

# Title IX at 35

2008

## Beyond the Headlines

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

#### **Diversity Lacking Among College Coaches**

*Rochester Democrat and Chronicle,  
February 18, 2007*

#### **Austin Explores All-Boys Academy**

*Austin American-Statesman, April 9,  
2007*

#### **Muskegon May Test Same- Sex Classrooms**

*Muskegon Chronicle, December 13,  
2006*

#### **Nashville to Test Single-Sex Classes**

*Tennessean.com, April 4, 2007*

#### **More Public Schools Dividing Boys, Girls**

*Houston Chronicle (AP), January 25,  
2007*

#### **Ongoing Verbal, Physical Abuse Justify Trial on Student's Title IX Claim**

*School Law Bulletin, February 1,  
2005*

#### **Sexual Harassment on Study Abroad**

*The Minnesota Daily, March 5, 2007*

#### **Sexual Harassment on the School Bus**

*Carolina News Channel, February 19,  
2007*

#### **MIT Completes Ground- Breaking Studies on Status of Women Faculty**

*MIT News, March 18, 2002*

#### **A Breakthrough for MIT and Science—Five Years after Conceding Rampant Sexism, MIT Has a New President, Susan Hockfield**

*Business Week Online, October 4,  
2004*

#### **Despite Gain in Degrees, Women Lag in Tenure in 2 Main Fields**

*The New York Times, January 15,  
2004*

#### **9 University Presidents Issue Statement on Gender Equity**

*Inside Higher Ed, December 7, 2005*

#### **Harvard President Shocks with Comments on Gender Differences**

*University Wire, February 22, 2005*

#### **High Court Supports Title IX Protection: Law Now Covers Whistle-Blowers**

*Washington Post, March 30, 2005*

#### **Harvard Board Names First Woman President—Drew Gilpin Faust Ends**

**Lawrence Summers' Stormy  
5-Year Tenure**

*Associated Press, February 11, 2007*

#### **Females Breaking Ground in Construction Industry**

*San Diego Business Journal, January  
2007*

#### **Female Electrician Enjoys Challenges of a Demanding Job**

*St. Louis Post-Dispatch, July 2006*

#### **Where Are All the Women Plumbers?**

*St. Louis Post-Dispatch, June 2006*

#### **Harvard Chief's Comments on Women Assailed**

*The Washington Post, January 19,  
2005*

#### **The Math Myth: The Real Truth about Women's Brains and the Science Gender Gap**

*TIME, February 27, 2005*

#### **For Women in Sciences, Slow Progress in Academia**

*The New York Times, April 15, 2005*

#### **New Title IX Debate Flares after "Clarification"**

*Orlando Sentinel, April 4, 2005*

#### **Study Notes Lack of Female Professors**

*University Wire, February 23, 2004*

#### **Many Women at Elite Colleges Set Career Path to Motherhood**

*The New York Times, September 20,  
2005*

#### **Study Casts Doubt on the "Boy Crisis"**

*The Washington Post, June 26, 2006*

#### **Point: Don't Marry Career Women**

*Forbes.com, August 22, 2006*

#### **Study: Teacher's Gender Affects Learning**

*The Washington Post (AP), August  
27, 2006*

#### **James Madison to Drop 10 Athletic Teams for Title IX Compliance**

*USA Today, September 29, 2006*

#### **A New London School Where Boys Can Be Boys And Girls Can Be Girls**

*TheDay.com, July 1, 2007*

#### **Education Chief Paige May Allow Proportionality Changes**

*The Chicago Tribune, February 26,  
2003*

#### **Ex-Members of Title IX Panel Urge Against Use of Surveys**

*USA Today, October 17, 2005*

#### **Civil Rights Commission Turns into Heated Debate on Title IX**

*CBS Sportsline.com, May 11, 2007*

The National Coalition for Women and Girls in Education is a nonprofit organization formed to educate the public about issues concerning equal rights for women and girls in education; to monitor the enforcement and administration of current legislation related to equal rights for women and girls in education; to perform and publish research and analysis of issues concerning equal rights for women and girls in education, and to take the steps necessary and proper to accomplish these purposes.

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Copies of the full report can be downloaded at [www.ncwge.org](http://www.ncwge.org)

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# Executive Summary

## TITLE IX AT 35: BEYOND THE HEADLINES

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Thirty-five years after the passage of Title IX of the Education Amendments of 1972, the stunning progress brought by this landmark civil rights legislation is evident in women's unprecedented achievements in many areas, including business, the professions, academics, sports and public leadership. But, much remains to be done, for the evidence shows that girls and women continue to suffer discrimination in many educational activities, although it is usually in a more subtle form than it was before Title IX was enacted.

A glance at the news headlines from the last five years shows that in spite of the continuing discrimination against girls, Title IX is under attack from critics who claim that there is a "boys' crisis" and that the law now favors girls and women at the expense of boys and men. However, studies show that the educational performance of both sexes has continued to improve under Title IX and that girls' gains have not come at boys' expense. Moreover, both boys and girls face problems such as low high school graduation rates, sexual harassment, and sex stereotyping. Policymakers must seek solutions that benefit all students.

This report sets forth the facts behind the headlines in six areas covered by Title IX that have been focused on in recent years: athletics in schools; education in the "STEM" subjects—science, technology, engineering and mathematics; career and technical education; employment in educational institutions; sexual harassment of students; and single-sex education. Through this examination, NCWGE seeks to inform the continued search for policies that will promote true equality of educational opportunity in all of these areas.

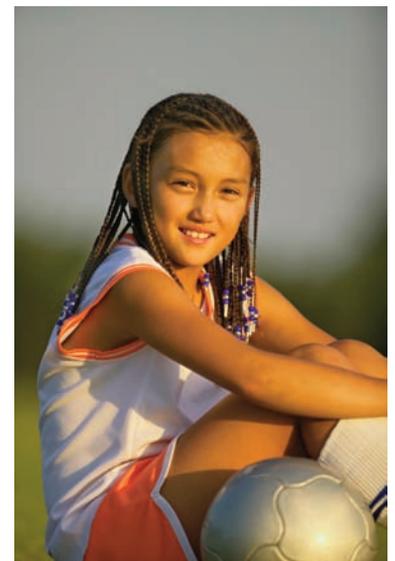
Some critics contend that Title IX has weakened boys' and men's opportunities in athletics. However, while Title IX has opened up the playing fields, women and girls still lag behind men and boys in participation, resources and coaching. And, contrary to the critics' claims, boys' and men's opportunities to play sports have continuously increased since 1972, albeit at a slower rate than that of girls and women—who had so few opportunities before Title IX.

Nevertheless, opponents continue to claim—ignoring relevant court decisions to the contrary—that Title IX policies set forth quotas that are taking participation opportunities and resources away from boys and men. After convening a Commission on Opportunity in Athletics in 2002 to consider changes to Title IX policies, including the so-called "quotas," the Department of Education declined to make any changes. Then, in March 2005, without any notice or opportunity for public comment, it suddenly released an "Additional

Clarification" of its athletics policies, which authorizes schools to use e-mail surveys as the sole measure of girls' and women's interest in playing sports. The Clarification creates a major loophole through which schools can evade their obligation to provide girls and women with opportunities in athletics.

Before Title IX, many educators accepted the stereotype that girls could not achieve in STEM subjects. Since then, that stereotype has been weakened, and significant progress has been made in this area. The gender gap at all grade levels has decreased significantly since 1970 in nationwide assessments of science and math performance; women's share of bachelor's degrees in natural sciences and engineering has more than doubled, and their share of doctoral degrees in these fields has more than quadrupled. However, women still only earn 20% to 25% of degrees in physics, computer sciences and engineering, and the culture of STEM fields still isolates and excludes girls and women. A GAO study in 2004 found that enforcement of Title IX in STEM has been severely lacking, and that students and faculty generally do not know that Title IX applies to this area. In addition to remedying this situation, educational institutions should cultivate girls' and women's talents in STEM to meet the demand for workers in the emerging high-tech world and grow America's capacity for innovation.

In the last 35 years, women and girls have made very little progress in "blue-collar" technology and trades occupations. Male students continue to predominate in courses that lead to high-skill, high-wage jobs, while female students fill the low-wage, low-skill tracks. Before the 1970s, the career and technical education system in the United States intentionally segregated students by sex. Title IX made this unlawful and required that schools take steps to address the disproportionate enrollment of students of one sex in a course. Between 1984 and 1998, Congress spent about \$100 million annually for sex-equity coordinators and programs in each state to



eliminate sex bias and stereotyping and to meet the needs of single parents, displaced homemakers and other individuals facing significant barriers. Congress eliminated this funding in 1998, and OCR has done little to investigate sex segregation in career and technical education, despite the patterns of persistent discrimination. Girls still make up almost 90% of the students enrolled in classes leading to traditionally female occupations and only 15% of those in classes in traditionally



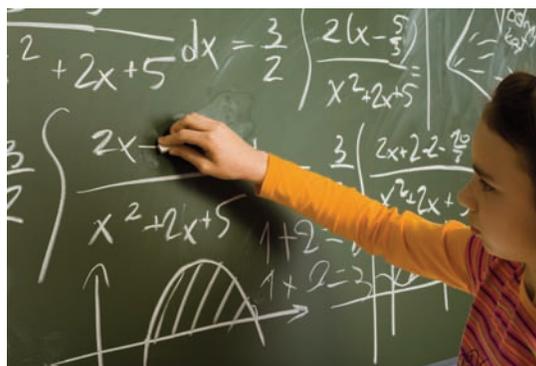
male fields. Biased career counseling, gender stereotypes, unequal treatment by teachers, sexual harassment and other discriminatory practices result in a career and technical education system that limits the educational opportunities of women and girls. This has significant negative consequences for women's economic security, and fails to develop women's skills in fields with a high demand for skilled labor at good wages.

Women continue to face sex discrimination in education employment. Despite progress, relatively few women hold administrative positions at any level of education and they remain under-represented in higher levels of academia, especially at the most prestigious universities. The numbers are especially low for women in the "hard sciences." Women's salaries remain below those of men in every job category, and they also face inequities in grant funding, lab space, leave policies and other support necessary for their advancement. While some institutions are addressing under-representation of women, more must be done to address discrimination in employment in education.

Sexual harassment is sex discrimination that is prohibited by Title IX, whether the student is harassed by employees such as teachers or coaches, or by other students. Students who have suffered sexual harassment may sue for damages in court under Title IX, but schools have an obligation to end

harassment that goes well beyond their monetary liability. OCR issued a Sexual Harassment Guidance in 1997, which was revised in 2001, that requires all schools subject to Title IX to maintain an environment that is free of sexual harassment and to remedy the effects of harassment on the victim. However, sexual harassment remains a problem for students in our schools. One study found that four of five students in 8th through 11th grade—both boys and girls—reported that they had experienced some type of sexual harassment in school. A recent survey of sexual harassment on college and university campuses found that 62% of female college students reported being sexually harassed, some severely enough to make them drop a course or stay away from particular buildings or places on campus. Institutions at all levels of education must address this problem, including by ensuring that they have effective policies and procedures in place to address sexual harassment complaints.

The last area discussed, single-sex education, focuses on problems with the changes to the Title IX regulations issued by the Department of Education in 2006, which allow schools to provide single-sex programs without adequate protection against stereotyping and other forms of sex discrimination. The 1975 Title IX regulations allowed some single sex classes and programs for specific purposes such as contact sports, instruction in human sexuality, and for remedial or affirmative activities to decrease sex discrimination. The 2006 changes allow K-12 non-vocational single sex education for many more purposes and do not have adequate safeguards to ensure that sex segregated schools, classes or activities will not increase sex discrimination. They fail to recognize that women and girls have historically been treated inequitably and received fewer resources when programs are separated on the basis of sex. In addition, the 2006 changes do not require that sex segregation be used only if there is adequate justification to show that it will be better than coeducation in accomplishing the desired objectives, such as increasing gender equity in



education. Educators must understand the dangers of single sex programs, and should carefully

examine them to ensure that they are not discriminating on the basis of sex and reversing the significant progress made under Title IX since 1972.

Probing beyond the headlines in these six key areas covered by Title IX, NCWGE has found significant progress along with serious enforcement gaps and disappointing setbacks. Looking forward, it has identified key opportunities to continue improving women's and girls' access to educational opportunities. Policymakers, administrative agencies and educational institutions all have an important role to play in achieving gender equity, along with students, parents and teachers. Policymakers must increase oversight of Title IX enforcement



and continue to provide resources and incentives for research and development of effective gender equity programs. OCR should rescind the athletics policy clarification on interest surveys and the new single-sex regulations, as well as increase compliance reviews and reporting. Educational institutions should appoint Title IX coordinators, conduct self-assessments and continue efforts to end all forms of sex discrimination, including harassment, in order to improve women's and girls' opportunities in all areas of education. Implementing these and other items in the action agenda will expand progress toward gender equity in education and change the headlines for years to come.



# Introduction

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## **New Title IX debate flares after ‘clarification’**

*Orlando Sentinel, April 4, 2005*

## **High Court Supports Title IX Protection: Law Now Covers Whistle-Blowers**

*The Washington Post, March 30, 2005*

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*University Wire, February 22, 2005*

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*The Washington Post (AP), August 27, 2006*

## **James Madison to drop 10 athletic teams for Title IX compliance**

*USA Today, September 29, 2006*

## **Harvard Plans to Name Its First Female President**

*The New York Times, February 10, 2007*

## **A New London School Where Boys Can Be Boys And Girls Can Be Girls**

*TheDay.com, July 1, 2007*

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Thirty-five years ago, Congress enacted Title IX of the Education Amendments of 1972. This landmark civil rights legislation proclaims that

*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. §1681.

These thirty-seven words created sweeping changes in our nation's education system, gaining women and girls newfound opportunities in America's classrooms, lecture halls, research labs, and playing fields. These advances in education have reshaped the American landscape; today, women have assumed unprecedented power as corporate executives, Cabinet officials, and university presidents. Indeed, for the first time a woman now holds the highest position of elected leadership in the Congress, serving as the Speaker of the United States House of Representatives. Since Title IX was enacted, more women than ever are pursuing their dreams by graduating from college and professional schools, becoming doctors and lawyers, and starting small businesses. No one can doubt that Title IX has enabled this progress, and that women's achievements are a testament to the enormous power of this groundbreaking law.<sup>1</sup>

But despite these advances, girls and women continue to face difficulties and to lag behind boys and men in too

many educational endeavors. For example:

- Almost 40% of students report that teachers and other school employees sexually harass students in their schools.<sup>2</sup>
- In the 2003-2004 school year, while females were 57% of the students in colleges and universities, they comprised only 43% of the athletes. Female collegiate athletes received only 37% of sports operating dollars and 32% of recruitment dollars.<sup>3</sup>
- Women and girls are largely absent from traditionally male courses in career and technical education and they comprise only 4% of heating, A/C, and refrigeration students, 5% of welding students, 6% of electrician and plumber/pipefitter students, and 9% of automotive students—occupations that pay substantially more than jobs in traditionally female fields.<sup>4</sup>
- Women comprise 79% of the public school teachers in the United States but are only 44% of the principals.<sup>5</sup>
- Women represent less than one in five faculty members in science, technology, engineering and mathematics (the STEM fields). In engineering in particular, women account for just over one in ten faculty members.<sup>6</sup>
- Over a third of students surveyed in grades 3-12 agreed with the statement that “people think that the

most important thing for girls is to get married and have children.”<sup>7</sup>

Moreover, since its enactment 35 years ago, Title IX—and indeed, basic concepts of gender equity for women—have been under continuous attack. For example, despite the evidence to the contrary, some gender equity opponents continue to insist that Title IX has diminished opportunities for men and led to cuts in their teams. Although these kinds of attacks have been rejected in every forum in which they have been mounted, and all the courts of appeals that have considered the issue have upheld the lawfulness of the Title IX athletics’ policies, these opponents have found a powerful ally in the Department of Education, which has launched a variety of efforts over the last five years to eviscerate the regulatory policies guaranteeing equality of opportunity to participate in sports. Most recently, the Department issued, without notice or opportunity for public comment, a “Clarification” of its policies that authorizes schools to deny participation opportunities for women on the basis of a single e-mail survey. In another move that weakened fundamental civil rights principles, the Department released new Title IX regulations allowing more single-sex education in public schools without requiring safeguards or accountability for equal treatment. Each of these changes represents a significant setback for Title IX and gender equity in education.

While women rarely confront some of the most overt forms of discrimination that were common three decades ago (e.g., low quotas for admission of women, assertions that athletics participation would harm their reproductive potential), stereotypical thinking continues to pervade even the highest levels of business, academia and the popular culture. In January 2005, Harvard President Lawrence Summers suggested that differences in “intrinsic aptitude” might explain why there are so few women in the highest levels of science, technology, and engineering positions in academia. A September 2005 article in *The New York Times*, based on interviews with only 85 students, asserted that the newest wave of Yale undergraduate women planned to drop out of the workforce to become mothers. In August 2006, Michael Noer, an Executive News Editor for *Forbes.com* magazine, urged men to avoid marrying professional women, who, according to the article, are more likely to get divorced and be unhappy in their marriages. Each of these statements and articles tried to repackage old, worn-out sex-based stereotypes as a form of novel thinking, a new cultural phenomenon, or the inevitable result of new scientific research.

