Title IX: A Brief History

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"Women now make up the majority of students in America's colleges and universities in addition to making up the majority of recipients of master's degrees. Indeed, the United States has become a world leader in giving women the opportunity to receive a higher education."

"Too many girls and women still confront 'No Trespassing' signs throughout educational institutions. Women remain underrepresented in critical areas such as math and science. Colleges and universities continue to give short shrift to women's athletics, spending the lion's share of money on men's programming. Scoring gaps persist in standardized testing, limiting women's access to educational institutions, financial aid, and careers. Non-traditional job training programs leading to high-skill, high-wage jobs are still hostile places for women, where they confront the most severe forms of harassment. Few women, particularly women of color, have broken the glass ceiling that keeps the top ranks of positions in colleges and universities primarily the preserve of men. . . . We owe it to our daughters to improve our performance on Title IX by removing these obstacles."

The modern women's movement achieved a historic victory on June 23, 1972, when the U.S. Congress passed Title IX as part of the Education Amendments to the Civil Rights Act of 1964. The preamble to Title IX states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational
programs or activity receiving federal financial assistance." With this act, the role of women and girls in education and the work force began to change significantly. Title IX ensures legal protection against discrimination for students and employees, which includes protection against sexual harassment. Specifically, it prohibits discrimination on the basis of gender in educational institutions receiving federal financial assistance. The act applies to most public and private schools, from kindergarten through graduate schools, and covers admissions, recruitment, educational programs and activities, course offerings and access, counseling, financial aid, employment assistance, facilities and housing, health and insurance benefits and services, scholarships, and athletics. It also protects from discrimination against marital and parental status.¹

ORIGINS

Title IX’s origin lies in the 1965 presidential Executive Order 11246 prohibiting federal contractors from discrimination in employment on the basis of race, color, religion, or national origin. Executive Order 11246 was amended by President Johnson, effective October 13, 1968, to include discrimination based on sex and was renamed “Executive Order 11246 (1965) as amended by Executive Order 11375 (1967).” Bernice R. Sandler, at the time a part-time professor at the University of Maryland and currently a senior scholar in residence at the National Association for Women in Education, was the first to use the order for the benefit of women. “I had made the connection,” she noted, “that, since most universities and colleges had federal contracts, they were forbidden from discriminating in employment on the basis of sex.” Ignited by Sandler’s efforts, on March 9, 1970, Rep. Martha Griffiths (D-Michigan) gave the first speech in the U.S. Congress concerning discrimination against women in education. Three weeks later, the first contract compliance investigation involving sex discrimination began at Harvard University.

In June and July 1970, Rep. Edith Green (D-Oregon), who chaired the subcommittee that dealt with higher education, drafted legislation prohibiting sex discrimination in education and held the first
congressional hearings on the education and employment of women. The hearings that Rep. Green held were the first legislative step toward the enactment of Title IX. The original version of the bill, which was part of a larger measure on higher education, proposed to amend Title VII of the 1964 Civil Rights Act (prohibiting discrimination in employment on the basis of race, color, religion, sex, or national origin) to cover employees in educational institutions. The measure also proposed to amend Title VI of the Civil Rights Act (prohibiting discrimination on the basis of race, color, or national origin in any program receiving federal financial assistance) to cover sex discrimination, and to extend the Equal Pay Act to cover executives, administrators, and professionals. When the hearings were finished, Rep. Green asked Sandler to join the committee staff to put together the written record of the hearings. Sandler thus became the first person ever appointed to the staff of a congressional committee to work specifically in the area of women's rights.

The bill was managed in the Senate by Senators Birch Bayh (D-Indiana) and George McGovern (D-South Dakota). The House-Senate conference committee took several months to settle differences between the House and Senate education bills. Honoring the requests of African American leaders and their supporters, who feared that the process of amending Title VI could weaken its coverage, Rep. Green proposed a separate and new title, which became the now famous Title IX.

The technical wording of the bill made it difficult to understand at a quick glance and discussion on the Senate floor included whether the bill would require educational institutions to allow women to play football. Not imagining the potential impact of Title IX on athletics, when their concerns about football were allayed, higher education did not lobby for or against the bill. Sandler and the bill's other supporters did not lobby on its behalf either in order to avoid attracting adverse attention. The elementary and secondary education community remained for the most part unaware of it because it was attached to a higher education measure.

