



A Women's Sports Foundation Report, May 2022

50 Years of Title IX

We're Not Done Yet





Letter from the CEO

This year, the Women's Sports Foundation, and many others around the nation, will mark the 50th anniversary of the passage of Title IX – the landmark legislation that guarantees girls and women equal access and treatment under the law in all areas of education. Even as we celebrate this essential legislation and the incredible progress made over the last 50 years, we know that the full promise of Title IX remains unfulfilled for many girls and women across our nation.

Passed in 1972, Title IX was enacted to ensure all girls and women would have equal access and every opportunity to thrive. And yet, as transformational as Title IX has been, five decades later there is still a great deal of work to be done to achieve true equity in sports, in education and in the workplace.

WSF's latest report – "50 Years of Title IX: We're Not Done Yet" – celebrates progress made since the law's passage and identifies inequities yet to be addressed. As the following pages illuminate, unfortunately, there are still far too many students being denied equal opportunities and resources, including girls and women of color, with disabilities, from low socioeconomic households, LGBTQ, and trans and non-binary youth.

An exponential increase in girls' and women's participation in sports is perhaps Title IX's most notable achievements and one of the law's most lasting legacies. Sports participation is vital to the development of girls and women. The benefits are far reaching and lifelong, including improved physical, social and emotional health; enhanced confidence; academic success; leadership opportunities; and so much more. Progress over the last 50 years is impressive and yet it is not enough. The playing field is not yet level – it's not even close.

With all eyes on Title IX during this pivotal year, it's imperative for all of us, across society, to sound the alarm that nothing short of transparency and action, fairness, and justice will suffice. We must do better.

As we work to further accelerate the pace of change for the next 50 years, this important report lays out policy and practice recommendations to guide how everyone can make sport and our nation more equitable for all girls and women. While we continue to celebrate Title IX and the myriad trailblazers who persisted in the fight to spur the creation of the law and help integrate it into society over the last 50 years, let's all commit to fulfilling its full promise by ensuring that opportunities for girls and women – on and off the field – are limitless.

All girls. All women. All sports.®

A handwritten signature in blue ink that reads "Danette Leighton".

Danette Leighton, CEO, Women's Sports Foundation

Acknowledgments

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Method & Design

This report draws upon publicly available data from sources such as the Equity in Athletics Disclosure Analysis Cutting Tool provided by the Office of Postsecondary Education of the United States Department of Education, the National Collegiate Athletic Association, and the National Federation of State High School Associations as well as peer-reviewed research articles, law review articles, federal regulations, letters of guidance, and other reference material.

About the Women's Sports Foundation

The Women's Sports Foundation exists to enable girls and women to reach their potential in sport and life. We are an ally, an advocate, and a catalyst. Founded by Billie Jean King in 1974, we strengthen and expand participation and leadership opportunities through research, advocacy, community programming, and a wide variety of collaborative partnerships. The Women's Sports Foundation has positively shaped the lives of millions of youth, high school and collegiate student-athletes, elite athletes, and coaches. We're building a future where every girl and woman can #KeepPlaying and unlock the lifelong benefits of sport participation. All girls. All women. All sports.®

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Executive Summary

On the 50th anniversary of Title IX's passage, there is much to celebrate. A federal civil rights law that has been credited with profoundly changing education in the United States by barring sex discrimination in the nation's schools, Title IX, along with other equity laws, helped to unlock access to educational and athletic opportunities, paving the way for inroads into historically male-dominated professions. The work of five decades of Title IX's impact is writ large in every sector of American society.

As Title IX's anniversary year unfolds, women are among the highest-ranking and most powerful government officials in the country, including U.S. Vice President Kamala Harris (the nation's first female vice president as well as the first African American and Asian American to serve in the role) and U.S. Speaker of the House Nancy Pelosi, who is serving her fourth term in that position. U.S. Secretary of the Interior Deb Haaland, member of the Laguna Pueblo, made history as the first Native American to serve as a cabinet secretary. Pathways once closed or significantly inaccessible to women have opened as Title IX created greater access to academic pursuits leading to careers in an array of occupations for women, including but not limited to astronauts, athletes, carpenters, chief executive officers, construction workers, doctors, engineers, entrepreneurs, farmers, filmmakers, firefighters, football coaches, investors, journalists, lawyers, musicians, police officers, military personnel, rock stars, Supreme Court justices, and television news anchors.

For girls and women playing, competing, and working in sport, times have changed dramatically from the days when girl and women athletes were viewed as novelties. Since Title IX's passage in 1972, generations of U.S. citizens as well as students at recipient institutions regardless of national origin, immigration status, or citizenship status (Goldberg, 2021; Lhamon, 2014) have witnessed the ascension of women's sport, inspired by the consistent excellence of U.S. female athletes on the international stage. Women of Team USA who competed in the Tokyo 2020 Olympic Games earned a total of 66 medals. If the U.S. women were their own country, their collective performance would have fallen third behind only the Russian Olympic Committee and China (Planos, 2021).

For all the progress made in helping girls and women in the United States realize their promise and potential as athletes and leaders in sport, those gains have been made without a full commitment to Title IX's mandate of equitable and fair treatment and more general principles of gender equity throughout the sport system. Just months before U.S. women won their seventh Olympic gold medal in women's basketball, obvious gender disparities that female athletes were subjected to at the NCAA Division I women's basketball championship in 2021 garnered national attention, leading to an external review of their practices. Findings revealed that the NCAA's broadcast agreements, corporate sponsorship contracts, distribution of revenue, organizational structure, and culture all prioritize Division I men's basketball over everything else in ways that create, normalize, and perpetuate gender inequities. At the same time, the NCAA does not have structures or systems in place to identify, prevent, or address those inequities (Kaplan Hecker & Fink, 2021a, p. 2).¹

¹ While the NCAA received relief from the reach of Title IX in a narrow ruling in *National Collegiate Athletic Association v. Smith* (1999), U.S. Representative Jackie Speier (D-NJ), along with 16 cosponsors, introduced a resolution in June of 2021 affirming that the NCAA is subject to Title IX and is expected to prevent sex discrimination in the programs and activities that it runs. The fact that the premier college sport governing body in the world, with more than 1,200 college and university members, was found by external reviewers to have engaged in systemic gender discrimination for decades raises questions about the entire college sport system's commitment to gender equity and Title IX compliance. If NCAA member schools were so comfortable with the gender inequities within the NCAA, which they appear to be given the reports on the conduct of women's championships across all three divisions, what is happening on their own campuses?

Through the lens of the past 50 years, the full power of Title IX will not be realized without recognizing that not all girls and women, as well as individuals whose gender identity does not conform to Title IX's implicit and explicit gender binary, have benefited from the legislation or been well-served by it.

Asian, Black, Indigenous, Latinx, and other girls and women of color participate in sport at lower levels, face greater barriers to participation, and are historically excluded in sport leadership.

Providing safe spaces for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) athletes and sport leaders remains an urgent consideration.

Female athletes with disabilities continue to receive fewer opportunities to pursue their athletic dreams.

Access to sport opportunities varies greatly based on economic status and location (urban, suburban, or rural).



Title IX can play a critical role in contributing to a more inclusive sport environment for girls and women as they enter high school and college. However, for that kind of transformation to occur, there needs to be an end to gender discrimination in the nation's high school and college athletic departments. In this report, we seek to achieve three things. First, we acknowledge what has changed since the passage of Title IX and the successes that have been realized. Second, we note what has not changed and the issues that remain to be addressed. Third, and most importantly, we focus on the next 50 years of Title IX, what needs to change, and initiatives undertaken in order to realize Title IX's promise of gender equitable treatment. Ultimately, we contemplate an approach to Title IX's next 50 years where persistent barriers to gender equity and fair treatment are addressed and where the U.S. sport system is recast to fully embrace a vision of inclusive excellence.

Our findings, based on a rigorous literature review and original research using publicly available data sets, reveal that there is much work to be done. The focus of our work was primarily on the enforcement of Title IX in athletics and the three major areas that should be reviewed in ongoing and regular Title IX audits: athletic participation opportunities, allocation of athletic scholarship funding, and allocation of resources in operational areas (recruiting, operating expenditures, coaches' salaries, as examples). There is a greater focus in the report on trends occurring in college sport because less research has been done on the high school sector as there is no national database that lends itself to comprehensive analysis.

The authors are keenly aware that another critical area of Title IX enforcement is sexual assault, harassment, and violence as well as the intersections with sport. Because of the magnitude of issues that have arisen during the past decade, we believe this warrants an entirely separate report; thus it is not addressed in this report.

“Sometimes it seems like Title IX gets misconstrued as ‘us against them.’ There needs to be more investment to reduce inequities.”

