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Title IX: Bringing Academics Up To Par

by Jane Hardman Flynn

With the stroke of a pen on paper, the promise of being able to achieve success based on personal effort and desire, without regard to gender, was signed into law during the summer of 1972. The passage of the Education Amendments of 1972 slowly opened the door for programs that girls and women had been barred or discouraged from participating in previously. The amendments included a wide range of educational guidelines and protections, but it was one briefly worded clause, Title IX, that set the stage for years of frustrations and accomplishments for American females:

> No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.[1]

Title IX would become synonymous with girls' sports and an astounding increase in athletic programs and participation. Literature on the history of Title IX often includes disclaimers such as, "While the law applies to all aspects of educational opportunities, it is probably best known for its application to sports."[2] Yet the promise to girls was access to any education program, and the gains made in academic disciplines did not keep pace with the gains made on the playing fields of America's schools. Twenty five years after the passage of Title IX, success for females in academic endeavors such as mathematics and science remained elusive. It was impeded by delays in

[1] United States Department of Justice, Title IX of the Education Amendments of 1972, Section 1681, http://www.justice.gov/crt/about/cor/coord/titleixstat.php (accessed March 18, 2013).
[2] Title IX, 40 years and Counting, National Women's Law Center, June 2012, http://www.nwlc.org/sites/default/files/pdfs/nwlcathletics_titleixfactsheet.pdf (accessed February 22, 2013).

establishing and implementing regulations, and by social and political obstacles in the application and enforcement of the law.

When President Richard M. Nixon signed the Education Amendments into law on June 23, 1972, the significance of Title IX was not readily apparent. In his statement to the press, Nixon touted "a new effort to revitalize our educational research effort, and authority to provide financial assistance to school districts to meet special problems incident to desegregation."[3] The substance of Nixon's speech encompassed student loans and grants, the establishment of a National Institute of Education, and busing for desegregation. The President did not mention the clause concerning discrimination in education programs.[4]

While it was not the focus of Nixon's statement, the effort to bring equal protection to the lives of American women was studied during his administration. In 1969, Nixon created the Presidential Task Force on Women's Rights and Responsibilities, and Chairwoman Virginia R. Allan conveyed recommendations including passage of the Equal Rights Amendment and enforcement of Title VII of the Civil Rights Act of 1964.[5] Title VII prohibits employers from refusing to hire and from dismissing an employee based on race, religion, color, national origin, or sex.[6]

The inclusion of gender in this legal protection of employees was important for the rights of women, but Congressional legislators hoped to broaden and strengthen their ability to enforce the existing law, and extend it to educational pursuits. Representative Edith Green (D-OR) joined with fellow representatives Patsy Mink (D-HI) and Shirley Chisholm (D-NY), and Senator Birch Bayh (D-IN) to draft the Title IX amendment to the Education bill. Rep. Green stated that her goal was for equally-credentialed male and female college applicants "to be treated as equals" in the admissions process.[7]

This had not been the case in the years leading up to Title IX. According to a report by the National Advisory Council on Women's Educational Programs, women were routinely turned away from colleges and universities for non-academic reasons. The report stated that, "Often

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[3] Richard Nixon, Statement on Signing the Education Amendments of 1972, The American Presidency Project, http://www.presidency.ucsb.edu/ws/?pid=3473 (accessed March, 8, 2013).
[4] Ibid.
[5] The Report of The President's Task Force on Women's Rights and Responsibilities, A Matter of Simple Justice, April 1970, https://www.libraries.psu.edu/content/dam/psul/up/digital/documents/AMatterofSimpleJustice.pdf (accessed March 28, 2013).
[6] Title VII of the Civil Rights Act, U.S. Equal Employment Opportunity Commission, http://www.eeoc.gov/laws/statutes/titlevii.cfm (Accessed March 28, 2013).
[7] Katherine Hanson, Vivian Guilfoy and Sarita Pilla, *More Than Title IX: How Equity in Education has Shaped the Nation* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2009), 8.

women were refused admission because it was assumed that they would marry and quit school."[8] Women were also questioned about their suitability for post-graduate programs, and how they would balance a career and a family. One 35-year-old woman was told by the University of Maryland's graduate program, "We don't take too many (women) in this program, particularly older ones."[9]

