



The year 2007 marks the 35th anniversary of the passage of Title IX of the Education Amendments of 1972. During the three and a half decades since Title IX was signed into law, there has been a massive shift in societal attitudes toward girls and women in sport. Cleveland's hosting of the 2007 NCAA[®] Women's Final Four[®] provides a fitting occasion for a symposium commemorating this important legislation.

On Friday, March 30th, the focus of the program will be on current Title IX case law, compliance, and legal theory. For additional information, and to register, go to <http://www.womenrockcleveland.com/subpage.aspx?PageID=29>, and click on 'Legal Conference Registration Form.'

Should you have questions about the program, please contact Ellen J. Staurowsky, Ed.D., Professor, Ithaca College at 607-274-1730 or via email at staurows@ithaca.edu.

Syllabus

Friday, March 30, 2007

8:30-9:20am

**Bernice Sandler, Ph.D., Senior Scholar
Women's Research and Education Institute
Title IX: How We Got It, What We Gained, and What We
Still Have To Do**

As the "godmother" of Title IX, Bernice Sandler was there even before the beginning. Her presentation will describe:

- What education was like before Title IX;
- The little known story of how Title IX was passed;
- Why no one knew athletics was going to be covered;
- What Title IX has accomplished;

- The work that remains to be done in creating schools that are safe and empowering to women.

9:30-10:20am

The Honorable Birch Bayh, J.D.
Partner, Venable, LLP
U.S. Senator (D-IN, 1963-1981)
Title IX at the Beginning and Today

As co-author of Title IX of the Education Amendments of 1972, Senator Bayh will describe:

- The deliberations in Congress leading up to the passage of the Legislation
- The original intent of the legislation
- Current implementation

10:45-11:30am

Linda Carpenter, Ph.D., J.D., & Vivian Acosta, Ph.D.
Professors Emeritae, Brooklyn College
Two for One: Title IX – Overview of the Law and 29 Year Update on the State of Women in Intercollegiate Athletics

As the authors of the single most definitive work on the status of women in the college and university athletics, and foundational studies on the impact of Title IX in school settings, Drs. Carpenter and Acosta will:

- Provide an overview of the representation of women in coaching and leadership positions within athletic departments
- Examine the historical decline in women in coaching and athletic administration
- Offer explanations for this decline along with solutions.

12pm-1:30pm

City Club of Cleveland Friday Forum & Luncheon
Featured Speaker: Billie Jean King
Founder and Honorary Chair, Women's Sports Foundation

1:45-2:30pm

Marcia Greenberger, J.D., Co-President
National Women's Law Center
The Future of Title IX in Light of Recent Judicial Appointments or The Future of Title IX and the Roberts Court

This presentation will address how changes in the composition of the U.S. Supreme Court may affect Title IX cases in the future.

2:30-3:15pm

Karen Doering, J.D., Senior Counsel
National Center for Lesbian Rights

Title IX and Lesbians in Sport: How to Avoid An Expensive Law Suit

This presentation will address:

- How schools can be legally liable for sexual orientation
- Discrimination in athletic departments and the legal risks associated with ignoring these issues
- Review of relevant legal authorities including equal protection clauses of federal and state constitutions that prohibit discrimination and Title IX, which prohibits gender stereotyping and same-sex sexual harassment
- The need for non-discrimination training of athletic departments
- The importance of doing so in light of institutional liability

3:30-4:30pm

Panel A – Title IX Compliance – College Sport
Presider – Susan Hastings, J. D.,
Squire, Sanders, & Dempsey, L.L.P.

Christine Grant, Ph.D.
Athletic Director Emerita & Associate Professor
University of Iowa

Recently awarded the NCAA's Gerald R. Ford Award in recognition of her role as an advocate on behalf of women in higher education and college sport, Dr. Grant will address impediments to Title IX compliance, focusing primarily on the financial issues that impact program decisions and the need for a response to what has been called "the financial arms race".

Judith Sweet, M.S., M.B.A., Consultant
Former Senior Vice-President of Championships and
Educational Outreach, National Collegiate Athletic Association

Considered one of the most knowledgeable authorities on college sport in the United States, Ms. Sweet will address the flaws in the Additional Clarification of Intercollegiate Athletics Policy: Three-Part-Test-Part Three which was issued by the U. S. Department of Education Office for Civil Rights in March of 2005. Ms. Sweet's remarks will focus on the faulty assumptions underlying the "model survey" proposed by this clarification.

Valerie Bonnette, President, Good Sports Inc.
Title IX and Gender Equity Specialists

As one of the co-authors of the Office for Civil Rights's 1990 Title IX Investigators Manual, Ms. Bonnette will discuss the five most common myths about Title IX compliance.

Panel B – Case Law (description pending)

Presider: Ellen J. Staurowsky, Ed.D., Ithaca College

Marcia Greenberger, J. D., Co-President

National Women's Law Center

Jackson v. Birmingham School Board

The *Jackson v. Birmingham School Board* case has been widely regarded as one of the most important cases in clarifying that retaliation directed toward employees seeking Title IX compliance on behalf of female athletes is prohibited. Ms. Greenberger will discuss the significance of this case and impact.

Jennifer Brown, Vice President and Legal Director, Legal Momentum

Legal Momentum's most significant education litigation established that school officials who ignore "peer" sexual harassment — that is, harassment of one student by another — violate Title IX. This presentation will focus on recent case law dealing with teacher to student and peer to peer sexual harassment.