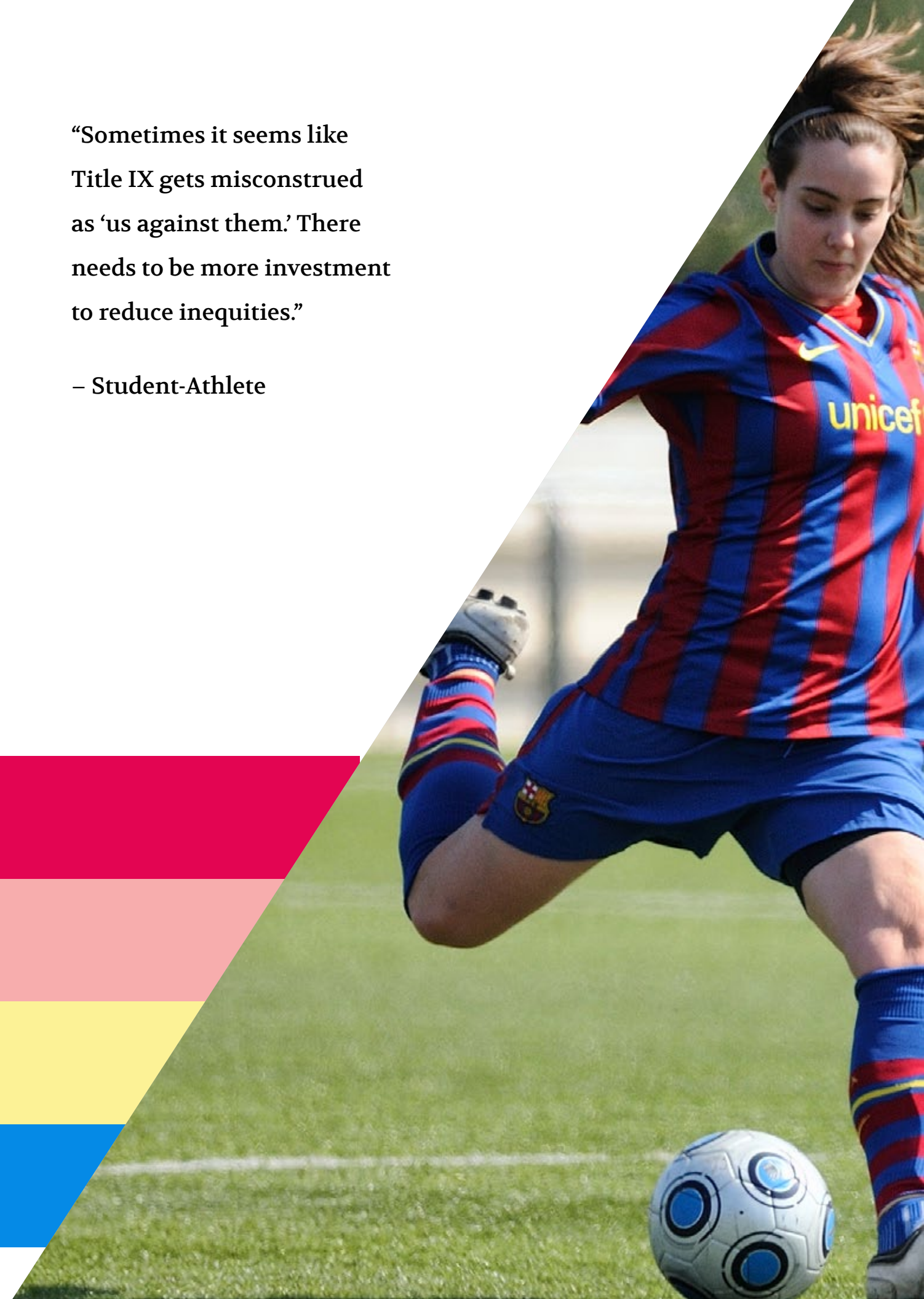
– Student-Athlete

Title IX's Three-Part Test of Gender Equity in Athletic Participation Opportunities

Part 1. Substantial Proportionality: Athletic participation opportunities for girls/women and boy/men athletes are offered at rates proportional to their enrollment, OR

Part 2. History and Continuing Practice of Program Expansion: Offerings in the athletic program have kept pace with increasing numbers of girls/women athletes, OR

Part 3. Full and Effective Accommodation: The existing menu of teams offered satisfies the interests and abilities of the underrepresented sex.





Key Findings

based on a rigorous literature review and original research using publicly available data sets.

Title IX's Impact: Girls/Women Athletes Participating in Near-Record Numbers

Title IX has played a critical role in the evolution of sport for girls and women in the United States. Title IX's enactment served as a catalyst for the growth of sport participation opportunities for girls and women at the high school and college levels.

At the high school level, dramatic increases have been seen in participation opportunities, rising from

294,015 / **3,402,733**
in 1972 to in 2018-19, (the most recent reporting year).

Girls comprised

7% of high school athletes participating on varsity teams in 1972. / In 2018-2019, that figure rose to **43%**

At the college level, we have come quite a distance.

29,977 / **215,486**
of female athletes from 1971-72 were competing on teams sponsored by NCAA institutions in 2020-21.

The percentage of women athletes competing on college teams has risen from

15% / **44%**
in 1972 to during the 2020-21 academic year.

While the disruption caused by the coronavirus (COVID-19) pandemic impacted all sports at every level, it is difficult to assess the specific impact the coronavirus had on girls and women participating in varsity athletics. NCAA data for the 2020-21 academic year shows that there was a 2.66 percentage point decline in female athletes playing with a 2.42 percentage point decline in male athletes. The high school participation numbers have not been reported out after 2018-19; thus, this is an area to watch and monitor into the future.



Shortfalls After 50 Years: Inequities in Athletic Departments Persist

A study conducted by the Women's Sports Foundation (Staurowsky et al., 2020), an investigative report by Wesley Jenkins (2019) with the Chronicle of Higher Education, and an external review of the NCAA's approach to women's championships (Kaplan Hecker & Fink, 2021a, 2021b) revealed gross gender inequities across all college divisions, including disproportionately more athletic opportunities provided to men athletes and a shortfall in the investment of resources in women's athletic programs such as dollars allocated for athletic scholarships, recruiting, and coach compensation. There was cause for concern about widespread Title IX noncompliance in high school and college and university athletic programs before the COVID-19 pandemic began, and women's sports programs were clearly vulnerable to cuts during the pandemic. In 2020 alone, female and male athlete plaintiffs successfully challenged cuts to their programs at Brown University, William and Mary, University of North Carolina at Pembroke, East Carolina University, Dartmouth University, Clemson University, University of St. Thomas, LaSalle University, and Dickinson College under Title IX (Bailey Glasser, 2021).



Although it is more difficult to get a complete picture of what is happening at the high school level because less research has been done on that sector, similar concerns appear to exist at the high school level.

Based on an analysis of athletic participation opportunities available to athletes in 15,000 high school programs using data from the National Center for Education Statistics (NCES) and the Civil Rights Data Collection (CRDC), only seven states offered athletic opportunities to female athletes proportional to the enrollment of female students in their schools (Webster, 2020).

In an investigative series of Title IX athletics compliance at the high school level published by the Shirley Povich Center for Sports Journalism and the Howard Center for Investigative Journalism at the University of Maryland, girls are dramatically underserved at the high school level. Through public records requests, journalists found that data gathered by the U.S. Education Department Office for Civil Rights are incomplete and underestimate the extent to which girl athletes do not have access to athletic opportunities proportional to their enrollment (Newhouse, 2022a).



In a report from the U.S. Department of Education Office for Civil Rights (OCR) focusing on protecting the civil rights of students in the nation's schools, 3,609 complaints were filed with the OCR seeking relief under Title IX for gender inequities in high school athletic programs ranging from shortfalls in athletic participation opportunities to inequitable facilities to shortages in quality and quantity of coaching to an array of other benefits (Lhamon, 2015a).

In retrospect, for Title IX protections against sex discrimination to remain unreachable for so many girls and women and/or so tenuous after five decades raises a question regarding how compliance and enforcement is framed and discussed. While Title IX compliance is determined on a case-by-case basis, patterns and trends in the research are highly suggestive that there are many institutions not in compliance with Title IX's expectations in the athletic area.

3

The Clock Has Run Out: 50 Years Is Long Enough to Comply

At the time Title IX was enacted in 1972 and the policy interpretation for athletics was issued in 1979, high schools and colleges were afforded grace periods to come into compliance and even further latitude under a standard of what has been called “a reasonable period of time.” In effect, a school could make the argument that they were out of compliance but, in order to comply, they needed more time to add opportunities, resources, facilities, and coaching staff (Stewart & Harris, 1979). The timeline for each institution was different given circumstances. These timelines were also changing as a result of an influx of female students at the college level after Title IX opened the door to academic opportunities that had previously been closed to girls and women (National Center for Education Statistics, 2022).



As we enter the next half century of Title IX, many of those initial start-up considerations are no longer valid. Schools that have been slow off the mark in providing female athletes equal access to athletic opportunities can no longer claim that they did not have time to plan or to devise a way to accommodate female athletes. A record of long-term noncompliance and/or serial noncompliance is inherently unreasonable, and school administrators should take note of this.

