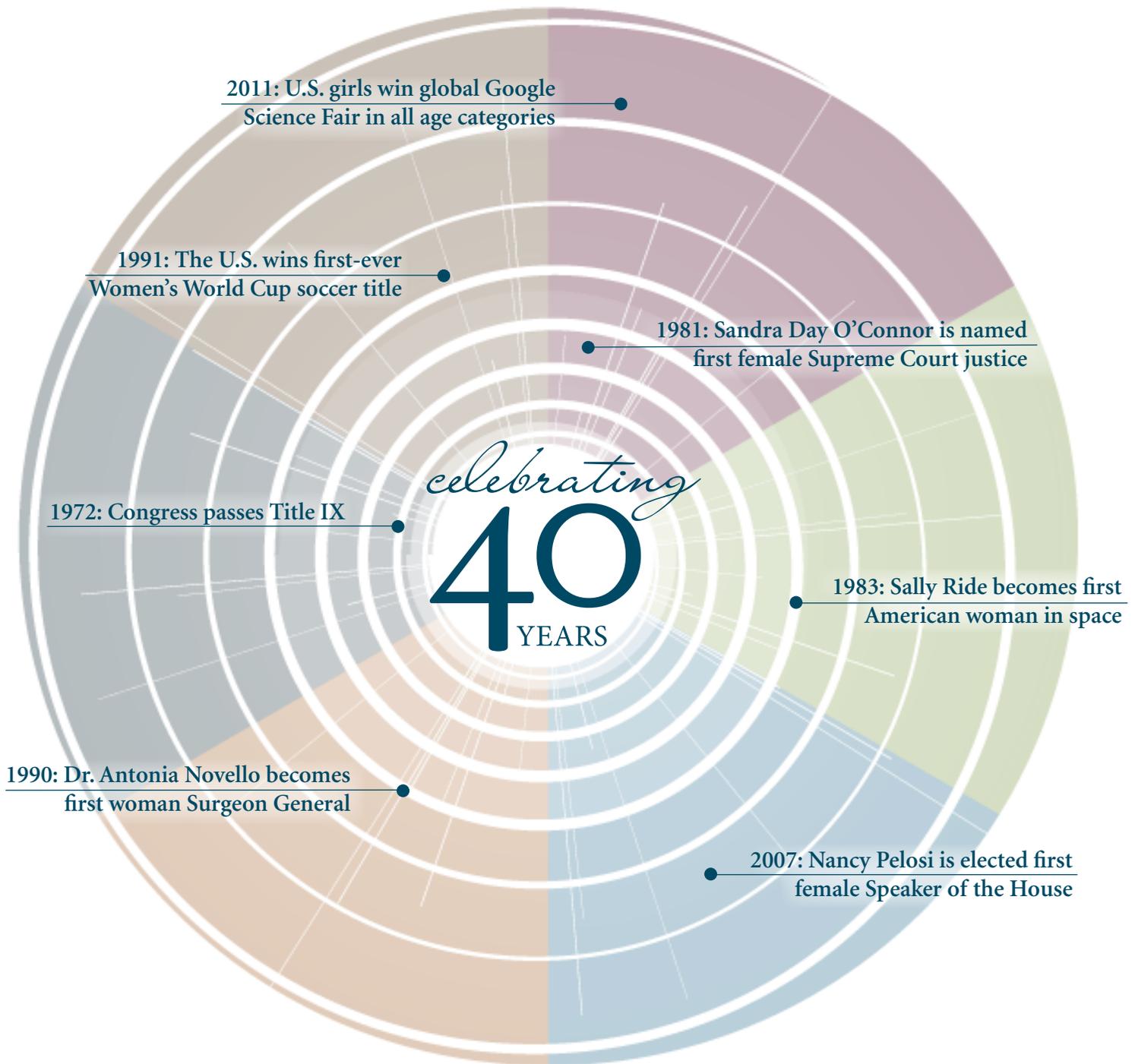


# Title IX

WORKING TO ENSURE GENDER EQUITY IN EDUCATION



career and technical education

athletics

science, technology, engineering, and mathematics

pregnant and parenting students

sexual harassment

single-sex education

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# Executive Summary:

## EDUCATION FOR EVERYONE

**F**ORTY YEARS AGO, CONGRESS PASSED Title IX of the Education Amendments of 1972 to ensure equal opportunity in education for all students, from kindergarten through postgraduate school, regardless of sex. This landmark legislation 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 subjected to discrimination under any education program or activity receiving federal financial assistance.*

— 20 U.S.C. §1681

Girls and women have made great strides in education since the passage of Title IX. The days when girls were blatantly told that they couldn't take shop or advanced math are, for the most part, gone. Females make up a growing proportion of students in many math, science, and technology-related fields, particularly in the life sciences. Given greater opportunities to participate in athletics, they are now doing so in record numbers. They have also made gains in career and technical education at the

high school and community college levels. Time and again, girls and women have proved that they have the interest and aptitude to succeed in areas once considered the exclusive purview of males.

Despite tremendous progress, however, challenges to equality in education still exist. Women's advancement in some areas, including computer science and engineering, has stagnated or even declined in recent years. Pregnant and parenting students are frequently subjected to unlawful policies and practices that deter them from completing their education. Nearly half of all middle and high school students report being sexually harassed in school. And single-sex classrooms often cater to stereotypes about how boys and girls learn, to the detriment of both sexes.

These and other challenges affect the ability of all students—male and female—to get the most out of their education. This in turn endangers the ability of U.S. schools and universities to produce skilled workers who can succeed in an increasingly competitive global marketplace.

### Who Benefits from Title IX?

Contrary to the opinion of critics, Title IX is not an entitlement program; it offers no special benefits or advantages for girls and women. Rather, it is a gender-neutral piece of legislation designed to ensure equality in education for *all* students by eliminating sex-based discrimination. Title IX and related regulations provide guidelines, procedures, and tools for preventing and addressing inequities that can hinder students' ability to succeed in school and beyond.

Title IX benefits girls and women who want to achieve their maximum potential in education without barriers on the basis of their sex. It *also* benefits boys and men who want equal access to all education and career options. By prohibiting hostile, threatening, and discriminatory behavior, Title IX protects the rights of all students to learn in a healthy environment. These advantages extend beyond individual



## TITLE IX AT WORK

Following are ten facts about Title IX, including both familiar and lesser-known aspects of the legislation.

- 1. In schools that receive federal funding, Title IX protects all students**—male and female—from discrimination on the basis of sex.
- 2. Title IX also prohibits sex discrimination in employment**, protecting school staff as well as students.
- 3. Title IX requires schools to provide male and female students with equal opportunities** to participate in athletics; it does not set quotas or demand equal funding for different sports.
- 4. Title IX mandates equity in career and technical education programs**, including those traditionally dominated by men (e.g., construction, IT), as well as those traditionally dominated by women (e.g., nursing).
- 5. Title IX protects girls' and women's rights to equity in STEM education**, including equal opportunities and access to institutional resources.
- 6. Title IX offers both male and female students protection against sex-based harassment** from teachers, school staff, other students, and school visitors.
- 7. Title IX sets strict limits on programs that separate girls and boys**, and prohibits the discrimination that can occur when such programs are based on gender stereotypes.
- 8. Title IX protects students from being refused enrollment** or excluded from school-related activities because of pregnancy or parenting status.
- 9. Title IX requires schools to adopt and disseminate policies** prohibiting sex discrimination, develop grievance procedures, and designate a Title IX coordinator to oversee compliance. Title IX also protects students and staff from retaliation for reporting violations.
- 10. Over the past 40 years, major gains in female participation** in areas such as science, math, business, and athletics have shown that girls and women have both the interest and the aptitude to succeed in these fields—without detracting from opportunities for males.

nation itself, which stands to gain a well-prepared workforce in which the brightest minds are allowed to advance.

## Title IX and Equity in Education: Where Things Stand

In recent years Title IX has come under attack from critics who claim that the law, which mandates equality in education, actually favors girls and women at the expense of boys and men. However, studies show that Title IX has made greater educational opportunities available for students of both sexes.

This report outlines issues and recommended solutions in six areas covered by Title IX: athletics; science, technology, engineering, and mathematics (STEM); career and technical education; sexual harassment; single-sex education; and the rights of pregnant and parenting students. Through this examination, the National Coalition for Women and Girls in Education (NCWGE) seeks to inform the continued search for policies that will promote equal educational opportunity in all of these areas.

### ATHLETICS

Title IX has increased female participation in sports exponentially. In response to greater opportunities to play, the number of high school girls participating in sports has risen tenfold in the past 40 years, while six times as many women compete in college sports. These gains demonstrate the key principle underlying the legislation: Women and girls have an equal interest in sports and deserve equal opportunities to participate.

Despite these advances, hurdles for female athletes remain. Girls and women still have fewer opportunities to participate in school sports than their male counterparts. In addition, different groups are not represented equally: Less than two-thirds of African-American and His-

panic girls play sports, while more than three-quarters of Caucasian girls do. In addition to having fewer opportunities, girls often endure inferior treatment in areas such as equipment, facilities, coaching, and scheduling.

Criticism of the effects of Title IX on athletics often springs from misconceptions about how the law works. Title IX does not mandate quotas or demand equal funding for all sports. Nor has opening opportunities for girls and women come at the expense of boys and men; in fact, athletic participation among males has continued to rise over the past 40 years.

### **SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH (STEM)**

With greater opportunity to study and work in science, technology, engineering, and math, girls and women have made great progress in these fields over the past 40 years. Nonetheless, more work is needed to achieve equality. Stereotypes about male and female abilities—none of which are supported by science—can affect access to opportunities for girls and women in STEM as well as student performance. Hiring and promotion policies in academia and elsewhere also hold women back.

Recent gains in girls' mathematical achievement demonstrate the importance of cultural attitudes in the development of students' abilities and interests. They also demonstrate the law's impact on society. As learning environments have become more open since the passage of Title IX, girls' achievement has soared. For example, the proportion of seventh- and eighth-grade girls who scored in the top 0.01% of students on the math SAT rose from 1 in 13 in the early 1980s to 1 in 3 by 2010.

At the college and postgraduate levels, women have made huge gains in some STEM fields but only modest progress in others. Women now earn more than half of all bachelor's degrees in biological and social sciences. In math, physics, engineering, and computer science, however,

the proportion of women earning bachelor's degrees has remained stagnant or even declined over the past decade.

Women's share of PhDs across all STEM fields has risen dramatically, from just 11% in 1972 to 40% by 2006; the numbers vary widely by field, though, with women earning over half the PhDs in the life sciences but just over 20% in computer science and engineering. Continuing female attrition in STEM programs at all levels comes at a devastating cost to U.S. businesses and research institutions, which need access to the brightest minds in STEM.

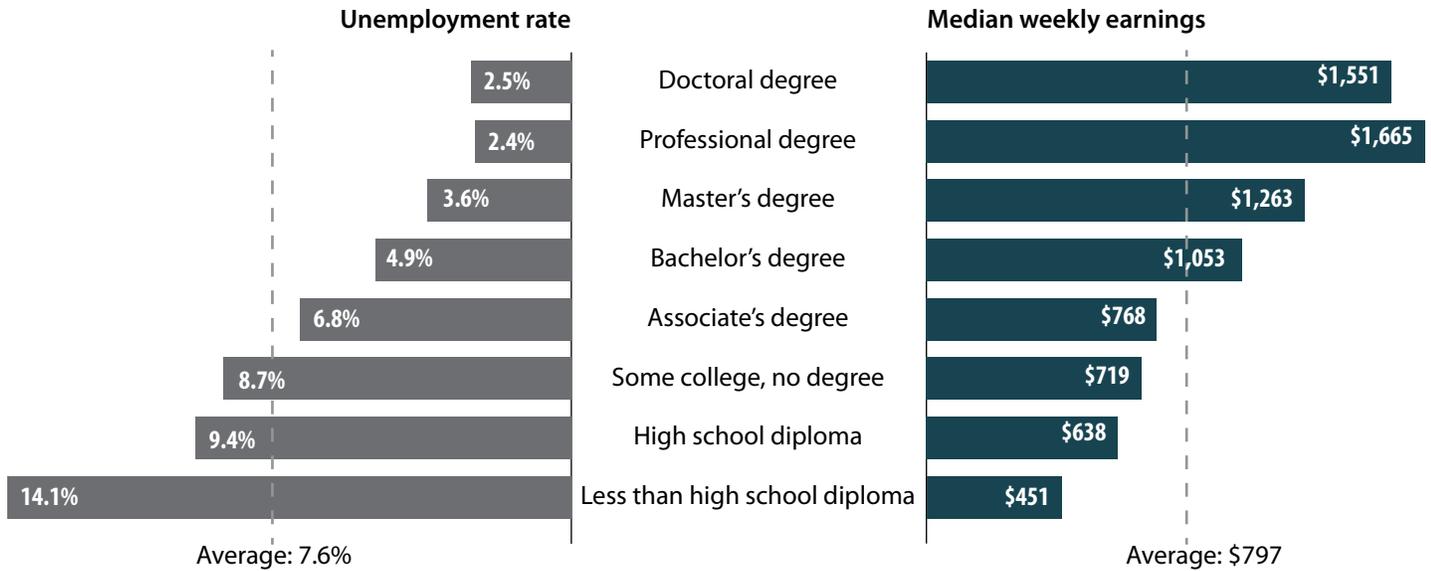
### **CAREER AND TECHNICAL EDUCATION**

Career and technical education (CTE) prepares youth and adults for a wide range of careers as well as further education in areas such as information technology, construction, manufacturing, auto engineering, and other skilled trades. Expanding access to technical occupations can help to shrink the gender wage gap. Through CTE, women can gain the knowledge and skills required to enter higher-paying, "nontraditional" occupations for women, defined as those in which less than 25% of the workforce is of their gender.

Since the passage of Title IX, there has been a gradual increase in the number of females in technical and other occupational programs leading to nontraditional careers. Although women and girls have made some advances in CTE since Title IX passed, barriers to entry—including gender stereotypes, implicit bias, unequal treatment, and sexual harassment—remain high. Males may also be discouraged from taking nontraditional courses, including courses in relatively high-growth, high-wage professions in health care and other fields.

Federal law needs to offer states both incentives and resources for ensuring gender equity. It should also mandate sanctions for discrimination. Better tracking and reporting of data, incentives for increasing girls' and women's

## Education Pays: Impact of Education on Employment and Earnings, 2011



NOTE: Data are for persons age 25 and over. Earnings are for full-time wage and salary workers.  
SOURCE: U.S. Bureau of Labor Statistics, Current Population Survey.

participation in high-wage occupations, and resources for developing effective recruitment and retention strategies are needed to ensure equal access to CTE for all students.

### SEXUAL HARASSMENT AND BULLYING

Harassment based on sex, including failure to conform to gender stereotypes, is prohibited by Title IX. Much of what is referred to as “bullying” is actually unlawful peer-on-peer harassment. The law applies whether the harassment involves students of the opposite or of the same sex, and whether it is conducted in person, online, or through other media. Title IX’s protection extends to sexual harassment in all of a school’s programs or activities, whether the harassment occurs on school property, on a school bus, or at an off-site school event.

Despite efforts to curb sexual harassment, this form of discrimination is still prevalent in schools and on college campuses. More than half of girls and 40% of boys in grades 7 through 12 reported being sexually harassed during the 2010–2011 school year. Among lesbian, gay, bisexual, and transgender students,

harassment is even more extensive: 85% say they have been verbally harassed, and 19% report physical assault. In addition, nearly two-thirds of college students aged 18–24 experience some form of sexual harassment. The numbers for men and women are similar, although women report greater emotional and educational disruption from harassment.

When sexual harassment occurs, Title IX requires that schools take immediate, effective action to eliminate the hostile environment, prevent its recurrence, and remedy the effects on the victim. These steps are essential for creating a learning environment in which all students can succeed. Better training and strengthening of the law—for example, giving students the same protection from harassment that employees have in the workplace—would help curb this widespread and damaging conduct.

### SINGLE-SEX EDUCATION

In recent years, there has been a growing trend of separating students on the basis of sex. This trend raises serious equality and policy con-

cerns, and may violate numerous provisions of state and federal law. In public schools, the circumstances under which students can be separated by sex are limited by the Constitution and Title IX. Although the U.S. Department of Education loosened restrictions on single-sex education in 2006, schools must still meet a host of legal requirements before separating students by sex.

Few schools meet these requirements. Many single-sex programs alleging a basis in research are in fact based on claims that amount to little more than repackaged sex stereotypes—for instance, that boys need authority and excel at abstract thinking, while girls need quiet environments that focus on cooperation and following directions. In the classroom, separating boys and girls can reinforce such stereotypes in ways that are stigmatizing and damaging to both groups. Moreover, single-sex programs can discriminate against one group in allocating resources or educational opportunities.

Despite assertions to the contrary, separating students by sex has not been proven to improve educational outcomes. Evaluations generally fail to compare single-sex programs with comparable coed programs or to control for other factors that affect outcomes, such as class size and student ability. Given the flaws in the justification for single-sex education and the documented inequities that spring from separating boys and girls, stricter regulation and compliance monitoring are essential. The Department of Education should rescind the looser 2006 regulations and clarify what is and is not

permissible to help put an end to inequitable programs.

## **PREGNANT AND PARENTING STUDENTS**

Despite legal protection under Title IX, pregnant and parenting students often face discrimination in school, including being pushed toward separate education programs, facing inequitable absence policies, and being denied access to extracurricular activities.

Pregnant and parenting teens face many obstacles to enrolling in, attending, and succeeding in school. Without adequate support, many drop out, lowering their chances of finding employment that offers economic security. This issue affects boys as well as girls: Close to half of female dropouts and one-third of male dropouts say that becoming a parent is a factor in their decision to leave high school.

Lack of knowledge of the law is a major issue in overcoming discrimination. Measures such as training school officials to understand the rights and needs of pregnant and parenting students and tracking compliance are important for ensuring equal access to education. In addition, greater support for pregnant and parenting students—including flexible leave options and services such as child care, counseling, and tutoring—can help ensure that these students have the opportunity to succeed in school.



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## **Continued Progress**

Even today, 40 years after the passage of Title IX, the goal of gender equity in education has not been fully realized. Each chapter of this report includes recommendations for the Title IX area covered in that chapter. In addition, NCWGE believes that the following overarching

recommendations will enable continued progress:

- 1. Awareness.** All stakeholders, including advocacy groups and the federal government, must actively educate the public and educa-

tional entities about Title IX and its broad application of educational equity. Education institutions should be fully aware of their responsibilities under Title IX.

- 2. Enforcement.** The U.S. Department of Education's Office for Civil Rights (OCR) should continue to enhance its Title IX enforcement and public education efforts and should conduct compliance reviews in areas not currently monitored, such as the treatment of pregnant and parenting students. Granting agencies should conduct regular and random Title IX compliance reviews of their grantee institutions, ensuring educational equity across all areas of Title IX.
- 3. Transparency.** Congress should require schools and universities to provide enhanced education data collection and reporting, including full disaggregation and cross-tabulation by gender, race, ethnicity, and disability, so that schools, parents, policy-makers, and advocates can see how smaller subgroups of students are doing in school. Data collection among federal grantee institutions should be standardized and include students as well as faculty and administrators at all levels, broken out by salary/compensa-

tion, promotion/tenure status, and field of study.

- 4. Coordination.** Title IX coordinators in each state, district, and school must be identified, notified of their responsibilities, and given training and resources to do their jobs. A complete list of these individuals and their contact information should be readily available on the U.S. Department of Education website, as well as on the websites of each state Department of Education and school district. OCR should have regular communication with Title IX coordinators to keep them informed. Congress and the Department of Education should coordinate the efforts of state and local Title IX coordinators in expanding programs to attract girls and women to fields in which they are under-represented, particularly in STEM and trade careers.
- 5. Funding.** Congress should restore federal funding to state education agencies for gender equity work, including funding for state Title IX coordinators and programs and for technical assistance with compliance. Funding should also be maintained for the Department of Education's regional Equity Assistance Centers.

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## About NCWGE

The National Coalition for Women and Girls in Education is a nonprofit organization established to educate the public about issues concerning equal rights for women and girls in education, monitor the enforcement and administration of current legislation, conduct and publish research and analysis of issues concerning equal educational rights for women and girls, and take the steps necessary and proper to accomplish these purposes.

NCWGE was formed in 1975 by representatives of national organizations concerned about the government's failure to issue regulations implementing Title IX of the Education

Amendments of 1972. NCWGE was successful in mobilizing strong support for publication of the Title IX regulations by the then-Department of Health, Education, and Welfare.

NCWGE continues to be a major force in developing national education policies that benefit women and girls; providing a valuable forum to share information and strategies to advance educational equity; advocating for women and girls regarding educational issues, including the interpretation and implementation of Title IX; and monitoring the work of Congress and federal agencies on education policies and programs.



# Title IX and Athletics

PROVEN BENEFITS, UNFOUNDED OBJECTIONS

**F**OR MANY, TITLE IX IS synonymous with expanded opportunities in athletics. Before Title IX, women and girls were virtually excluded from most athletic opportunities in schools. Since the legislation passed, girls and women have been able to participate in athletics at much higher rates. Opportunities for girls to participate in high school athletics in particular have increased exponentially.

The benefits of increased participation affect not just female athletes but society as a whole. Research has found that girls who play sports are less likely to get pregnant or take drugs than those who don't play sports; they're also more likely to graduate and go on to college. Furthermore, sports participation reduces the risk of developing illnesses such as obesity, heart

disease, osteoporosis, and breast cancer, all of which have huge associated social and financial costs.

Although the athletic provisions of Title IX are probably the most well known aspects of the legislation, myths about the requirements and impact of Title IX are prevalent. The law requires that schools treat the sexes equally with regard to participation opportunities, athletic scholarships, and the benefits and services provided to male and female teams. It does not require that schools spend the same amount on both sexes, nor has it resulted in reduced opportunities for boys and men to play sports.