The bill also included the amendment to the Equal Pay Act—enforced by the Department of Labor—extending protection against
sex discrimination to administrators, professionals, and executives. Although Title IX largely slipped by its potential detractors, it would significantly expand the jurisdiction of the Department of Labor—a fact that was not realized until after passage of the bill. President Nixon signed Title IX into law on July 1, 1972. That same year, Title VII of the Civil Rights Act was amended in a separate action to cover all employees in educational institutions.²

### STIPULATIONS

The Department of Health, Education, and Welfare took three years (1972–75) to translate Title IX into specific regulations.³ President Ford signed the Title IX regulations on May 27, 1975. According to these regulations:

- School systems or other recipients of federal funds must designate at least one employee as the Title IX coordinator to oversee compliance efforts and investigate any complaints of sex discrimination.
- All students and employees must be notified of the names, office address(es), and telephone number(s) of the designated coordinator(s) of Title IX.
- Grievance procedures and nondiscrimination policies must be made public.
- Recipient school systems must perform self-evaluations, with obligations to modify practices that do not comply with Title IX.
- School systems may take remedial and affirmative steps to increase the participation of students in programs or activities where bias has occurred.

Although at least one employee is required to be designated to coordinate compliance with Title IX, it is the shared responsibility of an entire school district, from top-level administration to individual staff, to foster compliance.
Although the actual development of Title IX was spurred on by the presidential Executive Order 11246, Title IX grew out of the Civil Rights and feminist movements of the late 1950s, 1960s, and early 1970s. Beginning in the 1950s with the Supreme Court decision in Brown v. Board of Education (1954) outlawing racial segregation in public schools, African American communities had begun to win concessions in the struggle for equal rights. In 1964, African Americans achieved another major victory when Congress passed the Civil Rights Act. Title VII of the act prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. In addition, Title IV provides support to schools working to comply with the nondiscrimination mandate by providing federal funding for regional assistance centers and state education agencies in order to allow these agencies to provide free technical assistance and materials to elementary and secondary schools to ensure that students receive equal educational opportunities. In the fall of 1996, Congress eliminated state funds for Title IX, reducing the resources available to local school districts, and federal funding is currently under debate.

As a civil rights statute, Title IX was to be enforced by the Office for Civil Rights (OCR), which had enforced racial discrimination laws since 1964. Three other pieces of civil rights legislation followed Title IX: Section 504 of the Rehabilitation Act of 1973, prohibiting disability discrimination; the Age Discrimination Act of 1975; and Title II of the Americans with Disabilities Act of 1990, prohibiting disability discrimination by public entities.

In addition, the Women’s Educational Equity Act (WEEA) was passed in 1974. The purpose of the law is to make education more equitable for girls and women by providing incentives and guidance to schools and community groups. It was extended in 1978, amended in 1984, and reauthorized in 1988. In contrast to Title IX, which provides sanctions for noncompliance with the sex equity legislation, WEEA represents the supportive component: providing fund-
ing at all levels of education for programs of national, statewide, or
general significance to overcome sex stereotyping and achieve edu-
cational equity for girls and women.\textsuperscript{6} The key priorities in the early
years of the grant program were Title IX compliance by educational
institutions and educational equity for racial or ethnic minorities and
women and girls with disabilities. WEEA funded grants; the National
Advisory Council on Women's Educational Programs (NACWEP);
and the WEEA Publishing Center, now the WEEA Equity Resource
Center.

Congress established NACWEP to advise the Secretary of Edu-
cation on recommendations concerning sex equity legislation and to
evaluate actual WEEA-funded programs. Originally a bipartisan body,
it published key reports such as \textit{The Half Full, Half Empty Glass}
(1981). By 1982, however, it was dominated by Reagan appointees,
and in 1988 it was eliminated by the WEEA Reauthorization Act.
For over 20 years, the WEEA Equity Resource Center, which is housed
at Education Development Center, Inc. (EDC), has supported gender
equity initiatives through the marketing and development of gender-
fair materials and maintenance of an on-line resource. The center has
also provided technical assistance to thousands of individuals and
has published over 300 titles, thereby creating a knowledge base that
continues to guide the field. Its support and leadership have helped
to frame the current discourse concerning gender equity. In the last
few years, congressional budget cuts have reduced the resources avail-
able to WEEA and have eliminated most grants. However, in 1996
and 1997, under the direction of Secretary of Education Richard W.
Riley, WEEA and the WEEA Equity Resource Center received sepa-
rate funds enabling them to continue operations.

