

GAO

Report to the Ranking Minority Member,
Subcommittee on Criminal Justice, Drug
Policy and Human Resources,
Committee on Government Reform,
House of Representatives

January 2000

GENDER EQUITY

Men's and Women's Participation in Higher Education



**Health, Education, and
Human Services Division**

B-281349

January 16, 2000

The Honorable Patsy Mink
Ranking Minority Member
Subcommittee on Criminal Justice, Drug Policy and Human Resources
Committee on Government Reform
House of Representatives

Dear Congresswoman Mink:

Discrimination against women in areas such as college admissions, intercollegiate athletics, and employment was widespread 40 years ago. Although civil rights laws in the 1960s barred discrimination in employment, similar protection was not available for students at colleges and universities until the adoption of title IX of the Education Amendments of 1972.¹ Title IX attempted to address inequities between men and women by prohibiting discrimination on the basis of sex at institutions receiving any federal financial assistance, including federally backed student loans and research grants and contracts. In the more than 2 decades since title IX was enacted, women's roles in American life have changed greatly, but the effects of title IX on men and women continue to be debated. A study of women's participation in higher education presents only one facet of women's status in our nation's economy and society.

You asked us to review and report on what is known about title IX's contribution to changes in higher education. Specifically, you asked us to (1) determine the extent to which men's and women's participation in higher education academic programs has changed since title IX was enacted; (2) determine the extent to which men's and women's participation in intercollegiate athletics programs at 4-year schools has changed since title IX was enacted; and (3) describe what is known about title IX's effect on men's and women's participation and, more specifically, about how federal enforcement of the law has led to change.

To address these questions, we obtained information from the Department of Education and the two largest athletics associations for 4-year colleges and universities—the National Collegiate Athletic Association (NCAA) and the National Association of Intercollegiate Athletics (NAIA). They provided some similar information for a previous report.² We also interviewed

¹20 U.S.C. §§ 1681-1688.

²Intercollegiate Athletics: Comparison of Selected Characteristics of Men's and Women's Programs (GAO/HEHS-99-3R, June 18, 1999).

representatives of organizations with expertise or interest in title IX and a wide range of views on title IX policy. Our review focused on concerns about gender equity among postsecondary students. We are, however, also providing information concerning women's participation as faculty members and athletics directors. (See app. I for details concerning our methodology.) In conducting our review, we relied on data obtained from Education, NCAA, and NAIA, which, although unverified, are the best available data. Our work was done between November 1998 and October 1999 in accordance with generally accepted government auditing standards.

Results in Brief

Since title IX's enactment in 1972, women's participation in higher education academic programs has increased significantly, whether measured by the proportion of students enrolled in higher education who are women, numbers of women enrolled, or the proportion of women who have received degrees in certain fields of study in which men were the predominant degree recipients.³ In 1950, about one-quarter of undergraduate students were women. Women's share of undergraduate enrollment increased to 43 percent in 1971 and 56 percent in 1996. Women's participation in a number of predominantly-male fields—such as business, law, and medicine—has also increased greatly, although changes in other predominantly-male fields, such as engineering and physical science, have been smaller. In some predominantly-female fields, including elementary education and nursing, there have been increases in the proportion of men receiving degrees. In the 1995-96 academic year, first-year college men and women were about as likely to receive financial aid and received about the same average amounts of grant and loan aid. On the faculty of predominantly-male fields at colleges and universities, men continue to outnumber women.

Women's participation in intercollegiate sports at 4-year colleges and universities has increased, while men's participation has dropped slightly, although men still participate at a higher rate than women do. From title IX's enactment to the 1997-98 school year, the number of women in intercollegiate sports grew from an estimated 30,000 (1.7 percent of full-time enrolled undergraduate women) to 157,000 (5.6 percent of full-time undergraduate women). Over the same period, the number of men participating fell from about 248,000 (10.4 percent of full-time

³We defined predominantly-male fields of study as those where (1) women earned fewer than 25 percent of the degrees awarded and (2) at least 5,000 bachelor or 1,000 first professional degrees were awarded in academic year 1971-72. The 25-percent figure is based on the Department of Labor's definition of nontraditional occupations.

undergraduate men) to about 234,000 (9.8 percent of full-time undergraduate men). On average, in the 1997-98 school year, NCAA member schools spent about one-quarter more per male intercollegiate athlete than per female athlete, perhaps in part a reflection of the additional revenue men's sports programs typically generate. Men continue to hold the majority of the athletics director positions in intercollegiate athletics.

Because various factors such as other civil rights laws and changing societal attitudes have also contributed to changes in women's roles, it is difficult to isolate title IX's specific effect. We found widespread agreement, however, among representatives from the higher education community and title IX observers, regardless of their perspective on current title IX policy, that title IX has contributed to increased opportunities and participation for women, both in the classroom and on the playing field. There was no agreement, however, on whether the law has contributed to the decline in the number of men involved in intercollegiate sports. Although Education has not terminated its funding for a postsecondary institution for a violation of title IX, federal enforcement has had an effect through other means. Education's Office for Civil Rights (OCR), which has the lead enforcement responsibility for most title IX issues, has instead enforced title IX through a variety of methods, including complaint investigations, compliance reviews, and the issuance of policy guidance. OCR's approach to enforcement emphasizes collaboration and negotiation, consistent with statutory requirements to attempt to secure compliance by voluntary means. In addition, private lawsuits have played an important role in title IX enforcement.

Background

With certain exceptions, title IX requires all educational institutions receiving or benefiting from any form of federal financial assistance to end sex discrimination in academic, extracurricular, and other programs.⁴ Because most postsecondary schools have students who receive federal financial assistance, such as federal or federally backed student loans, title IX applies to the large majority of 2-year and 4-year schools, both public and private. Title IX's provisions apply to all operations of college and university programs, including admissions, instruction, financial aid, intercollegiate athletics, housing, employment, and counseling.

⁴Some schools receiving or benefiting from federal financial assistance are subject to some, but not all, of title IX's provisions. For example, schools with religious affiliations that have religious tenets that conflict with title IX provisions may be granted an exemption from compliance with those provisions. Also, certain single-sex undergraduate programs and military academies are exempt from admissions and recruitment provisions of title IX.

As table 1 shows, application of title IX has evolved since it was enacted. For example, in 1984, the Supreme Court held that title IX did not apply to intercollegiate sports and other programs that did not directly receive federal funding. In 1988, however, the Congress passed the Civil Rights Restoration Act, which restored the earlier interpretation and broad application of title IX. It provided that any program, including athletics programs, offered by schools that receive or benefit from federal funding must provide equal opportunities to men and women regardless of whether the specific program itself benefits from federal funding.

Table 1: Important Events and Cases Involving Title IX Issues

Year	Event/Case	Importance
1972	Title IX enacted ^a	First federal law prohibiting sex discrimination at educational institutions receiving federal financial assistance.
1974	Women's Educational Equity Act enacted ^b	Provided for educational equity for women at all levels of education through grants and contracts for curricula, textbooks, training, research, counseling, and other educational efforts.
1975	Title IX regulations finalized ^c	Responded to nearly 10,000 public comments, most concerning athletics.
1976	Education Amendments of 1976 ^d	Complemented title IX by requiring states to act affirmatively to eliminate gender bias, stereotyping, and discrimination in vocational education.
1979	OCR policy interpretation concerning intercollegiate sports ^e	Established standards for assessing compliance with requirements concerning intercollegiate sports, including participation opportunities, athletics scholarships, and other benefits and services.
1979	<u>Cannon v. University of Chicago</u> ^f	Held that private parties may file suit in title IX cases.
1984	<u>Grove City College v. Bell</u> ^g	Held that intercollegiate sports and other programs without federal financial assistance are not subject to title IX or other civil rights laws.
1987	Civil Rights Restoration Act of 1987 ^h	Subjected operations at federally supported schools to civil rights laws regardless of whether any particular program receives federal assistance.
1990	OCR title IX athletics investigator's manual ⁱ	Provided detailed guidance for investigators evaluating compliance with title IX in intercollegiate and interscholastic sports, including criteria concerning participation, scholarships, facilities, coaching, and scheduling.
1992	<u>Franklin v. Gwinnett County Public Schools</u> ^j	Held that monetary damages are available to plaintiffs in title IX actions.

(continued)

Year	Event/Case	Importance
1994	Equity in Athletics Disclosure Act ^k	Facilitated assessment of gender equity in schools' intercollegiate athletics programs by requiring schools to report participation and resources for men's and women's sports programs.
1996	<u>Cohen v. Brown University</u> ^l	Upheld standards established in OCR's 1979 policy interpretation for assessing compliance with requirements concerning intercollegiate athletics participation opportunities.
1996	OCR clarification of intercollegiate athletics policy guidance ^m	Provided additional explanation and examples concerning OCR's test to determine whether schools have achieved equal opportunity in intercollegiate athletics participation.
1997	OCR sexual harassment policy guidance ⁿ	Provided policy guidance on sexual harassment in schools.
1998	OCR "Dear Colleague" letter regarding athletics scholarships ^o	Clarified policy guidance on substantial proportionality in athletics scholarships.

^a20 U.S.C. §§ 1681-1688.

^bOriginally enacted as section 408 of P.L. 93-380; current provisions of the Women's Educational Equity Act can be found at 20 U.S.C. §§ 7231-7238.

^c34 C.F.R. part 106, currently found at 45 C.F.R. part 86.

^dP.L. 94-482, repealed by P.L. 98-524, The Carl D. Perkins Vocational Education Act, as a general revision of vocational education statutes.

^eTitle IX of the Education Amendments of 1972: A Policy Interpretation; Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71413 (Dec. 11, 1979).

^f441 U.S. 677 (1979).

^g465 U.S. 555 (1984).

^h20 U.S.C. § 1687.

ⁱDepartment of Education, OCR, Title IX Athletics Investigator's Manual, 1990.

^j503 U.S. 60 (1992).

^k20 U.S.C. § 1092(e).

^l809 F. Supp. 978 (D. R.I. 1992)(Cohen I); 991 F.2d 888 (1st Cir. 1993)(Cohen II); 879 F. Supp. 185 (D. R.I. 1995)(Cohen III); 101 F.3d 155 (1st Cir. 1996)(Cohen IV).