Women who applied to colleges and universities in this era were often held to different admission standards than their male counterparts. The University of North Carolina required females to reside on campus, yet allowed males to live off campus. With a limited amount of on-campus housing available, the ratio for admissions was half of all male applicants being accepted compared to only one quarter of female applicants being accepted.[10] The academic requirements for admissions at many universities were also more stringent for females than for males. A study by the American Council of Education surveyed over one million students who were admitted to colleges between 1968 and 1972, and found that 40% of the women had grade point averages of B+ or higher, whereas fewer than 30% of men met this standard. Similarly, 50% of the females admitted to college programs ranked in the top 25% of their high school classes, compared to 38% of males who were admitted.[11]

Shortly after Title IX was enacted, a report from The Commissioner's Task Force on the Impact of Office of Education Programs on Women was released which concluded, "Although women are close to half the working population, education is still preparing them to be housewives."[12] Many admissions committees considered female students a "misuse of resources," more concerned with earning a marriage certificate than a college diploma.[13]

This bias concerning the aspirations of women was also reflected in the criteria that existed for hiring university faculty members during the 1960s and 1970s. Writing about the inequity in perceptions in 1975, Lilli S. Hornig commented, "A young man is routinely evaluated in terms of his

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[8] National Advisory Council on Women's Educational Programs, "Title IX: The Half Full, Half Empty Glass," Washington, D.C., Fall 1981, 26.

[9] Ibid, 26.

[10] Ibid, 25.

[11] Ibid., 26.

[12] Charles E. Guerrier, Resource Center on Sex Equity Council of Chief State School Officers, *Title IX and the Achievement of Equal Educational Opportunity: A Legal Handbook* (Washington, D.C., September 1979), 11.

[13] Leila Brammer, "Thirty Years of Title IX: A Review of Gender Equity in American Education," *Forum on Public Policy*(2002): 131, http://forumonpublicpolicy.com/vol1.no2.wr/brammer.pdf (accessed Feb. 20, 2013).

future promise. But a young woman is not really believed to have a future and is almost invariably evaluated in terms of past performance."[14] Operating under this standard, a man's perceived potential and possibility of being shaped to an employer's ideal could potentially mitigate his lack of experience. A female was more likely to be expected to begin work as a finished product, since her expected tenure in the position was limited.

This perception of academic and employment expectations and ambitions is in stark contrast to the economic and occupational reality of females during the 1970s. According to government statistics, women comprised 42% of the paid workforce in America, and a majority of these women worked as a result of economic need. Also of significance are statistics concerning education, employment, and poverty. In families where both parents worked, the woman generally contributed up to 40% of the family income, and according to the National Advisory Council on Women's Educational Programs, this contribution was often what kept the family out of poverty. In 1978, three-fifths of the 11 million women classified as at or below the poverty line were also classified as high school dropouts.[15]

The need for educational and employment opportunities for women was clear when Title IX was enacted, however failure to implement the law delayed and impeded progress for women. Following the passage of the legislation, the task of implementing and regulating Title IX was assigned to the Department of Health, Education, and Welfare (HEW). Three years elapsed between the date that President Nixon signed the Education Amendments into law and the date when HEW released guidelines for implementation on July 21, 1975. In summing up the release of these regulations, a Dallas Morning News headline offered a twist on a popular slogan of the time by declaring, "You've come a slow way, Baby."[16]

The long wait for guidance followed an extensive period of commentary by the public and legal review by HEW. The result was a twenty-seven page pamphlet, "Complying with Title IX: The First Twelve Months." The objective defined in the pamphlet was achieving nondiscrimination in student programs, student admissions, and recruitment, and also in employment associated with educational programs

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[14] Lillie S. Hornig, *Women in Academia: Evolving Policies toward Equal Opportunities*, Eds.Elga Wasserman, Arie Y. Lewin and Linda H. Bleiweis (New York: Praeger Publishers, 1975), 14.
[15] "Title IX: The Half Full, Half Empty Glass," 5-7.
[16] Ginny Pitt, "You've come a slow way, Baby," *Dallas Morning News*, Aug. 26, 1975, http://ezproxy.twu.edu:2132/iw-search/we/HistArchive/?p_product=EANX&p_theme=ahn (accessed March 22, 2013).

and activities.[17] This information was disseminated to the nearly 20,000 school districts and institutions of higher education that received financial assistance from the federal government.[18]

The regulations consisted of five tasks for achieving compliance with Title IX. Schools were directed to designate an employee to serve as the Compliance Coordinator who would be required to notify the public of nondiscrimination policies. The Coordinator was also tasked with publishing procedures for filing grievances, conducting self-evaluations of the institution, and providing HEW with assurance of the school's compliance.[19] In the first twenty five years of Title IX, difficulties in administration of and compliance with the regulations resulted in the publication of several clarifications and enforcement revisions.