Despite the substantial benefits of participation in sports and Title IX protections against sex discrimination in athletics, the playing field is still not level for girls. Girls are twice as likely to be inactive as boys, and female students have

## KEY FINDINGS

- 1. Title IX has increased female participation in sports exponentially.** In response to greater opportunities to play, the number of high school girls participating in sports has risen tenfold in the past 40 years, while six times as many women compete in college sports.
- 2. Huge gains in the number of female athletes demonstrate the key principle underlying the legislation:** Women and girls have an equal interest in sports and deserve equal opportunities to participate.
- 3. Participation in sports confers both immediate and long-term benefits:** Female athletes do better in school, are less likely to engage in risky behavior, and are healthier than girls and women who do not participate in sports.
- 4. Attacks on Title IX often spring from misconceptions about how the law works.** Courts have consistently upheld the validity of the law.
- 5. Despite many gains over the past 40 years, barriers remain to participation in sports for girls and women.** Greater enforcement of the law by the federal and state governments, self-policing of compliance by schools, and passage of the High School Athletics Transparency Bills will help bring about greater equity.

fewer opportunities to participate in both high school and college sports than their male counterparts. Greater enforcement of Title IX and diligent efforts to advance women and girls in sports are still necessary to achieve truly equal opportunity on the playing fields.

### Impact of Title IX on Sports Participation

Opportunities for girls and women in athletics have increased exponentially since the passage of Title IX. During the 1971–1972 school year, immediately before the legislation passed, fewer

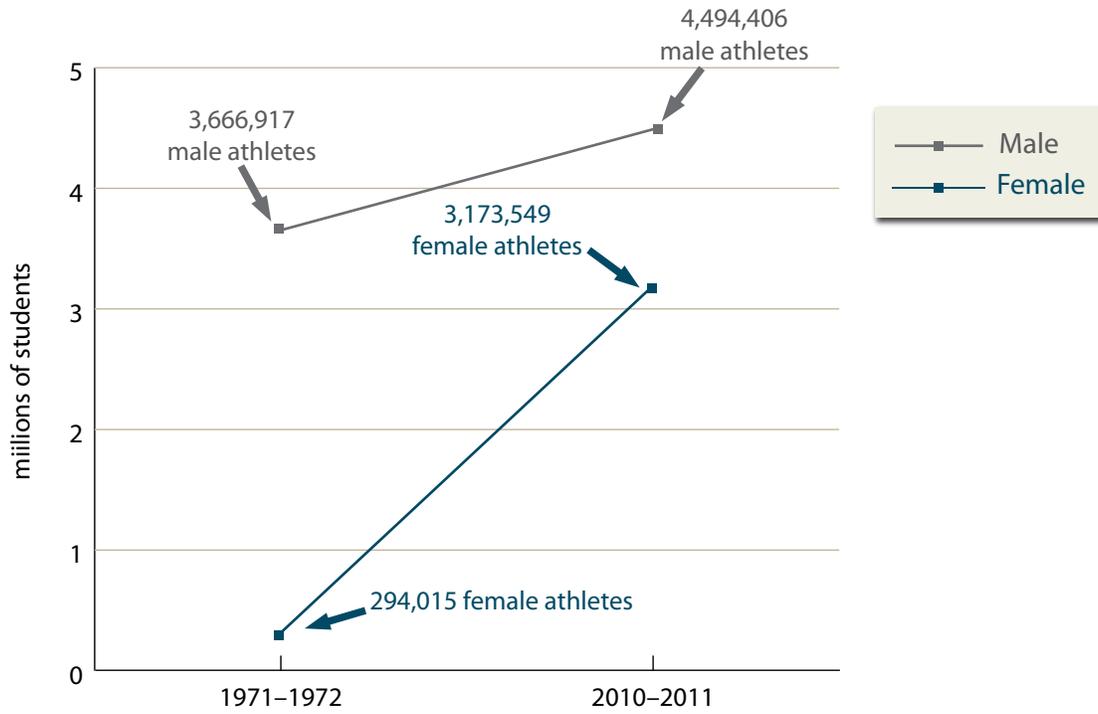
than 300,000 girls participated in high school athletics. To put that number in perspective, just 7% of all high school athletes were girls. In 2010–2011, the number of female athletes had climbed by more than tenfold to nearly 3.2 million, or 41% of all high school athletes (see the figure on the opposite page).<sup>1</sup>

Title IX has also had a huge impact on women's participation in college athletics. In 1971–1972, fewer than 30,000 women participated in college sports. In 2010–2011 that number exceeded 190,000—about 6 times the pre-Title IX rate (see the figure).<sup>2</sup> In 1972, women received only 2% of schools' athletic budgets, and athletic scholarships for women were nonexistent.<sup>3</sup> In 2009–2010, women received 48% of the total athletic scholarship dollars at Division 1 schools, although they received only 40% of total money spent on athletics, despite making up 53% of the student body.<sup>4</sup>

Despite huge gains over the past 40 years, much work still needs to be done. Although overall sports participation rates have grown for both males and females, girls' and women's participation still lags behind that of their male counterparts, and increases among females have remained stalled for the past five years. Given the proven health and social benefits of athletics, it is essential that woman and girls be given equal opportunities to participate.

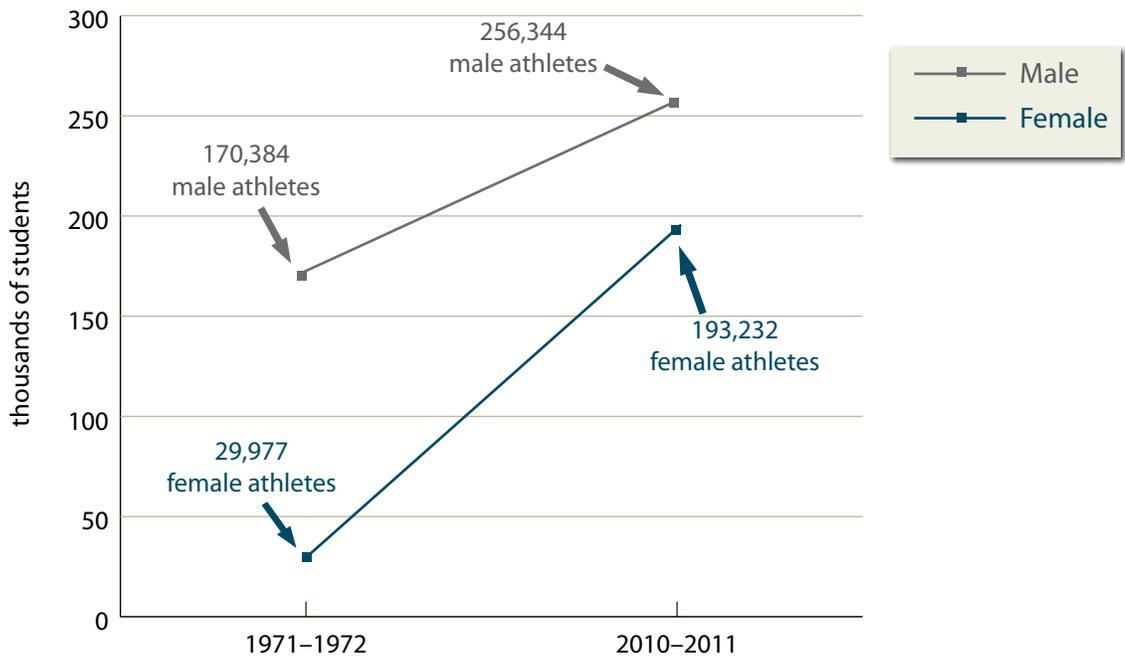
As the numbers show, male participation in both high school and college athletics has continued to increase since Title IX's enactment. Although the rate of increase among males hasn't matched growth among females, that is no doubt because opportunities were already so prevalent for boys and men. In fact, males continue to have more opportunities to participate in sports than females at all school levels.

### Male and Female Participation in High School Sports, 1972–2011



SOURCE: National Federation of State High School Associations, 2011.

### Male and Female Participation in College Sports, 1972–2011



SOURCE: NCAA Sports Sponsorship and Participation Report, 1971-72–2010-11.



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## Benefits of Sports for Women and Girls

The benefits of participation in athletics for girls and women encompass both immediate and long-term health advantages, as well as a range of other benefits that have a deep and lasting impact on society as a whole.

### **SPORTS LEAD TO BETTER SHORT- AND LONG-TERM HEALTH**

Obesity is an emerging children's health epidemic and a particular concern for girls of color. Of girls aged 6 to 11, 25% of African-American girls and just under 16% of white girls are overweight. Of girls aged 12 to 19, 24% of African-American girls and 15% of white girls are overweight.<sup>5</sup> It is well documented that regular physical activity can reduce the risk of obesity for adolescent girls, making it an important strategy for combating obesity and related illnesses.<sup>6</sup> Minority girls are more likely to participate in sports through their schools than through private organizations,<sup>7</sup> rendering it even more critical that they have equal access to school-sponsored sports to enable them to be physically active.

Participation in school athletics can also have positive health effects later in life. *The New York Times* recently highlighted research showing that women who played sports while young had a 7% lower risk of obesity 20–25 years later, when women were in their late 30s and early

40s.<sup>8</sup> The study notes that while a 7% decline in obesity is modest, “no other public health program can claim similar success.”

In addition to combating obesity, sports participation decreases a young woman's chance of developing a range of other diseases, including heart disease, osteoporosis, and breast cancer.<sup>9</sup> The combined social and financial impact of reducing these health issues through school sports programs can be enormous.

### **ATHLETES ARE LESS LIKELY TO ENGAGE IN RISKY BEHAVIORS**

The direct health benefits of increased activity may come as no surprise, but participation in sports can have less obvious benefits as well. These benefits extend well beyond the girls and women affected to include their families and broader social structures.

For example, high school athletes are less likely to smoke cigarettes or use drugs<sup>10</sup> than their peers who don't play sports. One study found that female athletes are 29% less likely to smoke than non-athletes.<sup>11</sup> Given the high costs of smoking-related illnesses and deaths, these figures are significant.

Adolescent female athletes also have lower rates of both sexual activity and pregnancy than their non-athlete counterparts. In fact, female athletes are less than half as likely to become pregnant in adolescence as their peers who are not athletes.<sup>12</sup> This is true for white, African-American, and Latina athletes.<sup>13</sup>

### **FEMALE ATHLETES FARE BETTER IN SCHOOL AND BEYOND**

Studies have found that female participation in sports offers a range of academic benefits. Young women who play sports are more likely to graduate from high school, have higher grades, and score higher on standardized tests than non-athletes.<sup>14</sup> This pattern of greater academic achievement is consistent across

community income levels. One statewide, three-year study by the North Carolina High School Athletic Association found that athletes achieved grade point averages that were nearly a full point higher than those of their non-athlete peers, in addition to higher graduation rates.

These benefits go some way toward closing certain educational gaps for girls and women. For example, female athletes are more likely to do well in science classes than their classmates who do not play sports.<sup>16</sup> In addition, female athletes of color consistently benefit

from increased academic success throughout their education. For example, female Hispanic athletes are more likely than non-athletes to improve their academic standing, graduate from high school, and attend college.<sup>17</sup>

The lessons of teamwork, leadership, and confidence that girls and women gain from participating in athletics can help them after graduation as well as during school. A whopping 82% of female business executives played sports, with the majority saying that lessons learned on the playing field contributed to their success.<sup>18</sup>

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## The Blame Game: Title IX Myths and Facts

Opponents of Title IX claim that there is a negative impact on boys' and men's sports arising from attempts to increase opportunities for girls and women in athletics. These criticisms are based on misinterpretations of the law and are not supported by the facts.

### WHAT THE LAW SAYS

Title IX requires that schools treat both sexes equally with regard to three distinct aspects of athletics: participation opportunities, athletic scholarships, and treatment of male and female teams.

**Participation.** The Department of Education uses a "three-part test" to evaluate schools' compliance with the requirement to provide equal participation opportunities (see the boxed insert for details). This test was set forth in a Policy Interpretation issued by the Office for Civil Rights (OCR) in 1979<sup>19</sup> and has withstood legal challenges.

**Athletic Financial Assistance.** Title IX requires that scholarships be allocated in proportion to the number of female and male students participating in intercollegiate athletics.<sup>20</sup> OCR has made clear that schools will be found in compliance with this requirement if the percent-

age of total athletic scholarship dollars received for each sex is within one percent of their levels of participation.<sup>21</sup> In other words, if women comprise 42% of the athletes on campus, the school must provide between 41% and 43% of its athletic scholarship dollars to female athletes.

**Equal Treatment of Athletes.** Title IX also requires equal treatment of male and female teams.

Title IX does not require that each men's and women's team receive exactly the same services and equipment, but it does require that male and female athletes receive equal treatment overall in areas such as locker rooms, practice and game facilities, recruitment, academic support, and publicity.<sup>22</sup>

### THE THREE-PART TEST

Under the three-part test, schools are in compliance with the law if:

- Males and females participate in athletics in numbers substantially proportional to their enrollment numbers; *or*
- The school has a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of members of the underrepresented sex; *or*
- The institution's existing programs fully and effectively accommodate the interests and abilities of the underrepresented sex.

## INCREASED OPPORTUNITIES FOR FEMALE ATHLETES: SUCCESS STORIES

Increased participation by women and girls in sports since Title IX has led to a new generation of athletes and fans who pack stadiums and spend a growing number of consumer dollars on women's sports.

- In 1989, the University of Connecticut women's basketball team played before just 287 fans in the front half of a doubleheader shared with the men. During the 2009-10 season, UConn women set the NCAA record for invincibility with a 90-game winning streak, supported by a total of 357,627 fans attending the team's 39 games.
- Women's rowing and soccer programs have experienced some of the biggest gains since Title IX was enacted. The number of women's crew teams nationwide increased from 12 in 1991 to 146 in 2009. The number of NCAA women's soccer teams increased from 318 in 1991 to 959 in 2009.
- Professional women's soccer continues to grow in popularity. When the United States hosted the Women's World Cup in 1999, the final game between the U.S. and China drew 90,185 fans—the largest crowd ever to witness a women's athletic event. The 2011 Women's World Cup played multiple sold-out matches and, during the final, broke the Twitter world record in number of tweets per second. All 32 games were broadcast live.
- U.S. women won a record 53 medals in the 2008 Summer Olympics, including gold medals in basketball, soccer, and doubles tennis. The U.S. women's basketball team has won the gold medal at the last four Olympics. U.S. women won 12 medals at the Winter Olympics in 2010, including the silver in ice hockey. In 2002, the first African-American ever to win a gold medal in the Winter Olympics was a woman.

SOURCE: National Women's Law Center. *The Battle for Gender Equity in Athletics in Colleges and Universities*, 2011.

### COURTS REJECT MALE DISCRIMINATION ARGUMENT

Recent court challenges highlight the way these provisions have been misinterpreted. For example, a coalition of wrestlers sued the Department of Education in 2002 and 2007, alleging that the three-part test unlawfully discriminates against males.<sup>23</sup> These and similar allegations have been resoundingly rejected by all of the federal appellate courts that have considered them.<sup>24</sup>

### COMMON MYTHS ABOUT TITLE IX

Myths abound about how Title IX affects athletics, particularly at the high school and college levels. Most of these myths reflect the unfounded fear that increasing athletics opportunities for girls and women will correspondingly decrease opportunities for boys and men. In fact, boys and men have continued to make gains in athletics as opportunities for

their female counterparts have grown, with corresponding benefits for all students.

**Myth 1: Title IX requires quotas.** Title IX does not require quotas; it simply requires that schools allocate participation opportunities in a nondiscriminatory way. The three-part test is lenient and flexible, allowing schools to comply even if they do not satisfy the first part. The federal courts have consistently rejected arguments that Title IX imposes quotas.

**Myth 2: Title IX forces schools to cut sports for boys and men.** Title IX does not require or encourage the cutting of any sports. It does allow schools to make choices about how to structure their programs as long as they do not discriminate. Instead of allocating resources among a variety of sports, many college administrators are choosing to take part in the basketball and football "arms race" at the expense of other athletic programs. In Division I-FBS (formerly Division I-A), for example,

basketball and football consume 80% of total men's athletic expenses. Average expenditures on football alone in this division (\$12+ million) exceed average expenditures on *all* women's sports (\$8+ million).<sup>25</sup>

**Myth 3: Men's sports are declining because of Title IX.** Opportunities for men in sports—measured by numbers of teams as well as athletes—have continued to expand since the passage of Title IX. Between the 1988–1989 and the 2010–2011 school years, NCAA member institutions added 3,727 men's sports teams and dropped 2,748, for a net gain of nearly 1,000 men's teams. The teams added and dropped reflect trends in men's sports: wrestling and gymnastics teams were often dropped, while soccer, baseball, and lacrosse teams were added. Women made greater gains over the same period, but only because they started at such a deficit; 4,641 women's teams were added and 1,943 were dropped. During the 2010–2011 school year, NCAA member institutions actually dropped slightly more women's teams than men's teams.<sup>26</sup>

**Myth 4: Title IX requires schools to spend equally on male and female sports.** The fact is that spending does not have to be exactly equal as long as the benefits and services provided to the men's and women's programs are equal overall. The law recognizes, for instance, that football uniforms cost more than swimsuits; therefore, a discrepancy in the amount spent on uniforms for men's teams versus women's teams is not necessarily a problem. However,



the school cannot provide men with top-notch uniforms and women with low-quality uniforms, or give male athletes home, away, and practice uniforms and female athletes only one set of uniforms. A large discrepancy in overall funding is a red flag that warrants further scrutiny. There is currently a large gap among Division I-FBS schools, where women receive just 28% of the money spent on athletics.<sup>27</sup>

**Myth 5: Men's football and basketball programs subsidize female sports.** The truth is that these high-profile programs don't even pay for themselves at most schools. Even among the most elite divisions, nearly half of men's football and basketball programs spend more money than they generate.<sup>28</sup>

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## Recent Legislative Action: Attacks and Advances

### LEGAL AND OTHER CHALLENGES

Even though much work remains to be done to achieve gender equity in athletics, Title IX opponents continue to try to undermine the law through media attacks, legal challenges, and appeals to Congress and the Executive Branch. The basic claim made by these oppo-

nents is that women and girls are inherently less interested in sports than are men and boys, and that providing females with equal opportunities therefore discriminates against males.

The most recent attacks have targeted secondary school programs. In July 2011, the Ameri-

## ADDITIONAL RESOURCES

**The Battle for Gender Equity in Athletics in Colleges and Universities.** National Women’s Law Center (NWLC), 2011. Available at [http://www.nwlc.org/sites/default/files/pdfs/2011\\_8\\_battle\\_in\\_college\\_athletics\\_final.pdf](http://www.nwlc.org/sites/default/files/pdfs/2011_8_battle_in_college_athletics_final.pdf).

**The Battle for Gender Equity in Athletics in Elementary and Secondary Schools.** NWLC, 2012. Available at <http://www.nwlc.org/resource/battle-gender-equity-athletics-elementary-and-secondary-schools>.

**Debunking the Myths About Title IX and Athletics.** NWLC, 2012. Available at <http://www.nwlc.org/resource/debunking-myths-about-title-ix-and-athletics>.

**NCAA Gender Equity Report, 2004–2010.** National Collegiate Athletic Association, 2012. Available at <http://www.ncaapublications.com/productdownloads/GEQS10.pdf>.

**Title IX Still Applies: The Battle for Gender Equity in Difficult Economic Times.** NWLC, 2012. Available at <http://www.nwlc.org/resource/title-ix-still-applies-gender-equity-athletics-during-difficult-economic-times>.

can Sports Council filed a lawsuit against the U.S. Department of Education, claiming that Title IX should not apply to secondary schools. This case, like other similar cases,<sup>29</sup> was dismissed. The court said that the group could not show that Title IX is the cause of their injuries (which they describe as the potential reduc-

tion of athletic opportunities for boys) because the law does not require schools to reduce opportunities.<sup>30</sup>

### A MAJOR STEP FORWARD

On April 20, 2010, the Department of Education issued a new policy document revoking the harmful 2005 Additional Clarification that weakened schools’ obligations under Title IX to provide women and girls with equal athletic opportunities. The 2005 Clarification created a major compliance loophole by eliminating the requirement (under part three of the three-part test) for schools to look broadly and proactively at whether they are satisfying female students’ interests in sports. Instead, the 2005 policy allowed schools to show that they were fully meeting their female students’ interests in sports simply by sending an email survey to all female students and assuming that a failure to respond indicated a lack of interest.

