

RALLY FOR GIRLS' SPORTS: SHE'LL WIN MORE THAN A GAME

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INTRODUCTION AND SUMMARY

Despite the enormous progress that Title IX has spurred in eliminating blatant discrimination against women and girls in education—including in sports—the playing field is far from level. In particular, high schools across the country are not providing equal opportunities for girls to participate in sports, and some are even cutting athletic opportunities in ways that exacerbate existing gender inequities or create new ones.

High schools that discriminate deny girls the multitude of benefits that accompany athletic participation. By participating in sports, a girl wins more than a game. The benefits are well-documented and include better physical and mental health, more responsible social behavior, and greater academic achievement, including higher graduation rates. Given the fact that sports help girls as well as boys stay engaged in school, it is even more critical to provide athletic opportunities in an equitable manner.

To address the discrimination in athletics that girls still face in high schools nationwide, the National Women's Law Center ("the Center") launched the campaign *Rally for Girls' Sports: She'll Win More Than a Game*, which features advocacy and outreach to parents and other adults; a Facebook and Twitter campaign; a national hotline, 1.855.HERGAME (or 1.855.437.4263), which concerned individuals can call to report inequities; and public education, including an educational webinar to help school officials, parents and advocates learn about Title IX's requirements. The campaign also includes the filing of administrative complaints against twelve school districts across the country for failing to provide girls with equal opportunities to play sports, in violation of Title IX. The selected school districts—one in each region where the Department of Education's Office for Civil Rights ("OCR") has an enforcement office—are representative of the widespread lack of opportunities that girls still face in school sports programs.

Reflecting the breadth and scope of the ongoing discrimination, the school districts that are the subject of the complaints vary in size, locale (urban, rural, suburban), and diversity of the student population, but based on their own data submitted to OCR all are failing to provide high school girls with equal opportunities to play sports, as required by Title IX. The Center's complaints call on OCR to investigate the high schools in these districts to ensure that girls receive equal access to these valuable educational opportunities. These schools, based on their own data, are examples of a much larger problem. OCR also should examine other schools that are not the subject of these complaints, as should the schools themselves, and take the steps necessary to treat their female students fairly.

BACKGROUND

Girls Are Still Not Receiving Equal Opportunities in High School Sports Programs.

Since Title IX was enacted in 1972, girls have made great strides in athletics.¹ But even today, the law's work is not done. Girls make up half of all high school students nationwide but only 41 percent of all high school athletes, which means that schools provide girls with 1.3 million fewer opportunities to play sports as compared to boys.²



And the number of opportunities provided by many individual school districts can be much worse, as illustrated by the Center's complaints. In addition, even for those opportunities the schools do provide, girls' teams often do not receive equal benefits and services.³ For example, female athletes are frequently assigned to inferior facilities⁴ and disadvantageous times to play.⁵ Although national data on the treatment of girls' sports are not available at the high school level (unlike for colleges, which are required by federal law to report gender equity in athletics data every year),⁶ the available data and reports demonstrate the pervasiveness of discrimination against girls in high school sports programs.

Furthermore, during these tough economic times, some schools are regrettably making cuts to their sports programs, and many have required female students to bear the brunt of these cuts when they are already disadvantaged by an unfair allocation of participation opportunities. For example, in an effort to save money, state high school athletic associations in Delaware, Florida and Nevada implemented cuts in the numbers of games scheduled for most teams, but specifically spared football from any cuts, thus imposing more of the burden of the economic crisis on girls.⁷ The Florida High School Athletic Association reversed its scheduled cuts after parents sued under Title IX, among other laws, but individual school districts have publicly stated that they will nonetheless limit their games in the same manner.⁸

While high school sports can serve as an important pipeline to college athletics, the discrimination that girls face in high school unfortunately persists at the college level. Women in college receive only 43% of the sports opportunities that schools decide to provide, even though they represent over half of the undergraduates.⁹ In addition, in Division I, females receive only 45% of the total athletic scholarship dollars, 37% of athletics operating expenses, and 32% of recruiting funds.¹⁰

Discrimination Against Girls Denies Them the Many Benefits of Playing Sports.