Equally significantly, the media and some policymakers have promoted the notion that gender equity for women has

gone too far—that women today not only do not face discrimination in education but have become the victors, at the expense of boys and men, in an educational zero-sum game. Title IX has been accused of inspiring “feminized” curricula and learning environments that disadvantage boys. Over the last five years, the so-called “boys’ crisis” has received growing attention in the media. In 2006, there were numerous cover stories, articles and editorials in major news publications touting this crisis and calling for increased attention to boys. Many of these articles frame girls’ advancement as having an inverse relationship to boys’ achievement, putting boys at a disadvantage. Adversaries of Title IX have sought to pit this supposed lack of attention to boys’ needs against efforts to improve girls’ educational experience, fueling a backlash against Title IX and gender equity policies.

It is undeniably true—and a cause for substantial concern—that boys in school today confront some significant challenges. Over the last 30 years, the number of boys diagnosed with attention deficit hyperactivity disorder and other disabilities has increased dramatically. Boys are more likely than girls to be suspended or expelled from school and are overall less likely to graduate from high school and college. There is stark underachievement plaguing boys from low income and racial minority backgrounds.

However, the reality is that boys continue to increase their overall performance in all areas of achievement and attainment. Many who look at the educational performance of boys find a complex picture of continued achievement, albeit at a slower rate of improvement than girls’ post-Title IX gains. *The Truth About Boys and Girls*, a report released in June 2006 analyzing the National Assessment of Educational Progress (NAEP) data, states:

“[T]he truth is far different from what these accounts [of the boys’ crisis] suggest. The real story is not bad news about boys doing worse; it’s good news about girls doing better. In fact, with a few exceptions, American boys are scoring higher and achieving more than they ever have before. But girls have just improved their per-

Unfortunately, the current boy crisis hype and the debate around it are based more on hopes and fears than on evidence. This debate benefits neither boys nor girls, while distracting attention from more serious educational problems—such as large racial and economic achievement gaps—and practical ways to help both boys and girls succeed in school.

— *The Truth About Boys and Girls*

formance on some measures even faster. As a result, girls have narrowed or even closed some academic gaps that previously favored boys, while other long-standing gaps that favored girls have widened, leading to the belief that boys are falling behind.”<sup>8</sup>

Further complicating this picture is the reality that many of the challenges affecting boys are also affecting girls. For example, diagnoses of disabilities are also growing rapidly for girls, and research suggests that complex school and family factors play a role in this increase for both boys and girls. And girls’ dropout rates, like those of boys, remain much too high, and the economic consequences of dropping out for girls are particularly severe.<sup>9</sup> Nationally, 72% of female students graduate from high school, compared to 65% of male students. As is the case for boys, race and economic status strongly influence girls’ performance. The graduation rates for all African American and Hispanic students are 55% and 53% respectively, compared with 78% for white students.<sup>10</sup>

These facts, among others, make clear both that girls continue to face significant challenges in school and that Title IX and increased opportunities for girls are not responsible for the barriers that boys encounter. Education is not a zero sum game in which one group of students advances only to the detriment of another. In fact, Title IX has promoted educational innovations that have served both sexes, such as efforts to address sexual harassment that can hinder both boys’ and girls’ educational performance. And Title IX offers protection for boys, as well as girls, if the barriers they face are based on their sex.

Thus, the task at hand is to identify and provide the educational support that will enable each student, whether male or female, to achieve success in school—not to advance divisive and irrelevant allegations that girls’ advancements have come at boys’ expense. In our zeal for solutions, we cannot embrace those that rely on the damaging stereotypes that have limited prospects and opportunities for both women and men.

And yet, we are in danger of doing just that. Proposals for improving classroom settings for boys’ learning have included recommendations for blatantly sex-stereotyped books and tasks. For example, a report on single-sex academies in California noted a school with a social studies lesson on American pioneers in which boys learned about survival skills and girls learned about quilting and sewing.<sup>11</sup> The new Title IX regulations expanding allowable single-sex education in public schools stand to reinforce harmful sex stereotypes, such as the notions that girls cannot or do not want to learn in fast paced or competitive environments, or that separating

girls and boys is the best way to remedy sexual harassment. A study published in August 2006 extended the arguments for single-sex education to the front of the classroom, arguing that boys and girls learn better from teachers of their own sex.<sup>12</sup> New York Times columnist John Tierney argued for rolling back Title IX protections in athletics in a July 2006 column, asserting that men not only enjoy sports more than women, but that they “have a better chance of glory—and of impressing the opposite sex.”<sup>13</sup> These ideas, if put into action, could reverse the progress that has been made over the past 35 years.

To promote continued progress, this NCWGE report focuses on the status of gender equity in those areas of education that have received intensive focus in recent years, including athletics, mathematics and science, non-traditional career and technical education, employment, sexual harassment and single-sex education. In each of these areas, the report looks beyond the media headlines to explore the progress brought by 35 years of Title IX, as well as the ways in which our nation’s schools still fall short of the law’s mandate for gender equity.<sup>14</sup> Throughout, the report analyzes government enforcement and assistance activities since Title IX was enacted, with particular emphasis on recent regulatory changes and clarifications to policy. To provide context for this analysis, the report opens with a timeline summarizing the history of Title IX, including the issuance of regulations and policies, and major legal challenges.

Our goal is to provide analyses that will inform the continued search for policies that will promote true equality of educational opportunity. To that end, the report closes with recommendations for moving education policy beyond the rhetoric to address the inequities that still exist in each of the areas covered. A survey released on the eve of the 35th anniversary of Title IX found that there is extensive public support for the law, but that many individuals lack knowledge about the protections it offers.<sup>15</sup> Many of the recommendations are aimed at providing this knowledge.

Protecting Title IX from rollbacks and working to further gender equity in our schools will benefit not only women and girls, but all of society. Amid progress and setbacks, policy debates and culture wars, this report shows that we have seen only a fraction of the transformative power of Title IX. Many opportunities to advance women’s and girls’ opportunities in education remain unrealized, and Title IX remains an essential policy tool for moving forward. Together with advocates and policymakers, administrators and teachers, NCWGE will continue its work to realize the potential of Title IX and inspire the positive headlines of the future.



# Title IX Timeline

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- 1964** Title VII of the Civil Rights Act of 1964 is enacted, prohibiting discrimination in employment based on race, color, sex, national origin, or religion. Title VI of this Act prohibits discrimination in federally assisted programs—including education programs—on the basis of race, color and national origin, but not on the basis of sex.
- 1970** Congress holds first hearings on sex discrimination in higher education.
- 1972** Title IX of the Education Amendments of 1972 is enacted, prohibiting discrimination on the basis of sex in all federally-assisted education programs and activities.
- 1974** Tower Amendment, which would have exempted revenue-producing sports from Title IX compliance, is proposed and rejected. Javits Amendment, an alternative to the Tower Amendment, is passed. It states that Title IX regulations must include reasonable provisions considering the nature of particular sports.
- 1975** Department of Health, Education and Welfare (HEW) issues final Title IX regulations. Elementary schools are given one year to comply. High schools and colleges are given three years to comply. Several attempts in Congress to disapprove the HEW regulations and to amend Title IX are rejected, including a reintroduced version of the Tower Amendment. HEW publishes “Elimination of Sex Discrimination in Athletics Programs” in the Federal Register and sends it to school officials and college and university presidents.
- 1976** NCAA unsuccessfully files a lawsuit challenging the Title IX athletic regulations.
- 1979** After notice and comment, HEW issues a Policy Interpretation, “Title IX and Intercollegiate Athletics,” introducing the “three-part test” for assessing compliance with Title IX’s requirements for equal participation opportunities. U.S. Supreme Court rules in *Cannon v. University of Chicago* that individuals have the right to sue under Title IX.
- 1980** Federal education responsibilities are transferred from HEW to a new Department of Education. Primary oversight of Title IX is transferred to the Office for Civil Rights (OCR) of the new Department. OCR issues Interim Investigators’ Manual re Title IX Compliance to investigators in its regional offices.
- 1984** U.S. Supreme Court rules in *Grove City v. Bell* that Title IX applies only to the specific programs within an institution that receive targeted federal funds. This decision effectively eliminates Title IX coverage of most athletic programs and other activities and areas of schools and colleges not directly receiving federal funds.
- 1987** OCR publishes “Title IX Grievance Procedures: An Introductory Manual” to assist schools with their obligation to establish a Title IX complaint procedure and designate a Title IX coordinator to receive those complaints.
- 1988** Civil Rights Restoration Act is passed over President Reagan’s veto. This Act restores Title IX coverage to all of an educational institution’s programs and activities if any part of the institution receives federal funds.
- 1990** OCR updates and finalizes its Title IX Investigators’ Manual.
- 1992** U.S. Supreme Court rules unanimously in *Franklin v. Gwinnett County Schools* that students who suffer sexual harassment in schools may be awarded monetary damages under Title IX. NCAA publishes a Gender-Equity Study of its member institutions, detailing widespread sex discrimination in athletics programs.
- 1994** Equity in Athletics Disclosure Act (EADA) is passed, requiring federally assisted, coeducational institutions of higher education to disclose information about the gender breakdown of their intercollegiate athletic programs. The requisite annual reports from these institutions allow for better monitoring of Title IX compliance.

- 1996** OCR issues the “Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test,” explaining in detail how schools can comply with each prong of the three-part “effective accommodation test” first set forth in the 1979 Policy Interpretation.
- U.S. Court of Appeals for the First Circuit, after an extensive analysis, upholds the lawfulness of the three-part test in *Cohen v. Brown University*.
- U.S. Government Accountability Office issues a report entitled “Issues Involving Single-Gender Schools and Programs.”
- 1997** OCR issues “Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties.” The Guidance establishes standards for Title IX compliance, and emphasizes that institutions are responsible for preventing and punishing student-on-student sexual harassment.
- 1998** U.S. Supreme Court rules in *Gebser v. Lago Vista Independent School District* that a student may sue for damages for a teacher’s sexual harassment only if the school had actual notice of the teacher’s misconduct and acted with “deliberate indifference” to the harassment.
- 1999** U.S. Supreme Court rules in *Davis v. Monroe County Board of Education* that Title IX covers student-on-student harassment, and, as with teacher-student harassment, that damages are available only if the school had actual notice of and was “deliberately indifferent” to the harassment. The harassment must go beyond teasing and be so severe, pervasive and objectively offensive that it deprives the victim of access to the benefits of education.
- 2001** OCR issues “Revised Sexual Harassment Guidance” reaffirming in large part the compliance standards described in the 1997 Guidance. It makes clear that the *Gebser* and *Davis* standards only apply to suits for damages, not to OCR’s enforcement or to suits for injunctive relief.
- Department of Justice issues the Final Common Rule on Title IX enforcement for all federal agencies that did not already have their own regulations.
- Department of Justice issues “Title IX Legal Manual” providing guidance to federal agencies regarding compliance with Title IX.
- 2002** The National Wrestling Coaches Association files suit against the Department of Education challenging the three-part test. The Department establishes a Commission on Opportunity in Athletics to evaluate changes to Title IX athletics policies.
- President’s budget calls for the elimination of all funding for programs under the Women’s Educational Equity Act.
- 2003** The Title IX Commission on Opportunity in Athletics issues its report, recommending significant and damaging changes to the Department of Education athletics policies. The Secretary of Education rejects all recommendations, and a “Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance” affirming the existing policies is issued in July.
- 2005** U.S. Supreme Court rules in *Jackson v. Birmingham Board of Education* that individuals, including coaches and teachers, have a right of action under Title IX if they are retaliated against for protesting sex discrimination.
- Without any notice or opportunity for comment, the Department of Education issues an “Additional Clarification of Intercollegiate Athletics Policy Guidance: Three-Part Test—Part Three,” allowing colleges to use a single e-mail survey to show that they are meeting women’s interests in playing sports.
- 2006** Department of Education issues changes to the 1995 Title IX regulations, allowing schools to offer single-sex programs without adequate safeguards against stereotyping and other forms of sex discrimination.

# Athletics

## TITLE IX AT 35: BEYOND THE HEADLINES

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### **Education Chief Paige May Allow Proportionality Changes**

*Chicago Tribune, February 26, 2003*

### **Ex-Members of Title IX Panel Urge Against Use of Surveys**

*USA Today, October 17, 2005*

### **Diversity Lacking Among College Coaches**

*Rochester Democrat and Chronicle, February 18, 2007*

### **Civil Rights Commission Turns into Heated Debate on Title IX**

*CBS Sportsline.com, May 11, 2007*

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For many, Title IX is synonymous with expanded opportunities in athletics. Before Title IX, women and girls were virtually precluded from taking advantage of most athletic opportunities in schools, but they are now active participants. Women's and girls' increased participation and achievement in sports, the stunning advances in each Olympic Games, and the creation of nationally televised professional women's sports leagues in recent years provide evidence of Title IX's success. These achievements are the result of years of female athletes' increased access to quality coaching, sports facilities, competition, and athletic scholarships.

However, Olympic medals and professional sports contracts are not what Title IX is all about. Rather, the quest for equal opportunity in school sports has always been about the educational, physiological, sociological and psychological benefits of sports and physical activity. Research studies have found that girls who play sports are more confident, have higher self-esteem<sup>17</sup> and better body images,<sup>18</sup> are less likely to get pregnant<sup>19</sup> or be involved with drugs,<sup>20</sup> and are more likely to graduate from high school than girls who do not play sports.<sup>21</sup> Furthermore, sports participation reduces the risk of developing heart disease and helps control weight, builds lean muscle, reduces fat<sup>22</sup> and prevents osteoporosis.<sup>23</sup> As little as two hours of exercise a week on the part of a teenage girl can reduce her lifelong risk of breast cancer.<sup>24</sup>

Despite the substantial benefits of participation in sports and Title IX protections against sex discrimination in athletics, the playing field is still not level for girls. Girls are twice as likely to be inactive as boys,<sup>25</sup> and girls have nearly 20% fewer opportunities to participate in both high school and college sports than boys.<sup>26</sup> Improved enforcement of Title IX and diligent efforts to advance women and girls in sports are still necessary to achieve truly equal opportunity on the playing fields.<sup>27</sup>

### **Title IX's Athletics Requirements**

Title IX requires that schools treat both sexes equally with regard to three distinct aspects of athletics: participation

opportunities, athletics scholarships and treatment of male and female teams. These requirements are set forth in the Title IX regulations, and in agency interpretations and guidances.<sup>28</sup> The regulations were promulgated in 1975, and were accepted by Congress.<sup>29</sup>

*Participation.* The Department of Education has adopted the "three-part test" to evaluate schools' compliance with Title IX's requirement that male and female students be provided equal opportunities to participate in athletics. This test was set forth in a Policy Interpretation issued by OCR in 1979.<sup>30</sup>

After holding hearings on athletics 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 participation requirement. In response, OCR strongly affirmed its longstanding interpretation through a 1996 Policy Clarification, which provides detailed guidance for schools on how to comply with each prong of the three-part test.<sup>31</sup>

#### **Under the three-part test, schools will be in compliance with the law if:**

- males and females participate in athletics in numbers substantially proportional to their enrollment numbers; or
- the school has a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of members of the underrepresented sex; or
- the institution's existing programs fully and effectively accommodate the interests and abilities of the underrepresented sex.

*Athletic Financial Assistance:* Title IX requires that scholarships be allocated in proportion to the number of female and male students participating in intercollegiate athletics.<sup>32</sup> The Office for Civil Rights (OCR) has made clear that schools will be found in compliance with this requirement if the percentage of athletic scholarships received by athletes of each sex is within one percent of their levels of participation. In other words, if women comprise 43% of the athletes on campus, the school must provide between 42% and 44% of its athletic scholarship dollars to those athletes.<sup>33</sup>

*Equal Treatment of Athletes:* Title IX also requires equal treatment of male and female teams. While funding for women’s and men’s programs need not be the same, a significant disparity in funds may be evidence of disparities in com-

ponents of the programs.<sup>34</sup> Title IX does not require that each men’s and women’s team receive exactly the same services and equipment, but it looks at the entirety of the treatment that programs receive under criteria ranging from locker rooms and practice and game facilities, to recruitment, academic support and publicity.<sup>35</sup>

### The Impact of Title IX

Opportunities for girls and women in athletics have increased exponentially since the passage of Title IX. Before Title IX, only 294,015 girls participated in high school athletics; in 2006, that number was nearly 3 million, a 904% increase.<sup>36</sup> At the college level, prior to Title IX, only 29,977 women participated in athletics compared with 166,728 in 2006, a 456% increase.<sup>37</sup>

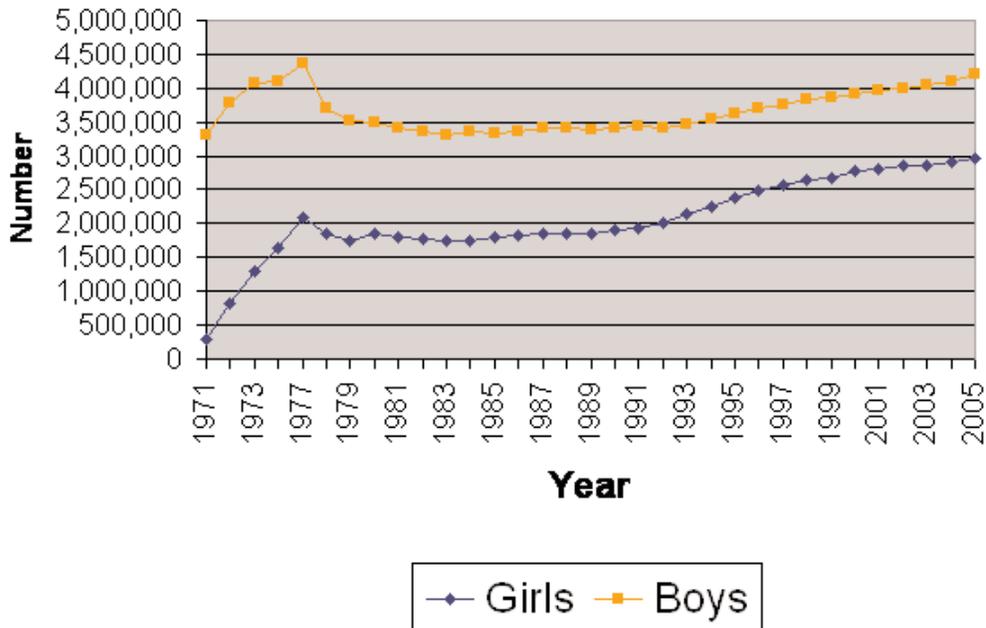
<b>High School Participation</b>			
<b>Year</b>	<b>1971-1972</b>	<b>2005-2006</b>	<b>Percent Increase</b>
<b>Female</b>	294,015	2,953,355	904%
<b>Male</b>	3,666,917	4,206,549	15%