Legislative support for Title IX is also derived from the 1976
amendments to the Vocational Equity Act of 1963, which require
states receiving federal funding for vocational education to develop
and carry out activities and programs to eliminate sex bias, stereo-
typing, and discrimination in vocational education. The amendments
also permit the allocation of federal funds to programs for single
heads of households, homemakers, part-time workers seeking full-time jobs, and persons seeking jobs in areas nontraditional for their sex. Further, under the amendments, all states are required to name state vocational education sex equity coordinators who provide training and produce materials aimed at making vocational education more equitable and less gender segregated. The Carl D. Perkins Act of 1984 allows the coordinator to administer funds for projects to eliminate sex bias and for programs aimed at single parents and programs according to the discretion of the states.

In the politically conservative 1980s, the U.S. Department of Justice challenged the broad coverage of Title IX, and enforcement weakened within the Office for Civil Rights. The Supreme Court ruled in Grove City College v. Bell (1984) that Title IX was program specific, and that, therefore, only those programs and activities receiving direct federal funds needed to comply. However, in 1988, Congress passed the Civil Rights Restoration Act, which restored the liability for sanctions to an entire school system or college if it receives federal education funds. The Supreme Court acknowledged in Franklin v. Gwinnet County Public Schools et al. (1992) that institutions could be held liable for individuals in those institutions who participated in discriminatory behavior toward females. In this landmark case, the Supreme Court also ruled that plaintiffs could sue for monetary damages. This option, which was not available prior to this decision, increased the willingness of lawyers to take on Title IX suits, as well as issuing a wake-up call to school districts about the possible consequences of noncompliance.

PROGRESS TO DATE

While there is much to be accomplished, there is also much to celebrate in this 25th anniversary year. According to the latest report by the U.S. Department of Education, Title IX: 25 Years of Progress, in the quarter century since Title IX came into existence, women have been granted greater opportunities to reach their full human potential. Much of the progress in athletics is well known. The report
states that since 1971, there has been a fourfold increase in the participation of women in intercollegiate sports.

- In 1995, women made up 37 percent of athletes in college, compared to 15 percent in 1972.
- In 1996, girls constituted 39 percent of high school athletes, compared to 7.5 percent in 1971.
- Women won 19 Olympic medals in the 1996 summer Olympic Games — more than in any previous year’s Games.

Women have made similarly dramatic advances in academics.

- In 1994, 63 percent of female high school graduates aged 16–24 were enrolled in college, compared to 43 percent in 1973.
- In 1994, 27 percent of women earned a bachelor’s degree, compared to 18 percent in 1971.
- In 1994, women received 38 percent of medical degrees, compared with 9 percent in 1972; 43 percent of law degrees, compared with 7 percent in 1972; and 44 percent of all doctoral degrees, compared to 25 percent in 1977.

In recent years, the number of females taking high school algebra, geometry, and calculus has increased and is now similar to the percentage of males taking these courses. In addition, gender differences in mathematics achievement in most areas have continued to decline. The popularly held belief that males as a sex are predisposed to achievement in mathematics is being challenged by research illustrating the negative impact on females of stereotyping and lack of encouragement by teachers and parents. Gender differences in areas traditionally perceived as male, such as spatial relations, have been eliminated by changing teaching practices, indicating that differences have more to do with socialization than with genes. Yet women continue to be underrepresented in areas such as computer science, engineering, mathematics, and physical science and are less likely than men to earn a degree in these fields. For example, the Department of Education report\textsuperscript{11} states that women earn only
• 17 percent of math and physical science Ph.D.'s
• 14 percent of computer science Ph.D.'s
• 7 percent of engineering Ph.D.'s

According to the U.S. Bureau of Labor Statistics, in 1996 women made up 98.6 percent of secretaries and 96.9 percent of receptionists, but only 9.2 percent of all engineers, architects, and surveyors, and only 4.1 percent of all mechanics and repair technicians. Even women who do go on to earn a degree in mathematics or science still have to deal with inequity in the labor market. For example, as the Department of Education report states:

• In 1993, women who had majored in the natural sciences earned 15 percent less than male colleagues with the same majors.
• In 1993, women graduates of four-year colleges earned about 20 percent less than their male counterparts with the same education.

