

# CRS Report for Congress

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## Sex Discrimination in Education: Overview of Title IX

Leslie Gladstone  
and

Gary Galemore

Analysts in American National Government  
Government Division

### Summary

Although Title IX has been only partially successful in eliminating sex discrimination in education, the effects of this legislation have been far-reaching. Despite problems with enforcement of the statute, the women and girls of today tend to be better educated and have more opportunities than those of their mothers' generation. Major attention at present centers on funding for equal opportunities in athletics, although equality in the classroom, a more complex problem, may affect more students in terms of future opportunities and earning power.

### History of Title IX

Title IX was enacted on June 23, 1972, as part of a general education bill, the Education Amendments of 1972.<sup>1</sup> It prohibits discrimination on the basis of sex in federally assisted education programs or activities. The word "programs" under Title IX refers to all of the activities of any educational institution receiving federal funding for any part of its program, a point clarified by Congress under the Civil Rights Restoration Act of 1988.<sup>2</sup> An educational institution is defined as any "public or private pre-school, elementary or secondary school or any institution of vocational, professional or higher education." The ban on sex discrimination does not apply to religious schools, if it would violate the doctrine of the religious body. Although federal agencies that administer educational funding programs are responsible for enforcing nondiscrimination and may terminate funding on the basis of sex bias, few educational institutions have lost funding

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<sup>1</sup> P.L. 92-318; 86 Stat. 373, 1972; 20 U.S.C. 1681 et seq.

<sup>2</sup> P.L. 100-259; 102 Stat. 28, 1988.

for this reason. Thus far in Title IX's 25-year history, pressure for stronger enforcement has come largely as a result of court suits initiated by women's groups, rather than through agency action.

Title IX grew out of the women's civil rights movement of the late 1960s and early 1970s. In that period, Congress began to focus attention on systemic educational barriers to women and girls, in part because of the associated limitation on women's employment opportunities, which led to lower lifetime earnings and fewer opportunities generally.<sup>3</sup> This problem had serious implications, not only for women themselves, but also for their ability to contribute to their families, to society, and to the national economy. Hearings in June and July of 1970, prior to passage of Title IX, documented what supporters perceived as pervasive discrimination and sex stereotyping in the treatment of males and females in educational institutions. These hearings and other investigations gave impetus to the growing effort to make taxpayer funded educational programs more equitable.<sup>4</sup>

Although Title IX has been on the statute books for 25 years, the law is considered by many to be only a partial success. For persons directly affected by Title IX, the law remains confusing and almost always controversial. To this day, the public perception of the intended purpose and major impact of Title IX is in its application to women's athletics, yet the statute applies to every area of sex-based discrimination in an educational setting.

## Why Congress Enacted Title IX

The testimony before Congressional committees prior to passage of Title IX in 1970 documented examples of differential treatment of males and females.<sup>5</sup> Examples from the testimony included the following:

- Some publicly funded universities did not admit women to undergraduate programs, had higher admissions standards for women than men, or had imposed sex-based quotas.
- Certain academic programs and courses within publicly funded educational institutions, such as nursing schools, would not admit married women.

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<sup>3</sup> Since the Supreme Court decision in *Brown v. Board of Education* (347 U.S. 483, [1954]), the relationship between equality in education and in society has been the object of public concern. In fact, Title IX is based on Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 78 Stat. 252), which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, except that Title IX does not exclude employment from coverage of the statute.

<sup>4</sup> U.S. Congress, House Special Subcommittee on Education, *Discrimination Against Women*, hearings on Sec. 805 of H.R. 16098, 91<sup>st</sup> Cong., 2<sup>nd</sup> sess., 1970. (Washington: GPO, 1970).

<sup>5</sup> *Ibid.*, passim.

- Equally qualified women were found to be less likely to receive financial aid or received smaller amounts than their male counterparts, and married women often were excluded from receiving awards of financial aid.
- Some school sponsored activities, such as honor societies, were reserved for male students only, and women's athletics were commonly funded at levels far below parallel programs for men.
- Women frequently were discouraged from applying to law and medical schools or majoring in the hard sciences, such as physics or engineering.
- Women who sought employment at educational institutions with equivalent training and experience to that of male applicants were often hired at lower salaries than their male counterparts and were less likely to be promoted to principal, department head, dean, or university president.

## **Changes Attributed to Title IX in Increasing Equal Educational Opportunity**

Proponents of Title IX contend that a more equal, more educated, and more prosperous nation has resulted because of the far-reaching effects of this legislation. While no definitive study has been made of the full impact of Title IX, there are a number of indicators of substantial change. For example:<sup>6</sup>

- For American colleges and universities, women now constitute majorities in college enrollment and completion, and are the majority of recipients of bachelor's and master's degrees. The proportion of women graduating from college today is now equal to that of men, with both at 27%. In 1971, only 18% of young women completed four or more years of college, compared to 26% of young men. By 2006, women are projected to earn 55% of all bachelor's degrees.
- In graduate and professional fields, women have had new opportunities to advance and broaden their education, and have made significant inroads in specialty fields. In 1994, women earned 34% of all U.S. medical degrees, compared to 1972 when only 9% of U.S. medical school degrees went to women. Women also earned 39% of all U.S. dental degrees in 1994; in 1972 they were only 1% of the graduates. In 1994, women accounted for 43% of all U.S. law school degrees, up from 7% in 1972. Of all doctoral degrees awarded to U.S. citizens in 1994, 44% went to women, compared to 25% in 1977.
- There are more female faculty members now than in 1972, with women constituting 37.9% of faculty members at two-year public colleges, and 19.5% at private four-year colleges and universities. In 1972, women held 10% of all academic positions.