—National Federation of State High School Associations, 2006

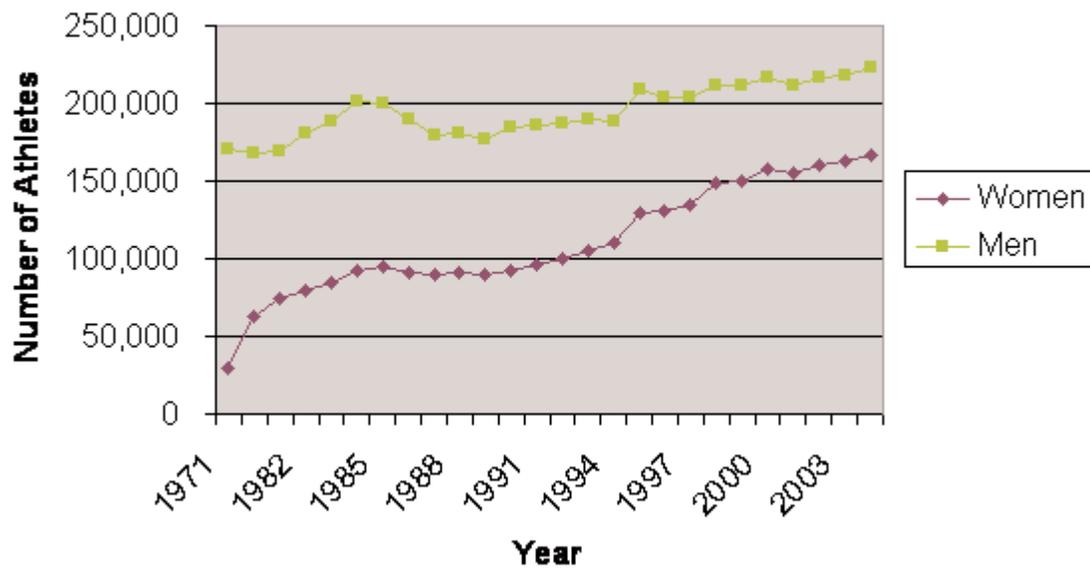
<b>Collegiate Participation</b>			
<b>Year</b>	<b>1971-1972</b>	<b>2004-2005</b>	<b>Percent Increase</b>
<b>Female</b>	29,977	166,728	456%
<b>Male</b>	170,384	222,838	31%

—NCAA Sports Sponsorship and Participation Report, 1981-82—2004-05

## High School Athletics Participation 1971-2005



## NCAA Athletics Participation 1971-2004



As the charts demonstrate, girls' gains have not come at boys' expense. A recent GAO study confirms that male participation in college athletics has continued to increase since Title IX's enactment.<sup>38</sup> The same is true for high school sports. In the vast majority of schools, males continue to have more opportunities to participate in sports than females. While women now have 166,728 NCAA athletic participation opportunities, men have 222,838.<sup>39</sup> High school girls have 2,953,355 athletic participation opportunities, while high school boys have 4,206,549.<sup>40</sup> Disturbingly, over the last five years, the girls' high school participation gap has increased, meaning that participation opportunities are growing at a faster pace for boys than girls.<sup>41</sup>

Girls' and women's gains have manifested themselves in the rise of female sports icons like Mia Hamm, Lisa Leslie, Julie Foudy, Jennie Finch, and Jessica Mendoza who grew up with the benefits of access to high school participation opportunities, college athletic scholarships and opportunities for professional and Olympic competition. In addition, the last thirty-five years have brought incredible advances, from the first girl playing in a Little League World Series to the rise of women's professional leagues, such as the Women's National Basketball Association and, for several years, the Women's United Soccer Association.

## Persistent Challenges

### A. Women Still Lag in Participation, Resources, and Coaching

Despite the advancements brought by Title IX, girls and women continue to lag far behind boys and men in athletics in participation, resources, coaching and support. While girls comprise 49% of the high school population,<sup>42</sup> they receive only 41% of the athletic participation opportunities.<sup>43</sup> In college, the gap is even greater: women comprise 57% of the college student population<sup>44</sup> but receive only 43% of the college athletic opportunities.<sup>45</sup> Instead of working to close this participation gap, however, some schools have eliminated women's teams. During the 2003-04 school year, for example, West Chester University in Pennsylvania attempted to eliminate its women's gymnastics team, which would have reduced women's participation opportunities to only 45%, while they comprised 61% of the students. The gymnasts filed a lawsuit, which was settled after the school agreed to reinstate the team.<sup>46</sup>

In addition, the resources allocated to women's teams continue to lag behind those provided to men's teams. Female collegiate athletes received only 37% of sports operating dollars and 32% of recruitment dollars in the 2003-04 school year.<sup>47</sup> Benefits such as equipment, facilities, publicity, and

coaching are still often not equally distributed between female and male teams.<sup>48</sup> In 2006, for example, the Prince George's County Public Schools Board of Education (PGCPS) entered into a settlement agreement to remedy program inequities for its female athletes and particularly for female softball players.<sup>49</sup> The settlement provides that PGCPS will improve sports opportunities for young women and ensure that girls' teams in each of the county's middle and high schools are given equal treatment.

Other inequities arise from schools' decisions to schedule girls' sports in nontraditional, and therefore disadvantageous, seasons. For example, in 2006, in *Communities for Equity v. Michigan High School Athletic Association*<sup>50</sup> the U.S. Court of Appeals for the Sixth Circuit held that the Association had violated Title IX, the U.S. Constitution and Michigan state law by scheduling six girls' sports, and no boys' sports, in nontraditional seasons, thereby disadvantaging the girls in numerous ways, including access to college recruiters and the ability to engage in club play.

In numerous instances, schools have failed to provide equal publicity and support for female and male teams. For example, in 2006, the mother of a female high school basketball player demanded that her daughter's school and other schools in their district provide the girls' team with the same publicity and support it gave to the boys' basketball team. While the school provided cheerleaders for all of the boys' home and away basketball games, it did not provide them for any of the girls' games. The mother filed a complaint with OCR, which found that 12 schools in her daughter's league had failed to comply with Title IX's publicity requirement and mandated that the schools provide cheerleaders to both girls' and boys' teams.<sup>51</sup>

Many challenges also persist in the allocation of coaching jobs. Women are only 19% of the head coaches of both women's and men's teams. Women also make up only 35% of athletic administrators and 19% of athletic directors. In fact, this is one area that has seen a regression. Since Title IX was passed in 1972, the number of females coaching women's teams at the college level has steadily diminished. In 1971, 90% of the head coaches of women's collegiate teams were women, compared to only 42% in 2006.<sup>52</sup>

## Collegiate Sports Positions by Gender (2006)

	Female	Male
<b>Athletic Directors of Women's Programs (All Divisions)</b>	18.6%	81.4%
<b>Head Coaches of Women's Teams (All Divisions)</b>	42.4%	57.6%
<b>NCAA Division I</b>	43.8%	56.2%
<b>NCAA Division II</b>	36.2%	63.8%
<b>NCAA Division III</b>	44.4%	55.6%
<b>Head Coaches of Men's and Women's Teams (All Divisions)</b>	17.7%	82.3%
<b>Full-Time Athletic Trainers (All Divisions)</b>	27.4%	72.6%
<b>NCAA Division I</b>	15.3%	84.7%
<b>NCAA Division II</b>	28.0%	72.0%
<b>NCAA Division III</b>	37.2%	62.8%
<b>Full-Time Sports Information Directors (All Divisions)</b>	12.1%	87.9%
<b>NCAA Division I</b>	9.3%	90.7%
<b>NCAA Division II</b>	10.5%	89.5%
<b>NCAA Division III</b>	15.3%	84.7%

—Acosta and Carpenter, *Women in Intercollegiate Sport*, 2006

### B. Women with Disabilities, Women of Color and LGBTQ Women Continue to be Denied Equal Opportunity in Sports

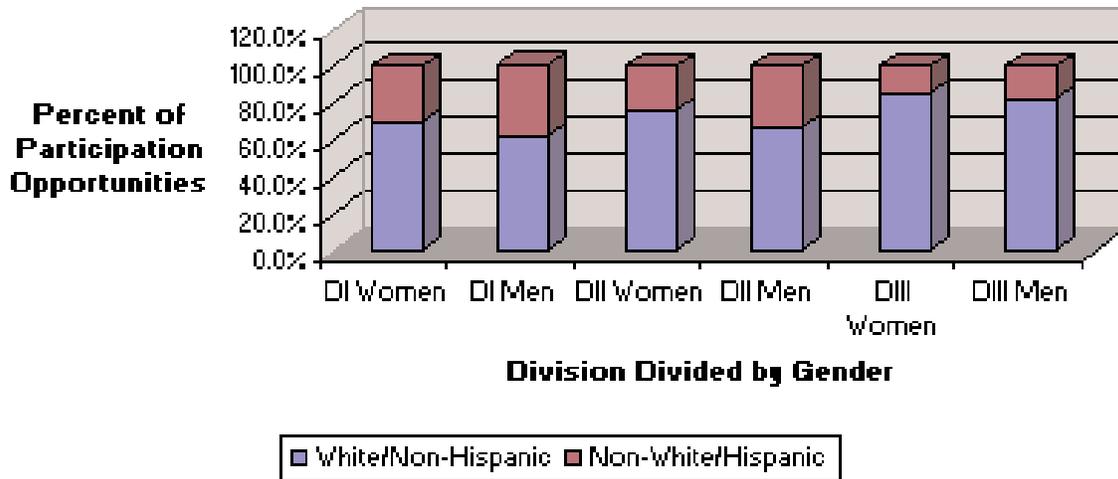
Women with disabilities, women of color, lesbians and trans-gendered individuals have even greater hurdles to overcome than other women before they receive the same opportunities in athletics as their male counterparts. These women face double jeopardy: they are discriminated against because of their gender and their disability, race or sexual orientation.

Throughout all levels of sport women with disabilities have limited athletic opportunities. Neither the NCAA nor the National Federation of State High School Associations officially sanctions any intercollegiate or interscholastic program, event or competition for individuals with disabilities. Although women comprise half of the population of individuals with disabilities,<sup>53</sup> in 2002, women and girls comprised less than 12% of all wheelchair basketball players in the world.<sup>54</sup> Even at the Paralympic level, women are not receiving equivalent opportunities. In the 2004 Paralympic Games, women only comprised 31% (1,160) of the athletes competing.<sup>55</sup> In the Winter Games, women comprised only 20.9% (99) of the athletes in 2006.<sup>56</sup> Gender disparities in leadership

add to the hurdles for female athletes with disabilities. At the time of the 2006 Paralympic Winter Games only two women (13.3%) served on the 15-member International Paralympic Committee.<sup>57</sup>

Since the passage of Title IX, female college athletes of color have experienced a dramatic increase in NCAA sports participation opportunities. While in 1971 there were only 2,137 college female athletes of color,<sup>58</sup> in 2004 that number was 27,680.<sup>59</sup> Yet, in both athletic participation and staffing, the representation of women of color in sport remains low. While African-Americans make up 16% of secondary school students,<sup>60</sup> African-American females represent less than 5% of all high school athletes.<sup>61</sup> Less than 2% of all college coaches and less than 1% of all college athletics administrators are African-American.<sup>62</sup> In NCAA Division I athletics in 2005-06, minority women made up only 4% of the head coaches for women's sports.<sup>63</sup> Racial imbalances in both men's and women's participation are most evident in NCAA Division III institutions, and opportunities for female athletes of color are considerably less than for male athletes of color.

## NCAA Participation Opportunities Divided by Race



Lesbian female athletes face barriers to athletic participation, such as taunting, name-calling, vandalism of property and physical abuse from teammates based on gender-nonconformity. Coaches continue to bar lesbians from their teams or give lesbian athletes unequal playing time or coaching attention. For example, former Pennsylvania State University student-athlete Jennifer Harris sued her basketball coach, Rene Portland, after she was dismissed from the team for unspecified reasons. Reports from former players revealed that Portland had a “no lesbian” policy: telling parents she kept her team lesbian-free, covering the issue during orientation, and kicking lesbian players off the team. The hostile and harassing athletic environment leads many to stay closeted.

### C. Opponents Continue to Play The Blame Game

Even though much work remains to be done to achieve gender equity in athletics, Title IX opponents continue to try to undermine the law through the media, legal challenges and appeals to Congress and the Executive Branch. The basic claim made by these opponents is that women are inherently less interested in sports than men, and thus that providing them equal opportunities to play discriminates against men who lose opportunities they deserve. The most recent court challenges have been brought by a coalition of wrestlers, which sued the Department of Education in 2002 and again in 2007, alleging that the three-part test unlawfully creates quotas and should be struck down.<sup>64</sup>

These allegations have been resoundingly rejected. As the First Circuit stated in its seminal decision in *Coben v. Brown University*, “No aspect of the Title IX regime at issue in this

case—inclusive of the statute, the relevant regulation, and the pertinent agency documents—mandates gender-based preferences or quotas, or specific timetables for implementing numerical goals.”<sup>65</sup> And all of the many federal appellate courts that have considered the test have upheld it.<sup>66</sup>

Contrary to the opponents’ claims, far from being reduced, opportunities for men in sports have continued to expand since the passage of Title IX—with regard to both numbers of athletes and numbers of teams. From the 1988-1989 school year to the 2003-2004 school year, NCAA member institutions added 2,346 men’s sports teams and dropped 2,276, for a net gain of 70. The teams added and dropped reflect trends in men’s sports: wrestling and gymnastics teams were often dropped, while soccer, baseball and lacrosse teams were added. Meanwhile 3,592 women’s teams were added and 1,490 were dropped, for a net gain of 2,102, including many soccer, softball and golf teams.<sup>67</sup> And, as discussed above, participation opportunities for individual men have increased by 15% at the high school level and 31% in intercollegiate sports since Title IX was enacted.

The claim that Title IX is responsible for cuts to particular men’s teams is also baseless. In fact, between 1984 and 1988, following the Supreme Court’s decision in *Grove City College v. Bell*—a decision that effectively eliminated Title IX’s coverage of athletics—men’s wrestling teams were cut at a rate almost three times as high as the rate of decline in the 12 years following, after Title IX’s application to athletics was reestablished by Congress in the Civil Rights Restoration Act.<sup>68</sup>

In reality, a major culprit for the loss of men's and women's sports programs is men's basketball and football—not Title IX. Instead of allocating resources among a variety of sports, college administrators are choosing to take part in the basketball and football “arms race,” at the expense of other student athletes. For example, football and men's basketball combined account for nearly half of capital costs in Division I, with the division-wide total estimated at 46.9% and Division I-A estimated at 54.5%. Football and men's basketball account for 41.4% of capital costs across all three divisions.<sup>69</sup> It is expenditures like these that have led NCAA President Myles Brand to note that “Title IX mandates increased participation opportunities, not fewer. It is true that institutions [sic] must make decisions about what it can afford and what it cannot, about how many sports it can sponsor, and about the level at which those sports will be supported. Those are the results of institutional priorities and financial circumstances, not the unintended consequences of Title IX.”<sup>70</sup>

Moreover, these expenditures cannot be justified by claims that football and men's basketball make profits that subsidize other sports. In fact,

- 60% (70) of Division I-A programs are in deficit spending. The average annual deficit for those in the red is now \$4.4 million, which is up from \$2.8 million in 1997.<sup>71</sup>
- 52% (187 of 359) of football programs and 52% (285 of 549) of basketball programs operate with budget deficits, spending more than they bring in and contributing nothing to other sport budgets.<sup>72</sup>

#### **D. The Department of Education Has Undermined Enforcement of Title IX**

Challenges by opponents of Title IX have been exacerbated by actions taken by the Department of Education that have significantly undermined the enforcement of the law. In 2002, the Department convened a “Commission on Opportunities in Athletics,”<sup>73</sup> charged with evaluating and making recommendations to change Title IX athletics policies. This commission was stacked with Title IX opponents and representatives of Division I Colleges, and the commission heard unbalanced witness testimony at its hearings. In February 2003, the Commission recommended changes that would have gutted Title IX's commitment to equality of opportunity.<sup>74</sup> Two members of the Commission immediately released a Minority Report criticizing the Commission's biased process and recommendations. Although public outrage at

the Commission's report led the Department of Education to publicly reject each of the Commission's recommendations in July 2003,<sup>75</sup> the Department in March 2005 released, without notice or opportunity for public comment, an “Additional Clarification” of its athletics policies that implemented two of the Commission's prior suggestions.<sup>76</sup> Specifically, the Additional Clarification authorizes schools that are not offering proportional athletics opportunities to their female students and have not continuously expanded opportunities for them to evaluate whether those students are interested in additional sports opportunities by doing nothing more than administering an e-mail survey to them.

