports of fencing, volleyball, and tennis, the sports paying the lowest salaries to coaches of male teams, do coaches of women's sports receive equal or greater pay than coaches of the equivalent male sports.¹⁵

Athletic directors at the college level are also predominately male (83.1%). As the status and salary of such positions increase, female representation decreases (8.4% in Division I versus 25.5% in Division III). Males also dominate the positions of sports information director (87.7%) and athletic trainer (72.2%). As the competitiveness of a division and average salary increases, women's representation in these athletics positions also decreases. This trend remains true for every position except for head coaching jobs, for which gender representation in Division I and Division III is equal but average salaries are not. See Table 4.

Title IX Enforcement. The record of Title IX enforcement in interscholastic and intercollegiate athletics over the past 30 years is fair at best, as evidenced by the persistent disparities highlighted above. In 1975, the then Department of Health, Education and Welfare (HEW) issued federal Title IX regulations, which included sweeping requirements for equal athletic participation opportunities, proportional athletic scholarship funding, and equality in the treatment of and benefits provided to male and female athletes. The regulations allowed colleges and high schools a three-year phase-in period, and allowed elementary schools a one-year phase-in period. HEW explained the regulations in greater detail through a Policy Interpretation issued in 1979. However, enforcement in intercollegiate athletics was largely nonexistent throughout the 1980s, in part because of the Supreme Court's 1984 decision in *Grove City College v. Bell*. In *Grove City College*, the Court limited Title IX's application to the specific programs within colleges and universities that actually received federal funds (usually not the case for athletic programs), rather than applying Title IX to entire institutions should any of their programs receive federal funds. Congress overturned this decision in 1988 through the passage of the Civil Rights Restoration Act.

Even with the full scope of Title IX restored, little or no Title IX enforcement by The Office for Civil Rights (OCR) occurred. When colleges responded to budget constraints by cutting already beleaguered women's teams, parents and female athletes responded by taking their Title IX complaints to court. Numerous lawsuits in the 1990s resulted in the creation of a uniform body of law protecting the right to equal athletic opportunity regardless of sex, despite strenuous objections by defendants that men purportedly are more interested in playing sports than women, and therefore deserve disproportionate participation opportunities. Progress has been made largely on a case-by-case basis, with gains gradual and piecemeal. Most notably, in the case of *Cohen v. Brown University*, the First Circuit rejected the university's argument that women are

less interested than men in playing sports because it rests on stereotypical notions about women and only perpetuates the discrimination that women face in athletics.

Other cases have helped root out discrimination by athletic associations, which control the athletic programs of colleges or high schools but claim that they have no responsibilities to comply with the civil rights laws. The Supreme Court decided otherwise in *Brentwood Academy v. Tennessee Secondary School Athletic Association*. The Court held that the high school athletic association is subject to the United States Constitution, which governs the conduct of government entities only, because the association is essentially an arm of the state. In *National Collegiate Athletic Association v. Smith*, the Supreme Court held that the NCAA is not subject to Title IX just because it receives dues from its federally funded member schools, but the Court specifically left open other legal arguments for coverage of athletic associations. One of these arguments was adopted by the court in *Communities for Equity v. Michigan High School Athletic Association*, in which a federal district court in Michigan held that the association is subject to Title IX, the Constitution, and Michigan state law. Accordingly, the court found that the association discriminated against girls by scheduling six girls' sports, but no boys' sports, in nontraditional or disadvantageous seasons.