^mDepartment of Education, OCR, "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" (Jan. 16, 1996).

ⁿDepartment of Education, OCR, "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," 52 Fed. Reg. 12034 (Mar. 13, 1997).

^oJuly 23, 1998.

Because many federal agencies fund education activities covered by title IX, they are potentially involved in enforcement activities. (For a list of agencies, see app. II.) Two agencies have major roles: the Department of Justice, which coordinates civil rights enforcement efforts, and Education's OCR, which investigates most types of complaints and allegations. The Department of Justice coordinates the development of federal agencies' title IX regulations, coordinates arrangements for referrals of cases between agencies, and represents federal agencies in title IX court proceedings, as needed. The Equal Employment Opportunity Commission (EEOC) also has jurisdiction over individual complaints of employment discrimination, which are filed against recipients of federal financial assistance subject to title VI of the Civil Rights Act of 1964 and title IX. OCR maintains jurisdiction over employment discrimination cases that allege "systemic" or patterns and practices of employment discrimination and cases that allege both employment discrimination and discrimination in federal aid recipients' other operations.⁵ Individuals or groups also have the option of filing suit in federal court or filing a complaint through the institution's grievance procedure. They may do so independent of any administrative action, such as a complaint investigation, by OCR or any other agency.

Education's Office of Student Financial Assistance has responsibility for enforcing another gender-equity law, the Equity in Athletics Disclosure Act.⁶ Under this act, coeducational colleges offering intercollegiate athletics and participating in federal student financial aid programs, such as Pell grants and federal student loan programs, must disclose certain information by gender, such as the number of varsity teams, the number of participants on each team, the amount of operating expenses, and coaches' salaries. Colleges must make these reports available to students, potential students, the public, and Education.

Women's Participation in Higher Education Academic Programs Has Increased

Although women were a minority in higher education before title IX was enacted, women students now substantially outnumber men. In 1996, colleges and universities enrolled 1.7 million more women undergraduates than men undergraduates. Women's participation has increased in many fields of study that were predominantly male in the 1971-72 academic year, including law and medicine. In other fields, such as engineering and computer and information science, men remain a sizeable majority even though the gap has narrowed. However, women still comprise a small

⁵Attorney General Order No. 992-83, 28 C.F.R. part 42 (1982); 29 C.F.R. part 1691 (1984).

⁶20 U.S.C. § 1092(e).

share of faculty in fields that have been predominantly male. Men's participation in predominantly-female fields, such as nursing and elementary education, has also increased, although women remain the overwhelming majority in these fields. Financial aid is generally provided to women and men equally when similar college costs and financial means are considered.

Women's Enrollment Exceeds That of Men

Since title IX's enactment in 1972, both men and women have participated in higher education programs in greater numbers, with a marked increase for women. From fall 1971 to fall 1996, the number of women enrolled in the country's colleges and universities more than doubled, from about 3.7 million to 8.0 million.⁷ The number of men enrolled increased by about one-fifth from about 5.2 million to about 6.3 million. In 1971, a little more than half of high school graduates were women, yet women comprised only 43 percent of college undergraduate enrollment. By 1996, the number of men and women graduating from high school was about the same, but women represented 56 percent of undergraduates. The Department of Education projects that women's portion of enrollment will continue to increase to about 58 percent by 2009. According to researchers, fewer men than women attend college in part because men, in the years after high school, are attracted to job opportunities that on average pay more than those available to young women. For example, among students from the high school class of 1992 who received a high school diploma or general educational development (GED) credential and did not attend postsecondary institutions in 1993, women who worked earned an average of 64 percent of the amount men did. In addition, many more men than women enter the armed forces.

Degrees Awarded to Women in Predominantly-Male Fields Have Increased, Although the Extent Varies

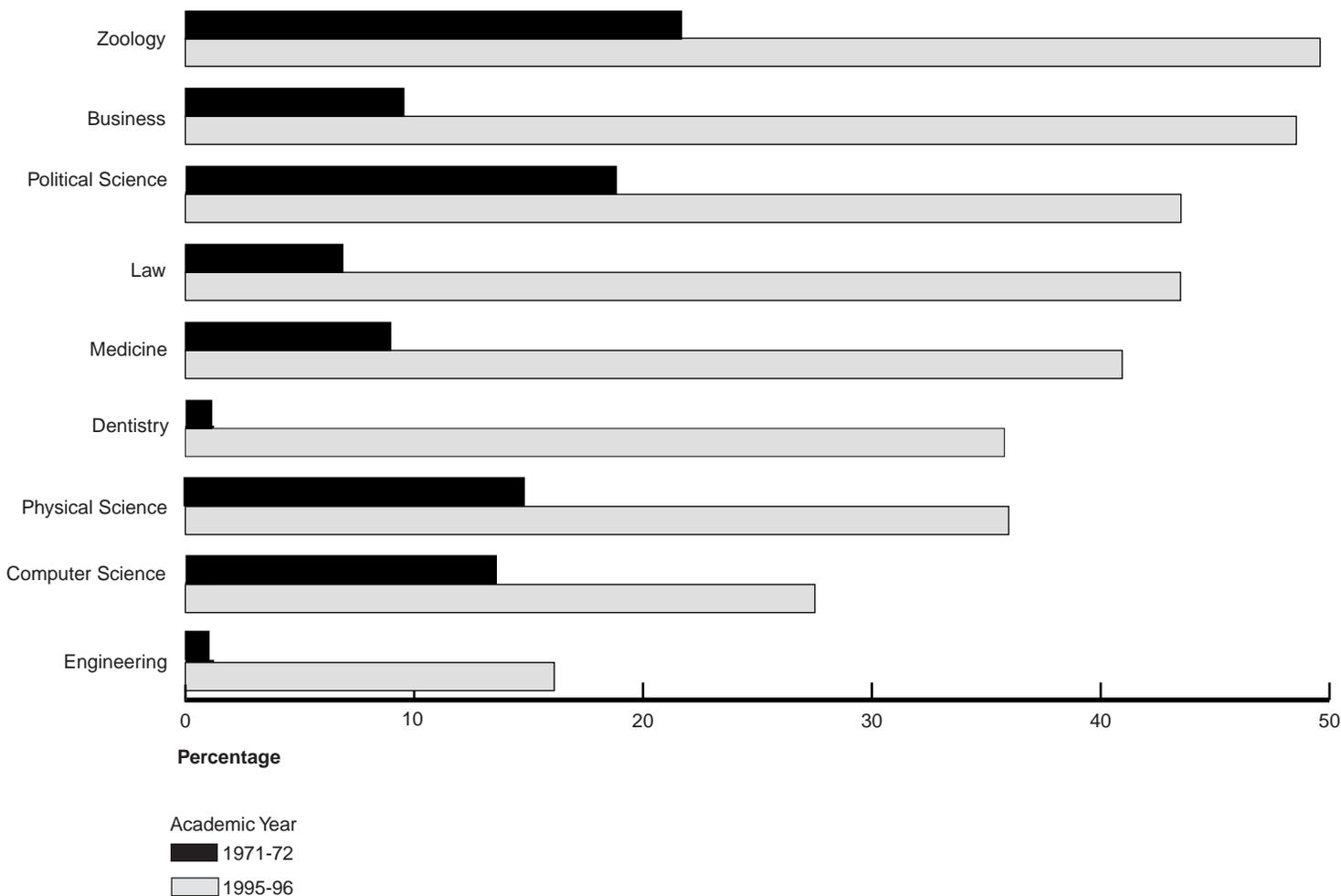
Since the 1971-72 academic year, the percentage of women who have received degrees in some fields of study that were predominantly male has increased significantly (see fig. 1). For example, in academic year 1971-72, women received only 1 percent of all dentistry degrees, compared with 36 percent in 1995-96. Women's share of business degrees also increased greatly during this period, from 10 percent to 49 percent.

While women comprise a smaller percentage of baccalaureate degree recipients in such predominantly-male fields as engineering, physical science, and computer science, women's share of degrees in these fields

⁷This includes undergraduate, graduate, and first-professional students at all higher education institutions—including 4-year, 2-year, and less than 2-year colleges and universities. This excludes institutions that offer only vocational and continuing education programs.

has also increased significantly since 1971. For example, women's share of engineering degrees in the 1995-96 academic year was 16 percent—up from 1 percent in academic year 1971-72. In addition, the percentage of women receiving degrees in the physical and computer sciences at least doubled over the same period, from 15 percent to 36 percent and 14 percent to 28 percent, respectively.

Figure 1: Percent of Degrees Awarded to Women in Predominantly-Male Fields of Study, Academic Years 1971-72 and 1995-96



Note: Data shown are for first professional degrees for law, medicine, and dentistry and for bachelor degrees for the other fields of study. For data supporting this figure, see table III.1 in app. III.

Several factors contribute to the continued predominance of men in certain fields. For example, an Education study on engineering, a field which has historically seen a low level of participation by women, showed

that women and men following an engineering path in college came equally prepared with a math and science background.⁸ However, there was a 20-percent gap between men's and women's completion rates. According to the study, women who left engineering did not leave because of poor academic performance, although they expressed a higher level of academic dissatisfaction than men who left the field. The study suggested that women's underrepresentation was due, in part, to their lower level of interest in engineering, their discomfort in a peer environment where they are a minority, and the stereotype that engineering is viewed as being a masculine occupation.

Several other studies had similar findings regarding women in the physical sciences, such as physics, chemistry, astronomy, and geology. Recent studies provide insight into the role that pre-college preparation, self-confidence, work and family, availability of role models, peer support, and teaching methods play in women's participation in science, math, and engineering.⁹ According to these studies, in grade 12, high school girls took fewer courses in science, scored slightly lower on standardized science exams, were more likely to have negative attitudes toward science, and were less likely to declare science as a college major, as compared with high school boys. At the undergraduate and graduate levels, factors that deterred women from preparing for a career in science included peer pressure, neglect or hostility from predominantly male peers and faculty, lack of mentors, insufficient financial support, and the reluctance of some faculty to establish an advisory relationship with individual students.