When girls are not provided equal opportunities to play sports, they miss out on a world of benefits that accompany athletic participation. There are of course the obvious health benefits: sports participation decreases a young woman's chance of developing heart disease, osteoporosis, and other health related problems;¹¹ women who participate in sports significantly reduce their risk of developing breast cancer;¹² and the *New York Times* recently highlighted research that found that women who had greater opportunity to play sports while young because of Title IX had a 7 percent lower risk of obesity 20 to 25 years later, when women were in their late 30s and early 40s.¹³ The study notes that while a 7 percent decline in obesity is modest, "no other public health program can claim similar success."¹⁴

Women and girls also benefit psychologically from athletics—young women who play sports have a higher level of self-esteem, a lower incidence of depression and a more positive body image than young women who do not.¹⁵ Female athletes develop the ability to work with a team, to perform under pressure, to set goals and to take criticism. In addition, female student-athletes exhibit more responsible social behavior than their non-athletic peers: they are less likely to smoke or use drugs¹⁶ and have lower rates of both sexual activity and pregnancy.¹⁷

Furthermore, playing sports keeps students engaged in school and thus can help to improve graduation rates around the country. Although often overlooked, girls, particularly girls of color, drop out at high rates. Overall, 27% of girls fail to graduate on time with a diploma each year, and the numbers are worse for girls of color: 49% of Native American female students, 41% of Black female students, and 41% of Hispanic female students fail to graduate on time.¹⁸ Young women who play sports are more likely to graduate from high school, have higher grades, and score higher on standardized tests than non-athletes.¹⁹ Female athletes are also more likely to do well in science classes than their classmates who do not play sports.²⁰ In addition, the availability of athletic

scholarships dramatically increases a young woman's ability to pursue a college education and to choose from a wider range of colleges and universities.

Title IX's mandate of equality in school athletics programs is especially important for girls of color, both because studies show that they are less physically active during adolescence than White girls and they are less likely to participate in sports outside of school than White girls.²¹ Minority girls who play sports not only benefit from the physical activity, but they experience higher levels of self-esteem and are more likely to be involved in other extracurricular activities than minority women who do not play sports.²²

Playing sports not only helps students stay engaged in school, but also has a positive effect on employment outcomes. A study earlier this year using state-level data concluded that an increase in female sports participation leads to an increase in women's labor force participation down the road and greater female participation in previously male-dominated occupations, particularly high-skill, high-wage ones.²³ In addition, more than four out of five executive businesswomen played sports growing up, and the vast majority reported that the lessons they learned on the playing field contributed to their success in business.²⁴ Female and minority athletes are more likely to aspire to hold leadership positions later in life than their peers who are not athletes.²⁵

THE COMPLAINTS FILED BY NWLC WITH THE OFFICE FOR CIVIL RIGHTS

The Center's athletics complaints demonstrate just how far high schools are from fulfilling their obligations under Title IX. Specifically, the complaints highlight that girls receive far fewer chances to play sports at schools across the country and that schools need to take steps to provide these critical opportunities in an equitable manner. Although the complaints focus on high school sports participation, it is important to remember both that educational institutions at all levels must provide equal athletic participation opportunities and that they must also treat female athletes equally in terms of the benefits and services they receive.²⁶

Under Title IX, there are three independent ways for schools to demonstrate that they are providing their female and male students with what would be considered nondiscriminatory opportunities to play sports. A school must show that: (1) the percentages of male and female athletes are about the same as the percentages of male and female students enrolled, or (2) the school has a history and continuing practice of expanding athletic opportunities for the underrepresented sex (almost always female students), or (3) the school is fully and effectively meeting its female students' interests and abilities to participate in sports.²⁷ If a school can show any one of the above "prongs," it is deemed to be in compliance with Title IX's requirement to provide equal participation opportunities.²⁸

The Center's complaints, based on the schools' own data, indicate that the twelve school districts are not providing equal opportunities for female high school students to play sports under this three-part test. Data reported by the districts to OCR reveal large gaps between the percentages of girls enrolled and the percentages of athletes who are girls, which renders the districts out of compliance with prong one. The data also show a worsening trend since the 2004 CRDC, with the participation gaps increasing substantially between 2004 and 2006, which is the opposite of the expansion of opportunities required to meet prong two. Finally, prong three is unlikely to be satisfied given that there are numerous sports sanctioned by the relevant state high school athletic associations that are not offered to girls in these districts.