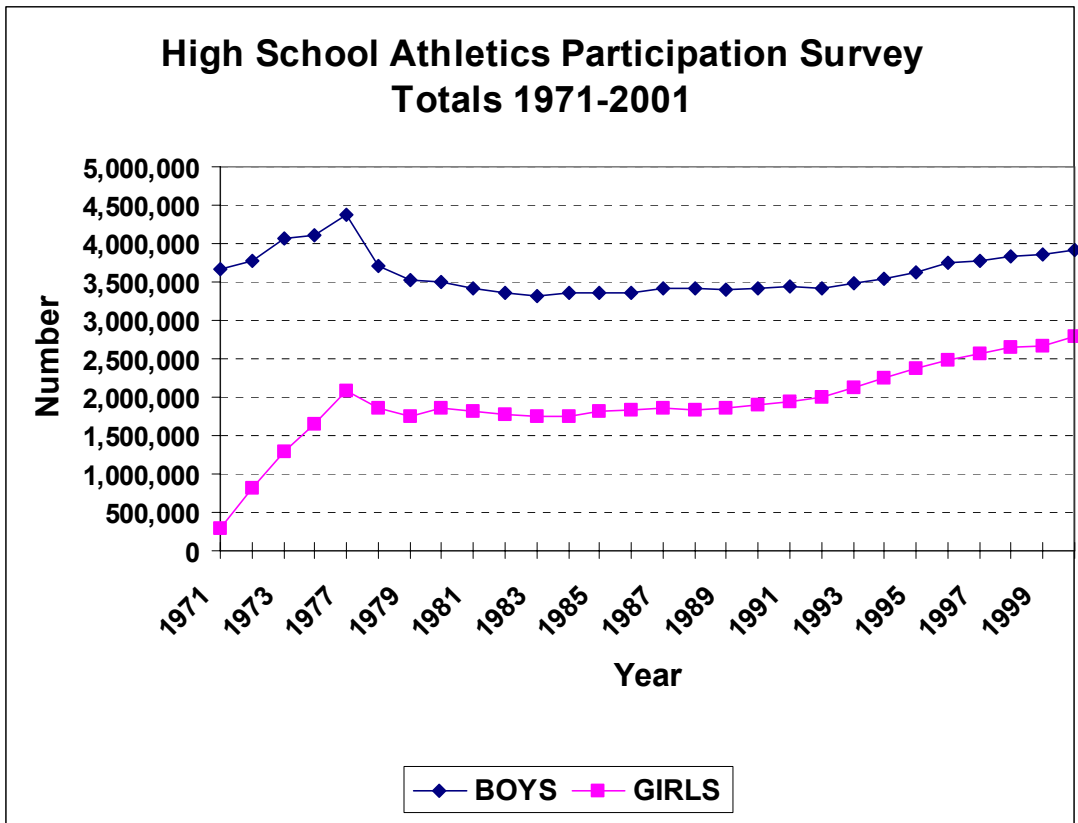
Moreover, women's progress, albeit limited, has sparked a backlash by Title IX opponents who claim that Title IX has gone "too far" and has "hurt" men's sports. After holding hearings on this issue in May 1995, some Members of Congress asked OCR to revisit its 1979 Policy Interpretation and consider whether it should weaken its enforcement standards, particularly the equal participation requirement. In response, OCR strongly affirmed its longstanding interpretation through a 1996 Policy Clarification, which explains how institutions can and must comply with the equal participation opportunities requirement. Courts have also rejected suits brought by male athletes claiming their schools have discriminated against them by cutting or capping men's teams, holding that Title IX does not require these actions but gives schools flexibility in structuring their athletics programs as long as they treat men and women equally. Nonetheless, the challenges continue. In January 2002, the National Wrestling Coaches Association and other Title IX opponents filed a federal lawsuit against the U.S. Department of Education challenging the Title IX regulations and policy guidance regarding athletics opportunities; the government's response will indicate whether it will vigorously defend the longstanding athletics policies.

However, given the absence of equal opportunity after 30 years, OCR is not providing adequate leadership in enforcement efforts. In 2001, OCR initiated only two Title IX athletics reviews of institutions. This lack of enforcement by OCR, coupled with an increase in Title IX lawsuits, suggests that OCR's lack of enforcement has required aggrieved parties to seek relief through the court system. Parties filing lawsuits incur considerable costs and risk retribution. In light of the numbers of schools still not in compliance, OCR needs to step up its enforcement activities. Yet during the 30 years since Title IX's inception, not one institution has had its federal funding withdrawn because it is in violation of Title IX.

