

1972 title ix: an enormous boost for women's athletics

[Politics](#), [Civil Rights](#)



" No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance." - Title IX of the Education Amendments of 1972

Title IX has had a profound impact on the American athletic culture since it was included in the Educational Amendments of 1972. In fact, according to the " Save Title IX" group ([www. savetitleix. com/coalition](http://www.savetitleix.com/coalition)), an alliance of sixty organizations spearheaded by the National Coalition for Women and Girls in Education (NCWGE), in 1971 there were 32, 000 women in varsity intercollegiate sports in U. S, colleges and universities; but by 1997, thanks to Title IX, there were 160, 000 women participating in interscholastic athletics on university and college campuses.

On high school campuses the rate of growth of girls playing sports was even more dramatic - based on athletically-inclined girls' knowledge that they would be able to participate in intercollegiate sports in college: in 1971, the year prior to Title IX, there were 294, 000 girls playing interscholastic sports, and by the 2002-2003 school year, over 2. 8 million high school girls were playing interscholastic sports.

According to the American Association of University Women (AAUW) Title IX, when enacted by Congress thirty-five years ago, specifically prohibited discrimination based on gender and marital or parental status in: admissions; housing and facilities; college and university courses; career guidance and counselling services; student financial aid; student health and insurance benefits; and " scholastic, intercollegiate, club, or intramural athletics." And

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there is a three-part test to determine if a university or college is in compliance, the AAAUW Web page explains: the first prong is based on the proportion of female students attending the institution compared with females participating in intercollegiate sports; prong #2 examines whether the school has a track record of expanding sports opportunities for women; the third prong: is the school adequately accommodating women's athletic interests and abilities?

Main Body of Literature and Assessment of Challenges to Title IX

Meantime, studies show that today, one out of three high school girls are playing sports on a school team. That is a very good thing, according to an article in the *Journal of Gender, Social Policy & The Law* (Brake, 2004): "Studies show that girls who compete in sports not only receive a physical benefit, but also benefit academically and socially," Brake explains. Girls playing sports have "higher self-esteem, less risk of depression," less likelihood of "engaging in high-risk behaviors," and also, those young women "perform better in school than girls who do not play sports," Blake's article continues.

Moreover, engaging in vigorous athletic activities on a sports team – at the interscholastic and intercollegiate levels – gives girls and women "the opportunity to develop new relationships with their bodies, as a source of strength and learning."

Meantime, the many positives listed above notwithstanding, all is not well in the world of Title IX. "Like other social institutions, sport has been resilient in

preserving male privilege in its deepest structures," Brake's piece continues. Borrowing a phrase from Professor Reva Siegel called "preservation through transformation" - which means avoiding direct conflict with institutional shifts in ideology while maintaining "the underlying structure of inequality" by regrouping, according to Brake, "to preserve the central features of male privilege in sport."

Brake's example of "preservation through transformation" in university sports is "the devastating loss... of positions for women coaches and athletic administrators." To wit: the percentage of women coaching female athletes in college "has dropped from ninety percent in 1972 to forty-four percent in 2002, the lowest level on record." And though 361 new coaching positions were created in women's athletics between 2000 and 2002, Brake explains, "more than ninety percent of them were filled by men."

Brake's second example is that prior to Title IX, women's athletic departments were managed separately from men's, and women held "virtually all of the administrative positions for women's sports"; today, in the Title IX era, the two departments have merged, and women "remain tokens in leadership positions" in intercollegiate athletics.

"By linking leadership and competence in sports with maleness," Brake continues, "sport's leadership structure reinforces women's marginal place in sports and reinserts a risk that the empowering potential of sports will be thwarted by gender dynamics that reinforce male dominance," according to Brake's article. Beyond that, there exists "a massive divide in salaries for

coaches of men" s sports and coaches of women" s sports," Brake concludes, and Title IX does " next to nothing" about those disparities.

Meanwhile, a challenge to the intent and policies of Title IX was established under the administration of George W. Bush, in 2002: called " The Commission on Opportunities in Athletics," it was administered by the U. S. Department of Education (DOE), and clearly, from the outset, the intention was to address the problem at universities where some minor men" s sports were pushed out by emerging women" s sports, vis-à-vis the law that is Title IX. In a Chronicle of Higher Education article (Staurowsky, 2003), the writer - chair of the department of sports management and media at Ithaca College - asserts that the strategy the panel followed lacked " coherency" and that the process " was seriously flawed."

Staurowsky writes that the members of the panel revealed " skewed power dynamics": they all were educated in or worked for, the Division I institutions " that have been most visible and vocal" in challenging Title IX compliance regulations. The panel, for example, " almost unanimously" supported a proposal encouraging the DOE to " explore an antitrust exemption" for college sports, " which would trade institutional promises to cease discriminating against students on the basis of sex for a government promise to protect the financial interests of football and men" s basketball..." That proposal " defies logic," Staurowsky asserted.

At the conclusion of the panel" s research, only minor changes in Title IX were initially proposed by DOE; however, according to an Education Week

article (Davis, 2005), the DOE has recently given universities a way to meet Title IX guidelines by having female students email their response to questions like, " Do you believe that you have the ability to participate (in a particular sport) at the level at which you indicated interest?" And apparently, if sufficient positive answers are received by the DOE, a school passes muster regarding Title IX. " We think... this allows schools to skirt the law," said Neena Chaudhry, an attorney with the National Women's Law Center. Miles Brand, the NCAA president, was also interviewed in the Education Week article, saying the email survey " will not provide an adequate indicator of interest among young women in college sports, nor does it encourage young women to participate - a failure that will likely stymie the growth of women's athletics."

There will be more challenges for Title IX, and certainly there is a good chance that the Bush Administration will continue to attempt to " water down" the three prongs, to give a nod to those minor men's programs (wrestling, water polo, among others) that have been cut due to the expansion of women's sports programs. But for those who wish to see Title IX remain as a solid, well-enforced, gender-friendly law, the best strategy is to stay informed. How many American women (or men) who believe in Title IX know that the U. S. Supreme Court recently ruled (5-4) that " whistleblowers" who point out gender discrimination in violation of Title IX are protected from retaliation?

Also, how many know that in two cases brought before the Supreme Court (Gebser v. Lago Independent School District, 1998; and Davis v. Monroe

County board of Education, 1999) where sexual harassment was alleged (a violation of Title IX), the Court "imposed a "high burden" on students who seek damages? The Court ruled, according to Human Rights: Journal of the Section of Individual Rights & Responsibilities (Lassow, 2004), that those seeking damages under Title IX "must show that school officials had 'actual knowledge" of the harassment and responded to it with 'deliberate indifference,'" a very difficult assignment even for a highly skilled attorney.