

**TESTIMONY**  
**BEFORE THE COMMISSION ON OPPORTUNITY IN ATHLETICS**  
**OF THE UNITED STATES SECRETARY OF EDUCATION**  
**BY**  
**THE WOMEN'S LAW PROJECT**  
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The Women's Law Project (WLP) is a nonprofit, legal advocacy organization located in Philadelphia, Pennsylvania, committed to fighting discrimination and injustice against women, and to advancing the economic and legal status of women and their families, particularly those who are poor and disenfranchised. Since it opened its doors in 1974, WLP has made equity in athletics for women and girls a high priority.

In the past decade, the WLP has successfully applied Title IX to equalize athletic opportunities and support for women and girls in athletics in three major endeavors. In the early 1990's, we represented women athletes and coaches at the University of Pennsylvania in Philadelphia in a Title IX complaint filed with the Office for Civil Rights of the Department of Education. We succeeded in obtaining a favorable settlement for our clients, in which the University agreed to increase its funding for women's sports, hire more full time coaches for women's sports, and provide better facilities for women's teams. In 1995, we represented families of girls in Downingtown, Pennsylvania who were not offered a girls' soccer team or softball team in junior high school, though the school sponsored three boys' soccer teams and two baseball teams. We were able to secure soccer teams for girls in junior high school as well as other remarkable improvements for girls in Downingtown area schools. By means of federal court litigation, we were able to secure previously denied opportunities for female basketball referees to officiate boys' interscholastic games as well as girls' games. Throughout, we have

supported the efforts of others by signing on to numerous amicus briefs and other advocacy efforts.

### **Title IX has Proven a Successful Tool in Achieving Equality**

Since the adoption of Title IX, participation in girls' and women's sports has increased exponentially. On the college level, participation increased from 29,977 in 1972 to 150,916 in 2001, while participation in high school athletics increased from 294,015 in 1972 to 2,784,154 in 2001.<sup>1</sup> Although these increases have been gratifying, they are not sufficient. There are approximately 7,693,00 girls in high school and 8,077,000 boys in high school, which means that approximately 28% of girls participate in high school sports compared to approximately 49% of boys.<sup>2</sup> Though girls' participation in high school athletics increased by 847% between 1972 and 2001, boys' participation also increased dramatically, so that there are still 1.1 million more boys participating in high school athletics than girls.<sup>3</sup> A similar trend occurred at the college level, where women's participation in athletics increased by 411% between 1972 and 2001, but men's participation increased by 36%, so that today there are almost 58,000 more men participating in college athletics than women.<sup>4</sup> In addition, financial backing and other assistance needed to support women's athletics are not distributed equitably. At Division I colleges, women receive only 43% of the total athletic scholarship dollars, though women represent 53% of the students.<sup>5</sup>

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<sup>1</sup> National Coalition for Women and Girls in Education, *Title IX Athletic Policies: Issues and Data for Education Decision Makers* 6 (2002).

<sup>2</sup> Figures based on United States Census Report, Enrollment Status of the Population 3 Years Old and Over, by Age, Sex, Race, Hispanic Origin, Nativity, and Selected Educational Characteristics: October 2000, available at <http://www.census.gov/population/www/socdemo/school/ppl-148.html>. (on file with the Women's Law Project).

<sup>3</sup> National Coalition for Women and Girls in Education, *Title IX Athletic Policies: Issues and Data for Education Decision Makers* 6 (2002).

<sup>4</sup> *Id.*

<sup>5</sup> National Women's Law Center, *Title IX and Women's Athletic Opportunity: A Nation's Promise yet to be Fulfilled* 2 (2002).

These figures indicate that much more is needed to ensure that Title IX can live up to its promise of gender equality in educational athletics.

### **The Three-Part Test is Effective**

The Women's Law Project strongly believes that the Title IX three-part test is the most effective way to ensure Title IX compliance. The three-part test, as clarified by the Office for Civil Rights (OCR) in 1996, allows schools flexibility in creating programs to comply with Title IX and does not impose quotas on female participation.<sup>6</sup> The test recognizes that achieving compliance may be a long-term process, but still requires schools to work towards equality.