MAKING THE GRADE?

The national Report Card on Gender Equity released on June 23, 1997, by the National Coalition for Women and Girls in Education (NCWGE) further demonstrates the mixed record of Title IX. The report grades particular areas that Title IX was meant to address: access to higher education, athletics, career education, employment, learning environment, math and science, sexual harassment, standardized testing, and treatment of pregnant and parenting students. The report gave the nation an overall "C average," indicating that some progress has been made, but that more improvement is necessary. According to the report:

• Women earn more than half of the associate's, bachelor's, and master's degrees awarded but still lag behind men at the doctoral level, earning just 39 percent of doctoral degrees.
• The number of women coaches coaching women's teams has decreased over the past 25 years — from 90 percent to 48 percent.
Women make up 73 percent of elementary and secondary school teachers, but only 35 percent of principals.

EQUAL ACCESS AND EQUAL TREATMENT VERSUS EQUITABLE OUTCOMES

Unfair disadvantages experienced by girls in the elementary through high school years may contribute to lowering their self-confidence, and consequently to discouraging them from pursuing certain subjects, such as math and science, which are required for entry into particular fields. "According to the National Center for Education Statistics, male students were more likely to increase their science proficiency level between 8th and 12th grades, 56 and 51 percent respectively." Research indicates that self-confidence is a determinant of career considerations and influences the path that will lead to the career. Therefore, both the factors that affect females’ self-confidence and other systemic barriers to achievement need to be understood.

A huge difference exists between providing equal access and equal treatment to males and females in education and ensuring equitable outcomes for both genders. Simply providing equal access does not challenge either the many deep-seated social beliefs about females and males and their respective abilities or the widespread practices that perpetuate these stereotypes. Similarly, focusing only on equal treatment may serve to discount the existence of these prejudices by seeking to put the onus for change on the victims, thus serving to legitimize their oppression. A policy of ensuring equitable outcomes, on the other hand, takes into consideration that victims have different experiences and accordingly need diverse, innovative, and appropriate pedagogical approaches. If a young female has been conditioned to believe that mathematics is inappropriate for her, simply placing her in an advanced (accelerated) math classroom with boys will not solve the problem. In fact, it may actually accelerate the process of alienation.
Sameness of opportunity has not resulted in equity for women. Teachers, it has been found, give boys more praise, more criticism, and more remediation and are more apt to accept boys' responses. In addition, they respond more frequently to boys' requests and talk to boys more about ideas and concepts. Further, boys usually receive more encouragement from both teachers and parents. These realities have to be taken into consideration by those who seek equitable outcomes. Sadker and Sadker argue that girls in school are subject to "subtle and insidious gender lessons, micro-inequalities that appear seemingly insignificant when looked at individually but have a powerful cumulative impact." The focus should be not only on ensuring equal access for females but also on developing policies, practices, and materials to combat stereotyping, socialization, and other systemic factors that deny equitable outcomes.

EMERGING ISSUES

As we move closer to the twenty-first century, it seems evident that limiting women and girls also limits the nation as a whole. Gender inequity prevents females from realizing their full human potential and gives males free rein over the world. A closer examination of the lives of males, however, reveals that falling short of educational equity harms men as well as women. Bell Hooks states, "Men are not exploited or oppressed by sexism, but there are ways in which they suffer as a result of it. This suffering should not be ignored." National crime statistics illustrate the damaging effects of rigid gender boundaries on the lives of males, who disproportionately act out physically against themselves, women, and other men. Yet this realization also brings hope. Since males do control much of the power in our society, a realization by men of the adverse affects of gender inequity on them may lead to the yielding of male privilege and the creation of male-female alliances, on which the achievement of true gender equity in this modern world depends.

