Title IX: 21 Years of Progress?

"...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 education program or activity receiving federal financial assistance."

Title IX of the Education Amendments, 1972

1993 marks the 21st birthday of the passing of one of the most important pieces of legislation affecting sportswomen in the United States. This article considers the effects of this legislation on the opportunities for participation in and control of women's sport in the U.S.A.

Dramatic changes have taken place in sport for girls and women since Title IX of the Education Amendments of 1972 banned discrimination on the basis of sex in any educational institution receiving Federal funds. Hundreds of thousands of females flooded into pools and gyms, and onto courts, athletic tracks and sports fields in the heady years following the introduction of Title IX. Indeed, much has changed since a judge in an early Title IX court case proclaimed that: "Athletic competition builds character in our boys. We do not need that kind of character in our girls, the women of tomorrow" (Dyer, 1982, p. 109).

The social attitudes embodied in the judge's comments have been firmly rejected by many girls and women. Yet the road to equality in sport is far from complete. What is clear is that in a country where almost all sport is organized through the education system, Title IX is at the core of the development of women's sport in the last two decades. Title IX is not just about sport, yet the overwhelming majority of complaints and threats of legal action brought under its regulations have involved females and sport.

History

Title IX of the Education Amendments was passed in 1972 and all schools and universities had to meet its requirements by 1978. In sports, Title IX required that females and males be given "equal opportunity" to participate. While the concept of equal opportunity was not precisely defined, a number of factors were vital. According to the Women's Sports Foundation (1990), these include:
1. whether or not the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes,
2. the provision of equipment and supplies,
3. scheduling of games and practice time,
4. travel and per diem allowances,
5. opportunity to receive coaching and academic tutoring,
6. assignment and compensation of coaches and tutors,
7. provision of locker rooms, practice and competitive facilities,
8. provision of medical and training facilities,
9. provision of housing and dining facilities, and
10. publicity.

For both contact and non-contact sport, institutions which sponsor a team for one sex in a given sport must sponsor the same team for members of the opposite sex if a) opportunities for the excluded sex have been limited, and b) there is sufficient interest and ability among members of the excluded sex to sustain a viable team and there is a reasonable expectation of competition for that team (Women’s Sports Foundation, 1990).

Although many programs progressed toward compliance with Title IX in the 1970s and early 1980s, some institutions actively resisted having to obey the law (Fox, 1992). Several factors, including economic pressures and social expectations during the Reagan era, proved to be major setbacks for women’s sport.

In the 1984 Grove City College v. Bell case, the Supreme Court ruled that Title IX applied only to programs that directly received Federal funds. This decision severely restricted the scope of Title IX. More importantly for sportswomen, the decision meant that most sports and physical education programs were no longer covered by Title IX. The negative effects of the Supreme Court ruling were widely felt by women’s sports programs. The Office of Civil Rights (OCR) of the Department of Education closed, limited, or suspended 64 discrimination claims (a large proportion of which involved girls’ or women’s sport) immediately following the Grove City ruling. The virtual overturning of Title IX in regard to sport took place in a government climate opposed to human rights of all kinds and in which the rights of women, racial and ethnic minorities, the elderly and the poor, among others, were rolled back.

It took four years for Title IX to regain its original breadth and power. In 1988, the Civil Rights Restoration Act was passed, putting the teeth back into Title IX. The U.S. government under President Bush showed interest in enforcing Title IX regulations. Indeed, one of the OCR’s stated priorities for 1991 was Title IX complaints in athletics.