Problems with the Clarification include:

- The Clarification is a significant policy change that is illegal given Title IX law, is inconsistent with long-standing DOE policies, and conflicts with the fundamental principles of equality under Title IX.
- No policy change of this magnitude should have been issued without public input or comment.
- The Clarification creates a major loophole through which schools can evade their obligation to provide equal opportunity in sports by allowing schools to gauge students' interest in athletics simply by conducting e-mail surveys and to claim that a failure to respond to the survey shows a lack of interest in playing sports.
- The Clarification eliminates schools' obligation to look broadly and proactively at whether they are satisfying women's interests in sports and puts the burden of demonstrating compliance with Title IX on female students instead of the institution.
- Both the survey instrument and the contention that sole use of any one methodology can determine whether an institution is meeting the interests and abilities of females is scientifically flawed.
- The Clarification conflicts with a key purpose of Title IX—to encourage women's interest in sports and eliminate stereotypes that discourage them from participating. Thus, this new policy threatens to reverse the enormous progress women and girls have made in sports since the enactment of Title IX and to perpetuate further discrimination against them.

## Conclusion

For 35 years, Title IX enforcement and compliance has brought increased athletic participation opportunities for women and girls, and this trend continues. But there is much more that must be done for true equality in sports to be achieved. Toward that end, the NCWGE makes the following policy recommendations.

# NCWGE RECOMMENDATIONS

## CONGRESS

- Congress should pass the High School Athletics Accountability Act/High School Sports Information Collection Act. These bills would require high schools to report key data on the gender breakdown of their teams, including participation numbers and budgets and expenditures. These data, which are similar to those currently required at the college level, would enable students, parents and schools themselves to evaluate gender equity in their athletics programs.

## ADMINISTRATIVE AGENCIES

- OCR should rescind the March 2005 Clarification and affirm the 1996 policy standards, which allow surveys to be only one of a multitude of factors schools must use to determine if they are satisfying the interests of their female students.
- OCR should undertake a public education campaign to inform students, parents and schools about their rights and responsibilities under Title IX.
- OCR should strengthen its enforcement of Title IX by initiating proactive compliance reviews of educational institutions. In addition, when issuing findings in response to complaints, OCR should be vigilant in efforts to ensure that schools actually implement their compliance improvement plans.

## EDUCATION PROGRAMS AND ACTIVITIES

- Colleges, universities and the NCAA should take action to stop the "arms race" in college athletics, which has led schools to devote increasing amounts of their budgets to football and men's basketball. Bringing these budgets under control would free up money and opportunity for men's minor sports and women's sports.

# Science, Technology, Engineering and Mathematics (STEM)

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## Harvard Chief's Comments on Women Assailed

*The Washington Post, January 19, 2005*

## The Math Myth: The Real Truth about Women's Brains and the Science Gender Gap

*TIME, February 27, 2005*

## American Science in Decline

*The Washington Times, July 18, 2005*

## For Women in Sciences, Slow Progress in Academia

*The New York Times, April 15, 2005*

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In January of 2005, Harvard president Lawrence Summers suggested that "intrinsic aptitude" might help to explain why few women reach the highest ranks of science, technology, engineering and mathematics (STEM) careers in academia.

While the ensuing media storm brought needed attention to the under-representation of women in STEM, fascination with perceived differences in men's and women's brains unfortunately diverted attention from what evidence shows to be the all too real culprits: socialization and discrimination while girls are still in school.

### Progress in STEM Since Title IX

Girls' participation rates in STEM courses have unquestionably increased since the passage of Title IX. Before then, many educators accepted the stereotype that girls could not achieve in STEM subjects and should not pursue STEM-related careers. Accordingly, they frequently steered high school girls away from higher-level math and science classes, and excluded them from extracurricular activities such as science and math clubs. Not surprisingly, girls' achievement in STEM lagged behind that of boys through much of the last century.

The 1969–70 National Assessment of Educational Progress (NAEP) assessments in science found that while grade-school and middle-school boys outscored girls by an average of only 5 points; in high school the gap increased to 17 points. Similarly, the 1973 NAEP math assessments showed girls narrowly outscoring boys at the fourth- and eighth-grade levels, but by high school, girls had fallen significantly behind.<sup>77</sup> In contrast, on the 2005 NAEP math and science assessments for grades 4, 8 and 12, the largest gap between boys' and girls' scores was a mere four points.<sup>78</sup> By that year, high school girls were achieving better grades in math than boys, and the gender gap on the mathematics section on the Scholastic Aptitude Test (SAT) was closing, despite documented bias in this test.<sup>79</sup>

With most states now requiring two or more years of math and science for high school graduation, more girls than boys are taking chemistry and biology. In 2000, the most recent year for which statistics are available, 65.7% of girls took chemistry in high school, versus only 58.0% of boys. Girls also outnumbered the boys in math courses through precalculus, but boys still slightly outnumbered girls in calculus courses (11.1% of high school girls and 12.2% of boys took calculus in 2000).<sup>80</sup>

Another indicator of girls' progress in the STEM fields is the increase in girls taking the Advanced Placement (AP) tests in calculus and physics. In the last 10 years, the number of girls taking the AP Calculus AB exam has increased nearly 60% and the number of girls taking the AP Physics B exam more than doubled during the same period.<sup>81</sup> Girls now comprise 48% of AP test takers in calculus AB, 47% in chemistry and 58% in biology.<sup>82</sup> And, in 2007, half of the 40 finalists in the Intel Science Talent Search were girls.<sup>83</sup>

Women at the university level also have had a growing presence in the STEM fields since Title IX was enacted. In 1970, women earned 17.5% of bachelor's degrees in natural sciences and engineering, and by 2004 their share had risen to 38.4%, and women now receive more than 50% of degrees in biological and agricultural sciences. In the same timeframe, women's share of doctorate degrees in these fields more than quadrupled from 6.7% to 30.5%.<sup>84</sup>

Overall, women now comprise nearly 60% of all undergraduate college students, and nearly half of all master's, doctoral, law and medical students.<sup>85</sup> And although their share of STEM degrees earned lags behind men's share, the overall number of women in STEM fields has steadily increased over the past 35 years, while the number of men earning STEM degrees has remained constant over the same period of time.<sup>86</sup>

## Substantial Gaps Remain

Despite this progress, women remain under-represented in engineering and the physical sciences, earning only 20% of all bachelor's degrees granted in engineering and physics. And, while women earn 45.9% of bachelor's degrees in mathematics, their share has been decreasing since 1994.<sup>87</sup> Within the physical sciences, women earned 51.1% of all bachelor's degrees in chemistry, but they received only 21.8% of all bachelor's degrees in physics. Women earned only 25.1% of all computer sciences degrees and 20.5% of all bachelor's degrees in engineering.<sup>88</sup>

In addition, girls are still stigmatized, and stereotypes of their lack of ability in STEM persist. Although the obstacles presented by the academic culture are becoming more subtle than the overt discrimination of the past, girls continue to be discouraged in K-12 mathematics and science courses; undergraduate women transfer out of STEM fields before graduating because of unsupportive classroom environments characterized by lack of role models, a limited peer group and outdated pedagogy; and women scientists and engineers earn less and advance more slowly than men in both academia and the private sector. And while some of these differences could result from personal choices, the culture of STEM fields too often creates circumstances that isolate and exclude girls and women, dissuading them from pursuing these careers.<sup>89</sup>

The barriers to girls' and women's progress in STEM begin in K-12 education, starting with the messages received in the schools themselves. In a 2006 Girls Inc. survey conducted by Harris Interactive, 44% of girls and 38% of boys agreed with the statement, "the smartest girls in my school are not popular," and 17% of girls and 14% of boys thought it was true that "teachers think it is not important for girls to be good at math." One ninth grade girl noted, "Even today, society values beauty in girls over intelligence and talent."<sup>90</sup>

In a study looking at high school STEM classes in 2002, researchers observed the presence of serious discriminatory conduct directed at girls, which appeared to account for the further observation that the more advanced computer science classes only had one or two girls enrolled. For example, in one Computer Science 2 class girls were constantly taunted about their bodies, their appearance and their competence, and the male teacher did nothing to stop the harassment. In the same programming class, a girl asked her teacher why he always used football examples for their assignments. Rather than varying his examples, he told her that she could choose whatever topic she wanted for her assignment. This response

elicited demeaning remarks and laughs from the boys in the class, such as "do it on sewing." Again, the teacher did nothing to intervene. Not surprisingly, none of the high school girls enrolled in Computer Science 2 went on to enroll in Computer Science 3.<sup>91</sup> *The Chronicle of Higher Education* cites an anecdote of a girl who was one of two girls in her high-school programming courses, where the boys in the classes repeatedly told her that she was not good at programming and out of place. "One of guys I grew up with and was in all of the classes with told me that, scientifically, girls were not programmed to do math like guys could," she said. "And I believed him."<sup>92</sup> According to psychologists, girls and women are more likely than boys and men to internalize criticism and biased comments like this one.<sup>93</sup>

Another area of concern that affects women before they even enter the university classroom is bias within the Scholastic Aptitude Test (SAT), an exam designed to predict the performance of a student in his/her first year in college. MIT found that a woman with the same SAT score as a man was likely to get better grades. After adjusting its admissions process to compensate for the SAT's "under-prediction," MIT has found that its women students earn higher grade point averages in more than half of the majors, including math, science and computer science, even though their average SAT math score is 20-25 points lower than that of male students.<sup>94</sup>

As discussed in the Employment chapter of this report, even for the girls who are not discouraged in high school, and pursue STEM courses at the university level, gains in women's attainment of bachelor's and doctoral degrees in STEM disciplines still have not translated into workplace parity—particularly in academia. Women represent fewer than one in five faculty members employed in computer science, mathematics, engineering and the physical sciences. In engineering in particular, women account for just over one in ten faculty members.<sup>95</sup>

## Title IX Enforcement is Lacking

In 2004, a Government Accountability Office report requested by Senators Ron Wyden (D-OR) and Barbara Boxer (D-CA) revealed that many federal agencies failed to conduct compliance reviews. These reviews are part of the most basic oversight requirements mandated by Title IX in order to assure that funding agencies evaluate whether programs and activities comply with Title IX. The report, entitled *Gender Issues: Women's Participation in the Sciences Has Increased, but Agencies Need to Do More to Ensure Compliance with Title IX*, looked

at Title IX compliance practices at three federal agencies that support significant basic research in the STEM disciplines: the National Science Foundation (NSF), Department of Energy (DOE) and National Aeronautics and Space Administration (NASA).<sup>96</sup> The report pointed out that these agencies, along with the Department of Education, have not fulfilled their statutory obligations to ensure that grant recipients comply with Title IX.

The report further noted that grant recipients cannot prove compliance with even the most basic of Title IX requirements, such as reporting compliance data and completing a self-assessment.<sup>97</sup> Many have failed to designate an employee to coordinate Title IX compliance efforts, establish a Title IX grievance procedure, and disseminate information regarding the institution's Title IX nondiscrimination policy. Moreover, because the responsibility for gathering compliance data rests with the individual granting agencies, there is no centralized way to determine whether a particular school has conducted the required self-assessment, and no cross-agency standard for what a self-assessment should look like. Instead, when granting funding, federal agencies tend to accept as proof of compliance the educational institution's own pro forma statement that merely attests to the fact that the educational institution complies with Title IX in all respects.<sup>98</sup>

The GAO report also points out that because students and faculty generally do not know that Title IX applies to anything other than athletics, relatively few academic Title IX complaints have been filed with the aforementioned federal agencies.<sup>99</sup> The report suggests that a comprehensive campaign to educate students and faculty about their rights could lead to greater exercise of those rights.<sup>100</sup> However, faculty and students who are aware of the law's reach fear retribution for filing complaints, even though, as recently held by the Supreme Court in *Jackson v. the Birmingham Board of Education*, Title IX provides a remedy for such retribution.<sup>101</sup>

In the wake of the GAO report, NSF and NASA began to conduct selective Title IX reviews of STEM departments at postsecondary institutions in 2006. While these reviews are a start and may uncover important information relevant to the institutions involved, more widespread and systematic reviews are needed to bring about change on the scale necessary to increase the percentage of women in STEM fields. In particular, such reviews should focus on the culture and climate of relevant STEM departments to determine whether women and men face different barriers to success.

## Implications for the U.S. Workforce

The exclusion of women and girls from STEM is not only unlawful discrimination, it has significant implications for our economy. Looking at a broad set of data trends, the NSF governing board observed a “troubling decline in the number of U.S. citizens who are training to become scientists and engineers,” and warned that these trends “threaten the economic welfare and security of our country.”<sup>102</sup> The United States outsources work to and imports scientists and doctoral candidates from many countries in order to meet the needs of American competitiveness and innovation, and some worry that America's military superiority and security will suffer as a result of this reliance on foreign talent.<sup>103</sup>

Fortunately, the United States has an untapped pool of potential workers. If women and members of other traditionally underrepresented groups, such as racial and ethnic minorities and individuals with disabilities, joined the STEM workforce in proportion to their representation in the overall labor force, the shortage of skilled laborers in STEM could be addressed.<sup>104</sup> In addition, women, and especially women who are also members of other groups traditionally underrepresented in STEM, bring new perspectives and modes of investigation to STEM fields and, consequently, grow America's capacity for innovation.<sup>105</sup>

## Conclusion

The persistent discrimination against women and girls in STEM, coupled with widespread concerns about American competitiveness, demonstrate that enforcement of Title IX in these fields is critical. Title IX can and must be used to eliminate the barriers that still exist for girls and women pursuing STEM programs. Proper enforcement of the law will help to eliminate conduct or practices that disadvantage students or employees on the basis of their gender, and create conditions that allow women and girls the opportunity to succeed in STEM fields.

# NCWGE RECOMMENDATIONS

Policymakers, enforcement agencies and educational institutions all have an important role to play in educating individuals and institutions about Title IX's role in STEM, and in enforcing the law and

addressing the effects of past discrimination by actively recruiting girls and women into these vital fields. The following are some policy recommendations.

## CONGRESS

- Congress should conduct oversight hearings and call for enhanced agency enforcement, while also providing the funding necessary to conduct comprehensive reviews of educational institutions.
- As part of the reauthorization of No Child Left Behind, Congress should require and fund gender equity training for K-12 teachers.
- Congress should provide incentives to increase participation of underrepresented groups, including allocating funding on the basis of

demonstrated compliance with obligations under Title IX and other civil rights laws.

- Congress should continue NSF ADVANCE grant funding to create diverse programs that help to retain women in academic STEM careers, and disseminate information about successful programs. In addition, informal STEM education should be promoted through federally-funded after-school programs.

## ADMINISTRATIVE AGENCIES

- Federal agencies should disseminate promising practices from programs that promote gender equity in STEM fields, such as NSF ADVANCE grants or similar programs under the framework of "Women in Science and Engineering," to encourage broader participation in these programs by the STEM academic community.
- OCR should provide technical assistance to schools to help them understand their obligations under Title IX.
- The Department of Education should launch a public education campaign for students, parents and STEM faculty to educate them about student and faculty rights under Title IX.
- Federal agencies should initiate regular, systematic compliance reviews that have general

relevance across institutions and that are consistent across funding agencies. In addition, they should evaluate fund-granting criteria and results for bias.

- OCR should collect data from recipient institutions that show how the institutions are discharging their Title IX obligations, such as in the areas of equitable compensation.
- OCR should promptly and thoroughly investigate discrimination complaints, and publish the results of those investigations. When there is discrimination, OCR should seek the full range of remedies, including termination of federal funding where warranted.

## EDUCATION PROGRAMS AND ACTIVITIES

### At the K-12 Level

- Schools should notify students and parents about the broad scope of Title IX protections, and give them the name and contact information of the Title IX compliance officer at the school.
- School systems should require students to take increased numbers of STEM courses to graduate from high school.
- Schools should integrate more hands-on activities into curricula and promote participation in and support proven after-school programs that incorporate the latest research on girls' engagement and persistence in STEM.
- Educators should encourage parents to speak positively with their daughters about science, technology, engineering and mathematics careers.
- Schools should invite interesting women with exciting careers in STEM to talk to students about their professions and provide hands-on experience in some aspect of their work.
- Schools should offer professional development to teachers that increases their gender awareness and shows them gender-fair teaching methods that will encourage girls and eliminate hostile environments.

### At the University Level

- Universities and colleges should self-assess Title IX compliance, cooperate with Title IX reviews by federal funding agencies, and examine institutional policies, procedures and practices for

gender bias, and make this information accessible to the public. As part of this ongoing self-assessment, schools should collect data to track progress of students and faculty, create accountability mechanisms and encourage mentoring for all faculty and students at all stages of higher education with emphasis on multiple and diverse support systems.

- Schools should incorporate gender awareness into professional development for faculty and administrators to address the subconscious ways that they may treat women and men differently.
- Schools of education should require students pursuing education degrees to take specific courses about gender equity and gender awareness.
- Educational institutions should establish family-friendly policies, and create an environment in which taking advantage of those policies and balancing work and life demands do not penalize the employee.
- Universities and colleges should increase networking opportunities through professional societies and peer support systems, and support those activities with funding and the allotment of time for participation in them.
- Educational institutions should study the practices that help companies succeed in retaining women in STEM careers. Corporations that partner with universities on research and recruiting should also partner on issues of gender equity.