Opponents of the three-part test mischaracterize it as a quota. It is important to remember that the three-part test outlines three different options for school compliance rather than three prongs of the same requirement. The first part of the test allows schools to be in compliance with Title IX if the school can show that athletic opportunities are in proportion to student enrollment by gender.<sup>7</sup> Under the second part of the test, a school can establish compliance with Title IX if it can show a history and continuing practice of program expansion responsive to the interests and abilities of women.<sup>8</sup> Finally, compliance is established under the third part if the school can show that the present program has accommodated the interests and abilities of women.<sup>9</sup>

The first part of the test is the clearest and easiest to prove but is by no means the only method for a school to comply with Title IX. Schools that are not able to achieve proportionality

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<sup>6</sup> United States Department of Education, Office for Civil Rights, *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (January 16, 1996) (available at: <http://www.ed.gov/offices/OCR/docs/clarific.html>) (hereinafter cited as "Clarification"). While the clarification references intercollegiate athletics, it makes clear that the three part test as well as the clarification also applies to elementary and secondary schools.

<sup>7</sup> *Id.* at para. 8 – 19.

<sup>8</sup> *Id.* at para. 20 – 31.

<sup>9</sup> *Id.* at para. 32 – 43.

essentially receive credit for trying to do so under part two. Further, two-thirds of the schools reviewed by the OCR between 1994 and 1998 achieved compliance under the third part, requiring schools to show that they are fully and effectively accommodating the interests and abilities of women.<sup>10</sup>

Besides flexibility, the three-part test offers schools clear guidelines for compliance under Title IX. As stated above, the first part, requiring proportionality, provides the clearest guidelines for schools to follow to achieve compliance. Schools that cannot create proportional programs have options under part two and three. A school showing a good faith effort to expand women's programs can easily fulfill part two. The Clarification provides detailed examples of actions constituting "a history and continuing practice of program expansion."<sup>11</sup> For example, "affirmative responses to requests by students or others for addition or elevation of sports" is a factor that OCR will consider as indicating a history of program expansion.<sup>12</sup> Schools can choose which teams to add, as long as the school shows an overall effort to expand programs. Under part three, a school can show that it could not achieve proportionality because there is not enough interest among its female student population to make proportionality a viable option. In the Clarification, OCR issued specific guidelines on how it would determine student interest for the purposes of Title IX compliance, including participation in club or intramural sports, requests by current and admitted students regarding a particular sport, and the results of questionnaires of current and admitted students.<sup>13</sup> OCR specifically pointed out that it would not require schools to show "elaborate scientific validation of assessments," but would accept the results of

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<sup>10</sup>National Coalition for Women and Girls in Education, *Title IX Athletic Policies: Issues and Data for Education Decision Makers* 4 (2002).

<sup>11</sup> Clarification at para. 22.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at para. 36.

inexpensive questionnaires and open forums.<sup>14</sup> The three-part test is both clear and flexible, allowing schools freedom and choice in following Title IX.

A further benefit of the three-part test has been its usefulness as a tool for women and girls in advocating for their rights under Title IX. Clear guidelines allow potential participants to assess whether their Title IX rights are being violated, and provide schools with the ability to understand what is expected of them, without being forced into costly litigation over vague questions of compliance. At the same time, the flexibility of the requirements provides room for negotiation.

### **Equality in Athletics has Improved in Pennsylvania as a Result of the Three-Part Test**

Girls and women in Pennsylvania have greater opportunities to play sports in secondary schools and in colleges today, as a result of changes mandated by Title IX. This is demonstrated by the success of advocacy efforts by the WLP as well as by the examples of other published cases.

#### *Downingtown Junior High School Girls Play Soccer*

In 1995, Title IX enabled junior high girls in Downingtown, Pennsylvania, a suburb of Philadelphia in Montgomery County, to play interscholastic soccer. A group of families approached the WLP, concerned about the lack of athletic opportunities for their daughters at the local schools. Both of the junior high schools offered six sports to boys, including two soccer teams and two baseball teams, but only three sports to girls, with no soccer or softball. This was in spite of the heavy participation of junior high aged girls in multi-sport youth associations that included soccer and softball teams in the area. In the junior high schools, boys and girls were equally enrolled. However, in one junior high, boys had a 66% participation rate in athletics,

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<sup>14</sup> *Id.* at para. 38.

while the girls had a 39% participation rate.<sup>15</sup> At the other junior high, the participation rate for boys in sports was 58% while the rate for girls was 25%.<sup>16</sup>

As a result of these disparities, families in the Downingtown Area School District presented a petition to the Downingtown Board of School Directors, demanding that the school district take immediate action to expand athletic opportunities for girls and to improve the treatment of and benefits provided to girls' athletics. In addition, the WLP sent a letter to the Board of School Directors, outlining the Board's responsibilities under Title IX. In response, the Board of School Directors established two girls' soccer teams at both junior high schools, and a girls' basketball team at the high school, as well as other improvements in support given to girls' athletics.