The resulting failures in academic advances revealed the inability to enforce the directives, and more importantly, the inability to bring about changes in schools that benefited the academic pursuits of females. Six months after the release of the initial guidelines, several women's rights and educational groups filed a lawsuit in a Dallas federal district court demanding that the regional office for the Department of Health, Education, and Welfare enforce nondiscrimination laws. The National Organization for Women, the Women's Equity Action League, and the Association of Women in Science were among the six groups requesting enforcement. In a January 10, 1976, Dallas Morning News article, Lois Schiffer of the Center for Law and Social Policy said the HEW office had shown a disregard for the intent of both Title IX and Title VII by failing to enforce these regulations in Texas, Oklahoma, Arkansas, Louisiana, and New Mexico.[20]

In the case of academic progress, a study by the U.S. Office of Education found that "increased enrollment of students in programs not traditional for their sex has been very slow and there has been only 'mixed' progress by schools in implementing Title IX."[21] The lack of progress made in the fields of mathematics and science was communicated in a 1980 study of women scientists in industry and government by the National Academy of Sciences titled "How Much Progress in the 1970s?" The council concluded

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[17] U.S. Department of Health., Education, and Welfare Office of Education, "Complying With Title IX the First Twelve Months," Washington, D.C., 1975, 1.
[18] United States Commission on Civil Rights, "Enforcing Title IX," Washington, D.C., October 1980, 7.
[19] "Complying With Title IX The First Twelve Months."
[20] "HEW asked to enforce law," *Dallas Morning News*, January 10, 1976, http://ezproxy.twu.edu:2132/iw-search/we/HistArchive/?p_product=EANX&p_theme=ahn (accessed March 22, 2013).
[21] "Enforcing Title IX," 2-3.

that over an extensive period of time, disadvantages in academics and employment had made women "less experienced and knowledgeable and therefore less qualified. That newly trained women scientists face a very similar future, despite nearly a decade of equal opportunity mandates is a cause for grave concern."[22] The study went on to indicate the significance for the nation's future of engaging the "full use of available talent" by creating educational and employment opportunities in scientific fields for women.[23]

In an attempt to address the lack of progress, HEW established new guidelines intended to confront problems with enforcement of Title IX. These recommendations included improvement of data collection and analysis capacity, improved guidance and oversight of regional staffs, and the allocation of resources to allow staffs to complete compliance reviews.[24] This document, released in 1980 by the U.S. Commission on Civil Rights, was, at 78 pages, far more detailed than the initial 1975 pamphlet on Title IX compliance. The focus, however, remained a bureaucratic labyrinth of collecting information and performing reviews. In acknowledging the failure of schools to comply with Title IX, the commission stated that districts made only a nominal attempt to meet the regulations because they were not adequately informed of the guidelines and their obligations. The report also stated that schools considered the possibility of penalty for not complying as "no serious threat."[25]

Title IX was not without successes in its first twenty five years. While academic progress lagged, achievements on the athletic fields of America's schools sprinted forward. In 1972 when Title IX passed, the number of high school girls who participated in an organized sports program was 294,015, compared with 3,665,367 boys. Ten years after the implementation guidelines were issued, the number of girls who participated in a sport had increased six-fold to 1,807,121, and by 1995 nearly 2.4 million girls were active in school athletics, a 700 percent increase from 1972. In that same time frame, the number of boys in school sports programs remained relatively unchanged.[26] This success is attributed to many factors, including increased promotion of athletics by organizations such as the

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[22] The National Academy of Sciences, "Women Scientists in Industry and Government: How Much Progress in the 1970s," Washington, D.C., 1980, 39.
[23] Ibid, 39.
[24] "Enforcing Title IX," 35.
[25] Ibid., 3.
[26] National Federation of State High School Associations, Participation Statistics, http://www.nfhs.org/Participation/HistoricalSearch.aspx (accessed March 30, 2013).