The 2010 Clarification reverses and replaces the 2005 document, stating that schools cannot rely solely on surveys to demonstrate that they are in compliance with part three. Instead, the Department made clear that schools must adhere to a longstanding policy requiring them to evaluate multiple indicators of interest to show that they are fully and effectively accommodating their female students’ interests.<sup>31</sup>

## Barriers to Women’s and Girls’ Participation in Sports

Despite great gains over the past 40 years, barriers to true equality still remain:

- Girls have 1.3 million fewer chances to play sports in high school than boys.<sup>32</sup> Opportunities are not equal among different groups of girls. Fewer than two-thirds of African American and Hispanic girls play sports, while more than three-quarters of Caucasian girls do.
- Three-quarters of boys from immigrant families are involved in athletics, while fewer than half of girls from immigrant families are.<sup>33</sup>
- In addition to having fewer participation opportunities, girls often endure inferior treatment in areas such as equipment, facilities, coaching, scheduling, and publicity.
- At the most competitive level, Division I-FBS schools, women make up 51% of students, yet they have only 45% of the opportunities to

play intercollegiate sports. Female athletes at these schools receive 42% of the total athletic scholarship dollars, 31% of the dollars spent to recruit new athletes, and just 28% of the total money spent on athletics.<sup>34</sup>

- Since Title IX was passed, there has been a dramatic decrease in the proportionate role

of female coaches. In 1972, 90% of women's teams were coached by females, while today 43% are. Only 2–3% of men's teams are coached by women. As the number of women's teams has increased, the percentage of female coaches has continued to drop.<sup>35</sup>

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## NCWGE Recommendations

- OCR must receive adequate funding and strengthen its efforts to enforce Title IX by initiating proactive compliance reviews at more educational institutions and providing technical assistance and guidance on emerging Title IX questions.
- Congress should pass the High School Athletics Transparency Bills, which require that

high schools report basic data on the numbers of female and male students and athletes, as well as the budgets and expenditures for each sports team. Since this information is already collected, just not made public, this legislation would allow communities to be informed about how their schools are treating boys and girls in sports without creating an additional burden on schools.<sup>36</sup>

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11. M.J. Melnick, K.E. Miller, D. Sabo et al., "Tobacco use among high school athletes and non-athletes: Results of the 1997 Youth Risk Behavior Survey." *Adolescence*, 36, 2001, 727–747.

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19. 44 Fed. Reg. 71413 et seq (1979).

20. 34 C.F.R. § 106.37(c).

21. 34 C.F.R. § 106.41(c) and Norma V. Cantú, *Dear Colleague Letter: Bowling Green State University*, (U.S. Department of Education, Office for Civil Rights, July 23, 1998).

22. 34 C.F.R. § 106.41(c) (1–10).

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24. See, for example, *Williams v. Sch. Dist. of Bethlehem*, 998 F.2d 168, 171 (3d Cir. 1993); *Pederson v. La. State Univ.*, 213 F.3d 858, 880 (5th Cir. 2000); *Miami University Wrestling Club v. Miami University*, 302 F.3d 608, 612–13 (6th Cir. 2002); *Chalenor v. Univ. of N.D.*, 291 F.3d 1042, 1046 (8th Cir. 2002); *Roberts v. Colo. State Univ.*, 998 F.2d 824, 828–29 (10th Cir. 1993), among others.

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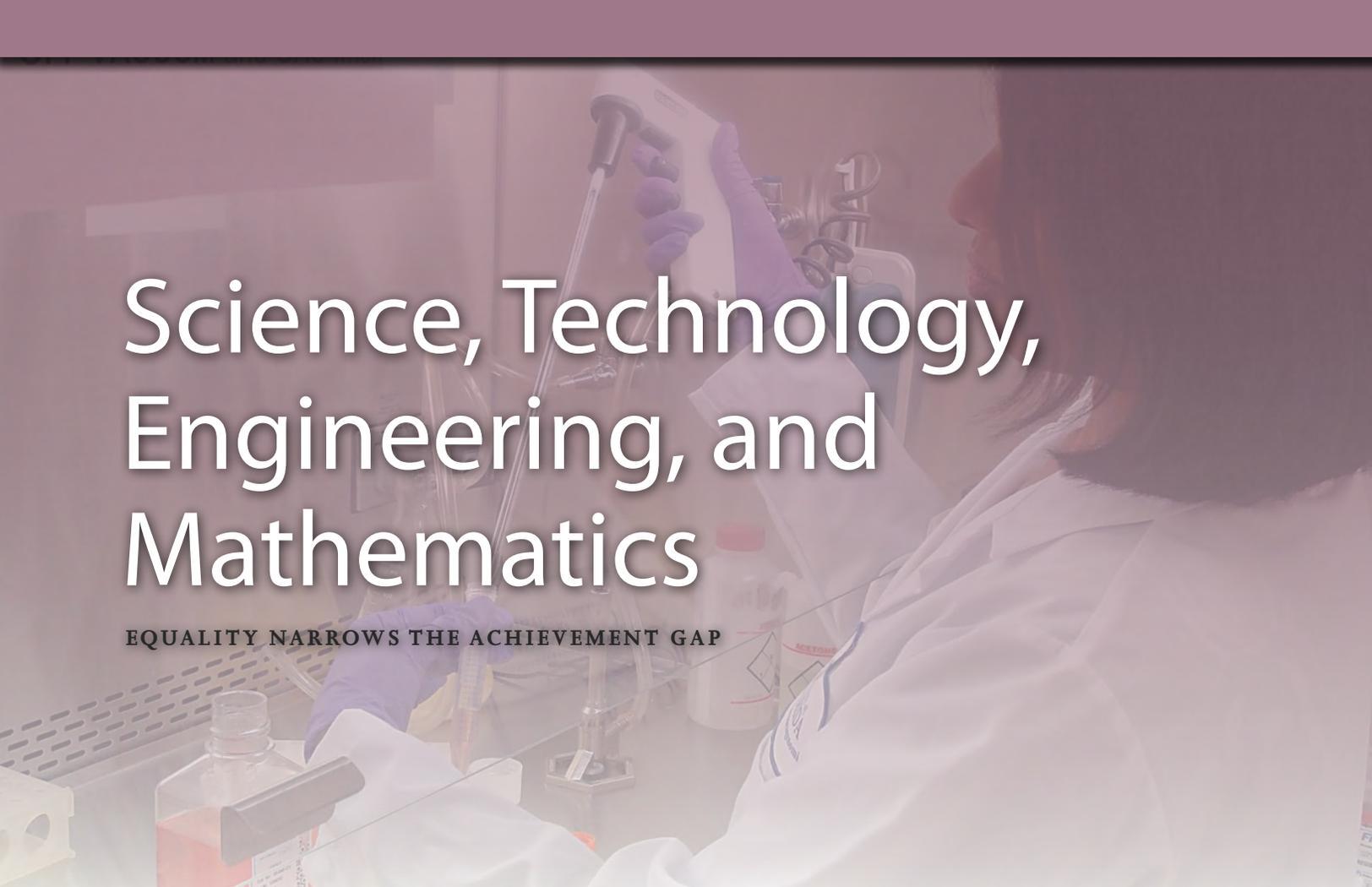
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# Science, Technology, Engineering, and Mathematics

EQUALITY NARROWS THE ACHIEVEMENT GAP

**W**ITH GREATER OPPORTUNITY TO STUDY and work in science, technology, engineering, and math (STEM), girls and women have made significant progress in these fields over the past 40 years. Nonetheless, barriers to equality remain. Stereotypes about male and female abilities in math and science—which are perpetuated by society but have been debunked by scientific research—affect opportunities for girls

and women in STEM. Hiring and promotion practices in academia and elsewhere also can hold women back.

In a global marketplace that is increasingly driven by technology, leveling the playing field for women in STEM is an essential strategy for boosting U.S. competitiveness. Ensuring that all students have equal opportunities is key to creating an environment where talent and innovation can flourish in our schools, businesses, hospitals, research facilities, and government agencies.

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## Reasons for the STEM Gender Gap

The stereotype that boys are innately better than girls at math and science is pervasive in the U.S., but recent trends in achievement—as well as years of scientific research—dem-

onstrate that this notion is simply incorrect. Although the number of women still lags behind the number of men in many STEM fields, the reasons for this gap are cultural

## KEY FINDINGS

- 1. The achievement gap between male and female students** in science, technology, engineering, and math (STEM) is steadily closing, but cultural biases and institutional barriers still hinder the advancement of girls and women in these fields.
- 2. Despite overall gains, women’s participation in some STEM fields has stagnated or even declined in the past decade.** In addition, female attrition in STEM at every level of education is still high. This attrition comes at a devastating cost to U.S. competitiveness in the global marketplace.
- 3. Title IX compliance with regard to STEM education is essential** in order to take full advantage of the potential of our country’s best and brightest minds to advance technology and innovation.
- 4. Increased awareness of Title IX protections, outcome-based investments** in outreach and retention programs, institutional policies that ease restrictions on faculty who need time off to care for family members, and stronger monitoring of regulatory compliance would help ensure that our nation’s schools, colleges, and research institutions are fostering an environment that encourages women to stay and thrive in STEM fields.

rather than biological. The varying participation of women in STEM in different parts of the world demonstrates the impact of culture. For example, 40% of the students in the University of Puerto Rico at Mayaguez’s engineering programs are women,<sup>1</sup> and in Romania 44% of researchers in engineering and technology are women,<sup>2</sup> whereas only 11% of engineers in the United States are women.

### CULTURAL BIASES

Scientific research has not demonstrated that innate differences exist between boys and girls in terms of mathematical or scientific abilities. Spatial reasoning abilities and math performance are not biologically “programmed” by gender; rather, they are influenced by social

context and degree of gender equality in a society.<sup>3</sup>

The impact of cultural bias on student interest and performance in STEM fields is well studied. In a recent large-scale study, researchers Kane and Mertz (2012) demonstrated that the societal influence of gender stereotypes and bias against women in science is related to gender differences in aptitude.<sup>4</sup> They compared the scores of 300,000 eighth graders in 34 countries on a standardized math and science test with population scores on the Implicit Association Test on gender and science, the standard test for detecting unconscious bias developed by researchers at Harvard. Kane and Mertz’s study shows a strong link between the implicit gender-science stereotype of the country and the gender difference in test performance. This statistically significant correlation provides the most compelling evidence to date that differences between male and female students’ performance in math and science are caused by cultural, rather than biological, factors.

Implicit biases can have an impact on whether girls and women enter and stay in STEM fields. Gender biases can affect students in both overt and subtle ways. They may prevent female students from pursuing science and math from the beginning, play a role in their academic performance, and influence whether parents and teachers encourage them to pursue science and engineering careers. They may also directly or indirectly influence whether women are hired, as well as hinder the promotion rate and career advancement of female employees.

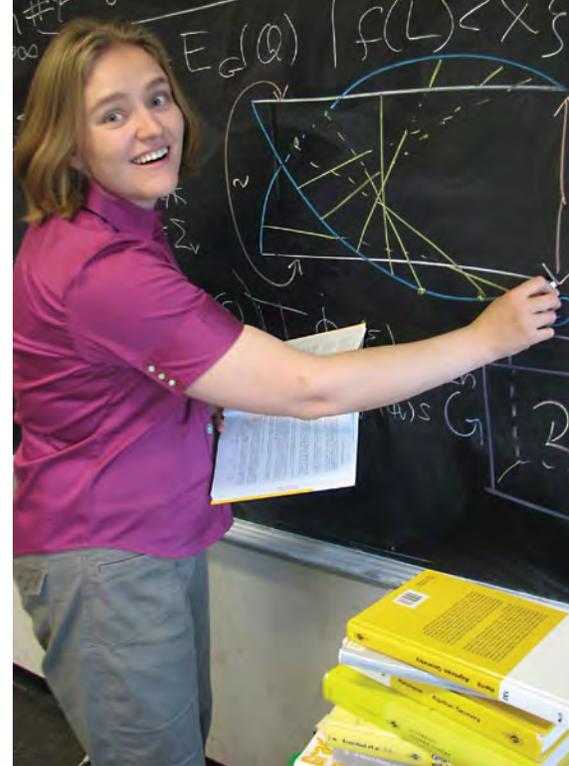
### STEREOTYPE THREAT

Stereotypes about girls’ math and science ability can affect their performance through an effect called “stereotype threat”—the feeling of being judged by a negative stereotype, or fear of reinforcing that stereotype. Stereotype threat is known to negatively affect girls’ performance. In one landmark study, girls who were primed

to feel inadequate did significantly worse than their male peers on a challenging math test, whereas girls in the control group, who did not face a stereotype threat condition, scored similarly to the boys.<sup>5</sup> In the decade since that investigation appeared, some 300 additional studies have been published that support this finding.

Recent gains in girls' mathematical achievement demonstrate the importance of culture and learning environments on students' abilities and interests. As learning environments have become more open since the passage of

Title IX, girls' achievement has soared. For example, the proportion of girls who score in the top 0.01% of seventh and eighth graders on the math SAT rose from 1 in 13 in the early 1980s to 1 in 3 more recently.<sup>6</sup> This short-term closing of the gender gap provides further evidence that gender differences in math ability are not innate.



## Progress Since Title IX

Under Title IX, educational programs that receive federal funding are prohibited from discriminating on the basis of sex and must ensure equity in STEM education for all students. In addition, federal agencies that award grants to educational institutions are obligated to take steps to ensure that these institutions provide equal opportunities for women and girls in STEM education, including equal consideration in promotion and tenure for faculty.

Women and girls have made great progress in many STEM areas, but more needs to be done to achieve true gender parity. In fields like biology, psychology, and chemistry, girls now make up close to, or more than, half of those receiving bachelor's or postgraduate degrees.

If girls are interested, they have the potential to go further.... There are still lingering stereotypes that affect girls in middle school, and they lose interest in the subjects.

—Physicist and astronaut  
Sally Ride,  
first U.S. woman in space

However, participation rates of women and girls in secondary and postsecondary technical fields, particularly

engineering and computer science, are still very low.<sup>7</sup>

## K-12 EDUCATION

Among secondary school students, the gender gap in math and science is closing. In high school, girls earn more credits and have higher grade point averages in math and science than their male peers.<sup>8</sup> Girls are more likely to take biology, chemistry, and pre-calculus than boys are, although they are less likely to take physics.<sup>9</sup> Despite these gains, the performance gap in standardized testing persists, as girls still perform lower than boys on the math SAT.<sup>10</sup>

Girls are taking more advanced placement (AP) classes overall, but fewer go on to take AP tests in STEM fields. According to the National Center for Education Statistics, in 2009 only 17% of students who took the AP test in computer science were girls.<sup>11</sup> The participation rates of girls in STEM-related programs of study in high school career and technical education continue to lag behind their participation in math and science, at only 20%.<sup>12</sup> Even with girls' growing participation and success in math and science at the K-12 level, this academic success very



often does not translate into a college major and ultimately career selection in a STEM field.

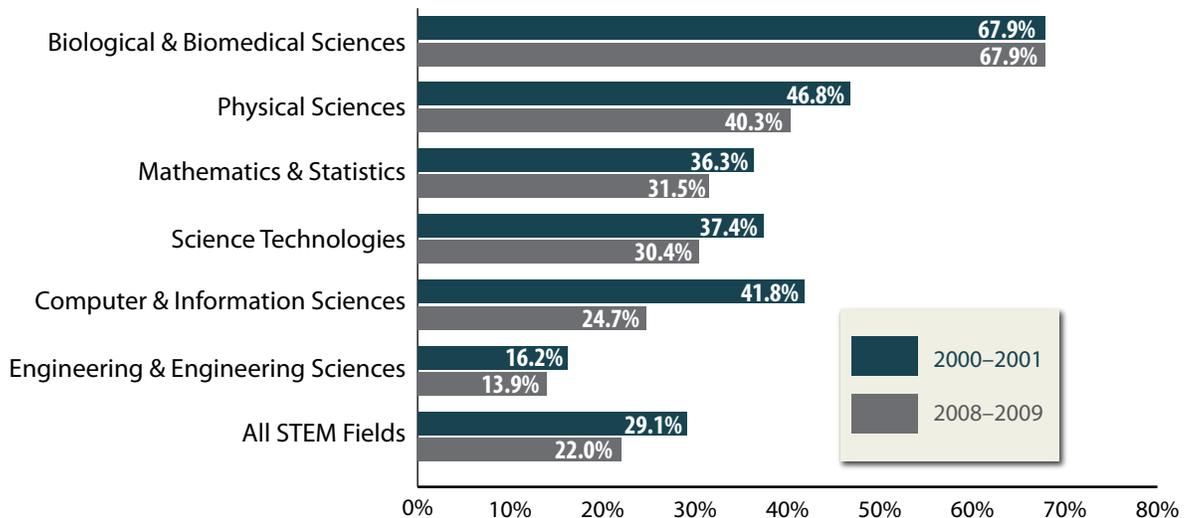
### POSTSECONDARY EDUCATION

At the postsecondary level, women are less likely to select a STEM major than a non-STEM major, and are more likely than their male counterparts to switch to a non-STEM major during their first year of college. With the growing number of students choosing community college as their first college experience,

the STEM gender gap on community college campuses across this country is concerning. In 2009, only 22% of associate's degrees in STEM were earned by women. Even more troubling, the percentage of associate's degrees awarded to women in STEM fields has declined by 25% over the last eight years.<sup>13</sup> (See the chart below.)

The shifting educational experiences of women in college, including the presence of female graduate students, affect their persistence in STEM fields.<sup>14</sup> One review of student enrollment in STEM courses over a nine-year period (2001–2009) found that attrition varied greatly by field. In biology, for example, women made up 56% of introductory classes and 60% of fourth-semester classes. In contrast, the proportion of women taking computer science declined from 31% in the first semester to just 17% in the fourth semester (see the table on the next page, top). High attrition in many STEM fields signals a cultural problem that needs to be addressed through institutional and attitudinal changes as well as broader participation of women in STEM fields.

**Percentage of Associate's Degrees Awarded to Women by STEM Field, 2000–2001 and 2008–2009**



SOURCE: Institute for Women's Policy Research, *Increasing Opportunities for Low-Income Women and Student Parents in Science, Technology, Engineering, and Math at Community Colleges*, 2012. Data from the U.S. Department of Education, National Center for Education Statistics, *Postsecondary Awards in Science, Technology, Engineering, and Mathematics by State: 2001 and 2009*, April 2011. See <http://nces.ed.gov/pubs2011/2011226.pdf/>.

## Persistence of Women in Undergraduate STEM Courses, by Field

(% of female students per semester)

	BIOLOGY	CHEMISTRY	COMPUTER SCIENCE	GEOLOGY	MATH	PHYSICS	PSYCHOLOGY
INTRODUCTORY	56%	56%	31%	48%	48%	42%	61%
2ND SEMESTER	58%	58%	20%	38%	43%	44%	72%
3RD SEMESTER	58%	60%	18%	46%	38%	30%	76%
4TH SEMESTER	60%	58%	17%	47%	35%	31%	78%

NOTE: Figures reflect persistence among students in the 2001–2009 graduating classes. Women made up 51% of the total sample.

SOURCE: Kevin Rask, "Attrition in STEM Fields at a Liberal Arts College: The Importance of Grades and Pre-Collegiate Preferences" (2010). Working Papers. Paper 118. <http://digitalcommons.ilr.cornell.edu/workingpapers/118/>.

Women are earning more bachelor's degrees in some STEM fields in recent decades, most notably the biological and social sciences. Women's representation in these fields has climbed steadily since Title IX passed, and women now earn more than half of degrees granted in psychology. In other areas, however—including mathematics, physics, and engineering—progress has remained stagnant over the last decade, and in computer science, the percentage of women earning graduate and undergraduate degrees has actually declined in recent years.

At the postgraduate level the numbers are similar, with women earning slightly over half of

PhDs in the life sciences (including health and biological sciences) and 46% of PhDs in social sciences (including sociology and economics), but only 29% of PhDs in physical sciences (including astronomy, chemistry, physics, and earth sciences) and just over 20% of PhDs in computer science and engineering. (See the graph at the top of the next page.) Since the passage of Title IX in 1972, progress has been impressive across all fields in science, engineering, math, and medicine, with women's share of PhDs rising from just 11% in 1972 to 40% by 2006. As noted, however, this growth varies widely by field.

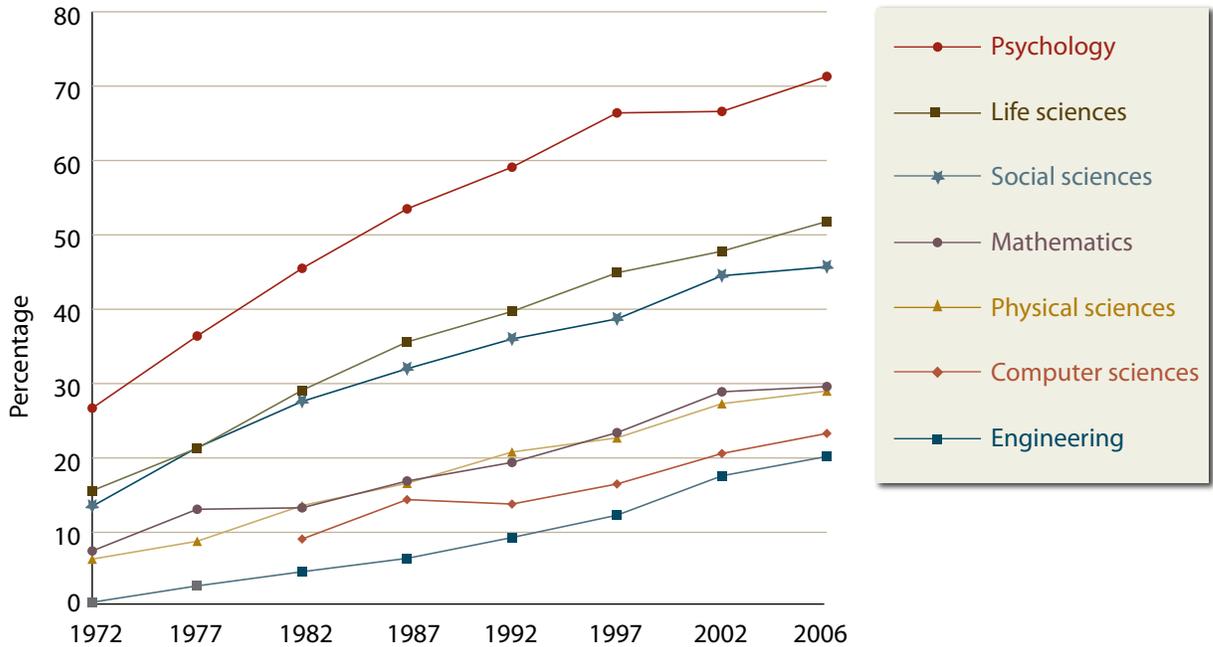
## Women in Academia

While the proportion of female assistant professors is somewhat consistent with the number of female PhDs in STEM, women are less likely than men to be promoted to full professorship, tenure status, and the highest ranks of academia, such as deans and department chairs.<sup>15</sup> This gap reflects a tradition of institutional practices that make it difficult for women to advance through the ranks of academia.