4

Title IX and Gender Equity: Greater Education Is Needed

Since Title IX's passage, school administrators have been reminded by federal officials working at the U.S. Department of Education Office for Civil Rights about their obligations under Title IX. Those include providing Title IX oversight and creating internal avenues to educate stakeholders, monitoring and assessing Title IX compliance, documenting efforts to remedy sex discrimination and discouraging its perpetuation, and providing the resources needed to conduct investigations when necessary (Marcus, 2004; Matthews & McCune, 1977, 1987; Lhamon, 2015b). One of the consequences of the lack of a unified approach to Title IX compliance within schools is the persistent lack of knowledge among educators about what Title IX is and how it should advise their work (Nash et al., 2007). The accumulated effects of this slow, uneven, and at times neglectful attention to Title IX compliance infrastructure within institutions and athletic departments is reflected in research findings and concerns expressed by practitioners.



In 2011, the Association of Title IX Administrators (ATIXA) was formed to "... create a venue for professional exchange between coordinators and other administrators with Title IX responsibilities, to finally and meaningfully wrap our heads around the Coordinator role, other Title IX-based administrative responsibilities, and best practices for institutional Title IX compliance" (ATIXA, 2020, para. 5).

In 2013, the National Women's Law Center filed a complaint with the OCR alleging Title IX violations in the District of Columbia Public School athletic departments. They noted in the complaint that the district failed to provide the name and contact information for the Title IX coordinator. This led to the passage of the Title IX Equity Act in the District of Columbia in 2015.

In 2015, OCR sent out a reminder to school administrators that "A critical responsibility for schools under Title IX is to designate a well-qualified, well-trained Title IX coordinator and to give that coordinator the authority and support necessary to do the job" (New, 2015).

A series of studies assessing Title IX knowledge among athletics administrators, coaches, staff members, and college athletes revealed a general lack of knowledge about Title IX (Staurowsky & Weight, 2011, 2013; Staurowsky et al., 2017; Rodkey et al., 2019).

In a poll of 506 children (aged 12-17) and 1,008 parents, conducted by the Shirley Povich Center for Sports Journalism and the Howard Center for Investigative Journalism at the University of Maryland and Ipsos, 71 percent of children aged 12-17 and 58 percent of parents knew nothing about Title IX (Newhouse, 2022b).

Five decades after the passage of Title IX, the roles, responsibilities, baseline expectations about the credentials and experience, and reporting lines remain loosely defined and vary greatly across the education landscape (Pappas, 2021). That variability translates into a similarly chaotic compliance and enforcement environment when it comes to Title IX and athletic departments. In one of the few studies examining the experiences of Title IX athletics coordinators, findings revealed a general lack of clarity regarding who in athletic departments is supposed to handle Title IX oversight (Staurowsky & Rhoads, 2020).

Red Flags Are Flying: Title IX in College & High School Sports

The Equity in Athletics Disclosure Act (EADA) passed in 1994 is a federal law requiring colleges and universities to publicly report gender equity information about their athletic programs, including athletic participation opportunities, revenues and expenses, money distributed in athletic scholarships, recruiting expenses, and number of coaches and coach salaries. Although EADA data is not designed to determine Title IX compliance, and Title IX compliance is determined on a case-by-case basis, analysis of EADA resource allocation trends reveals signs that institutions continue to engage in gender discrimination.



Some factors that signal widespread concern are revealed in an analysis of EADA data for 2019–20 that we conducted as part of this report:

Fifty years after Title IX was enacted, 86% of NCAA institutions across all divisions offered higher rates of athletic opportunities to male athletes disproportionate to their enrollment. For the 2019–20 academic year, that gap favoring male athletes represented 58,913 missed opportunities for female athletes.

That pattern of inequity extends beyond NCAA institutions into NAIA institutions as well as junior colleges. Combined, in 2019–20, female athletes had more than 80,000 fewer opportunities to play and compete than if their athletic programs had offered them opportunities proportional to their enrollment.

In 2019–20, of the \$241,40,778 spent on recruiting athletic talent to compete at the college level (in both two-year and four-year institutions), 30% was spent on recruiting female athletes (\$75,290,142).

In 2019–20, male athletes received \$252 million more in athletic scholarships than female athletes received. If athletic departments offered athletic opportunities to female athletes proportional to enrollment, they would have had to award an additional \$750 million in athletic scholarship assistance.

In 2019–20, on average, coaches of women’s teams received a much smaller percentage of salary compared to coaches of men’s teams, ranging from 19% in NCAA Football Bowl Subdivision (FBS, formerly known as Division I–A) to 49% in NJCAA Division I.

What the existing research reveals about gender equitable treatment in marketing and media within college athletic departments is twofold: female athletes continue to be underserved in terms of promotional efforts, and that pattern within athletic departments appears to align with the larger pattern of limited coverage of women’s sports. At the high school level, so little research has been done that there is no basis to report what is happening in this sector.

Although it is more difficult to get a complete picture of what is happening at the high school level because less research has been done on that sector, similar concerns appear to exist. Based on an analysis of data reported by the National Federation of State High School Associations for the academic year 2018–19, high school girls in every state were provided proportionately less access to athletic participation opportunities compared to boys relative to enrollment. On average, high school girls were afforded 42% of athletic opportunities at the high school level despite the fact that girls made up 48.5% of full-time students enrolled. In order to remedy that 6.5% proportionality gap, high schools nationally would need to offer 1.1 million more opportunities for girls to play varsity sports. In a report from the OCR focusing on protecting the civil rights of students in the nation’s schools, 3,609 complaints were filed with the OCR seeking relief under Title IX for gender inequities in high school athletic programs (Lhamon, 2015b).

At the Intersection: Race and Gender Under Title IX

There is a need to examine the intersectionality of race, gender, and Title IX to understand the overall impact of this educational law on women in sports. Using an intersectional approach provides an avenue to understand the meaning and challenges of multiple intersecting identities on a person's life (Crenshaw, 1989; McDowell & Carter-Francique, 2017).

Since the enactment of Title IX, Black, Indigenous, and People of Color (BIPOC) women athletes have experienced an increase in sport participation opportunities (Butler & Lopiano, 2003; Flowers, 2015; McDowell & Carter-Francique, 2017; Cooper & Newton, 2021), yet the "single axis" lens and racial clustering have distorted these statistics and obscure participation barriers that exist for these athletes.

As instrumental as Title IX has been in expanding opportunities for girls and women throughout U.S. society, feminists and critical race theorists point out that as is the case with any "single axis" law, meaning any law that focuses on one category of bias in addressing discrimination, it does not take into account how sex discrimination intersects with other forms of bias. In her book *Getting in the Game: Title IX and the Women's Sports Revolution*, legal scholar Deborah Brake (2010) wrote that for all the progress made under Title IX, "...women have not shared equally in many of the post-Title IX gains" (p. 113). As Doris Corbett, Professor Emerita and administrator at both Howard University and the University of Northern Iowa, who played a key role in creating intercollegiate athletic opportunities at Howard and served as their first women's basketball coach (1973-74) wrote (2001), "Women of color experience a form of double jeopardy – racism and sexism. Because they are overlooked by society in general, their struggles in both sport and other aspects of life are compounded" (p. 307). As such, Title IX does not provide legal protection on the basis of race and, as a single-axis law, it solely focuses on gender, which has provided barriers for Black females in sport (Flowers, 2015; Mathewson 2012). Further, Dees (2008) argues that *Brown v. Board* had a greater impact on Black women's sport participation than Title IX did due to expansion of access.

Similarly, Crenshaw (1989) argues that conventional antidiscrimination law employs a single-axis model that prohibits discrimination on the basis of race or gender, separately, but does not prohibit discrimination based on race and gender acting in concert. However, when examining the double jeopardy of race and gender felt by Black women, "A black woman who has been discriminated against has difficulty proving the requisite inequality. It may be difficult to prove that she was discriminated against on the basis of race, because blacks have not suffered as a group since black men do not share the injury." (Mathewson, 2012) Additionally, Mathewson (2012) reported a Black woman "may have faced obstacles proving that she was discriminated against on the basis of gender because women as a group have not suffered since white women do not share the injury." As such Pickett et al. (2012) suggested, "A focus on both race and gender equity in access and participation in interscholastic athletics is needed to ensure that Title IX addresses gender equity, while recognizing the double jeopardy status faced by women of color."

