

MAY 10 1983



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SEX DISCRIMINATION IN EDUCATION: TITLE IX

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In response to numerous requests for information on sex discrimination in educational programs and activities, we have compiled this collection of materials. The Reagan administration recently announced its plans to review Federal guidelines intended to protect women from discrimination under "any education program or activity receiving Federal financial assistance" (Title IX, Civil Rights Act as amended 1972). Title IX has most frequently been identified with efforts to curtail discrimination in college athletics.

Now, legislation proposed in the 97th Congress may specifically eliminate sports from intercollegiate activities covered by Title IX. This Infopack reviews the reasons Title IX came about, its application to women in sports, other Federal laws and regulations prohibiting sex discrimination in educational institutions, and sources of additional information.

More information may be available in a local library through the use of indexes such as the Readers' Guide to Periodical Literature. We include a list of agencies and organizations that may also provide information on request.

We hope this information will be helpful.

Congressional Reference
Division

AGENCIES AND ORGANIZATIONS IN WASHINGTON, D.C.
TO CONTACT FOR ADDITIONAL INFORMATION
ON SEX DISCRIMINATION IN EDUCATION
(Washington, D.C. zip code given unless otherwise indicated.)

Government Agencies

Education Dept., National Advisory Council on Women's Educational Programs, 1832 M St. N.W., 20036.

Education Dept., Office for Civil Rights, 330 C St. S.W., 20202.

Education Dept., Office of Educational Research and Improvement, National Institute of Education, Learning and Development Division, Social Processes/Women's Research Team, 1200 19th St. N.W., 20208.

Education Dept., Women's Educational Equity Act Program, 7th and D Sts. S.W., 20202.

Health and Human Services Dept., Secretary's Advisory Committee on the Rights and Responsibilities of Women, 200 Independence Ave. S.W., 20201.

Justice Dept., Civil Rights Div., Federal Enforcement Section, Main Justice Bldg., 20530.

Congress

House Education and Labor Committee, Subcommittee on Elementary, Secondary and Vocational Education, B346C RHOB, 20515.

House Education and Labor Committee, Subcommittee on Postsecondary Education, 320 CHOB, 20515.

Senate Labor and Human Resources Committee, Subcommittee on Education, Arts and Humanities, 309D Senate Annex, 20510 (120 C St. N.E.).

Organizations

American Assn. of University Professors, 1 Dupont Circle N.W., 20036.

American Assn. of University Women, 2401 Virginia Ave. N.W., 20037.

American Council on Education, Office of Women in Higher Education, 1 Dupont Circle N.W., 20036.

American Federation of Teachers, AFL-CIO, Women's Rights Committee, 11 Dupont Circle N.W., 20036.

Assn. of American Colleges, Project on the Status and Education of Women, 1818 R. St. N.W., 20009.

Assn. of American Law Schools, Section on Women in Legal Education, 1 Dupont Circle N.W., 20036.

Council of Chief State School Officers, Resource Center on Sex Equity, 400 N. Capitol St. NW, 20001.

National Assn. for Girls and Women in Sport, 1900 Association Dr., Reston, VA 22091.

National Assn. for Women Deans, Administrators and Counselors, 1625 Eye St. N.W., 20006.

National Council of Administrative Women in Education, 1201 16th St. N.W., 20036.

National Education Assn., Teacher Rights Div., 1201 16th St. N.W., 20036.

National School Boards Assn., 1055 Thomas Jefferson St., N.W., 20007.

National Women's Studies Assn., Univ. of Maryland, College Park, MD 20742.

Organizations (cont.)

Project on Equal Education Rights,
1112 13th St. N.W. 20005.

United States Student Assn.,
National Women's Student Coalition,
1220 G St. S.E. 20003.

Women's Equity Action League,
805 15th St. N.W. 20005.

Women's Equity Action League Educational
and Legal Defense Fund, 805
15th St. N.W. 20005.

Source: Washington Information Directory, 1981-82.

Study of Title IX Is No Big Surprise

By GORDON S. WHITE Jr.

When the Reagan Administration announced that it would review Federal guidelines that are intended to protect women from discrimination in collegiate athletics, reaction from women varied. There were words of shock and indignation and the almost blasé statement of Margo Polivy. "It must have been a dull day with Congress out of session and nobody had anything else to do," Miss Polivy said.

Miss Polivy, a Washington attorney for the Association for Intercollegiate Athletics for Women, said, "This thing has been going on for four months and it was something everybody expected was coming. I'm not all that pessimistic now."

Vice President Bush announced Wednesday that rules on women's sports and 29 other subjects are to be reviewed to determine if they are among the "burdensome, unnecessary or counterproductive Federal Regulations" that President Reagan plans to eliminate as a means of stimulating the economy. The review will be conducted by the Presidential Task Force on Regulatory Relief.

Source of Controversy

The law in question is Title IX of the Federal Education Amendments of 1972 to the Civil Rights Act of 1964.

Title IX, which has caused heated controversy for nearly a decade, states: "No person in the United States shall, on the basis of sex, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

The latest in a series of policy interpretations and regulations was announced Dec. 4, 1979 by Patricia Roberts Harris, the last Secretary of Health, Education and Welfare in the Carter Administration. Since that time, administration of the regulations has been assigned to the Office of Civil Rights of the Department of Education.

"The task force can't legislate," Miss Polivy said. "The only two ways Title IX can be changed is by legislative action or by the Department of Ed changing the regulations and that takes a lot of time and a lot of hearings."

Donna Lopiano, president of the A.I.A.W., said, "The Vice President did not announce an action *per se*. I think the Hatch amendment is a much bigger threat than the task force."

Amendment Stirs Concern

Miss Lopiano, the women's athletic director at the University of Texas, was referring to a proposed amendment to Title IX being offered by Senator Orrin G. Hatch, Republican of Utah, which may eliminate sports from intercollegiate activities covered by Title IX.

The National Collegiate Athletic Association, which has lobbied strongly against enforcement of Title IX, may have succeeded, according to Miss Lopiano. The N.C.A.A., created in 1906, has been the major governing body for men's intercollegiate athletics since the late 1940's. The N.C.A.A. will conduct women's championship events for the first time in its history during the coming academic year.

"When I heard Vice President Bush quote Father Hesburgh of Notre Dame I would have to say the lobbying paid off," Miss Lopiano said.

The Rev. Theodore Hesburgh is president of the University of Notre Dame and has been an outspoken critic of Title IX in its relationship to intercollegiate sports.

During his press conference Wednesday, Mr. Bush referred to Father Hesburgh: "He said, 'Sir, you have to do something about

Title IX. Frankly we went too far. We've done it wrong.'"

Ann Fariss, the women's athletic director at the University of Bridgeport in Connecticut, said, "I'm very disturbed in terms of what the Vice President said. . . It seems like all we do is fight, fight, fight for equal opportunity for women."

The University of Bridgeport has been the object of investigation by the Department of Education's Office of Civil Rights because 19 complaints of sex discrimination in sports were filed with that office. The total of complaints is the most against any one institution; all told, there were 97 com-

plaints at 62 institutions on file with H.E.W. in December 1979. Most of these have been investigated by a special group of field officers of the Department of Education, according to lawyers for the N.C.A.A.

William D. Kramer, an N.C.A.A. attorney, said, "There is value in re-examination. . . There are a large number of these investigations going forth at great cost to everyone involved, the Government and the institutions."

Some women were less disturbed by the proposed review of Title IX than by what they thought was misunderstanding of the measure by the Reagan Administration.

"Here we go again," Miss Polivy said. "Nobody has it right. Vice President Bush says Title IX demands that equal amounts of money must be spent on sports for women and men. That simply is not true and that is what creates much of the scare tactics about Title IX. What is required is proportional expenditures."

Miss Polivy noted a statement released by Mr. Bush Wednesday in which he said, "Concern has been raised about record keeping, overall coverage and requirements for comparable expenditures for both sexes. Under these provisions, colleges and universities must use the same pay scale for male and female coaches, expend equal amounts for publicity of male and female athletic events and expend equal amounts on equipment and supplies for males and females."

Proportional Expenditures

The policy interpretation of Dec. 4, 1979, stated that colleges must "provide equal athletic opportunities for members of both sexes" and Mrs. Harris stated at that time that expenditures must be on a proportional basis.

For example, if \$100,000 in scholarship aid is given by a college to 50 male athletes, the same school, which has 10 female athletes under scholarship, must provide them with a total of \$20,000 worth of aid. Mrs. Harris said that the regulations did not require spending the same amount of money.

"When are people going to understand this?" Miss Polivy asked.

The reaction from men in college athletic administrations to Mr. Bush's announcement was rather muted by comparison to the loud, critical attacks on Title IX by colleges during the 1970's.

Dr. Alan J. Chapman of Rice University, who was the N.C.A.A. president in 1973 and 1974, said, "Colleges have moved so far doing things for women anyway, that I'm not sure Title IX matters, frankly. Certainly, not as much as it did. And I don't think anyone is going to retreat. Most universities think women should have sports. Women's athletics are here to stay."



WEAL

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July 1981

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RECENT TITLE IX DEVELOPMENTS

In 1972 Congress passed Title IX of the Education Amendments. Title IX states: "No person...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..." Schools and universities failing to comply with the law risk the cutoff of federal funds. Sex discrimination in school sports and athletics, however, were not originally included in the law. Not until 1974, through the lobbying efforts of feminist organizations and women's sports activists did Title IX explicitly cover school and university athletic programs.

In July 1975 under Republican President Gerald Ford the Department of Health, Education and Welfare (HEW) issued Title IX's implementing regulations. These regulations were intended to describe the scope of Title IX's anti-discrimination provisions. But schools and universities argued that they still did not know what the government would consider compliance with the law. In December 1979 the Office of Civil Rights released the final guidelines for Title IX and Intercollegiate Athletics. Since their release, these guidelines have served as the yardstick by which students and administrators have measured their school's compliance with Title IX.

At the present time in Congress, in the courts, in different federal offices, changes are being proposed that could have a massive--and devastating--effect on Title IX. Some of these proposals could change, in a single act, the direction that Title IX has taken for these last nine years. Some proposals would dramatically alter the Title IX regulations, others would remove athletics from Title IX's jurisdiction in nearly all cases. The following "Recent Title IX Developments" provides an outline and a summary of these proposed changes. For more information on these developments call the toll-free SPRINT-line: 800-424-5162.

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RECENT TITLE IX DEVELOPMENTS

In Congress

- On June 17, 1981 Rep. Albert Smith (R-AL) and Sens. Roger Jepsen (R-IA) and Paul Laxalt (R-NV) introduced companion Family Protection Acts (H.R. 3955 and S. 1378) in the House and Senate respectively. Among the bill's many provisions, the Family Protection Act implicitly calls for the repeal of Title IX. The act removes from federal jurisdiction the right to determine whether the "sexes can intermingle" in athletics or any other school activity. Earlier in the year Rep. George Hansen (R-ID) introduced a similar version of the Family Protection Act (H.R. 311).
- Sen. Orrin Hatch (R-UT) has introduced a bill (S. 1361) to amend Title IX, specifically limiting the law to apply only to those programs receiving direct federal financial assistance. The Department of Education would have no jurisdiction beyond these limits. In other words, if a school were receiving federal funds for its math program, but not for its humanities program, only students in the math program would be covered by Title IX's anti-discrimination provisions. The amendment redefines "federal financial assistance" so that it excludes financial aid to students, like Pell Grants, GI and student loans. There is one exception to the "direct funding" principle: if a school receives federal assistance for any of its programs, then the school can not discriminate in its overall admissions. (Student loans, building improvements, etc. are not considered "programs.") Discrimination in admissions to specific courses, however, would only be considered a violation of the law if the course were receiving direct federal financial assistance. The bill would also remove employment discrimination from Title IX's jurisdiction in most cases.