# Career and Technical Education

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## **Females Breaking Ground in Construction Industry**

*San Diego Business Journal, January 2007*

## **Female Electrician Enjoys Challenges of a Demanding Job**

*St. Louis Post-Dispatch, July 2006*

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## **Where are all the Women Plumbers?**

*St. Louis Post-Dispatch, June 2006*

When the media profiles pioneering women who have shattered barriers to enter male dominated fields, it is easy to forget that these articles, while important and inspiring, portray the rare exceptions. The reality is that even though women have made significant gains in professional jobs traditionally dominated by men, in the last 35 years they have made relatively little progress in the trades or in technology.

This problem starts well before women enter the workforce. In the United States, career and technical education (or vocational education as it has been widely known) in high schools and community and technical colleges is the primary source of training for careers in technology and the skilled trades. Thirty-five years after Title IX outlawed sex discrimination in career and technical education classrooms as part of its general ban on sex discrimination in schools, however, male students continue to predominate in courses that lead to high-skill, high-wage jobs, while female students are the majority of students in the low-wage, low-skill tracks. These enrollment patterns reflect, at least in part, the persistence of sex stereotyping and sex discrimination. In addition, they are particularly problematic for girls and women, since their lifetime earnings and career advancement opportunities are affected by the training they receive in career and technical education programs.

The reality for girls and women is that 35 years after Title IX, sex segregation in career and technical education has narrowed barely at all. Without better enforcement of Title IX and increased investment in programming to close the gender divide, the outlook for gender equity in career and technical education remains grim.

## **The Promise of Title IX and Other Legislation Opening Access to Career and Technical Education Has Not Been Realized**

Despite the persistence and troubling consequences of sex segregation in CTE programs, laws designed to address these problems have not fulfilled their promise. In fact, the

early promise of these laws has been weakened over time by lack of enforcement and elimination of targeted statutory mandates.

Before the 1970s, the career and technical education system in the United States intentionally segregated students by sex. Educational institutions routinely denied female students admission into classes deemed “improper” for them, such as shop, manufacturing, auto mechanics and architectural drafting, and instead directed them into cosmetology, home economics and sewing classes. Specialized vocational high schools and technical colleges providing training in areas such as aviation and maritime trades were reserved exclusively for male students.<sup>106</sup>

In 1972, the passage of Title IX made it unlawful for schools to steer students into career and technical education classes based on their gender. In fact, administrative policies issued under Title IX require that schools take steps to ensure that the disproportionate enrollment of students of one sex in a course is not the result of discrimination. In 1979, OCR developed guidelines to further explain how Title IX applies to career and technical education programs. *The Vocational Education Guidelines for Eliminating Discrimination* require states to collect, analyze and report civil rights data; conduct compliance reviews; and provide technical assistance.<sup>107</sup> As with other areas of education, Title IX’s enforcement mechanism allows students facing discrimination in career and technical education to file administrative complaints with OCR or file lawsuits to challenge discrimination in court.<sup>108</sup>

During the years following the passage of Title IX and up until the late 1990s, Congress passed several laws with provisions that sought to systematically promote gender equity in career and technical education. These laws went beyond the antidiscrimination prohibitions and compliance requirements of Title IX, and mandated and provided resources for schools to take proactive steps to reduce sex segregation and make career and technical education classrooms more equitable.

In 1976, Congress amended the Vocational Education Act to require each State to hire a “sex-equity coordinator,” who was responsible for making the career and technical education system in his or her state more equitable. Congress provided \$50,000 to each State to support the sex-equity coordinator position.<sup>109</sup> In 1984, Congress passed the Carl D. Perkins Vocational Education Act (Perkins Act) requiring States to set aside 3.5% (decreased to 3% in 1990) of their career and technical education funding for programs designed to eliminate sex bias and stereotyping. Another 8.5% set-aside (decreased to 7% in 1990) supported programs for individuals who faced significant barriers to career and technical education, but who might benefit greatly from the occupational skill training offered by these programs, including displaced homemakers (women returning to the workforce after time out caring for family members), single parents and single pregnant or parenting teens.<sup>110</sup>

While these changes did not eliminate sex segregation, they did help to increase access and opportunities for women and girls in career and technical education. Thousands of women were trained and placed in nontraditional occupations, which are defined as occupations in which women represent less than 25% of employees. Teachers received training on how to maintain gender equity in the classroom and address classroom barriers, such as sexual harassment.<sup>111</sup> Between 1984 and 1998, an average of \$100 million annually was spent on programs primarily serving women and girls, with the goals of eliminating sex bias in career and technical education, including the barriers that some women face in accessing career and technical training.<sup>112</sup> This investment led to slow but steady progress for women and girls in career and technical education programs across the country.

Despite these early efforts, Congress set back this progress in 1998, when its reauthorization of the Perkins Act eliminated the majority of provisions that addressed sex segregation in career and technical education. The law eliminated the requirements for a state gender equity coordinator and for a gender-equity set-aside, leaving the states the discretion to use the funds for other purposes.<sup>113</sup> The new law did require states to reserve a small amount of money—between \$60,000 and \$150,000 a year—to provide services to students pursuing nontraditional training and employment.<sup>114</sup> But, this was between only 3% and 7.5% of the amount that had been previously available for gender equity efforts; far too paltry a sum to make real progress towards eliminating sex segregation in career and technical education. The Perkins Act also created performance measures for states based on the per-

centage of students who enrolled in and completed nontraditional programs for their gender. However, because they were not accompanied by sanctions or incentives, or supported by significant funding, the measures did little to hold states accountable for reducing sex-segregation.<sup>115</sup>

Spotty enforcement further limited Title IX’s effectiveness in eliminating sex discrimination in career and technical education. While the Title IX regulations authorize OCR to conduct compliance reviews, it has done little to investigate patterns of sex segregation, even when specifically requested to do so by gender equity and education advocates. Further, in recent years, states have consolidated their mandated gender equity reviews into overall school improvement reviews, which has severely minimized the investigation of issues of sex segregation and discrimination in career and technical education programs.<sup>116</sup> Reversal of this conduct is critical if gender equity in career and technical education is to be achieved.

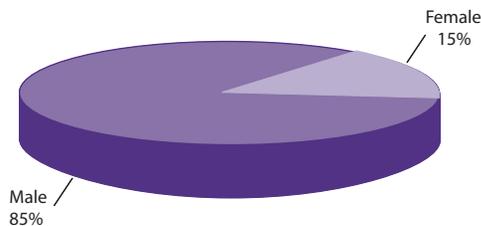
### **Construction for Boys, Cosmetology for Girls**

In October 2005, the National Women’s Law Center published *Tools of the Trade*, a report examining career and technical education enrollment patterns in twelve geographically diverse states.<sup>117</sup> This report revealed that girls make up almost 90% of the students enrolled in classes leading to traditionally female occupations and only 15% of those taking classes in traditionally male fields. In some traditionally female occupations, sex segregation is particularly marked. Female students make up 98% of the students enrolled in cosmetology, 87% of childcare students and 86% of those in health-related courses. Correspondingly, girls are largely absent from traditionally male courses, comprising only 4% of heating, A/C and refrigeration students, 5% of welding students, 6% of electrician and plumber/pipefitter students and 9% of automotive students.<sup>118</sup>

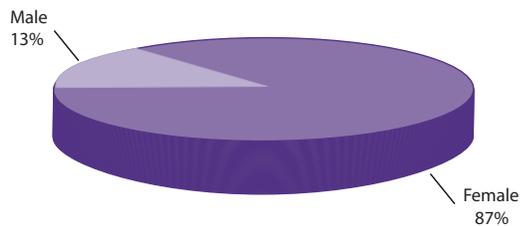
Thus, today’s career and technical education classrooms look strikingly and distressingly similar to those of 1972. Though some occupational categories have changed over time, overall levels of sex segregation remain largely unchanged after thirty-five years. Female students continue to make up the majority in programs that prepare students for stereotypically female, low-paying jobs; male students predominate in high-skill, high-wage career tracks.

## Enrollment Disparities in High School CTE Courses

Enrollment in Courses Leading to Nontraditional Occupations for Females



Enrollment in Courses Leading to Traditionally Female Occupations



National Women's Law Center, *Tools of the Trade*, p. 5.

### Enrollment Patterns Reflect Sex Discrimination in Career and Technical Education

Despite claims made by critics of Title IX, the persistent sex-segregation in career and technical education is not simply the result of women's and girls' choices and preferences. While the reasons for the gender divide are complex, existing research suggests that patterns of segregation result in significant part from—and in turn perpetuate—sex discrimination. Biased career counseling, gender stereotyping, unequal treatment by teachers, sexual harassment and other discriminatory practices result in a career and technical education system that limits the educational opportunities of women and girls. Female students are discouraged from pursuing traditionally male training programs in ways that are both subtle—such as an instructor inadvertently allowing male students to monopolize atten-

tion—and not so subtle—such as a guidance counselor telling a female student that an electronics course is “not for girls.”

Consider the following examples of sex discrimination uncovered in *Tools of the Trade*:

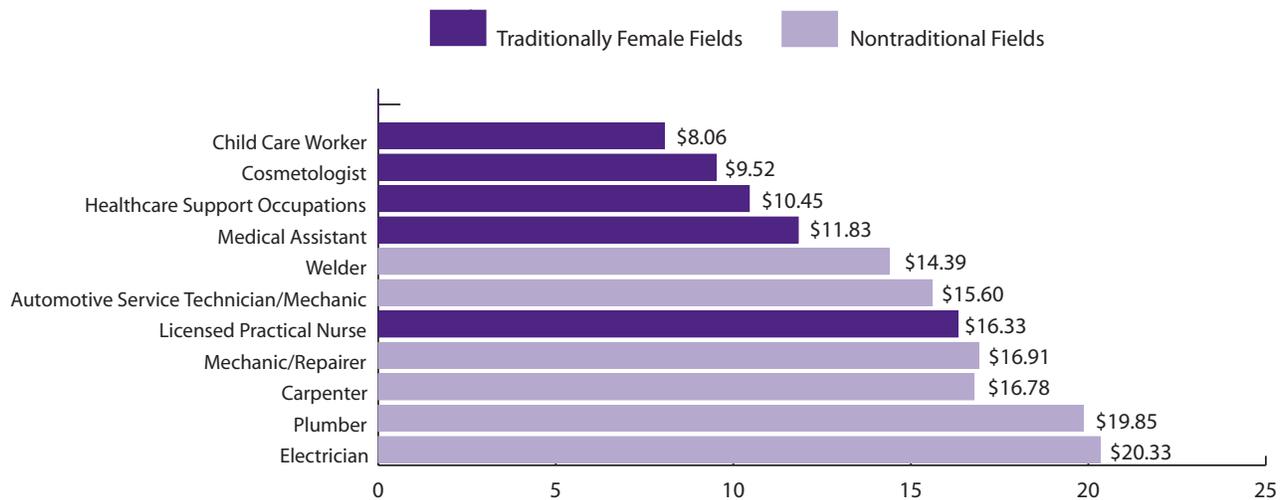
- A female student in Michigan reported that a counselor “tried to talk me out of” enrolling in auto body classes.
- A student in Pennsylvania was told by her classmates that “girls were not supposed to take masonry classes.”
- A student enrolled in an air conditioning program in Illinois described how she was sexually harassed by her fellow students—while her male teachers not only did nothing to stop her peers, but also sometimes joined in themselves.
- A New York City high school used a recruiting banner proclaiming that the school “builds mechanical men.”
- Another student in Michigan reported that the walls of her technology education classroom were covered with pinups of scantily clad women and a mural of male students using a urinal.<sup>119</sup>

### Sex Segregation in CTE Programs Results in Limited Economic Opportunities

In addition to violating Title IX, these discriminatory practices have significant negative consequences for women's economic security. Women working in traditionally female fields earn on average 20-30% less than their counterparts in nontraditional fields. Traditionally male careers generally offer higher entry-level wages and better career advancement opportunities.<sup>120</sup> While child care providers offer vital services for families, the unfortunate reality is that a woman working in this field (a traditionally female track) struggles to support herself and her family on \$345 a week. A woman employed in an installation, maintenance or repair occupation (traditionally male tracks), on the other hand, earns almost twice that much.<sup>121</sup> Thus, the relegation of women into traditionally female training programs and ultimately low-wage, low-skill career paths seriously disadvantages their earning power and career advancement prospects.

The impact of sex-segregation has become even more problematic as CTE programs have begun to offer training in new and emerging high-tech fields such as pre-engineering, computer repair and circuitry and telecommunications. These emerging fields offer very high-paying jobs with good benefits, such as healthcare and retirement savings. For example, individuals in telecommunication installation and repair earn \$874 a week, on average.<sup>122</sup> But, despite the growing job opportunities and high demand for skilled labor in these fields, girls

## Comparison of Median Hourly Wages for Occupations that are Traditional and Non Traditional for Women



National Women's Law Center, *Tools of the Trade*, p. 7.

and women are dramatically under-represented in educational programs that prepare them for these occupations and there are few efforts to actively recruit them into these careers. (See the chapter on Title IX and STEM for more information.)

### Conclusion

In 2006, Congress passed yet another iteration of the Perkins Act. This latest legislation does not make up for the ground lost in 1998, but it does take several important steps that could—if implemented effectively by states and schools—renew progress toward gender equity in career and technical education. The new law requires schools to spend funds on programs that offer women and girls training for nontraditional occupations, as well as programs helping single parents and other women with barriers to employment succeed in career and technical education, and ultimately obtain high-skill, high-wage employment. In addition, the law adds

teeth to previously existing performance measures on the percentage of students who enroll in and complete nontraditional programs for their gender. If states do not meet specific targets around nontraditional training, they stand to lose their federal funding.<sup>123</sup> This change has the potential to increase opportunities for women and girls to enter and advance in a wide range of employment sectors, including those occupations typically dominated by men. The actions of states and schools will determine the future headlines about Title IX and career and technical education.

## High Tech Girls Society

The good news is that successful strategies do exist. One example is the High Tech Girls' Society, launched in 2003 by the Minneapolis Public School District to increase the representation of girls in traditionally male-dominated, high-tech courses such as aviation, engineering and information technology. Through its substantial mentoring component, hands-on learning activities, site visits

and other related activities, the program has increased girls' enrollment in high-tech classes in areas such as engineering, information technology, construction and auto technology. In 2002, female students made up 39% of students enrolled in these high-tech courses; in 2005, they made up 44%.<sup>124</sup>

## Welder Michelle Zwotanek and the Nontraditional Occupations Project

Throughout most of her one-year welding program at Southwest Wisconsin Technical College, Michelle Zwotanek was the only female student in the room. Her male classmates made life difficult for her, frequently harassing her by teasing and "pulling pranks" on her. Fortunately, Southwest Tech has a Nontraditional Occupations Project (NTO), which offers support services for any student enrolled in a training program that is nontraditional for his or her sex. During her time at Southwest Tech, Michelle participated in a weekly peer support group that allowed her to connect, share resources and trouble-shoot difficulties with other female students at the college who were training for non-traditional careers.

The NTO Project also provided Michelle opportunities to do outreach with community high schools, educating younger women about opportunities in non-traditional fields. For Michelle, this was a critical to staying the course despite the challenges she faced: "Knowing that I was making a difference in the lives of these girls made me even more driven to want to succeed at it." With determination, an encouraging instructor, and support from the NTO Project, Michelle graduated from the program with High Honors and was immediately hired at an above average wage.

# NCWGE RECOMMENDATIONS

## CONGRESS AND OTHER POLICYMAKERS

- Federal policymakers should establish an adequate, designated funding stream for state-wide activities to reduce sex-segregation in career and technical education.
- Federal policymakers should restore funding to gender equity programs lost under the 1998 reauthorization of the Perkins Act. One option is to pass the Pathways Advancing Career Training (PACT) Act.
- Federal policymakers should restore the full-time gender-equity coordinator position in each state in addition to the already required state Title IX Coordinators.
- State policymakers should ensure that high schools and community colleges have effective programs and activities for students training for nontraditional employment and those with barriers to training, such as single parents and women returning to the workforce after time out caring for family members. States should make use of the flexibility granted to them under the Perkins law to use funding to support schools in providing these programs and activities.

## ADMINISTRATIVE AGENCIES

- The Department of Education should conduct compliance reviews of career and technical education programs to ensure that they provide equal access and opportunity for all students. The reviews should evaluate school compliance with Title IX and its implementing regulations, as well as with the Department of Education's Vocational Education Programs Guidelines for Eliminating Discrimination.

## EDUCATION PROGRAMS AND ACTIVITIES

- Schools should build upon or cultivate an institutional commitment to gender equity and compliance with Title IX and other civil rights laws. Educators should emphasize ending gender-based career stereotypes and let students know that they support nontraditional choices.
- Schools should actively recruit female students into training programs for non-traditional occupations. Career counseling and guidance should highlight the positive aspects of nontraditional careers for women and girls.
- Schools should introduce students to role models, including adults who have nontraditional careers and peers who recently participated in nontraditional career and technical education programs.
- Schools should provide support services for students in programs that are nontraditional for their gender, including orientation programs, mentoring programs and peer support programs.