Panel C – Sex and Sexual Orientation Discrimination

Presider: Erin Buzuvis, J. D., Western New England School of Law

Karen Doering, J. D., Senior Counsel

National Center for Lesbian Rights

Discussion of the range of protections afforded gay, lesbian, transgender, and bi-sexual athletes under Title IX and the Equal Protection clause.

Nancy Hogshead-Makar, J. D., Associate Professor

Florida Coastal College of Law

Does Title IX Protect Against Pregnancy Discrimination?

In 2003, the starting center for the Sacred Heart University women's basketball team filed suit alleging that her coach dismissed her from the team and withdrew her scholarship because she was pregnant. This discussion will examine the question of whether Title IX protects against discrimination on the basis of pregnancy.

Barbara Osborne, J. D., Associate Professor

University of North Carolina-Chapel Hill

“No Lesbians”: Sexual Orientation Discrimination in Sport and Title IX

Recent lawsuits against the Penn State and the University of Florida illustrate the need to understand sexual orientation discrimination in the sports context. This presentation will explore the potential legal protections for homosexuals in sport. A chronology of the significant developing case law from *Romer v. Evans* to the current case of Jennifer Harris against Penn State will be presented and arguments will be made that sexual orientation discrimination is “discrimination based on sex” that falls within the scope of the legislation.

Panel D – Title IX & Legal Theory

Presider: Sarah K. Field, J.D., Ph.D., The Ohio State University

Deborah Brake, J. D. (pending confirmation)
Associate Professor, University of Pittsburgh
School of Law

This presentation will focus on the simultaneous successes and disappointments of Title IX and how they relate to the underlying theory of discrimination behind the law. As the driving force behind increased participation by girls and women in sports, Title IX has been an unusually effective law. This success is partly because Title IX has avoided some of the pitfalls that have hindered other discrimination laws and has embraced a broader theory of discrimination. On the other hand, Title IX has done little to challenge the culture of sports or the excesses of men's sports programs that perpetuate inequality. In these respects, Title IX has fallen short of its most ambitious goals. A discussion of Title IX's mixed legacy and how it relates to broader choices among theoretical frameworks for approaching discrimination.

Annie Clement, Ph.D., J.D.
Professor, Saint Leo University
Impact of Civil Rights Course Decisions on Future Gender Litigation

Civil rights laws tend to be similarly worded and often look to common legal theories in litigation. Thus, the author relates changes that have occurred in civil rights laws over the past years that could impact future sex discrimination cases in sport if women returned to the Constitution. For example, how would the decisions in *Americans with Disabilities* (Sandoval), *Age Discrimination* (Adams, Smith & Hazen), *Title VI* (Cureton), *EEO Guidelines on disparate impact*, *In re NCAA 1 A Walk-on Football*

Players Litigation, and others impact female athletes seeking equal opportunity in sport in the courts? And will the interpretation of standing and precedent be broad or narrow?

Steven Steinglass, L.L.B. - discussant
Professor of Law and Dean Emeritus
Cleveland-Marshall College of Law
Cleveland State University

Kimberly Yuracko, J. D. - discussant
Professor, Northwestern University School of Law

Panel E – Title IX and High School Sports

Presider: *Terry Fromson, J. D., Managing Attorney, Women's Law Project*

Vicky Barker, J. D.

Legal Director, California Women's Law Center

Vicky Barker, Legal Director of the California Women's Law Center was co-lead counsel in a recent comprehensive high school Title IX class action, *Cruz v. Alhambra School District*. Ms. Barker will discuss the challenges that arose in that litigation and the solutions that the parties agreed to. Areas to be discussed include: proportional athletic opportunities, funding, fundraising, and booster clubs, facilities, coaching, scheduling, grievances, and monitoring.

Peg Pennepacker, M. S.

Director of Athletics, Twin Valley High School (PA)

As a practicing high school athletics director and principal, Ms. Pennepacker has traveled around the country conducting workshops educating high school administrators about Title IX. She will offer insight as to gaps in reaching elementary and secondary schools, the need for public disclosure mechanisms documenting the allocation of public funds for athletic programs, and lessons learned at the grass roots level.

Kristen Galles, J. D., Title IX Public Interest Attorney

Having represented Communities for Equity in their suit against the Michigan High School Athletic Association (MHSAA) and related cases, Ms. Galles will discuss the impact these cases are having in the way high school sport for girls are being provided and how schools should be responding to the needs of female high school athletes and programs under Title IX.

**Sarah Dunne, Legal Director,
ACLU of Washington Foundation**

Dunne's presentation will highlight the additional protections afforded female student athletes available under state law and state constitutions. Many administrators and students are not aware of additional obligations imposed by state laws or constitutions (such as Equal Rights Amendments) that require school districts to afford equal opportunity to all students above and beyond the obligations imposed by federal law, or Title IX. To this end, Dunne will present a survey of several states' laws that are designed to expand requirements on school districts beyond Title IX. Dunne will also address gender equity requirements imposed by state high school athletic associations which control and govern the administration of high school sports in every state. For example, some associations have begun conditioning participation in state playoffs on the requirement that the school districts comply with Title IX and the relevant state equity laws.