While studies have found that differences between men and women in math and science achievement test scores have decreased over the years, men continue to outscore women in these disciplines. In some cases, the differences were quite small. For example, among 12th graders who took the 1996 National Assessment of Educational Progress test, average math scores for men and women were 305 and 303, respectively; the average science scores were 152 and 148. In other cases, the differences were larger. For example, the National Science Foundation's 1999 study shows that 1996 Scholastic Assessment Test (SAT) math scores for men averaged

⁸Department of Education and the National Institute for Science Education, Women and Men of the Engineering Path: A Model for Analyses of Undergraduate Careers (May 1998).

⁹Department of Education, National Center for Education Statistics, Findings From the Condition of Education, 1997: Women in Mathematics and Science, NCEES 97-982 (1997); Sandra L. Hanson, Lost Talent: Women in the Sciences (Philadelphia, Penn.: Temple University Press, 1996); Gerhard Sonnert, Who Succeeds in Science? The Gender Dimension (New Brunswick, Mass.: Rutgers University Press, 1995); and Eileen M. Byrne, Women and Science: The Snark Syndrome (The Falmer Press, 1993).

527 (from 520 in 1991), while SAT math scores for women averaged 492 (from 482 in 1991).¹⁰

Research has also identified differences between men's and women's interests in the physical sciences. Surveys of freshmen women, for example, indicate that, while a growing portion of them plan to major in the physical sciences, they are still outnumbered by men.¹¹ Specifically, the portion of women freshmen planning to major in the physical sciences increased from 0.8 percent in 1971 to 1.6 percent in 1998. While the portion declined for men freshmen—from 3.1 percent to 2.6 percent—during this same period, a significantly greater number of men than women showed interest in these subjects.

Women comprised a smaller percentage of doctoral degree recipients than at the baccalaureate level in the predominantly-male fields. In the 1995-96 academic year, for example, women as a percentage of all doctoral degree recipients were 29 percent in business, 23 percent in physical science and science technologies, 15 percent in computer science, and 13 percent in engineering and engineering-related technologies.

Similarly, a smaller percentage of full-time faculty members in these fields were women. In fall 1992, the latest year for which data were available, women comprised 31 percent of business faculty, 17 percent of political science faculty, 36 percent of law faculty, 12 percent of physical sciences faculty, 20 percent of computer science faculty, and 6 percent of engineering faculty. For the 1996-97 academic year, 24 percent of full-time tenured faculty at all 4-year schools in all fields of study were women.

More Men Earned Degrees in Predominantly-Female Fields, Yet Men Remain a Small Minority

Women are still the predominant degree recipients in fields such as nursing, elementary education, and home economics, even though men's share of these degrees has risen slightly since 1971. For example, between academic years 1971-72 and 1995-96, men's share of degrees increased from 3 percent to 11 percent in nursing, 9 percent to 12 percent in elementary education, and 4 percent to 12 percent in home economics. In contrast, men's share of degrees in special education declined from

¹⁰National Science Foundation, *Women, Minorities, and Persons With Disabilities in Science and Engineering: 1998*, NSF 99-87 (Feb. 1999). The study also reported that men consistently outscored women in the verbal components of college entrance exams, such as the SAT, in 1991 and 1996, but these differences were narrower. For women, the average verbal score increased from 495 to 503; for men, it increased from 503 to 507.

¹¹Alexander Astin and others, *The American Freshman: Thirty Year Trends* (Los Angeles, Calif.: University of California, Los Angeles, 1997), and *The American Freshman: National Norms for Fall 1998* (Los Angeles, Calif.: University of California, Los Angeles, 1998).

13 percent to 10 percent. Overall, women received a somewhat smaller portion of degrees in these predominantly-female fields in 1995-96 compared with 1971-72, yet nearly 9 out of 10 of the degrees in these fields in academic year 1995-96 were awarded to women.

Little Difference in Student Financial Aid by Gender After Considering Financial Need and Costs of Attendance

In academic year 1972-73, full-time first-year college women received lower average amounts of scholarships and grants than men did. Typically, women relied more on support of family and friends and loans, while men had more savings and earnings from employment. In contrast, in 1995-96, first-year college women and men were about equally as likely to receive aid and received about the same average amounts of grant and loan aid.¹² Men's and women's financial need did not vary to a statistically significant extent. Women were, however, more likely than men to have dependents other than spouses. Men were more likely to receive veterans aid and athletics scholarships.

As the number of women in postsecondary education has increased since the enactment of title IX, so has their amount of financial aid. In the 1972-73 academic year, full-time freshmen women from the previous year's high school graduating class (1971-72) received an average of \$1,541 (\$899 in grants and \$642 in loans in constant 1995-96 dollars).¹³ Full-time college freshmen women from the high school graduating class of 1995 who attended postsecondary institutions during the 1995-96 school year received an average of \$3,535 (\$2,392 in grants and \$1,143 in loans). The average amount of aid rose 129 percent after adjusting for inflation. By comparison, full-time freshmen men from the same high school classes who attended postsecondary institutions during the next school year received an estimated average of \$1,456 (\$937 in grants and \$519 in loans in 1995-96 dollars) in 1972-73 and \$3,027 (\$1,952 in grants and \$1,075 in

¹²We excluded noncitizens who were not eligible for aid under federal student aid programs. Among all undergraduates (except for the same noncitizens), men were more likely to receive loans and women were more likely to receive grants. These differences were generally not statistically significant when we compared men and women with similar financial means and costs of attendance. The Department of Education assesses each student's financial means using a formula for an expected family contribution (20 U.S.C. § 1087). This formula takes into account such factors as income, assets, dependents, marital status, and the number of family members enrolled in eligible higher education programs.

¹³These averages cover students who received aid as well as those who did not. We adjusted these figures for inflation using the Bureau of Labor Statistics consumer price index for all urban consumers. While we recognize that this index has limitations, we chose to use it to adjust for inflation because we concluded that it was the best available index for this purpose. See, for example, Consumer Price Index: More Frequent Updating of Market Basket Expenditure Weights Is Needed (GAO/GGD/OCE-98-2, Oct. 9, 1997).

loans) in 1995-96. The estimated average amount of aid for men rose 108 percent after adjusting for inflation.

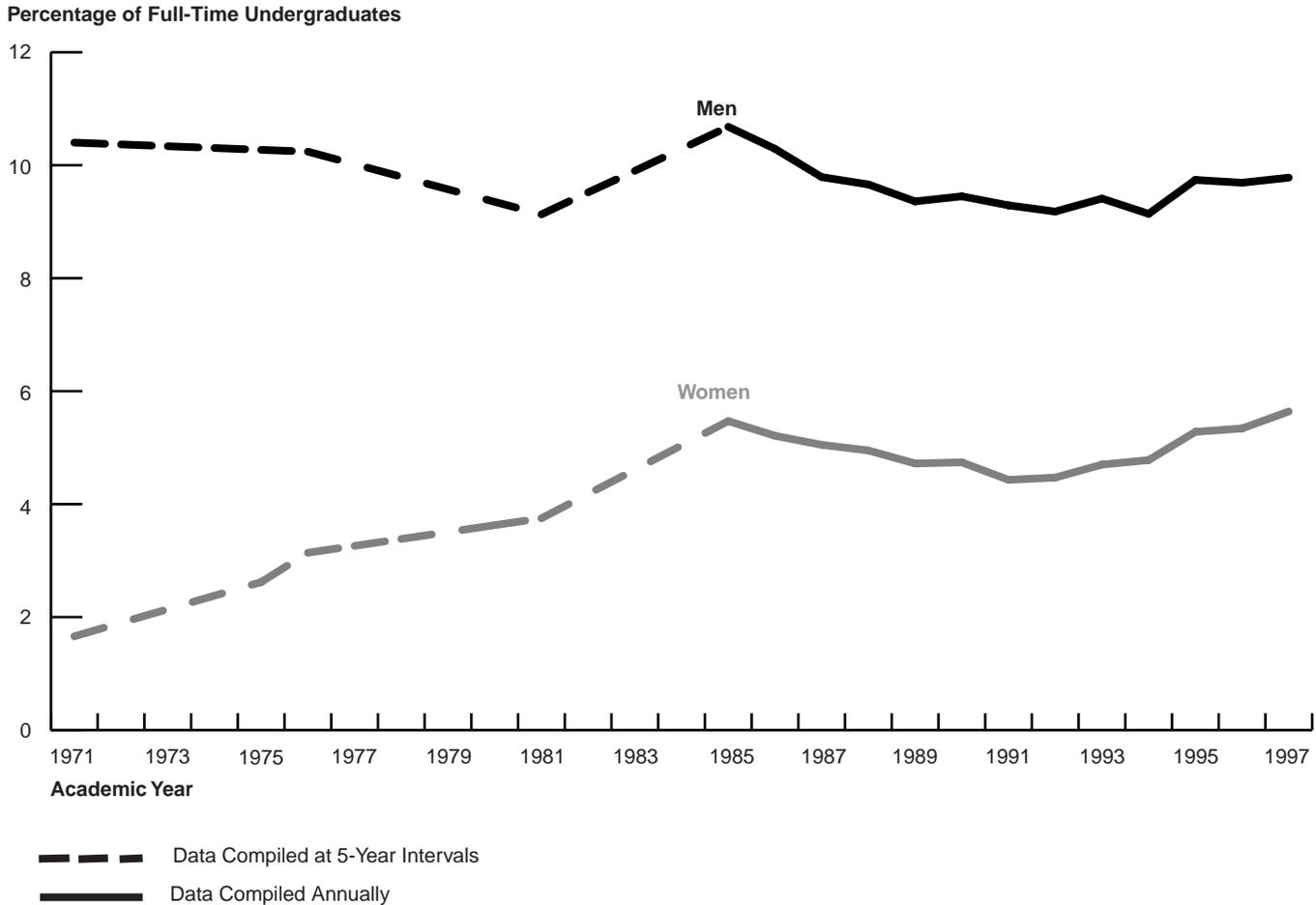
Men's Participation in Intercollegiate Athletics Is Greater Than Women's, but the Difference Has Narrowed

The proportion of college women who participate in intercollegiate sports at 4-year colleges and universities has increased. From title IX's enactment to the 1997-98 school year, the number of women in intercollegiate sports at NCAA (Divisions I, II, III) and NAIA member schools grew from an estimated 30,000—1.7 percent of full-time enrolled undergraduate women—to 157,000—5.6 percent of full-time undergraduate women. Over the same period, the number of men participating fell from about 248,000 (10.4 percent) of full-time undergraduate men to about 234,000 (9.8 percent) of full-time undergraduate men. The increase for women was rapid through the mid-1980s, then more gradual. The number of men participating varied, with the lowest participation rate reported in 1981. Despite different trends for men and women, men participants continue to outnumber women in intercollegiate sports. Approximately 77,000 more men than women participated in 1997-98.