Recommendations:

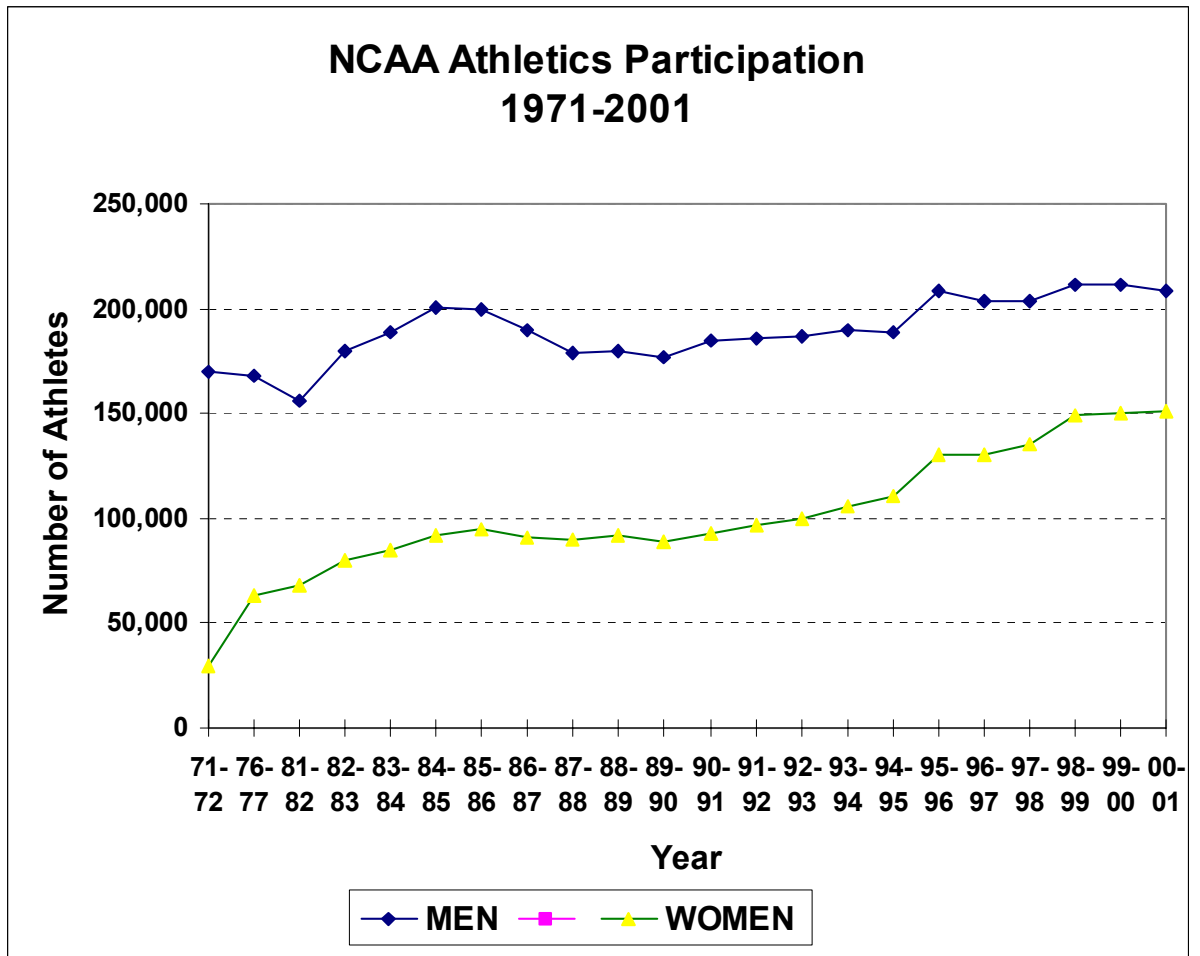
- Congress should mandate data collection on the participation of high school students in physical education and high school athletics programs as part of the administration's proposal for the reauthorization of the Office for Educational Research and Improvement (OERI);
- The U.S. Department of Education should support the continuation of existing strong compliance standards and increase OCR enforcement of these standards;
- To encourage the filing of actionable complaints, OCR should develop a standard complaint form with a checklist of alleged Title IX violations;¹⁶
- School athletic administrations should utilize the EEOC guidelines to make sure that they treat coaches of male and female sports equally. To find these guidelines, go to <http://www.eeoc.gov/regs/index.html>.