The conversation on gender equity must also include multicultural and diverse perspectives. For too long, women in the United States
have been considered a homogeneous group that benefits uniformly from the struggle for gender equity. However, often lost in this view are the voices of African American, Asian American, Latina, Native American, poor and other marginalized women, including women with disabilities. In addition, differences in class, culture, and ethnicity cut across and within these groups. Further, special educators too often forget that students with disabilities have a gender and are subject to gender bias, like their non-disabled counterparts. Under Title IX, females of all races and abilities should have access to the same schools and instruction as white middle- and upper-class male students. However, compared to poor females and females of color, white middle-and upper-class females apparently receive the most benefits. Statistics often fail to take into consideration the variables of class, culture, and race that significantly influence access to education and accompanying support. The American Association of University Women’s 1992 report, How Schools Shortchange Girls, states that socioeconomic status, more than any other variable, predicts educational outcomes. However, socioeconomic status should not be isolated, as the report “... suggests that closer attention should be paid to the combined impact of gender and social class, as well as race, on educational outcomes.”

Gender, race, and class are interrelated in a complex dynamic. Gender is a concept that is culturally constructed in a sociohistorical context. “Similarly, race and class carry with them socially constructed roles, beliefs, and expectations. Students of color and poor students are often assigned lower status in schools, and the cultural, social dynamics of racism and classism play themselves out in the consistent underachievement of these students.” How Schools Shortchange Girls reports that there are differences in the concentration of women from different racial and ethnic backgrounds in certain sectors of the work force — a phenomenon that has as much to do with class as with race and ethnicity. In addition, the report illustrates differences in levels of self-esteem between girls who are different racially, ethnically, and physically but are at similar educational stages, again demonstrating the interrelatedness between these variables in determining different experiences. However, care must be taken not to
perpetuate the biases that already exist about women of color and women with disabilities simply by focusing on the stereotypes. The challenge will be to balance acknowledgment of differences with a vision for the common goal of gender equity.

FUTURE EXPECTATIONS

Since Title IX was enacted on June 23, 1972, many women have made substantial progress in education, employment, and athletics. This 25th anniversary affords us the opportunity to reflect on what has been done and, more important, what still needs to be done to secure genuine gender equity for everyone in our schools and our society. We hope to continue the conversation surrounding gender equity in education — recognizing that the dialogue needs to go beyond merely acknowledging the inequalities between females and males to demanding the implementation of gender-fair educational and social practices. We also realize that for true equity to exist, there must be a renewed commitment to the enforcement of Title IX. The future of Title IX and its supporting sex equity legislation is both hopeful and uncertain, as federal budget constraints have reduced the funding for such initiatives.

Federal support may be increased as on the anniversary of Title IX President Clinton ordered all heads of executive departments and agencies that provide financial assistance to education programs or activities to consult with the attorney general and “to report . . . within 90 days on measures to ensure effective enforcement of Title IX.” In addition, he asked the heads of the departments to “take appropriate action against discrimination in education programs or activities conducted by the Federal government.” “I believe,” the president stated in his address to celebrate the anniversary, “and I surely hope that every American would agree that the national government must hold itself to the same high standards it expects from everyone else — especially when it comes to discrimination in education.” The recommitment by the president to the enforcement of Title IX may
serve to strengthen the support that is needed in the struggle to eradicate gender discrimination and other types of inequalities in education and society.

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1 Women’s Educational Equity Act (WEEA) Publishing Center, Gender Equity for Educators, Parents, and Community (Newton, Mass.: Education Development Center, 1995).


5 Stromquist.

6 Ibid.

7 Schmuck.

8 Stromquist.

10 Flansburg and Hanson.


12 U.S. Department of Labor Statistics, Economic Analysis and Information Unit, Boston Regional Office. The use of these data is explained well by this passage: “Since national data on enrollments by sex, race, or ethnicity are not compiled [sic] nationally (only state by state), we have to look at national employment figures to help assess the impact of what is (or is not) happening at the local school district level. In doing so, we recognize the limitations of the data collection documenting vocational education and training and labor market outcomes for women and men in traditional occupations. We also know that the proportion of students enrolled in nontraditional vocational programs is likely to increase more rapidly than their representation in related occupations.” Mid-Atlantic Equity Consortium, Inc., and Network, Inc., *Beyond Title IX: Gender Equity Issues in Schools* (Report No. SO 024 862). (ERIC Document Reproduction Service No. ED 387 367, 1993).


14 U.S. Department of Education.


20 K. Hanson, *Gender, Discourse, and Technology* (Newton, Mass.: WEEA Equity Resource Center/EDC, 1997).


22 Remarks by President Clinton at Title IX Event, June 17, 1997.