Unlike marked trends in the number of women athletes, the estimated athletics participation rate—intercollegiate athletics participants as a percent of all full-time undergraduate students at 4-year colleges and universities—has remained fairly steady for both genders since the mid-1980s.¹⁴ In the first decade or so after title IX came into effect, women's participation rates increased rapidly while men's participation rates declined. Since the mid-1980s, the number of women participating and the number of women's teams have continued to rise—but not much faster than the increase in the number of full-time women undergraduates enrolled at 4-year schools. Despite these increases for women, men's participation rate at 4-year schools was still higher than women's in the 1997-98 academic year, as shown in figure 2.

¹⁴We calculated two estimated participation rates—one for men and one for women—by dividing the number of male or female intercollegiate sports participants reported by NCAA and NAIA by the number of full-time male or female undergraduates at all 4-year schools in the fall. The total number of intercollegiate sports participants may exceed the number of athletes in intercollegiate sports programs because some athletes participate in more than one sport and are counted more than once in NCAA and NAIA participation statistics. See app. 1 for notes concerning the limitations of these data.

Figure 2: Estimated Intercollegiate Sports Participation Rates at 4-Year Schools, Academic Years 1971-72 to 1997-98



Note: Estimates are of intercollegiate sports participants—NCAA Divisions I, II, and III plus NAIA—as a percent of full-time undergraduates. Annual estimates of athletics participation were available beginning in 1981. In previous years, NCAA did not compile data annually but did so at 5-year intervals. Enrollment data for full-time undergraduates at 4-year schools by gender were not available for 1982 through 1984. For data supporting this figure, see table III.2 in app. III.

Women’s athletics programs typically have lower expenditures than men’s programs, and in many cases, they have lower expenditures per participant. However, it is difficult to analyze universities’ and colleges’ athletics spending by gender since title IX’s enactment because complete

and comparable data are not available for several years after enactment. The Equity in Athletics Disclosure Act will facilitate analysis of such spending in the future. The act requires schools to prepare reports on athletics participation and expenditures and make them readily available beginning October 1996, but Education was not required to compile such reports until the Higher Education Amendments of 1998. To implement these provisions, Education, in November 1999, published rules for the collection of data concerning each school's athletics participation and expenditures. Such data should provide a basis for analyzing future trends in schools' revenue and expenses for men's and women's intercollegiate sports programs.

For the 1997-98 academic year, NCAA Divisions I, II, and III member schools expended on average an estimated \$6,500 per female intercollegiate athlete and about \$8,200 per male athlete, according to an analysis of NCAA schools' intercollegiate athletics programs.¹⁵ The differences were most pronounced among NCAA Division I-A schools (colleges and universities that typically offer the greatest number of athletics scholarships and have large football programs), which spent an average of about \$18,000 per female athlete and about \$29,000 per male athlete.¹⁶ In contrast, the average expenditures per athlete for schools in Divisions I-AA, I-AAA, II, and III differed little by gender. In part, some of the difference, particularly in Division I-A, may reflect the greater noninstitutional revenue typically generated by men's sports programs. In 1997-98, according to NCAA's gender-equity study, the 91 Division I-A schools responding to NCAA's survey indicated an average of \$11.8 million in revenue attributable to men's sports and \$1.1 million in revenue attributable to women's sports.¹⁷

Men continue to hold the majority of the top positions in intercollegiate athletics. We found just one woman athletics director at the 259 NCAA Division I schools that responded to our survey for academic year

¹⁵NCAA, 1997-98 NCAA Gender-Equity Study (Oct. 1999). These figures include only expenditures allocated to either men's or women's intercollegiate sports programs. They include lodging, meals, transportation, officials and uniforms, and equipment. They do not include general expenditures that were not allocated to either program. They also do not include debt service and replacement of facilities. Division III schools do not award athletics scholarships.

¹⁶Division I-A schools reported spending nearly three times as much for recruiting male athletes as they did for female athletes—an estimated average of \$324,706 per school for men and \$123,633 for women in 1997-98. They also reported spending more on athletics scholarships for men than for women—an estimated average of \$2 million per school for men and \$1.2 million for women.

¹⁷NCAA, 1997-98 NCAA Gender-Equity Study. Revenue generated by athletics programs is not a consideration in determining whether equal athletics opportunities are available to both men and women. A school has the responsibility to ensure that its men's and women's athletics programs provide equitable services. To do so, it must ensure that appropriate funds are expended for both men's and women's programs without regard to their ability to generate revenue.

1990-91.¹⁸ More recently, however, private researchers who surveyed NCAA member schools in academic year 1997-98 found increased numbers of women who were athletics directors responsible for administering both men's and women's athletics programs. Nevertheless, women were still the minority. At responding schools, they identified 23 women in such positions in NCAA Division I, 41 in Division II, and 102 in Division III.¹⁹ In addition, we identified six women athletics directors at the 114 NCAA schools sponsoring Division I-A football, as of October 1999.

Title IX and Federal Enforcement Have Contributed to Greater Gender Equity in Higher Education

We found widespread agreement among those we interviewed that title IX has increased women's participation in both academics and intercollegiate athletics—although the law's effect cannot be isolated from the effects of other legal and social changes that have aimed to increase gender equity. There is also widespread agreement that enforcement efforts led by Education's OCR have played a role in title IX's effect on women's increasing participation in higher education programs. These efforts have included developing policies, providing technical assistance to schools and associations, investigating complaints, conducting compliance reviews, and working with the Department of Justice to file friend-of-the-court briefs in significant title IX litigation. OCR's enforcement efforts emphasize collaboration and negotiation.

Extent of Title IX's Effect Cannot Be Assessed Without Taking Other Factors Into Account

Education and athletics officials, researchers, and legal experts—both critics and supporters of title IX policy—told us they believe that title IX has had a significant and favorable effect on women's participation in postsecondary education because it eliminated many explicit barriers to higher education opportunities for women. More specifically, they said discriminatory practices such as quota systems limiting the number of women admitted to graduate and public undergraduate programs and higher admissions standards for women than for men largely disappeared with title IX's passage.²⁰ Among the examples of pre-title-IX discrimination in admissions cited were the following:

¹⁸Intercollegiate Athletics: Compensation Varies for Selected Personnel in Athletic Departments (GAO/HRD-92-121, Aug. 19, 1992)

¹⁹Vivian Acosta and Linda Jean Carpenter, "Women in Intercollegiate Sport: A Longitudinal Study—Twenty-One Year Update, 1977-1998" (1998). This study was based on a survey administered to all schools that were active members of NCAA in academic year 1997-98 and that had a women's athletics program. The researchers received completed surveys from 234 of the 308 Division I schools, 196 of the 261 Division II schools, and 280 of the 363 Division III schools.

²⁰In a 1971 hearing before a House Committee, the Director of the Department of Health, Education, and Welfare's OCR stated that university officials candidly told the office that, in many cases, they had higher standards for women than for men, such as higher grade point average requirements.

- A prominent public university restricted women to no more than 45 percent of its undergraduate population annually.
- An Ivy League university's school of veterinary medicine admitted two women a year.
- An agriculture college required that women's SAT scores be 30 to 40 points higher than men's to gain admission.
- A prominent private university's school of nursing did not permit married women to be students.

In addition, title IX allowed women to participate in various academic and athletics programs and activities that were previously available only to men.

Those we spoke with noted, however, that women's increased participation was a trend that began before title IX's passage. For example, the percentage of women undergraduates increased before enactment of title IX from about one-quarter of undergraduate students in 1950 to 43 percent in 1971. This suggests that other laws, together with changing social views, likely played a role in shaping the trends we observed. For example, the Equal Pay Act establishing equal pay for men and women was enacted in 1963, and legislation barring sex discrimination in employment was enacted in 1964. Such efforts to bring about more equitable treatment of women in the workplace may have encouraged women to enroll in postsecondary schools and to participate in predominantly-male fields at colleges and universities. The women's movement and other social trends also contributed to changing attitudes about women's roles. Finally, changes in federal student financial aid policy in the early 1970s gave more middle-class students, men and women alike, greater access to higher education, resulting in higher enrollment levels for both genders.

While those we interviewed also agreed that title IX has had an effect on increasing women's participation in intercollegiate sports, their views varied about title IX's effect on men's sports. Some said title IX has had a substantial detrimental effect on men's sports, citing as evidence that some schools eliminated men's intercollegiate sports teams in order to add women's teams. Their view is that schools are compelled to cut men's teams in light of decreasing athletics budgets and the threat of a title IX investigation or lawsuit. Others disagreed, saying that the law itself has not significantly harmed men's opportunities, and that decreases in some men's sports teams are caused, in part, by declining interest in those sports. They said schools can achieve compliance without cutting men's

sports teams by transferring resources from more expensive men's programs to financially vulnerable men's and women's programs.

As with participation trends in academics, factors other than title IX may also have influenced participation in intercollegiate sports. For example, from the mid-1960s to the early 1970s, just before title IX was enacted, men's annual participation rates in intercollegiate sports declined and women's participation rose.²¹ Changing social and cultural attitudes appear to have contributed to women's increased interest and participation in athletics before title IX was passed.

Although one study asked a limited number of respondents to identify the factors that led to gains in women's participation, we did not find any studies that directly assessed the effect of title IX apart from other factors, such as similar state laws.²² According to the researchers we contacted, there is no ready and reliable method for separating title IX's effect from the effect of other factors.