Racial clustering has also created barriers for BIPOC women in sports. Racial clustering can be attributed to economic inequalities and institutional disadvantages that exist in many communities of color and limited resource school districts (Sabo & Veliz, 2008; Zarrett et al., 2020). Racial clustering can be used to justify the increased numbers of Black women in basketball and track and field (Corbett & Johnson, 2000; Cooper & Newton, 2021). Further, Black women's participation in sports has been historically limited to track & field and women's basketball due to limited access to resources, which will be discussed later in this report, and being unjustly deemed unfit to participate in "country club sports" (i.e., tennis, golf, swimming) (Corbett & Johnson, 2000; Cooper & Newton, 2021; Carter-Francique & Flowers, 2013). Johnson (2008) offers another view of this notion by stating people of color face bias that centers on a perception that they "can only function in a team component with a designated role." As a result, racial and gender disparities continue to fuel participation obstacles for BIPOC women in college sports (Flowers, 2015; Corbett & Johnson, 2000; Cooper & Newton, 2021). This notion could explain the low numbers of BIPOC women in college sports. For example, white women represent the largest population of women athletes in NCAA Divisions I, II, and III conferences combined at 68%. Black women represent 11%, followed by Hispanic women (6%), International women (5%), women identifying with Two or More Races (5%), and Asian women (2%) (National Collegiate Athletic Association [NCAA], 2021a). The percentages of American Indian/Alaska Native and Native Hawaiian/Pacific Islander women registered at .05% although combined they accounted for 1,687 female athletes competing on teams competing under the umbrella of the NCAA (see Table 13 on page 52). Further, there is a need to examine the impact of Title IX on sports participation at historically Black colleges and universities (HBCUs), and, since HBCUs are not monolithic, there is also a need to explore the impact of Title IX on HBCU sport participation at two- and four-year institutions outside of the NCAA (i.e., NAIA).



Overall, race and gender tremendously impact a woman's ability to holistically receive and benefit from Title IX. For example, in a study of data gathered through the CRDC for the academic year 2011-12, several important findings illustrate the influence of race and gender on access to educational and sport opportunities (National Women's Law Center, 2015). Some of those findings included the following:

Over 40% of the nation's high schools are either heavily white (90% white) or heavily minority (white enrollment is 10% or less).

Far fewer athletic opportunities are available to students in heavily minority schools compared to heavily white schools. In a typical heavily minority school, there are only 25 spots available on sports teams for every 100 students; in a typical heavily white school, there are 58 spots available on sports teams for every 100 students.

Gender disparities in athletic opportunities were pervasive across schools; however, the gender disparities were greater in heavily minority schools.

In a typical heavily white high school, girls had 82% of the athletic opportunities that boys had.

In a typical heavily minority school, girls had only 67% of the opportunities to play sports compared to opportunities provided for boys.



We are super passionate. We need support from peers and other sports teams, both men's and women's. And we need to support all students, not just athletes.

– Student-Athlete



7

Right to Play: Title IX and Transgender and Gender Nonconforming Athletes

Title IX is poised to play an important role in securing the legal rights of transgender students to compete on athletic teams according to their gender identity. Emerging case law in other contexts, such as employment nondiscrimination and access to school bathrooms, suggests that the likely interpretation of the statute is that it supports inclusion and conflicts with the laws and policies in some states that prohibit transgender girls from competing in girls' sport. The current administration has signaled its intention to enforce Title IX in a way that maximizes protection for transgender rights. At the same time, state legislatures are working to restrict transgender rights, including rights to participate in sports. Another important actor in this space is the NCAA, which has recently revised its own transgender participation policy to defer to the standards set by sports' national governing bodies (NGBs). Unlike the NCAA, NGBs have not created those policies with educational objectives or Title IX in mind. Advocates must remain vigilant to ensure that this development does not effectively exclude transgender women from accessing the opportunity to participate in college athletics. It also is imperative that Title IX advocates support the ability of gender nonconforming athletes to play and compete. Expanding opportunities for students to participate without restrictions and expectations imposed by gender labels (e.g., addition of new inclusive sport models) can also create more pathways for inclusion.



8

Fostering Participation: Title IX and Athletes with Disabilities

Examinations of Title IX often overlook the gender gaps among students with disabilities. According to the National Center for Education Statistics, there are nearly 7 million students with disabilities attending the nation's public schools (Schaeffer, 2020). Students with disabilities may comprise as much as 14% of total enrollment within public schools (National Center for Education Statistics, 2021). Of that group, approximately 33% or 2.3 million are girls (Schaeffer, 2020).

According to Brittain (2009), 90% of women with disabilities are not active in sport.

In a report from the U.S. Government Accountability Office in 2010, boys with disabilities consistently participate in sport at higher rates than girls with disabilities.

Boys in grades 1 through 7 participated on a school or community-based sports team at a rate of 45% compared to 31% of girls with disabilities (U.S. Government Accountability Office, 2010).

Among athletes with disabilities participating on school- or community-based sports teams offered for grades 7 through 12, 37% were boys and 23% were girls (U.S. Government Accountability Office, 2010).

According to the NFHS (2019), of the 15,571 high school students who participated in adaptive sport activities during the 2018-19 academic year, 44% were female students (6,960).

Christophel (2020) cites Title IX as a model to use in arguing for the need for the creation of separate sport championships and leagues for athletes with disabilities. There is also a strong argument that more attention should be paid to the accumulated effects of multiple forms of discrimination that might occur against a female parasport athlete should she also be a racial minority.

9

New Era in College Sports: Title IX and Name, Image, and Likeness

For decades, NCAA rules prevented college athletes from entering into endorsement contracts and making money from the use of their names, images, and likenesses (NILs). At the risk of losing their eligibility to compete in their sports, NCAA Division I college athletes, in particular, for decades could not appear in advertisements, participate in promotional activities, sign autographs, run their own sports camps, or publish under their own names and get paid.

After the state of California passed the Fair Pay to Play Act in 2019, which provided for college athletes to profit off their NILs and to have access to representatives, 26 other states passed similar laws with many taking effect in July 2021 and some earlier. Faced with such a wave of opposition to its rules, the NCAA suspended its rules in the summer of 2021, ushering in what some have referred to as the NIL era of college sports. In the immediate aftermath of college athletes' access to their NIL rights, stories abounded about college athletes promoting all manner of ventures from restaurants to car dealerships to professional sport franchises to fitness products. The value of those endorsements ranged from the receipt of in-kind merchandise such as T-shirts and hats to the occasional six-figure deal.

Olivia Dunne, an LSU gymnast, who has 5.7 million followers on social media is expected to reach over \$1 million in endorsements after her first year. Among the companies she has deals with are Vuori (an active wear company) and PlantFuel (a wellness company) (Chen, 2021).

La'Quanza Glover, a basketball player for Edward Waters University, is believed to be the first HBCU female athlete to sign an endorsement deal with Global Freight & Commerce (Bell, 2022).

Linktree Partners, a linking platform, signed Marghzetta Frazier, UCLA gymnast, and Alana Walker, University of Virginia volleyball player, to "create and share content that showcases who they are on and off the court, using Linktree to connect their audiences to their content, brand deals, causes, playlists, communities and NIL ventures" (Dosh, 2021c).

In this evolving landscape, where 60%-64% of endorsement deals to college athletes are going to men (Associated Press, 2022), there is a need for ongoing vigilance to assess whether women athletes are being promoted in equitable ways and the avenues to access endorsement deals are being made available to them.

Moving Forward into the Next 50 Years of Title IX

There is little question that Title IX has had a lasting impact on nation's schools and the opportunities available to pursue educational opportunity free of the limitations of gender stereotyping and gender discrimination. It is also clear that there is work to be done to create a sustainable system of Title IX compliance that withstands the tides of any political moment and ensures that each student entering a federally funded secondary and postsecondary institution with a dream in their heart will be empowered and uplifted in their pursuit. In the specific area of athletics, the numbers tell a compelling story of opportunity. A society that once justified limiting sporting opportunities for girls and women on the basis of now disproven notions of female inferiority and physical delicacy has witnessed a transformation of the U.S. sport system to one where women as victors dominate on the world stage and demonstrate on a daily basis in their local communities what strong, talented, and forceful women can do.

For all of the positive impact that Title IX has had on girls and women in sport, the 50th anniversary is a time to celebrate the successes but to be clear that there remains much work to be done. As this report documents, the progress that has been made is often tenuous; falls short of what the law requires; has limits in terms of achieving equity for girls and women from non-white racial groups, sexual minorities, those with disability, and those from lower economic groups; and has yet to be consistently enforced around the country. Our findings show that many of the same conversations about female athletes being viewed as second-class citizens that were circulating during Title IX's 10th, 20th, 30th, and 40th anniversaries persist today. An overarching question that shaped this report is what needs to happen in order for us to move beyond these issues to realize more fully the bright shining future of a gender equitable sport system offered by the nation's schools that contributes to the intended values espoused in our U.S. democracy.

At the 50th anniversary, we are also left looking at different numbers, such as dollars spent on athletic scholarships and recruiting, coaching salaries, and the value of television contracts, that show educational institutions at every level fall short in their investment in the future of female athletes. Researchers who have explored the intersection between race, ability, gender identity, and gender reveal that, even among women, people with disabilities, and individuals who are transgender and nonbinary, equal access is not experienced the same way and that there are large groups of people who have limited to no access to sport. To ensure that we are not still talking about the same things (missed opportunities, pay equity issues, lack of media coverage for women's sports, inequitable representation of women and members of minority groups throughout athletic departments in leadership roles, etc.) in the decades ahead, we propose the following recommendations based on the research done here. It should be noted that the new research conducted for this report affirms work done for the Women's Sports Foundation's report titled *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women* (Staurowsky et al., 2020). As a consequence, some of the recommendations listed here are drawn from that report.



