

## THE BATTLE FOR GENDER EQUITY IN ATHLETICS IN ELEMENTARY AND SECONDARY SCHOOLS

### I. Unequal Athletic Opportunities for Girls

#### A. Overview

Gender equity problems in athletics at the elementary and secondary level mirror those at the intercollegiate level. Female athletes receive far fewer participation opportunities than male athletes; lower expenditures for athletic teams; and inferior coaching, equipment, practice facilities and competitive opportunities. Although national data on the treatment of athletes is not as readily available at the elementary/secondary level as it is in intercollegiate athletics (there is nothing comparable to the Equity in Athletics Disclosure Act or the NCAA Gender-Equity Study), the available statistics and anecdotal information indicate that discrimination against girls and young women in athletics is every bit as much of a problem in middle and high schools as it is in colleges and universities.

#### B. Court Cases

Lawsuits at this level seem to be increasing and involve similar problems of schools providing inadequate participation opportunities and inferior treatment for female students and athletes.

- ◆ The parents of female high school students throughout Michigan brought a case in 1998 against the Michigan High School Athletic Association (MHSAA).<sup>1</sup> The parents alleged that MHSAA schedules girls' sports during nontraditional and/or disadvantageous seasons (for example, basketball in the fall and volleyball in the winter); operates shorter seasons for some girls' sports than for boys; schedules girls' competitions on inferior dates; provides, assigns, and operates inferior athletic facilities for girls' teams; requires girls, but not boys, to play under rules and/or conditions differing from those in the NCAA (for example, girls play 9 holes of golf while boys play 18); and allocates more resources to the support and promotion of male athletic programs than female programs, and refuses to sanction additional girls' sports. The parents further alleged that these disparities lead to, among other things, limitations on the girls' ability to be recruited for collegiate teams and limit their access to athletic scholarships. All claims except those involving seasons were settled out of court. After trial on the seasons issue, the district

court judge held that the athletic association discriminated against girls by scheduling six of their sports, but no boys' sports, in nontraditional and/or disadvantageous seasons. The Court ordered the association to develop a plan by May 24, 2002 detailing a new schedule for sports seasons that complies with the applicable laws.<sup>2</sup>

- ◆ A case filed in 1997 against a Florida school district challenged the unequal treatment of boys' and girls' sports, specifically highlighting differences in the treatment of the baseball and softball teams.<sup>3</sup> The district court found that "[t]he [d]efendant has chosen to favor the boys' baseball team with a lighted playing field, a scoreboard, a batting cage, superior bleachers, signs publicizing the team, bathroom facilities, and a concession stand/press box/announcer's booth, but has not seen fit to provide the girls softball team with any of these things."<sup>4</sup> The court went on to address the school district's claim that because the district funded the teams equally, but the teams' booster clubs raised unequal sums of money, there was no Title IX violation. "The [c]ourt rejects this argument. It is the [d]efendant's responsibility to ensure equal athletic opportunities, in accordance with Title IX. This funding system is one to which [d]efendant has acquiesced; [d]efendant is responsible for the consequences of that approach."<sup>5</sup> The school district was required to submit to the court a plan for remedying these disparities.<sup>6</sup>
- ◆ In 1995, four cases were brought in Nebraska by female high school students against four separate school districts. The plaintiffs alleged unequal treatment of female athletes and failure to provide sufficient opportunities for female students to participate. All four school districts refused to sponsor varsity interscholastic softball, despite the active involvement of significant numbers of girls on privately-funded club softball teams in their communities. Settlement agreements were reached in each of the four cases. In these settlements, the school districts agreed to sponsor varsity softball and provide equal treatment and benefits to female varsity athletes in all aspects of the athletic program, including scheduling, locker rooms, facilities and coaching.
- ◆ Another case involving unequal athletic opportunities in high schools is Horner v. Kentucky, in which twelve female athletes who played interscholastic slow-pitch softball sued the Kentucky State Board of Education and the Kentucky High School Athletic Association for failing to accommodate the interests and abilities of girls in Kentucky to play high school sports.<sup>7</sup> Kentucky sanctioned fewer sports for girls than for boys and refused to sanction fast-pitch softball. Under KHSAA rules, Kentucky would not "sanction" a sport -- that is, recognize and sponsor a state tournament in that sport -- unless at least 25% of member schools indicate a willingness to participate in that sport. The plaintiffs wanted to play fast-pitch rather than slow-pitch softball because only the former is sanctioned by the NCAA, and therefore only fast-pitch softball players can compete for college athletic scholarships. In a December 1994 opinion, the Sixth Circuit upheld the plaintiffs' claim that Kentucky high schools failed to equally accommodate the interests and abilities of female athletes, and reversed the district court's dismissal of the