Federal Enforcement Has Contributed to Title IX's Effect

We also found widespread agreement among the officials, observers, and experts we spoke with that efforts to enforce title IX have contributed to the law's effect on women's participation in academics and in intercollegiate athletics. Although Education has not used its most severe legal sanctions to enforce compliance with title IX at colleges and universities—funding termination or referral to the Justice Department for enforcement by federal courts—it has facilitated change by using

²¹Although during this period, the number of male sports participants rose from an estimated 227,000 to 248,000, the number of full-time male undergraduates rose at a faster rate. As a result, the estimated participation rate fell from 11.9 to 10.4 percent between the 1966-67 and 1971-72 academic years. During the same period, the estimated number of female intercollegiate participants increased from about 15,000 to about 30,000 and the participation rate rose from 1.1 percent to 1.7 percent.

²²The study was based on a telephone survey administered in 1986 to 61 selected respondents in 12 states with state title IX laws, including state title IX coordinators, vocational education gender equity coordinators, and legislators. More than one-third of the 61 respondents identified the federal law to be the cause for gains in women's participation even though most respondents considered their state law to be stronger than the federal law. Most of the other respondents cited a combination of factors, including the federal law. (See Phyllis W. Cheng, "The New Federalism and Women's Educational Equity: How the States Respond," paper presented at the Association of American Geographers 1988 Annual Meeting, Phoenix, Ariz.; Apr. 7, 1988.)

enforcement means short of these measures.²³ The legal experts we interviewed said OCR's other enforcement efforts, along with court cases filed against schools by private parties, have been important in establishing accountability and deterring noncompliance. They and others added that most title IX disputes do not involve either OCR or the courts because schools frequently resolve title IX complaints through internal campus grievance procedures required by title IX.

OCR's most severe enforcement tool is its ability to recommend that Education undertake a termination process by which a school can be prohibited from receiving federal funding, including participation in federal student loan programs. OCR can also refer cases to the Department of Justice for prosecution. Since title IX was enacted, however, Education has neither suspended nor terminated a college's or university's federal funding, nor has OCR referred a case against a postsecondary institution to the Department of Justice for a title IX violation. The decision not to use these sanctions has been criticized by some and lauded by others. Some individuals we interviewed said that OCR's enforcement has not been aggressive enough and that OCR has gone to great lengths to work out compromises rather than refer a case to the Department of Justice for prosecution. However, title IX requires that OCR seek voluntary resolution of violations before terminating a school's funding. According to OCR officials, when the agency finds violations, it has been able to minimize confrontation and obtain voluntary compliance, and it ensures that voluntary compliance agreements, in fact, remedy violations by monitoring implementation of the agreements. This approach has meant that its enforcement efforts have emphasized other areas—issuing regulations and policy guidance and communicating the requirements of title IX as well as resolving complaints and conducting compliance reviews.

OCR's Policy Guidance Emphasizes Athletics and Other Issues

Although OCR has developed regulations and provided guidance on a broad range of title IX issues, much of its policy guidance has focused on intercollegiate athletics, a topic that has received considerable attention

²³OCR's data system for cases resolved from fiscal years 1982 through 1993 indicates that the Department initiated administrative procedures that could have led to a suspension of federal funding in cases involving school districts accused of title IX violations and colleges and school districts accused of discrimination on other bases. Since fiscal year 1994, according to OCR officials, OCR has issued four Notices of Opportunity for Hearing, a step in the process to terminate a school's funding; none concerned title IX issues. Also, since fiscal year 1994, OCR referred 21 cases to the Department of Justice, none of which concerned title IX. Eighteen of the 21 involved a single event and allegations of racial discrimination.

over the years.²⁴ Examples of OCR's development and communication of policies include such documents as a 1979 policy interpretation that introduced a three-part test,²⁵ which OCR uses to assess equity in athletics participation opportunities; a 1990 athletics investigator's manual; a clarification of its intercollegiate athletics policy guidance in 1996; and a clarification of its policy on athletics scholarships in July 1998. OCR also appointed a national coordinator for title IX athletics in 1994.

When individuals have brought lawsuits, court rulings have generally upheld the policy guidance that OCR has developed. For example, members of Brown University's intercollegiate women's gymnastics and volleyball teams sued the university after it eliminated funding for and reduced the status of the teams.²⁶ They argued that the university had failed to comply with regulations concerning men's and women's opportunities for participation in intercollegiate athletics as interpreted by the Department's three-part test. Brown University challenged the three-part test and argued that it had complied with the regulations requiring that the university be equally effective in meeting the interests and abilities of men and women undergraduates in intercollegiate sports. Through a series of four separate decisions, each of the three parts of OCR's three-part compliance test was considered. In the third decision, the trial judge discussed all three parts, upholding the validity of the OCR compliance test as it was used to enforce title IX.²⁷

OCR has developed title IX policy guidance and provided information to address sexual harassment as well as sex discrimination in a number of other areas, including assignment of pregnant and parenting students, health insurance coverage for pregnancy, preadmission inquiries into marital and parental status, religious exemptions, hiring and assignment of

²⁴OCR's athletics policies are designed for intercollegiate athletics, but the general principles often apply to club, intramural, and interscholastic athletics programs, which are also covered by the regulations.

²⁵Under the three-part test, intercollegiate athletics programs may establish compliance with title IX by meeting any one of the following criteria: (1) the number of male and female participants is substantially proportionate to their full-time undergraduate enrollments, (2) the school has a history and continuing practice of expanding the program for the underrepresented gender (usually woman's programs), or (3) the school is fully and effectively accommodating the interests and abilities of the underrepresented gender in intercollegiate sports. See app. IV for details.

²⁶*Cohen v. Brown University*, 809 F. Supp. 978 (D. R.I. 1992)(Cohen I); 991 F.2d 888 (1st Cir. 1993)(Cohen II); 879 F. Supp. 185 (D. R.I. 1995)(Cohen III); 101 F.3d 155 (1st Cir. 1996)(Cohen IV).

²⁷This third decision is generally identified as *Cohen III*, 879 F. Supp. (D. R.I. 1995). For other cases, see for example, *Boucher v. Syracuse University*, 164 F.3d 113 (2d Cir. 1999); *Roberts v. Colorado State Board of Agriculture*, 998 F.2d 824 (10th Cir. 1993); *Kelley v. Board of Trustees of the University of Illinois*, 35 F.3d 265 (7th Cir. 1994); *Horner v. Kentucky High School Athletic Association*, 43 F.3d 265 (6th Cir. 1994); and *Favia v. Indiana University*, 7 F.3d 332 (3d Cir. 1993).

teachers by gender, vocational and educational opportunities, and graduate and professional school admissions. OCR has also provided information and guidance in other areas with several publications covering title IX in general and others focused on specific concerns. Title IX: 25 Years of Progress discusses women's progress since title IX was enacted but also helps communicate title IX requirements. Similarly, OCR documents including Title IX Grievance Procedures: An Introductory Manual, Title IX and Sex Discrimination, and Nondiscrimination on the Basis of Sex in Federally Assisted Programs provide specific details concerning title IX requirements. OCR publicizes its policies and procedures through publications; the press; Internet web pages; and presentations at conferences, such as those sponsored by NCAA. OCR also responds directly to inquiries from schools and organizations regarding interpretations of title IX.

Complaint Investigations Covered a Broad Range of Title IX Issues

Between fiscal year 1982 (the earliest year for which records were available²⁸) and fiscal year 1998, individuals and groups filed 5,227 complaints related to title IX at postsecondary institutions.²⁹ These complaints dealt with such issues as admissions, athletics, employment, harassment, and student health benefits. Focusing on complaints received since fiscal year 1994 provides a clearer view of OCR's complaint resolution efforts because that was the first year in which OCR's case information system began tracking the resolution of each issue in a case.³⁰ Thus, this tracking system makes it easier to identify the resolution of issues related specifically to title IX.³¹

²⁸The Department of Health, Education, and Welfare handled title IX complaints before the establishment of the Department of Education. We were not able to obtain data on numbers of complaints or their resolution for fiscal years 1972 through 1981.

²⁹Title IX postsecondary complaints have been a minor portion of all complaints filed with OCR, representing 9 percent of the approximately 61,000 complaints OCR received, and 30 percent of all complaints related to postsecondary institutions. OCR's other civil rights enforcement activities include laws concerning discrimination on the basis of race, color, and national origin (title VI of the Civil Rights Act of 1964); age (Age Discrimination Act of 1975); and disabilities (section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990).

³⁰A previous GAO report discussed OCR's case information system and its revised approach for handling complaints. (See Department of Education: Resolving Discrimination Complaints Has Improved With New Processing System (GAO/HEHS-99-47R, Mar. 23, 1999).

³¹OCR's earlier case information system, which provides data for fiscal years 1982 to 1993, indicates the resolution of cases, but 1,419 of the 3,834 title IX postsecondary complaints in the earlier data system also included non-title-IX issues with no indication of how those issues were decided. OCR concluded that 1,656 of these cases were inappropriate for OCR. In 835 cases, no change or corrective action was required to bring the schools into compliance; in 1,214 cases, change was facilitated. In 129 cases, the result was unclear. OCR's disposition on specific issues was not indicated.

During fiscal years 1994 through 1998, OCR received 1,395 postsecondary title IX complaints and acted on 1,455, including complaints that had been filed earlier (see table 2).³² OCR concluded that 860, or 59 percent, of the complaints were inappropriate for OCR action.³³ In 279, or 47 percent, of the resolved complaints, OCR officials concluded that the filing of the complaint or OCR's investigation and subsequent action facilitated corrective action to remedy the alleged violations.³⁴ In some instances, the school resolved the issue raised by the complainant. In other instances, OCR negotiated an agreement for corrective action. In 316, or 53 percent, of the resolved complaints, OCR concluded that no change was required because, for example, they found no violation of title IX or they found insufficient evidence to support a finding of noncompliance. A wide range of athletics issues were prominent among complaints with change facilitated (see app. IV).

³²During fiscal years 1994 through 1998, OCR acted on a total of 25,236 complaints, including 6,838 complaints concerning postsecondary education. As of the end of fiscal year 1998, 437 postsecondary complaints were pending.

³³For 19 percent of these complaints, OCR determined that another agency (usually EEOC) had primary jurisdiction. The other complaints were not investigated for a variety of reasons, such as the school or the issue was outside OCR's jurisdiction or lack of sufficient information supplied by the complainant.

³⁴These results do not include allegations of civil rights violations under laws other than title IX, such as allegations of racial or age discrimination, or discrimination on the basis of disability. During fiscal years 1994 through 1998, 612 (42 percent) of the title IX postsecondary complaints also involved allegations of violations of other civil rights laws.