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<sup>6</sup> U.S. Department of Education, Title IX: 25 Years of Progress, <http://www.ed.gov/pubs/TitleIX/index.html#toc>, visited June 1997.

- In athletic participation, an area that has received the lion's share of media attention, there has been a fourfold increase in participation since 1971, with more than 100,000 women competing in intercollegiate events. Currently, women constitute 37% of all U.S. college athletes, compared to 15% in 1972. Recent data show that there are 2.4 million high school girls, taking part in various sports, representing 39% of all high school athletes, more than a fivefold increase. In 1971, they totaled 300,000, or 7.5%. Studies have shown that values learned from sports participation, such as teamwork, leadership, discipline, and pride in accomplishment, are important attributes as women increase their participation in the workforce, as well as their entry into management and ownership positions in higher numbers than ever before. For example, 80% of female managers of Fortune 500 companies have a sports background. Also, high school girls who participate in team sports have been found to be less likely to drop out of school, smoke, drink, or to have unwanted pregnancies.

In addition to these indicators, the performance of women athletes in the 1996 Olympics, where they were responsible for a number of U.S. gold medals,<sup>7</sup> has been attributed by many to the effect of Title IX on the most recent generation of U.S. girls and women.

## Continuing Controversies

One of the reasons for the seemingly disproportionate attention paid to women's athletics under Title IX relates to persistent differences in funding support for men's and women's sports programs (a more easily measured indicator than classroom inequities). Although women represent the majority of students in U.S. undergraduate college programs and 34% of all athletes, a 1997 gender-equity study by the National Collegiate Athletic Association (NCAA)<sup>8</sup> found that spending for men's athletics continues to dwarf monies spent on women's sports, specifically \$2.4 million per school on average for men versus \$663,000 on average for women.

For some, the current gains made by women athletes under Title IX represent sufficient progress. They believe that a more aggressive implementation of Title IX, will result in more men's non-revenue sports being dropped by educational institutions in order to add mandated women's teams to meet the equity standards of the Act.<sup>9</sup> To critics, this unintended consequence of Title IX enforcement has resulted in a kind of reverse discrimination against men's sports programs, substituting discrimination against women for discrimination against men, and thus defeating the original intent of the law.

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<sup>7</sup> Out of a total of 101 medals won by U.S. men and women, men won 58 medals, women won 38, and they shared five others. The women took 19 gold medals, 10 silver, and 9 bronze. They also shared with men two silver and three bronze medals for teams where men and women competed together.

<sup>8</sup> National Collegiate Athletic Association, NCAA Gender-Equity Study: Summary of Results. (Overland Park, Kansas: April 1997).

<sup>9</sup> Amy Shipley, "Title IX at 25," Washington Post, July 6, 1997, pp. A1, A6-7.

For advocates of Title IX, however, the perceived slow progress in implementing gender equity is not only harmful, but also contravenes the legal requirements of the law.<sup>10</sup> They believe that educational institutions must adapt to the needs and legal rights of both male and female students, and must serve the entire student population, rather than in the case of athletes, concentrating limited resources on a few high-profile sports like football and basketball. Supporters of greater enforcement of Title IX reject opponents' arguments that men's football and basketball are revenue-producing sports and, thus, should not be included in formulas seeking to achieve equity. This argument includes the proposition that men's football and basketball programs are critical to supporting all other non-revenue sports at most institutions. Proponents do not entirely disagree with this pleading, but point out that over 40% of NCAA Division I schools are losing money on their sports departments, even with football and basketball. Advocates of Title IX also contend that these revenue sports not only raise greater profits than most other sports, as claimed, but also consume a greater share of limited funds.

Those who would like to see Title IX more broadly applied reject the assumption that only girls would thereby benefit and that boys would inevitably lose opportunities. Such a viewpoint tends to reinforce current stereotypes, they believe, and rather than encouraging cooperation in a search for constructive solutions, only serves the narrowest of interests.

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<sup>10</sup> Under Title IX, a school is considered in compliance with the gender-equity requirements of the statute if it meets one prong of a three-pronged test: if the ratio of female athletes to male athletes is substantially proportionate to the ratio of female students to male students; if the college can show that it is moving in the right direction and has a plan to get there in a reasonable number of years; or if it can show that there is no unmet need among the underrepresented class, which is usually, but not always, women.