Title IX Developments - page two

- Rep. John Erlenborn (R-IL) has submitted a bill (H.R. 1904) to the House of Representatives that would abolish the Department of Education, the cabinet-level department that has jurisdiction over Title IX. Passage of this bill would restore education programs in a Department of Health, Education and Welfare, the arrangement that existed before Education was granted cabinet-status in May 1980. Although other bills to eliminate the Education Department have also been introduced in the House, Erlenborn's bill has, at the present time, the greatest support.
- Sen. Zorinsky (D-NE) and Sen. Hatch have introduced a bill (S. 1091) that provides a reimbursement to educational institutions for costs incurred during investigations initiated by the Office of Civil Rights (OCR). OCR is the agency in the Department of Education that enforces Title IX. By this act schools would be eligible for reimbursements for these "compliance reviews" conducted between May 1, 1980 and September 30, 1984. The reimbursements would not include any costs related to corrective action required of the educational institution. However, even a school found in violation of the law would be entitled to repayment for the costs of the compliance review itself. OCR would not have its budget increased in order to reimburse these schools; rather, these expenditures would simply decrease the amount of money OCR has to spend for other purposes.

Copies of H.R. 3955, H.R. 311, and H.R. 1904 can be obtained free by writing:

The House Documents Room
Room H-226
U.S. Capitol
Washington, DC 20515

Copies of S. 1378, S. 1361, and S. 1091 can be obtained free by writing:

The Senate Documents Room
U.S. Capitol
Washington, DC 20510

In The Office of Management and Budget

- So far, no cuts have been proposed in the budget for the Office of Civil Rights. Perhaps the most important reason OMB decided to retain these funds is that they had no choice: the Office of Civil Rights is under a court order, known as the WEAL or Adams Order, which requires that OCR investigate and resolve complaints in a timely fashion. Cutting OCR's budget would have made "timely" investigations impossible and might well have placed OCR in contempt of court. For more information, see below In the Courts, "WEAL v. Bell."

Title IX Developments - page three

In the Department of Education

- Despite the House initiative to demote the Department of Education and Reagan's campaign promise to abolish it, Education Secretary Bell has not announced any plans for the department's demise. Bell is reportedly in favor of downgrading the Education Department to a smaller, independent agency or corporation like NASA or the U.S. Commission on Civil Rights. At the present, however, the department's status remains unchanged.
- The Reagan Administration has called for a review of all regulations that have been issued by Cabinet departments. The status of the Title IX regulations, issued in 1975 by HEW, remains uncertain at this time. Suggested changes in the regulations have been made by some outside groups (see below, In the Halls of the Lobbyists).
- Investigations have begun at colleges and universities with complaints of sex discrimination in athletics. The preliminary results for the schools already investigated have been prepared by the regional Offices of Civil Rights and written up as "letters of finding." One letter of finding, concerning the University of Akron, has been released and others are awaiting the approval of Education Secretary Bell.

Although the University of Akron was found "in compliance" with Title IX, the school was required to implement a plan that would upgrade substantially its women's athletic programs. Among the provisions of the plan is a schedule to increase the scholarship budget in proportion to the university's projections for women's increased participation. In 1979-80 women comprised 15% of the athletes, but received only 5% of the scholarship budget. By 1983-84 the university expects women to comprise 21% of the athletes and the women are promised 20% of the scholarship budget. Two new women's teams, track and cross country, are to be added and at least four women's teams are to be upgraded to Division I. Some of the other areas found to be unequal between the men's and the women's programs are: scheduling of games and practices, the provision of locker rooms, practice and competitive facilities, the opportunity to receive coaching, the recruitment of student athletes, and the effective accommodation of students' interests and abilities. The University of Akron's plan also includes a description of how these areas are to be equalized, but offers no concrete timetables like those scheduled for the scholarship increases. In the letter of finding the Office of Civil Rights states its intention to monitor the university's plan; however, no timeframe or plan for OCR monitoring is provided. Furthermore, finding a school "in compliance" with the law when Title IX clearly has been violated could be of questionable legality.

Title IX Developments - page four

In the Halls of the Lobbyists

- The American Council on Education recently forwarded to Vice President George Bush, who is heading President Reagan's committee on regulatory relief, a memo that suggested "for discussion" the dismantling of the Title IX regulations. According to Spokeswoman Vol. XI, No. 5, May 1981, ACE proposed the following: the repeal of the Title IX intercollegiate athletic policy guidelines; the exclusion of revenue-producing sports from the Title IX regulations; elimination of employment from Title IX's scope of authority; and, replacing investigations by the Office of Civil Rights with peer review by volunteer teams of athletic directors, coaches and financial aid officers. The National Coalition for Women and Girls in Education expressed alarm to ACE's president over the proposal. The Women's Sports Foundation, on behalf of organizations they say represent ten million people, has written Vice President Bush declaring their support for the existing Title IX regulations.

For further information on the ACE proposal contact:

Dr. Jack Peltason
President
ACE
One Dupont Circle, N.W.
Washington, DC 20036

In the Courts

- NCAA v. HEW: The 10th Circuit Court of Appeals ruled in April 1980 that the National Collegiate Athletic Association (NCAA) can sue the federal government over Title IX requirements for women's sports. The ruling overturned a district court's decision in 1978 that the NCAA did not have legal standing to sue because the Title IX regulations applied to its member colleges and not to the association. The appeals court sent the case back to the district court in Kansas City where the NCAA will raise its original contention that Title IX should not apply to intercollegiate athletics and that parts of the equal opportunity law are "arbitrary and capricious."
- Othen v. Ann Arbor School Board: Federal Judge Charles Joiner of the Eastern District of Michigan ruled on February 23, 1981 that Title IX does not cover athletics in the Ann Arbor (MI) Public Schools. Assuming that no federal funds went directly into athletics, the judge argued that Title IX did not apply to educational institutions generally, but only to those individual programs which "receive direct Federal financial assistance." The father of two girls who sought a girls' golf team brought the suit. The decision applies only to the geographical area covered by the Eastern District of Michigan. An appeal is planned. (See below, Yellow Springs Exempted School District, Note)

Title IX Developments - page five

- Yellow Springs Exempted School District v. Ohio High School Athletic Association: The 6th Circuit Court of Appeals ruled on April 28, 1981 that if a girl qualifies to play on a boys' contact sport team and no similar girls' team exists, then the school must be allowed to permit her to play on the boys' team. The court's 2-1 decision struck down a state athletic association rule that prohibited mixed, contact competition under all circumstances. The majority opinion partially upheld a lower court's finding. They ruled that mixed teams must be permitted when a school chooses them as the best option for achieving equal athletic opportunity. Therefore, a state athletic association could not punish the school for having mixed teams.

NOTE: The Yellow Springs decision could have an impact on the Othen case; the Othen decision is being appealed to this same circuit court. Yellow Springs did not address the issue of direct federal financial assistance that was the subject of Othen. Yet, both the Yellow Springs and Ann Arbor school districts receive the same kind of federal financial assistance. The 6th Circuit Appeals Court assumed that Title IX covered the Yellow Springs schools. Hence, the appeals court might find in the Othen appeal that general federal assistance to a school district is a sufficient criterion for Title IX coverage.

- O'Connor v. Board of Education of School District 23: The 7th Circuit Court of Appeals along with a U.S. Supreme Court Justice has ruled that if a girls' team exists, then athlete Karen O'Connor does not have a legal right to try out for the boys' team this year. The appeals court blocked an injunction, originally granted by the District Court that would have forced the school to allow O'Connor to try out for the boys' team this year. O'Connor's attorney argued that she was being denied a fundamental right to education and that the Title IX regulations, in permitting sex-segregated teams, violated the intent of the Title IX statute. The appeals court and Justice J.P. Stevens held that neither education nor a "right to develop" skills are fundamental rights. A full examination of O'Connor's claims is still to come, but observers are not optimistic that O'Connor will be granted access to the boys' team.
- In other court cases dealing with high school athletic associations:

The Supreme Court, in refusing to hear a case involving the Texas Interscholastic Sports League, may have forced the athletic association to be liable for a student's attorneys fees. The case involved a handicapped youth who had been barred from athletic participation by a Texas Interscholastic Sports League rule. The youth won a preliminary injunction against the league which, in turn, may make him eligible for attorneys fees.

Title IX Developments - page six

The Louisiana State Supreme Court ruled that the Louisiana High School Athletic Association is a public body and, consequently, is subject to the state Open Meetings (Sunshine) Law. The case was brought by a television newsman who had been denied access without reason to a Louisiana High School Athletic Association meeting.

- WEAL v. Bell (Department of Education): In 1974 WEAL and other groups concerned with equal educational opportunity filed suit against the federal government for, in part, failure to enforce Title IX. This lawsuit resulted in a court decree requiring the Office of Civil Rights to respond to individual complaints and to initiate overall investigations of school compliance with Title IX within certain specified timeframes. In June 1981 attorneys for WEAL went back into court, asserting that in 60% of the cases OCR is not finishing investigations within the timeframes required by the WEAL Order. The Court may find the Department of Education in contempt of court.
- Title IX and Employment: Whether Title IX covers employment may be decided by the U.S. Supreme Court in the coming months. Although one case, Seattle University v. HEW, was scheduled to be heard by the Supreme Court, Seattle submitted a motion to withdraw because the Department of Labor, in the process of investigating a complaint, claimed it could not find any significant evidence of discrimination at the school. The Court has not yet ruled on Seattle's motion to withdraw. Other Title IX and employment cases before the Supreme Court are North Haven Board of Education v. Hufstedler and Trumbull Board of Education v. U.S. Department of Education. These cases, accepted for review in February 1981, will be reviewed in the fall.

For more information call the toll-free SPRINT-line: 800-424-5162

AMENDMENT OF EDUCATION AMENDMENTS OF
1972 RELATING TO SEX DISCRIMINATION

By Mr. HATCH (for himself, Mr. QUAYLE, Mr. HAWKINS, Mr. DENTON, Mr. EAST, Mr. STANG, Mr. HELMS, and Mr. GARN):

S. 1361. A bill to amend title IX of the Education Amendments of 1972 relating to sex discrimination; to the Committee on Labor and Human Resources.

AMENDMENT OF EDUCATION AMENDMENTS OF
1972 RELATING TO SEX DISCRIMINATION

Mr. HATCH. Mr. President, I rise today to address one of the most abused relationships to be found in our society. I refer to the delicate and complex relationship between the Federal Government on the one hand and State and local institutions on the other. This relationship—expressed by the term “federalism”—is unique in its division of authority and responsibility. It commits to the jurisdiction of the National Government certain specified national concerns and reserves all else to State and local governments or to individuals and private organizations as the case may be.

Over the past 200 years we have come to recognize the wisdom of this arrangement in preserving individual and local governmental liberty during an age devoted to centralization, bureaucracy, and national prescription in nearly every facet of our lives. We have seen the relentless encroachment of Federal statutes and regulations sap our initiative, hamstring our State and local governments and private organizations, and rob us at the national level of that one blessing we must have in order to govern well—the confidence, love, and respect of our people.

Federalism is truly the sail which harnesses the collective energies of our people, but for some time now it has been poorly set to the wind.

The balance which invigorates our Federal system has been disturbed, sacrificed by those whose zeal for what they label goals of national policy overcame their respect for our constitutional constraints. The sixties and seventies saw the ascendancy of these reformers who were so single minded that they advocated the most extreme and tenuous extensions of Federal authority in order to serve their ideals. Theirs was a classic “ends-justifies-the-means” movement, whose slogan was expediency. These decades also recorded the unfortunate compliance of legislators and judges who, in the name of progress, effectively dismantled much of that Federal system.

Finally, however, the people have spoken—it is time for a change, not just in the people who fill positions, but in

the concept of Government in the eighties. It is time to realize that there are some areas, more areas than not, where the Federal Government should not act and where its intervention is counterproductive if not constitutionally unwise. It is time to realize that there are some things, even worthy things, the Federal Government just cannot and should not do, though it could in fact do them through the abuse of its power. Nowhere has the Federal Government's interventionism left a sorer legacy than in the area of education, a field long considered especially suited for local control.