National Association for Girls and Women in Sports, and the acceptance of women in sports due to favorable media coverage.[27]

The proliferation of athletic programs in secondary and post-secondary schools was also successful in part because of legislative and judicial rulings to preserve the intent of Title IX. One of the most influential cases was the U.S. Supreme Court ruling on *Grove City College v. Bell*. In its ruling, the court stated that the nondiscrimination intent of Title IX applied only to programs that directly received federal funding, effectively allowing for discrimination in programs that did not receive funds. This provision shielded many athletic programs from complying with Title IX. Congress reacted to this judicial interpretation by passing the Civil Rights Restoration Act of 1987, which returned the coverage of Title IX rules to all programs at any school receiving federal funds, including federal financial aid for students, rather than allowing application of the law on a program by program basis.[28]

While these legal regulations applied to both athletics and academics, women in fields such as mathematics and science did not receive the coordinated support and media visibility that female athletes garnered in the two decades following passage of Title IX. As a result, awareness of opportunities in disciplines that were not traditionally associated with women was limited. Even in scientific professions, according to a 1980 National Academy of Sciences study, a "disproportionately high fraction" of female scientists and engineers were affected by gender stereotypes and were relegated to basic research positions without being promoted into management.[29] Girls in the 1970s and 1980s did not have the same exposure to role models in the laboratories as they did to role models on the athletic field.

While cultural biases and gender perceptions might explain the limited representation of women in scientific fields in 1972, what accounts for the small increases in these areas of study and employment in the following twenty five years? At the time of Title IX's passage, the classroom environment perpetuated stereotypes of gender differences. Math problems for girls involved recipes, while boys solved finance-related problems. This gender stereotyping was also present in reading, history, and science textbooks. According to the National Coalition for Women and Girls in

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[27] Acosta/Carpenter, "Women in Intercollegiate Sports, A Longitudinal, National Study, Thirty Five Year Update, 1977-2012," (2012): 2, http://www.acostacarpenter.org (accessed Feb. 25, 2013).
[28] Alison Shay, "Gender Discrimination in Grove City College v. Bell," *Long Civil Rights Movement*, University of North Carolina Library, https://lcrm.lib.unc.edu/blog/index.php/2012/02/28/gender-discrimination-in-grove-city-college-v-bell/ (accessed March 30, 2013).
[29] National Academy of Sciences, "Women Scientists in Industry and Government," 40.

Education, the number of males represented in textbooks greatly outnumbered the number of females, and males were presented as "active, inventive and brave," while the females were "dependent, nurturing and accommodating."[30]

In the three year period when the Department of Health, Education, and Welfare received public comment and considered its original regulation standards for Title IX, the subject of gender portrayal was raised by Rep. Bella Abzug (D-NY), who drafted recommendations on behalf of the Women's Equity Action League.[31] Abzug and WEAL encouraged HEW to include procedures for reviewing and evaluating textbooks for sex bias. While many commenters concurred with Abzug concerning "damaging portrayals of females," others who submitted comments feared this type of review would raise constitutional issues and would lead to limited classroom books and censorship.[32] When the implementation procedures for Title IX were released in July of 1975, no guidelines or procedural standards concerning textbooks were included.

The effect of the materials used in classrooms was evident in the results of National Assessment of Educational Progress tests administered between 1969 and 1973. The tests to assess science ability found a slight advantage in scores for elementary and middle school boys. By high school, however, the gap between scores for boys and girls had widened to a significant 17 point advantage for boys. Results from the math portion of the assessment echoed the pattern of a considerable gap in scores emerging during the high school years.[33] In considering classroom barriers faced by girls, author Penny Hammrich suggests that "it is not that girls can not and do not have the ability to succeed in science, but rather obstacles arise in recruiting and retaining girls in science."[34]

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[30] National Coalition for Women and Girls in Education, "Title IX at 30: Report Card on Gender Equity" (June 2002): 32, 35,http://www.ncwge.org (accessed Feb. 22, 2013).

[31] The Women's Equity Action League (WEAL) was founded in 1968 to promote economic and educational progress for women, and to end discrimination in employment and education through legislative and legal action. WEAL was established by members of the National Organization for Women who disagreed with the group's stance on abortion and practice of picketing to publicize and achieve its goals. WEAL disbanded in 1989. http://oasis.lib.harvard.edu/oasis/deliver~sch00323 (accessed April 14, 2013).

[32] Andrew Fishel, "Organizational Positions on Title IX: Conflicting Perspectives on Sex Discrimination in Education," *The Journal of Higher Education*, Vol. 47, No. 1 (Jan-Feb., 1976): 98, http://www.jstor.org/stable/1978716 (accessed March 22, 2013).

[33] National Coalition for Women and Girls in Education, "Title IX at 35: Beyond the Headlines," (2008): 15, http://www.ncwge.org. (accessed March 13, 2013).

[34] Penny Hammrich, *Defining and Redefining Gender Equity in Education*, eds. Janice Koch and Beverly Irby,.(Greenwich, CT: Information Age Publishing, 2002), 83.

