

Title IX swings wildly at invisible enemy

By [Neal McCluskey](#) 2:07 PM 06/21/2012

Saturday is the 40th birthday of Title IX, the law prohibiting gender discrimination in federally funded education activities. Or that's its official goal. What it actually does is swing wildly in hopes of hitting an invisible threat.

Most people know of Title IX through sports. You probably heard of it while watching women's basketball or World Cup soccer, when it's been credited with making the games possible. Or you might have seen it blamed when your state university has cut men's sports like wrestling.

Title IX almost certainly opened more sports opportunities for women, though attitudes were changing markedly prior to 1972 and likely would have led to greater participation regardless.

The problem today is that many Title IX advocates see continued sporting disparities as ipso facto proof of continued discrimination. And the problem is so insidious, they seem to think, that girls don't even know how badly they want to play: In 2005 the U.S. Department of Education said schools could comply with Title IX by surveying students about athletic desires and offering commensurate opportunities. Title IX supporters deemed that unacceptable, and in 2010 the feds removed the option.

What did advocates fear? Likely that surveys would confirm what other evidence shows: Women don't want to hit the fields and courts at the same rates as men.

According to "The American Freshman: National Norms Fall 2010," 2.9 percent of men participated in no exercise or sports in a typical week of their high school senior year, compared to 5.8 percent of women. On the high end, 15 percent of men reported having spent more than 20 hours participating in exercise or sports, while only 7.6 percent of females devoted such time to athletics.

Similarly, *Taking Sex Differences Seriously* by the University of Virginia's Steven Rhoads reports that three to four times more men participate in intramural sports than women.

Discrimination is very tough to nail down as the source of gender disparities in athletics. But it's not just sports. There are allegations of discrimination in the sciences, especially engineering and physics, in which women are hugely underrepresented.

Again, the menace may be a mirage. Indeed, many Title IX advocates don't argue that there is significant conscious discrimination in science hiring or advancement. They argue that it is unconscious, a product of deeply ingrained biases.

In women, the effects are supposedly felt most keenly through "stereotype threat," which posits that on things like math tests females do worse than men because, essentially, they know that they are expected to do worse, stoking their nerves and causing them to underperform.

The research behind this is flimsy, based largely on women and men taking math tests in which one group is told that women tend to do worse than men, and the other that the test has no gender disparity. That women who hear the no-disparity statement do better than the other women and equal to the men has been thought to prove stereotype threat.

There are several problems with this research, but the biggest is its tenuous connection to the real world. Unless statements are read about women's performance before administering tests, the experimental conditions have no connection to real testing.

The other assumption behind Title IX is that men are often sexist without realizing it.

Again, the empirical support is wanting, based largely on Implicit Association Testing. In IAT, you're asked to associate words on a computer screen as fast as possible, and the categories shift on the screen. If you wrongly associate terms, you are deemed sexist.

Aside from the befuddling nature of the test, it too has little real-world applicability: Rarely do people make hiring, promotion, or other decisions based on split-second thought.

Given the flimsy evidence, Title IX enforcement is focused primarily on bureaucratic compliance and hectoring rather than proving guilt. Indeed, in 2007 a National Academy of Sciences report stated that universities win most sex discrimination cases that get to court.

A majority, though, don't make it that far, likely because being accused is punishment enough for colleges, which would rather settle than keep bad headlines running. Indeed, just last week Yale University reached a settlement with the Office of Civil Rights in which OCR made no finding of Title IX noncompliance and Yale acknowledged no guilt. But Yale agreed to institute lots of bureaucratic "remedies" such as adding more compliance officers.

The school stanching the bad press and OCR scored a “win.” Which is, sadly, what Title IX has been reduced to: a bureaucratic bludgeon swung wildly at invisible menaces.

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