Women have made some gains; their representation among all tenured or tenure-track

professor positions in STEM increased from 9.5% in 1979 to 28% in 2006. Yet women made up only 19% of full professors in these fields in 2006. As with other measures of achievement, attainment of full professor status varies by field, with women making up 33% of full professors in psychology and near or over a quarter in the social and life sciences, but only 5% in engineering and less than 9% in math and physical sciences. (See the graph at the bottom of the next page.) The percentage of female full professors in computer science has actually

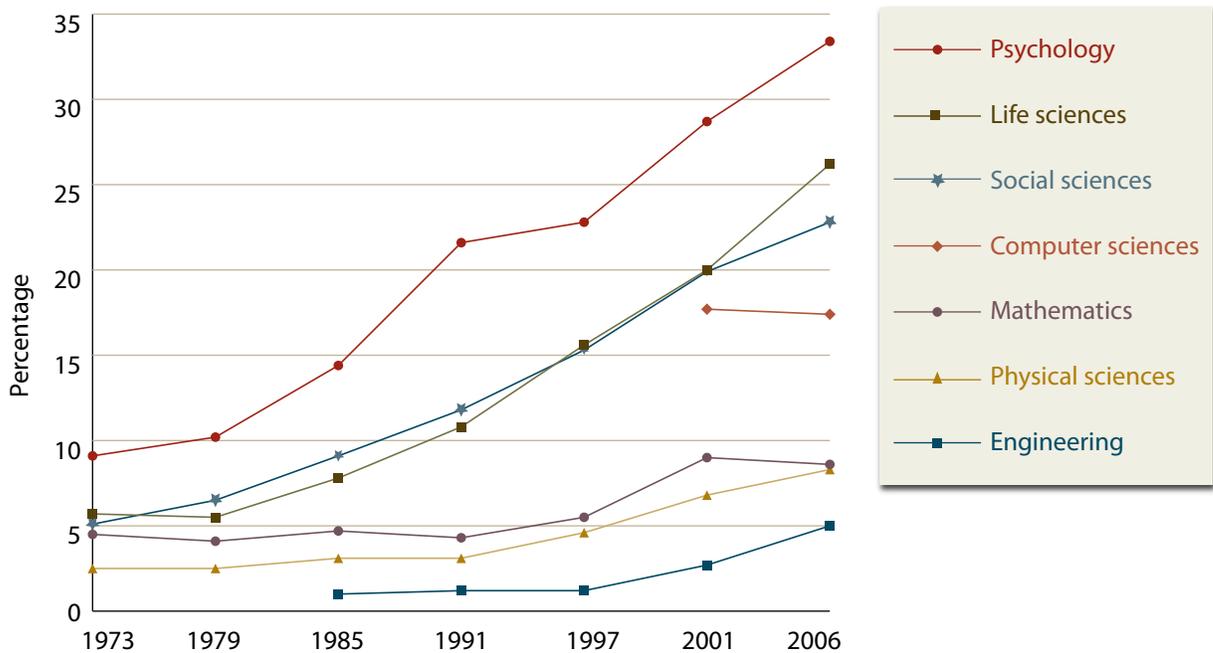
### Percentage of STEM Doctoral Degrees Awarded to Women by Field, 1972–2006



NOTE: Data on computer sciences was not collected until 1978.

SOURCE: National Science Foundation, Division of Science Resources Statistics, Survey of Earned Doctorates, 1958–2006. Available at <http://www.nsf.gov/statistics/infbrief/nsf08308/#tab1/>.

### Women as a Percentage of Full Professors by Field of Doctorate, 1973–2006



NOTE: Missing data points indicate years when data were not collected or the sample size was too small for statistical significance. See the source for further notes on the data.

SOURCE: National Science Foundation, Division of Science Resources Statistics, Survey of Doctoral Recipients, 1973–2006. <http://www.nsf.gov/statistics/infbrief/nsf08308/#tab5/>.

declined in recent years, from 23% in 1999 to 17% in 2006.

The academic pipeline for women in STEM fields is perpetually leaking, with the attrition of women outpacing that of men at all levels, from undergraduate school through tenured professorship. Even though many women persist through the attainment of a PhD, women continue to leak out of the academic pipeline at each step of career transition and promotion.

Part of the problem is that the tenure track often coincides with prime childbearing age for female academics. Without flexible options such as stop-the-tenure-clock, having children can be detrimental to a female faculty member's chances of promotion and tenure. Typically, faculty members who do not receive tenure within a certain amount of time after obtaining a PhD will be encouraged to leave the institution, although some institutions allow them to remain at the lower adjunct or assistant professor level. For faculty members who take time off to raise families, the lack of supportive policies is detrimental to their careers and ultimately harmful to the STEM workforce.

Women who marry, and especially those who have babies, are considerably less likely to advance than those who don't; those with babies are 29% less likely to enter a tenure-track

## KEY RESOURCES ON WOMEN AND STEM

### **Debunking Myths about Gender and Mathematics**

**Performance.** Jonathan M. Kane and Janet E. Mertz. Notices of the American Mathematical Society, January 2012. Available at <http://www.ams.org/notices/201201/rtx120100010p.pdf>.

**Title IX and STEM: Promising Practices for Science, Technology, Engineering and Math.** National Aeronautics and Space Administration, 2009. Available at [http://odeo.hq.nasa.gov/documents/71900\\_HI-RES.8-4-09.pdf](http://odeo.hq.nasa.gov/documents/71900_HI-RES.8-4-09.pdf).

**Why So Few? Women in Science, Technology, Engineering, and Mathematics.** Catherine Hill, Christianne Corbett, and Andresse St. Rose. American Association of University Women (AAUW), 2010. Available at <http://www.aauw.org/learn/research/whysofew.cfm>.

**Where the Girls Are: The Facts about Gender Equity in Education.** Christianne Corbett, Catherine Hill, and Andresse St. Rose, AAUW, 2008. Available at <http://www.aauw.org/learn/research/upload/whereGirlsAre.pdf>.

position than those who don't, and married women are 20% less likely to enter a tenure-track position than their single counterparts. In contrast, having children does not seem to affect men's likelihood of attaining promotions or tenure. Overall, women are 25% less likely to attain full professorship than men.<sup>16</sup>

## STEM Careers

As in academia, the culture and expectations in STEM careers can make advancement in the workplace difficult for women, particularly those with family obligations. According to National Science Foundation (NSF) statistics, women comprise 47% of the total U.S. workforce, including more than half of all professional and related occupations, but only 24% of workers in STEM fields.<sup>17</sup>

The range of female participation in different STEM careers varies widely. According to the

NSF, 49% of the workforce in life and biological sciences is female, with the total number of women in these fields increasing by 50% over the past two decades. In contrast, the proportion of women working in engineering is still extremely low. Women made up 11% of engineers in 2009, up from 6% in 1983. Over the same time period, the percentage of female engineering technicians increased barely at all, from 18% to 19%.



made up 22% of health technicians in 2009, up from 16% in 1983. Similarly, men comprised 8% of registered nurses in 2009, up from just 4% in 1983.

In addition, corporations are letting employees take advantage of more flexible work options. In 1991, the Bureau of Labor Statistics found that only 14% of women had flexible work schedules. As of 2007, that number had climbed to 26%.<sup>19</sup> This flexibility will give female employees more opportunity to stay in their STEM careers.

In mathematics and computer science, the proportion of women has actually declined, from 31% in 1983 to 25% in 2009.<sup>18</sup> It is unlikely that women's ability in these fields has deteriorated, so this decline more likely reflects working conditions or other factors that impede female participation.

At the same time, men have made gains in several areas within health care that have traditionally been dominated by women, a finding that highlights the benefits of equal opportunity in STEM for all workers. For example, men

As the global marketplace becomes more focused on technology and innovation, it's important to ensure that men and women have equal opportunities to participate and advance through the STEM pipeline. The attrition of women and girls from STEM fields does not benefit their male counterparts; rather, it incurs a major opportunity cost to our nation's economic competitiveness in science and technology. Institutional and workplace policies that promote the full participation of women are needed in order to take advantage of our nation's capacity for innovation.

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## Raising Awareness of Title IX and STEM

Those who look at the website of the U.S. Department of Education's Office for Civil Rights (OCR), the federal agency that regulates and monitors compliance with Title IX, might assume that Title IX protections from sex discrimination in education apply only to sexual harassment, pregnancy, and athletics.<sup>20</sup> In fact, Title IX also protects girls' and women's right to equality in STEM education, including equal access to academic and career and technical education courses; school-sponsored activities at the elementary, middle, high school, and college levels; and equal compensation, lab space, and institutional resources at research universities.

For example, if the use of a counseling test or other instrument results in a substantial underrepresentation of women in STEM courses, the school must take action to ensure that such disproportion is not the result of discrimination in the instrument, its application, or counseling practices in order to be in compliance with Title IX. Unfortunately, however, infractions often go unreported because many students—and even educators—do not realize that Title IX applies to STEM.

Raising awareness of existing protections is essential for ensuring that girls and women have equal access to education and careers in STEM. Often individuals who are responsible for Title IX are not aware of their responsi-

bilities as Title IX coordinators. Explicit and accessible instructions from the Department of Education on their duties and directives in relation to STEM education would allow schools to oversee compliance more effectively. On campuses and in national laboratories, advertisements or other awareness efforts would help boost compliance and therefore reduce the risk of institutions losing their federal funding.

Federal science agencies, which are responsible for ensuring that academic institutions to which they offer grants comply with Title IX, have an uneven track record in monitoring compliance. NASA has done over a dozen Title IX and STEM reviews since 2005. The agency has also published a comprehensive best practices report that can be used as a model for this type of activity, as well as other resources.<sup>21</sup> The Department of Energy has done half a dozen reviews, and is now implementing the NASA model. The NSF and other federal science and engineering agencies have been less rigorous. Greater pressure from granting agencies would help promote equity in STEM education, including in hiring, promotion, and tenure practices.

## NCWGE Recommendations

- The Department of Education guidelines for Title IX coordinators, which outline their responsibilities in ensuring equality in STEM education, should be broadly disseminated and publicized.
- Congress should direct federal, state, and local agencies to establish outreach and retention programs at the elementary, secondary, and postsecondary levels to engage girls and women in STEM activities, courses, and career development.
- Colleges and universities should establish standardized guidelines for tenure-track eligibility and offer a stop-the-clock option for women and men with small children.

“I love science and I like seeing how things work. I love to take things apart and see if I can get them back together. I always try to figure out how things work.”

—Preteen girl, Austin, TX

“I think [STEM work] can be very rewarding in the end when you get the result that you were looking for, or when you find a completely different result than what you were looking for; just knowing that you were able to start from a question or hypothesis and work to find this result that could possibly make a big difference in people’s lives.”

—Teenage girl, Indianapolis, IN

“Everyone knows about teaching as a career, but not everyone our age really thinks about engineering. They don’t know all that much about it.”

—Preteen girl, Wilmington, DE

“My dad always tells me this is where you have the potential...not arts, but engineering. If you have the support it makes you believe in it, even if nobody else does.”

—Teenage girl, Austin, TX

“I think some girls don’t want to do [STEM] because they don’t think it’s something girls should do. It’s a boy subject; they should stay far away from it.”

—Teenage girl, Indianapolis, IN

SOURCE: Girl Scout Research Institute, *Generation STEM: What Girls Say about Science, Technology, Engineering, and Math*, 2012. Available at [http://www.girlscouts.org/research/pdf/generation\\_stem\\_full\\_report.pdf](http://www.girlscouts.org/research/pdf/generation_stem_full_report.pdf).

- Federal grants should include interim technical support for researchers needing to take a leave of absence for care-giving purposes, and cover the cost of child care during travel that is related to the grant.
- Gender bias training is needed for awards selection committees and faculty department

chairs, professors, deans, and administrators at all levels of the STEM pipeline.

- All federal science agencies should conduct Title IX and STEM reviews to ensure that

their grantee institutions are providing equal opportunities for women and girls in STEM, including education for students and promotion and tenure for faculty.

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# Career and Technical Education

TACKLING OCCUPATIONAL SEGREGATION OF THE SEXES



**A**S PART OF ITS GENERAL ban on sex discrimination in schools, Title IX outlawed discrimination in career and technical education (CTE) classrooms. Forty years later, male students continue to predominate in courses that lead to many high-skill, high-wage jobs, while female students make up the majority in the low-wage, low-skill programs. These enrollment patterns reflect, at least in part, the persistence of sex stereotyping and discrimination.

Lowering the barriers to female enrollment in CTE is a key step in reducing the wage gap between male and female workers. Given worldwide demand for workers with technical knowledge, increasing female participation in CTE is unlikely to come at the expense of their male counterparts; rather, by increasing the

total pool of skilled workers, it will help keep the United States competitive and benefit the economy as a whole.

Encouraging gender equity in CTE will also reduce barriers for males seeking entry into fields traditionally occupied by female workers, including high-growth areas such as nursing and other medical professions. Thus, ensuring equitable participation in CTE by eliminating discriminatory practices and increasing the engagement of women and girls in STEM has important implications for all students.

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## A Path to Economic Growth

CTE prepares both youth and adults for a wide range of careers. These careers may require varying levels of education, including industry-recognized credentials, postsecondary certificates, and two- and four-year degrees.

## KEY FINDINGS

- 1. Ending sex segregation in career and technical education (CTE) offers the promise of expanding careers for women** in technology and skilled trades, leading to greater wage-earning potential. This potential extends to men working in some nontraditional fields, such as nursing.
- 2. Ensuring gender equity in CTE can expand both access to and success in high-growth fields,** boosting U.S. competitiveness in world markets.
- 3. Although women and girls have made some advances in CTE since Title IX passed, barriers to entry**—including gender stereotypes, implicit bias, unequal treatment, and sexual harassment—remain high.
- 4. Regulation and enforcement of Title IX for CTE have shifted over time.** The relevant law, now under review, needs to offer both incentives and resources for ensuring gender equity, as well as sanctions for discrimination.
- 5. Better tracking and reporting of data, incentives for increasing girls' and women's participation** in high-wage CTE areas, and resources for developing effective recruitment and retention strategies are needed to ensure equal access to CTE for all students.

### TRAINING SKILLED PROFESSIONALS

CTE is offered in middle schools, high schools, career and technical centers, community and technical colleges, and other postsecondary institutions. According to the U.S. Department of Education's Office of Vocational and Adult Education, almost all high school students take at least one CTE course, and one in four students take three or more courses in a single program area. One-third of college students are involved in CTE programs, and as many as 40 million adults engage in short-term postsecondary occupational training. CTE is organized around 16 career clusters<sup>1</sup> based on a set of common knowledge and skills that prepare learners for a full range of opportunities.

Currently, 12% of the U.S. population aged 18–24 is enrolled in a two-year college.<sup>2</sup> Enroll-

ment at these colleges has increased steadily over the past two decades. As of 2011, a record 43% of all college undergraduates were enrolled in community colleges.<sup>3</sup> About one-fourth of community college students are parents, and 10% are single mothers.<sup>4</sup>

Interest in postsecondary CTE has grown as a result of the recession, the high cost of four-year colleges, and the Obama Administration's focus on the necessity of a postsecondary degree and industry-recognized credentials to ensure skilled workers for industries needed to expand the U.S. economy.

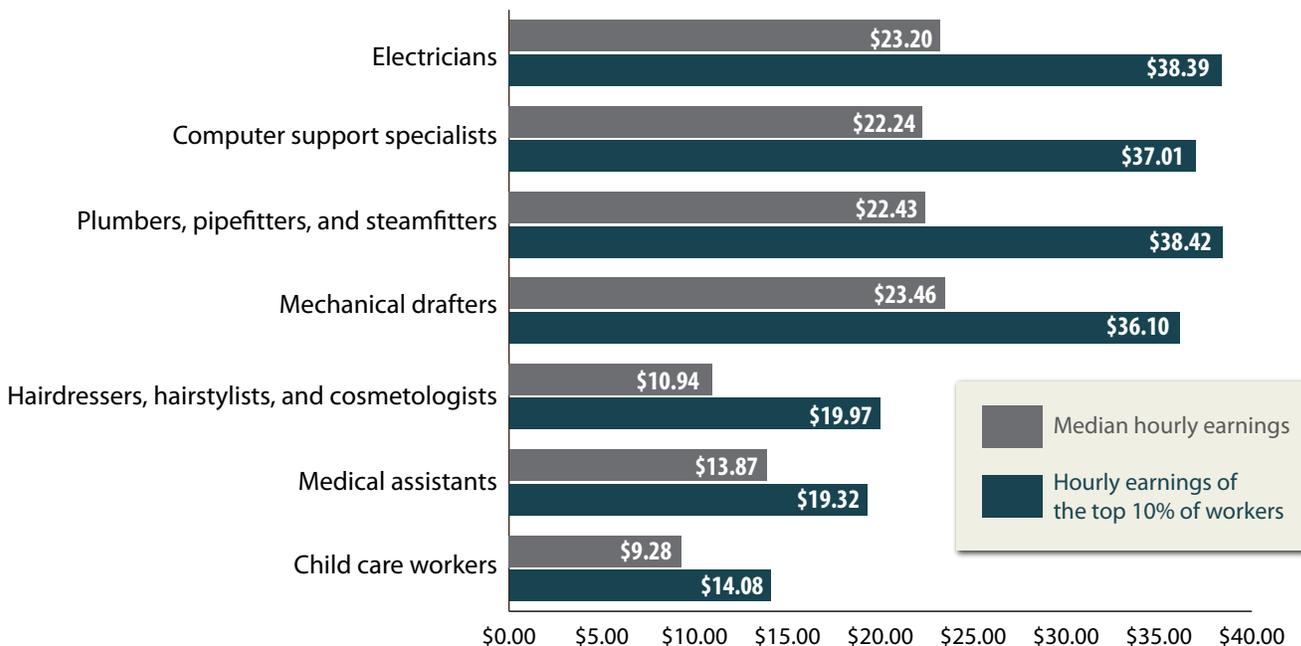
### THE WAGE IMPACT OF CTE

Most working women who do not have a four-year college degree are concentrated in relatively few occupations, primarily in retail sales, services, and clerical positions.<sup>5</sup> As the figure on the next page shows, these female-dominated professions pay considerably less than male-dominated technical professions. With the exception of registered nursing and teaching, the largest traditionally women's occupations do not pay economically secure wages capable of supporting a family.<sup>6</sup>

Today more young women than young men place great importance on their ability to have a high-paying career or profession, according to the Pew Research Center.<sup>7</sup> Through CTE, women can gain the knowledge and skills required to enter higher-paying, “nontraditional” occupations for women, defined by law as those in which less than 25% of the workforce is of their gender.<sup>8</sup> For example, a woman working as a surveying technician—a nontraditional field for women—can earn an average annual wage of \$63,000,<sup>9</sup> while a woman working as an administrative assistant—a traditional field for women—will earn an average annual wage of just \$32,188.<sup>10</sup>

Expanding access to high-paid technical occupations can be a major factor in shrinking the gender wage gap. To achieve this end, partici-

## Average Earnings for Predominantly Male vs. Predominantly Female Occupations



SOURCE: NWLC interpretation of data from the U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2010.

pation and achievement in CTE should not be bound by sex separation in education, gender stereotypes, harassment, or other barriers that prevent girls and women—including single

mothers, pregnant and parenting students, displaced homemakers, and welfare recipients—from becoming economically self-sufficient.

### Impact of Title IX on Equity in CTE

Title IX sought to end discrimination in CTE among educational institutions that routinely denied students admission into classes deemed “improper” for their sex.

Historically, vocational classes were restricted by gender. Males took shop and automotive courses, while females took classes in child care, cosmetology, typing, and home economics. Separation by gender reinforced social stereotypes about what was considered “women’s work” and “men’s work.”

Title IX made it unlawful for schools to steer students into career and technical educa-

tion classes based on their gender. Further, it required schools take steps to ensure that disproportionate enrollment of students of one sex in a course was not the result of discrimination. (For more details on the legislation and how it has evolved, see the section beginning on page 31, titled “Title IX Regulation and Enforcement.”)

#### BARRIERS TO EQUALITY

Although discrimination is unlawful, barriers to equality in CTE remain high. Hurdles range from a lack of role models and information on nontraditional fields to overt discrimination.



Female students also face career counseling biased by gender stereotyping, unequal treatment by teachers, and various types and degrees of sexual harassment.

Girls and women are discouraged from pursuing traditionally male training programs in ways that are both subtle—such as an instructor inadvertently allowing male students to monopolize attention—and not so subtle—such as a guidance counselor telling a student that an electronics course is “not for girls.” Those who brave the barriers to take nontraditional courses often face an unwelcoming atmosphere, and many report harassment by fellow students or even teachers.

Males may be similarly discouraged from taking nontraditional courses, including courses in relatively high-growth, high-wage fields such as nursing, as well as in lower-wage fields like child care. Title IX is gender-neutral and applies to males as well as females, so discrimination in these settings is also unlawful.

#### **OPPORTUNITIES FOR GROWTH**

In the 40 years since the passage of Title IX, there has been a slight, gradual increase in the number of women and girls in technical and other occupational programs leading to nontraditional careers. According to an analysis of data from the U.S. Department of Education’s Office of Vocational and Adult Education (OVAE), conducted by the National

Coalition for Women and Girls in Education (NCWGE) CTE task force, women’s participation in CTE programs leading to nontraditional careers has increased from close to 0% in 1972 to over 25% nationally in 2009–2010.<sup>11</sup> Because of the lack of uniform definitions and reporting procedures, however, much of the gain may be attributable to female participation in broadly defined categories such as arts, audio-visual technology, and communications. Men have also made gains in nontraditional fields, with those preparing for teaching and nursing careers, relatively high-paying occupations, growing steadily.