Policy and Practice

There are many steps that federal, state, and local policymakers; education administrators; sport governing bodies; coaches; and others can take to improve the conditions and opportunities for girls and women in sport and physical activities. Given what we know about the positive impacts of sports on the lives of girls and women and the protections guaranteed by Title IX, greater awareness, education, compliance, and transparency are needed to ensure equity for all.

While structures of governance and uninterrogated practices can impede progress and foster exclusions, particularly for girls and women of color, those from low-income backgrounds, LGBTQ-identified athletes, and girls and women athletes with disabilities, there is much that can be done to accelerate the pace of change. More targeted research can also provide greater transparency to support public policy implementation, women athletes, the conditions of equality and participation, and impacts and consequences of the status quo.

The following list of recommendations — including stepping up enforcement of Title IX, increasing data transparency, providing specific policy guidance to enable the inclusion of transgender and nonbinary athletes, and addressing resource inequities with greater focus on those experienced by women of color, LGBTQ athletes, and athletes with disabilities — will help ensure that the next 50 years of policy implementation will fulfill the full promise of Title IX. Some of these concur with recommendations advanced in the Women's Sports Foundation's *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women* (Staurowsky et al., 2020) and from other researchers and groups where noted.

Recommendations for Public Policymakers

Federal Policymakers:

Federal-level institutions are key venues for promoting and enforcing equal practices through public policy. All efforts to fully and aggressively implement Title IX must be pursued by the U.S. Department of Education, the U.S. Congress, and the U.S. President.

In order to achieve these outcomes, policymakers must work to ensure better education about reporting, transparency, monitoring, and enforcement of Title IX among those charged with implementing policy. Recommendations include:

Congressional policymakers should continue to provide full funding for the Office for Civil Rights (OCR) in the U.S. Department of Education. Adequate funding will enable the Office to strengthen and expand its efforts to enforce Title IX and shorten the investigation and resolution timeline for all reviews.

The OCR should move toward initiating proactive compliance reviews at a larger swath of educational institutions and provide technical assistance and guidance on emerging questions about Title IX enforcement. Federal policymakers could pursue this by passing the Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act of 2021 (H.R. 4097 & S.2186). This bill would recognize the need to provide more resources, training, and technical assistance to schools to ensure compliance with Title IX and prevent and reduce sex discrimination in all areas of education.

The U.S. Department of Education should develop a federal reporting system that requires schools to publicly disclose: a) which part of Title IX's three-part test for athletic participation they are using to comply; and, if appropriate, collect b) information regarding their history and continuing practice of program expansion; and/or c) the methods used to fully and effectively meet the needs and interests of qualified female athletes.

The U.S. Congress and the U.S. Department of Education should adjust the Equity in Athletics Disclosure Act (EADA) and its regulations so that the annual data it requests on its form fully encompass the practices of athletic departments in order to comprehensively assess gender equity practices, including the reporting of information about an institution's athletics-related capital as well as operating expenses.

The U.S. Department of Education should establish an external audit system to promote public confidence in and full accuracy of EADA reports.

The U.S. Department of Education should require critical institutional representatives (e.g., Title IX compliance officers, Directors of Athletics, etc.) to participate in annual Title IX training to ensure that those charged with implementing it within their institutions are fully knowledgeable of policy requirements and their role(s) in implementation.

The Office for Civil Rights should create a one-stop website for school personnel, families, and students to understand and apply Title IX athletics standards in an easy-to-digest manner (adapted from Fair Play for Girls in Sport, Legal Aid at Work (K. Turner, 2021)).

The U.S. Congress should pass legislation extending similar EADA intercollegiate disclosure requirements to primary and secondary school districts where schools sponsor interscholastic athletic programs in order to promote transparency and enforcement of Title IX at the elementary and secondary level of education. This should include disclosure of information regarding participation, expenditures, and budgets to help make public full information about the status of Title IX implementation and the equitable treatment of girls in sport.

Policymakers should end the Title IX "contact sports exemption" that denies girls and women the opportunity to try out for some teams otherwise designated for boys and men. Specifically, this would mean that policymakers issue federal guidance allowing open tryouts for teams designated for boys or men irrespective of whether a similar team designated for girls or women is offered by the same school, college, or university.

Policymakers should provide guidance and support for schools and universities in their efforts to create additional athletic opportunities for girls and women to participate in mixed-sex teams and develop research-informed policies and practices to ensure positive participation environments to support all student-athletes as they learn to play and compete together.

Policymakers should provide guidance and support to schools that wish to offer additional athletic opportunities that aren't restricted or divided by gender at all (i.e., "gender-free teams"). Such teams could allow nonbinary students (and others) to participate in sports free



of the dissonance that would otherwise result from competing in the category that does not comport with their gender identity. Exploring options for “gender-free” sports options could give more diverse participation opportunities to all athletes who might prefer integrated rather than segregated teams.

The U.S. Department of Education should issue specific policy guidelines confirming that Title IX should be interpreted to provide opportunities to transgender and nonbinary students to participate in sports in a manner consistent with their gender identities and in accordance with the U.S. Supreme Court’s ruling in *Bostock v. Clayton County*. In addition, policies should not supplant the right of any athlete to participate on teams that correspond to their sex assigned at birth if they so choose. For a nonbinary athlete, there might not be opportunities that correspond to or affirm their gender identities, since most sport teams are designated as either “boys’/men’s” or “girls’/women’s.” Nonbinary athletes should always, at a minimum, retain the right to join the team in accordance with their sex assigned at birth.

The U.S. Department of Education should review and evaluate sunseting “prong two,” the continued history and practice of program expansion component of the three-prong test for Title IX compliance. Schools should now simply be offering proportional athletic opportunities under prong one or showing they gender-equitably meet all students’ athletic interests under prong three. *Fair Play for Girls in Sport* (K. Turner, 2021) advocates for a similar stance.

The U.S. Department of Education should review, update, and reissue the 1990 athletics Investigator’s Manual to ensure that it comports with current practices and circumstances of intercollegiate sport (adapted from *Fair Play for Girls in Sport* (K. Turner, 2021)).

The U.S. Congress should pass the Equality Act to clarify, as a matter of federal law, that discrimination on the basis of gender identity and/or sexual orientation is prohibited in educational institutions and other key areas of American life.

The U.S. Congress should pass the Safe Schools Improvement Act, which would require school districts to adopt anti-bullying and harassment policies that address many forms of gendered bullying, including on the basis of gender identity or sexual orientation.

Because girls and women of color are less likely to receive the full benefits of policy implementation and access to sports, two policy changes could help address resulting issues. First, the U.S. Department of Education should modify its Civil Rights Data Collection (CRDC) to also collect race-specific data on sports participation. Collecting athletic participation data not just by gender, but also by gender broken down by race/ethnicity, is consistent with other key parts of the CRDC. The National Women’s Law Center (NWLC) and the Poverty & Race Research Action Center (PRRAC) (2015) have long lobbied for this approach. Second, the U.S. Congress should pass the High School Data Transparency Act, which would require schools to publicly report information on the status of female and male athletes and students, broken down by race and ethnicity, as well as expenditures on each sponsored sports team.

This report also identifies the critical importance of institutional oversight at multiple levels. Thus we recommend improved monitoring of athletic equity practices at the federal level to ensure that all school districts, universities, and colleges that receive federal funding

designate an employee to serve as Title IX coordinator. They should make the Title IX coordinator’s identity and contact information easy to find by students, personnel, and members of the public. The Office for Civil Rights should continue to enforce the law’s Title IX coordinator requirement through investigations, resolutions, and, where necessary, adjudication.

Federal policymakers should reexamine Title IX regulations to assess their applicability to club sports, intramurals, and recreation programs.

Federal policymakers should conduct oversight of the equity practices of tax-exempt nonprofits engaged in organizing competitive athletics (e.g., the NCAA, NAIA, high school athletic associations) given recent findings of the role such groups can play in the perpetuating of inequalities (in, for example, the 2021 NCAA Men’s and Women’s Basketball Tournaments).

Policymakers should recognize the growing interest in and availability of esports at the high school and collegiate levels. Regardless of whether esports is recognized as a sport under Title IX, its emergence indicates the need to develop guidelines to ensure that school administrators are aware of their obligations under Title IX to provide equal access to participation opportunities and treatment. Further, steps should be taken to ensure that Title IX obligations do not cease simply because the form of sport involves a glass monitor and virtual playing field.

State Policymakers:

Athletic opportunities remain unequal for girls and women at all levels of education. At a minimum, states should monitor practices in their school districts to ensure that they are providing equal athletics opportunities to girls and boys in ways that are consistent with their obligations under Title IX.

This report acknowledges the importance of working towards high-school-level public disclosure reports in every state to provide better data about current practices and expenditures in interscholastic athletics relative to the allocation of opportunities and resources.

In the absence of a federal high school data reporting mandate (which we advocate for above), state legislatures (and/or state high school associations) should pass legislation that requires the public disclosure of equity practices in primary and secondary schools on the basis of sex, broken down by race and ethnicity. These data should be made available



to the public, both as manageable data sets that enable cross-school comparisons and via online “data cutting tools” such as those hosted by the U.S. Department of Education to make available the EADA reports.