In 1990, the subject of gender difference and math performance was explored in a large-scale analysis which drew statistics from 100 studies using testing results from more than 3 million individuals. At issue in the study was whether there were gender-defined differences in math abilities among the general population. The findings concluded that there were no considerable differences in male and female math performance. The researchers then factored in age and cognitive level, and found a "slight female advantage in computation in elementary and middle school, and no difference in high school."[35] The study also found no difference in understanding math concepts based on gender at any age and no difference in girls' and boys' ability to solve complex problems in elementary and middle school. It was in high-school-aged boys that an advantage became apparent in solving complex problems. According to the authors, this was significant because the ability to solve this type of math problem is critical for continuing in studies of science, technology, and math.[36]

Reasons for the variations in complex problem solving abilities between male and female high school students were thought to be more a result of societal factors than gender differences. The authors of the report "Gender, Culture, and Mathematics Performance" considered the variation in math performance between girls and boys to be attributed to the classroom and administrative environment of high schools. Possibly contributing, they wrote, were the "dynamics in school classrooms leading teachers to provide more attention to boys; guidance counselors, biased by stereotypes, advising females against taking engineering courses," and the "scarcity of women role models in math-intensive careers."[37]

The promise of equitable participation in all education programs did not always translate to an equitable learning environment. In an assessment of Title IX on the 25th anniversary of its passage, the Women's Educational Equity Act Equity Resource Center[38] concluded:

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[35] Janet S. Hyde, Janet E. Mertz and Randy Schekman, "Gender, Culture, and Mathematics Performance," Proceedings of the National Academy of Sciences of the United States of America, Vol. 106, No. 22 (Jun. 2, 2009):8801. http://www.jstor.org/stable/40482769 (accessed March 13, 2013).

[36] Ibid, 8802.

[37] Hyde, "Gender, Culture and Mathematics Performance. 8806.

[38] The Women's Educational Equity Act (WEEA) was passed in 1974 to ensure gender equity and abolish gender stereotyping in education. The WEEA Equity Resource Center operated from 1977 to 2003, providing technical support and grants for implementing educational programs. The Equity Resource Center received funding from the U.S. Department of Education. http://www2.edc.org/WomensEquity/about.htm (accessed April 14, 2013).

> 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.[39]

While participation in science and math programs increased in the 25 years following the passage of Title IX, academic progress did not approach the level of success achieved by athletic programs. The number of females receiving advanced degrees in scientific and mathematical disciplines started small in the early 1970s and increased only incrementally as a result of Title IX. In 1972, women received zero percent of the engineering doctorates awarded, and by 1992 that percentage had risen to nine. During the same time frame, the percentage of women earning doctorates in physical sciences increased from 6% to 21%. Women earned 8% of the doctoral degrees in math awarded in 1972, with that number increasing to 19% in 1992.[40]

The evidence that females and males have a similar capacity to learn and understand science and mathematics indicates that the gradual increase in the number of women pursuing these academic and career fields can be attributed to political and cultural impediments. The obligation for educational institutions to eliminate the perpetuation of stereotypes and discriminatory teaching methods continues to be a significant issue in the 21st century. In 2003, Senator Ron Wyden of Oregon wrote, "The enforcement of Title IX may well be America's best hope to maintain our position at the forefront of key scientific disciplines and our leadership in the world community."[41]

In 1972, American girls and women were offered the promise of achieving previously inaccessible academic and athletic goals. While many victories followed on the playing fields, the promise of academic equity remained unfulfilled in the first twenty five years of Title IX. Despite the efforts of many women's advocates and Congress to maintain the original intent of the law, significant academic advances remained stalled by a bureaucratic inability to articulate and enforce Title IX, by schools that failed

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[39] Iram Valentin, "Title IX A Brief History," WEEA Equity Resource Center (August 1997): 6, http://www2.edc.org/WomensEquity/pdffiles/t9digest.pdf.

[40] National Science Foundation, Division of Science Resources Statistics, Survey of Earned Doctorates, 1958-2006, http://www.nsf.gov/statistics/infbrief/nsf08308/#tab1/ (accessed March 12, 2013).

[41] Ron Wyden, "Title IX and Women in Academics," *Computing Research News*, Vol.15/No.4 (September 2003), http://www.its.caltech.edu/~westclub/TITLEIX.pdf.

to create and execute equitable programs, and by a society that refused to relinquish antiquated stereotypes of women.