case.

- ◆ In the mid-1980's, female high school students sued the Montana High School Association (the body that regulates interscholastic athletics in high schools) for sex discrimination in its athletic programs.<sup>8</sup> At that time, Montana's high schools had serious disparities in athletic opportunities, expenditures, treatment and participation rates for boys and girls. A court-appointed facilitator found that opportunities for female high school athletes in Montana were "grossly restricted compared to those same opportunities for boys." In the parties' settlement agreement, the Association pledged to advance athletic opportunities for girls statewide by setting minimum requirements for programs and establishing compliance measures. The requirements included sanctioning the same number of sports for both sexes, providing athletic seasons that assured continuity and opportunity, scheduling tournaments at comparable locations, equalizing publicity, and assuring equal opportunity in the selection of coaches and officials.

### C. Data

- Female athletes currently make up almost 42% of high school athletes.<sup>9</sup> In 1972, fewer than 295,000 girls competed in high school sports, a mere 7.4%, compared to 3.67 million boys.<sup>10</sup> By the 2000-2001 school year, the number of girls had swelled to 2.78 million while the number of boys increased to 3.92 million. Today, the number of girls entering high school sports is nearly double that of boys: there were 108,280 new female high school athletes in 2000-2001 versus 59,320 new male athletes.<sup>11</sup>
- A 1994 survey done by the National Federation of State High School Associations found that a typical high school offers eight girls' sports with 15 teams and ten boys' sports with 18 teams.<sup>12</sup> The Federation does not have data on disparities in expenditures or treatment and believes that such national data does not exist. However, anecdotal evidence suggests that substantial disparities persist.
- Reporters in a number of states have revealed disparities in schools' treatment of girls and boys in high school athletics programs:
  - ▶ **Georgia** – After a series of newspaper articles exposing gender inequities across the state, the Governor of Georgia signed legislation requiring public schools to submit information on the treatment of male and female athletes. An Atlanta paper found that 64% of boys play competitive sports, and 36% of girls play competitive sports. Moreover, 86% of the legislative grants made for stadiums, lighting and equipment were directed to projects where the primary beneficiaries were boys' sports. Booster clubs also contributed to gender inequities. The state's top school official says she thinks that a case could be made that nearly every public high school in the state might be in violation of Title IX.<sup>13</sup>

- ▶ **Louisiana** – Local reports abound about the small number of sanctioned sports for girls and the inequitable facilities, equipment, and budgets for and the treatment of, female student athletes in the New Orleans metro area. Stories include: boys’ football and baseball teams having their own practice fields, while the girls’ softball team has to make do with the school’s front lawn; girls make up 41 percent of the athletes, but get only 23 percent of the available coaching funds; and boys’ events are regularly promoted over the school PA system, while girls’ events, even victories, are not promoted.<sup>14</sup>
  
- ▶ **Pennsylvania** – Although strapped for funds, several of the school districts in Western Pennsylvania find the money for boys’ sports, but not for girls’ sports. In Duquesne, for every dollar the school board spent on sports, girls received only a dime. The district also spent more on the football team than it did to maintain its school buildings. In Brownsville, of every dollar spent on athletics, only 5 cents goes to girls’ sports. Brownsville offers only one girls’ sport, basketball.<sup>15</sup>