Data Source: The 2006 Civil Rights Data Collection

OCR collects data on key education and civil rights issues in our nation's public schools through its Civil Rights Data Collection.²⁹ The CRDC is a mandatory data collection that is authorized under a variety of statutes,

NWLC COMPLAINTS: 12 SCHOOL DISTRICTS' DATA SHOW HUGE ATHLETIC PARTICIPATION GAPS FOR GIRLS

SCHOOL DISTRICTS			SAMPLE SCHOOLS		
SCHOOL DISTRICT	AVERAGE PARTICIPATION GAP*	NUMBER OF GIRLS' OPPORTUNITIES LOST**	SAMPLE SCHOOL	PARTICIPATION GAP	NUMBER OF GIRLS' OPPORTUNITIES LOST
Chicago Public Schools (IL)	33.0%	7294	Marshall Metropolitan High School	40.8%	116
Sioux Falls School District (SD)	15.6%	569	Washington High School	19.9%	241
Oldham County Schools (KY)	12.9%	193	Oldham County High School	18.8%	73
Henry County Schools (GA)	12.5%	430	Stockbridge High School	28.9%	124
Houston Independent School District (TX)	11.9%	2404	Sterling High School	20.3%	138
Wake County Public School System (NC)	11.8%	2,620	Wake Forest-Rolesville High School	18.7%	233
Irvine Unified School District (CA)	10.6%	767	Northwood High School	11.5%	223
Columbus City Schools (OH)	10.4%	982	West High School	15.5%	74
Deer Valley Unified School District (AZ)	10.2%	739	Deer Valley High School	14.1%	202
Clark County School District (NV)	10.1%	3,591	Coronado High School	13.7%	228
Worcester Public Schools (MA)	9.2%	657	North High School	18.1%	108
New York City Department of Education (NY)	7.9%	16,993	Washington Irving High School	11.2%	291

Source: 2006, Department of Education, Office for Civil Rights, Civil Rights Data Collection, <http://ocrdata.ed.gov/Default.aspx>. (Schools are included when data are available regarding both enrollment and athletic participation.)

* Average Participation Gap: The average of the participation gaps of schools in the district.

**Number of Girls' Opportunities Lost: The sum of the number of opportunities lost at each school in the district.

including Title IX. The purpose of the CRDC is to assess public school districts' fulfillment of their obligation to provide equal educational opportunity. A representative sample of school districts provides a variety of information to the Department as part of the CRDC, including data on enrollment, access to educational programs or services, academic proficiency results, and athletic participation opportunities, disaggregated by factors including race, ethnicity, sex, and disability.³⁰

Data are required to be collected every two years. However, since the Department did not conduct a 2008 CRDC, the Center must rely primarily on 2006 data, which are the most recent available. The 2006 CRDC contains information on 5,929 public

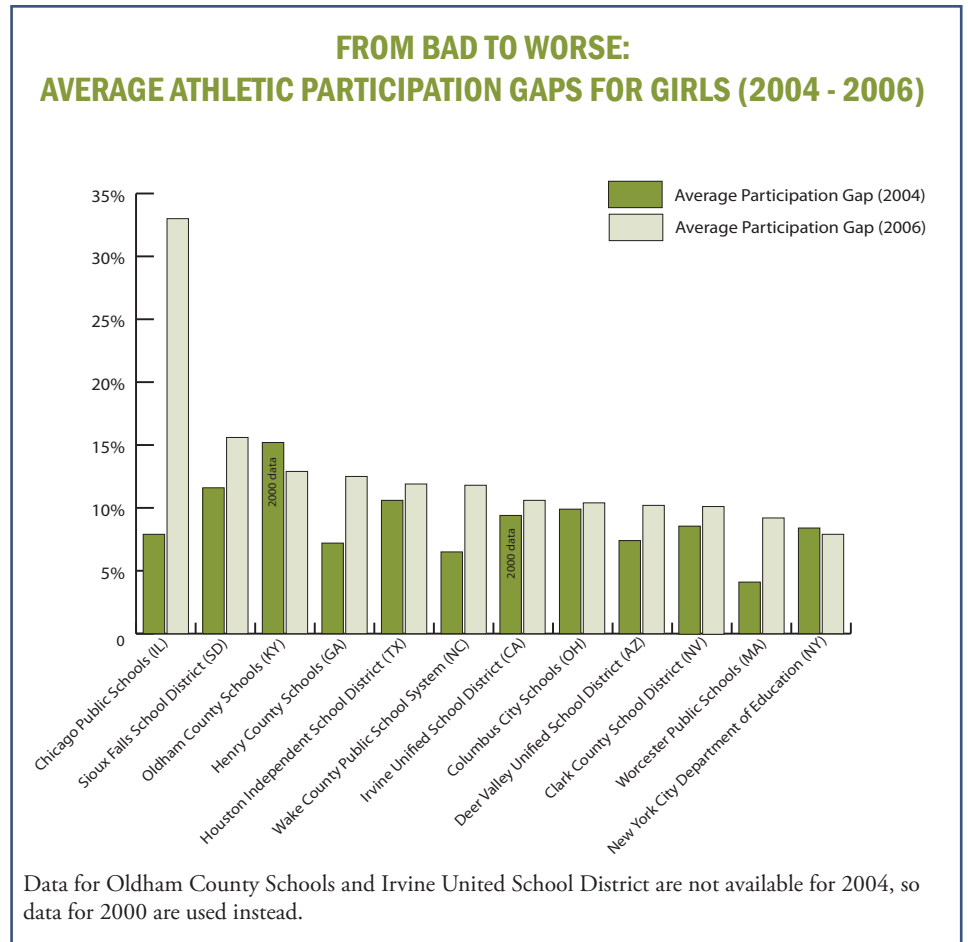
The **Participation Gap** is the percentage point gap between the percentage of girls enrolled and the percentage of athletes who are girls. For example, if at School A, girls were 45 percent of students but only 35 percent of athletes, then School A would have a participation gap of 10.0 percentage points.