The federal statute that funds CTE, the Carl D. Perkins Career and Technical Education Act of 2006 (known as the Perkins Act), requires states to set targets for performance on a measure of nontraditional enrollment and completion by gender. As the following chart indicates, a handful of states have boosted female participation and completion to unprecedented levels. Six report female participation in nontraditional fields of more than 40% at the secondary level, and five report completion rates at the postsecondary level of 45% or more—well above the national average of 28% and 27%, respectively.

Despite women’s gains in nontraditional fields as a whole, the rate of female enrollment in certain career clusters remains at stubbornly low levels, with some well beneath the 25% threshold. As shown in the figure on page 32, females made up less than 25% of participants in science, technology, engineering, and math programs nationally (21% at the secondary level and 24% at the postsecondary level), and much lower numbers in manufacturing (17% and 11%, respectively); architecture and construction (15% and 10%); and transportation, distribution, and logistics (8% and 7%).<sup>12</sup>

Experience shows that obstacles to equity in CTE can be overcome by a commitment to change from the institution’s leadership.

Schools that have taken measures such as assigning staff to monitor and coordinate activities, providing specialized professional development for career counselors and educators, forging partnerships with employers, and

introducing students to role models have had success in enrolling and retaining students in CTE focused on areas that are nontraditional for their gender.<sup>13</sup>

## Title IX Regulation and Enforcement

Gender equity in CTE is influenced by the statutes and regulations governing career and technical education. The Perkins Act, the key statute governing equity in CTE, has undergone several iterations, with accompanying shifts in requirements and funding. It is due for reauthorization by Congress in 2013.

### EVOLVING LEGISLATION

In 1976, Congress amended the Vocational Education Act to require that each state hire a “sex equity coordinator” and provided \$50,000 for each state to support this position. In 1979, the Office for Civil Rights issued guidelines to reduce discrimination in vocational education. The guidelines required states to collect and report data, conduct compliance reviews, and provide technical assistance.<sup>14</sup>

The high water mark for the designation of federal of resources for integrating girls and

women into CTE was arguably attained with passage of the Carl D. Perkins Vocational Education Act of 1984. With that measure, Congress not only retained the required sex equity coordinators but also required states to set aside 3.5% of their funding for programs to eliminate sex bias and stereotyping, plus another 8.5% for serving individuals with significant barriers to occupational skill training, including displaced homemakers returning to the workforce after caring for family members, single parents, and pregnant or parenting teens. From 1984 through 1998, an average of \$100 million a year was spent on programs to eliminate sex bias in career and technical education.<sup>15</sup> By 1997, the number of sex equity programs exceeded 1,400 across the country.<sup>16</sup>

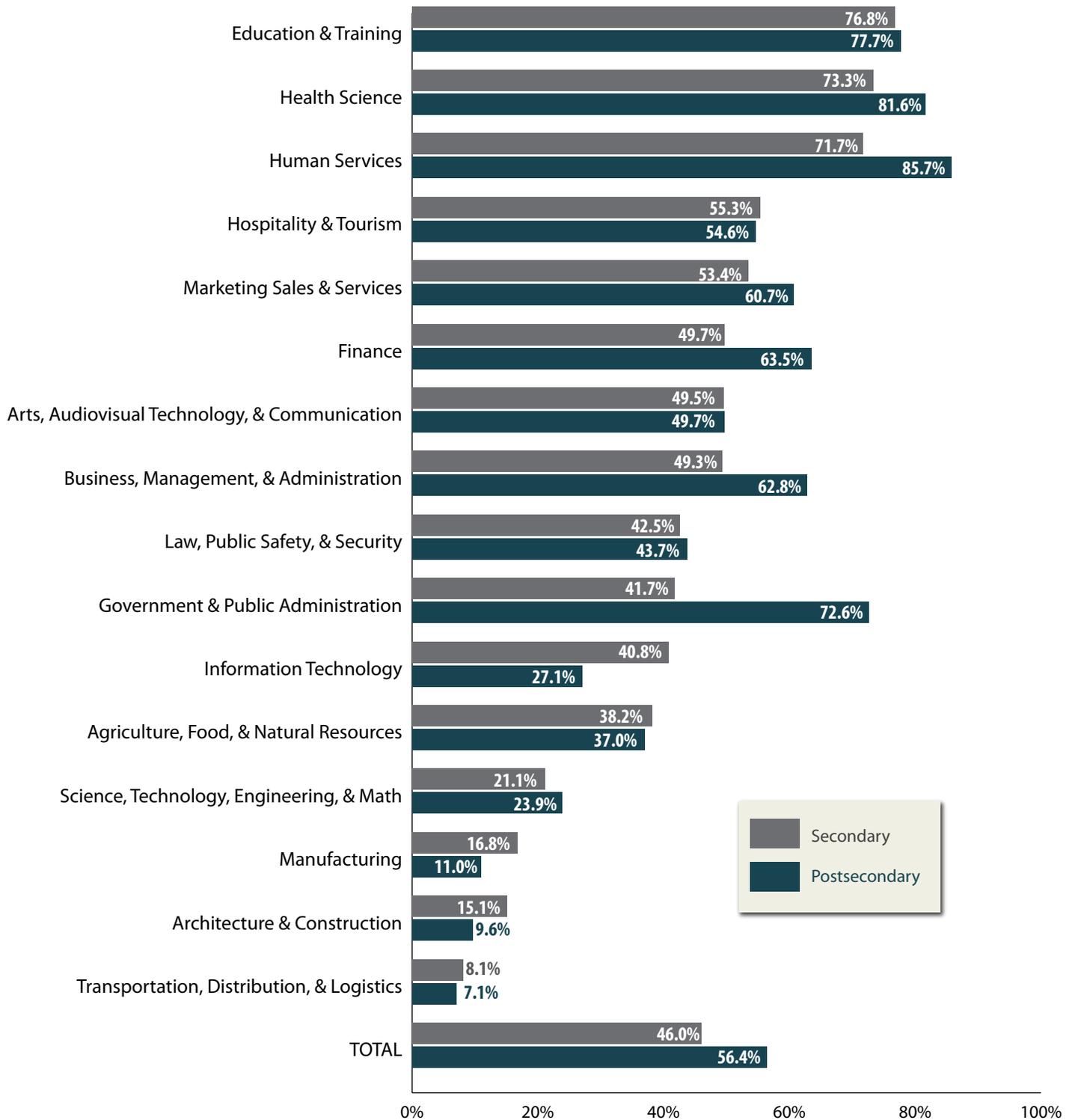
In 1998, the reauthorization of the Perkins Act removed most of these requirements and set-asides except for a small reserve of \$60,000 to \$150,000 a year for state “leadership activi-

### States with High Female Participation in Nontraditional Perkins-Funded CTE Programs, 2010

SECONDARY PARTICIPATION OF 40%+	POSTSECONDARY COMPLETION OF 45%+
District of Columbia	District of Columbia
Iowa	Nevada
Massachusetts	New Mexico
New Mexico	Oregon
New York	Tennessee
Washington	
<b>National average=28%</b>	<b>National average=27%</b>

SOURCE: NCWGE CTE Task Force analysis of OVAE data, October 2011.

## Secondary and Postsecondary Female Enrollment by Career Cluster, 2009–2010



SOURCE: NCWGE CTE Task Force analysis of OVAE data, October 2011.

ties” for students preparing for nontraditional careers. The law created performance measures requiring states to increase participation in and completion of nontraditional CTE programs among students of underrepresented genders. This “nontraditional measure” was one of four core performance measures for the entire Perkins program. The law provided no sanctions or incentives for improvement, however, thereby creating a culture of limited activity at the state and local level.

The most recent iteration of the law, adopted in 2006, continued the approach of requiring states to meet negotiated targets for placing males and females into programs leading to nontraditional occupations. For the first time, however, the law authorized sanctions and required triggers for state and local improvement plans for not meeting performance measures. The legislation also retained the \$60,000–\$150,000 state leadership set-aside for individuals preparing for nontraditional fields.

## LOOKING AHEAD

In April 2011, the Department of Education released its blueprint for reauthorization of the Perkins Act, which stressed the development of rigorous CTE shaped by four core principles:<sup>17</sup>

1. Effective alignment between CTE programs and the labor market to prepare students for in-demand occupations in high-growth industry sectors.
2. Strong collaborative efforts among secondary and postsecondary institutions, employers, and industry partners to improve the quality of CTE programs.
3. Meaningful accountability for improving academic outcomes and building technical and employability skills in CTE programs **for all students.** [emphasis added]
4. Increased emphasis on innovation through state policies that support effective practices at the local level.



PHOTO CREDIT: GIRLS INC.

The word “nontraditional” does not appear in the 14-page blueprint, which ultimately needs to be refined, translated into statutory language, and adopted by Congress, a process not expected to be completed until 2013.

Without referring specifically to programs leading to nontraditional careers, the proposal would require states to collect data to “identify equity gaps in performance on the local and state levels, including where students of a particular background (including gender) are disproportionately enrolled in or absent from certain programs.” In addition to gender, state and local data would be collected on students’ race, ethnicity, disability, socioeconomic status, and English proficiency. States would be required to improve their data collection systems and use common definitions and performance indicators.

The blueprint also calls for requiring states to provide “wrap-around” supports such as tutoring and counseling to ensure that there are no equity gaps in participation or performance in CTE programs. In another dramatic change, it

## SUCCESSFUL CTE EQUITY PROGRAMS

### **STEM Equity Pipeline**

The National Alliance for Partnerships in Equity Education Foundation's STEM Equity Pipeline started in 2007 with support from the National Science Foundation (NSF) and is now supported by corporate, foundation, and federal funds. The STEM Equity Pipeline provides a suite of professional development offerings focused on increasing the participation and completion of women in high school and community college science, technology, engineering, and math (STEM)-related programs of study. By working with state leadership teams, the project has been successful in influencing state policy, increasing resource investment, and integrating gender equity into professional development for STEM educators in 12 states.

Local pilot sites implement the Program Improvement Process for Equity in STEM™ (PIPESTEM™), where teams of administrators, teachers, counselors, and students conduct a performance gap analysis and implement research-based strategies to increase female participation in STEM programs. Outcomes include an increase in Project Lead the Way (pre-engineering) participation from 8 to 30 girls at one site and from 0 to 21 (33%) at another; an increase from 0% to 43% women in design technology; an increase in females in auto technology from 12% to 36%; and an increase of senior girls in advanced-level math from 15% to 55% in two years.

### **WomenTech Extension Services**

The National Institute for Women in Trades, Technology, and Sciences (IWITTS) received a \$2 million NSF grant for a project at eight community colleges in California to develop and expand a model for closing the gender gap. Each college identified two nontraditional programs, including 3D animation, computer networking and information technology, HVAC (heating, ventilation and air conditioning), welding, electronics, and automotive technology. The first cohort started in 2007, and female enrollment has increased annually in six of the eight colleges. At one college, women's retention rose from 81% to 100% in 15 months.

### **Grace Hopper Scholars Program, Community College of Baltimore**

The Scholars Program encourages women and other underrepresented groups to pursue careers in computer science and related fields, such as information technology and computer-aided design and graphics. Ninety percent of the students are women, and students of color exceed their representation in the overall student body. Full-time Scholars are five times more likely to complete an associate's degree or certificate than the overall student body.

Scholarships of up to \$3,125 are available to help cover tuition, fees, books, supplies, equipment, transportation, and dependent care; low-cost day care is available on campus. Students receive a \$300 incentive to complete their first math credit or 200-level computer course. Retention is encouraged through community-building, including assigned industry mentors and a mandatory summer skill-development program.

### **St. Paul College**

St. Paul College, a community and technical college in St. Paul, MN, has engaged in aggressive recruiting to attract more men to the health care profession, and respiratory care in particular. The number of men enrolled in the college's respiratory care program has increased dramatically. In 2002, the program had only 5 male participants. By 2006, that number had jumped to 88 out of a total 169 enrolled students, or 52%. Male graduation rates post similar numbers; since 2005, males have made up anywhere from 42% to 62% of respiratory care graduates.

### **Connecticut Regional Center for Next-Generation Manufacturing**

The NSF has funded the Connecticut College of Technology (COT), a virtual organization serving 12 community colleges, to prepare students for STEM careers in high-demand fields such as green technology, lasers, photonics, precision manufacturing, and alternative energy. The program allows high school students to take and receive credit for dual-enrollment programs in engineering and technology at nearby community colleges. Women's participation between

(CONT.)

2004 and 2009 increased from 540 to 630, or 17%. Women make up a majority of participants in the Life Supports and Sustainable Living program, which pairs students with peers from four-year institutions to work on joint technology projects.

COT's specialized curricula were developed in partnership with the Connecticut Business and Industry Association to meet the skill needs of manufacturing companies. NASA provides scholarship funds, and each community college has a foundation to assist with emergency needs such as the cost of books. COT encourages female students to mentor each other across campuses and interact with members of women's professionals associations who participate in events and seminars. Child care is offered on all campuses, and students may take classes, including some laboratories, online.

calls for states to use a competitive process to allocate funds to local consortia of secondary and postsecondary schools.

As the Administration and Congress move toward reauthorizing the Perkins Act, striking a balance between the carrot and the stick approach will be important. For the statute to be effective, it needs to dedicate resources to activities that promote gender equity in CTE while at the same time maintaining the performance targets and sanctions embedded in the 2006 accountability measures.

## NCWGE Recommendations

- Congress should continue to include accountability measures, improvement plans, and sanctions that hold states and municipalities accountable for increasing women's completion of CTE programs that prepare

them for high-wage careers in which they represent less than 25% of the workforce.

- The Office for Civil Rights (OCR) should collaborate with OVAE and better align its Methods of Administration process for ensuring Title IX compliance in CTE with OVAE's processes for monitoring compliance and providing technical assistance to states.
- OVAE should create a national network of research and practice experts who can provide professional development and technical assistance on building programs that increase gender equity in CTE.
- States and municipalities should be required to report and use disaggregated data at the program level to identify performance gaps and drive program improvement. To best target improvements, gender-specific data must be cross-tabulated with other demographic characteristics, including race, socioeconomic status, disability, and parental status.
- Increasing women's participation in and completion of high-wage CTE programs should be included as a criterion for any incentive program proposed in future CTE legislation.
- Congress should legislate requirements for leadership and resource investment at the state and local levels to implement research-based strategies for increasing female participation and achievement in nontraditional CTE programs.
- Federal, state, and local decision making must include gender equity in CTE as a quality standard for investments in program development, improvement, and expansion.

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# Ending Sexual Harassment

ENFORCEMENT IS KEY

**H**ARASSMENT AFFECTS STUDENTS' WELL-BEING AND their ability to succeed academically. Supreme Court rulings have established that sexual harassment of students constitutes discrimination in education and violates Title IX.

Efforts to address sex-based harassment have increased as knowledge of this issue has spread. In particular, awareness campaigns by educational institutions and Title IX advocates, as

well as legal remedies, have resulted in organized efforts by schools to curb such harassment. Nonetheless, sexual and gender-based harassment remain pervasive problems in K-12 schools and on college campuses.

While sexual harassment disproportionately affects girls and women, studies show that boys and men also experience harassment. When any students experience sexual or gender-based harassment on campus or in the classroom, the hostile environment created by such conduct can undermine educational opportunities for those students and their peers.

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## What Constitutes Harassment?

Harassment can take many forms. It includes verbal acts like name-calling, posting of inappropriate images and graphics, written statements, or other actions that may be

physically threatening, harmful, or humiliating. Harassment of students may come from other students or from school employees such as teachers, coaches, or other staff. To constitute

## KEY FINDINGS

- 1. Any form of harassment based on sex is unlawful under Title IX**, including harassment based on gender stereotypes. The law applies whether the harassment involves students of the opposite or of the same sex, and whether it is conducted in person, online, or through other media.
- 2. Despite efforts to curb sexual harassment, including sexual assault, this form of discrimination is still prevalent** in schools and on college campuses. Both male and female students report being sexually harassed, with consequences that can undermine their academic success.
- 3. More than half of girls and 40% of boys in grades 7 through 12 reported being sexually harassed** during the 2010–2011 school year. Among lesbian, gay, bisexual, and transgender students, harassment is even more extensive; 85% say they have been verbally harassed, and 19% report physical assault.
- 4. Being called gay or lesbian in a negative way is a common form of harassment in middle and high schools.** Boys and girls were equally likely to experience this form of harassment in 2010–2011 (18%), although reactions differed, with 21% of boys and 9% of girls identifying it as their worst experience with harassment.
- 5. Nearly two-thirds of college students aged 18–24 experience some form of sexual harassment.** The numbers for men and women are similar, although women report greater emotional and educational disruption from harassment.
- 6. When sexual harassment occurs, Title IX requires that schools take immediate, effective action** to eliminate the hostile environment, prevent its recurrence, and remedy the effects on the victim. These steps are essential for creating an environment in which all students can succeed.

sexual harassment, the conduct must be of a sexual or gender-based nature.

### WHEN HARASSMENT INVOKES TITLE IX

Harassment prohibited by Title IX includes any unwelcome or unwanted behavior based on sex, including conduct of a sexual nature. It also can include harassment of a student because he or she does not conform to stereotypical notions of masculinity or femininity, such as harassment of a male student because he is on the dance team or exhibits effeminate mannerisms, or harassment of a female student because she takes shop class or wears short hair and baggy clothes. Although Title IX does not specifically prohibit discrimination on the basis of sexual orientation or gender identity, when lesbian, gay, bisexual, or transgender (LGBT) students are subjected to harassment because of failure to conform to gender stereotypes, Title IX applies.

Title IX's protection extends to sexual harassment in all of a school's programs or activities, whether the harassment occurs on school property, on a school bus, or at an off-site school event. Schools are obligated to respond to sexual harassment charges if the conduct is severe or pervasive enough that it creates a hostile school environment—meaning that it interferes with or limits a student's ability to participate in or benefit from school, including all activities and services.

Harassment does not have to include intent to harm or be directed at a specific target. The harasser and the victim do not have to be of the opposite sex, and the harassment does not need to take the form of a sexual advance.

Any form of sexual violence, including rape, constitutes sexual harassment and is covered under Title IX as well as other statutes. The U.S. Department of Education's Office for Civil Rights (OCR), which enforces Title IX, recently

reaffirmed in its April 2011 Guidance that rape is always severe enough to create a hostile school environment.<sup>1</sup>

A school- or district-wide anti-bullying policy does not free a school from complying with Title IX. Regardless of any policies in place, if sexual or gender-based harassment is sufficiently severe, pervasive, or persistent, a school is obligated under Title IX to take effective steps to end the harassment.

### **BULLYING, CYBERBULLYING, AND SEXUAL HARASSMENT**

Many forms of bullying, including hazing and cyberbullying, constitute sex-based harassment that is prohibited under Title IX. Such harassment includes demeaning a student because of his or her gender or sexual activity. For example, harassment may include common behaviors such as using cell phones or the Internet to target students by calling them sexually charged epithets like “slut” or “whore”; spreading sexual rumors; rating students on sexual activity or performance; disseminating compromising photographs of a student; or circulating, showing, or creating emails or websites of a sexual nature. Conduct often dismissed as just “boys being boys” or “mean



girls,” when severe, can actually be prohibited harassment.

In order to clarify schools’ obligations under Title IX with regard to harassment, OCR issued a Guidance document in October 2010 specifying that Title IX prohibits sex-based bullying and harassment that interferes with a student’s education, whether it is conducted in person or in electronic form. The Guidance states, “bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential.”<sup>2</sup>

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## **Scope of Harassment at the K-12 Level**

Bullying and other forms of harassment are prevalent in schools. Recent surveys have found that both male and female students are affected in large numbers, although girls face harassment more frequently than boys. Harassment can have serious emotional consequences for these students; it can also cause educational problems such as difficulty concentrating on schoolwork, absenteeism, and poor academic performance.<sup>3</sup>

### **ELEMENTARY SCHOOL**

A 2010 nationwide survey of more than 1,000 students and 1,000 teachers at elementary schools, conducted by the Gay, Lesbian and Straight Education Network (GLSEN), found that sexual harassment is common even though most schools have anti-bullying and/or anti-harassment policies in place:<sup>4</sup>

- Three-quarters of all elementary school students (75%) reported that students at their school are called names, made fun of, or bullied with at least some regularity.

## SEXUAL HARASSMENT RESOURCES

### **Crossing the Line: Sexual Harassment at School.**

American Association of University Women (AAUW).  
<http://www.aauw.org/learn/research/crossingtheline.cfm/>.

**Title IX Protections from Bullying & Harassment in School: FAQs for Students.** National Women’s Law Center (NWLC). Available at <http://www.nwlc.org/resource/title-ix-protections-bullying-harassment-school-faqs-students>.

**Cyberbullying and Sexual Harassment: FAQs about Cyberbullying and Title IX.** NWLC. Available at <http://www.nwlc.org/resource/cyberbullying-and-sexual-harassment-faqs-about-cyberbullying-and-title-ix/>.

**Pregnancy Harassment /s Sexual Harassment: FAQs about Title IX and Pregnancy Harassment.** NWLC. Available at <http://www.nwlc.org/sites/default/files/pdfs/titleixpregnancyharassmentfactsheet.pdf>.

**Drawing the Line: Sexual Harassment on Campus.** AAUW Educational Foundation. Available at <http://www.aauw.org/learn/research/upload/DTLFinal.pdf>.

**Harassment-Free Hallways: How to Stop Sexual Harassment in School.** AAUW Educational Foundation. Available at <http://www.aauw.org/learn/research/upload/completguide.pdf>.

