

# TITLE IX

## FACT SHEET

### Title IX and Men's Sports: A False Conflict

August 2015

*Title IX should not be a scapegoat for schools' decisions to cut men's sports. Women continue to receive fewer opportunities and resources than men in athletics, and many schools devote disproportionate resources to men's football and basketball. While these sports are often described as "revenue sports," the NCAA reports that the majority of them fail to pay for themselves, much less other teams. Rather than dipping into bloated football and men's basketball budgets, some schools choose to cut sports and blame Title IX.*

#### Women's Sports Are Still Shortchanged

Women's athletic programs continue to lag behind men's programs on every measurable criterion.

- While more than half of the students at NCAA schools are women, they receive only 43% of the athletic participation opportunities.<sup>1</sup>
- Female athletes at the typical Division I-FBS (formerly Division I-A) school receive roughly: 28% of the total money spent on athletics, 31% of the recruiting dollars, and 42% of the athletic scholarship dollars.<sup>2</sup>
- In Division I-FBS, for every dollar spent on women's sports, almost two and half dollars are spent on men's sports.<sup>3</sup>
- Disparities also persist at the high school level, where girls have only 42% of the school-sponsored opportunities to play varsity sports.<sup>4</sup>

#### Resources Are Inequitably Distributed Among Men's Sports

If men's sports are being cut, it is because a disproportionate share of athletic dollars continues to be spent on one or two teams—football and men's basketball—and is not being spent to support other men's or women's teams.

- Football and basketball consume about 78% of total men's expenses at the typical Division I-FBS school, leaving other men's sports to compete for the remaining funds.<sup>5</sup>
- Of the nearly \$12 million typical increase in expenditures for men's Division I-FBS sports programs from 2004-12, roughly 81% of this increase, or nearly \$9.9 million, went to football and men's basketball. Expenses for football alone exceeded the total expenses for all women's sports at the typical Division I-FBS school in 2012 by over \$5.6 million.<sup>6</sup>

#### "Revenue Sports" Do Not Justify Bloated Expenditures

The fact that football and men's basketball may bring in some revenue does not justify their bloated expenditures, which take funds away from both men's and women's sports. First, it is a myth that these sports provide the bread and butter for all other teams. The vast majority of NCAA football and men's basketball programs spend much more money than they bring in.

- 44% of the typical Division I-FBS and 97% of the typical Division I-FCS (Formerly Division I-AA) football programs don't generate enough revenue to pay for themselves, much less any other sports. In 2012, the typical losing programs reported **annual deficits** of \$3.4 million (I-FBS) and \$2 million (I-FCS).<sup>7</sup>

- 47% of typical Division I-FBS and 97% of Division I-FCS men's basketball programs don't generate enough revenue to cover expenses. In 2012, the typical losing programs reported **annual deficits** of over \$1.2 million and \$759,000, respectively.<sup>8</sup>

Second, at most schools, particularly those in Division I, cost-cutting can be achieved without hurting the competitiveness or revenue production of these programs. For example:

- Universities could stop funding hotel rooms for football players before home games, order uniforms less frequently, and reduce the distance traveled for non-conference competition by selecting opponents closer to home, among other possibilities.
- The NCAA could impose across-the-board cost reductions, such as capping the high dollars spent to recruit new athletes or reducing football scholarships to a more reasonable number. NFL teams have 45 roster players while the average Division I-FBS team has 85 scholarship players.<sup>9</sup>

### **Empirical Data Show That Efforts to Blame Title IX Are Misplaced<sup>10</sup>**

Male wrestlers whose schools have chosen to cut their teams have been one of the most vocal groups to attack Title IX, claiming that the law forces schools to cut their teams. The federal courts of appeals uniformly have rejected legal challenges to Title IX—holding that Title IX in no way requires schools to cut men's teams, but that schools may choose to structure their athletics programs however they wish as long as they treat men and women equally. Not only are the wrestlers' arguments wrong as a matter of law, but data on the decline of men's wrestling teams also demonstrate the fallacy of their arguments.

- The rate of decline of men's wrestling teams during the four years from 1984-88—a time when Title IX was not being enforced in athletics due to the Supreme Court's decision in *Grove City College v. Bell*<sup>11</sup>—was almost 4 times as high as the rate of decline during the 21 years since 1988 (1988-2009), when Title IX's application to athletics programs was firmly reestablished through the Civil Rights Restoration Act of 1987.<sup>12</sup>

Moreover, participation in boy's wrestling at the high school level has grown.

- There were 226,861 participants in 1971 and 269,514 participants in 2013-14. Also, the number of schools that sponsor wrestling has increased from 7,587 in 1971 to 10,668 in 2013.<sup>13</sup>

Indeed, a number of women's sports have declined since Title IX was enacted. Yet it can hardly be said that Title IX, which has produced tremendous growth overall in women's athletics, is the cause of decline for these women's teams.

- While almost 36% of NCAA member schools sponsored women's field hockey in 1982, only 23% of them sponsored the sport in 2014.
- The number of NCAA member schools sponsoring women's gymnastics has also dropped from 179 in 1982 to 82 in 2014—a decline of over 50%.

On the plus side of the ledger, many sports—both women's and men's—have grown significantly since Title IX's enactment:

- Women's crew, which had 43 teams at NCAA member schools in 1982, dropped to a record low of 12 teams in 1991, but skyrocketed to 145 teams in 2014.
- Softball and soccer have been big winners in the past 24 years, increasing from 416 softball teams in 1982 to 997 teams in 2014 and from only 80 soccer teams in 1982 to 1,022 in 2014.
- Baseball, which was sponsored by 642 NCAA member schools in 1982, was sponsored by 943 in 2014.
- Men's basketball, sponsored by 741 NCAA member schools in 1982, was sponsored by 1,081 in 2014.
- Since 1981-82, men's participation in NCAA sports has increased in men's baseball, crew, football, lacrosse, squash, track, cross-country, tennis, golf, soccer, ice hockey, basketball, swimming, and volleyball.