# Employment

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## **MIT Completes Ground-Breaking Studies on Status of Women Faculty**

*MIT News, March 18, 2002*

## **A Breakthrough for MIT and Science-Five Years after Conceding Rampant Sexism, MIT Has a New President, Susan Hockfield**

*Business Week Online, October 4, 2004*

## **Despite Gain in Degrees, Women Lag in Tenure in 2 Main Fields**

*New York Times, January 15, 2004*

## **9 University Presidents Issue Statement on Gender Equity**

*Inside Higher Ed, December 7, 2005*

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## **Summers' Remarks on Women Draw Fire**

*Boston Globe, January 17, 2005*

## **High Court Supports Title IX Protection: Law Now Covers Whistle-Blowers**

*Washington Post, March 30, 2005*

## **Harvard Board Names First Woman President—Drew Gilpin Faust Ends Lawrence Summers' Stormy 5-Year Tenure**

*Associated Press, February 11, 2007*

This set of headlines about employment in education from the last five years highlights the story of women's and girls' progress: several advances alongside persistent stalled progress. In 2004, Dr. Donna Nelson, a researcher and chemistry professor from the University of Oklahoma, published "A National Analysis of Diversity in Science and Engineering Faculties at Research Universities," which demonstrated the tremendous under-representation of many minority groups, including women, on science and engineering faculties.<sup>125</sup> Dr. Nelson found that while women are earning doctorates in science and engineering in increasing numbers, their increased educational attainments are not reflected in the tenured or tenure-track positions of the nation's top 50 research universities. For instance, 20.5% of the doctorates awarded in computer sciences went to women, but women held only 10.8% of the assistant professorships in the field.<sup>126</sup> On the positive side, only two years after publishing its own report documenting systemic sex discrimination against female faculty,<sup>127</sup> in 2004 the Massachusetts Institute of Technology (MIT) appointed its first woman president, Susan Hockfield.<sup>128</sup>

In January 2005, Harvard University President Lawrence Summers set off a firestorm when he remarked during a speech that women may not have the same innate or natural ability as men in some fields, which might be one reason fewer women succeed in science and math careers. President Summers also questioned how much of a role discrimination versus personal choice plays in the dearth of female professors in science and engineering at elite universities.<sup>129</sup> His comments catalyzed both men and women to speak up for

the reforms needed to promote gender equity in the employment of women in higher education. President Summers resigned in the wake of the outcry his remarks caused, and in February 2007, Harvard named its first woman president, Drew Gilpin Faust.<sup>130</sup>

A little over a year before Harvard's historic action, in December 2005, the presidents, chancellors, provosts and 25 women professors of nine top research universities came together to initiate a dialogue on equitable treatment of women faculty in science and engineering. The attendees—who represented MIT, the California Institute of Technology, the University of Michigan, Princeton, Stanford, Yale, the University of California at Berkeley, Harvard and the University of Pennsylvania—agreed that institutions of higher education have an obligation to recognize the barriers to progress that still exist for female academics, such as an academic culture that does not support family commitments, and to fully develop and utilize all the creative talent available, both for themselves and for the nation. They agreed to analyze the salaries and the proportion of other university resources provided to women faculty, to work toward a faculty that reflects the diversity of the student body, and to reconvene a year later to share their specific steps for achieving these objectives.<sup>131</sup>

## **Title IX and its Link to Employment**

While Title VII of the Civil Rights Act of 1964 bars employment discrimination on the basis of sex, it did not originally cover educational institutions. The rampant sex discrimination in employment encountered by Bernice San-

**BERNICE SANDLER:  
GODMOTHER OF TITLE IX  
AND CHAMPION OF EQUITY IN  
EDUCATION EMPLOYMENT**

“Too strong for a woman.”

When Dr. Bernice Sandler heard these five words used to describe why she was passed up for a teaching position at a university, she could never have guessed the changes that they would bring to her life and the lives of women and girls across the United States.

Dr. Sandler was dubbed the “godmother of Title IX” by the New York Times because her research, leadership and persistence in exposing discrimination against women in higher education—in hiring and in the salary and other benefits they received if they were hired—resulted in the enactment of Title IX of the Education Amendments of 1972.

Shortly after her own encounter with discrimination in the late 1960s, Dr. Sandler became Chair of the Action Committee for Federal Contract Compliance in the Women's Equity Action League (WEAL). She realized that even though no federal laws prohibited sex discrimination in education, a federal Executive Order prohibiting contractor discrimination in employment could be used to combat sex discrimination in colleges and universities. In 1970 and 1971, Dr. Sandler filed charges of sex discrimination against more than 250 such institutions under this Executive Order.

Dr. Sandler also worked with the late Congresswomen Patsy Mink (D-HI) and Edith Green (D-OR) to enact a statutory prohibition against sex discrimination in educational institutions.<sup>132</sup> Supported by legislators from both sides of the aisle and both houses of Congress, Title IX of the Education Amendments of 1972 went from committee hearings to enacted law in a time span of about two years.

dler and other educational advocates in the late sixties became the catalyst for the amendment of Title VII to cover educational employees and the passage of Title IX.

As part of its broad protections, Title IX bars sex discrimination in employment in education programs or activities receiving Federal financial assistance.<sup>133</sup> The Title IX

regulations detail that the prohibition on sex discrimination in employment encompasses, but is not limited to, recruitment, advertising, hiring, upgrading, tenure, firing, rates of pay, fringe benefits, leave for pregnancy and childbirth, and participation in employer-sponsored activities.<sup>134</sup>

In the last five years, some progress has been made to strengthen the employment protections in Title IX. In March 2005, for example, the US Supreme Court confirmed that Title IX prohibits retaliation against those who protest against sex discrimination. In *Jackson v. Birmingham Board of Education*, it upheld the right to sue of a girl's high school basketball coach, Roderick Jackson, who was fired from his coaching position because he complained about the inequitable treatment of his team. The Court recognized that protection for those who complain about discrimination is integral to the enforcement of Title IX, and that protecting teachers and coaches from retaliation is critical because they are often in the best position to identify discrimination and bring it to the attention of administrators charged with oversight of Title IX policy.<sup>135</sup>

### Substantial Gaps Remain

In spite of the legal protections available, thirty-five years after the enactment of Title IX, substantial sex-based disparities in educational employment remain:

- Women continue to occupy jobs at the lower rungs of educational institutions. They comprise 79% of the public school teachers in the United States but are only 44% of the principals;<sup>136</sup>
- Women are 49% of all part-time academic employees at the college level, but hold only 39% of full-time academic jobs;<sup>137</sup>
- The salaries of women K-12 teachers in 1973 were 84% of male teachers' salaries.<sup>138</sup> Similar data in 2006 shows that women teachers now earn closer to 90% of what their male peers earn. This discrepancy in female and male teacher earnings is smaller than the national average for all working women of 57% in 1973 and 77% in 2006. (See Table II on p. 31.)
- In institutions of higher education, overall wages for women faculty have remained at approximately 81% of men's earnings since the late 1970s, when salary data was first collected.<sup>139</sup>

- Only 20 of the 50 state superintendent positions, the highest position of leadership in state education offices, are held by women.<sup>140</sup>
- Only one in four college presidents is female. When looking at four-year institutions, excluding two-year community and junior colleges, women make up only one in five heads of institutions.<sup>141</sup>

## Women on the Faculties of Colleges and Universities

In the early 1970s, women made up about 18% of the faculties of all universities and colleges, and were employed predominantly in women’s colleges and other postsecondary schools that served primarily women. In 2006, according to a report of the American Association of University Professionals (AAUP), more than twice as many women are now on faculties (39%), but there is great variance in professional level by the kind of institution.<sup>142</sup>

faculty. Non-tenure track and part time positions have lower pay, few if any benefits and may involve irregular working hours.<sup>143</sup>

While the number of women in full professorships has increased 2.4 times since the first data were collected, that large increase is due to the low starting point—women are still largely absent not only in the premier universities but also in the highest ranks of the teaching profession.

Another measure of women’s progress toward equity in higher education is the acceptance for tenure track positions or achievement of tenure. Once again, this varies with the prestige of the institution. For all colleges and universities, forty-five percent of those on the tenure track are women and 53% of non-tenure track faculty members are women. Universities granting doctoral degrees have the lowest number of female tenured faculty (26%) as well as the lowest percentage of women on the tenure track (41%). Colleges granting Associate degrees had the highest proportion of women (47%) in their tenured faculty, and on the tenure-track (53%).

**Table I. Percentage of Women Teaching in Higher Education**

Status	1970	2005-06
Full Professors	8.7%	26.7%
Associate Professors	15.1%	40.5%
Assistant Professors	19.4%	47.5%
Instructors	32.5%	54.8%

*Source: US National Higher Education Stats from the US Department of Education and Title IX @ 30 Report Card on Gender Equity a report from the NCWGE (National Coalition for Women and Girls in Education) June 2002.*

Women have moved closer to reaching equity at less prestigious institutions, but they are still underrepresented at the most prestigious and competitive levels of higher education. In universities that grant doctorates, only 34% of the faculty are women. At institutions that grant Masters and Bachelors Degrees, women comprise 42% of the faculty, while at two-year colleges that grant Associate Degrees, they have reached 51%. But when the percentage of *full-time* women on the faculty is examined, those numbers decrease to 47% at two-year colleges and only 19% at universities granting doctorates. Women make up 39% of all faculty, but 49% of all part-time

Pay parity as a measure of gender equality in higher education shows how much work remains to be done to achieve equity. AAUP finds that the overall average salary of faculty women has stood at only 81% of that of men since it started collecting the data in the late 1970s. For all women who have reached the status of full professor, the average salary is 88% of parity with their male colleagues. For all women faculty who reached assistant and associate professorships, the salary moves toward 93% of parity with their male counterparts but is actually less for assistant professors than 30 years ago, when it was 96%.

If the salary differentials are examined across the type of higher education institution, the inequity is intensified. No one group of women faculty has reached salary equity, though at four and two year colleges, they earn about 90% and 96% of their male faculty counterparts respectively. The major contributing factor to the salary disparity is that women are more likely to have the non-ranked or non-tenure track positions in the educational institutions. Dramatic increases in the number of non-tenured women instructors and lecturers over the last ten years (59% and 102% respectively) point to a diminution of both earning ability and permanence for women in academia.<sup>144</sup>

### Women in the “Hard” Sciences

There are very few full professors in engineering and science who are women; the percentage of full professors who are female in these fields ranges from 3% to 15%, even though the percentage of doctoral degrees awarded to women is much higher.<sup>145</sup> While there has been a steady increase of about 6% per year in the number of women earning doctorates in the “hard” sciences between 1993 and 2001, there is a not a corresponding increase in the number of women hired on to the faculties. It is not surprising that search committees report that women do not apply, because recent female PhDs state that they have earned their degrees in an environment that is hostile to women, “and have decided they don’t want any more of it.”<sup>146</sup> After graduating, these women take other jobs within their fields that are perceived to be friendlier to them. In mathematics, where women graduate with almost half of the bachelor’s degrees, they comprise less than 10% of the teaching faculty in the subject.<sup>147</sup> Women with the same credentials as men tend to be hired into entry-level academic positions of Assistant Professor and Associate Professor at lower rates, and face greater challenges to achieving tenure. In addition, very few women are in the ranks of Full Professor, due to a small pipeline in the past and persistently high rates of attrition. Therefore women in STEM disciplines are concentrated at these lower academic ranks making it difficult for them to reshape or change the culture of their departments and advance professionally.<sup>148</sup> (See the chapter on STEM for more on the progress of women and girls in these fields.)

A National Academy of Sciences study further explores the issues that impede women’s progress in academic careers in STEM fields. The report, entitled *Beyond Bias and Barriers: Fulfilling the Potential of Women in Academic Science and Engineering*, points out that “both bias and structural barriers built into academic institutions and the occupation of professor limit

many women’s ability to be hired and promoted.”<sup>149</sup> The report notes that women faculty are slower to gain promotion than men, are less likely to reach the highest academic rank, and have lower salaries and are awarded less grant money than their male colleagues. In fact, as recently as the period from 2001 to 2003, female grant applicants received only 63% as much funding as male applicants at the National Institutes of Health (NIH).<sup>150</sup>

Evidence of sex discrimination in academia in areas other than compensation, such as access to grants, leave policies and laboratory space, is also compelling. A professor of molecular biology at the Massachusetts Institute of Technology (MIT), Nancy Hopkins, said that she entered science “convinced that civil rights laws had eliminated gender discrimination from the workplace.”<sup>151</sup> It was not until she asked for, and was denied, an extra 200 square feet of lab space that she realized that she was wrong. When her request was denied, she got down on her hands and knees with a tape measure to see just how much smaller her lab space was than that of her male counterparts. She learned that she in fact had 1,500 fewer square feet.<sup>152</sup> Institutions are just beginning to address these kinds of inequities.<sup>153</sup>

### Women in Administration

Women administrators throughout the educational systems in the United States are still a rarity. Principals in three out of five elementary and secondary schools are male.<sup>154</sup> According to a study by the American Association for School Administrators (AASA), of the 13,728 school districts in the US, less than one in five (18%) were led by women in 2003.<sup>155</sup> The AASA report observes several reasons for this paucity.<sup>156</sup> Women may face discrimination by school boards who do not consider them to be strong candidates because they are perceived as incapable of handling finances and major system-wide decisions. Perhaps because of this discrimination, women generally enter the teaching profession to be teachers, not administrators. If they did not decide as early in their careers as men to take the track that leads to becoming a superintendent, they are not in positions that lead up the chain, such as assistant principal or department chair. Only 10% of the women in education doctoral programs elect to earn the superintendent credential. In addition, women may have family responsibilities that limit their options in ways different from those of men. Moreover, the low numbers become self-perpetuating: because there are fewer women administrators, women lack a support network or mentors of their own gender to guide them.

**Table II. Percentage of Men's Pay Earned by Women Teachers**

Occupation	2000	2001	2002	2003	2004	2005	2006
<b>All Education, Training and Library occupations</b>	75.1 (74.6)*	79.1 (74.0)	77.5 (74.2)	78.3 (73.8)	76.3 (73.4)	78.4 (73.8)	78.7 (74.2)
<b>Elementary and middle School teachers</b>	83.6 (82.0)	96.6 (81.1)	89.7 (81.6)	89.8 (81.7)	84.6 (81.3)	89.4 (82.2)	89.6 (82.2)
<b>Secondary school teachers</b>	87.6 (60.1)	89.4 (58.0)	92.0 (57.4)	91.3 (55.2)	86.3 (55.3)	89.3 (56.8)	93.7 (56.0)
<b>Postsecondary teachers</b>	79.8 (44.9)	76.7 (43.5)	77.6 (44.3)	79.0 (44.9)	76.2 (46.0)	78.8 (44.4)	74.5 (46.3)

Data Source: U.S. Department of Labor, Bureau of Labor Statistics and US Census Bureau

(\* ) The number in parentheses is the percentage of women in the job level.

## Wage Gaps for Women in K-12 Schools

Women educators in the elementary, middle and secondary educational fields are also paid less than their male counterparts, although, like women teaching in colleges and universities, they have come closer to parity in salaries than some other working women. According to the data from the Bureau of Labor Statistics and the U.S. Census' Current Population Survey, inequities in salaries for women educators at those levels are improving, but they are still present.<sup>157</sup>

As shown in Table II, for women in education, training and library occupations, the differential in salary has gone from 75.1% to 78.7% of men's salaries from 2000 to 2006. Women who are primary and middle school teachers (grades 1–8) showed an increase from 83.6% to 89.6%, while those in secondary school have moved from 87.6% of men's earnings to 93.7% in the same six-year span. Some of this pay increase reflects the growing demand for teachers, as a result of the declining numbers of women and men in the field. But post secondary teachers, including college and university professors, career and technical instructors and other professionals working with students, have actually lost ground—women have gone from 79.8% of men's pay in 2000 to 74.5% in 2006.

## Conclusion

The beginning of this chapter quotes headlines that we have seen in the last five years. In the next five years, we

would like to see “Women achieve parity in tenure track positions at American universities,” particularly at the universities that are considered more prestigious. The work begun by the consortium of universities in 2005 must continue to ensure that this goal is achieved, including by making the tenure track more family friendly and allowing time off for parenting.

Another good headline would be “Elementary, Secondary and Higher Education Title IX Coordinators Form Caucus to Study Remedies for Pay Inequity.” First, all those Title IX coordinators would have to be appointed—and know that they were appointed. Then, the coordinators, utilizing the mandate of Title IX, could look for the reasons for the inequities and recommend strategies to close the pay gaps. In order to overcome the problems we find among faculty in all institutions, however, pay gaps will also need to be addressed in the larger society. Currently, several bills have been introduced in the U.S. Congress that will help to ensure equal pay for all Americans. The Paycheck Fairness Act would help strengthen the enforcement of the Equal Pay Act of 1963, while the Fair Pay Act would establish equal pay for equivalent work. The Fair Pay Restoration Act would make it easier to bring pay discrimination cases under the general employment discrimination law, Title VII of the Civil Rights Act of 1964. The new legislation, along with better enforcement of Title IX's protections for employees, would bring continued advancement for pay equity among teachers.

# NCWGE RECOMMENDATIONS

## CONGRESS

- Congress should enact the Paycheck Fairness Act and the Fair Pay Act to ensure equity in the salaries of education employees at all levels from pre-K through graduate schools.
- Congress should enact the Fair Pay Restoration Act to make it more feasible for employees to file pay discrimination cases.

## ADMINISTRATIVE AGENCIES

- The Department of Education should mandate the collection of employment data from elementary and secondary schools and within districts to measure gender equity with regard to pay rates, promotional opportunities and educational benefits. It should require educational institutions to ensure that they are complying with the Equal Pay Act of 1963.
- OCR should enforce the Title IX requirement that each institution receiving federal education funds have a coordinator to ensure proper implementation of gender equity requirements.
- OCR should undertake compliance reviews to evaluate barriers to women's advancement within the ranks of academic employment.