- Nearly half of elementary school teachers (47%) believe that bullying, name calling, or harassment is a very serious or somewhat serious problem at their school.
- Students who do not conform to traditional gender norms are more likely than others to say they are called names, made fun of, or bullied at least sometimes at school (56% versus 33%).
- One-third of students (33%) have heard kids at school say that girls should not do or wear certain things because they are girls. Even more (39%) have heard their peers say that boys should not do or wear certain things because they are boys.

- Nearly half of all teachers (48%) reported that they hear students make sexist remarks at their school.

## MIDDLE AND HIGH SCHOOL

Sexual harassment is part of everyday life at many middle and high schools. A nationally representative survey of 1,965 students in grades 7–12 found that nearly half of students (48%) experienced some form of sexual harassment during the 2010–2011 school year.<sup>5</sup> The majority of those students (87%) said it had a negative effect on them. Nearly all the behavior documented in the survey was peer-to-peer sexual harassment.

Other findings include the following:

- Girls were significantly more likely than boys to face sexual harassment, although the numbers for both were high, with 56% of girls and 40% of boys reporting that they had been sexually harassed.
- Sexual harassment by text, email, Facebook, or other electronic means affected 30% of all students. Many of the students who were sexually harassed through cyberspace were also sexually harassed in person.
- Verbal harassment was the most frequently cited behavior, reported by 46% of girls and 22% of boys. Physical harassment was also disturbingly common, particularly among girls. Unwelcome touching was reported by 13% of girls and 3% of boys, while 4% of girls and less than 1% of boys said they had been forced to do something sexual.
- Being called gay or lesbian in a negative way was reported by girls and boys in equal numbers (18%), although reactions differed, with 21% of boys and 9% of girls identifying it as their worst experience with harassment.
- The survey revealed a cycle of harassment, with many victims reporting that they victimized others. Most students who admitted to sexually harassing another student (92% of

girls and 80% of boys) were targets of sexual harassment themselves.

### HARASSMENT OF LGBT STUDENTS

Another national survey looking specifically at the experiences of LGBT students in sixth through twelfth grades found that the overwhelming majority of these students face some form of sex-based harassment:<sup>6</sup>

- Nearly nine out of ten LGBT students (85%) were verbally harassed at school because of their sexual orientation; 64% were harassed because of their gender expression.

- More than one-third of these students (40%) were physically harassed (e.g., pushed or shoved) at school in the past year because of their sexual orientation, and 27% were physically harassed because of their gender expression.

- One in five (20%) were physically assaulted (e.g., punched, kicked, injured with a weapon) because of their sexual orientation, and 13% because of their gender expression.

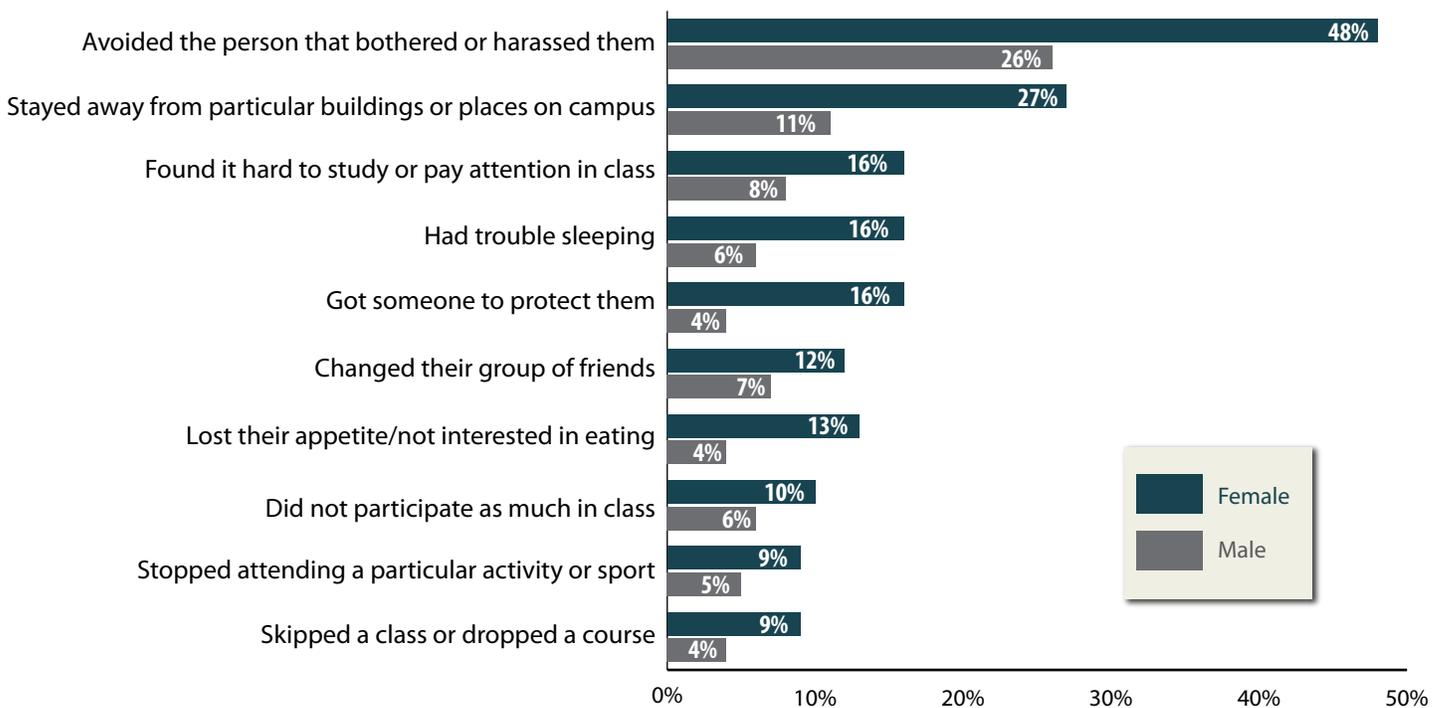
- More than half of LGBT students (53%) were harassed or threatened by their peers via electronic media.

## Sexual Harassment on College Campuses

Sexual harassment is prevalent on college campuses and can prevent students, both male and female, from receiving the full social and academic benefits of higher education. Creat-

ing a campus environment that is free from bias and harassment is important both for ensuring success in education and for shaping

### Effects of Sexual Harassment on the Educational Experience of College Students, by Gender



NOTE: Base = Respondents who experienced harassment (n=1,225); 659 female and 556 male college students ages 18–24.

SOURCE: AAUW Educational Foundation, *Drawing the Line: Sexual Harassment on Campus*, 2005.

the attitudes and behaviors that will govern the nation's future workforce and broader society.

A research report from the American Association of University Women, *Drawing the Line: Sexual Harassment on Campus*,<sup>7</sup> found that sexual harassment on campus is widespread yet often goes unreported:

- Nearly two-thirds of college students, including 62% of women and 61% of men, experience some type of sexual harassment.
- Fewer than 10% of these students tell a college or university employee about their experiences, and an even smaller number report them to a Title IX coordinator.
- LGBT students are more likely to be harassed; nearly three-quarters (73%) say they have experienced sexual harassment on campus.
- Men and women are equally likely to be harassed, but in different ways and with dif-

ferent responses. Women are more likely to be upset, angry, or afraid after being sexually harassed, and are also more likely to drop a class, avoid an area or activity, or otherwise change their behavior in ways that affect their educational experience.

- Men are more likely than women to harass, although substantial numbers of both sexes are involved; 51% of male students admit to sexually harassing someone in college, compared with 31% of female students.

A campus culture that tolerates inappropriate verbal and physical contact and that intentionally or unintentionally discourages reporting these behaviors undermines the emotional, intellectual, and professional growth of millions of young adults and violates Title IX. Sexual harassment on campus takes an especially heavy toll on young women, making it harder for them to get the education they need to take care of themselves and their families in today's economy.

### Middle and High School Students Speak: Emotional Impact of Sexual Harassment

"I felt threatened for my personal safety."

—9th-grade boy

"Very scared."

—10th-grade girl, on being touched  
in an unwelcome, sexual way

"Everyone was saying I was gay, and I felt the need to run away and hide."

—9th-grade boy

"I thought of suicide."

—8th-grade girl, on being the target of sexual rumors

"An 8th-grade guy passed by me and said, really softly, 'What's up, sexy?' and then kept on walking. It really creeped me out."

—7th-grade girl

SOURCE: AAUW. *Crossing the Line: Sexual Harassment at School*, 2011.

## Title IX Protection Against Sex-Based Harassment

### ENFORCEMENT AND REDRESS

In 1992, the Supreme Court recognized that sexual harassment is a type of sex discrimination prohibited by Title IX and held that monetary damages are available in an action brought to enforce Title IX.<sup>8</sup> In the 1998 case of *Gebser v. Lago Vista School District*, the Court established the standard for recovering damages in a harassment case: A harassed student must show that a school official with authority to take corrective measures had "actual knowledge" of the harassment and responded with "deliberate indifference"—a higher standard than exists for employees who are sexually harassed.<sup>9</sup>

A year later, in *Davis v. Monroe County Board of Education*, the Supreme Court ruled that

schools may also be liable for damages under Title IX for peer-on-peer harassment. To recover damages, the harassed student must show that the school had actual knowledge of the harassment and responded with deliberate indifference, and that the harassment was “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.”<sup>10</sup> The Court made clear that these standards are limited to private actions for monetary damages.<sup>11</sup>

In addition to filing a lawsuit for damages, a student who has been harassed can file a suit for injunctive relief or seek a remedy from OCR. OCR has repeatedly made clear in its Guidance documents that if a school knows, or *should know*, that a hostile environment exists, it is “responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.” A school also has a responsibility “to remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively.”<sup>12</sup>

In 2009, in a unanimous decision, the Supreme Court clarified that Title IX is not the exclusive mechanism for addressing gender discrimination in schools.<sup>13</sup> Plaintiffs are also able to bring suits under 42 U.S.C. § 1983 for gender discrimination in schools that violate the Equal Protection Clause, so multiple avenues of relief exist for those who have experienced discrimination in education on the basis of sex.<sup>14</sup>

### **REQUIRED PROCEDURES FOR RESPONDING TO HARASSMENT**

An April 2011 Guidance document from OCR noted the seriousness of sexual harassment, including sexual violence, and spelled out Title IX’s procedural requirements for schools in responding to reported incidents:<sup>15</sup>

1. Institutions covered by Title IX are required to create and widely distribute a notice of

### **College Students Speak: Educational Impact of Sexual Harassment**

“I felt violated and could not focus on my classes. I also felt limited in where I could go on campus.”

– Female, 4th year

“They [harassers] distract from the working environment and make it harder to concentrate because you become paranoid.”

– Male, no year given

“It makes me feel very uncomfortable and it affects my willingness to accept the advice or lectures offered by professors.”

– Female, 4th year

“In school if you let things get to you, you aren’t able to perform. Best thing is to just shake it off and keep going.”

– Male, no year given

“I felt uncomfortable and did not want to be in class.”

– Female, no year given

SOURCE: AAUW Education Foundation. *Drawing the Line: Sexual Harassment on Campus*, 2005.

nondiscrimination, designate at least one employee to coordinate its efforts, and adopt and publish grievance procedures for prompt and equitable resolution of complaints of sex discrimination, including sexual harassment and sexual violence.

2. Schools must ensure that their employees are trained to identify harassment and report it to appropriate school officials. In addition, schools must provide training so officials with the authority to address harassment know how to respond properly.
3. When a harassed student or other party files a complaint, the school must investigate the allegations in a prompt, thorough, and impartial way. Both parties must have an equal opportunity to present witnesses and other evidence. In determining whether sexual harassment occurred, the school must



use the “preponderance of the evidence” standard of proof; in other words, the complainant must show that it is more likely than not that the sexual harassment occurred.

4. It is improper for a school to require a student who complains of harassment to work out the problem

directly with the alleged perpetrator. In cases of sexual assault, even voluntary mediation is not appropriate.

5. Both parties must be notified in writing about the outcome of the complaint and any appeal.

To create a school environment in which all students can succeed, students must feel comfortable acknowledging and reporting harassment, and schools must respond in accordance with Title IX requirements.

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## NCWGE Recommendations

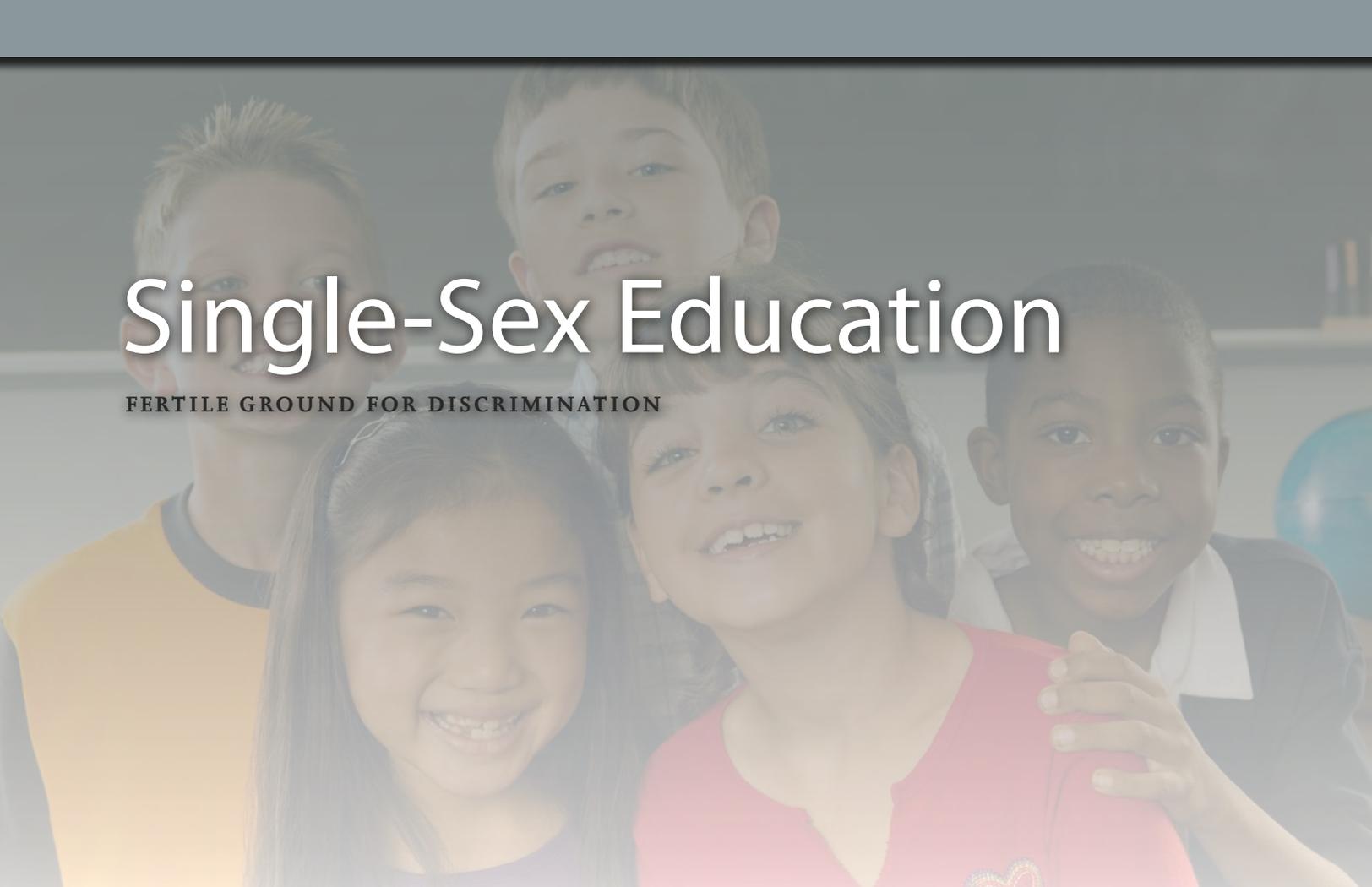
- Congress should enact legislation to ensure that students receive the same level of protection from harassment in school that employees receive in the workforce. Schools, like employers, should be obligated to prevent harassment and to address any harassment that they know about, or should know about. Also, harassment should be deemed to create a hostile environment when it is sufficiently severe or pervasive to deny a victim access to the educational opportunities and benefits provided by the school.
- Congress should pass the Student Non-Discrimination Act, which would establish a federal ban on discrimination and harassment in public K-12 schools based on a student’s actual or perceived sexual orientation or gender identity. Congress should also pass the Safe Schools Improvement Act, which would require schools and districts to develop comprehensive student conduct policies that include clear prohibitions regarding bullying and harassment.
- OCR should conduct public education and technical assistance activities to guide school districts in their compliance efforts, particularly in light of the October 2010 and April 2011 Guidance documents issued and recent technological developments affecting cyberbullying and harassment.
- Educational institutions at all levels should create clear and accessible sexual harassment policies to protect and educate students. These policies should be part of school discipline policies and codes of conduct and should include provisions for effectively protecting students after harassment has occurred.<sup>16</sup> These policies also should protect against harassment based on actual or perceived LGBT status.
- Title IX coordinators and their respective schools/universities should proactively disseminate information and conduct trainings in the school and campus community to ensure that students and employees are aware of sexual harassment policies, as well as the school’s process for filing complaints.
- Schools must safeguard harassment victims by providing close follow-up, including working with victims’ families, until the danger of continued harassment has passed.
- Students, faculty, staff, and parents/guardians should talk openly about attitudes and behaviors that promote or impede progress toward a harassment-free climate in which all students can reach their full potential.

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11. *Ibid.* at 639; *Gebser*, 524 U.S. at 283.
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13. *Fitzgerald v. Barnstable School Committee*, 555 U.S. 246, 25–59 (2009).
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15. OCR, *Dear Colleague Letter on Sexual Harassment and Sexual Violence* (April 4, 2011). Available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf/>.
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# Single-Sex Education

FERTILE GROUND FOR DISCRIMINATION

**B**OTH THE U.S. CONSTITUTION AND Title IX limit the separation of students by sex in publicly funded educational programs and activities.

Although Title IX regulations issued by the U.S. Department of Education in 2006 opened the door to single-sex education, discrimination based on sex is still unlawful.

Combined with questionable assertions about differences in brain development and learning

styles between boys and girls, the regulatory change has fueled a new trend toward greater separation of sexes in public education. Single-sex education in a public school setting is fraught with pitfalls, however. Research has shown more similarities than differences in the sexes on a wide range of student indicators, and programs that cater to gender stereotypes can create environments that limit learning for both girls and boys. There is also a risk that single-sex programs may discriminate, either in resource allocation or in the range of educational opportunities offered.

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## Legal History and Safeguards

One of the primary purposes of Title IX was to put an end to educational practices that separated boys and girls on the basis of assumptions and stereotypes about their interests

and capabilities. A widespread example was steering girls into home economics classes and boys into wood shop. Because of this history of educational inequity, as well as the continued

## KEY FINDINGS

- 1. In recent years, there has been a growing trend of separating students on the basis of sex.** This trend raises serious equality and policy concerns, and may violate numerous provisions of state and federal law.
- 2. In public schools, the circumstances under which students can be separated by sex are limited** by the Constitution and Title IX. Although the U.S. Department of Education loosened restrictions in 2006, schools must still meet a host of legal requirements before separating students by sex. Few meet these safeguards.
- 3. Many single-sex programs claiming a basis in research are in fact based on claims** that amount to little more than repackaged sex stereotypes—for instance, that boys need authority and excel at abstract thinking, while girls need quiet environments that focus on cooperation and following directions.
- 4. In the classroom, separating boys and girls can reinforce stereotypes** in ways that are stigmatizing and damaging to both groups. Moreover, single-sex programs can discriminate against one group in allocating resources or educational opportunities.
- 5. Despite assertions to the contrary, separating students by sex has not been proven** to improve educational outcomes. Evaluations generally fail to compare single-sex programs with comparable coed programs or to control for other factors that affect outcomes, such as class size and student ability.
- 6. The weaker 2006 regulations have opened the door to discrimination.** The Department of Education should rescind these regulations and clarify what is and is not permissible to help put an end to inequitable programs.

risk of sex stereotyping, both Title IX and the U.S. Constitution include safeguards to ensure that educational programs that classify students on the basis of sex are not discriminatory.

Although it permits some single-sex schools, Title IX prohibits separation of boys and girls within coeducational schools except under certain narrow circumstances. Moreover, the

Constitution requires that any gender-based classification (whether in a coeducational school or a single-sex school) have an “exceedingly persuasive justification,” and be “substantially related” to an important governmental objective.<sup>1</sup> The Supreme Court has limited when sex classifications are justified, noting that such classifications must be “determined through reasoned analysis rather than through the mechanical application of traditional, often inaccurate, assumptions about the proper roles of men and women,” and has further clarified that “overbroad stereotypes” about the typical talents, capacities, and preferences of men and women are an impermissible basis for separation of the sexes.<sup>2</sup>

In 2002, spurred by provisions in the education reform law known as No Child Left Behind that permitted funding of “innovative” programs—including single-sex education “consistent with applicable law”<sup>3</sup>—the Department of Education issued a notice that it intended to relax regulatory restrictions. The Department commissioned a study to survey existing research on the efficacy of single-sex education, which found that research on single-sex schools generally failed to meet accepted standards in terms of research design and methodology. The study ultimately concluded that the results of even the better-designed studies were “equivocal.” Moreover, the Department received overwhelming objections from a diverse coalition of advocates for equality in education to its 2004 proposed regulations, which allowed more flexibility in the use of single-sex education.