#### **D. Anecdotal Evidence**

We receive many calls from disgruntled parents, athletes, and coaches complaining of gender inequality in their school athletics program. Some of the more common problems raised are the failure to offer enough girls’ sports; the scheduling of girls’ sports in the “off-season,” causing the girls to miss out on scholarship and recruiting opportunities; the authorization of paid coaching positions for boys’ teams and volunteer coaching positions for girls’ teams; and the provision of generally inferior equipment and facilities for girls.

## **II. Progress at the State and Local Level**

### **A. Florida**

In 1993, the state of Florida took a leadership role in Title IX compliance by establishing a Task Force on Equity in Athletics.<sup>16</sup> The task force is the first to look at gender inequity at all levels of the state’s education system and is evaluating programs at more than 1,000 institutions.<sup>17</sup> In 1994, Florida adopted a gender equity law conditioning state money on compliance with Title IX that applies to all public middle and high schools.<sup>18</sup> Soon after this law was enacted, the Florida Department of Education published a manual entitled Equity in Athletics: A self-review manual for compliance with the Florida Educational Equity Act and Title IX of the Education Amendment. This manual is currently being used as a guidance device for schools throughout the state to implement corrective action plans in an effort to comply with Title IX.

### **B. Montgomery County, Maryland**

Montgomery County, Maryland is another example of a school system that has taken proactive measures and is making significant progress toward Title IX compliance.<sup>19</sup> The system has increased girls' participation opportunities and decreased disparities in funding without cutting back on boys' opportunities, primarily by organizing booster clubs that raise money for all sports at a school rather than one specific sport. This approach offers an alternative to the traditional approach of raising revenues to benefit only one (usually boys') sport and allows the school to direct money toward creating equal opportunities for both sexes.

### **III. Importance of Equal Sport Opportunities for Adolescent Girls**

Increased sports participation for adolescent girls is a necessary step towards achieving gender equity. Studies show that sports participation has a positive influence on the physical and psychological health of females.

The health benefits of regular and rigorous physical exercise provided by sports are extensive. Sports participation decreases a young woman's chance of developing heart disease, osteoporosis, and other health related problems.<sup>20</sup> A recent study shows that women who participate in sports significantly reduce their risk of developing breast cancer.<sup>21</sup> Sports programs also promote responsible social behaviors, greater academic success, and increased personal skills.<sup>22</sup> High school athletes are less likely to smoke cigarettes<sup>23</sup> or use drugs<sup>24</sup> than their nonathletic peers. The 1998 study, The Women's Sports Foundation Report: Sport and Teen Pregnancy, found that adolescent females athletes have lower rates of both sexual activity and pregnancy.<sup>25</sup> By a 3-1 ratio, female athletes "do better in school, do not drop out, and have a better chance to get through college."<sup>26</sup> Young women who play sports are more likely to graduate from high school,<sup>27</sup> have higher grades,<sup>28</sup> and score higher on standardized tests<sup>29</sup> than non-athletes. High school athletes are more likely to describe themselves as 'highly' popular<sup>30</sup> and experience higher levels of self-esteem, and are less likely to suffer from depression.<sup>31</sup>

The National Women's Law Center is a non-profit organization that has been working since 1972 to advance and protect women's legal rights. The Center focuses on major areas of importance to women and their families, including employment, education, reproductive rights and health, family support and income security, with special attention given to the needs of low-income women.