Says Prof. Joseph Adelson of the University of Michigan in an article printed in the March issue of *Commentary*, speaking of the loss of discipline in public schools and of their resulting loss of public confidence:

Perhaps the most important source of the school's diminished authority is the growth—I am tempted to say the cancerous growth—of judicial and bureaucratic intervention, generally at the Federal level. . . . It is an extremely troublesome development, since neither the courts—given their adversarial style—nor the bureaucracies—given their tendency toward Byzantine inefficiency—are the appropriate forum for the discussion or the making of education decisions. . . .

In short, all the three branches of Government, and furthermore separate or overlapping or competing units within these branches, take it as their privilege to intervene in education. They do so with almost no regard to the financial costs involved. And once they have done so, their decisions, however erroneous or short-sighted these turn out to be in practice, prove nearly impossible to modify or rescind.

Thus the authority of education—at all levels—is weaker today, far weaker, than any other moment in memory. The schools do not fully govern themselves; they do not freely choose their own goals; they are not guided by their own values.

Indeed our schools often are not guided by any values other than those sanctified by publication in the *Federal Register*.

On the national level education has departed from basic values. We have indulged in a species of social fanaticism which led us to believe that American society should and could be reshaped in a particular mold by the brute imposition of Federal wealth and power upon local schools, colleges, boards of education, indeed upon individual students and families.

Now is the time to reassess that course. The proud sail of federalism is flapping feebly in the wind, and we feel we drift powerless as the allegiance, the devotion of our citizens for their Government fade.

The Federal Government has a role to play in education: The role of facilitator, support, resource; not the role of headmistress, enforcer, despot. We have before us an opportunity to turn our feet again to the path of reason. I am introducing a bill which makes a limited but significant start in restoring restraint to Federal involvement in education: The subject is title IX of the Education Amendments of 1972, which prohibits sex discrimination in activities which receive Federal financial assistance.

I support the idea that women and girls should receive fair and evenhanded treatment in our schools. But both bureaucratic and judicial interpretations of title IX have wandered far from its original intent; it has become a showcase of Federal intervention at its worst.

Title IX's intent is to prevent Federal funds from being used in an activity characterized by discrimination on the basis of sex.

The authority of the Department of Education to issue regulations and withhold Federal funds is accordingly limited in the statute to the particular program or activity so affected. As has been pointed out by Janet Lammerson Kuhn in perhaps the most careful published analysis of these issues, this "program-specific" approach is clearly indicated by both the language of title IX and by its legislative history and context. ("Title IX: Employment and Athletics Are Outside HEW's Jurisdiction," 65 *Georgetown L. J.* 49, 67-70 (1976)).

In other words, the interests of the Federal Government in this area flow only as far as its money. As originally reflected in title IX's intent, we here in Congress have no justification in this area for regulating education programs or activities which receive no Federal funds; and it is open to question to what extent we should wisely regulate those activities which do receive Federal moneys.

So far, so good. But the Department of Education and its predecessors, in a protracted pilgrimage to the shrine of social activism, have sought to make title IX the irresistible engine for bulldozing from the school halls of our Nation practically all distinctions based on sex. It has been made an efficient instrument for stamping the rules of statistical equality upon the forehead of every school administrator, teacher, and student in America.

How is this done? The Department of Education has in the past decreed that title IX governs all activities at any school or education institution which in any one of its programs or activities benefits, I repeat, benefits from Federal assistance, or at any school one of whose students receives, for example, a guaranteed student loan. Now where in this Nation is there a school without an activity which does not somehow benefit from Federal assistance under this test?

The possibilities for expanded jurisdiction through these nonstatutory definitions are almost limitless and have been thoroughly explored in the regulations. What facet of federalism, what practice of sound administration, what principle of fairness requires the Federal Government to subject to hundreds of pages of regulations the entire range of activities of a school whose modern language program has received a hundred dollar grant or whose only Federal contacts are the loans extended its students?

Further, the Department of Education has made itself the guardian of sex equality in employment at institutions it regulates, despite the fact that the drafters of title IX intended that this facet of employment be governed by amendments

enacted to the Equal Pay Act of 1963, administered by the Department of Labor, and to title VII of the Civil Rights Act of 1964, now administered by the Equal Employment Opportunity Commission. It was never their design that sex equity in the education job market be administered by the Department of Education through title IX as codified at 20 U.S.C. 1681-82. For further elaboration I again defer to Mrs. Kuhn's treatment of this issue in the same article I have cited before (pp. 49-62).

These regulatory results are not required by the statute and are not prudent as a matter of policy. Though we have hope for a modification of these policies under the current administration, abuses of the past will never be conclusively laid to rest without amendment of the act itself. The amendment I propose reforms the regulations and restores reasonable limits to title IX's reach. It has four purposes:

First, to reinforce the "program-specific" nature of title IX's prohibitions, and limit regulations accordingly.

Second, to shift the administrative focus of the law to programs and activities which receive Federal financial assistance, as stated in the statute, and away from financial aid to students. The amendment would dispose of the issues in the *Grove City College versus Harris* case, currently in litigation, in which the Department of Education has contended that Federal aid to a student is sufficient by itself to subject to title IX all the activities of whatever school he or she decides to attend.

Third, to expressly restrict the scope of the act to those who are or have applied to be students, not faculty.

Fourth, to, for the first time, expressly acknowledge jurisdiction of the act over admissions to institutions conducting one or more federally assisted activities, in order to insure nondiscrimination as to that activity.

This amendment is not intended as an exhaustive overhaul of title IX or its regulations. Though it addresses some of the worst abuses which have developed, there are sure to be other areas that would profit from review as well. Yet, this amendment will serve notice that Congress will not sit idly by while words are placed in its mouth by a verbose bureaucracy. It will save untold dollars and personnel hours taken from education service delivery and diverted to satisfying the unreasonable inquiries and requirements of those who have administered title IX.

It will preserve local and State freedom of action while protecting legitimate Federal interests. It will help restore confidence in the capacity of our National Government to exercise self-restraint. It will begin to dispel from the vital enterprise of education that atmosphere of antagonism and distrust which has impeded cooperation among Federal, State, and local authorities.

It is time to get back to basics: The basics of teaching our youth the essential skills they need to become happy, productive, informed citizens; the basics of encouraging, not stifling that variety and individuality which must enrich our

society if we are to resist the pressures toward enforced conformity and authoritarianism in the name of efficiency which we see in so many other nations.

Title IX is an example of good intentions gone awry. In their zeal to eliminate sex discrimination in education the Department of Education and its predecessors in the past have overstepped their bounds. To quote Mrs. Kuhn in conclusion: "The end of equal educational opportunity does not justify the assumption of legislative functions by an executive department."

Mr. President, I ask unanimous consent that the text of this salutary amendment be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 is amended—

(1) by inserting after "United States" the following: "who is a student";

(2) by inserting "which itself" after "activity";

(3) by deleting "receiving" and substituting therefor "receives"; and

(4) by inserting after "Federal financial assistance," the following: "and no person who has applied for admission to any educational institution or organization conducting for the benefit of its students any such Federally assisted program or activity shall be denied admission to such institution or organization on the basis of sex.";

Sec. 2. Section 901 of the Education Amendments of 1972 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) In order to carry out the policy of the United States that Federal jurisdiction under this title affecting the policies and practices of educational institutions or other organizations conducting education programs or activities shall not exceed the extent of Federal financial assistance—

"(1) this title applies only to those education programs or activities conducted by an educational institution or organization which programs or activities themselves receive Federal financial assistance which a Federal department or agency is expressly authorized by statute to extend by way of grant, loan, or contract other than a contract of insurance or guaranty; and shall not apply to any education program or activity to which the department or agency is not expressly authorized by statute to extend Federal financial assistance, or which does not itself receive such assistance, regardless of whether: (A) the program or activity is within the same educational institution or organization, or administrative unit or subunit thereof, as a program or activity which does receive such assistance, (B) is deemed to benefit from assistance received by any other such program or activity, or (C) is otherwise related to such a program or activity; and

"(2) nothing in this title shall be construed to make its provisions applicable to any education program or activity of, or to the admissions practices of, any educational institution or organization because any of its students receives Federal financial aid to assist in financing his or her education, by way of scholarship, grant, loan, wages, reimbursement or otherwise, regardless of whether such aid is received through the institution or organization; except that if the

educational institution or organization has substantial responsibility for administering a Federal student aid program and has discretion to determine which students will receive the aid, the institution or organization shall not, unless pursuant to express Federal statutory authorization, discriminate on the basis of sex in the award of aid under such aid program."

Sec. 3. Section 901(d) of the Education Amendments of 1972 (as redesignated by section 2 of this Act) is amended by adding at the end thereof the following new paragraphs:

"(2) For purposes of this title 'Federal financial assistance' means only financial assistance by way of grant, loan or contract other than a contract of insurance or guaranty, extended pursuant to a Federal statute expressly authorizing such assistance, to an education program or activity which itself receives the assistance. Without limitation, 'Federal financial assistance' does not include scholarships, loans, grants, wages or other funds extended directly to students; participation in a program or activity by students who receive scholarships, loans, grants, wages or other Federal student financial aid; or mere consequential effect of Federal financial assistance where the assistance is not received by the program or activity which is deemed to be affected.

"(3) For purposes of this title, 'admission' or 'admissions' means the granting, to applicants, of access to an educational institution or organization and the education programs and activities it offers for the benefit of its students, but shall not include any other program or activity which does not itself receive Federal financial assistance."

Sec. 4. The first sentence of section 902 of the Education Amendments of 1972 is amended by inserting before the period a comma and the following: "and which shall not apply to programs or activities to which the department or agency is not authorized to extend Federal financial assistance by any such statute".

● **Mr. QUAYLE.** Mr. President, today I am cosponsoring legislation with Senator HATCH which seeks to amend title IX of the Education Amendments of 1972. I am taking this step to protect institutions of higher learning from the zealotry of the Department of Education which has gone beyond the bounds of commonsense.

In 1978, the Department of Health, Education, and Welfare sought to terminate all financial assistance to students attending Hillsdale College in Michigan under the national direct student loan program, BEOG program, the supplemental educational opportunity grant program, and the guaranteed student loan program because the college refused to execute an assurance of compliance with title IX.

An administrative law judge ruling on the case in August 1978, found that although the NDSL, BEOG, and SEOG programs all constituted Federal financial assistance to Hillsdale, the GSL program fell within the exception in title IX for contracts of guaranty. DHEW appealed the decision and an administrative appeals panel reversed the GSL finding and ordered DHEW to withhold funds until a compliance form was signed by the college.

In an effort to have this order revoked, Hillsdale appealed the decision in the sixth circuit U.S. Court of Appeals, and is awaiting the court's action.

The point at issue here is whether

DHEW, now the Department of Education, has jurisdiction over schools simply because students at the school accept Federal financial aid. Schools like Hillsdale have a history of refusing any form of Government assistance for fear that its acceptance would bring them under the regulatory thumb of the Federal Government.

The controversy over whether the Department of Education can apply title IX regulations to schools which do not accept Federal financial assistance but whose students do accept loans and grants continues to be unresolved. It is for this reason that I am cosponsoring this amendment to title IX. The Federal Government's attempts to overregulate must be curbed, and it appears that a statutory remedy is the most direct approach to solving this problem. I hope you will join with Senator HATCH and me in seeing that these inequities are corrected.●

WHY TITLE IX?

Martha Matthews
Shirley McCune

Resource Center on Sex Roles in Education
National Foundation for the Improvement of Education
Washington, D.C.

(1977)

U.S. Department of Health, Education, and Welfare

David Mathews, Secretary

Virginia Y. Trotter, Assistant Secretary for Education

Office of Education

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*Prepared under Contract 300-75-0256 for the Women's Program Staff
U.S. Office of Education, Department of Health, Education, and Welfare;
research and staff assistance also supported by funds from the Ford Foundation*

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DISCRIMINATION PROHIBITED – No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

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WHY TITLE IX?

Why Title IX? What is its purpose? Is it really needed? Is there sex discrimination in education programs and institutions? If so, what are its effects? Although Title IX was enacted within the Education Amendments of 1972, most educators remained relatively unaware of its implications until the release of its implementing Regulation in June of 1975.