Nonetheless, in 2006, the Department of Education issued Title IX regulations that eased previous regulatory restrictions significantly. Under the 2006 regulations, schools can exclude boys or girls from classrooms on the basis of vague goals such as “improving the educational achievement of students” by offering “diverse educational options,” “provided that the single-sex nature of the class or extracurricular activity is substantially related

to achieving that objective.” Few schools have attempted to—or could—demonstrate that superior student achievement is substantially related to sex separation. The regulations also authorize schools to conduct their own evaluations of programs, with no outside monitoring or guidance on how evaluations should be conducted. The result has been a *de facto* slackening of standards and an increase in discriminatory practices that harm both boys and girls.



## Claims about Sex Separation

The “reasoned analysis” for single-sex programs called for by the Supreme Court is often notably absent from the rationale for separate programs, particularly when scientific claims are examined carefully. Many single-sex programs started since the 2006 regulation change are based on the notion that boys’ and girls’ brains are so fundamentally different that they need to be taught not only separately but also using different methods, even though neuroscientists and experts in child development and education have discredited these assertions. Rather than sound science, such conclusions often rest on stereotypes about the interests and abilities of boys and girls.<sup>4</sup>

### PURPORTED GENDER DIFFERENCES

Advocates for single-sex education often argue that separation by sex is necessary because of purported hard-wired differences in the brains of girls and boys. In his book *Why Gender Matters*,<sup>5</sup> Leonard Sax—a physician and psychologist who founded the National Association for Single Sex Public Education and runs teacher training sessions nationally—makes these claims, among others:

- Girls’ hearing is far more sensitive than boys’, so teachers should speak softly to girls but yell at boys.
- When girls are under stress blood rushes away from their brains, while stress causes

blood to rush to boys’ brains, thus priming them to learn.

- Boys should receive strict, authoritarian discipline and respond best to power assertion. Boys may be spanked, while girls may not.
- A boy who likes to read, does not enjoy contact sports, and does not have a lot of close male friends should be firmly disciplined, required to spend time with “normal males,” and made to play sports.

Michael Gurian, author and founder of the Gurian Institute, which also trains teachers, propounds similar theories. For instance, according to Gurian:<sup>6</sup>

- Boys are better than girls in math because their bodies receive daily surges of testosterone, while girls have equivalent mathematics skills only during the few days in their menstrual cycle when they have an estrogen surge.
- Boys are by nature abstract thinkers and so are naturally good at things like philosophy and engineering, while girls are by nature concrete thinkers.
- Full female participation in athletics is not “neurologically or hormonally realistic.”

## DEBUNKING ASSUMPTIONS

While these assertions are presented as recent scientific discoveries, they have been overwhelmingly debunked by reputable scientists. For example, the Association for Psychological Science recently selected six independent cognitive experts to examine sex differences in learning math and science. These experts concluded, “None of the data regarding brain structure or function suggests that girls and boys learn differently or that either sex would benefit from single-sex schools.”<sup>7</sup>



Other research abounds. A research review conducted at the time of the 2006 regulation changes found that half a century of research across Western countries has not shown any dramatic or consistent advantages for single-sex education for boys or girls.<sup>8</sup> Neuroscientist and Chicago Medical School professor Lise Eliot, who recently published a book exploring gender differences and their biological and social causes, concludes, “the argument that boys and girls need different educational experiences because ‘their brains are different’ is patently absurd. The same goes for arguments based on cognitive abilities, which differ

far more *within* groups of boys or girls than *between* the average boy and girl.”<sup>9</sup>

Psychologist Janet Shibley Hyde, another recognized expert on gender differences and similarities, concludes that the available data suggest that the sexes are far more similar than different in terms of cognition. She further states, “Educators should be wary of arguments for single-sex education that rest on assumptions of large psychological differences between boys and girls. These assumptions are not supported by data.”<sup>10</sup> A 2011 *Science* article by the American Council for Coeducational Schooling researchers, “The Pseudoscience of Single-Sex Schooling,” concluded that single-sex education “is deeply misguided, and often justified by weak, cherry-picked, or misconstrued scientific claims rather than by valid scientific evidence.”<sup>11</sup>

## EVIDENCE-BASED CONCLUSIONS

Although there is no doubt that some single-sex education programs have enjoyed successful outcomes, no rigorous studies have linked their successes to the single-sex structure rather than to other factors.<sup>12</sup> For example, studies that have claimed to demonstrate a causal relationship between the single-sex structure and improved outcomes have failed to control for variables such as class size, socioeconomic status, or student ability.

Separating boys and girls based on sex stereotyping is not only unlawful but also potentially harmful. Assuming, for instance, that boys need active, loud environments focused on abstract thinking skills and girls need quiet activities that emphasize concrete thinking makes it *less* likely that the classroom will meet the varying learning needs of all students. Teaching to these stereotypes limits opportunities for both boys and girls and keeps both from learning the full range of skills necessary for future success in school, work, and life.

## How Sex Separation Plays Out in the Classroom

Most single-sex programs in public education started after 2000. By 2008–2009, there were more than 1,000 coeducational public schools that included at least some single-sex programming at the K-12 level, including academic classes. It is estimated that today there are more than 100 all-girl or all-boy public schools, including public charter and magnet schools. The Department of Education's Civil Rights Data Collection of 2010 indicates that more single-sex academic classes in coed public schools exist for boys than for girls.<sup>13</sup>

Below are examples of programs that either flout the spirit of or outright fail to comply with the legal standards set forth in Title IX, the Constitution, and the 2006 Department of Education regulations. These programs often reinforce gender stereotypes, fail to offer comparable subjects for boys and girls, provide no comparable option for students who prefer coeducation, or allocate fewer resources for girls' programs. Greater accountability, including monitoring for compliance with regulations, is needed to end such discriminatory practices.

### REINFORCING GENDER STEREOTYPES

Press accounts, public records requests, and litigation surrounding single-sex programs provide strong evidence that fears about the impact of relaxing the Title IX regulations are well founded. Many school administrators around the country have latched onto the notion that teachers should provide very different classroom experiences for boys and girls. Often this approach results in forcing boys and girls into gender stereotypes that serve neither group. For example, boys-only classes often focus on sports and leadership themes, while girls-only programs teach manners and cooperation.

## Voices Against Discrimination

"Segregating boys and girls didn't make things any better for our children. In fact they made things worse. Our kids were basically being taught ideas about gender that come from the Dark Ages."

—Parent of middle school child in a single-sex program, Mobile, Alabama

"A loud, cold classroom where you toss balls around... might be great for some boys, and for some girls, but for some boys, it would be living hell."

—Diane F. Halpern, professor of psychology, Claremont McKenna College

"My fears were realized when I found out that the whole idea behind separating the girls from the boys was the notion that they needed to be taught using different teaching styles—and even curricula. In the girls' classes, they were assigned books about romance, and in the boys' classes, they were reading books about hunting and dogs. My second daughter had another three years at the school, and I couldn't face the idea of her getting three more years of that kind of conditioning.

The biggest lesson I hope my girls learn from this experience is that they can be vocal, strong, and independent, and they don't need to be coddled or spoken softly to in order to accomplish anything they want to in life."

—Parent who successfully challenged single-sex programming in a Louisiana public middle school

Information for these examples and those in the following sections comes mostly from press reports, as there is often little public oversight or debate regarding the initiation of these programs, and few schools even indicate publicly that they operate sex-separated classes.

- A single-sex kindergarten program in Pittsburgh taught boys vocabulary using basketball and relay races, while teachers read girls stories about fairies and princesses and used wands and tiaras as learning incentives.<sup>14</sup>

- In single-sex first-grade classes at a charter school in Lansing, Michigan, boys drew monsters and played games with balls, while girls had tea parties to teach social skills and manners.<sup>15</sup>
- A single-sex middle school in South Carolina allowed boys to move around the classroom and toss a ball to determine whose turn it was to talk, while girls raised their hands to talk in a room that smelled like flowers, and “were taught to cooperate in different ways.”<sup>16</sup>
- Starting in 2011–12, all sixth-grade math, science, and humanities courses were separated by sex at a middle school in Tacoma, Washington. Boys played catch to help learn multiplication, while girls could “do what girls do: talk at great length about their subjects.” The principal said the school would offer a coed option only if “enough” parents requested it.<sup>17</sup>
- A Wisconsin superintendent justified a plan to create single-sex high school science classes based on “research data” showing that boys like “creative hands-on projects that culminate in something with a different level of understanding,” while girls followed directions and “may not even understand what happened in the science lab, but they got the right answers.”<sup>18</sup>

### **FROM STEREOTYPES TO DISCRIMINATION**

When sex stereotypes guide educational programming, discrimination follows. Single-sex programs in the public school setting that are demonstrably inequitable fail to comply with Title IX, even under the 2006 regulations. These programs may be challenged for practices that violate students’ civil rights, such as involuntary assignment to single-sex classrooms, failure to provide coeducational options in addition to the single-sex classes, and inequitable use of resources.

Recognizing the problems associated with this programming, including reliance on sex ste-

reotypes, some schools or districts have chosen to discontinue their single-sex programming. Following are two examples of single-sex programs that were successfully challenged.

**Proposed high school conversion from coed to dual academies, Pittsburgh, PA.** After two of the district’s high schools, Westinghouse and Peabody, were designated for corrective action under No Child Left Behind, the school board approved a proposal to close the Westinghouse grade 9–12 program and open in the same location the Young Men’s and Young Women’s Academies, to serve grades 6–12. The academies were scheduled to open in the 2011–2012 school year.

The program, which was piloted the previous year in several classrooms at another public high school, was structured as two single-sex academies to cater to “the separate needs of young women and young men.”<sup>19</sup> However, the school board failed to produce or cite any data tracking the outcomes of the pilot program. Information about the academies, received through an open records act request filed by the American Civil Liberties Union (ACLU) of Pennsylvania, claimed that “research solidly indicates that boys and girls learn differently,” including that “adolescent girls’ brains exhibit high levels of communication between different subject matter, cultures and time periods, while young men make meaning through movement,”<sup>21</sup> although no such research was cited.

The academies were to offer a longer school day and were intended to have a more rigorous academic focus. The program offered boys—but not girls—access to a summer program to improve their readiness for the academic programs at the new academies. The plan called for students to be assigned to one of the single-sex academies, giving parents a limited time to opt out. The program was abandoned in fall 2011 after the ACLU threatened to file a complaint with the Office for Civil Rights (OCR).

**Middle school separation of boys and girls, Mobile County, AL.** In 2009 the Mobile County Public School System implemented single-sex programs in eight middle schools without notifying parents. At one school, boys and girls ate lunch at different times and were not allowed to speak to each other on school grounds.<sup>22</sup> For boys, teachers were instructed to create “competitive, high-energy classrooms” and teach “heroic behavior”; for girls, to create “cooperative, quiet classrooms” focusing on “good character.” In sixth-grade language arts,

boys were told to brainstorm action words used in sports, while girls were told to describe their dream wedding cake.

“Electives” were pre-assigned: girls took drama and boys took computer applications, with no option for changing classes. The principal told parents that “boys’ and girls’ brains were so different they needed a different curriculum.” The program was terminated shortly after it began in all eight schools after the ACLU threatened a lawsuit on behalf of two parents.

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## The Challenge of Evaluation

In addition to the flawed scientific rationale for single-sex education, lack of sound evaluation of single-sex programs is an ongoing problem. In particular, studies claiming positive results generally do not have comparable control groups in coed programs, making it impossible to draw meaningful comparisons. Where they do draw comparisons, they generally fail to control for school and student variables known to affect academic outcomes.

A typical example is an evaluation conducted in South Carolina. In November 2010, the South Carolina Department of Education released a survey of parents, teachers, and students participating in single-gender classes.<sup>23</sup> Its methodological flaws included having no control group of students in coed classes; asking questions likely to lead to a positive answer; and failing to take into account the

self-fulfilling expectations of parents, teachers, and students who had selected single-gender classes. It did not compare actual student performance of boys and girls or of students in single-sex classes with comparable students in coed classes.<sup>24</sup>

The South Carolina Department of Education justified its inadequate review of the effectiveness of single-sex classes by saying that it interpreted the Department of Education’s 2006 regulation this way: “Federal law only requires schools to ‘review’ their data every two years, not to report it. As such, there is no requirement for any school to publish or communicate the impact of their single-gender program.” It is perhaps notable that South Carolina has since significantly reduced funding for its Office of Single-Gender Programs and has removed the 2010 survey from its website.

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## NCWGE Recommendations

- The U.S. Department of Education should rescind its 2006 changes to the Title IX regulations, which loosened restrictions on single-sex education, and clarify what is and is not permissible.
- Federal guidelines should increase accountability and transparency by requiring reporting of single-sex programs and their

evaluations on public websites. Schools should also be required to disclose and provide public access to program data.

- The Department of Education, state education agencies, school boards, and school administrators (including Title IX coordinators) should improve monitoring and enforcement of Title IX compliance to

prevent discriminatory practices that hinder learning and limit equal opportunities.

- Federal and state education agencies should increase efforts to educate school adminis-

trators and officials, parents, teachers, and local policy makers on their respective rights and responsibilities under Title IX, and on the role of Title IX coordinators in the law's implementation.

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# Pregnant and Parenting Students

OFTEN LEFT BEHIND

**T**ITLE IX'S PROMISE OF EQUAL opportunity for girls and women is far from being fulfilled when it comes to pregnant and parenting students. Many people, including students, do not know that Title IX prohibits discrimination based on pregnancy and parenting. Pregnant students are frequently pushed toward separate educational facilities, subjected to punishing leave policies, or denied access to extracurricular activities despite the fact that such conduct

violates Title IX. Faced with these and other obstacles, many pregnant and parenting students drop out of school, thus lowering their chances of finding stable employment that will let them support their families.

Equal treatment and support for pregnant and parenting students is critical to ensuring that all female students have equal access to educational opportunities. It is also important for helping young fathers stay engaged in their children's lives, remain in school, and complete their education.

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## Legal Protection for Pregnant and Parenting Students

### GENERAL PROTECTION

One of the less well-known aspects of Title IX is that it protects the rights of pregnant and parenting students to stay in school and have

equitable educational opportunities. Title IX prohibits discriminating against any student on the basis of sex, which includes a student's "actual or potential" parental, family, or marital

## KEY FINDINGS

- 1. Despite legal protection under Title IX, pregnant and parenting students often face discrimination in school,** including being pushed toward separate education facilities and facing inequitable absence policies.
- 2. Pregnant and parenting teens face many barriers** to enrolling in, attending, and succeeding in school. Without adequate support, many drop out, lowering their chances of finding employment that offers economic security.
- 3. This issue affects boys as well as girls.** Close to half of female dropouts and one-third of male dropouts say that becoming a parent is a factor in their decision to leave high school.
- 4. Lack of knowledge of the law is a major hurdle** to overcoming discrimination. Measures such as training school officials to understand the rights and needs of pregnant and parenting students and tracking compliance are important for ensuring equal access to education.
- 5. Greater support for pregnant and parenting students,** including flexible leave options, funding for services such as child care and tutoring, and guidance in developing educational goals can help ensure that these students have the opportunity to succeed in school.

status and “pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.”

Generally speaking, this means that schools must give all students who *might be, are, or have been* pregnant (whether currently parenting or not) equal access to school programs and extracurricular activities. Schools must treat pregnant and parenting students in the same way that they treat other students who are similarly able or unable to participate in school

activities. And Title IX requires schools to prevent and address sex-based harassment, which includes harassment based on pregnancy.<sup>1</sup>

## TITLE IX REGULATIONS

In addition to general protection, Title IX regulations detail how the law applies to a range of specific educational activities and policies that affect pregnant and parenting students. These regulations govern activities both in the classroom and outside of class.

**Class attendance.** Pregnant and/or parenting students may not be prevented from attending class on the basis of pregnancy. Separate programs or schools for pregnant and parenting students must be completely voluntary and must offer opportunities equal to those offered for non-pregnant students.

**Excused absences.** Absences due to pregnancy or childbirth must be excused for as long as is deemed medically necessary by the student’s doctor.

**Make-up work.** Schools must let students make up the work they missed while out due to pregnancy or any related conditions, including recovery from childbirth. If a teacher or professor awards “points” or other advantages based on class attendance, students must be given the opportunity to earn back the credit from classes missed because of pregnancy.

**Tutoring or other accommodations.** If the school provides tutoring or homebound instruction services to other students with medical conditions or temporary disabilities, it must provide such services to pregnant or parenting students on the same basis.

**Participation in school activities outside of class.** Schools must allow pregnant or parenting students to continue participating in activities

and programs outside of class such as sports, extracurricular activities, labs, field trips, and career rotations. The school can require a doctor's note for pregnant students to participate in activities only if it requires a doctor's note from *all* students who have conditions that require medical care.

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## Challenges in Education

Research by the Center for Assessment and Policy Development suggests that the most common barriers to education faced by pregnant and parenting students are: 1) being strongly encouraged to attend stand-alone alternative programs of questionable academic quality; and 2) unlawful leave and absence policies.

Schools may push students toward separate programs or facilities for pregnant students out of fear that these students will be a bad influence on others, or to avoid having to deal with pregnancy-related health issues. However, separate programs generally don't include the full range of academic coursework and are often sub-par. In 2007, New York City announced a decision to shut down its alternative program for pregnant and parenting students, which offered parenting classes and child care access but no opportunities for graduation or preparation for postsecondary education or careers.

By law, participation in separate programs must be voluntary, yet students report that schools often tell them that they have no choice. In other cases schools simply refuse to enroll pregnant students, either directing them elsewhere or actually encouraging them to drop out and get their GED instead of trying to finish high school. Students also report that many schools consider pregnancy or parenting-related absences "unexcused," or fail to let them make up missed work—practices that impede

**Scholarships.** Schools cannot terminate or reduce athletic, merit, or need-based scholarships because of pregnancy.

academic success and are specifically prohibited under Title IX.

Other findings on pregnant and parenting students paint a disturbing picture:

- Only 51% of women who were teen mothers earned their high school diplomas by age 22.<sup>3</sup>
- Fewer than 2% of young teen mothers (those who have a baby before age 18) attain a college degree by age 30.<sup>4</sup>
- In a nationwide survey, half of female dropouts said that becoming a parent was a factor in their decision to leave high school; one-third said it was a major factor.<sup>5</sup>
- The same survey found that parenthood was a factor in leaving school for one-third of male students who dropped out.
- Parents and other students with care-giving responsibilities are the group mostly likely to say they "would have worked harder if their schools had demanded more of them and provided the necessary support."<sup>6</sup>

High dropout rates among pregnant and parenting students stem from the many hurdles



these students face in enrolling in, attending, and succeeding in school:

1. The challenge of juggling schoolwork with parenting responsibilities.
2. Lack of access to affordable, quality child care, transportation, and other critical services.
3. Discrimination from teachers, coaches, or school administrators, including policies and practices that prevent pregnant and parenting students from succeeding.
4. Lack of flexibility and accommodation for the unique needs of pregnant and parenting students, such as excusing absences for taking care of a sick child; allowing time and space to express breast milk; and permitting students to schedule classes later in the day

to accommodate morning sickness, child care limitations, or transportation barriers.

Although some of these challenges are unavoidable, provid-



## Challenges in Ending Discrimination

Despite clear legal protection for pregnant and parenting students, practices that hinder the ability of these students to succeed in school are widespread. Discrimination and biases persist; many schools enact policies to punish pregnant and parenting students or make an example of them. Lack of knowledge

ing support for these students—including, at a minimum, complying with the provisions of Title IX—can remove barriers to success.

Supporting pregnant and parenting students at the postsecondary level is also crucial, given the importance of a college education in the current economy. According to the Institute for Women's Policy Research (IWPR), parents of dependent children make up nearly a quarter of U.S. undergraduates, or 3.9 million students. Half of those are single parents, who are more likely than others to come from disadvantaged backgrounds.

In addition, nearly half of parenting students work full-time while enrolled. For these students, obtaining quality, affordable child care is one of the greatest challenges; the availability of child care is cited as an important factor in making the decision to attend college by four out of five parenting students.<sup>7</sup> IWPR notes that while the federal Child Care Access Means Parents in School (CCAMPIS) program finances some child care for low-income parents, funding is limited (\$16 million in 2010) and applied unevenly.

of students' rights and poor enforcement also contribute to the problem.

### LACK OF KNOWLEDGE

No reliable data exists on the numbers of pregnant or parenting students or on the numbers of these students who face discrimination in violation of Title IX. Better data on these numbers—which could be gathered via the Department of Education's Civil Rights Data Collection process—would help in crafting strategies for countering discrimination.

Lack of knowledge among schools is another major hurdle. Many schools have not appointed Title IX coordinators, in violation of the statute,

so they may not know that Title IX applies to pregnant and parenting students. Others simply do not fully understand their responsibilities to these students under the law. For example, colleges and universities sometimes allow individual instructors to set policies for their own classes, including refusing entry to pregnant students, because school administrators fail to recognize that the school is accountable for such discrimination.<sup>8</sup>

Some schools are misled by policies at the state and local level that actually violate Title IX. At least two state Departments of Education recently had official policies in place that violated Title IX with regard to pregnant and parenting students. Those policies excluded students who were pregnant or recovering from childbirth from receiving services, such as homebound instruction, that were made available to those with other medically excused absences. (See the boxed insert for examples.)

Students themselves often have no idea that Title IX prohibits discrimination against pregnant and parenting students.<sup>9</sup> These students are particularly vulnerable if their school gives them incorrect information about enrollment, absence, or other policies. Given the high dropout rate among students who become pregnant, ensuring that these students understand their rights with regard to education is essential.

## ENDING DISCRIMINATION AGAINST PREGNANT AND PARENTING STUDENTS

When Title IX is enforced, it can make a huge difference in ensuring educational opportunities and access for pregnant and parenting students.

