

TITLE IX INFORMATIONAL POINTS

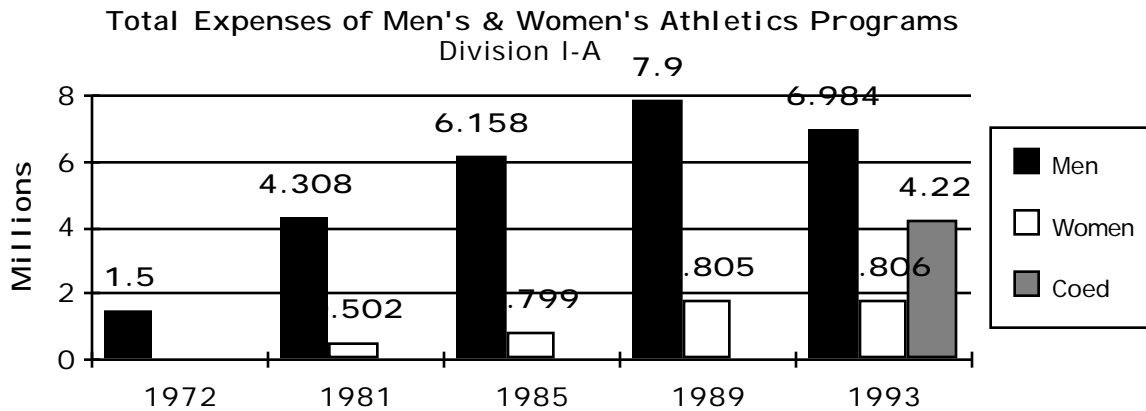
- Passed in 1972, Title IX was intended to eliminate discriminatory practices in educational institutions. Discrimination continues in 1995.
- A lack of finances **CANNOT** be a reason for discrimination; additional financial resources must be directed to women and/or a redistribution of financial resources must be made on each campus. To do otherwise is to force the group that has historically been discriminated against to continue to bear the burden of discrimination.
- There can **NEVER** be an acceptable justification for discriminatory practices in educational institutions.
- In Cook v. Colgate University, the court stated:

Equal treatment is not a luxury. It is not a luxury to grant equivalent benefits and opportunities to women. It is not a luxury to comply with the law. Equality and justice are not luxuries. They are essential elements which are woven into the very fiber of this country. They are essential elements now codified under Title IX. Many institutions of higher education apparently hold the opinion that providing equality to women in athletics is both a luxury and a burden. The feeling seems to be that to afford such equality to women is a gift and not a right. (Heckman, 1994)
- Each institution has the right to create its own gender equity compliance plan which may employ one or more of the following procedures in order to reach a male/female participation ratio in athletics similar to that in the undergraduate population:
 - add new intercollegiate teams for women
 - cap the number of participation slots on men's teams
 - eliminate some men's teams (this is not recommended by women and should be considered only as a last resort)
- If an institution decides it will not allocate new monies to its women's program to come into compliance with Federal law, then that institution must adopt one or more of the following procedures in order to free up money for women:
 - reduce expenditures in men's sports (this could be done at the national level if enough CEOs would support it)
 - reduce expenditures at the national level for both men's and women's sports, e.g. reform the recruiting and/or scholarship systems
 - consider moving the athletics program to a less costly divisional affiliation
 - eliminate some men's sports (this is not recommended by women and should be considered only as a last resort)
- "An athletics program can be considered gender equitable when the participants in both the men's and women's sports programs would accept as fair and equitable the overall program of the other gender. No individual should be discriminated against on the basis of gender, institutionally or nationally, in intercollegiate athletics." (NCAA Gender Equity Study, 1992)
- We hope that you, like us, will continue to give your full support for true equity so that your daughters and granddaughters in the future will enjoy the same opportunities and benefits as your sons and grandsons.

FALLACIES & FACTS

FALLACY: Funding women's sport will bankrupt men's sports

FACT:



NOTE: Since the enactment of Title IX, for every new dollar spent on women, two new dollars were spent on men. (Fulks, 1994)

FALLACY: Women are just not interested in sport

FACT: In the 1970's when Title IX was beginning to be enforced, girls' participation in interscholastic sports exploded from 8% to 35%; at the intercollegiate level, it jumped to 30%. **IT IS NOT A LACK OF INTEREST, IT IS THE LACK OF OPPORTUNITY!** (Acosta & Carpenter, 1994) (NFSHSA, 1994)

FALLACY: Football funds all other sports for men and women.

FACT: According to 1993 financial data (Fulks), 62% of Division I-A and I-AA football programs on average have annual deficits of \$1 million in Division I-A and \$664,000 in Division I-AA. (61% of all Division I men's basketball programs also show annual deficits.) (Fulks, 1994)

FALLACY: Women's sports are destroying men's minor sports.

FACT: Some men's sports are being dropped because there is not a collective resolve among CEOs to eliminate the excesses in football and men's basketball programs. Expenditures in Division I-A show the following breakdown for men's sports:

Football:	57%	
Basketball:	16%	---> 73%
Other Men's Sports:	20%	
Unrelated Expenses:	7%	
	<u>100%</u>	

NOTE: You will note on the next page that 80% of the operating budget goes to men's sports, only 20% to women's sports. (Fulks, 1994) (NCAA Gender Equity Study, 1992)

FALLACY: Colleges are currently meeting the needs and interests of women in intercollegiate sport

FACT: a) Most universities have women's club sports that would love to be elevated to intercollegiate status;

b) At the high school level, over 2 million girls participate in interscholastic sports; in the 1993-94 year, there were only 105,532 participation opportunities for women in the NCAA. (NCAA: Participation Numbers, 1995)

FALLACY: Most universities are close to being in compliance with Title IX.