Title IX reads that:

no person. . . 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.

The implementing Regulation establishes detailed criteria for identifying and eliminating sex discrimination in education programs and activities, and sets forth five major compliance requirements which must be completed by July 21, 1976.

As this deadline approaches, questions regarding the purpose and need for Title IX increase. This pamphlet will focus briefly on some of the answers to these questions.

What is the purpose of Title IX?

The purpose of Title IX is clearly and simply to prohibit sex discrimination against students and employees of education programs and activities receiving Federal funds. The Title IX Regulation provides that females and males must be afforded equal opportunity with regard to:

- admissions to most education institutions;
- access to and treatment in curricular and extracurricular programs and activities sponsored by education agencies and institutions;
- treatment under regulations and policies governing student benefits, services, conduct and dress;
- access to employment in education agencies and institutions;
- terms, conditions, and benefits of such employment.

Since the 1954 Supreme Court decision regarding *Brown v. the Board of Education*, the relationships between equality in education and in society, and the nature of equality in education, have been subjects for public and educator concern. A series of Federal and State antidiscrimination laws has been enacted to better define equality and to ensure its provision. Title IX is the most recent such law. It is patterned after Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race or ethnicity in education agencies and institutions. Title VI and Title IX each address major and continuing sources of discrimination and inequality in education and in society.

Is Title IX really necessary—is there sex discrimination in education programs and institutions?

Testimony presented at the Congressional hearings regarding Title IX and numerous investigations conducted from the late 1960's to the present document the existence and pervasiveness of sex discrimination in our education systems. From early childhood education through graduate education, females and males are exposed to sex discrimination and sex role stereotyping in the curriculum, in extracurricular programs, in regulations and policies governing student life, in physical facilities, in the behavior of education personnel, and in the structure and organization of education institutions. Sex discrimination and sex-role stereotyping, whether overt or covert, direct or indirect, function to deny the equal educational opportunity guaranteed by law.

Many of the forms of sex discrimination prohibited under Title IX and its implementing Regulation have been systematically documented. Some of this documentation is summarized below.

Admissions practices and policies of institutions of vocational education and higher education have often been found to discriminate on the basis of sex.

- In practice if not in stated policy, many postsecondary institutions set higher admissions standards for women than for men. A survey conducted by the American Council on Education indicated that of a sample of 188,900 freshmen entering institutions of higher education in 1972, 44% of the women had high school grade point averages of B-plus or better. For males, this figure was only 29%. Furthermore, 50% of the women and only 38% of the men were in the top quarter of their high school class. The survey also indicated that of these entering students, women were more likely than men to have been high achievers in all types of extracurricular activities except science and athletics.¹
- Many institutions, especially those of graduate education, use an "equal rejection rate" system under which males and females are sorted into separate categories in order that equal portions of each group may be accepted. This system usually ensures that the women thus admitted are more qualified than the men.² One study found that 68% of the women admitted to graduate schools had an undergraduate average of B or better, as opposed to only 54% of the men admitted.³
- In a number of large school systems, secondary institutions of vocational education are or have been completely segregated on the basis of sex. In others, males and females are or have been admitted subject only to strict sex-based quotas.⁴

Awards of financial assistance are often differentially available to males and females. Studies have shown that women are less likely than men to receive financial assistance in the form of scholarships, fellowships and loans at both the national and institutional levels.⁵

- A national survey of 3,363 college sophomores found that in 1967, the average award of financial assistance to men was \$1,001, while the average award to women was only \$786. Student employment awarded as part of institutional financial aid packages paid men an average of \$712 and women an average of \$401.⁶
- According to 1970 testimony in Congressional hearings on discrimination against women, in 1969, women comprised 33% of the nation's graduate students but received only 28% of the graduate awards under NDEA, Title IV, and 29% under NDEA, Title VI.⁷ One report on women and graduate study indicated that only one-quarter of the females enrolled in graduate study received stipends, as compared to almost one-half of the men.⁸

- Sex-restricted scholarships frequently limit the access of qualified women to financial aid. In one large and prestigious university, only 15% of all sex-restricted funds available in 1969 were restricted to women.⁹

Counseling and counseling materials are a significant source of sex discrimination at all levels of education.

- Research indicates that both male and female counselors hold differential perceptions of appropriate academic and career choices for males and females.¹⁰ Counselors appear to apply traditional role stereotypes to both college- and non-college-bound females¹¹ as well as to female college students.¹²
- Sex bias has also been documented in instruments used in the counseling process. A number of achievement tests have been found to contain such bias in both content and language.¹³ Many occupational interest inventories list occupations by sex and fail to offer a complete range of occupational choices to females; many require differential scoring and interpretation of male and female responses.¹⁴

Vocational education, which provides a direct link between education and the employment system, is one of the most sex-segregated of all education programs. Of the 136 instructional categories within the nation's vocational education programs, 71% have enrollments of at least 75% one sex or the other; almost one-half have enrollments over 90% one sex or the other.¹⁵ Females predominate in those programs providing preparation for the lower-paying occupations. Sex segregation in vocational education programs results from factors ranging from overtly discriminatory admissions or graduation requirements, through discriminatory counseling or counseling instruments, to student choices which may be made on the basis of subtle or covert sex role stereotypes.

Athletic programs provided or sponsored by education institutions are another source of pervasive sex discrimination. Studies of athletics in secondary schools and colleges and universities have repeatedly documented discrepancies in the nature and extent of programs, the availability of coaching services, and the equipment and facilities provided for men's and women's sports.¹⁶

- Analysis of numerous athletic budgets for secondary and postsecondary athletic programs suggests that at the secondary level, the ratio of expenditures for females and males approximates \$1/\$10. At the postsecondary level, the ratio approaches \$1/\$50.¹⁷
- A 1973 study of the athletic program offered by a school district in one Southwestern city revealed that of \$10 million worth of athletic facilities and equipment, girls were permitted use of only the tennis courts and tennis balls.¹⁸ Although this example may be extreme in degree, it is probably not unique.

Policies regarding the marital or parental status of students frequently discriminate on the basis of sex.

- The treatment of pregnant females is a common area of discriminatory policies and practices. Although over 200,000 young women under 18 give birth in the U.S. each year,¹⁹ a large percentage of these young women are expelled from school or are pressured to withdraw at the first sign of pregnancy. Although some local education agencies have offered specialized programs for pregnant students, a 1970 study indicated that only one-third of the nation's 17,000 school districts offered pregnant students any education services at all.²⁰

• At some postsecondary institutions, women have been refused financial aid because of pregnancy or marriage.²¹

Student health services in many institutions of higher education provide full coverage services to males while providing no gynecological services to females. A 1970 survey of 750 institutions performed by the American Association of University Women revealed that only 43% provide birth control information or counseling; in the others, students are referred to physicians outside the institution.²² (An education institution is under no obligation to provide full-coverage health services to students, but the Title IX Regulation requires that if a university chooses to provide such services these must include gynecological services for females.)

Employment policies and practices which discriminate on the basis of sex not only deny opportunity to individual applicants or staff members but also result in employment patterns which limit the exposure of both male and female students to role models in nontraditional positions.

• The existence of discriminatory policies and practices in elementary-secondary education is suggested by an analysis of the sex composition of personnel in various education positions as compared to the sex composition of persons receiving undergraduate and graduate degrees in education. Relevant figures are provided below.

**Percentages of Female Employees
and Degree Recipients in Education—1970-1971***

	% female		% female
Instructional staff	67.2%	B.A. degrees in education74%
Principals	15.3%	Master's degrees:	
Assistant Principals	15.0%	—in education56%
Central office administrators	25.9%	—in ed. admin.20%
Superintendents6%	Doctoral degrees:	
		—in education21%
		—in ed. admin.	8.5%

*Figures derived from 1972 National Education Association Research data and the 1974 *Digest of Educational Statistics*, published by the National Center for Education Statistics, Department of Health, Education, and Welfare.

The underutilization of qualified women within elementary-secondary education (suggested by the figures which show more women holding advanced degrees in education than are employed in the administrative positions for which such degrees could qualify them) indicates the probable existence of discriminatory policies and practices.

•• Data regarding the employment of women within higher education faculties likewise suggest the existence and prevalence of sex discrimination.

—Although women received 12.91% of the doctoral degrees conferred between 1920 and 1973, in 1974, women were only 10.4% of all full professors. This 1974 figure represents an increase of .5 percent from 1972.²³

—A survey by the Educational Testing Service of women and men who earned their Ph.D's in 1950, 1960, and 1968, indicated that as time passed, women fell farther behind their male colleagues in both salary and rank.²⁴ Although some of the differential in pay and rank may be attributable to relatively fewer years of continuous full-time work by the women, a number of the women surveyed stated that they had experienced career interruptions which were themselves due to anti-nepotism rules applied with discriminatory impact upon women.

—National figures regarding the employment of women in postsecondary education indicate that women are heavily concentrated in the lower academic ranks. In 1974, women were:

10.3% of all professors;
16.9% of all associate professors;
27.1% of all assistant professors;
40.6% of all instructors.²⁵

Many other forms of sex discrimination exist in education programs and institutions. Some, possibly because of their very pervasiveness, have not been subject to the systematic documentation which has been previously described. They do, however, function to deny equal education to males and females. They include such policies or practices as those which establish:

- differential course or graduation requirements for females and males;
- physical education programs which differentiate between males and females in required activities and available facilities;
- extracurricular activities which are provided on a sex-segregated basis;
- honors and awards for which students are selected on the basis of sex;
- policies governing student dress, conduct or residence which differentiate on the basis of sex;
- student employment services which differentiate on the basis of sex.

All of the above constitute policies or practices which are prohibited under Title IX.

One additional area which has been the subject of much public attention is sex-role stereotyping and sex discrimination in textbooks and instructional materials. Numerous studies have documented that from preschool through graduate level, texts and instructional materials in virtually every subject area or discipline present limiting and stereotyped images of both females and males. Females are largely invisible; when they do appear, they are usually portrayed as passive and emotional creatures defined primarily by their relationships to men, or as curious diversions briefly interrupting the male course of political, economic, scientific or artistic endeavor. Males are generally portrayed in opposite but equally stereotyped roles: they are usually striving and achieving in adventure, career or public roles, with little family or emotional life and few human limitations.²⁶ Bias in textbooks and instructional materials is explicitly *not* covered in the body of the Title IX Regulation. The Preamble to the Regulation does, however, acknowledge the issue as one of concern, particularly at the elementary-secondary level. It further recommends the development by State and local education agencies of criteria for the selection of non-biased materials.

What are the effects of sex discrimination in education programs and activities?

Sex discrimination in education programs and activities functions not only to deny the rights of individuals to that equality of opportunity to which they are legally entitled but also to affect the ability of individuals to participate fully in other societal institutions and benefits.

Although it is difficult to separate the direct effects of sex discrimination in education from a larger pattern of societal sex stereotyping, several recent studies suggest possible relationships

between discrimination and stereotyping in education and academic and career outcomes. Recent data from the National Assessment of Educational Progress indicate that there are significant differences in academic achievement by males and females. According to Assessment figures published in 1975:

- Males outperform females in four of the eight major subject areas examined: mathematics, science, social studies and citizenship.
- In the other four learning areas, females consistently outperform males in only one, writing, and maintain a slight advantage in one other, music.
- In the other two subjects, reading and literature, females outperform males until age 9, and then decline in relative performance until, by ages 26-35, they lag behind males.
- In the male-dominated areas (mathematics, science, social studies and citizenship), males and females show scholastic understandings that are fairly equal until the onset of adolescence. By age 13, however, females begin a decline in performance which continues downward through age 17 and into adulthood.²⁷

A review of research regarding basic psychological sex differences suggests that the extent and degree of these sex differences in achievement are not explainable by basic sex differences in abilities.²⁸ Although research indicates that males do exceed females in mathematical and visual-spatial ability, which is consistent with their superior performance on the mathematics sections of the Assessment, it also indicates that females have greater verbal ability than do males. It is thus difficult to explain the consistent performance deficits of females in such largely verbal areas as social studies and citizenship and their ultimate decline in reading and literature achievement on the basis of basic ability differences.