Because the three-part test is very specific in its basic requirements, the families and the WLP were able to offer the school district concrete suggestions that would ensure compliance with Title IX, which allowed the negotiations to progress more smoothly and quickly than otherwise had the standard for compliance not been as straightforward. This benefited the complainants, the district, and in particular, the girls of Downingtown, who were able to play soccer at their junior high school within a year of the petition being presented to the Downingtown Board of School Directors.

*Pennsylvania Schools Increase Support for and the Participation of Women in Athletics*

Downingtown is only one example of Title IX being used to improve opportunities for women and girls in athletics in Pennsylvania. Title IX has been a catalyst for improvements in many athletics programs in Pennsylvania, including the following:

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<sup>15</sup> Statistics compiled from school records, on file with the Women's Law Project.

<sup>16</sup> *Id.*

- The WLP represented female athletes and coaches at the University of Pennsylvania in a Title IX complaint to OCR, which resulted in an agreement to provide equitable equipment, coaching, and facilities for University of Pennsylvania female athletes. The complaint pointed out the disparities in athletic participation rates between men and women in the early 1990s, when men and women had approximately equal enrollment rates, but the athletic participation rates were 67% for men, and 34% for women.<sup>17</sup> The complaint also pointed out the disparities in the amount and quality of equipment, facilities, and coaching between men's and women's teams. The settlement resulted in significant improvements in support for women's athletic programs, which has helped increase participation in women's athletics at the University of Pennsylvania, relative to the female population of students. While the University of Pennsylvania has not achieved full proportionality in its athletic program, women now make up 41% of student athletes, a substantial increase since the OCR complaint was filed.<sup>18</sup> The University of Pennsylvania also increased the percentage of its athletic operating budget allocated to women's athletics, from 31.14% in 1997-1998 to 35.47% today.<sup>19</sup> Equality in economic support is a critical key to achieving equality in athletics.
- Temple University was the subject of major litigation in the 1980s to improve the treatment of women in its athletic programs. Female student athletes at Temple University in Philadelphia filed a complaint in federal district court alleging that Temple discriminated against women in its athletic programs by providing women with fewer opportunities to compete, allocating fewer resources to women's programs, and allocating

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<sup>17</sup> Brief for Complainant at 2, Department of Education, Office for Civil Rights (1994) (on file with the Women's Law Project).

<sup>18</sup> Chronicle of Higher Education, *Gender Equity in College Sports: University of Pennsylvania*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

less in financial aid to women.<sup>20</sup> The court ruled in favor of the female students, citing Title IX and the Fourteenth Amendment. At the time, there were 450 men participating in intercollegiate sports at Temple, compared with 200 women, despite a student body that included approximately 50% women.<sup>21</sup> As a further example of the disparity, in 1985-1986, Temple spent \$2.28 million on men's athletics but only \$592,558 on women's programs.<sup>22</sup> Temple conceded that "its decision as to the selection of teams and the allocation of resources predetermine[d] the participation rates of men and women in intercollegiate athletics."<sup>23</sup> In 1988, after several years of litigation, Temple University agreed to end its discriminatory practices.<sup>24</sup> Today, Temple spends almost \$4.4 million on its 12 women's teams and female athletes make up 47% of all athletes.<sup>25</sup> Despite these remarkable advances, Temple's participation rates are far from proportional. Women make up 57% of Temple's student body, leaving a 10% gap in athletic participation. The \$4.4 million that Temple spends on women's athletics is only 31% of the total athletic operating expense and women receive only 43.5% of the scholarship budget. There are still many improvements that Temple can make to its athletic program.

- In 1993, Indiana University of Pennsylvania was found to be out of compliance with the requirements of the Title IX based on the three-part test. Indiana University had recently cut four athletic teams, including the women's field hockey and gymnastic teams. Prior to cutting the two teams, Indiana University had a substantial imbalance in its male to female student athlete ratio, 62% male athletes to 38% female athletes, despite an undergraduate

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<sup>19</sup> *Id.*

<sup>20</sup> *Haffer v. Temple University*, 678 F.Supp. 517, 521 (E.D. Pa. 1987).

<sup>21</sup> *Id.* at 525.

<sup>22</sup> *Id.* at 528.

<sup>23</sup> *Id.* at 526.