FACT: These are the facts documented by the NCAA in 1992:

<u>Division I-A Results</u>	<u>Female</u>	<u>Male</u>
Participation	29%	71%
Athletics Scholarships	28%	72%
Operating Budget	20%	80%
Recruiting Budget	16%	84%

NOTE: On an annual basis, male athletes receive approximately \$179 million more than female athletes in athletics scholarship monies. (Women's Sports Foundation)

FALLACY: Interpretations on how to comply with Title IX are too rigid.

FACT:

The current Office of Civil Rights interpretation provides schools with many legitimate and reasonable ways to comply with Title IX. It is noted in the recent NCAA publication "Achieving Gender Equity, a Basic Guide to Title IX for Colleges and Universities" that the "policy interpretation allows institutions great flexibility in providing benefits and services to female and male athletes" (OCR Manual, 1990, page 6). The current phenomenon of cutting men's sports is the result of institutions' past inaction, rather than unyielding Title IX interpretations. For 23 years, most institutions have chosen to address Title IX through rhetoric rather than action. Now, deteriorating economic conditions, along with belated pressure from Federal courts and a committed Office for Civil Rights, are forcing institutions into long-overdue decisions. **Due to the lack of long-range planning and national and/or institutional cost-containment measures, some institutions are choosing to achieve equity by shifting funds from men's sports to new or upgraded women's sports while still fully protecting football and men's basketball.** Rigidity of compliance is not the culprit; institutional inaction over the past two decades and current institutional choices are the causes of the problems.

FALLACY: The attainment of equal opportunities for women in sport will result in less competitive and less successful football teams.

FACT: Over the past three years, athletics scholarships in football have been reduced from 95 to 85, yet in 1994, the first season after the reduction, national football attendance records were set in all three divisions. (NCAA: FB Attendance, 1995) The total increase in attendance from 1993 was 1.6 million. This may well have resulted from less stacking of players at traditional powers and the start of a trend toward parity between teams. Since the lure of sport is its unpredictability, this trend toward increased parity should be continued.

FALLACY: To be in compliance with Title IX, there must be exactly the same ratio of male/female student-athletes at an institution as exists in the undergraduate population.

FACT: The American Football Coaches Association's (AFCA) doomsday predictions of loss of federal funds and elimination of football programs resulting from OCR's alleged increased emphasis on the Proportionality Test are unfounded. In fact, there remain three ways in which an institution can comply:

1. demonstrate that participation opportunities for each sex are proportional to enrollment

OR 2. show a history of expansion in its women's athletics program

OR 3. demonstrate that the interests and abilities of members of the underrepresented sex have been fully accommodated by the present program. (OCR Manual, 1990)

It will be difficult, however, for an institution to comply with #3 if there are women's club sports on campus that would wish to be elevated to intercollegiate status.

This three-pronged test was part of the 1979 Policy Interpretation; it is not a new concept.

FALLACY: Men are losing a massive number of participation opportunities because of women's athletics.

FACT:

According to the NCAA, the number of participants in women's sports increased between 1989 and 1994 by 16,320 **BUT THE NUMBER OF PARTICIPANTS IN MEN'S SPORTS ALSO INCREASED BY 12,486 GIVING THEM 64% OF ALL OPPORTUNITIES.** (NCAA Participation, 1995)

FALLACY: The Javits Amendment excludes football from Title IX requirements.

FACT:

ON 4 DIFFERENT OCCASIONS, CONGRESS HAS REFUSED TO EXCLUDE FOOTBALL OR OTHER REVENUE-PRODUCING SPORTS FROM TITLE IX. The Javits Amendment stated that legitimate non-gender related differences in sports could be taken into account, e.g. the differing costs of equipment or event management expenditures. The amendment does not protect football simply because it has a higher number of participants or there is not a similar sport for women.

REFERENCE LIST

Acosta, R.V., & Carpenter, L.J. (1994) Women in Intercollegiate Sport: A longitudinal Study 1977-1994. Department of Physical Education, Brooklyn College, Brooklyn, NY 11210.

Fan-Tastic Numbers: Attendance at Football Games. (1995, January 4) The NCAA News, 32, (1), p. 1, 14.

Fulks, D.L. (1994, August) Revenues and Expenses of Intercollegiate Athletics Programs: Financial Trends and Relationships - 1993.), The National Collegiate Athletic Association.

Heckman, D. (1994, Fall) The Explosion of Title IX legal activity in intercollegiate athletics during 1992-93: Defining the "equal opportunity" standard. Detroit College of Law Review, 3.

NCAA Gender-Equity Study Summary of Results. (1992, March) The National Collegiate Athletic Association.

National Federation of State High School Association's Sports Participation Survey. (1993)

Participation Numbers Narrowly Miss Record. (1995, February 15) The NCAA News, 32, (7) p. 1, 13.

Title IX Athletics Investigator's Manual. (1990) Office for Civil Rights, Department of Education.