## Notes

1. COMMUNITIES FOR EQUITY V. MICHIGAN HIGH SCHOOL ATHLETIC ASS'N 26 F. SUPP.2D 1001 (W.D. MICH 1998).
2. COMMUNITIES FOR EQUITY V. MICHIGAN HIGH SCHOOL ATHLETIC ASS'N 178 F. SUPP.2D 805 (W.D. MICH 2001).
3. DANIELS V. SCHOOL BD. OF BREVARD COUNTY, 985 FSUPP. 1458 (MD FLA 1997).
4. ID AT 1462
5. ID AT 1462
6. ID AT 1462
7. HORNER V. KENTUCKY, 43 F.3D 265 (6TH CIR 1994).
8. RIDGEWAY V. MONTANA HIGH SCHOOL ASS'N 633 F.SUPP. 1564 (D. MONT. 1986), AFF'D 858 F.2D 579 (9TH CIR.1987).
9. NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS (NFHS), 2001 HIGH SCHOOL ATHLETICS PARTICIPATION SURVEY (2001).
10. NFHS, 1971 SPORTS PARTICIPATION SURVEY (1971).
11. NFHS, 2001 HIGH SCHOOL ATHLETICS PARTICIPATION SURVEY (2001).
12. NFHS, 1994 NATIONAL INTERSCHOLASTIC ATHLETIC ADMINISTRATOR'S ASSOCIATION/ NATIONAL FEDERATION MEMBER SURVEY (1994).
13. MIKE FISH AND DAVID A MILLIRON, SPECIAL REPORT: EIGHT-DAY SERIES, "THE GENDER GAP," THE ATLANTA JOURNAL CONSTITUTION DEC 12, 1999.
14. SHEILA MULROONEY ELDRED "STILL IN THE SHADOWS: NEARLY 30 YEARS AFTER TITLE IX MANDATED BOYS AND GIRLS BE GIVEN EQUAL SUPPORT AND OPPORTUNITIES IN PUBLIC SCHOOLS. GIRLS SPORTS AT METRO AREA SCHOOLS DON'T RECEIVE THE ATTENTION OR RESOURCES THAT BOYS TEAMS ENJOY," THE TIMES-PICAUNE, JULY 1, 2001.
15. "POOR DISTRICTS STILL FIND CASH FOR BOYS," THE TRIBUNE-REVIEW, MAY 23, 2001.