It is more plausible, however, to identify some of the sources of these differences in education programs which discriminate and stereotype on the basis of sex. Male achievement in science may be facilitated by science textbooks which, beginning at elementary school, are the most male-dominated of any subject area.²⁹ It may be reinforced by guidance counselors who discourage the participation of females in science programs;³⁰ and it may be shaped by relative dominance of men in science teaching positions. The performance deficit of females in an area as apparently neutral as citizenship may be in part accounted for by government textbooks which largely omit or denigrate the role of females in the political institutions of the nation.³¹

Another study suggests the effect which sex discrimination in educational employment may have upon student outcomes and achievement. In a sample of women derived from three successive editions of *Who's Who of American Women*, there was a strong positive correlation between the number of women faculty on a campus and the number of women achievers graduating from that campus.³² Women students on campuses where women are denied faculty positions as a result of sex discrimination are thus denied role models to support their academic success and ultimate achievement.

* * * * *

Title IX is an important tool for the improvement of education practice and institutions so that they may more effectively meet the individual needs of all students and the needs of our society for the fuller utilization of the talents within it. The criteria and procedures for compliance which are specified in its implementing Regulation provide guidelines for efforts by education agencies and institutions to modify policies and practices which discriminate on the basis of sex and remedy their effects. The data summarized in this pamphlet suggest that this process cannot begin too soon.

FOOTNOTES

¹ *The American Freshman: National Norms for Fall 1972* (Washington, D.C.: American Council on Education, 1972).

² U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, *Barriers to Women's Participation in Postsecondary Education* by Esther Manning Westervelt (Washington, D.C.: U.S. Government Printing Office, 1975), p. 8.

³ J. Scott Hunter, *The Academic and Financial Status of Graduate Students, Spring 1975* (Washington, D.C.: U.S. Government Printing Office, 1967).

⁴ National Organization for Women, New York City Chapter, *Report on Sex Bias in the Public Schools* (New York: National Organization for Women, 1972).

⁵ U.S. Department of Health, Education, and Welfare, *Barriers to Women's Participation*, p. 12.

⁶ E.W. Haven and D.N. Horch, *How College Students Finance Their Education* (New York: College Entrance Examination Board, 1972).

⁷ U.S., Congress, House, Committee on Education and Labor, *Discrimination Against Women, Hearings before a special subcommittee of the House Committee on Education and Labor, 1970.*

⁸ C.A. Myers, "Special Problems Encountered by Mature Women Undergraduates," *Journal of the National Association of Women Deans and Counselors* 24 (1974): 137-139.

⁹ U.S., Congress, House, Committee on Education and Labor, *The Status of Women at Cornell, 1969* by Ella Kusnetz and Barbara Kusnetz, paper submitted to the Special Subcommittee on Education of the House Committee on Education and Labor, 1970.

¹⁰ Arthur Thomas and Norman Stewart, "Counselor Response to Female Clients with Deviate and Conforming Career Goals," *Journal of Counseling Psychology* 18 (1971): 353-357.

¹¹ Nancy Friedersdorf, *A Comparative Study of Counselor Attitudes Toward the Further Educational and Vocational Plans of High School Girls* (West Lafayette, Indiana: Purdue University, 1970).

¹² "Perspectives on Counselor Bias: Implications for Counselor Education," *The Counseling Psychologist* 4 (1973).

¹³ Carol K. Tittle, *Women and Educational Testing: A Selective Review of the Research Literature and Testing Practices* (New York: Office of Teacher Education, City College of New York, 1973).

¹⁴ Ibid.

¹⁵ U.S. Department of Health, Education, and Welfare, Office of Education, *Summary Data—Vocational Education, Fiscal Year 1972* (Washington, D.C.: U.S. Department of Health, Education, and Welfare).

¹⁶ "Revolution in Women's Sports," *womenSports*, September 1974.

¹⁷ Ibid.

- ¹⁸ Women's Equity Action League, Texas Division, *Survey of Sex Discrimination in the Waco Independent School District* (Houston, Texas: Women's Equity Action League, 1973).
- ¹⁹ National School Public Relations Association, *Schoolgirl Pregnancy: Old Problem, New Solutions* (Washington, D.C.: National School Public Relations Association, 1972), p. 1.
- ²⁰ *Ibid*, p. 6.
- ²¹ Sheila Tobias, E. Kusnetz and D. Spitz, eds., *Proceedings of the Cornell Conference on Women* (Ithaca, New York: Cornell University, 1969).
- ²² R.M. Oltman, *Campus 1970: Where Do We Stand?* (Washington, D.C.: American Association of University Women, 1971).
- ²³ National Center for Education Statistics, published in *The Chronicle of Higher Education* 9, 10 February 1975.
- ²⁴ *The Chronicle of Higher Education*, 13 January 1975, cited in *Affirmative Action: Steps Toward Equity in Higher Education* (Washington, D.C. National Education Association, 1975).
- ²⁵ National Education Association, *Affirmative Action: Steps Toward Equity in Higher Education* (Washington, D.C.: National Education Association, 1975), p. T-1.
- ²⁶ Lenore J. Weitzman and Diane Rizzo, *Biased Textbooks: A Research Perspective and Action Steps You Can Take* (Washington, D.C.: Resource Center on Sex Roles in Education, National Foundation for the Improvement of Education, 1974); Janice L. Trecker, "Women in U.S. History High School Textbooks," *Social Education* 35 (February 1971): 249-261; Women on Words and Images, *Dick and Jane as Victims: Sex Stereotypes in Children's Readers* (Princeton, New Jersey: Women on Words and Images, 1972).
- ²⁷ National Assessment of Educational Progress, "Males Dominate in Educational Success," *NAEP Newsletter*, October 1975. (NAEP is a project of the Education Commission of the States, Denver, Colorado.)
- ²⁸ Eleanor Maccoby and Carol Jacklin, *The Psychology of Sex Differences* (Stanford, California: Stanford University Press, 1974).
- ²⁹ Lenore J. Weitzman and Diane Rizzo, *Biased Textbooks*.
- ³⁰ "Perspectives on Counselor Bias: Implications for Counselor Education."
- ³¹ Jennifer Macleod and Sandra Silverman, *You Won't Do: What Textbooks on U.S. Government Teach High School Girls* (Pittsburgh, Pa.: KNOW, Inc., 1973).
- ³² Elizabeth Tidball, "Perspective on Academic Women and Affirmative Action," *Educational Record* (Spring 1973): 130-135.

JUNE 1975

TITLE IX QUESTIONS AND ANSWERS

QUESTION:

What is Title IX?

ANSWER:

Title IX is that portion of the Education Amendments of 1972 which forbids discrimination on the basis of sex in educational programs or activities which receive Federal funds.

QUESTION:

Who is covered by Title IX?

ANSWER:

Virtually every college, university, elementary and secondary school and preschool is covered by some portion of the law. Many clubs and other organizations receive Federal funds for educational programs and activities and likewise are covered by Title IX in some manner.

QUESTION:

Who is exempt from Title IX's provisions?

ANSWER:

Congress has specifically exempted all military schools and has exempted religious schools to the extent that the provisions of Title IX would be inconsistent with the basic religious tenets of the school.

Not included with regard to admission requirements ONLY are private undergraduate colleges, nonvocational elementary and secondary schools and those public undergraduate schools which have been traditionally and continuously single-sex since their establishment.

However, even institutions whose admissions are exempt from coverage must treat all students without discrimination once they have admitted members of both sexes.

QUESTION:

Does the law cover social sororities and fraternities?

ANSWER:

Congress has exempted the membership practices of social fraternities and sororities at the postsecondary level, the Boy Scouts, Girl Scouts, Camp Fire Girls, Y.W.C.A., Y.M.C.A., and certain voluntary youth services organizations. However,

if any of these organizations conduct educational programs which receive Federal funds open to nonmembers, those programs must be operated in a nondiscriminatory manner.

QUESTION:

May a vocational school limit enrollment of members of one sex because of limited availability of job opportunities for members of that sex?

ANSWER:

No. Further, a school may not assist a discriminatory employer by referral of students or any other manner.

QUESTION:

In athletics, what is equal opportunity?

ANSWER:

In determining whether equal opportunities are available, such factors as these will be considered:

- whether the sports selected reflect the interests and abilities of both sexes;
- provision of supplies and equipment;
- game and practice schedules;
- travel and per diem allowances;
- coaching and academic tutoring opportunities and the assignment and pay of the coaches and tutors;
- locker rooms, practice and competitive facilities;
- medical and training services;
- housing and dining facilities and services;
- publicity.

QUESTION:

Must an institution provide equal opportunities in each of these categories?

ANSWER:

Yes. However, equal expenditures in each category are not required.

QUESTION:

What sports does the term "athletics" encompass?

ANSWER:

The term "athletics" encompasses sports which are a part of interscholastic, intercollegiate, club or intramural programs.

QUESTION:

When are separate teams for men and women allowed?

ANSWER:

When selection is based on competitive skill or the activity involved is a contact sport, separate teams may be provided for males and females, or a single team may be provided which is open to both sexes. If separate teams are offered, a recipient institution may not discriminate on the basis of sex in providing equipment or supplies or in any other manner.

Moreover, the institution must assure that the sports offered effectively accommodate the interest and abilities of members of both sexes.

QUESTION:

If there are sufficient numbers of women interested in basketball to form a viable women's basketball team, is an institution which fields a men's basketball team required to provide such a team for women?

ANSWER:

One of the factors to be considered by the Director in determining whether equal opportunities are provided is whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes. Therefore, if a school offers basketball for men and the only way in which the institution can accommodate the interests and abilities of women is by offering a separate basketball team for women, such a team must be provided.

QUESTION:

If there are insufficient women interested in participating on a women's track team, must the institution allow an interested woman to compete for a slot on the men's track team?

ANSWER:

If athletic opportunities have previously been limited for women at that school, it must allow women to compete for the men's team if the sport is a noncontact sport such as track. The school may preclude women from participating on a men's team in a contact sport. A school may preclude men or women from participating on teams for the other sex if athletic opportunities have not been limited in the past for them, regardless of whether the sport is contact or noncontact.

QUESTION:

Can a school be exempt from Title IX if its athletic conference forbids men and women on the same noncontact team?

ANSWER

No. Title IX preempts all state or local laws or other requirements which conflict with Title IX.

QUESTION:

How can a school athletics department be covered by Title IX if the department itself receives no direct Federal aid?

ANSWER:

Section 844 of the Education Amendments of 1974 specifically states that: "The Secretary shall prepare and publish...proposed regulations implementing the provisions of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in Federally-assisted education programs which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of particular sports."

In addition, athletics constitutes an integral part of the educational processes of schools and colleges and, thus, are fully subject to the requirements of Title IX, even in absence of Federal funds going directly to the athletic programs.

The courts have consistently considered athletics sponsored by an educational institution to be an integral part of the institution's education program and, therefore, have required institutions to provide equal opportunity.

QUESTION:

Does a school have to provide athletic scholarships for women?

ANSWER:

Specifically, the regulation provides: "To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics."

QUESTION:

How can schools and colleges interested in a positive approach to Title IX deal with its provisions?

ANSWER:

To encourage each school and college to look at its policies in light of the law, the final regulation now includes a self-evaluation provision. This requires that during the next year the educational institution look at its policies and modify them to comply with the law as expressed by the regulation. This includes remedying the effects of any past discrimination.

QUESTION:

Does Title IX cover textbooks?

ANSWER:

No. While the Department recognizes that sex stereotyping in curricula and educational material is a serious matter, it is of the view that any specific regulatory requirement in this area raises constitutional questions under the First Amendment. The Department believes that local education agencies must deal with this problem in the exercise of their traditional authority and control over curriculum and course content.

QUESTION:

Many universities administer substantial sums of scholarship money created by wills and trusts which are restricted to one sex. If the will or trust cannot be changed to remove the restriction, must the universities cease administration of the scholarship?