Table 2: Disposition of Postsecondary Title IX Complaints With the Office for Civil Rights, Fiscal Years 1994 Through 1998

Issue	Change facilitated ^a	No change required ^b	Inappropriate for OCR ^c	Total
Athletics	91	18	27	136
Sexual harassment	73	109	265	447
Grievance or other procedures	51	35	54	140
Employee issue	24	36	219	279
Retaliation	21	51	65	137
Evaluation and grades	15	49	102	166
Admissions	13	39	75	127
Other student rights	11	16	31	58
Financial assistance	5	11	14	30
Discipline	1	16	30	47
Unspecified education-related service issue	1	2	53	56
Other	39	58	129	226
Total unduplicated count of complaints^d	279	316	860	1,455

Note: Some complaints covered more than one type of issue. The table indicates OCR's disposition for each type of issue, such as admissions or athletics.

^aIncludes those complaints in which at least one issue resulted in the complainant withdrawing the complaint with change by the institution alleged to have violated title IX or in OCR negotiating an agreement for corrective action. This includes complaints in which one or more issues led to change regardless of whether other issues led to change, did not require change, or were inappropriate for OCR.

^bIncludes those complaints in which (1) the complainant withdrew the complaint without change by the institution alleged to have violated title IX, (2) OCR determined that there was insufficient evidence to support a finding of a violation, or (3) OCR concluded that no violation occurred. This includes complaints in which no change was facilitated in connection with any issue and in which OCR decided no change was required for one or more issues, regardless of whether other issues were inappropriate for OCR.

^cIncludes complaints that (1) were referred to another agency (EEOC or the Department of Health and Human Services, for example) or (2) involved an allegation over which OCR had no jurisdiction. This does not include any complaints in which one or more issues led to change or in which OCR decided no change was required.

^dTotal does not equal the sum of the number of complaints because 298 of them involved issues of more than one type.

OCR Has Initiated Fewer Title IX Postsecondary Compliance Reviews in the 1990s Than in Previous Years

OCR can initiate compliance reviews. According to OCR officials, several factors—including multiple complaints filed against a school in a short period, reviews of Education's data concerning schools, media coverage, or other sources of information—may lead to a compliance review. These

targeted reviews typically address alleged violations that are broader in scope and affect a larger number of individuals than complaint investigations, which often involve one or a few individuals. During fiscal years 1982 through 1989, OCR initiated an average of 39 postsecondary title IX reviews each year. That number dropped to an average of about 10 a year in fiscal years 1990 through 1995 and to zero in fiscal years 1996 through 1998. In fiscal year 1999, OCR began two title IX postsecondary compliance reviews concerning intercollegiate athletics. According to OCR officials, the decline resulted from resource constraints and a focus on other title IX priorities. Rather than conducting as many compliance reviews, OCR has emphasized the development and dissemination of policy guidance to assist postsecondary schools in preventing title IX violations.

Recent title IX compliance reviews have been focused on athletics (see table 3). This represents a change from earlier years, when reviews tended to focus more on admissions and other matters, such as sexual harassment. Of the 41 title IX postsecondary compliance reviews OCR acted on in fiscal years 1994 through 1998, 30 involved athletics issues. In terms of changes facilitated, athletics was even more prevalent, accounting for 29 of the 33 changes reported by OCR.

Table 3: Disposition of Title IX Postsecondary Compliance Reviews, Fiscal Years 1994 Through 1998

Issue	Change facilitated^a	No change required^b	Total
Athletics	29	1	30
Grievance or other procedures	2	0	2
Sexual harassment	2	3	5
Admissions	0	5	5
Other	1	5	6
Total unduplicated count of reviews^c	33	8	41

Note: A single review may involve more than one title IX issue. It may also cover allegations of civil rights violations in addition to violations of title IX, such as retaliation, racial or age discrimination, or discrimination on the basis of disability.

^aCases include those in which at least one issue either resulted in the change by the institution being reviewed or in OCR negotiating an agreement for corrective action.

^bCases include those in which OCR (1) determined that there was insufficient evidence to support a finding of a violation or (2) concluded that no violation occurred.

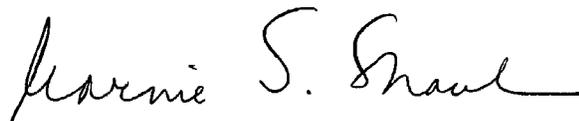
^cTotal does not equal the sum of the number of cases because some cases involved issues of more than one type. Six compliance reviews involved issues of more than one type.

Agency and Athletics Association Comments and Our Evaluation

We provided a draft of this report to the Department of Education, NCAA, and NAIA and discussed its contents with their representatives. In its comments, the Department believed that, in general, the draft report provided a good overview of OCR's title IX postsecondary education enforcement efforts. Both Education and NCAA provided technical comments, which we incorporated where appropriate. The Department of Education's comments are reprinted as appendix V.

As arranged with your office, unless you announce its contents earlier, we plan no further distribution of this report until 7 days after the date of this letter. At that time, we will send copies to the Honorable Richard W. Riley, Secretary of Education; representatives of NCAA and NAIA; and appropriate congressional committees. We will make copies available to others on request. Please contact me on (202) 512-7215 if you or your staff have any questions. Other contacts and staff acknowledgments are listed in appendix VI.

Sincerely yours,



Marnie Shaul, Associate Director
Education, Workforce, and
Income Security Issues

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Abbreviations

EEOC	Equal Employment Opportunity Commission
GED	general educational development
NAIA	National Association of Intercollegiate Athletics
NCAA	National Collegiate Athletic Association
NCES	National Center for Education Statistics
OCR	Office for Civil Rights
SAT	Scholastic Assessment Test

Scope and Methodology

We focused our review of title IX and higher education on (1) men's and women's participation in higher education academic programs, (2) men's and women's participation in intercollegiate athletics programs at 4-year colleges and universities, and (3) what is known about title IX's effect on participation rates and about how federal enforcement has led to change.

To determine men's and women's participation in higher education academic programs, we gathered and analyzed data on the numbers of men and women attending higher education institutions and receiving bachelor and selected first professional degrees. We also analyzed estimates of men and women students who received financial aid and the average amounts received. We obtained these data from the Department of Education's National Center for Education Statistics (NCES). Data on the numbers of enrolled students and the numbers of degree recipients came from fall enrollment and completion components of NCES' Integrated Postsecondary Education Data System, which provides data for fall 1986 and succeeding years, and its predecessor, the Higher Education General Information Survey, which provides data for earlier years. We used data for all higher education institutions in the 50 states and the District of Columbia and excluded data for U.S. territories. Higher education institutions include 2-year and 4-year colleges and universities that offer an associate or more advanced degree. Full-time enrollment data for the 1960s did not include a count of full-time extension students.

To determine men's and women's receipt of financial aid, we obtained and analyzed data from an Education-funded study of NCES' "National Longitudinal Study of the High School Class of 1972." For similar data from a more recent period, we used NCES' National Postsecondary Student Aid Survey for the 1995-96 academic year. In analyzing the distribution of financial aid by gender, we considered both the portion of men and women receiving aid and the average amounts of aid they received—loans, grants, and scholarships. We used t-tests to assess the statistical significance of differences by gender for all undergraduate postsecondary students and separately for five types of institutions: (1) public 4-year, (2) public less-than-4-year, (3) private not-for-profit 4-year, (4) private not-for-profit less-than-4-year, and (5) proprietary (for-profit) institutions. To further investigate the differences in the portion of men and women students receiving grants and scholarships, we estimated the average portion of men and the average portion of women receiving grants in groups based on students' financial standings as measured by their expected family contribution and their estimated costs of attendance.

To analyze participation in intercollegiate athletics at 4-year colleges and universities, we gathered participation statistics from the two largest 4-year intercollegiate sports associations—the National Collegiate Athletic Association (NCAA) and the National Association of Intercollegiate Athletics (NAIA). To estimate rates of participation in intercollegiate sports we divided the sum of estimated participants for both associations by the estimated total full-time undergraduate enrollment at all 4-year institutions. In several respects, data concerning athletics participation do not provide a precise estimate of intercollegiate participation. For example, both NCAA and NAIA provide estimates of the number of intercollegiate athletes that represent the sum of the number of athletes on each team at each school. Some athletes participate on more than one team and are counted more than once in these data. Some 4-year institutions are members of both NCAA and NAIA. By adding participation statistics for both associations, we double count athletes at those schools. As of April 1999, 61 schools were members of both associations, according to NCAA. Based on the team sizes and team size averages for the 1997-98 academic year, we estimate that these schools accounted for about 3 percent of men participants and 2 percent of women participants. Estimates of the numbers of participants in many years were based on national average squad sizes,³⁵ rather than a census of athletes on each team. Some 4-year colleges and universities are not members of either NCAA or NAIA but sponsor varsity intercollegiate sports programs. As of fall 1996, NCAA and NAIA schools enrolled an estimated 88 percent of all full-time undergraduate students at all 4-year colleges and universities. The number of student athletes at NCAA and NAIA member schools represents nearly all student athletes at 4-year schools, according to association officials. NCAA data do not include participants for sports sponsored by fewer than 10 schools, and NAIA data include a few schools located in Canada.

To assess what is known concerning the effect of title IX and specifically federal enforcement's role in realizing those effects, we performed literature searches in general, government, and legal data sources, and discussed title IX with 24 education and athletics officials, researchers, legal experts, and others. We obtained from Education's OCR publications concerning title IX and detailed data concerning all postsecondary title IX cases (compliance reviews and complaints) from fiscal year 1982 through fiscal year 1998. We interviewed OCR and other Department officials, obtained written responses to inquiries, and reviewed documents concerning several selected cases.

³⁵The squad size is the average number of players on the team.

Appendix I
Scope and Methodology

In conducting our review, we relied on data obtained from Education and the intercollegiate athletics associations, which, although not verified, are the best available data.