### Success at the State Level

- Until recently, Georgia state regulations excluded pregnancy as an eligible condition for the homebound instruction assistance offered to students who missed school for other medical reasons. The National Women's Law Center (NWLC) notified the state Department of Education of the Title IX violation and worked with officials to get the policy changed. In 2009, the pregnancy exclusion was removed.
- A Michigan state law requiring school districts to provide homebound or hospitalized instructional services for students who missed school for medical reasons expressly excluded students who were pregnant or recovering from childbirth. Again NWLC intervened, and in 2010 the state Department of Education changed its guidelines to include medically excused absences due to pregnancy, childbirth, and recovery.

### Court Rulings

Several federal court cases have addressed the issue of whether a school may exclude a pregnant or parenting student from membership in the National Honor Society (NHS). Most, although not all, rejected schools' efforts to defend their exclusion of a pregnant student by characterizing it as based on premarital sex, not on pregnancy:

- At least two federal courts have determined that exclusion of pregnant or parenting students constitutes unlawful discrimination under Title IX.<sup>a</sup>
- One district court found that denying NHS membership to a pregnant student violated Title IX because a male student who had fathered a child out of wedlock was not similarly excluded.

*a. Chipman v. Grant County Sch. Dist.*, 30 F. Supp.2d 975 (E.D. Ky. 1998); *Wort v. Vierling*, No. 82-3169 (C.D. Ill. Sept. 4, 1984).

## LACK OF ENFORCEMENT

Enforcement of Title IX has proved difficult. Students are unlikely to lodge formal complaints with the Office for Civil Rights (OCR) for a number of reasons, including lack of knowledge of their rights, already feeling overwhelmed and vulnerable, and lack of resources or guidance from the adults in their lives. These issues make it even less likely that they will file lawsuits in court.

The latest publication from OCR on the application of Title IX to pregnant and parenting students was a pamphlet issued in 1991, so it is critical that OCR issue updated guidance to better publicize the law's requirements and help schools understand their responsibilities. OCR did remind schools in 2007 that terminating

athletic scholarships or other financial assistance based on pregnancy or a related condition is prohibited under Title IX, in response to press reports of female athletes terminating pregnancies because they were afraid of losing their scholarships.

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## Beyond the Law: Creating Effective Policies

Schools should ensure that their leaders and staff understand the rights of pregnant and parenting students under Title IX. That is just one piece of the puzzle for improving outcomes, however. Schools that want to increase graduation rates and provide support for motivated students facing the challenges of parenthood can do much more than just avoid discrimination.

Recommendations for schools, both at the secondary level and at the postsecondary level, include the following:

- Create flexible leave options and mechanisms for making up missed work.
- Provide services such as child care, transportation, and tutoring.

- Excuse absences related to the illness of a student's child.
- Allow students time and space to express breast milk.
- Provide added guidance and case management to help students develop short- and long-term educational goals, apply for public benefits, and access available health and other social services in the community.
- Offer life skills classes that provide information on parenting as well as comprehensive and medically accurate information on secondary pregnancy prevention.
- Track data on student outcomes.

All of these measures can help ensure that pregnant and parenting students have the opportunity to succeed in school.

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## Recent Developments

Two recent federal actions take aim at improving high school graduation rates and increasing access to education for pregnant and parenting students.

The Pregnant and Parenting Students Access to Education Act, introduced in the House of Representatives in July 2011, authorizes the U.S. Secretary of Education to make state and local grants to promote education for pregnant and parenting students. The act was devised to support states in creating a plan for educating pregnant and parenting students, provid-

ing professional development and technical assistance to school districts, and coordinating services with other state agencies. The act also has provisions for rigorous program evaluation and for collection and reporting of data on pregnant and parenting students, including educational outcomes.<sup>10</sup> This legislation would provide states and school districts with much-needed resources not only for ensuring Title IX compliance but also for promoting graduation and college and career readiness for pregnant and parenting students.

The Pregnancy Assistance Fund, a component of the Affordable Care Act, provides \$25 million annually for fiscal years 2010 through 2019 for the purpose of awarding competitive grants to states and Native American tribes or reservations. The law provides for up to 25 grants of \$500,000 to \$2 million a year. In the first year, awards went to 17 states for programs to connect young families with the supportive services they need and to ensure a focus on important outcomes such as graduation rates, maternal and child health outcomes, and parenting skills.<sup>11</sup>

## NCWGE Recommendations

- OCR should enhance enforcement of Title IX in this area by conducting compliance reviews and issuing communications that remind schools of their obligations to pregnant and parenting students.
- Dropout prevention programs should be targeted to meet the needs of both boys and girls, including specific measures to prevent teen pregnancy and to support pregnant and parenting students so they can remain in school.
- Legislation directing schools to track the academic progress of pregnant and parenting students would aid enforcement and create a body of data on where—and how—efforts to keep these students in school have succeeded.
- The federal government should fund programs to provide enhanced support for pregnant and parenting students, including

## RESOURCES FOR STUDENTS AND SCHOOLS

The National Women's Law Center offers a range of resources on this topic, including information for pregnant and parenting students about their rights as well as information for schools.

**Pregnant and Parenting Students' Rights.** Available at <http://www.nwlc.org/sites/default/files/pdfs/PPStudentRightsUnderTitleIX.pdf>.

**Pregnant and Parenting Students' Rights: FAQs for College and Graduate Students.** Available at [http://www.nwlc.org/sites/default/files/pdfs/2011\\_07\\_21\\_pregnant\\_and\\_parenting\\_students\\_rights.pdf](http://www.nwlc.org/sites/default/files/pdfs/2011_07_21_pregnant_and_parenting_students_rights.pdf).

**Title IX Protections for Pregnant and Parenting Students: A Guide for Schools.** Available at <http://www.nwlc.org/sites/default/files/pdfs/ProtectionforPregnantandParentingStudents.pdf>.

**Pregnancy Harassment /s Sexual Harassment: FAQs on Title IX and Pregnancy Harassment.** Available at <http://www.nwlc.org/sites/default/files/pdfs/titleixpregnancyharassmentfactsheet.pdf>.

accommodations and services that would enable parents to complete their education. Passing the Pregnant and Parenting Students Access to Education Act would be one way to help achieve this goal.

- Funding should be increased to make quality and affordable child care accessible to student parents, including through the CCAMPIS program.<sup>12</sup>

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# Chronology of Title IX

**1964** Title VII of the Civil Rights Act of 1964 is enacted, prohibiting discrimination in employment based on race, color, sex, national origin, or religion. Title VI of this Act prohibits discrimination in federally assisted programs—including education programs—on the basis of race, color and national origin, but not on the basis of sex.

**1970** Congress holds first hearings on sex discrimination in higher education.

**1972** Title IX of the Education Amendments of 1972 is enacted, prohibiting discrimination on the basis of sex in all federally funded education programs and activities.

**1974** The Tower Amendment, which would have exempted revenue-producing sports from Title IX compliance, is proposed and rejected. The alternative Javits Amendment passes, providing that Title IX regulations be issued and include reasonable provisions considering the nature of particular sports.

Congress passes the Women’s Educational Equity Act, designed to build a gender-equity infrastructure at the local and national levels that both supports Title IX and combats sex stereotyping in education.

**1975** The U.S. Department of Health, Education and Welfare (HEW) issues final Title IX regulations. Elementary schools are given one year to comply. High schools and colleges are given three years to comply. Several attempts in Congress to disapprove the HEW regulations and to amend Title IX are rejected.

HEW publishes “Elimination of Sex Discrimination in Athletics Programs” in the Federal Register and sends it to school officials and college and university presidents.

**1976** The NCAA unsuccessfully files a lawsuit challenging the Title IX athletic regulations.

**1977** A U.S. Court of Appeals rules that sexual harassment is sex discrimination and therefore covered under Title IX.

**1979** After notice and comment, HEW issues a Policy Interpretation, “Title IX and Intercollegiate Athletics,” introducing the “three-part test” for assessing compliance with Title IX’s requirements for equal participation opportunities.

The U.S. Supreme Court rules in *Cannon v. University of Chicago* that private individuals have the right to sue under Title IX.

**1980** Federal education responsibilities are transferred from HEW to the new Department of Education. Primary oversight of Title IX is transferred to the Department’s Office for Civil Rights (OCR).

OCR issues the *Interim Athletics Investigator’s Manual* on Title IX compliance to investigators in its regional offices.

- 1982** The U.S. Supreme Court upholds Title IX regulations prohibiting sex discrimination in employment.
- 1984** The U.S. Supreme Court rules in *Grove City v. Bell* that Title IX applies only to the specific programs within an institution that receive targeted federal funds. This decision effectively eliminates Title IX coverage of most athletics programs and other activities and areas of schools and colleges not directly receiving federal funds.
- 1987** OCR publishes *Title IX Grievance Procedures: An Introductory Manual* to assist schools with their obligation to establish a Title IX complaint procedure and designate a Title IX coordinator to receive those complaints.
- 1988** Congress overrides President Reagan’s veto to pass the Civil Rights Restoration Act, which restores Title IX coverage to all of an educational institution’s programs and activities if any part of the institution receives federal funds.
- 1990** OCR updates and finalizes its *Title IX Athletics Investigator’s Manual*.
- 1992** The U.S. Supreme Court rules unanimously in *Franklin v. Gwinnett County Public Schools* that plaintiffs who sue under Title IX may be awarded monetary damages.
- The NCAA publishes a Gender-Equity Study of its member institutions, detailing widespread sex discrimination in athletics programs.
- 1994** The Equity in Athletics Disclosure Act passes, requiring federally assisted, coeducational institutions of higher education to disclose certain gender equity information about their intercollegiate athletics programs, allowing better monitoring of Title IX compliance.
- 1996** OCR issues the “Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test,” explaining in detail how schools can comply with each prong of the three-part participation test first set forth in the 1979 Policy Interpretation.
- The U.S. Court of Appeals for the First Circuit, after an extensive analysis, upholds the lawfulness of the three-part test in *Cohen v. Brown University*.
- The U.S. Government Accountability Office issues a report entitled *Issues Involving Single-Gender Schools and Programs*, which concludes that such programs may violate Title IX, the U.S. Constitution, and state constitutions.
- 1997** OCR issues “Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,” which establishes standards for Title IX compliance and emphasizes that institutions are responsible for preventing and punishing student-on-student sexual harassment.
- 1998** The U.S. Supreme Court rules in *Gebser v. Lago Vista Independent School District* that a student may sue for damages for a teacher’s sexual harassment only if the school had notice of the teacher’s misconduct and acted with “deliberate indifference”—a higher standard for recovering damages than employees have to meet for harassment in the workplace.

**1999** The U.S. Supreme Court rules in *Davis v. Monroe County Board of Education* that Title IX covers student-on-student harassment and that damages are available if the school had notice of, and was deliberately indifferent to, the harassment. The Court holds that the harassment must be so severe, pervasive, and objectively offensive that it deprives the victim of the benefits of education.

Two teen mothers who were denied membership in the National Honor Society because of their parental status settle their Title IX lawsuit, *Chipman v. Grant County School District*.

**2000** The Department of Justice issues the Final Common Rule on Title IX enforcement for all federal agencies that do not already have their own regulations.

President Clinton issues Executive Order 13160, stating that federal civil rights protections, including Title IX's prohibition against sex discrimination, apply to federally conducted education and training programs and activities, because "The Federal Government must hold itself to at least the same principles of nondiscrimination in educational opportunities as it applies to the education programs and activities of State and local governments, and to private institutions receiving Federal financial assistance."<sup>2</sup>

**2001** OCR issues "Revised Sexual Harassment Guidance" reaffirming in large part the compliance standards described in the 1997 Guidance. It makes clear that standards set forth in the 1998 and 1999 Supreme Court rulings (*Gebser* and *Davis*) apply only to suits for damages, not to OCR's enforcement or to suits for injunctive relief.

The Department of Justice issues the *Title IX Legal Manual*, providing guidance to federal agencies regarding compliance with Title IX.

**2002** The National Wrestling Coaches Association files suit against the Department of Education challenging the three-part test. The Department establishes a Commission on Opportunity in Athletics to evaluate changes to Title IX athletics policies.

The President's budget calls for elimination of the Women's Educational Equity Act; the Bush Administration ends the WEAA Equity Resource Center in 2003.

**2003** The Commission on Opportunity in Athletics issues its report, recommending significant and damaging changes to the Department of Education's regulatory policies. The Secretary of Education rejects all recommendations and issues a "Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance" affirming the existing policies.

**2005** Lawrence H. Summers, President of Harvard University, draws criticism for proposing that "innate" differences in sex may explain why fewer women succeed in science and math careers. One year later, Summers announces his resignation from Harvard; Drew Gilpin Faust becomes the first female president of Harvard in 2007.

The U.S. Supreme Court rules in *Jackson v. Birmingham Board of Education* that individuals, including coaches and teachers, have a right of action under Title IX if they are retaliated against for protesting sex discrimination.

The Department of Education issues an "Additional Clarification of Intercollegiate Athletics

Policy Guidance: Three-Part Test—Part Three,” which weakens schools’ obligations under Title IX by allowing them to rely on a single email survey to support assertions that they are meeting women’s interest in playing sports.

- 2006** The Department of Education promulgates new regulations expanding the authorization for schools to offer single-sex programs.

The College of Education at Arizona State University releases a study showing that current research into single-sex education is neither conclusive nor of acceptable quality. The study notes that the research “is mostly flawed by failure to control for important variables such as class, financial status, selective admissions, religious values, prior learning or ethnicity.”<sup>2</sup>

- 2009** The Supreme Court holds, in *Fitzgerald v. Barnstable School Committee*, that individuals can bring suits alleging sex discrimination by public entities under both Title IX and the U.S. Constitution.

- 2010** OCR releases guidance to schools clarifying that, under current civil rights laws, they are responsible for stopping, remedying, and preventing bullying and harassment based on sex, including gender stereotypes.<sup>3</sup> If a school fails to recognize and address discriminatory harassment, it can be held responsible for violating students’ civil rights.

The Department of Education rescinds the 2005 “Additional Clarification of Intercollegiate Athletics Policy Guidance: Three-Part Test—Part Three,” returning athletics enforcement efforts to the previous standard, which requires schools to evaluate multiple indicators of interest to demonstrate that they are fully and effectively accommodating their female students’ interests.

- 2011** OCR releases guidance clarifying that schools are obliged to prevent and respond to sexual violence under Title IX’s prohibition of sex discrimination.<sup>4</sup> The guidance reiterates that sexual harassment of students, including acts of sexual violence, are prohibited under Title IX.

NOTE: The following publications were used as references for this timeline: Kristen Galles, “Title IX History,” summary prepared by Equity Legal, 2003; Bernice R. Sandler and Harriett M. Stonehill, “Appendix C: A Brief History of Student-to-Student Harassment,” in *Student-to-Student Sexual Harassment K-12: Strategies and Solutions for Educators to Use in the Classroom, School, and Community* (Rowman & Littlefield Education, 2005); Susan Ware, “Title IX: A Brief History with Documents,” in the *Bedford Series in History and Culture* (Bedford/St. Martin’s, 2007); Women’s Sports Foundation, “Title IX Legislative Chronology,” available at <http://www.womenssportsfoundation.org/home/advocate/title-ix-and-issues/history-of-title-ix/history-of-title-ix/>.

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# NCWGE Affiliated Organizations

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## American Association for the Advancement of Science

<http://www.aaas.org>  
1200 New York Avenue NW  
Washington, DC 20005

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## American Association of University Women

<http://www.aauw.org>  
1111 16th Street NW  
Washington, DC 20036

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## American Civil Liberties Union

<http://www.aclu.org>  
Women's Rights Project  
125 Broad Street  
New York, NY 10004

Washington Legislative Office  
915 15th Street NW  
Washington, DC 20005

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## American Federation of Teachers

<http://www.aft.org>  
555 New Jersey Avenue NW  
Washington, DC 20001-2079

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## American Psychological Association

<http://www.apa.org>  
Women's Programs Office  
750 First Street NE  
Washington, DC 20002-4242

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## Association for Gender Equity Leadership in Education

<http://www.agele.org>  
317 South Division Street, PMB 54  
Ann Arbor, MI 48104

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## Association for Women in Science

<http://www.awis.org>  
1321 Duke Street, Suite 210  
Alexandria, VA 22314

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## Association of American Colleges and Universities

<http://www.aacu.org>  
1818 R Street NW  
Washington, DC 20009

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## Business and Professional Women's Foundation

<http://www.bpwfoundation.org>  
1718 M Street NW, #148  
Washington, DC 20036

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## Center for Advancement of Public Policy

<http://www.caponline.org>  
323 Morning Sun Trail  
Corrales, NM 87048

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## Center for Women Policy Studies

<http://www.centerwomenpolicy.org>  
1776 Massachusetts Avenue NW, Suite 450  
Washington, DC 20036

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## Council of Chief State School Officers Resource Center on Educational Equity

One Massachusetts Avenue NW, Suite 700  
Washington, DC 20001-1431

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## DC Office of the State Superintendent of Education (OSSE)

<http://osse.dc.gov>  
Postsecondary and Career Education Division  
810 First Street NE  
Washington, DC 20002-4227

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## Equal Rights Advocates

<http://www.equalrights.org>  
180 Howard Street, Suite 300  
San Francisco, CA 94105

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## Feminist Majority Foundation

<http://www.feminist.org>  
1600 Wilson Boulevard, #801  
Arlington, VA 22209

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## Girl Scouts of the USA

<http://www.girlscouts.org>  
816 Connecticut Avenue NW  
3rd Floor  
Washington, DC 20036

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## Girls Inc.

<http://www.girlsinc.org>  
120 Wall Street  
New York, NY 10005

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## Girlstart

<http://girlstart.org>  
1400 W Anderson Lane  
Austin, TX 78757

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## Healthy Teen Network

<http://www.healthyteennetwork.org>  
1501 Saint Paul Street, Suite 124  
Baltimore, MD 21202

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**Institute for Women's Policy Research**

<http://www.iwpr.org>  
1200 18th Street NW, Suite 301  
Washington, DC 20036

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**Legal Momentum**

<http://www.legalmomentum.org>  
395 Hudson Street  
New York, NY 10014  
*and*  
1101 14th Street NW, Suite 300  
Washington, DC 20005

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**Mexican American Legal Defense and Educational Fund (MALDEF)**

<http://www.maldef.org>  
1116 16th Street NW Suite 100  
Washington DC, 20036

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**Ms. Foundation for Women**

<http://www.ms.foundation.org>  
12 MetroTech Center, 26th Floor  
Brooklyn, NY 11201

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**Myra Sadker Advocates for Gender Equity**

<http://www.sadker.org>  
6988 North Chula Vista Reserve Place  
Tucson, AZ 85704

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**National Alliance for Partnerships in Equity**

<http://www.napequity.org>  
P. O. Box 369  
Cochranville, PA 19330

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**National Association for Girls & Women in Sport**

<http://www.aahperd.org/nagws>  
1900 Association Drive  
Reston, VA 20191

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**National Association of Collegiate Women Athletic Administrators**

<http://www.nacwaa.org>  
2000 Baltimore  
Kansas City, MO 64108

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**National Center for Lesbian Rights**

<http://www.nclrights.org>  
870 Market Street, Suite 570  
San Francisco, CA 94102

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**National Council of Administrative Women in Education**

3710 Southern Avenue, SE  
Washington, DC 20020

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**National Council of Negro Women**

<http://www.ncnw.org>  
633 Pennsylvania Avenue, NW  
Washington, DC 20001

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**National Council of Women's Organizations**

<http://www.womensorganizations.org>  
714 G Street SE  
Washington, DC 20003

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**National Education Association**

<http://www.nea.org>  
1201 16th Street NW, Room 613  
Washington, DC 20036

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**National Girls Collaborative Project**

<http://www.ngcproject.org>  
19020 33rd Ave W, Suite 210  
Lynnwood, WA 98036

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**National Organization for Women**

<http://www.now.org>  
1100 H Street NW, 3rd floor  
Washington, DC 20005

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**National Partnership for Women and Families**

<http://www.nationalpartnership.org>  
1875 Connecticut Avenue, NW, #650  
Washington, DC 20009-5728

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**National Women's History Project**

<http://www.nwhp.org>  
3440 Airway Drive, Suite F  
Santa Rosa, CA 95403

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**National Women's Law Center**

<http://www.nwlc.org>  
11 Dupont Circle NW, Suite 800  
Washington, DC 20036

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**National Women's Political Caucus**

<http://www.nwpc.org>  
PO Box 50476  
Washington, DC 20091

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**Society of Women Engineers**

<http://www.swe.org>  
203 N La Salle Street, Suite 1675  
Chicago, IL 60601

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**U.S. Student Association**

<http://www.usstudents.org>  
1211 Connecticut Avenue NW, Suite 406  
Washington, DC 20036

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**Wider Opportunities for Women**

<http://www.wowonline.org>  
1001 Connecticut Avenue NW, Suite 930  
Washington, DC 20036

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**Women in Engineering ProActive Network (WEPAN)**

<http://www.wepan.org/>  
1901 E. Asbury Avenue, Suite 220  
Denver, CO 80208

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**Women's Law Project**

<http://www.womenslawproject.org>  
125 S. 9th Street, # 300  
Philadelphia, PA 19107

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**Women's Research and Education Institute**

<http://www.wrei.org>  
714 G Street SE, Suite 200  
Washington, DC 20003

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**Women's Sports Foundation**

<http://www.womenssportsfoundation.org>  
Eisenhower Park  
1899 Hempstead Turnpike, Suite 400  
East Meadow, NY 11554

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**Women Thrive Worldwide**

<http://www.womenthrive.org>  
1825 Connecticut Avenue, NW, Suite 800  
Washington, DC 20009

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**YWCA**

<http://www.ywca.org>  
2025 M Street NW, Suite 550  
Washington, DC 20036

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