Given the unique vulnerabilities of youth athletes to potential sexual abuse, state-level policymakers should advance laws and policies that protect minor children from sexual abuse while participating in athletics. Existing guidance developed by SafeSport (U.S. Center for SafeSport, 2020) on Minor Athlete Abuse Prevention should influence their policy development.

State policymakers should be proactive in implementing inclusive policies for transgender and nonbinary athletes by passing state-level gender identity and sexual orientation nondiscrimination policies (where they do not already exist). Such policies should be generally applicable and also specify non-discrimination to ensure athletic access. These efforts can foster welcoming environments for all athletes and work to diminish barriers to participation.

State policymakers should pay particular attention to the participation barriers confronting girls and women of color in racially segregated schools by analyzing participation rates and working with individual schools to add additional opportunities or teams as needed. We concur with the NWLC and the PRRAC (2015) in their recommendations to simultaneously advance gender and racial equity in sport.

States should assess the accessibility of public parks and recreation centers, as access to these facilities can be key determinants of healthy lifestyles and safe physical activity.

Local and Community Policymakers:

Local governments can take many actions to ensure equitable access to public space, both for recreational use and for use by local/municipal sports leagues. Local governments should use funds from the federal Community Development Block Grant program to improve recreational facilities, parks, and play equipment, particularly for racially segregated and/or isolated, low-income communities. The NWLC and PRRAC (2015) offer a number of important recommendations. They include reviewing zoning laws to address infrastructure improvements and investing in areas and structures that facilitate physical activity. These local investments can be key vehicles to ensuring that young girls have access to sport and physical activity at a young age.

Coaches and parents of athletes in local arenas should be supported in receiving access to information about the requirements of Title IX and the efforts of local and community sports organizations to ensure gender equitable policies. This programming could be run by municipal sports leagues and made available by the U.S. Department of Education.

Local and municipal policies should support coaches and athletic staff in receiving affirmative training on how to navigate existing policy in their school district around transgender sports participation, as well as on how to ensure a transgender-affirming sports environment.

Recommendations for Education Administrators and Sport Governing Bodies:

For education administrators at all levels:

Athletic and education administrators are key stakeholders in leadership towards equitable opportunities in sports on the basis of gender, race, and physical ability. They operate as critically important actors in the on-the-ground implementation of Title IX of the Education Amendments of 1972, Title VII and Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. Thus they should be educated and supported in their evaluative and implementation roles to support athletic opportunities without discrimination.

Athletic and education administrators should be supported in their efforts to develop opportunities for girls to participate in mixed-sex teams and work on policies to ensure positive participation environments to support all student-athletes as they learn to play and compete together.

Administrators should routinely evaluate and balance fair treatment across the athletic program. They should evaluate practices across their athletic programs to ensure equity in equipment and supplies, facilities, scheduling, transportation, coaching, and more to examine whether women’s/girls’ teams are treated equally and so that they can then make continual adjustments where any imbalance exists. Keeping simple spreadsheets of issues such as the uniform replacement schedule and facility scheduling ensures a “big picture” overview of what women/girls and men/boys get can help spur adjustments as needed (K. Turner, 2021).

As required by federal law, each educational institution that receives federal funding must name a Title IX Coordinator. Information about the Coordinator’s identity and contact information must be made accessible and easy to find by students, personnel, and members of the public.



Administrators should ensure that Title IX coordinators are trained annually in Title IX requirements and implementation strategies. They should work with state education agencies, and state athletic associations should ensure that training is available and financially accessible to school district personnel serving in Title IX coordinator roles.

While the best practice for most institutions may be to structure the Title IX coordinator's position external to athletics (given needed oversight over other issues of sex non-discrimination), the Title IX coordinator should work closely with athletic department staff to ensure that gender equity issues in athletics are not overlooked by institutions simultaneously working to address other challenging Title IX issues, such as sexual misconduct or harassment. It may be helpful for a Title IX coordinator to designate deputy coordinators or other Title IX liaisons within the athletic department to facilitate necessary trainings and to ensure effective communication and reporting.

Institution-wide committees that monitor and support the institution's Title IX compliance should ensure that gender equity in athletics is included on the committee's agenda or else designate a specific athletics-related subcommittee to address that issue. This would be supported by the passage of the Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act (originally introduced in 2021 as H.R. 4097 & S.2186). This bill would recognize the need to provide more resources, training, and technical assistance to schools to ensure compliance with Title IX — specifically coordinators — and prevent and reduce sex discrimination in all areas of education.

Education on Title IX and its requirements is critical among coaches and athletes. As evidenced in the findings from this study, there is little consistency in approaches to Title IX compliance in athletic departments on the education of athletes and coaches. The lack of Title IX education among coaches, college athletes, and administrators in NCAA athletic departments has a disabling effect on the Title IX enforcement mechanism at the local level. As Staurowsky & Weight (2011, 2013) point out, the absence of knowing what the law does and does not require, and the limited capacity to review public disclosures about resource allocations in the athletic departments they compete and work for, results in athletes,

coaches, and athletic department personnel who are unprepared to participate in a system of accountability that is inclusive.

Empowering athletic administrators, coaches, and students to voice thoughts or concerns over equitable practices in athletics departments can ensure full policy implementation, which administrators must support through leadership. Additionally, administrators should ensure, in both policy and practice, that student whistleblowers are protected from reprisal when they report in good faith actual or perceived violations of the law, in keeping with Title IX's prohibition on retaliation.

Because women remain underrepresented across the sport industry in leadership positions, there must be continued attention to the sports workplace. Issues of recruitment and retention are critical for increasing women's leadership in coaching, administration, and executive positions, as is attention to issues of pay equity and equal treatment at work. Proactively addressing these issues is central to creating and maintaining an inclusive culture in which women and girls can fully participate in athletics.

All administrators should support the annual use of LGBTQ and gender equity "respect and inclusion trainings." These are important spaces for sharing accurate information about Title IX and gender equity, and to proactively address bias against women and queer people in sport. We join Athlete Ally (2021) in recommending that these trainings:

- o Be held at least once a school year.
- o Be mandatory for all coaches, players, and staff.
- o Review all institutionalized LGBTQ harassment policies and team Codes of Conduct.
- o Cover allyship best practices. Athletic departments also should maintain up-to-date LGBTQ inclusion resources that are readily available to coaches, players, and staff throughout the year, in between annual trainings.

All levels of administration should have clear and visible reporting systems for athletes, coaches, or staff to report incidences of sexist, misogynistic, racist, homophobic, or transphobic harassment or conduct within their team or work environment. These policies should allow for anonymous reporting and should be backed up with clear timelines for administrative response and action. They also should outline a non-exhaustive list of potential disciplinary outcomes and should be published in athlete handbooks that are distributed during orientation.

Administrators should ensure that all facilities, including bathrooms, changing facilities, locker rooms, showers, and competition venues, enable all athletes facility access in ways that make them feel most comfortable and safe. Coaches and staff also should be permitted access to facilities that are consistent with their gender identities. All facilities policies should be clearly listed in the administrative handbook.

Finally, in alignment with analysis from Fair Play for Girls in Sport (2021), schools that overcome the myths and misunderstandings about Title IX are able to afford and promote



genuine equity. Employing an effective Title IX Coordinator and giving school staff regular, dynamic training helps (versus mere legal or policy documents that school staff may struggle to understand and follow). As Fair Play notes, common myths (to address and debunk) include: “there is a Title IX carve-out for football when no such exception exists; booster club donations need not be overseen and balanced between girls’ and boys’ teams; whether charter schools are equally subject to Title IX; whether Title IX applies to elementary, middle, and high school athletics (not just a college provision); that girls playing at all is enough; whether non-school programs are subject to Title IX; that prong two is a viable defense. Understanding Title IX is key.” (Fair Play for Girls in Sport, 2021)

Instilling a culture of equity from the top to the bottom of the organization can build awareness and instill lasting, equitable practices.

Additional specific recommendations for Higher Education Administrators:

Colleges and universities should seek to hire many and diverse women and nonbinary people into administrative positions within collegiate athletics. In addition to serving as role models, increasing the number of women in athletic administration can provide a critical mass of support for equity initiatives in the persistently male-dominated field of sport. It also can ensure that more women coaches are hired to coach both women’s and men’s teams. Furthermore, hiring women as administrators can propel important trickle-down effects, as the research shows that women athletic administrators are more likely to hire women coaches.

Higher ed administrators should evaluate hiring practices at the collegiate level to ensure equitable opportunities for women. They should recruit gender-diverse pools of applicants for open positions developed by administrators and search committee members who are themselves diverse and knowledgeable in recognizing the subtleties of discrimination and are committed to overcoming it. They should standardize human resources policies and procedures to ensure neutral outcomes with regard to gender, race/ethnicity, disability, and LGBTQ status, as well as educate hiring committee members on inclusive practices and overcoming implicit bias.