The **Number of Girls' Opportunities Lost** represents the additional number of girls who would be able to play sports if the school closed the participation gap.

school districts and 62,484 schools contained in those school districts.³¹

Selection of School Districts

With an eye towards high school, where girls' participation in athletics tends to drop off and yet becomes even more critical for the purposes of college admission and scholarships, the Center analyzed self-reported data for a variety of school districts nationwide, including the percentages of girls enrolled, the percentages of athletes who are girls, the numbers of girls' teams, and trends for these data since earlier CRDC collections, as well as state-sanctioned sports not being offered to girls in the districts. The Center's complaints against the twelve school districts encompass a range of geographic areas (one from each OCR region), sizes, locales (urban, rural, suburban), and population demographics (race/ethnicity and income level). They reflect the widespread nature of the problem, and also call OCR's attention to varied circumstances and permutations of the problems faced by girls who want to play sports.



The Center's complaints are directed at all of the high schools in each of the twelve school districts. The individual schools highlighted in the chart at left are merely examples of the larger problems reflected by the data from each district. The Center's complaints are consistent with OCR's approach to interscholastic athletics investigations, which dictates that if any school is found in violation, then the school district is in violation. Further, pursuant to OCR principles, the remedy must include assurances of compliance from all schools in the district.³²

CONCLUSION

Title IX's promise of equal opportunity is not yet a reality for girls in athletics. At high schools across the country—large and small, rural and urban, and with student bodies of varying races and ethnicities—girls are not receiving equal opportunities to play sports and reap the accompanying benefits. The National Women's Law Center filed these complaints in order to secure remedies from Department of Education investigations and attention by other schools to the widespread nature of the problem. Schools should not wait to be the subject of complaints, but rather should be proactive in evaluating their sports programs to ensure that they are treating all their students fairly. A few immediate steps that every school should take include:

- ◆ Ensuring that a Title IX coordinator is in place to address any complaints and help the school comply with all of its Title IX obligations, as well as publicizing the name, office, address, and telephone number of the Title IX coordinator. These actions are required by law.
- ◆ Training staff, students, and members of the community about what Title IX requires and how to prevent and address discrimination.
- ◆ Evaluating the athletics program to determine if there are areas in which girls (or boys) are not being treated fairly, and then taking action to fix any problems. The Center has a checklist³³ that explains Title IX's requirements in athletics and is a tool for parents, students and others to evaluate whether their schools are treating women and girls fairly, as well as a legal guide that is recommended for general counsel and school boards.³⁴
- ◆ Contacting OCR or other experts for technical assistance on how to comply with Title IX. For example, prior to making any changes to the athletics program, a school should consult with someone knowledgeable about Title IX to ensure that its actions are consistent with the law.

ROOM TO GROW: SAMPLE SPORTS NOT OFFERED TO GIRLS IN THE 12 DISTRICTS*

Soccer
 Softball
 Tennis
 Swimming & Diving
 Golf
 Lacrosse
 Field Hockey
 Bowling
 Gymnastics

*Examples of sports sponsored by the relevant state high school athletic associations that are not offered to girls in one or more of the 12 districts

The Center's goal in filing these complaints is to help more girls receive equal opportunities to play sports, which in turn, will help them lead healthier, happier and more successful lives. Rallying together for girls' sports will help make this goal a reality.