16. FLORIDA STUDY COMMISSION ON WOMEN'S AND GIRL'S PARTICIPATION IN ATHLETICS AND EXTRACURRICULAR ACTIVITIES, FLORIDA DEPARTMENT OF EDUCATION, WOMEN'S AND GIRL'S PARTICIPATION IN ATHLETICS AND EXTRACURRICULAR ACTIVITIES (JAN 1993).
17. JOANNE KORTH, "GENDER EQUITY PLAN COVERS BIG PICTURE," ST. PETERSBURG TIMES, OCT. 31, 1993 (CITY ED) AT 2C.
18. FLORIDA EDUCATIONAL EQUITY ACT 2282001.
19. MONTGOMERY COUNTY PUBLIC SCHOOLS REPORT, SUPERINTENDENT'S TASK FORCE ON GENDER EQUITY IN ATHLETICS: A SELF-STUDY (DEC 1992).
20. DONNA A LOPIANO, TESTIMONY BEFORE THE UNITED STATES SENATE SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE AND TOURISM, OCT. 18, 1995. PREVENTION OF OSTEOPOROSIS THROUGH SPORTS PARTICIPATION IS ALSO EXAMINED IN TEEGARDEN PROULX ET AL, MEDICINE AND SCIENCE IN SPORTS AND EXERCISE 105-13, VOL. 28 (1996).
21. LESLIE BERNSTEIN ET AL, "PHYSICAL EXERCISE AND REDUCED RISK OF BREAST CANCER IN YOUNG WOMEN" JOURNAL OF THE NATIONAL CANCER INSTITUTE, VOL. 86, NO 18 (SEPT. 21, 1994); SEE ALSO MENOPAUSE, VOL. 3, NO. 3, 172-80 (1996).
22. CARNEGIE CORPORATION, THE ROLE OF SPORTS IN YOUTH DEVELOPMENT (MARCH 1996).
23. TWENTY-FIVE PERCENT OF HIGH SCHOOL ATHLETES VERSUS 40% OF NONATHLETIC HIGH SCHOOL STUDENTS SMOKE CIGARETTES. WYOMING HIGH SCHOOL ACTIVITIES ASSOCIATION STATEWIDE STUDENT ACTIVITIES SURVEY (1998).
24. NINETY-TWO PERCENT OF HIGH SCHOOL ATHLETES DO NOT USE DRUGS. NFHS, THE CASE FOR HIGH SCHOOL ACTIVITIES (VISITED MAY 26, 1999) [HTTP://WWW.NFHS.ORG/CASE.HTML](http://www.nfhs.org/case.html).
25. D. SABO ET AL, THE WOMEN'S SPORTS FOUNDATION REPORT: SPORT AND TEEN PREGNANCY (1998). (FEMALE ATHLETES ARE LESS LIKELY TO GET PREGNANT, MORE LIKELY TO BE VIRGINS, HAVE THEIR FIRST INTERCOURSE LATER IN ADOLESCENCE, HAVE SEX LESS OFTEN, HAVE FEWER SEXUAL PARTNERS, AND ARE MORE LIKELY TO USE CONTRACEPTIVES THAN THEIR NONATHLETIC PEERS.) SEE ALSO THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS REPORT, PHYSICAL ACTIVITY & SPORTS IN THE LIVES OF GIRLS (SPRING 1997).
26. THE CASE FOR HIGH SCHOOL ACTIVITIES, SUPRA NOTE 23.
27. WOMEN'S SPORTS FOUNDATION "TABLE 8" MINORITIES IN SPORTS: THE EFFECT OF VARSITY SPORTS PARTICIPATION ON THE SOCIAL, EDUCATIONAL AND CAREER MOBILITY OF MINORITY STUDENTS 27 (AUG 15, 1989). SEE ALSO THE CASE FOR HIGH SCHOOL ACTIVITIES, SUPRA NOTE 23.

(A STATEWIDE THREE-YEAR STUDY BY THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION FOUND 99.56% OF ATHLETES GRADUATED FROM HIGH SCHOOL, BUT ONLY 94.66% OF NONATHLETES DID; THE STUDY ALSO FOUND THAT THE DROPOUT RATE OF ATHLETES, 0.7% WAS MUCH LOWER THAN THAT OF NONATHLETES, 8.98%.)

28. WOMEN'S SPORTS FOUNDATION "TABLE 4" MINORITIES IN SPORTS 24. SEE ALSO THE CASE FOR HIGH SCHOOL ACTIVITIES, SUPRA NOTE 20 (A STATE-WIDE THREE-YEAR STUDY BY THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION FOUND ATHLETES HAVE HIGHER GPAS THAN THEIR NONATHLETIC PEERS, 2.86 AND 1.96, RESPECTIVELY).
29. WOMEN'S SPORTS FOUNDATION "TABLE 6" MINORITIES IN SPORTS 25.
30. WOMEN'S SPORTS FOUNDATION "TABLE 2" MINORITIES IN SPORTS 23.
31. COLTON AND GORE, RISK, RESILIENCY, AND RESISTANCE: CURRENT RESEARCH ON ADOLESCENT GIRLS, M6 FOUNDATION (1991). SEE ALSO THE CASE FOR HIGH SCHOOL ACTIVITIES, SUPRA NOTE 20; WOMEN'S SPORTS FOUNDATION WOMEN'S SPORTS FACTS, (LAST MODIFIED OCT. 12, 1997) [HTTP://WWW.LIFETIMEV.COM/WOSPORT/STAGE/TOPISS/HTML/WOMEN\\_SSPORTSFACTS.HTML](http://www.lifetime.com/wosport/stage/top1ss/html/women_sportsfacts.html).