## EDUCATION PROGRAMS AND ACTIVITIES

- Educational institutions and hiring committees should develop programs to monitor the selection of candidates to promote a wide range of diversity (gender, ethnicity, race, age, sexual orientation, etc.) in tenure track positions at all types of higher education institutions in the United States.
- Educational institutions should take steps to ensure equal treatment of all candidates for hiring. In addition, they should take proactive steps, such as training and working with search committees and personnel departments, in order to enhance diversity at all faculty and staff levels. This should include strategies such as using exit committees to interview faculty and staff who leave the institutions in order to gather information about the climate for women and outstanding issues about which the institution should be aware.
- Educational institutions should pay equitable salaries to all employees.
- Schools at all levels should continue and expand programs to attract women into career fields relying on science, technology, engineering and mathematics, with a special emphasis on teaching and mentoring.
- Graduate schools of education should encourage women to consider preparing themselves for administrative jobs.

# Sexual Harassment

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## Ongoing Verbal, Physical Abuse Justify Trial on Student's Title IX Claim

*School Law Bulletin, February 1, 2005*

## Sexual Harassment on Study Abroad

*The Minnesota Daily, March 5, 2007*

## Sexual Harassment on the School Bus

*Carolina News Channel, February 19, 2007*

## Rape Only Hurts If You Fight It

*The Recorder (Central Connecticut State University), February 7, 2007*

Sexual harassment—unwanted and unwelcome conduct of a sexual nature—has affected students' well-being and their ability to succeed academically for a long time. Although Supreme Court rulings have established that sexual harassment of students by both employees—such as teachers and coaches—and other students is sex discrimination that violates Title IX, sexual harassment remains a problem for students in our schools.

Awareness of the issue, proactive efforts by educational institutions and Title IX advocates, and legal remedies have resulted in more efforts to address the problem of sexual harassment in recent years. However, the recent headlines quoted above illustrate the reality that sexual harassment continues to plague our nation's schools and students. Moreover, while sexual harassment in the schoolroom and on college campuses disproportionately affects girls and women, these stories show—as do the statistics—that boys and men also experience harassment. When any students experience sexual harassment on campus or in the classroom, the hostile environment created can undermine educational opportunities for both those students and their peers. While improvements must be noted and praised, and best practices should be shared to create a better educational climate for all, more must be done to address this pervasive problem.

## Legal History of Title IX and Sexual Harassment

In 1992, the Supreme Court, in *Franklin v. Gwinnett County Public Schools*,<sup>158</sup> recognized that sexual harassment violates Title IX, and held that students could seek monetary damages for sexual harassment by a teacher. But in 1998, in *Gebser v. Lago Vista Independent School District*,<sup>159</sup> the Court established a more difficult standard for students who seek such relief than exists for employees who suffer sexual harassment. In order to recover damages for harassment, a student must show that a school official with authority to take corrective measures had “actual knowledge” of the harassment and responded to it with “deliberate indifference.”

A year later, in *Davis v. Monroe County Board of Education*,<sup>160</sup> the Supreme Court held that schools may also be liable under Title IX if one student sexually harasses another student. To prevail, the student must show the school's actual knowledge and deliberate indifference, and that the harassment was so severe, pervasive and offensive that it deprived the harassed student of the educational opportunities or benefits provided by the school.

## Title IX Enforcement

In addition to filing a suit for damages, a student who has been sexually harassed can seek a remedy from OCR. OCR issued a Sexual Harassment Guidance in 1997, which was revised in 2001, that requires all schools subject to Title IX to maintain an environment that is free of sexual harassment. The Guidance states that if a school knows, or should know, that a hostile environment exists, it is “responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.” A school also has a responsibility “to remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively.”<sup>161</sup>

Title IX's protection extends to unlawful sexual harassment in all of a school's programs or activities, whether the harassment occurs on school property, on a school bus, at a class or training program sponsored by the school at another location, or in any other location where the school's control of the situation can be shown. Title IX protects both male and female students from sexual harassment.<sup>162</sup>

Covered institutions must have a procedure in place that provides for equitable resolution of sexual harassment complaints, which may be the same procedure set up for general Title IX complaints.<sup>163</sup> While many schools and universities have taken the first step in creating policies to address this problem, more can be done to help alleviate the culture of harassment that impacts the lives and educational experiences of so many students.

## Scope of Harassment at the K-12 Level

The American Association of University Women's *Hostile Hallways: Bullying, Teasing, and Sexual Harassment in School* (2001), found that four of five students—boys and girls—reported that they had experienced some type of sexual harassment in school, despite a greater awareness of school policies dealing with the issue. Of those students, 27% reported experiencing harassment often.<sup>164</sup> According to students surveyed for the AAUW report, sexual harassment in school not only happens often, it occurs under teachers' noses, can begin in elementary school, and is very upsetting to both girls and boys.

- Students most often experienced sexual harassment for the first time during sixth to ninth grade but some instances occurred before third grade.<sup>165</sup>

- Nearly nine in 10 students (85%) reported that students harass other students at their schools.<sup>166</sup>

- Almost 40% of students reported that teachers and other school employees sexually harass students in their schools.<sup>167</sup>

In a 2003 survey, 91.5% of LGBT students reported hearing homophobic remarks frequently or often at school—and 82.9% reported that faculty never or only sometimes intervened when they overheard such remarks being made.<sup>168</sup>

## Sexual Harassment on College Campuses

A college education is increasingly becoming a prerequisite for many career paths and for lifelong economic security. Anecdotal evidence and court cases have long shown the impact of sexual harassment at the university level, but new re-

### *Drawing the Line*

In AAUW's 2006 report, *Drawing the Line: Sexual Harassment on Campus*, students defined sexual harassment as behavior that is "inappropriate" or "offensive" or that makes others feel "uncomfortable." The statistics below are taken from that report.

#### Prevalence of Harassment

- o 62% of female college students and 61% of male college students report having been sexually harassed at their university.
- o 10% or less of student sexual harassment victims attempt to report their experiences to a university employee.
- o 35% or more of college students who experience sexual harassment do not tell anyone about their experiences.
- o 51% of male college students admit to sexually harassing someone in college.
- o 31% of female college students admit to harassing someone in college.

#### Physical and Emotional Impact on Victims

- o 68% of female students felt very or somewhat upset by sexual harassment they experienced; only 6% were not at all upset.
- o 57% of female students who have been sexually harassed reported feeling self-conscious or embarrassed
- o 55% of female students who have been sexually harassed reported feeling angry.
- o 32% of female students who have been sexually harassed reported feeling afraid or scared.

#### Academics and Achievement

- o 16% of female students who have been sexually harassed found it hard to study or pay attention in class.
- o 9% of female students dropped a course or skipped a class in response to sexual harassment.
- o 27% of female students stay away from particular buildings or places on campus as a result of sexual harassment.

search confirms that the problem is widespread and disruptive to the college experience in large and small ways.

According to AAUW's *Drawing the Line: Sexual Harassment on Campus* (2006), sexual harassment pervades campus life and prevents college students, both male and female, from receiving the social and academic benefits that colleges and universities aim to provide. With a college student population that has topped 10 million and continues to grow, creating a climate that is free from bias and harassment is a necessary concern for the entire higher education community. Young

adults on campus are shaping behaviors and attitudes that they will take with them into the workforce and broader society. A campus environment that tolerates inappropriate verbal and physical contact and that discourages reporting these behaviors undermines the emotional, intellectual and professional growth of millions of young adults. AAUW's research shows that sexual harassment on campus takes an especially heavy toll on young women, making it harder for them to get the education they need to take care of themselves and their families in today's economy.

The AAUW Legal Advocacy Fund has developed tips, which appeared in Ann Landers' April 28-29, 2000, column, to assist students in asserting their rights on campus:

## **WHAT TO DO IF YOU EXPERIENCE SEXUAL HARASSMENT AT COLLEGE**

### **1. SEEK HELP.**

Talk to your guidance counselor, women's center, or college dean and ask about the grievance procedures at your university.

### **2. PUT IT IN WRITING.**

Always put everything in writing so you have a record and a timeline.

### **3. DO YOUR HOMEWORK.**

For more information on your rights, call the U.S. Department of Education's Office for Civil Rights (OCR) at 800/421-3481.

### **4. GET LEGAL ADVICE.**

Talk to an attorney who has specific experience with sex discrimination in the academic environment. For an attorney referral in your state, call the AAUW Legal Advocacy Fund at 800/326-AAUW.

### **5. ACT QUICKLY.**

OCR has time limits for filing complaints and there are also time constraints on filing lawsuits.

### **6. WATCH YOUR NICKELS AND DIMES.**

Talk to an attorney or accountant about the financial burdens of a lawsuit.

### **7. VISIT YOUR DOCTOR — YES, YOUR DOCTOR.**

You may experience a physical/emotional toll that should be addressed and documented.

### **8. PREPARE FOR THE LONG HAUL.**

Filing a discrimination lawsuit is a long process, but others have succeeded in fighting discrimination, and you can too.

### **9. FIND A SUPPORT NETWORK.**

The American Association of University Women Legal Advocacy Fund can connect you with women who have gone through similar experiences.

## Conclusion

The federal government has a role to play in preventing sexual harassment in educational situations, as well as a role in responding when it does happen. Policies are not enough—follow up action is critical in addressing this problem at all levels of education. All entities including government, schools and communities must do more to ensure that harassment is

prevented and addressed promptly and effectively if it occurs. Better implementation and enforcement of Title IX at all levels of education will help address sexual harassment that limits educational opportunities for girls and women, as well as boys and men.

# NCWGE RECOMMENDATIONS

## CONGRESS

- Congress should enact legislation to ensure that students receive the same level of protection from harassment in their schools and on their campuses as employees receive in the workforce.

## ADMINISTRATIVE AGENCIES

- OCR should undertake proactive compliance reviews to identify and address problems of sexual harassment and sex discrimination.

## EDUCATION PROGRAMS AND ACTIVITIES

- Educational institutions at all levels should create clear and accessible sexual harassment policies to proactively protect and educate students, and post them in accessible places and on web sites. These policies should be part of school discipline policies and student codes of conduct, include formal and informal ways of resolving complaints and include provisions for effectively protecting students after harassment has occurred.<sup>169</sup>
  - Title IX coordinators and their respective schools/universities should proactively disseminate information in the school and campus community to ensure that students and employees are aware of sexual harassment policies, as well as the school's process for filing complaints.
  - Schools should provide close follow-up for the targets of harassment until the danger of continued harassment has passed. Teachers and school administrators have a special responsibility to safeguard the victim at school. In order to provide the student with sufficient security, close cooperation and frequent exchange of information is usually needed between the school and the student's family.<sup>170</sup>
  - Students, faculty and staff, and parents/guardians should talk openly about attitudes and behaviors that promote or impede progress toward a harassment-free climate in which all students can reach their full potential.<sup>171</sup>
  - Administrators, teachers, Title IX coordinators, students and parents should utilize practical guides to stop sexual harassment, such as AAUW's *Harassment-Free Hallways* (2004).<sup>172</sup>
- Other resources include the 1999 publication from the U.S. Department of Education and the National Association of Attorney's General, *Protecting Students from Harassment and Hate Crime: A Guide for Schools*, the 1998 National Women's Law Center publication *Do the Right Thing: Understanding, Addressing, and Preventing Sexual Harassment in Schools* and Bernice R. Sandler and Harriett M. Stonehill's 2005 book, *Student-to-Student Sexual Harassment K-12*.

Key recommendations from *Harassment-Free Hallways* include:

- ◇ Teachers, administrators, parents and/or community/campus groups can do a survey and checklist about sexual harassment, and use the information to not only better understand the problem but identify it and consider solutions.<sup>173</sup>
- ◇ Schools should offer periodic in-service training for staff.<sup>174</sup> Educational programs through entities that can reach students, parents and staff are critical; for example, the PTA, freshman orientation, student government, student/residence life, etc.
- ◇ Parents/guardians should stay informed about incidents that occur at school, and encourage students to discuss school life.<sup>175</sup>
- ◇ Parents/guardians/teachers should encourage students to speak up for themselves<sup>176</sup> and talk about ways of responding to harassers. Role-playing the different scenarios that students might encounter can also be helpful.<sup>177</sup>
- ◇ Parents and college students should request a copy of their school or university's sexual harassment policy. If any part of it is unclear, parents can call or make an appointment with the school's Title IX coordinator. Parents should discuss the policy with school age children.<sup>178</sup>
- ◇ Parents and educational institutions should take harassment allegations seriously, investigate the facts, and work together for a solution.<sup>179</sup>



# Single-Sex Education

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## **Austin Explores All-Boys Academy**

*Austin American-Statesman, April 9, 2007*

## **Muskegon May Test Same-Sex Classrooms**

*Muskegon Chronicle, December 13, 2006*

## **Nashville to Test Single-Sex Classes**

*Tennessean.com, April 4, 2007*

## **More Public Schools Dividing Boys, Girls**

*Houston Chronicle (AP), January 25, 2007*

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A profound challenge to gender equity in education has been mounted in recent years that threatens to undermine Title IX and hamper future efforts to assure that girls and boys are provided equal learning opportunities in K-12 public schools. This challenge is embodied in regulations issued by the Department of Education in 2006 that vastly expand the circumstances in which schools will be permitted to offer sex-segregated educational programs. Although both Title IX and the U.S. Constitution allow single-sex programs in appropriate circumstances, both require careful safeguards to ensure that these programs, where offered, serve appropriate purposes and do not perpetuate sex discrimination. However, the new regulations lack these safeguards and could encourage schools to establish single-sex programs that turn the clock back to the time when girls were separate and unequal in education.<sup>180</sup>

### **Single-Sex Education and the Law**

While single-sex programs can be beneficial and lawful under certain circumstances, the law has always insisted that such programs be undertaken with caution. This is because without adequate safeguards, single-sex programs can actually increase discrimination. When schools offer programs only to students of one sex, they are by definition using the gender of students of the other sex as the sole basis for excluding those students from educational opportunities from which they could benefit. By excluding students of one sex, moreover, schools risk reaffirming stereotypes about the interests, abilities or learning styles of both genders.

Additionally, history has shown that girls' programs typically receive fewer resources than boys' programs, and that girls and women tend to be treated inequitably in other ways when programs are separate. Girls have been steered to programs designed to prepare them for lives as homemakers and boys have been encouraged to pursue higher education and career training. Indeed, the persistence of these inequities can be seen even today in sex-segregated programs. In athletics, for example, where single-sex teams are not only per-

mitted but the norm, girls are subject to inequities in every measurable aspect of the programs.<sup>181</sup>

Both the U.S. Constitution and Title IX have safeguards to ensure that single-sex programs will not be discriminatory. The Constitution requires that any gender-based classification have an "exceedingly persuasive justification," and be "substantially related" to an important governmental objective.<sup>182</sup> Under the decisions of the Supreme Court, such justifications are limited: "Sex classifications may be used to compensate women 'for particular economic disabilities [they have] suffered,' . . . to 'promote equal employment opportunity,' . . . [or] to advance full development of the talent and capacities of our Nation's people."<sup>183</sup> The Court has also made clear that the "classification [must be] determined through reasoned analysis rather than through the mechanical application of traditional, often inaccurate, assumptions about the proper roles of men and women."<sup>184</sup>

In accord with this standard, prior to 2006, the Title IX regulations allowed schools to offer single-sex classes for instruction in specific areas, such as contact sports or human sexuality, and to promote "remedial or affirmative action" related to ending sex discrimination in education. These exceptions to the general prohibition on gender-based classifications have been used in the past to enhance women's opportunities in fields from which they were traditionally excluded and in which they remain significantly under-represented. For example, the Department of Education's Gender Equity Expert Panel in 2000 recognized the Orientation to Nontraditional Occupations for Women program, which was primarily used for incarcerated women, as an exemplary program.<sup>185</sup>

Safeguards against sex discrimination under the 1975 Title IX regulations were summarized in a 1996 U.S. Government Accountability Office report on "Issues Involving Single-Gender Schools and Programs." As set forth in that report, single-gender classes or programs are justified only if "(1) beneficiaries of the single-sex classes or programs . . . had limited opportunities to participate in a school's programs or

activities due to their sex, (2) less restrictive or segregated alternatives that may have accomplished the goals of the single-gender classes or programs [had] been considered and rejected, and (3) there [was] evidence that comparable sex neutral means could not be reasonably expected to produce the results sought through the single-gender classrooms or programs.”<sup>186</sup>

### The Department of Education’s 2006 Single-Sex Regulations

On May 3, 2002, OCR issued a *Notice of Intent to Regulate* that proposed to change the 1975 Title IX regulations to make it easier for schools to offer single-sex programs.<sup>187</sup> Despite receiving numerous public comments opposing this regulatory change, OCR issued a *Notice of Proposed Rulemaking* on March 9, 2004, and requested public comments by April 23, 2004. Although the vast majority of submitted comments opposed any changes to the longstanding Title IX regulations (only about 100 of the close to 6,000 public comments supported the proposed changes),<sup>188</sup> OCR issued final regulations for implementation of the single-sex provisions on October 25, 2006 that were similar to the proposed regulations. The final regulations became effective 30 days later, on November 24, 2006.

The Department’s new regulations dangerously expand authorization for schools to offer single-sex programs for their K-12 students. Because they abandon the long-standing legal safeguards that are designed to ensure that single-sex programs will not result in sex stereotyping or discrimination, the new regulations authorize programs that will ill serve both male and female students and that could result in legal liability for the schools that offer them.