<sup>24</sup> Frank Fitzpatrick, "Title IX Violations Rampant," *The Philadelphia Inquirer*, June 30, 2002, at A1.

student population that was 55.6% female.<sup>26</sup> By cutting the two teams, the University “increased the imbalance between individual opportunities for men and women in percentage terms.”<sup>27</sup> Members of the field hockey and gymnastic teams filed a complaint against the university and as a result, the United States District Court for the Western District of Pennsylvania ordered the university to reinstate the two programs.

- Student athletes on the Chartiers Valley High School softball team in western Pennsylvania threatened to file a Title IX suit against the school district if the school did not provide the team with a better playing field at the high school and better equipment. At the time, the team was bused to a field at the middle school that lacked dugouts, lights and access to restrooms, while the boys’ team played on a field at the high school and was issued better equipment.<sup>28</sup> After less than a year of negotiations between the families and the school and under the threat of a Title IX suit, the district opened a new field for the girls on the school grounds with bleachers, dugouts, restrooms, a scoreboard, and proper drainage in April 2002.<sup>29</sup>

As evidenced by these examples, significant progress has been made, though inequities remain. Historically, Title IX has been an effective tool for advocating for equal treatment in athletics for girls and should not be weakened.

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<sup>25</sup> Chronicle of Higher Education, *Gender Equity in College Sports: Temple University*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women’s Law Project).

<sup>26</sup> *Favia v. Indiana Univ. of Pennsylvania*, 7 F.3d 332, 335 (3<sup>rd</sup> Cir. 1993).

<sup>27</sup> *Id.*

<sup>28</sup> Linda Wilson Fuoco, “Schools Offering Better Sports Options for Girls,” *Pittsburgh Post-Gazette*, Sept. 5, 2001, at W4.

<sup>29</sup> *Id.*; Carole Gilbert Brown, “Char Valley Softball Team gets own field,” *Pittsburgh Post-Gazette*, Apr. 24, 2002, available at 2001 WL 3385572.

## Title IX Must Continue to be Enforced under the Three-Part Test

While there have been many successful applications of Title IX, resulting in inspiring increases in athletic opportunities for girls, it is also apparent that the fight is far from over. In Pennsylvania today, few NCAA Division I schools approach proportionality for athletic opportunities for women. Disparities in participation, enrollment, and budget allocation rates remain among the Division I colleges and universities in Pennsylvania. (See chart below)

Division I Colleges and Universities in Pennsylvania	Enrollment <sup>30</sup>		Proportion of Women Athletes	Percentage of Total Athletic Budget Allocated to Women's Athletics
	Men	Women		
Bucknell University	51.7%	48.3%	43.9%	37.5%
Drexel University	61.4%	38.6%	43.9%	45%
Duquesne University	42.4%	57.6%	48.5%	49.8%
Lafayette College	50.25%	49.75%	45.5%	37%
LaSalle University	46.9%	53.1%	49.3%	49.2%
Lehigh University	58.75%	41.25%	37%	33.6%
Penn State	52.8%	47.2%	45.6%	32.3%
Robert Morris University	54.1%	45.9%	43.4%	47.1%
St. Francis University	39.3%	60.7%	43.8%	48.2%
St. Joseph's University	45%	55%	47.9%	48.9%
Temple University	42.2%	57.8%	47.2%	31.3%
University of Pennsylvania	50.9%	49.1%	40.7%	35.5%
University of Pittsburgh	47.9%	52.1%	39.2%	25.2%
Villanova University	49.3%	50.7%	43.3%	36.8%

The chart above shows that while many schools have made remarkable increases in the number of athletics opportunities for women, there are many improvements to be made. St. Francis University has a 16.9% gap between the percentage of women enrolled in the school and the percentage of women participating in athletics.<sup>31</sup> University of Pittsburgh, one of the state's larger universities and a NCAA Division I-A university, enrolls just over 52% women.<sup>32</sup>

<sup>30</sup> Data is for 2000-2001 school year. Chronicle of Higher Education, *Gender Equity in College Sports*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

<sup>31</sup> Chronicle of Higher Education, *Gender Equity in College Sports: Saint Francis University*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

<sup>32</sup> Chronicle of Higher Education, *Gender Equity in College Sports: University of Pittsburgh*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

However, only 39.2% of their athletes are female.<sup>33</sup> This represents a 12.9% gap between the proportion of women enrolled and the proportion of athletic opportunities available to women.<sup>34</sup> The enrollment at the University of Pennsylvania, the state's only Ivy League university, is nearly half women.<sup>35</sup> However, the university offers only 40.7% of its athletic opportunities to women, resulting in a difference of 8.4% between its female undergraduate population and its female athlete population.<sup>36</sup>