ANSWER:

Where colleges administer domestic or foreign scholarships designated by a will, trust or similar legal instrument, exclusively for one sex or the other, the scholarship recipients should initially be chosen without regard to sex. Then, when the time comes to award the money, sex may be taken into consideration in matching available money with students to be awarded the money. Scholarships, awards or prizes which are not created by a will, trust, or similar legal instrument, may not be sex-restricted.

SELECTED REFERENCES ON SEX DISCRIMINATION IN EDUCATION, 1973-Oct. 1981

The library of Congress does not have available for distribution to constituents copies of the publications cited, but some are likely to be found in local school, public, research or government depository libraries.

Bibliography compiled by the Library Services Division, Congressional Research Service, Library of Congress, Oct. 1981.

- LRS74-12551**
 Association of American Colleges.
 Project on the Status and Education of Women.
 What constitutes equality for women in sport?--Federal law puts women in the running. Washington 1974 21 p.
 Contents.--The educational value of sport.--Attitudes towards women in equality for women students in sport.--What constitutes equality for women in non-competitive programs?--What constitutes equality for women in competitive athletics?--Competitive athletics: single sex teams vs. mixed teams.--Competitive athletics: the funding of programs.--"Separate-but-equal" administrative structures in athletic and physical education departments, and governing associations.--What constitutes equality for women employees in sport?
- LRS77-8839**
 Blaufarb, Marjorie.
 Title IX and physical education: a compliance overview. Washington U.S. Office of Education for sale by the Supt. of Docs., U.S. Govt. Print. Off., 1977 23, 6 p.
 Partial contents.--The regulatory provisions.--Applying the regulation: basic guidelines.--Physical education program requirements.--Student course assignment/selection.--Grouping students in physical education classes.--Ensuring nondiscrimination in employment policies and programs.--Increasing student understanding of Title IX requirements.
 Physical education and training-- U.S. --Law and legislation / Sex discrimination against women-- U.S. -
 -Law and legislation / Sex discrimination in education-- U.S. --
 Law and legislation /
 Nondiscrimination provisions-- U.S.
 LB 3401
- LRS78-7395**
 Bailes, Nancy J.
 The unenforced law: title IX activity by Federal agencies other than HEW. Washington National Advisory Council on Women's Educational Programs, for sale by the Supt. of Docs., U.S. Govt. Print. Off. 1978 47, 4 p.
 "Identifies which Federal agencies other than the Department of Health, Education, and Welfare have educational programs which are covered by Title IX; ... survey of those agencies to determine if they are enforcing Title IX by means of regulations, orders or termination of funding; and identifies problems of Intra-Governmental coordination for uniform enforcement."
 Nondiscrimination provisions-- U.S. / Sex discrimination in education-- U.S. / Executive departments-- U.S. /
 LB 15 U.S. A
- LRS79-3886**
 Bornstein, Rita.
 The principal's role in title IX compliance. NASSP National Association of Secondary School Principals bulletin, v. 63, Apr. 1979: 40-45.
 Presents a checklist "by which principals can measure their own efforts to comply with Title IX guidelines and to provide sex equity for all students and employees."
 Sex discrimination in education-- U.S. --Law and legislation / School administrators-- U.S.
 HQ 1428 U.S. B
- LRS79-5128**
 Butler, Matilda. Strover, Sharon.
 Information on women's educational equity: a legislator's guide to sources. San Francisco, Women's Educational Equity Communications Network, 1979. 85 p.
 Discusses women's educational equity issues, presents bibliographic resources on this topic, and includes the names of individuals and organizations doing work in this area.
 Sex discrimination in education-- U.S. / Sex discrimination against women-- U.S. / Nondiscrimination provisions-- U.S.
 G (Gladstone)
 Cole, Robert.
 Title IX: a long dazed journey into rights. Phi Delta Kappan, v. 57, May 1976: 575-577, 586.
- LRS79-8839**
 Case note reviews the Supreme Court decision in Cannon v. University of Chicago, in which the Court held that Title IX contained an implied right to a private cause of action. ... Cannon, a thirty-nine year old woman, applied for admission to various medical schools within her resident state of Illinois. Each of these schools denied her admission. Subsequently, she learned that the medical schools ... had admission policies which made acceptance much more difficult for persons over thirty years of age. ... She claimed that many women interrupted their education to bear children and raise families and therefore the percentage of women applicants over thirty was greater than the percentage of men applicants in that age-group."
 Sex discrimination in education-- U.S. --Legal cases / Medical education-- U.S. --Legal cases / Supreme Court decisions / Women's education-- U.S. --Legal cases / Cannon v. University of Chicago HQ 1428 U.S. B
- LRS80-19386**
 Browning, Charles William.
 Civil rights--sex discrimination-- Amendments of 1972 contains an implied right to a private cause of action. Cannon v. University of Chicago, 441 U.S. 677 (1979). University of Detroit Journal of urban law, v. 58, fall 1980: 74-94.
 Sex discrimination in education-- U.S. --Law and legislation / School administrators-- U.S.
 HQ 1428 U.S. B
- LRS79-8839**
 Case note reviews the Supreme Court decision in Cannon v. University of Chicago, in which the Court held that Title IX contained an implied right to a private cause of action. ... Cannon, a thirty-nine year old woman, applied for admission to various medical schools within her resident state of Illinois. Each of these schools denied her admission. Subsequently, she learned that the medical schools ... had admission policies which made acceptance much more difficult for persons over thirty years of age. ... She claimed that many women interrupted their education to bear children and raise families and therefore the percentage of women applicants over thirty was greater than the percentage of men applicants in that age-group."
 Sex discrimination in education-- U.S. --Legal cases / Medical education-- U.S. --Legal cases / Supreme Court decisions / Women's education-- U.S. --Legal cases / Cannon v. University of Chicago HQ 1428 U.S. B

"Title IX represents a brave effort by the federal government to deal with sex discrimination in education programs. To date it is poorly understood and widely ignored; enforcement appears uncertain and confused. But deadlines are closing in and enlightened leaders are beginning to emerge."

Sex discrimination in education--
U.S. --Law and legislation /
Educational law and legislation--
U.S.

LB 15 U.S. A

Costain, Anne N.
The role of individuals and interest groups in changing and/or maintaining existing policies; eliminating sex discrimination in education; lobbying for implementation of title IX. Policy studies journal, v. 7, winter 1978: 189-195.

Using the example of the women's rights lobbying groups acting to have sex discrimination in education eliminated by the Title IX, this study evaluates the impact of untested interest groups on the legislative process.

Lobbying-- U.S. / Sex
discrimination in education-- U.S. --
Law and legislation /
Nondiscrimination provisions-- U.S.
/ Policy sciences-- U.S.

HQ 1428 U.S. B

Cox, Thomas A.
Intercollegiate athletics and title IX. George Washington law review, v. 46, no. 1, 1977: 34-64.

"Describes and analyzes the application of Title IX and the HEW regulation to intercollegiate sports and... assesses the relationship between Title IX, the equal protection doctrine, and the proposed equal rights amendment to the Constitution."

College sports-- U.S. / Sex
discrimination in education-- U.S. --
Law and legislation

LB 3401

LRS75-15385

Crane, Darrell.
A new dimension in education: girls' and women's sports. NASSP National Association of Secondary School Principals bulletin, v. 59, Nov. 1975: 104-109.

Sex discrimination in education--
U.S. / Physical education and
training-- U.S. / Women athletes--
U.S.

LB 3401

LRS75-2332

Dunkle, Margaret C.
Title IX: new rules for an old game. Teachers college record, v. 76, Feb. 1975: 385-399.

"This article outlines the statutory provisions of Title IX and examines in some detail a number of the student issues which have generated the most speculation and controversy; specifically, admission to schools; financial aid; competitive athletics; sex bias in textbooks and curriculum materials; student health care and pregnancy; single-sex courses and programs, and discriminatory rules and regulations."

Women's education-- U.S. /
Colleges-- U.S. / College entrance
requirements-- U.S. / Sex
discrimination against women-- U.S.

LB 2301 U.S. A

LRS78-5661

Education Law Center.
Eliminating sexism in public schools: a workbook for action. Newark, N.J. 1976. 58 p.

Provides a list of legal provisions prohibiting sex discrimination in education, explains how to obtain various school district materials and data necessary for monitoring compliance, and provides checklists for determining whether a school under Title IX regulation and related state regulation.

Sex discrimination in education--
U.S.

ED (Miller)

Fields, Cheryl M.
July 31: title IX deadline. Chronicle of higher education, v. 15, Nov. 14, 1977: 9-11.

Discusses the impact of title IX (of the education amendments of 1972) provisions requiring colleges and universities to provide equal opportunities for men and women in their athletic programs by July 31, 1978. "Even with the transition period... set by H.E.W. when it published guidelines for Title IX in the summer of 1972, it is clear that both the colleges and their directors of women's athletics still face major problems in providing equal athletic opportunity--particularly athletic scholarships, fair sharing of facilities, and coaching and administrative duties."

College sports-- U.S. / Women
athletes-- U.S. / Sex discrimination
in sports-- U.S.

HQ 1428 U.S. B

LRS78-551

Fishe, Andrew.
Organizational positions on title IX: conflicting perspectives on sex discrimination in education. Journal of higher education, v. 47, Jan.-Feb. 1976: 93-105.

"The results of this analysis demonstrate that groups representing women, teachers, students, and national civil rights commissions have a substantially different view from public school and higher education administrators; athletic groups; and elementary, secondary, and higher education groups on what constitutes sex discrimination in education and what procedures the federal government should require to eliminate it."

Sex discrimination in education--
U.S.

LB 15 U.S. A

Sex discrimination in education--
U.S. --Law and legislation
LB 15 U.S. A

"Papers presented at the April 1979
AERA Symposium 'Funding for Women
With a Special Emphasis on Sources
for Women's Educational Equity' San
Francisco, California."

Howland, Courtney W.
Sex discrimination and intercollegiate
athletics: putting some muscle on title
IX. Yale law journal, v. 88, May 1979:
1254-1279.

"Intercollegiate athletics have
been and continue to be a male domain
that is particularly vulnerable to
charges of sex discrimination.
Congress addressed the general
problem of sex discrimination in
education by enacting Title IX of the
Education Amendments of 1972. Title
IX prohibits discrimination on the
basis of sex in any educational
program receiving federal aid.
Although the statute will alter the
manner in which women are treated in
education, the changes anticipated in
intercollegiate athletics have
received the most public attention
and caused the greatest controversy."
... Comment argues "that the general
language of the statute, together
with certain specific features of it,
strongly suggest that HEW should
develop more stringent and demanding
regulations. It further suggests
that in developing these regulations
HEW should look to social policy
considerations concerning sex
discrimination in intercollegiate
sports."

Sex discrimination in sports--
U.S. --Law and legislation / Women
athletes-- U.S. / College sports--
U.S. / Nondiscrimination provisions
-- U.S. / Federal aid to education--
U.S.
HQ 1428 U.S. B

Hunter, Lisa, ed.
Funding for women's educational
equity. Washington, American
Educational Research Association, 1980.
69 p.

Partial contents.--Practical
problems in obtaining research and
development funds for women, by L.
Hunter.--Women and contracting for
the Federal Government, by B. Kool.--
Federal funding of R&D programs for
women's educational equity: possible
sources in the Department of Labor
and other agencies, by A. Herman.--
Science education efforts on behalf
of women, by L. Ingison.--The
National Institute of Education, by
P. Graham.--The Women's Educational
Equity Act program, by M. Smalley.--
Funding "closet" R&D at FIPSE, by A.
Bernstein.--An overview of foundation
and corporate funding for women's
equity in education, by J. Lyman.--
The Ford Foundation, by T. Saario.--A
review of resources to help women
learn how to secure R&D funds, by P.
Templin.

Women's education-- U.S. --
Conferences / Grants-in-aid-- U.S. --
Conferences / Federal aid programs--
U.S. --Conferences
G (Gladstone)

Implementing title IX: the HEW
regulations. University of
Pennsylvania law review, v. 124, Jan.
1976: 806-842.