Federal Agencies With Title IX Enforcement Responsibilities

The Department of Justice coordinates title IX enforcement. There are 29 federal agencies that have responsibility for enforcing title IX. However, since 1972 when title IX became law, only four agencies have issued title IX regulations: the Department of Agriculture, Department of Education, Department of Energy, and the Department of Health and Human Services. The Department of Justice is in the process of drafting title IX regulations for the remaining 25 federal agencies that currently do not have title IX regulations. It is also drafting a delegation agreement that will explain the enforcement responsibilities among agencies in cases where an educational institution receives funding from more than one federal agency.

The 29 federal agencies and departments with title IX enforcement responsibilities are the following:

- Agency for International Development
- Corporation for National and Community Service
- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Education
- Department of Energy
- Department of Health and Human Services
- Department of Housing and Urban Development
- Department of the Interior
- Department of Justice
- Department of Labor
- Department of State
- Department of Transportation
- Department of the Treasury
- Department of Veterans Affairs
- Environmental Protection Agency
- Federal Emergency Management Agency
- General Services Administration
- Institute for Museum and Library Sciences
- National Aeronautics and Space Administration
- National Archives and Records Administration
- National Endowment for the Arts
- National Science Foundation
- National Endowment for the Humanities
- Nuclear Regulatory Commission
- Small Business Administration

**Appendix II
Federal Agencies With Title IX Enforcement
Responsibilities**

-
- Tennessee Valley Authority
 - United States Information Agency

Supplemental Information Concerning Title IX and Higher Education

Table III.1 shows the data that support figure 1 in the letter portion of this report. Data are for first professional degrees for law, medicine, and dentistry and bachelor degrees for the other fields. We computed these figures using NCES' data on awards of degrees.

Table III.1: Percent of Degrees Awarded to Women in Selected Fields of Study That Were Predominantly Male, Academic Years 1971-72 and 1995-96

	1971-72		1995-96		Women as percent of total	
	Men	Women	Men	Women	1971-72	1995-96
Zoology	4,325	1,197	1,789	1,760	22	50
Business ^a	109,688	11,578	116,842	110,260	10	49
Political Science ^b	22,845	5,290	17,386	13,389	19	44
Law ^c	20,266	1,498	22,508	17,320	7	43
Medicine ^d	8,423	830	9,061	6,280	9	41
Dentistry ^e	3,819	43	2,374	1,323	1	36
Physical Science ^f	17,663	3,082	12,578	7,069	15	36
Computer Science ^g	2,941	461	17,468	6,630	14	28
Engineering ^h	50,638	526	64,956	12,481	1	16

Note: We identified predominantly-male fields as those in which (1) women represented fewer than 25 percent of degree recipients and (2) at least 5,000 bachelor or 1,000 first professional degrees were awarded in academic year 1971-72. The 25-percent figure is based on the same criteria used by the Department of Labor to define nontraditional occupations.

^aIncludes degrees in business management/administrative services, marketing operations/marketing and distribution, and consumer and personal services.

^bIncludes degrees in political science and government but excludes degrees in public administration and international relations.

^cIncludes bachelor of laws and doctor of laws degrees.

^dDoctor of medicine degree.

^eIncludes doctor of dental surgery and doctor of dental medicine degrees.

^fIncludes degrees in general physical sciences, astronomy, astrophysics, atmospheric science and meteorology, chemistry, geology, miscellaneous physical sciences, physics, science technologies, and other physical sciences.

^gIncludes general degrees in computer science/information science, computer programming, data processing technology, information science and systems, and computer systems.

^hIncludes degrees in engineering and engineering-related technologies, such as electrical and electronic technologies and industrial production technologies.

Table III.2 shows the data that support figure 2 in the letter portion of this report. We computed these figures using data from the NCAA, the NAIA, and the NCES fall enrollment data sets.

**Appendix III
Supplemental Information Concerning Title
IX and Higher Education**

Table III.2: Estimated Participation Rates in Intercollegiate Sports at 4-Year Colleges and Universities

Year ^b	Full-time undergraduates at 4-year institutions (in thousands)		Participants in intercollegiate athletics (in thousands, estimated)		Participation rate as a percent ^a	
	Men	Women	Men	Women	Men	Women
1966-67	1,911	1,346	227	15	11.9	1.1
1971-72	2,385	1,800	248	30	10.4	1.7
1976-77	2,304	2,000	236	63	10.2	3.1
1981-82	2,363	2,290	216	86	9.1	3.7
1985-86	2,330	2,299	249	126	10.7	5.5
1986-87	2,322	2,334	239	122	10.3	5.2
1987-88	2,344	2,410	229	122	9.8	5.1
1988-89	2,387	2,507	231	124	9.7	5.0
1989-90	2,409	2,576	225	122	9.4	4.7
1990-91	2,455	2,637	232	125	9.5	4.7
1991-92	2,474	2,673	230	118	9.3	4.4
1992-93	2,472	2,691	227	120	9.2	4.5
1993-94	2,454	2,682	231	126	9.4	4.7
1994-95	2,430	2,707	222	129	9.1	4.8
1995-96	2,418	2,750	236	145	9.7	5.3
1996-97	2,422	2,802	235	150	9.7	5.3
1997-98	2,391	2,781	234	157	9.8	5.6

^aThese estimated participation rates were calculated by dividing the estimated number of NCAA and NAIA participants by the total number of full-time undergraduates at 4-year colleges and universities. See app. I for a discussion of limitations to these estimates.

^bAnnual estimates of athletics participation were available beginning in 1981. In previous years, NCAA did not compile data annually but did so at 5-year intervals. Enrollment data for full-time undergraduates at 4-year schools by gender were not available for 1982 through 1984.

Supplemental Information Concerning OCR Cases Involving Intercollegiate Athletics

Because athletics has been a controversial aspect of title IX enforcement, we conducted additional analyses of OCR's actions in this area. From fiscal years 1994 through 1998, OCR acted on 166 cases (136 complaints and 30 compliance reviews) involving athletics issues. OCR concluded that 27 of the complaint cases were inappropriate for OCR. The 139 remaining cases covered 16 different athletics issues identified by OCR staff. The 10 issues most frequently cited in these cases are shown in table IV.1.

Table IV.1: Top 10 Athletics Issues in the 139 Cases OCR Acted on in Fiscal Years 1994 Through 1998

Issue	Number of cases
Accommodation of interests and abilities (opportunities to participate in intercollegiate sports) ^a	86
Athletics financial assistance/scholarships	77
Athletics equipment, supplies and facilities	76
Assignment and training of coaching staff	69
Opportunity to receive coaching	67
Travel and per diem	60
Athletics recruitment	58
Medical and training facilities and services	55
Scheduling	53
Support services	52

Note: Cases typically involved more than one issue. In 17 cases, OCR staff indicated a general athletics issue code without specifying any of the codes shown in this table. According to OCR officials, a complaint concerning a specific athletics issue at a school sometimes prompted investigations of other athletics issues at the school.

^aThese include cases identified as involving issues concerning accommodation of interests and abilities and those concerning denial of participation.

OCR assesses schools' compliance with requirements concerning equitable opportunities to participate in intercollegiate sports. To comply, schools must meet at least one of the three following criteria, which Education refers to as parts of a three-part test: (1) intercollegiate-level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments, (2) the institution can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the members of the underrepresented gender, or (3) it can be demonstrated that the interests and abilities of the members of the underrepresented gender have been fully and effectively accommodated by the present program. According to OCR officials, in no case did OCR agree to hold a school to a standard below that indicated in its regulations

and publications, although schools were given time to come into compliance.

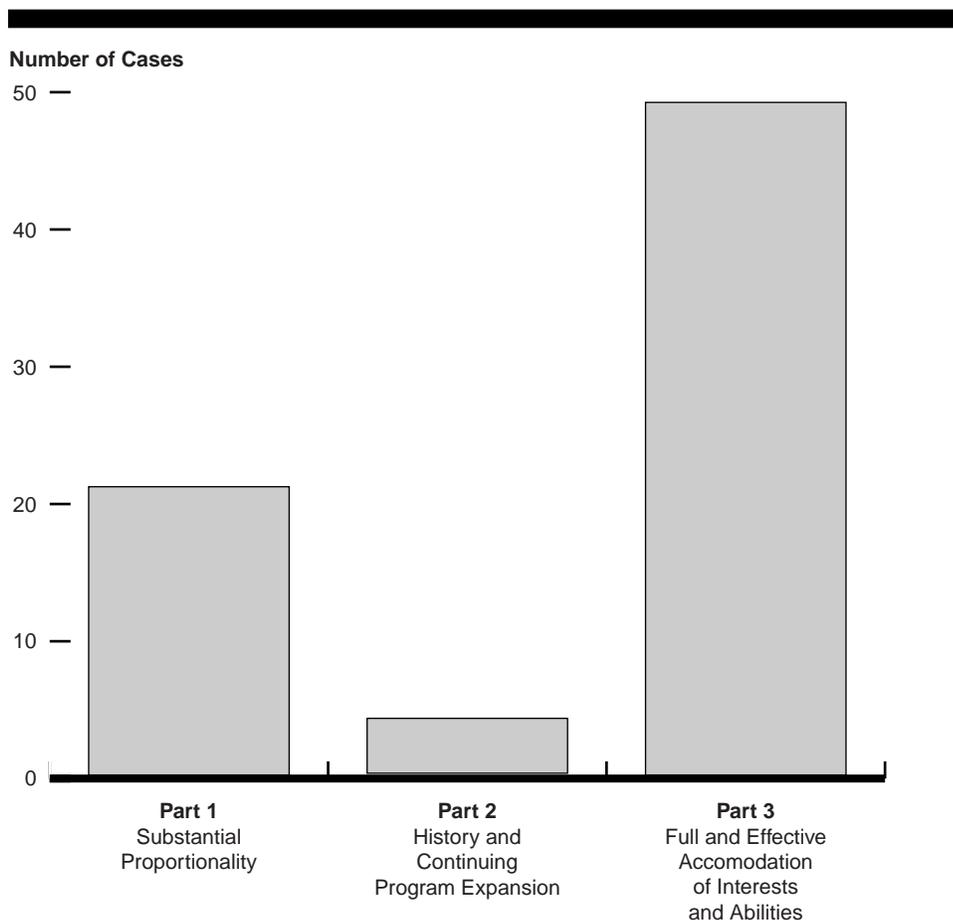
In more than half (74) of the 139 athletics cases, OCR either determined which of the three parts the school met by the end of fiscal year 1998 or which part the school would most likely come into compliance with (see fig. IV.1):