- **The Department’s new regulations throw out the most basic safeguards.** Under the new regulations, schools can exclude boys or girls from classrooms or schools based on vague goals such as “improving the educational achievement of students” by “providing diverse educational opportunities” or meeting the particular, identified educational needs of their students. There is nothing in the regulations that prevents schools from acting based on harmful sex stereotypes—for example, that girls cannot learn in fast paced or competitive environments or that separating boys and girls is the only way to remedy sexual harassment. The new regulations would even allow schools to create sex-segregated programs based on parent or student preferences—a practice that would never be allowed were the issue to be segregation on the basis of race.
- **The Department’s new regulations do not mandate equal treatment for students excluded from a single-sex program.** The regulations require only that the excluded gender receive “substantially” equal educational opportunities. But “close enough” is not an acceptable legal or policy standard.
- **The Department’s new regulations rely on faulty and unproven assumptions about the benefits of single-sex programs.** Despite the Department’s insistence that educational innovations be premised on “scientifically-based evidence,” a major review of the research sponsored by the Department has acknowledged that the evidence that single-sex programs produce more educational benefits than coeducational schooling is “equivocal,” at best.<sup>189</sup> Reviews of multiple research studies support this conclusion and fail to support single-sex education proponents’ position that separating boys and girls increases educational benefits. In fact, a research review that was issued at the same time the Department of Education was releasing its 2006 changes to the Title IX regulations, found that half a century of research in many western countries has not shown any dramatic or consistent advantages for single-sex education for boys or girls.<sup>190</sup>

Recent studies of single-sex education have been poorly designed and inadequate, and few have even looked at gender equity outcomes. For example, the comprehensive research review sponsored by the Department of Education in 2005 reported mixed results on achievement outcomes and no results on

gender equity outcomes.<sup>191</sup> Many studies of single-sex schools failed to control for factors that are likely to affect student performance, such as socioeconomic status of the students, selectivity of admissions, resources invested in the program, and class size.<sup>192</sup>

Furthermore, researchers report negative sex stereotyping associated with single-sex education for both girls and boys. Some studies show that all-boys schools promote sexism and feelings of superiority toward women. Unless programs are carefully designed, girls, as the traditionally subordinated group, may experience a badge of inferiority as a result of being grouped on the basis of sex.<sup>193</sup> Advocates of single-sex education have argued that it will reduce boy-girl distractions and sexual harassment, yet one study on single-sex dual academies in California found that students still experienced teasing and harassment in both the single-sex and co-educational spaces of the dual academies and that students who attended single-sex academies were often labeled as “bad”, “preppy” or “gay”.<sup>194</sup>

- **The Department’s new regulations make inadequate provision for accountability.** The regulations authorize schools to conduct their own evaluations of their programs, provide no guidance on how schools should make the required assessments, and establish no monitoring role for the Department. There is no required accountability or review of the justifications or results. Nor is there any requirement that schools separately report the results for the girls and boys, or produce evidence that sex-segregated education meets students’ needs or improves educational achievement outcomes any better than mixed-sex education.

“I don't know. To all the moms out there I'd like to let them know that when their girls come home saying that boys want to be a nurse or a dancer, the moms would let them know that it is okay. Because I have actually considered being a dancer myself. Boys have pressure on them too to be all strong and macho and stuff and even though we try we are not always that strong or macho.”

**3rd grade boy**

**“It is hard because there are some things you want to do that parents think that boys should not do like be a teacher or nurse.”**

*3rd grade boy*

“There are too many gender based rules and expectations of boys. I don't like sports and I'm not obsessed with computers. I am a boy who likes looking good and wants to be a fashion designer, and I always get shoved into statistics with boys who aren't like me at all. I am expected to do tough manly things. Things that I don't do, and don't want to do. It's degrading to me. People need to treat me as a person, not just a boy.”

**9th grade boy**

Quotes from Supergirl Dilemma report<sup>197</sup>

## Increased Attention to Single-Sex Education

Despite the clear vulnerabilities of the Department's 2006 regulatory changes, the number of public schools offering single-sex programs has been growing rapidly in recent years while there have been decreases in many private single-sex schools. As of March 2007, the National Association for Single Sex Public Education reported that for the 2006-07 school year, "at least 262 public schools in the United States were offering gender-separate educational opportunities" and that 52 of those schools were completely single-sex. The others have single-sex classrooms and some coed activities such as electives or lunch.<sup>195</sup> However, the number of single-sex schools and classes is still small compared to the total number of schools and classes in the 16,000 school districts across the country.

There are varied reasons that schools have acted on the Department's authorization of additional single-sex activities. Many educators and parents are in districts that struggle with inadequate resources, large classrooms, insufficiently trained teachers, multiple socio-economic challenges and under-performing students. They may be attracted to sex segregation as a panacea to improve their student outcomes. Other districts find sex-segregated education appealing based on unfounded ideas about how boys and girls learn, assertions that separating the sexes will produce increased learning, and because they see sex-segregated education as promoting diversity of choice. For example, a Connecticut school is designing the girls' classroom with circular seating so they can "have more of a sense of community" and the boys' classroom with "optional sitting" because they believe "studies have shown that boys learn better when standing."<sup>196</sup>

But, for the reasons set forth above, single-sex education is not the panacea that some may believe it to be. And while there are some differences in male and female physiology and common patterns of socialization, the meaning and implications for most areas of education are highly debatable and far from conclusive. Females and males have multiple ways of learning and there is more variation within the sexes than between them. Importantly, research does not show that gender is an accurate, consistent, or even useful determinant of educational needs.<sup>198</sup> If anything, studies show that gender gaps in academic achievement have been decreasing since the passage of Title IX and that both boys and girls are doing better in school.<sup>199</sup> Given that the commonalities between boys and girls far exceed the differences, the drastic step of separating boys and girls in public schools is not warranted.

Significantly, there are also practical reasons for schools to tread carefully in adopting single-sex programs. First, school districts may be vulnerable to expensive legal challenges if their programs violate their own district policies, state laws, Title IX or the U.S. Constitution. In addition, if implemented properly to decrease sex discrimination and improve desired education outcomes, single-sex education is likely to be more expensive than coeducation. In many cases schools will have additional administrative burdens, teacher training costs, and evaluation and legal costs. Re-directing funding to reducing classroom size, increasing other resources and providing additional training of teachers to meet their students' academic and social and emotional needs and to avoid sex discrimination and stereotyping could well produce better outcomes for districts with large numbers of under-achieving students.

## ***Garrett v. Board of Education***

The complex problems that some minority males face are widely recognized. However, as stated in a case challenging all-male public schools in Detroit, "while the purpose for which the male academies came into being is an important one, the objectives, no matter how compelling, cannot override the rights of females to

equal opportunities."<sup>200</sup> The court noted that no evidence had been proffered that the presence of girls in the classrooms bears a substantial relationship to the difficulties facing urban males. The judge also found that segregating boys led them to believe that girls were the cause of their educational problems.

## **PROFILE—*The dangers of single-sex education under new regulations***

The new Title IX regulations for single-sex education opened the door to practically any program, and dangerous practices have already been seen in the field. In September 2006, Livingston Parish, Louisiana, planned to change a coeducational school into a school where girls and boys were separated in all classes so that the school could teach girls “character education” and boys “heroic behavior.” In its plan the parish cited an ‘expert’ who contended that “boys need to

practice pursuing and killing prey, while girls need to practice taking care of babies. As a result, boys should be permitted to roughhouse during recess and play contact sports to learn the rules of aggression. Such play is more dangerous for girls, because girls are less biologically able to manage aggression.” The plan was withdrawn because of a lawsuit brought by the ACLU, and these stereotyped justifications did not prevail.<sup>201</sup>

### **Conclusion**

The new single-sex regulations were not official until November 24, 2006, so it is too soon to observe their full impact on increasing single-sex education. However, the 2006 changes gut key non-discrimination provisions of Title IX, and since they were announced there have been more news stories about schools considering and implementing single-sex classrooms and schools. States such as Michigan and Florida and some school districts are now allowing more single-sex education,

and educators have also observed more sex segregation for non-instructional purposes. The proportion of single-sex public education settings in the United States is still small, but without vigilance and increased understanding of the problems with sex segregation, it is possible that the 2006 changes to the Title IX regulations of single-sex education will reverse progress made since 1972.

# NCWGE RECOMMENDATIONS

## CONGRESS

- Congress should authorize and fund research and program development to continue to make coeducation more gender equitable and effective by using multiple teaching approaches designed to counteract sex stereotyping and sex discrimination and to meet individual needs of all. Eliminating root causes of educational failure resulting from stereotyping, discriminatory treatment and poverty is critical to meeting the needs of girls and boys without segregating them.
- Congress should direct the Department of Education to allow single-sex education only when permissible under the Title IX regulations issued in 1975 and under the U.S. Constitution.

## ADMINISTRATIVE AGENCIES

- The Department of Education should rescind the 2006 changes to the 1975 Title IX regulations. Schools should implement single-sex programs only to the extent consistent with the 1975 Title IX regulations and the standards of the U.S. Constitution and their state and local laws.
- OCR should actively monitor single-sex educational activities using the 1975 Title IX Regulations and take remedial action against any recipients who maintain single-sex education programs that are found to be discriminatory. The Department of Education should work with state and other Title IX coordinators to collect annual information from their schools and districts on all proposed and approved plans, and should obtain implementation and outcome evaluation reports for all single-sex programs. Evidence of the effectiveness of the single-sex programs compared to coeducational programs should also be sent for review to the Department of Education's What Works Clearinghouse and should be made publicly available.
- OCR should make it clear to the public that any discriminatory sex segregation should be reported directly to their office for investigation.
- In addition, OCR should provide on its web site a comprehensive annual report analyzing the information it receives on sex segregated activities and evaluations of programs and activities receiving federal financial assistance. OCR should also work with the Department of Education Institute of Education Sciences to facilitate the accumulation of knowledge about what does or does not work related to using Title IX approved sex segregation in publicly supported K-12 education.

## EDUCATION PROGRAMS AND ACTIVITIES

- School districts that allow any single-sex educational programs should have publicly stated policies about standards for implementing and evaluating such programs. They should also have procedures for how the district will make decisions to modify or discontinue the programs if they are found to be discriminatory or no more effective than mixed sex options.
- Where single-sex education is offered, a comprehensive monitoring system is needed to ensure that it does not result in sex discrimination. Title IX Coordinators should work with qualified external evaluators and other gender equity education experts to develop plans, conduct reviews and evaluate outcomes.

# NCWGE ACTION AGENDA

This report looks critically at 35 years of progress under Title IX. Probing beyond the headlines in six key areas covered by the law, NCWGE has found serious enforcement gaps and disappointing setbacks. However, looking forward, it has identified key opportunities to continue improving women's and girls' access to educational opportunities. Con-

gress, administrative agencies, and educational institutions all have an important role to play, along with students, parents and teachers, in effectively applying Title IX. NCWGE believes that implementing this action agenda will expand progress toward gender equity in education and lead to more positive headlines in the years to come.

## CONGRESS

Fulfilling the promise of Title IX will further the goal of improving educational opportunities for all students throughout our nation—both female and male. Congress should take the following steps:

- Conduct oversight hearings and call for enhanced agency enforcement, particularly an increase in the number and frequency of compliance reviews conducted by the Offices for Civil Rights (OCRs) in the Department of Education and other federal agencies, to ensure that federally-funded education programs provide equal access and opportunity to all students.
- Restore federal funding to states for gender equity work, including funding for state Title IX coordinators and programs.
- Pass legislation improving protections for equal pay for women and men working at all levels of educational institutions, from pre-K through universities as well as in all other areas of our society.
- Authorize and fund a comprehensive public education campaign to raise awareness of rights and responsibilities under Title IX as well as the importance of gender equity in education among students, parents, teachers and administrators.

- Require increased data collection, including analysis and disaggregation of data by gender, race and other appropriate characteristics, for use in ensuring accountability and progress in attaining gender equity in educational institutions receiving federal financial assistance and require schools to publicize this information. For example, enact the High School Athletics Accountability Act/High School Sports Information Collection Act to require high schools to report key data, including participation numbers, budgets and expenditures, which can be used to gauge schools' compliance with Title IX in athletics.
- Fund research and program development to improve gender equity in education through federal programs such as the Women's Educational Equity Act (WEEA), the Fund for the Improvement of Postsecondary Education and the Institute of Education Sciences in the Department of Education.
- Increase funding for programs that focus on attracting and retaining women and girls in non-traditional and STEM careers, including afterschool programs and the National Science Foundation's ADVANCE grants for STEM faculty.

## ADMINISTRATIVE AGENCIES

Title IX applies to every educational institution and activity that receives federal funds. The federal agencies that oversee that funding should implement Congressional mandates and take the following steps to strengthen enforcement of Title IX and further gender equity in education:

- The Department of Education should rescind the March 2005 Clarification allowing email surveys to be used as the sole means to satisfy the third prong of the test for determining whether schools are providing equal opportunity for males and females to participate in athletics programs. It should affirm the 1996 Policy

Clarification, pursuant to which surveys are only one of a multitude of factors schools can use to determine whether they are satisfying the interests of their female students.

- The Department of Education should rescind the 2006 amendments to the 1975 Title IX regulations that allow single-sex education without accountability or protections against discrimination.
- In addition to responding to complaints, OCRs in the federal agencies must initiate more compliance reviews of educational institutions and be vigilant in following through to ensure that

schools implement their compliance plans. Where appropriate, OCRs should deny funding when schools fail to comply with Title IX.

- The Department of Education should reinstate the Gender Equity Expert Panel and support the use of effective replicable gender equity programs.
- Collect detailed data on employment from elementary and secondary school districts and postsecondary institutions to better analyze educator pay rates and promotional opportunities. This data should be used, among other things, to develop programs to promote a wide range of diversity (gender, ethnicity, race, age, sexual orientation, etc.) in teaching, including tenure track jobs and administrative positions.

- Provide technical assistance to schools to help them understand their obligations under Title IX and to disseminate promising practices. Enforce the Title IX requirement that each institution receiving federal funds have a coordinator to ensure proper implementation of Title IX.
- Support high quality evaluation and research on single-sex education, focusing on comparing single-sex education programs with appropriately matched coeducational programs. Fund gender equity organizations to develop and disseminate model criteria, standards and procedures to evaluate single-sex education programs to ensure that they are not discriminatory.

### STATE AND LOCAL EDUCATIONAL PROGRAMS AND ACTIVITIES

All education programs or activities receiving federal financial assistance must comply with Title IX's requirements. The following activities will further compliance and improve educational equity:

- Appoint Title IX coordinators for each educational institution and school district to organize efforts to comply with the law, investigate complaints, and publicize information on patterns of compliance with Title IX. The Title IX coordinators should ensure that all staff and students are educated about their rights and responsibilities under Title IX and that plans are implemented to end sex discrimination.
- Provide all members of the school community, including students, applicants, parents, admissions and recruitment personnel, union representatives, faculty, and staff, with information about Title IX protections, grievance procedures and the name and contact information of the Title IX coordinator at the school, using the Internet and other means.
- The Title IX coordinators should participate in an annual self-assessment of compliance with the 1975 Title IX regulations and subsequent policies and guidances. This assessment should include an examination of institutional policies, procedures and practices for ending gender bias.
- Provide professional development and training to educators and administrators about approaches to counteracting sex stereotyping and sex discrimination to meet the needs of all students and society.

- Continue and expand programs to attract women into career fields relying on science, technology, engineering and mathematics, at every level from career and technical education to higher education. This includes strategies such as educating parents, increasing networking and peer support activities, integrating more hands-on activities into curricula and offering after-school and other informal education programs that can engage women and girls in these fields.
- Work with search committees and personnel departments to effectively address all hiring programs and promote diversity among staff and faculty. Provide employees with opportunities for advancement, such as training and mentoring for administrative positions. Support family-friendly employment policies and provide increased networking opportunities.
- Ensure that female and male students have equal opportunities to participate in athletics and other types of education programs where one sex is under-represented, and ensure equal treatment when students of the under-represented sex do participate.

With community cooperation and increased enforcement of Title IX, the nation can ensure that the headlines of the future will reflect increased progress in ending sex discrimination in education.

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- <sup>201</sup> The quotations are from pages 11-12 of the Complaint filed in *Selden v. Livingston Parish School Board*, No. 06-533, MD La., [www.aclu.org/pdfs/womensrights/20060801seldencomplaint.pdf](http://www.aclu.org/pdfs/womensrights/20060801seldencomplaint.pdf).



## NCWGE Affiliate Organizations

Academy for Educational Development  
American Association for the Advancement of Science  
American Association of School Administrators  
American Association of University Women  
American Civil Liberties Union: Women's Rights Project  
American Civil Liberties Union  
American Federation of Teachers  
American Psychological Association  
Association for Gender Equity Leadership in Education  
Association for Women in Science  
Association of American Colleges and Universities  
Association of Junior Leagues International, Inc.  
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 Resource Center on Educational Equity  
Dads and Daughters  
Equal Rights Advocates  
Federation of Organizations for Professional Women  
Feminist Majority Foundation  
Gallaudet University  
Girl Scouts of the USA  
Girls Incorporated  
Girlstart  
Healthy Teen Network  
Leadership Conference on Civil Rights  
Ms. Foundation for Women  
Myra Sadker Advocates for Gender Equity  
National Alliance for Partnerships in Equity  
National Association for Girls & Women in Sport  
National Association of Collegiate Women Athletic Administrators  
National Center for Lesbian Rights  
National Council of Administrative Women in Education  
National Council of Negro Women  
National Education Association  
National Organization for Women  
National Partnership for Women and Families  
National Women's History Project  
National Women's Law Center  
National Women's Political Caucus  
Legal Momentum  
NOW Legal Defense and Education Fund  
Parent and Teacher Association  
Partners of the Americas  
Society of Women Engineers  
U.S. Student Association  
Wider Opportunities for Women  
Women Work!  
Women's Edge  
Women's Research and Education Institute  
Women's Sports Foundation  
YWCA