"Comment will first develop from
the legislative history, from
executive and judicial interpretation
of Titles VI and VII of the Civil
Rights Act of 1964, and from relevant
constitutional adjudication, a
framework with which to approach
Title IX. The framework will then be
applied to evaluate the HEW
regulations as an implementation of
the mandate of Title IX in the
substantive areas of admissions and
recruitment, access to classes and
activities, behavior and appearance
rules, use of marital or parental
status, facilities, and athletics."

Sex discrimination in education--
U.S. --Law and legislation
LB 15 U.S. A

An interview on title IX with Shirley
Chisholm, Holly Knox, Leslie R. Wolfe,
Cynthia G. Brown, and Mary Kaaren Jolly.
Harvard educational review, v. 49, Nov.
1979: 504-526.

Explores the effects of Title IX of
the Education Amendments of 1972 and
the controversy surrounding its
implementation.

Women's education-- U.S. / Higher
education-- U.S. / Physical
education and training-- U.S. /
Affirmative action programs-- U.S.
HQ 1428 U.S. B

Jensen, June E.
Title IX and intercollegiate
athletics: HEW gets serious about
equality in sports? New England law
review, v. 15, no. 3, 1979-1980: 573-
596.

Comment "considers the policy
interpretation issued by HEW on Dec.
11, 1979. The policy interpretation
is an attempt by HEW to clarify the
standard of equality in athletics for
colleges and universities. The
interpretation deals with athletics,
both intramural and intercollegiate,
but was specifically intended to
answer questions concerning
intercollegiate sports. The policy
statement is first analyzed with
regard to the appropriateness of
including athletics within Title IX's
mandate. Second, its effectiveness
in dealing with the problems women
encounter in intercollegiate
athletics are examined."

College sports-- U.S. --Law and
legislation / Sex discrimination /
sports-- U.S. --Law and legislation /
Sex discrimination against women--
U.S. --Law and legislation /
Affirmative action programs-- U.S. --
Law and legislation / Women athletes--
U.S. --Law and legislation
HQ 1428 U.S. B

LRS78-20103
Johnston, Patty.
Private rights of action under title IX. Harvard civil rights-civil liberties law review, v. 13, spring 1978: 425-474.

"The dispute over private remedies under title IX is part of a more general debate over the extent to which rights of action should be implied from federal statutes, but it has a special urgency because of the fundamental nature of the right involved and the fact that sex equality in education is long overdue. . . . This Comment examines the development and application of the doctrine of implied rights of action, and applies that doctrine to the claims advanced under title IX. . . . Outline s the development of the doctrine, analyze s the criteria enunciated in the Supreme Court's most recent detailed discussion of implied rights of action, Cort v. Ash. . . . Appl ies these criteria to title IX and demonstrate s that an implied right of action is both appropriate and necessary to effectuate the pressing national goal of equal educational opportunity."

Sex discrimination in education-- U.S. --Law and legislation / Women's education-- U.S. --Law and legislation / Actions and defenses-- U.S. / Federal aid to education-- U.S. --Law and legislation / Nondiscrimination provisions-- U.S. --Law and legislation / Civil Rights Act of 1964 / Cort v. Ash
HQ 1428 U.S. B

LRS77-4178
Kadzielski, Mark A.
Title IX of the education amendments of 1972: change or continuity? Journal of law & education, v. 6, Apr. 1977: 183-203.
Concerned "with the context and the content of Title IX and its final regulations which were promulgated on July 21, 1975. The provisions of Title IX will be examined in depth to illuminate their approach to ending sex discrimination in education, and the most sensitive area of athletics

Sex discrimination in education-- U.S. --Law and legislation
LB 15 U.S. A

LRS81-8088
Kelly, Catherine M.
The regulation of employment under Title IX--the proper scope of administrative authority. Fordham law review, v. 49, Apr. 1981: 745-770.

Comment "argues that the legislative history and a consideration of other factors demonstrates that employees of educational institutions are entitled to protection under Title IX. The regulations as written, however, are invalid because Congress did not intend to draft a general prohibition against sex discrimination in schools. Rather, Congress sought to prevent the use of federal funds in support of discriminatory practices in a recipient program or activity. This Note contends, herefore, that the regulations should be rewritten to permit the termination of federal funding only when the funds are used in support of discriminatory employment practices."

Sex discrimination in employment-- U.S. / Sex discrimination in education-- U.S. / Federal aid to education-- U.S. / Nondiscrimination provisions-- U.S.
HQ 1428 U.S. C

LRS78-3118
Kneer, Marian E.
Sex-integrated physical education. NASSP National Association of Secondary School Principals bulletin, v. 62, Apr. 1978: 79-84.

Concludes that "title IX requires that the practice of segregating physical education classes on the basis of sex must cease. Consequently, many of the traditional approaches to teaching physical education will change. Many physical educators are ill-prepared to effect such changes and will need help and patience."

Physical education and training-- U.S. / Sex discrimination in education-- U.S.
LB 3401

LRS78-18082
Kuhn, Janet Lammersen.
Title IX: employment and athletics are outside HEW's jurisdiction. Georgetown law journal, v. 65, Oct. 1976: 49-77.

"Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. The author argues that regulations issued by the Department of Health, Education and Welfare to implement the statute improperly extend title IX's prohibitions to the employment practices and athletic programs of educational institutions in violation of the legislative history and language of the statute."

Discrimination in employment-- U.S. --Law and legislation / Sex discrimination in education-- U.S. --Law and legislation / Federal aid to education-- U.S. --Law and legislation / U.S. Dept. of Health, Education, and Welfare.
HQ 1428 U.S. B

LRS78-19206
Kutner, Joan Ruth.
Sex discrimination in athletics. Villanova law review, v. 21, Oct. 1976: 876-903.

Comment considers the "statutory goals and standards developed by the Congress in its attempt to deal with sex bias" in light of the constitutional standard utilized by the Supreme Court. Analyzes section 86.41 (which sets forth guidelines for the administration of athletic programs) of Title IX of the 1972 Education Amendments. Contends that "the alternative to section 86.41 and the entire separate but equal system is simple enough--that schools classify by ability rather than by sex."

Sex discrimination in education--
U.S. --Law and legislation / Federal
aid to education-- U.S. --Law and
legislation / Women athletes-- U.S.
HQ 1428 U.S. B

LRS77-4880
Leepson, Marc.
Women in sports. Washington
Editorial Research Reports, 1977. 331-
348 p. (Editorial research reports,
1977, v. 1, no. 17)
Contents.--Sexism in the sports
world.--Title IX's impact on
athletics.--Prospects for change in
future.

Women athletes-- U.S. / Physical
education and training-- U.S. / Sex
discrimination in education-- U.S. /
Sex discrimination in sports-- U.S.
HQ 1428 U.S. B

LRS74-25661
Ley, Katherine.
Women in sports: where do we go from
here, boys? Phi Delta Kappan, v. 56,
Oct. 1974: 129-131.
Examines the possible impact on
women's physical education programs
of recent steps taken by the Congress
to prohibit sexual discrimination
under federally assisted education
programs and activities, claiming
that many problems still remain and
that under the new provisions the
influence of women in decision-making
processes may decline.

Women athletes-- U.S. / Sex
discrimination in education-- U.S. /
Physical education and training--
U.S.
HQ 1428 U.S. B

LRS77-11049
Matthews, Martha. McCune, Shirley.
Title IX grievance procedures: an
introductory manual. Washington, U.S.
Office of Education, for sale by the
Supt. of Docs., U.S. Govt. Print. Off.,
1977. 1 v. (various pagings)

Sets forth a structure within which
education agencies and institutions
may systematically review, evaluate,
modify, or further develop their
procedures for processing complaints
of sex discrimination brought under
title IX of the 1972 Education
Amendments.

Sex discrimination in education--
U.S. / School administration--
U.S. / Administrative procedure--
U.S.
G (Keesling)

LRS79-21248
Maurer, Kathleen.
Women's Educational Equity Act:
projects. Washington U.S. Advisory
Council on Women's Educational Programs,
1979. 36 p.
Defines the Women's Educational
Equity Act and discusses its
application to rural schools, career
training for women offenders, women's
sports, and so forth.

Women's education-- U.S. --Law and
legislation / Sex discrimination in
education-- U.S. --Law and
legislation
G (Gladstone)

LRS77-19408
Project on Equal Education Rights.
Stalled at the start: government
action on sex bias in the schools.
Washington, 1977. 79 p.
Analyzes the way HEW has handled
Title IX complaints brought against
elementary and secondary schools and
finds that HEW has failed to fulfill
its responsibility to enforce the
law.

Sex discrimination in education--
U.S. / Executive departments--
U.S. / Nondiscrimination provisions
-- U.S. / U.S. Dept. of Health,
Education, and Welfare.
LB 15 U.S. A

LRS77-16618
Project on Equal Education Rights.
Stalled at the start: government
action on sex bias in the schools.
Washington, 1977. 90 p.

"In its role as the protector of
the rights Congress guaranteed in
Title IX, HEW has three basic
responsibilities: to inform the
public of rights now guaranteed under
the law, and let educators know about
their responsibilities; to
investigate charges brought by
citizens who have been damaged by, or
know of, violations of the law, and
to correct those violations in a
reasonable time; to initiate checks
in other schools to make sure that
opportunities are available equally
to girls and boys, and women and men.
By all the evidence the project
could find, HEW has failed to fulfill
its responsibilities on all three
counts."

Sex discrimination in education--
U.S. / Nondiscrimination provisions
-- U.S. / Government regulation--
U.S. / U.S. Dept. of Health,
Education, and Welfare.
LB 15 U.S. A

LRS81-8713
Rubin, Kim.
Disparate impact suits under title IX.
Stanford law review, v. 33, Apr. 1981:
737-751.

"In response to widespread gender-
based discrimination in education,
Congress enacted Title IX of the
Education Amendments of 1972, which
prohibits discrimination on the basis
of sex in any education program or
activity receiving federal financial
assistance." Comment "describes
Title IX and its implementing
regulations and introduces the
competing standards of
'discriminatory intent' and
'disparate impact' in discrimination
law. ... Argues that the disparate
impact test should apply to sex
discrimination suits under Title IX,
based on the legislative history of
the Act and by analogy with Titles
VII and VI of the Civil Rights Act of
1964."

Sex discrimination in education--
U.S. --Legal cases / Actions and
defenses-- U.S. / Sex discrimination
against women-- U.S. --Legal cases /
Civil Rights Act of 1964
HQ 1428 U.S. B

LRS77-6092
Russell, Dorothy Schoeberlein.
Teaching about sexism: a challenge for
teacher educators. Integrated
education, v. 15, May-June 1977: 6-8.
Describes specific activities which
can be used in teacher education
classes to increase awareness of
sexism.

Teacher education-- U.S. / Sex
discrimination in education-- U.S.
LB 2842 A

LRS80-17019
Salomone, Rosemary C.
Title IX and employment
discrimination: a wrong in search of a
remedy. Journal of law and education,
v. 9, Oct. 1980: 433-447.

Article "focus es upon the history
of litigation challenging the
authority of HEW to promulgate
regulations governing employment
discrimination pursuant to Title IX.
The arguments set forth both by
school districts and institutions
under threat of termination of
federal funding for non-compliance
with the regulations in question and
by HEW in defense of their validity
are discussed in view of
legislative intent as determined by
congressional history and statutory
language."

Sex discrimination in education--
U.S. / Discrimination in employment
-- U.S. / Teachers-- U.S.
LB 2842 A

LRS77-6012
Sandler, Bernice.
Title IX: antisexism's big legal
stick. American education, v. 13, May
1977: 6-9.

Examines the provisions of title
IX, spelling out how they will affect
U.S. education in such areas as
recruiting, admissions, financial
aid, housing, physical education,
student employment, extracurricular
activities, and vocational education.