Athletic opportunities are related to economics. The more financial support given to women athletes and athletic programs, the more opportunities are created for women. For example, while the proportion of female athletes at the University of Pittsburgh today is greater than the proportion of female athletes in 1995-1996, it has actually decreased since its peak in 1998-1999, when the rate was 43.7%.<sup>37</sup> Accordingly, the percent of the athletic budget allocated to women's athletics peaked in 1998-1999 and has decreased since.<sup>38</sup> Today, University of Pittsburgh allocates \$3.9 million to women's athletics but \$11.7 million to men's athletics.<sup>39</sup> In 2000-2001, eight of the fourteen Division I colleges, including University of Pittsburgh, allocated less than 40% of their gender specific operating budget to women's athletics.<sup>40</sup> While Title IX does not require schools to allocate a certain amount of funding to women's athletics, the amount of money a school spends on women's sports in relation to the amount of money a school spends on its male athletic program reflects the commitment a school has to equality in

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Chronicle of Higher Education, *Gender Equity in College Sports: University of Pennsylvania*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

<sup>36</sup> *Id.*

<sup>37</sup> Chronicle of Higher Education, *Gender Equity in College Sports: University of Pittsburgh*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Chronicle of Higher Education, *Gender Equity in College Sports*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

athletics and impacts the number of opportunities created for women. As economic support becomes more equitable, athletic opportunities increase, as evidenced by the examples of the University of Pennsylvania and Temple University.

Athletic scholarships, an important means of economic support for female athletes, are also allocated to male athletes in higher numbers than to female athletes. For many athletes, male and female, athletic scholarships provide a means of acquiring an education that might otherwise be out of reach. Title IX requires that colleges and universities provide the same proportion of financial aid to female athletes as there are women participating in varsity sports.<sup>41</sup> Four of the biggest Division I schools in Pennsylvania- Penn State, Temple, Villanova, and Bucknell- were out of compliance with this requirement.<sup>42</sup> The National Women's Law Center challenged Bucknell and twenty-nine other universities for athletic scholarship violations under Title IX in 2002.<sup>43</sup> Bucknell offers only 38% of its scholarships to women though 42% of its athletes are women.<sup>44</sup> The gap between the average male and female scholarship at Bucknell is \$1,065.<sup>45</sup> Greater enforcement of this requirement is needed to achieve equity in athletics.

### **Recommendations for the Commission regarding Title IX Enforcement**

The Department of Education and the Office for Civil Rights can ensure that Title IX is used to its fullest potential by strengthening enforcement of Title IX and supporting student athletes, parents, and school administrators in their attempts to improve equality for women and girls.

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<sup>41</sup> 34 CFR 106.37 (c)(1) (2002)

<sup>42</sup> Chronicle of Higher Education, *Gender Equity in College Sports*, available at <http://chronicle.com/stats/genderequity/2002/> (last visited Nov. 26, 2002) (on file with Women's Law Project).

<sup>43</sup> National Women's Law Center, *30 Colleges and Universities Challenged by NWLC for Athletic Scholarship Violations Under Title IX of the Education Amendments of 1972*, (2002) (on file with the Women's Law Project).

<sup>44</sup> *Id.*

<sup>45</sup> National Women's Law Center, *30 Colleges and Universities Challenged by NWLC for Athletic Scholarship Violations Under Title IX of the Education Amendments of 1972*, (2002) (on file with the Women's Law Project).

The WLP offers the following recommendations to the Commission to maintain the success made possible by Title IX while continuing to move towards equality.

**1. Maintain the three-part test for compliance**

As discussed earlier, the three-part test is both clear and flexible. Schools have the option of meeting any one of the three parts and are not mandated to require any particular numbers of female athletes. The clear guidelines allow schools to understand how they can comply with Title IX, and allow student athletes to understand what their rights are under Title IX, without forcing the school or its athletes through lengthy and expensive litigation.

The three-part test does not mandate a quota for schools to follow, nor does it require that schools cut men's teams in order to be in compliance with Title IX. In fact, in describing possibilities for compliance under part two, the Clarification states that "OCR will not find a history and continuing practice of program expansion where an institution increases the proportional participation opportunities for the underrepresented sex by reducing opportunities for the overrepresented sex alone or by reducing participation opportunities for the overrepresented sex to a proportionately greater degree than for the underrepresented sex."<sup>46</sup> If a school chooses to comply with Title IX under part one of the test, it is not required to reduce opportunities for men or boys but only to ensure that the rates of participation are equal to the rates of enrollment. Women do not seek to gain athletic opportunities at the expense of male opportunities and Title IX does not compel such a result.