It is important to look at the overall picture for both women's and men's athletics.

- Men's overall intercollegiate athletic participation has risen since 1981, from 169,800 in 1981-82, to 271,055 in 2013-14, although it dropped some during the years that Title IX was not being enforced, declining from 201,063 in 1984-85 to 178,941 in 1987-88. Thus, it can hardly be said that men's athletic participation has suffered because of Title IX.
- The number of college women participating in competitive athletics is now over six times the pre-Title IX rate. While 170,384 men played college sports in 1971-72 (Title IX was passed in 1972), female intercollegiate athletes did not number 170,000 until 2005-06.

While it may be convenient to state that Title IX is responsible for cuts in any particular men's sport, doing so is simplistic and irresponsible. The factors affecting a school's decision to add, retain, or drop a particular sport are much more complex and include, among

others, changes in student interest, alumnae support, liability, risk of injury, and resources. Title IX simply ensures that it can no longer be only women who suffer cuts, receive second-class treatment, and bear the brunt of limited resources.

## Real Solutions to the Problems Faced by Some Men's Sports

A number of responsible alternatives can help preserve existing sport opportunities while increasing opportunities for women, including:

1. Reduce bloated athletic budgets by calling on the NCAA to play a leadership role in adopting cost-cutting measures, which reduce excesses without eliminating athletic opportunities for students. This is essential to ensure that universities do not suffer a competitive disadvantage from cost-cutting and to help institutions that lack the political will to confront budgetary excesses.
2. Require the U.S. Olympic Commission (USOC) to submit an annual report to Congress, prepared in conjunction with the National Governing Body for every Olympic sport, that breaks down participation data by sport or provides a thorough analysis of participation levels, including youth sports, community sports, and interscholastic and intercollegiate sports.<sup>14</sup> The report could then be used to help channel funds into endangered Olympic sports.

3. Promote expanded athletic opportunities for women to increase compliance with Title IX. For example, states could help financially-strapped institutions increase opportunities for women by providing tuition waivers for female athletes, thus enabling schools to free up scholarship dollars to fund new programs for women. The state of Washington has enacted such legislation, with great results.
4. Promote women's opportunities in traditionally male sports, such as wrestling, where women are participating in greater numbers.<sup>15</sup> Efforts to expand opportunities for women to participate in traditionally male sports, as part of a broader strategy to increase women's athletic opportunities, can further compliance with Title IX while also strengthening existing men's programs.

**Are you concerned about sports inequities at your school? Call NWLC @ 1.855.HERGAME**

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<sup>1</sup> NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), 1981-1982—2013-14 NCAA SPORTS SPONSORSHIP AND PARTICIPATION RATES REPORT 4 (2014), available at <http://www.ncaapublications.com/productdownloads/PR2012.pdf>.

<sup>2</sup> NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), 2004-2010 GENDER-EQUITY REPORT 31, 33 (2012), available at <https://goo.gl/iV7fpo>. (All figures from the NCAA Gender Equity Report exclude spending that is not specifically allocated by gender.)

<sup>3</sup> *Id.*

<sup>4</sup> NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS (NFHS), 2013-14 HIGH SCHOOL ATHLETICS PARTICIPATION SURVEY 1, 2 (2014), available at <http://goo.gl/DgRxcw>.

<sup>5</sup> NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), REVENUES AND EXPENSES, 2004-2012: NCAA DIVISION I INTERCOLLEGIATE ATHLETICS PROGRAMS REPORT 26 (2013), available at <http://www.ncaapublications.com/productdownloads/2012RevExp.pdf>.

<sup>6</sup> *Id.* at 26.

<sup>7</sup> *Id.* at 52.

<sup>8</sup> *Id.* at 28, 54.

<sup>9</sup> Ryan Wood, *Crunching the Numbers: Football Scholarships*, ACTIVE (2015), available at <http://www.active.com/football/articles/crunching-the-numbers-football-scholarships>.

<sup>10</sup> Except as otherwise noted, all of the data discussed in Section C are taken from NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), 1981-82—2013-2014 SPORTS SPONSORSHIP AND PARTICIPATION RATES REPORT 69-146 (2014).

<sup>11</sup> 465 U.S. 555 (1984).

<sup>12</sup> Civil Rights Restoration Act of 1987, Pub. L. 100-259, 102 Stat. 28 (1988). From 1984 to 1988, the number of NCAA institutions sponsoring men's wrestling teams dropped by 53, from 342 to 289. During the years 1988 to 2006, the numbers dropped by 61, from 289 to 228. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), 1981-82—2008-09 SPORTS SPONSORSHIP AND PARTICIPATION RATES REPORT 16, 65 (2010).

<sup>13</sup> NFHS, *supra* note 4, at 1.

<sup>14</sup> Although the Amateur Sports Act of 1978 currently requires the USOC to submit an annual report to Congress, the report does not break down participation data by sport or provide a thorough analysis of sport participation at all levels.

<sup>15</sup> Opportunities for female athletes on high school wrestling teams also have increased markedly since the passage of Title IX. During the 2005-2006 school year, 4,975 girls participated on high school wrestling teams. NFHS, *supra* note 4, at 1.