Administrators also should work to reduce gender bias and discrimination in the workplace with deliberate strategies to address each. They must evaluate role definitions and position descriptions to identify gender markers and identifiers, expand role definitions and position descriptions to eliminate gender bias, evaluate promotion practices to identify attributes more commonly aligned with one gender, and create hiring committees with diverse representation.

Hiring practices also must evolve. Higher ed administrators should identify “targets of opportunity,” such as intentionally seeking to hire a woman when a man retires. They should replace women coaches who leave with a woman coach when possible. They should publicize positive metrics and changes (such as achieving an A grade on an external “gender report card” or hiring a woman coach or administrator). They should review and audit

practices, such as bonus structure and salary negotiation processes, to eliminate gender-biased recruitment and retention strategies and should implement tracking mechanisms and monitor progress on a regular basis. Ensuring accountability with incentives and consequences tied to funding for missed metrics is critical. Those administrators charged with hiring in collegiate athletics always should ensure that women or nonbinary candidates are a part of the finalist pool for coaching and athletic administration jobs.

Administrators should proactively value and seek opportunities to hire women and nonbinary people to coach sports teams designated for men. The research shows that women’s leadership can be a powerful antidote to bias against women in sport and society.

Administrators should partner with programs across the institution/campus to diversify student enrollment and to actively recruit diverse graduates into internship and entry-level positions. They should factor diversity into all strategic decisions, including fundraising, marketing, management, and administration.

Administrators must identify barriers to and opportunities for career advancement for women in sport. Creating mentoring programs are key to success. They should build in opportunities for women to learn from seasoned professionals and grow through mastering new challenges, identify male allies who have the power to help women advance and change the status quo, and financially support professional development opportunities for women who will all support these aims. Administrators should also identify policies impacting parents and those who have caretaker responsibilities and generate new ideas to create a workplace supportive of families and employee well-being. They must eliminate practices of reliance on networks that limit inclusion of women and diverse colleagues and create career plans with employees to achieve metrics for consistent growth and advancement opportunities.

National Collegiate Athletic Governing Bodies Administrators (e.g., NCAA, NAIA):

Consistent with the findings from the external audit of NCAA equity practices conducted in 2021 by the law firm Kaplan Hecker & Fink (2021a, 2021b), we recommend follow-through on the recommendations to guide practice at collegiate governing bodies and to require that such groups provide structural support for gender equity.

When governing bodies or associations are charged with hosting athletic competitions, they should develop equity plans for funding structures, staffing, marketing, promotion, sponsorships, and the athlete experience. All practices should be disclosed in an annual report. Equitable participation opportunities must be available for men and women across all NCAA Divisional Championships.

In order to motivate institutional compliance, the NCAA and other athletic associations should monitor Title IX compliance as a condition for membership, reviving its past practice of self-study and peer review. Similarly, state athletic associations and/or state education agencies should provide compliance oversight as well.

Governing bodies should conduct Title IX athletic education seminars at association events (e.g., annual meetings) and should make recordings of such seminars available online.

Governing bodies/sports organizations should be required to have a Title IX or gender equity assessment by a relevant third party every three to five years (e.g., by federal, state, or local policymakers).

All collegiate governing bodies should adopt policies that refrain from hosting championship events in states where anti-LGBTQ laws have been passed by the state legislature or by executive order. This is particularly pressing as a result of state legislative activity in recent years. The current status of LGBTQ laws can be found on the Movement Advancement Project website: <https://www.lgbtmap.org/>.

The NCAA should expand its commitment to implementing policies that address and prevent sexual assault and harassment. Policies should incentivize athletic administrators to empower Title IX coordinators in their efforts to propose and adopt preventative measures among their athlete communities and on their campuses. They should empower coaches and teammates to center the wishes of survivors in any individual, team, or campus response.

Primary and Secondary Education Administrators:

Primary and Secondary Education Administrators should encourage their athletic directors to have written policies that address nondiscrimination and inclusion on the basis of gender identity, gender expression, and sexual orientation if their state does not have clear guidance under state law. Such nondiscrimination protections benefit all athletes by fostering inclusive space.

School administrators should make every attempt to ensure that students receive 150 minutes of physical activity each week through physical education classes. Research demonstrates that such opportunity increases children's desire to play sports, which impacts long-term sports participation (Illinois Enhance Physical Education Task Force, 2013).

Schools that receive federal funding for student nutrition should fulfill their obligations to create school wellness programs and policies that should establish goals for the sports participation of enrolled girls. Providing good nutrition and access to physical activity can operate as powerful bulwarks against the attrition of girls from sports as they mature.

Primary and Secondary Education Administrators should familiarize themselves with all SafeSport guidelines designed to prevent sexual abuse in athletics, particularly abuse of minors.

High School Athletic Association and School Administrative Policymakers:

In order to motivate institutional compliance, the state athletic associations and/or state education agencies should monitor Title IX compliance as a condition of membership.

State athletic governing bodies should be encouraged to monitor and continuously evaluate state-by-state sport trends around gender equity and the intersections of race and disability.

We join GLSEN in recommending that state athletic associations should develop guidance for local education agencies and schools that affirms and supports the right of trans and nonbinary students to participate in interscholastic and intramural sports (GLSEN, 2021). Specifically, the following policies should guide the incorporation of trans and nonbinary athletes in high school association policy:

- o Students should have the right to participate in athletics in a manner consistent with their gender identity, even if that identity differs from the sex listed on their registration records or birth certificate.
- o Athletic associations and schools should work in partnership with the trans or nonbinary identified students to ensure that athletic participation and facility access (e.g., locker rooms) are safe and affirming.
- o Policies for access to locker rooms, showers, and restroom facilities should ensure that trans and nonbinary athletes are allowed to use the facility where they feel most safe.
- o Athletic association policies should specifically allow trans and nonbinary athletes to use a name or pronouns of their choice, even if inconsistent with identity documents.

Leagues should explicitly ban and condemn homophobic, transphobic, and/or anti-LGBTQ conduct by coaches, athletes, fans, and staff involved in athletic activity. Leagues and school administrators should explicitly outline potential consequences of violations of these policies and address clear mechanisms for lodging reports.



Recommendations for Coaches:

On creating inclusive teams:

Consistent with Center for American Progress and Athlete Ally, we note that, given the rising number of youth identifying as transgender, nonbinary, or genderfluid, “efforts must be made by all stakeholders, including coaches, athletic directors, administrators, and state organizations, to ensure that sports environments and policies remain welcoming and affirming for youth who don’t identify with a male or female gender. Nonbinary youth must also be able to meaningfully participate in sex-segregated athletic programs” (S.K. Goldberg, 2021, p. 25).

Education of coaches at all levels of athletics is key to pursuing these aims (Athlete Ally, 2021).

Coaches are key to creating supportive environments for LGBTQ athletes and should complete inclusion training. Athlete Ally’s Champions of Inclusion is a free, comprehensive online curriculum that supports athletes, coaches, and administrators in understanding the issues and practices that can guide inclusive teams: <http://allylearn.wpengine.com/>

On prevention of abuse of athletes:

Background checks, qualifications, and education should be prioritized in hiring decisions of coaches.

Implementing mandatory education and training of all coaches regarding emotional and physical abuse and appropriate motivation techniques can reduce the possibilities for abusive environments. Administrators should enforce a zero-tolerance policy for coaches emotionally and/or physically abusing athletes. They should include specific language in coaching contracts that prohibits abusive behaviors and that states any type of abuse is grounds for termination with cause. Recent high-profile events such as the revelations of Larry Nassar’s sexual abuse of hundreds of girls and women reveal that reports of abuse from female athletes are more apt to go under-investigated, so administrators must be particularly attentive to proactively addressing gender bias in investigations.

Coaches should familiarize themselves with the SafeSport Minor Athlete Abuse Policies (2022) that are designed to provide guidance on mitigating possible conditions that can foster the possibility of sexual abuse.

On supporting participation and retention:

Coaches should be encouraged to help educate parents on the benefits of supporting their daughters’ participation in physical activity and sport. Encouraging participation in sport at an early age helps girls enjoy full advantage of developmental factors associated with sport participation. Coaches can stress the importance of continued sport participation during the ages of and surrounding puberty and can educate parents and caregivers about how they can support their daughters’ ongoing sport participation.

Coaches should emphasize team building and inclusion when creating and strengthening girls’ sport experiences while simultaneously focusing on skills building, communication, leadership, and other benefits of sport.



Recommendations for Students, Athletes, Parents, Coaches, and Others

National Level

Title IX is a federal policy, so advocacy at the national levels is vital. You can advocate to ensure better education, reporting, transparency, monitoring, and enforcement of Title IX. Find the contact information for your U.S. Representative and U.S. Senators. Write them letters or emails; call their congressional offices. Advocate for:

- o Continued full funding of the Office for Civil Rights of the U.S. Department of Education, the division charged with oversight on policy violations, in the annual federal budget.
- o Support for the Patsy T. Mink and Louise M. Slaughter Gender Equity in Education Act (when introduced in 2021, the bill was H.R. 4097 & S.2186). This bill recognizes the need to provide more resources, training, and technical assistance to schools to ensure compliance with Title IX and prevent and reduce sex discrimination in all areas of education.
- o Ask that any legislation governing NCAA athletes' names, images, and likenesses (or other athlete compensation) explicitly addresses gender equity and Title IX compliance.