The National Women's Law Center is a nonprofit organization that has been working since 1972 to advance and protect women's legal rights. The Center focuses on major policy areas of importance to women and their families, including employment, education, health and reproductive rights, and family economic security.

ENDNOTES

- 1 The number of girls competing in high school sports jumped from just 295,000 girls in 1972 to 3.1 million girls in the 2008-2009 school year. National Federation of State High School Associations (NFHS), *1971 Sports Participation Survey* (1971) and *2008-09 High School Athletics Participation Survey* (2009).
- 2 NFHS, *2008-09 High School Athletics Participation Survey* (2009).
- 3 See generally National Women's Law Center, *The Battle for Gender Equity in Athletics in Elementary and Secondary Schools* (Feb. 2010), available at <http://www.nwlc.org/pdf/Battle%20final.pdf> (citing cases of discrimination against high school girls).
- 4 See, e.g., Ilima Lewis, *Lawsuit Alleges Inferior Facilities*, THE MAUI NEWS, March 19, 2010, available at <http://www.mauinews.com/page/content.detail/id/529674/Lawsuit-alleges-inferior-facilities.html?nav=10>; *Girls Still Lag Boys on HS Basketball Schedules*, Chi. Trib., Jan. 25, 2009, available at www.chicagotribune.com/news/chi-ap-bkh-girlsvsboys,0,4378448.story.
- 5 Nat Newell, *Mother Files Title IX Lawsuit*, THE INDIANAPOLIS STAR, July 23, 2010, at C.3.
- 6 See Equity in Athletics Disclosure Act, Pub. L. 103-382, § 360B, 108 Stat. 3518, 3967-71 (1994), codified at 20 U.S.C. § 1092(g) (2010).
- 7 Katie Thomas, *Florida Drops Budget Plan That Favored Prep Football*, N.Y. TIMES, July 15, 2009.
- 8 See Eduardo Encina, *Hillsborough County to Retain Number of Sponsored Contests*, TAMPABAY.COM BLOGS, July 29, 2009 (quoting officials saying they will follow FHSAA's proposed cuts); see also Buddy Collings, *FHSAA Votes To Rescind Cuts in High School Game Schedules*, ORLANDO SENTINEL, July 15, 2009 (citing four counties that independently decided to lower schedule limits without touching football).
- 9 National Collegiate Athletic Association (NCAA), *1981-82—2005-06 NCAA Sports Sponsorship and Participation Rates Report 69* (2007); see also National Collegiate Athletic Association, *2003-04 Gender-Equity Report 12* (2006).
- 10 NCAA *2003-04 Gender-Equity Report* at 25.
- 11 See generally Women's Sports Foundation, *Her Life Depends On It II* (2009), available at <http://www.womenssportsfoundation.org/~media/Files/Research%20Reports/Her%20Life%20Depends%20On%20It%20II%20%20Covers%20and%20Inside%20with%20December.pdf>.
- 12 *Id.* at 13.
- 13 Tara Parker-Pope, *As Girls Become Women, Sports Pay Dividends*, N.Y. TIMES, Feb. 16, 2010, at D5, available at <http://www.nytimes.com/2010/02/16/health/16well.htm> (last visited July 16, 2010); Robert Kaestner and Xin Xu, *Title IX, Girls' Sports Participation, and Adult Female Physical Activity and Weight*, 34 EVAL. REV. 52 (2010).
- 14 Parker-Pope, *supra* note 16.
- 15 See, e.g., *Her Life Depends on It II* at 41; Don Sabo et al., *High School Athletic Participation and Adolescent Suicide: A Nationwide Study*, International Review for the Sociology of Sport (2004) (on file with the Women's Sports Foundation); G. Nicoloff & T.S. Schwenk, *Using Exercise to Ward Off Depression*, 9 Physician Sports Med. 23, 44-58 (1995); R.M. Page & L.A. Tucker, *Psychosocial Discomfort and Exercise Frequency: An Epidemiological Study of Adolescents*, 29 Adolescence, 113, 183-91 (1994) (suggesting that physically active adolescents tend to feel less lonely, shy, and hopeless as compared to their less physically active peers).
- 16 National Federation of State High School Associations (NFHS), *The Case for High School Activities* (2004) (92% of high school athletes do not use drugs; 30% of high school athletes, versus 44% of nonathletic high school students, smoke cigarettes).
- 17 See *Her Life Depends on It II* at 38-39 ("According to one recent study, 10% of young adult women with a history of extensive sports involvement in high school has a child outside of marriage, while the number is 25% for those who had little or no involvement in high school sports."); T. Dodge & J. Jaccard, *Participation in Athletics and Female Sexual Risk Behavior: The Evaluation of Four Causal Structures*, 17 Journal of Adolescent Research 42 (2002); The Women's Sports Foundation, *Report: Sport and Teen Pregnancy* (1998), at 5-7, available at <http://www.womenssportsfoundation.org/~media/Files/Research%20Reports/Download%20Sport%20and%20Teen%20Pregnancy.pdf>; The President's Council on Physical Fitness and Sports, *Physical Activity & Sports in the Lives of Girls* (Spring 1997), available at <http://www.fitness.gov/girlssports.htm>.
- 18 Editorial Projects in Education Research Center (EPE), *Diplomas Count 2010: Graduation by the Numbers: Putting Data to Work for Students' Success*, Education Week, June 2010; see generally National Women's Law Center, *When Girls Don't Graduate, We All Fail: A Call to Improve High School Graduation Rates for Girls* (2007), available at <http://www.nwlc.org/pdf/DropoutReport.pdf>.
- 19 See National Collegiate Athletic Association (NCAA), *Graduation Success Rate Report: 1999-2002 Cohorts: Overall Division I* (2009), available at http://web1.ncaa.org/app_data/nH8egsrAggr2009/1_0.pdf; National Federation of State High School Associations (NFHS), *The Case for High School Activities 7* (2004), available at <http://www.nfhs.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3263> (a state-wide, three-year study by the North Carolina High School Athletic Association found that athletes had higher grade point averages (by almost a full grade point), lower dropout rates, and higher high school graduation rates, than their nonathletic peers); University of Central Florida's Institute for Diversity and Ethics in Sports, *UCF Study Looks at Diversity in Campus Leadership, Graduation Rates for Women's 2004 Sweet 16 College Teams* (2004), available at http://www.tidesport.org/Grad%20Rates/2004_Campus_Leadership_Study_for_Women%27s%20BB.pdf (study showing that female athletes in the national basketball tournament had exceedingly high graduation rates).