Figure 1



-- National Federation of State High School Associations, 2001

Figure 2



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

Table 1

Female High School and Collegiate Participation

Year		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	23 percent

-- NCAA Year-By-Year Sports Participation 1982-2001, Sports and Recreation Programs of Universities and Colleges 1957-82 (NCAA) and the National Federation of State High School Associations in 2001

Table 2

Disparities in Funding Intercollegiate Athletics for 1999

Athletics Expenses	Division I		Division II		Division III	
	Men	Women	Men	Women	Men	Women
Scholarships	\$1,411,400	\$1,055,500	\$392,100	\$268,000	N/A	N/A
Recruiting	184,200	85,900	18,900	10,100	13,200	7,100
Head Coach Salaries	484,900	330,500	136,700	114,500	127,000	102,600
Operating Expense	882,100	486,200	225,600	115,100	137,000	94,700

-- NCAA 1999-2000 Gender-Equity Report

Table 3**Coaches of Women's Sport's by Gender (2002)**

Sport	Female	Male
Archery	33.3%	66.7%
Badminton	--	--
Basketball	62.8%	37.2%
Bowling	33.3%	66.7%
Crew/Rowing	37.9%	62.1%
Cross Country	21.3%	78.7%
Fencing	26.5%	73.5%
Field Hockey	96.8%	3.2%
Golf	39.2%	60.8%
Gymnastics	44.3%	55.7%
Ice Hockey	40%	60%
Lacrosse	85.9%	14.1%
Ride/Equestrian	81%	19%
Riflery	27.3%	72.7%
Sailing	11.1%	88.9%
Skiing	6.9%	93.1%
Soccer	30.7%	69.3%
Softball	65.1%	34.9%
Squash	33.3%	66.7%
Swimming/Diving	23%	77%
Synchronized Swimming	100%	0%
Tennis	34.5%	65.5%
Track	19%	81%
Volleyball	57.3%	42.7%
Water Polo	25.7%	74.3%

--Acosta and Carpenter, Women in Intercollegiate Sport, 2002

Table 4

Women in College Sports Positions- 2001-2002		
	Male	
Female		
Athletic Directors (all Divisions)	83.1%	16.9%
NCAA Division I	91.6%	8.4%
NCAA Division II	86.1%	13.9%
NCAA Division III	74.5%	25.5%
Head Coaches of Women's Teams (All Divisions)	56.0%	44.0%
NCAA Division I	54.9%	45.1%
NCAA Division II	61.1%	38.9%
NCAA Division III	54.4%	45.6%
Head Coaches of Men's Teams (All Divisions)	98.0%	2.0%
Full-Time Athletic Trainers (All Divisions)	72.2%	27.8%
NCAA Division I	84.6%	15.4%
NCAA Division II	70.9%	29.1%
NCAA Division III	61.2%	38.8%
Full-Time Sports Information Directors (All Divisions)	87.7%	12.3%
NCAA Division I	89.1%	10.9%
NCAA Division II	87.6%	12.4%
NCAA Division III	86.2%	13.8%

-- Acosta and Carpenter, *Women in Intercollegiate Sport*, 2002

2002.

¹² R. Vivian Acosta and Linda Jean Carpenter's unpublished manuscript, *Women in Intercollegiate Sport*, 2002.

¹³ R. Vivian Acosta and Linda Jean Carpenter's unpublished manuscript, *Women in Intercollegiate Sport*, 2002.

¹⁴ NCAA 1999-2000 Gender-Equity Report

¹⁵ R. Vivian Acosta and Linda Jean Carpenter's unpublished manuscript, *Women in Intercollegiate Sport*, 2002.

¹⁶ AAUW Legal Advocacy Fund, *A License for Bias- Sex Discrimination, Schools, and Title IX*, 2000.