Opponents of the three-part test wrongly assume that women and girls do not have the same interest in athletics as boys and cite lower participation statistics among girls as proof. As the dramatic increase in participation rates since 1972 has shown, girls have taken full advantage of sports opportunities as those opportunities are made available. One need only look at the

numbers of girls participating in community recreation leagues to verify the interest. Title IX enforcement must operate under a Field of Dreams “build it and they will come” ideology. We have not yet tapped the limits of participation by girls in sports and should not decrease the emphasis on equality in sports now, when we have the momentum of 30 years of progress behind us.

## **2. Ensure equity at the elementary and secondary school level.**

Equity in athletics cannot occur solely at the college level but must begin at the secondary and elementary school level. Elementary and secondary schools must offer sufficient athletic opportunities for their female students, which will later support a larger pool of athletes at the college and university level. The women who participate in college athletics must have the opportunity to play sports when they are in elementary and secondary school.

For girls, participation in sports in elementary and secondary school brings a host of benefits, including better physical health, higher self-esteem, and lower rates of depression.<sup>47</sup> Furthermore, equality in sports at the college level requires an infrastructure, which should be established in elementary and secondary school. Introducing girls to sports while they are young increases the likelihood of girls being interested in sports when they are older and helps the entire system achieve equal opportunity in athletics.

To achieve equal opportunity in athletics for girls in elementary and secondary school, the WLP offers the following recommendations:

- The Department of Education and the Office for Civil Rights should develop informational materials aimed at school administrators, parents, and athletes to help all parties understand what schools’ obligations under Title IX are, what rights female student athletes have under Title IX, and how those rights can be enforced. Separate materials should be targeted towards each group.

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<sup>46</sup> Clarification at para. 25.

<sup>47</sup> National Women’s Law Center, *The Battle for Gender Equity in Athletics: Title IX at 30* 7 (2002).

- The Department of Education and the Office for Civil Rights should offer technical assistance to school districts who wish to assess their Title IX compliance and to develop strategies to move towards compliance.
- The Office for Civil Rights should concentrate enforcement resources on elementary and secondary school districts.
- Secondary and elementary school districts should be required to provide the public with information about enrollment and athletic participation, as colleges and universities are currently required to do by statute.
- The Department of Education should support parents in their efforts to advocate for their daughters by offering technical assistance, information, and referrals, and by establishing a central database for parents to share their experiences and offer assistance to one another.

### **3. Monitor athletic scholarships and economic support for women**

In times of ever growing college expenses, athletic scholarships are tremendous resources for students who may not be able to afford college without outside assistance. However, when high schools schedule girls' games during inconvenient times for recruiters or insist on girls' sports seasons that do not coincide with the expectations or practice of college recruiters, girls miss out on opportunities for athletic scholarships and opportunities for education. The same problem applies to school districts that do not offer certain sports for girls but leave youth associations or recreational leagues as the only way girls can fulfill their interest in athletics. Girls who are not able to afford the fees for youth association leagues may miss out on playing the sports altogether and thus miss out on potential athletic scholarships.

On the college level, OCR must enforce Title IX's requirement that schools distribute the proper proportion of scholarship money to women. It is pointless to encourage secondary schools to create opportunities for recruiters to see girls play if the colleges are not offering scholarships to talented young women. Athletic scholarships are part of the infrastructure that must be established before full equality can be reached.

Finally, schools must fully support women's athletics with financial and other support. Providing adequate and equitable playing fields, coaches, equipment, and locker rooms shows female student athletes that their efforts and commitment to their sport are important and valued and encourages more girls and women to participate in athletics. Economic support is vital to increase the number and quality of economic opportunities available to women. Schools should be strongly encouraged to be equitable in their allocation of funding to athletics programs and the funding of athletic programs should be considered when considering compliance with Title IX. Equality in treatment will lead to equal opportunity in athletics, the ultimate goal of Title IX.

### **Conclusion**

Girls and women are grateful for all that Title IX has given them and they depend upon the continued existence and enforcement of Title IX to maintain and improve upon current progress. The WLP encourages the Commission to uphold the three-part test, encourage improved enforcement, and foster a community approach in which men, women and schools work together to achieve equitable opportunities for all.