- 20 Hanson, Sandra L. & Krauss, Rebecca S., *Women, sports, science: Do female athletes have an advantage?* 71 Soc. EDUC. 93 (1998).
- 21 *Her Life Depends on It II* at 60.
- 22 Don Sabo, Women's Sports Foundation, *Minorities in Sports: the Effect of Varsity Sports Participation on the Social, Educational, and Career Mobility of Minority Students* 4 (1989).
- 23 Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports* 23-24 (Nat'l Bureau of Econ. Research, Working Paper No. 15728, 2010).
- 24 Women's Sports Foundation, *Women's Sports and Physical Activity Facts and Statistics* 14 (2007), available at http://www.womenssportsfoundation.org/binary-data/WSF_ARTICLE/pdf_file/191.pdf.
- 25 Sabo, *supra* note 25.
- 26 See 34 C.F.R. 106.37 (c) and 106.41.
- 27 Office for Civil Rights, U.S. Department of Health, Education and Welfare, *A Policy Interpretation: Title IX and Intercollegiate Athletics*, 44 Fed. Reg. 71,413, 71,418 (Dec. 11, 1979) [hereinafter *Policy Interpretation*].
- 28 Office for Civil Rights, U.S. Department of Education, *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (Jan. 16, 1996). Title IX also requires the equivalent treatment of male and female athletes and the allocation of scholarship dollars among male and female athletes proportional to their representation. See generally *Policy Interpretation*.
- 29 U.S. Department of Education, *About the Civil Rights Data Collection (CRDC)* (Sept. 2009), available at http://ocrdata.ed.gov/downloads/About_the_data_v3-cb.doc.
- 30 *Id.*
- 31 *Id.*
- 32 Valerie M. Bonnett & Lamar Daniel, U.S. Dep't of Educ. Office of Civil Rights, *Title IX Athletics Investigator's Manual* (1990), at 9-10, available at <http://www.eric.ed.gov/PDFS/ED400763.pdf>.
- 33 See National Women's Law Center, *Check It Out: Is the Playing Field Level for Women and Girls at Your School* (2004), available at <http://www.nwlc.org/sites/default/files/pdfs/Checkitout.pdf>.
- 34 See National Women's Law Center and DLA Piper, *Breaking Down Barriers: A Legal Guide to Title IX and Athletic Opportunities* (2007), available at http://www.nwlc.org/our-resources/reports_toolkits/breaking-down-barriers.

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