State Level

State legislatures can play a role in how Title IX is implemented in your state, and what equity looks like in your school district. Recently, lawmakers in many states have also worked to disenfranchise transgender athletes at the state level. Efforts to address these issues are best directed to state-level policymakers. You can find the contact information for your state legislative representative and write to or call their legislative office. Advocate for:

- o State-level oversight of gender equity practices at school districts in your state. Your state-level Department of Education can be encouraged to investigate equity practices, and in many states there are state laws that reinforce sex nondiscrimination protections for students and athletes. Advocate that policymakers and lawmakers in your state fully implement and enforce state laws and ordinances.
- o Policies that fully enfranchise transgender and nonbinary athletes in school-sponsored athletics. If you live in a state where lawmakers are attempting to pass trans-exclusionary policies, advocate that lawmakers vote such bills down. Write them letters or emails; call their office. Participate in demonstrations or protests that show support for transgender youth in your state.

Many state-level high school policies are also created by the high school athletic association. You can find their contact information online. Write them an email or a letter and advocate for:

- o Oversight of Title IX and gender equity metrics among member schools. You can seek information about reports on their annual equity practices.
- o In many states, trans-inclusive policies are set by associations at the high school level. Advocate for inclusive policies that allow transgender athletes to fully participate.

Local Level

Many choices about what gender equity looks like are made by administrators in your local elementary, middle, or high school, or your municipal youth sports leagues. Write them an email, a letter, or place a phone call to your local school administrators. Advocate for:

- o Ensuring equitable treatment of all students in interscholastic athletics. A call to local administrators can go a long way to ensure that they understand that community members care about how decisions are made in athletic programs.
- o Developing public documents about how the school is addressing gender equity in sports, as well as the full inclusion of LGBTQ athletes, BIPOC athletes, and athletes with disabilities.



Recommendations for Researchers:

This report outlines many possible avenues for future research on public policy, women athletes, the conditions of equality and participation, and impacts/consequences of the status quo, including:

On Title IX policy:

Targeted research to explore in greater detail the intersections between Title IX of the Education Amendments of 1972, Title VII and Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973 to promote equality of treatment and access for historically marginalized groups, including racial and ethnic minorities, LGBTQ people, and people with disabilities.

Targeted research to evaluate existing metrics for assessing equal access and treatment under Title IX. Such research could inform potential changes in the EADA or could promote the adoption of a federal law to promote public disclosure regarding participation opportunities and resource allocations in high schools.

Targeted research efforts to better understand gender equity practices required under Title IX, including, but not limited to, expenditures on facilities for female athletes, allocation of resources in academic support, and issues faced by those working in sports medicine and athletic training.

Targeted research to better understand Title IX compliance in college and university intramural and club sport programs.

Targeted research on Title IX athletics compliance in secondary schools.

Targeted research to explore how best to educate coaches, administrators, and athletes on the requirements of Title IX.

Targeted research that explores the impacts of sex-segregated athletic competition on athlete health and well-being, attitudes toward gender equality, attitudes toward transgender inclusion, and other topics.

Targeted research on K-12 girls' issues, both the challenges around equity and advances, with a focus on BIPOC girls and girls in low-income communities.

On inclusion in sport:

Targeted research designed to develop models for the inclusion of athletes with disabilities in school-based varsity programs with attendant investments in facilities, equipment, coaching, administrative staff, athletic scholarships, and the other areas of resource allocation.

Targeted research exploring the experiences of cisgender girls and women who play, train, and compete with trans girls and women and nonbinary athletes. Little is known about the positive impacts of team-based participation among trans and cis athletes.

Targeted research to examine the marginalization of BIPOC women in athletic administration and coaching positions. Beyond participation as athletes, little research has been conducted on athletic career positions of BIPOC women.

On the economics of gender equality:

Targeted research on the resources allocated in the marketing and promotion of girls' and women's sports, including expenditures on marketing and athletic communications personnel, marketing and athletic communication personnel workloads and credentials, investment in promotional campaigns, television and streaming coverage, digital resources, advertising, educational efforts directed toward athlete branding, and other efforts that promote awareness about girls'/women's programs and girl/women athletes.

Targeted research focusing on examining revenue generation efforts for women's sports programs at the high school and college levels. Such research would encompass examination of the structure of television contracts, sponsorship deals, merchandising opportunities, and media coverage. This also would cover an examination of how marketing units within athletic departments have expanded since the Title IX regulations were adopted and how resources are expended in video production units; data analytics; marketing and sponsorships; ticket policies, including pricing and promotions; and oversight of athletic fundraising foundations and booster clubs.

Targeted research efforts to track the support services provided to female and male athletes by athletic departments to assist them in growing their brands as more athletes secure name, image, and likeness deals. With the emergence of group licensing opportunities, athletic department agreements with third parties, and opportunities for athletes to work in partnership with athletic departments in sharing use of institutional images, new areas of assessing gender equity are emerging.



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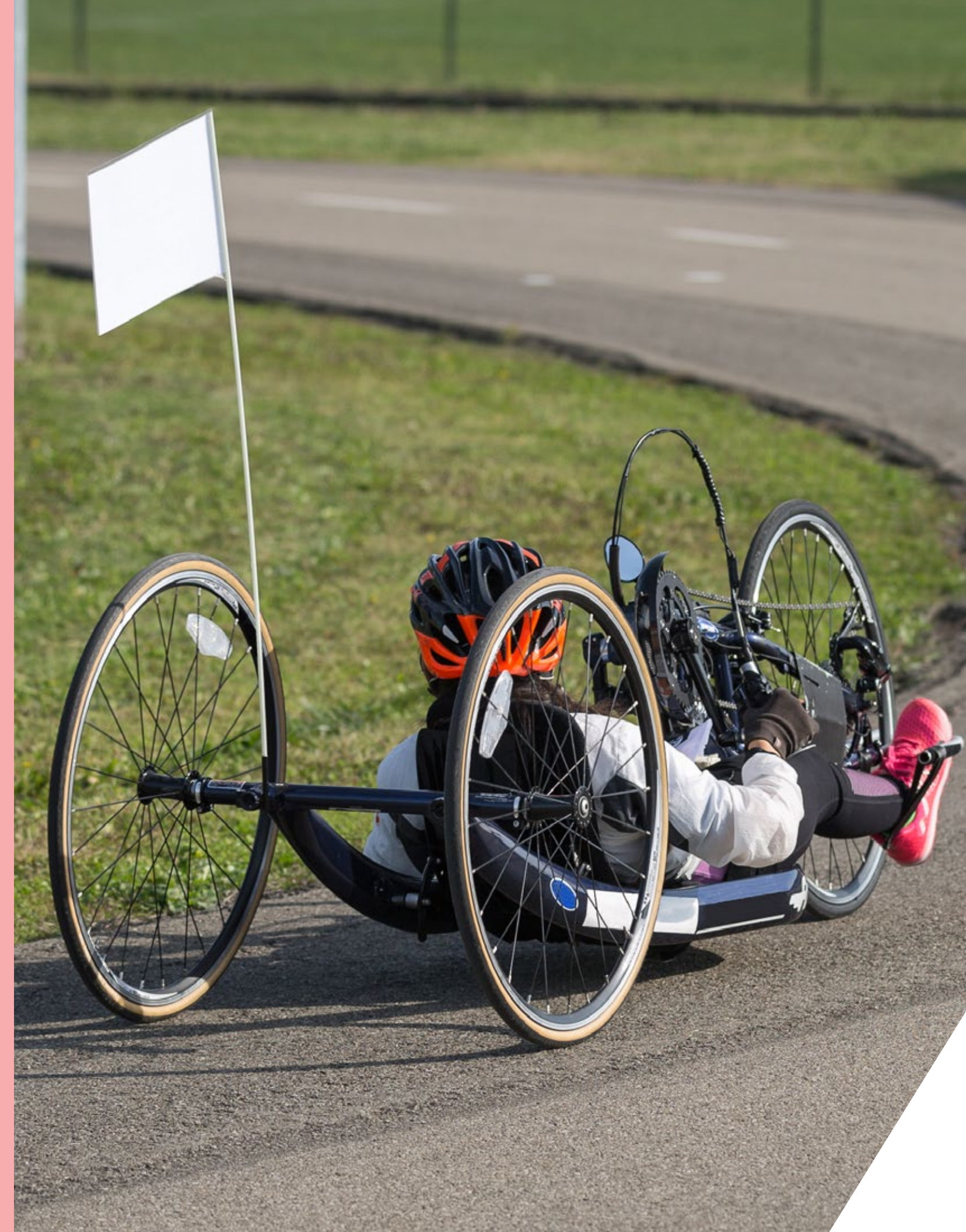
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