- In 21 cases, the schools were found to be in compliance or chose to come into compliance with the first part of the three-part test by achieving substantial proportionality in intercollegiate sports participation. OCR assesses proportionality by comparing the percentage of intercollegiate athletics participants who are women, with the percentage of the full-time undergraduate student body who are women. OCR would consider opportunities to be substantially proportionate where the number of opportunities that would be required to achieve proportionality would not be sufficient to support a viable team. If, for example, 50 percent of the full-time undergraduates are women and 47 percent of the intercollegiate athletes are women (47 women and 53 men), making women's share of athletics participants proportional would require adding six additional women. As this is too few women to form a team, OCR would regard the school as having substantially proportionate participation. If, on the other hand, the school had twice as many women and men participating (94 women and 106 men), making women's share of athletics participants proportional would require adding 12 additional women. If the school had an opportunity to add a team with 12 participants, participation might not be substantially proportional. Disparities could also be regarded as substantially proportionate if the portions of full-time undergraduate men and women in the student body recently changed substantially. OCR allows participants who compete in more than one sport to be counted as a participant in each sport. As a result, the total number of participants counted can exceed the actual number of athletes.
- In four cases, the schools were found to be in compliance with the second part of the three-part test by showing a historical and continuing expansion of the intercollegiate athletics program for the underrepresented gender (typically the women's programs).
- In 49 (two-thirds) of the 74 cases, the schools were found to be in compliance or chose to come into compliance with the third part of the three-part test. This required that they provide intercollegiate sports teams for women where sufficient numbers of women were interested in participating in a particular sport, where students had sufficient ability to

**Appendix IV
Supplemental Information Concerning OCR
Cases Involving Intercollegiate Athletics**

sustain an intercollegiate team, and where there were opportunities to compete with teams at other schools.

Figure IV.1: How Cases Involving the Three-Part Test Were Resolved, Fiscal Years 1994 Through 1998



Note: The second and third parts focus on expanding the program for the underrepresented gender and the full and effective accommodation of the interests and abilities of the underrepresented gender. In each of the cases shown here the underrepresented gender was women.

In addition to these 74 cases, OCR identified 10 cases that were resolved before fiscal year 1994. During fiscal years 1994 through 1998, OCR determined that these schools had met one of the three parts or identified which part would most likely be met. To come into compliance, 2 of the 10 schools chose the first part and 8 chose the third part.

Comments From the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

Ms. Marnie Shaul
Associate Director
Education, Workforce, and
Income Security Issues
General Accounting Office
Washington, DC 20548

NOV 22 1999

Dear Ms. Shaul:

Thank you for the opportunity to comment on GAO's draft report entitled "GENDER EQUITY: Men's and Women's Participation in Higher Education." GAO prepared the draft report in response to a request from Congresswoman Patsy T. Mink, Ranking Minority Member, Subcommittee on Criminal Justice, Drug Policy and Human Resources of the House Committee on Government Reform.

In general, the draft report provides a good overview of OCR's Title IX postsecondary education enforcement efforts. My staff has provided your staff with technical comments on the draft that correct or clarify certain aspects of OCR's Title IX program.

One of our areas of concern involves statements in the draft that OCR "prefers" an approach to Title IX enforcement that emphasizes "collaboration and mediation." We provided some edits in our technical comments on the two paragraphs under the section, "Federal Enforcement Has Contributed to Title IX's Effect," which starts on page 20. In order to be quite clear, we suggest these two paragraphs be revised as follows (this also replaces Insert B in the technical comments):

We also found widespread agreement among the officials, observers, and experts we spoke with that efforts to enforce Title IX have contributed to the law's effect on women's participation in academics and in intercollegiate athletics. Even though Education has not terminated funds to enforce Title IX at colleges and universities, nor has DOJ obtained injunctive relief in any cases, OCR has used other enforcement measures in a number of cases. These include issuing

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Now on p. 18.

letters of violation and filing Notices of Opportunity for Hearing that could lead to fund termination. Importantly, OCR ensures that negotiated compliance agreements in fact remedy any Title IX violations. Furthermore, even in the absence of formal findings of violations, when OCR identifies concerns it is able to obtain voluntary resolution agreements to address those concerns. The legal experts we interviewed said OCR's other enforcement efforts, along with court cases filed against schools by private parties, have been important ways to establish accountability and deter noncompliance. They, and others, added that most Title IX disputes do not involve either fund termination or referral to DOJ because schools frequently resolve Title IX complaints through internal campus grievance procedures required by Title IX.

OCR's most severe enforcement tool is its ability to recommend that Education undertake a termination process by which a school can be prohibited from receiving federal funding, including participating in federal student loan programs. OCR can also refer cases to the Justice Department for prosecution. Since Title IX was enacted, Education has neither suspended nor terminated a college's or university's federal funding, nor has OCR referred a case against a postsecondary institution to the Justice Department for a Title IX violation. The decision not to use these sanctions has been criticized by some and lauded by others. Some individuals we interviewed said that OCR's enforcement has not been aggressive enough and that OCR has gone to great lengths to work out compromises rather than refer a case to the Department of Justice for prosecution. OCR explains, however, that Title IX specifically requires that no action to terminate funds or refer a case to DOJ may be taken until OCR determines that compliance cannot be secured by voluntary means. According to OCR officials, when it identifies concerns, either through complaint investigations or compliance reviews, the agency over the years has been able to minimize confrontation and obtain voluntary compliance consistent with this requirement. At the same time, OCR ensures that voluntary compliance agreements in fact remedy any Title IX violation by monitoring implementation of the agreements. OCR has also worked to improve self-regulation of institutions by communication of civil rights policies, including issuing regulations and policy guidance and by providing technical assistance.

Part of OCR's success in resolving Title IX cases is due to the fact that, in 1993, we revised our case resolution process. While the previous case processing system required lengthy written reports and formal letters of findings, our current process is a more flexible system that focuses on early collaboration with recipients to resolve complaints effectively and as soon as possible. To provide clarity on how OCR carries out its work, we suggest that the report discuss this revised case resolution process. In addition, OCR improved or created several systems to provide our staff with information needed to conduct and report on case resolutions. For example, we established internal networks around specific issue areas to serve as an organizational bridge between OCR staff who are doing the same job and encountering the same questions across the country.

The success of OCR's reengineered case resolution process is reflected in a GAO report dated March 23, 1999, analyzing OCR's complaint work, GAO concluded that: "During the fiscal year 1993-1997 period, OCR showed improvement in three principal performance indicators: the time to process a complaint, the number of complaints processed annually, and average backlog of unprocessed complaints at year end."

With respect to areas in which OCR has issued Title IX policy guidance, the draft report focuses almost exclusively on the area of athletics, with some mention of our guidance on sexual harassment. We think it important to note that OCR has developed Title IX policy in a number of other areas, including assignment of pregnant and parenting students, health insurance coverage for pregnancy, pre-admission inquiries into marital and parental status, religious exemptions, hiring and assignment of teachers by sex, vocational education opportunities, and graduate and professional school admissions. The report also references a resource guide OCR is developing in the area of high stakes tests used to make placement, promotion, and graduation decisions. Inasmuch as the guide is draft and until it is finalized, we believe it is premature to reference it in this GAO report.

Mr. Benjamin P. Pfeiffer of your Seattle office has worked closely with Dr. Mary Frances O'Shea, OCR's Title IX Athletics Issue Coordinator, to ensure that the language in the draft report describing OCR's Title IX athletics policy and case data is accurate. I understand that this collaborative effort is ongoing.

**Appendix V
Comments From the Department of
Education**

Another area of OCR's concern is how the draft report describes OCR's case information data. As explained to your staff, OCR's case data is derived from two data bases. Between FY 1982-1993, OCR used its Automated Case Information System (ACIMS) to track information on our cases. From FY 1994 to the present, OCR has used its Case Information System (CIS) to track case information.

We have case file information showing that the data in ACIMS (i.e., pre-FY 1994 data) may be underinclusive with respect to the number of cases where administrative enforcement was initiated. For example, OCR initiated administrative enforcement in significantly more than the 9 cases referenced in footnote 26 of the draft report. In addition, the data in the footnote is not complete because it only focuses on pre-FY 1994 data. Therefore, we suggest that you delete footnote 26.

Finally, the language describing 1994-1998 postsecondary complaint data in Table 2 minimizes OCR's success in achieving change. Once the complaints that were inappropriate for OCR (i.e., were referred to another agency, such as EEOC, or involved an allegation over which OCR had no jurisdiction) are excluded, our success in facilitating change in all Title IX postsecondary complaints during that period is actually 47 percent. In the area of Title IX athletics, change was facilitated in 83 percent of the cases appropriate for OCR that were closed during this period.

Thank you again for the opportunity to comment on your draft report. I hope the technical comments submitted by my staff and the comments contained herein are helpful. We remain available to assist you and your staff in clarifying data-related issues in the draft report.

Sincerely,


Norma V. Cantu
Assistant Secretary
for Civil Rights

Now footnote 23.

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition, Benjamin F. Jordan, Jr.; Ann P. McDermott; Meeta Sharma; Stanley G. Stenersen; Edward H. Tuchman; and Stefanie G. Weldon made key contributions to this report.

Related GAO Products

Intercollegiate Athletics: Comparison of Selected Characteristics of Men's and Women's Programs ([GAO/HEHS-99-3R](#), June 18, 1999).

Department of Education: Resolving Discrimination Complaints Has Improved With New Processing System ([GAO/HEHS-99-47R](#), Mar. 23, 1999).

Intercollegiate Athletics: Status of Efforts to Promote Gender Equity ([GAO/HEHS-97-10](#), Oct. 25, 1996).

Department of Education: Efforts by the Office for Civil Rights to Resolve Asian-American Complaints ([GAO/HEHS-96-23](#), Dec. 11, 1995).

Women's Educational Equity Act: A Review of Program Goals and Strategies Needed ([GAO/PEMD-95-6](#), Dec. 27, 1994).

Intercollegiate Athletics: Compensation Varies for Selected Personnel in Athletic Departments ([GAO/HRD-92-121](#), Aug. 19, 1992).

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