Sex discrimination in education--
U.S. --Law and legislation /
Nondiscrimination provisions-- U.S.
LB 15 U.S. A

LRS79-2723
Scannell, Nancy.
Title 9 still encounters growing
pains. Washington post, Apr. 8, 1979,
p. E1, E6.

"Title 9, a federal law barring sex
discrimination by colleges and school
systems receiving federal aid, was
enacted in 1972. Ever since,
athletic departments at America's
universities have been trying to deal
with the complicated law. Title 9
has had a major impact on the growth
of women's sports on the collegiate
level and also has been a constant
source of controversy. Athletic
programs at three area schools
George Washington U, Howard, and
Maryland and UCLA were recently
examined to see how they are coping
with Title 9."

Women athletes-- Washington
metropolitan area / Women athletes--
California / College sports--
California / College sports--
Washington metropolitan area / Sex
discrimination in sports-- Washington
metropolitan area / Sex
discrimination in sports--
California / Nondiscrimination
provisions-- California /
Nondiscrimination provisions--
Washington metropolitan area
HQ 1428 U.S. B

LRS77-4108
Schreiber, Ann.
New regulations and cases on athletics
discrimination. Notes from the women's
rights project, v. 1, Mar. 17, 1977: 5-
14.

Discusses recent rules and legal
cases regarding sex discrimination in
interscholastic sports.

Sex discrimination in sports--
U.S. --Law and legislation / Sex
discrimination in sports-- U.S. --
Legal cases / Sex discrimination in
education-- U.S. --Legal cases / Sex
discrimination in education-- U.S. --
Law and legislation
HQ 1428 U.S. B

LRS77-6294
Silver, Paula F. Podemski, Richard S.
Engin, Ann W.
Attitudes toward sex role
differentiation in education:
implications for title IX
implementation. Journal of research
and development in education, v. 10,
winter 1977: 26-35.

Reports results of a survey which
attempted to discover the attitudes
of educators toward sex-related role
differentiation. The survey shows
them to be mildly liberal toward
eliminating sex-related distinctions,
with the women educators being
significantly more so than the male.

Educational surveys-- U.S. / Sex
discrimination in education-- U.S. --
Research / Sex role
LB 15 U.S. A

LRS81-5244
Simpson, Lynda Guild.
Sex discrimination in employment under
title IX. University of Chicago law
review, v. 48, spring 1981: 462-477.

"Section 901 of Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs receiving federal financial aid. ... The Department of Health, Education, and Welfare ('HEW'), pursuant to section 902 of the Act, promulgated regulations to implement Title IX. ... Since the regulations were issued, several schools have challenged HEW's interference with an area of their administration over which, they say, the Act and HEW have no control. ... This comment analyzes these cases, examines the legislative history of Title IX, and concludes that section 901 authorizes HEW to regulate employment practices, but that the agency must limit the effect of its regulations to specific programs that receive federal financial aid."

Sex discrimination against women-- U.S. --Law and legislation / Federal aid to education-- U.S. --Law and legislation / Nondiscrimination provisions-- U.S. / Sex discrimination in education-- U.S. --Law and legislation / Sex discrimination in employment-- U.S. --Law and legislation
 HQ 1428 U.S. C

Smith, Doris. Pingree, Suzanne. Directory of organizations working for women's educational equity. San Francisco, Women's Educational Equity Communications Network, 1980. 128 p. This booklet lists state, local, national and regional organizations which have women's concerns as a major focus and which are "concerned at least in part with educational equity." It includes a subject index.
 Women's organizations-- U.S. -- Directories / Sex discrimination in education-- U.S. --Directories
 G (Gladstone)

Symposium: sports and the law. Western State University law review, v. 3, spring 1976: 185-283.
 LRS76-9835

Contents.--The emancipation of professional athletes, by L. Sobel.-- Congress tackles sports and broadcasting, by P. Hochberg.--Title IX and the NCAA, by J. Koch.--The aftermath of Flood v. Kuhn: professional baseball's exemption from antitrust regulation, by P. Martin.

Sports and state-- U.S. / Collective labor agreements-- U.S. --Legal cases / Professional sports-- U.S. --Legal cases / Telecommunication law and legislation -- U.S. / Sex discrimination in education-- U.S. / Women athletes-- U.S. / Antitrust law-- U.S. --Legal cases / Supreme Court decisions / National Collegiate Athletic Association. / Flood v. Kuhn
 LL Per.

Thurston, Paul. Judicial dismemberment of Title IX. Phi Delta Kappan, v. 60, Apr. 1979: 594-596. "Title IX, heralded as bringing an end to sex discrimination in the public schools, is in danger of being emasculated by several recent court decisions. ... Recent court decisions, for example, have challenged the legality of part of the athletics section and questioned the enforceability of much of the rest of the Title IX regulations."

Sex discrimination in sports-- U.S. --Law and legislation / Sex discrimination against women-- U.S. --Law and legislation / Sex discrimination in employment-- U.S. --Law and legislation / Women athletes -- U.S. --Law and legislation / Women's education-- U.S. --Law and legislation
 HQ 1428 U.S. B

Todd, James C. Title IX of the 1972 education amendments: preventing sex discrimination in public schools. Texas law review, v. 53, Dec. 1974: 103-126.
 LRS74-29223

Article concludes that "Title IX is more apt to achieve its purposes if the HEW regulations reflect the intent behind the Act and give it maximum extension."

Federal aid to education-- U.S. --Law and legislation / Sex discrimination against women-- U.S. --Law and legislation
 LB 75 A

Commission on Civil Rights. Enforcing title IX: a report. Washington 1980. 78 p.

Concludes that through 1979, HEW's Office for Civil Rights "has been very slow to issue important guidelines. It has been slow to process complaints. It has shown little commitment to discovering violations or to assisting institutions to prevent them."

Sex discrimination in education-- U.S. --Law and legislation / Federal aid to education-- U.S. --Law and legislation / U.S. Dept. of Health, Education, and Welfare. Office for Civil Rights.
 G (Gladstone)

U.S. Congress. House. Committee on Education and Labor. Subcommittee on Equal Opportunities. The Women's Educational Equity Act. Hearings, 93d Cong., 1st sess., on H.R. 208. Part 1. Washington, U.S. Govt. Print. Off., 1973. 622 p. Hearings held July 25...Sept. 13, 1973.
 LRS73-27161

Women's education-- U.S. --Law and legislation / Educational equalization-- U.S. --Law and legislation / Textbooks-- U.S. / Educational counseling-- U.S.
 RBC 1220

LR575-14590
U.S. Congress. House. Committee on Education and Labor. Subcommittee on Postsecondary Education.
Sex discrimination regulations. Hearings, 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975. 664 p.
Hearings held June 17...26, 1975.

Sex discrimination in education-- U.S. --Law and legislation / Women athletes-- U.S. --Law and legislation / Federal aid to higher education-- U.S. --Law and legislation
RBC 771

LR576-887
U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on Education.
Prohibition of sex discrimination. Hearings, 94th Cong., 1st sess., on S. 2106. Sept. 16 and 18, 1975. Washington, U.S. Govt. Print. Off., 1976. 440 p.
Legislation to exempt certain revenue producing intercollegiate athletic activities from the provision of title IX of the Education Amendments of 1972.

Sex discrimination in education-- U.S. --Law and legislation / Women athletes-- U.S. --Law and legislation / Physical education and training-- U.S. --Law and legislation / Higher education-- U.S. --Law and legislation / Sports and state-- U.S.
RBC 1321

LR573-28178
U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on Education.
Women's Educational Equity Act of 1973. Hearings, 93d Cong., 1st sess., on S. 2518. Oct. 17 and Nov. 9, 1973. Washington, U.S. Govt. Print. Off., 1973. 426 p.

Women's education-- U.S. --Law and legislation / Educational equalization-- U.S. --Law and legislation / Colleges-- U.S.
RBC 1308

LR581-8731
U.S. Dept. of Education.
Women's Educational Equity Act Program, annual report 1980. Washington, 1981. 113 p.

"The Women's Educational Equity Act (WEEA) represents a significant Federal effort to confront the massive problems of sexism in American education, manifested in a variety of discriminatory attitudes, stereotypes and practices. ... During Fiscal Year 1980, its fifth year of funding, the WEEA Program targeted its resources on areas of greatest need, as defined by its five funding priorities; a total of 365 grants have been awarded since 1976." Presents grant summaries for projects in such areas as Title IX compliance; educational equity for ethnic, racial and minority women; and elimination of barriers to educational equity.

Women's education-- U.S. / Women's Educational Equity Act
GOV (Gladstone)

LR578-4487
U.S. Dept. of Health, Education, and Welfare. Office of Civil Rights.
Nondiscrimination in Federally assisted programs: directive on the application of title IX to intercollegiate athletics. Federal register, v. 43, May 2, 1978: 18772-18775.
Memoranda and documentary materials on the implementation of Title IX athletic requirements. Concludes "that institutions of higher education receiving Federal financial assistance must comply with Title IX in the administration of their revenue-producing athletic activities."

Sex discrimination in education-- U.S. --Law and legislation / Sex discrimination in sports-- U.S. --Law and legislation / Women athletes-- U.S. --Law and legislation / College Federal aid to higher education-- U.S. --Law and legislation
HQ 1428 U.S. B

LR575-8778
U.S. Dept. of Health, Education, and Welfare. Office of the Secretary.
Nondiscrimination on basis of sex: education programs and activities receiving or benefiting from Federal financial assistance. Federal register, v. 40, June 4, 1975: 24127-24145.
Regulations Implementing Title IX of the 1972 Education Amendments.

Sex discrimination-- U.S. --Law and legislation / Women's education-- U.S. --Law and legislation
HQ 1428 U.S. B

LR576-8475
U.S. National Advisory Council on Women's Educational Programs.
To provide educational equity for women; third annual report, 1977. Washington, For sale by the Supt. of Docs., U.S. Govt. Print. Off., 1978. 31 p.
National Advisory Council on Women's Educational Programs report discusses the Council's activities during 1977. The Council "evaluated the Women's Educational Equity Act Program and advised on improvements. It studied sex discrimination in the Education Division of the Department of Health, Education and Welfare and made recommendations dealing with management, funding, communications and products, data, and regulations. It investigated the special educational needs of neglected population groups and looked into the status of women's studies programs in our colleges and universities."

Women's education-- U.S. / Women
 educators-- U.S. / Sex
 discrimination in education-- U.S. /
 Sex discrimination against women--
 U.S. / Discrimination in employment
 -- U.S. / Women's employment-- U.S.
 / Federal employees-- U.S. /
 Executive departments-- U.S. / U.S.
 Dept. of Health, Education, and
 Welfare. Education Division.
 A (Lewis)

Women's employment-- U.S. --
 Bibliography / Women-- U.S. --
 Bibliography / Sex discrimination in
 education-- U.S. --Bibliography
 G (Gladstone)

LR578-8011

Visser, Lesley.
 Title IX: equality. Boston globe.
 June 14, 1978, p. 21, 24; June 15, p.
 45, 47; June 16, p. 39, 43.

Series of three articles discusses
 the influence of Title IX (which
 prohibits discrimination on the
 basis of sex in educational programs
 and activities which receive Federal
 funding) on college athletic
 programs. Also discusses National
 Collegiate Athletic Association
 sentiments about the provisions of
 Title IX and considers the impact of
 Title IX on the athletic programs at
 three New England colleges,
 University of Rhode Island, Boston
 State College, and Harvard
 University.

College sports-- U.S. / Women
 athletes-- U.S. / Associations,
 institutions, etc.-- U.S. / National
 Collegiate Athletic Association.
 HQ 1428 U.S. B

LR580-13570

Women's Educational Equity
 Communications Network.
 Resources in women's educational
 equity. San Francisco, Calif., for
 sale by the Supt. of Docs., U.S. Govt.
 Print. Off. 1980. 341 p.

This work "contains material
 entered into computerized data bases
 from spring 1978 through October
 1978." It cites such works as
 instructional and training materials;
 descriptions of educational curricula
 and programs; and evaluative studies.
 It includes materials on such topics
 as women's education, legal status of
 women, career development for women,
 women's health issues, and sex role.