

Title IX Seminar Keynote Address

April 28, 2003

By Myles Brand, NCAA president:

I could not be more pleased to be here today, addressing the NCAA Title IX Seminar. This has become one of the most important contributions the Association has made over the last dozen years to the support of Title IX and the growth of athletics participation opportunities for women.

I also could not be more pleased to be sharing the dais this morning with Senator Birch Bayh. Your dream 31 years ago, Birch, has been realized in bringing gender equity to higher education's professional programs such as law and medicine. But I also suspect that you could not possibly have known that 31 years later the major battles would be in the area of athletics.

The irony, I am confident, has not escaped you. Why would it be that athletics - which embraces the concepts of fair play, teamwork, grace under pressure - would be one of the remaining areas of resistance to equity for men and women in higher education? The one answer we can attest to with certainty is that the blame does not rest with Title IX.

Senator Bayh continues to be an advocate for Title IX and a powerful voice for the civil rights of women.

That, of course, is what Title IX is. It is civil rights law, designed to assure the under-represented gender that it has as much right to participation opportunities in educationally based athletics as does the over-represented gender.

Birch, if you want to know the real value of what Title IX has meant, listen to these simple words from two women whose contributions to society go well beyond the field or court.

"(Title IX) gave me a scholarship...the scholarship paid for my college education. [T]he chain reaction...[was that] the college athletic scholarship... allowed me to get the education that allowed me to become a sports broadcaster. It all fell in place. I don't know where I would be or in all sincerity where this country would be if it were not for Title IX."

Those are the words of ESPN's and ABC's Robin Roberts. Or listen to these words to understand the contributions athletics can make to society.

"Without a doubt, athletics has prepared me for my career as an orthopedic surgeon. Obviously you need hand/eye coordination and motor skills to be an athlete and a surgeon. In the operating room, it takes a team effort in order to perform the best for the person who has entrusted their life to you...I think the most important issue today is continuing to prepare for the future by tackling the challenges of enforcing Title IX."

This is Dot Richardson, orthopedic surgeon and Olympic athlete speaking.

For those of us who believe in the values that participation in athletics teaches, for those of us who understand the impetus of important civil rights legislation such as Title IX, these are perilous times. The future of Title IX is uncertain because we do not know what Secretary Paige will do with the recommendations from the Commission on Opportunity in Athletics.

The commission completed its work at the end of January and submitted its report at the end of February. The commission did not recommend that Title IX itself be changed; rather it proposes several re-interpretations, which threaten to weaken seriously prospects for gender equity.

My worst fear is that recommendations will be accepted that will freeze participation for women at the current level and thus institutionalize discrimination against women and inhibit further growth. If you want to know what life would be like without effective and consistent enforcement of Title IX, let me take you back 31 years to 1972.

Thirty-one years ago, there were no NCAA championships for women. There were few - very few - college athletics scholarships for women and there were few opportunities for competition. There was virtually no media coverage of the few competitive opportunities that did exist and certainly no television coverage.

It was rare for newsstand publications to carry any type of article about a female athlete, and there were no publications devoted to women's sports. The star athletes in college sports were often household names, but none of them was a woman. The female athlete as a role model was virtually unknown. A young boy would not be caught dead wearing a jersey with a woman's name on the back.

The athletics opportunities for women were few; the prospects for growth were dismal. According to a 1971-72 survey of NCAA member institutions, fewer than 30,000 women were participating in sports and recreation programs, compared to more than 170,000 men - almost six times as many men as women.

With numbers like that, it would be fair to wonder why college women would show any interest at all in athletics.

What a difference 30 years and legislative leadership make. Today, nearly 150,000 women are competing in sports at NCAA member institutions. The NCAA offers 87 championships in 22 sports for men and women. Forty-three of those championships in 19 sports are exclusively for women and there are three co-educational championships. Bowling will be added as a women's championship in 2003-04. According to a recent membership survey, women now account for 41 percent of the participants in intercollegiate athletics and receive about 42 percent of the scholarship dollars.

Female athletes such as Lisa Leslie, Marion Jones, Janet Evans and Julie Foudy have, in fact, become household names in their own right. Elite female athletes play professional basketball in the WNBA and professional soccer in the WUSA. The women's teams from the United States are expected to bring home a sizeable haul of medals in most sports in every Olympics, and young

girls - and boys - proudly wore Mia Hamm's No. 9 at the 1999 Women's World Cup and again at the 2000 Olympics.

While mainstream media still devotes much more attention to men's sports, the average bookstore now includes magazines and books highlighting the accomplishments of women in sports.

Most of the student-athletes - female or male - competing in NCAA championships probably do not think twice about the NCAA offering championships for women and are unaware of how opportunities for women have changed in the last 31 years.

In 2002, the Women's Final Four at the Alamodome in San Antonio drew a sellout crowd of 29,619 - just a few less than the total number of women participating in college sports 30 years earlier. It was the first time the Women's Final Four had appeared in a dome, but it was the 10th consecutive sellout in Women's Final Four history. Almost 600 media credentials were issued, and television covered the event from selection Sunday through the final buzzer.

Clearly, Title IX has promoted opportunities for female athletes over the last 30 years.

As a result, we can point to a generation of female student-athletes who have taken the value system they acquired on the field or court and enriched society as a whole. In addition to Roberts and Richardson, we can look to astronaut Sally Ride, broadcaster Ann Meyers Drysdale, communications executive Lisa Rosenblum, or attorney Anita DeFrantz. These are individuals whose contributions to the world in which they live are the result in no small part of the character they developed as an athlete.

As impressive as the results of federal law and the hard work of campus leaders have been over the last 31 years, there is much work still to be done to ensure that women and men who attend NCAA member schools have equitable access to athletics participation. Although women comprise 53 percent of the undergraduate student population at NCAA member schools on average, they represent only 41 percent of the participating student-athletes, receive only 36 percent of the athletics department's operating dollars and have only 32 percent of the recruiting budgets.

In the years since it began sponsoring NCAA championships, the NCAA has taken a progressively more active role in assisting its members with gender-equity matters. In 1992, after publication of the first NCAA Gender-Equity Study, the NCAA established a gender-equity task force and charged it with determining ways in which the NCAA could assist institutions in achieving gender equity, examining NCAA policies to evaluate their impact on gender equity and recommending a path toward measuring and realizing gender equity in intercollegiate athletics.

One of the recommendations of the task force was the creation of a sourcebook for NCAA members. That sourcebook, "Achieving Gender Equity: A Basic Guide to Title IX and Gender Equity in Athletics for Colleges and Universities," is now in its third edition. It includes information on current case law, the basics of Title IX compliance, information about NCAA emerging sports and even promotional ideas for women's sports.

And today, the NCAA is conducting its 12th Title IX Seminar since 1995. The now annual seminars are designed to assist NCAA member schools in understanding the intent of Title IX and to provide them with the necessary educational resources needed so they can comply with the law.

The Association has placed emphasis on institutional gender- equity plans through the Division I certification process and the Divisions II and III self-study processes.

And, in 1994, legislation was passed that identified "emerging sports" for women that, while not then sponsored by member schools in sufficient numbers to create a championship, counted in other important ways for institutions in terms of revenue distribution and sports-sponsorship numbers. The intent was to further increase the menu of sports available for women and encourage institutions to increase opportunities for women by sponsoring these sports, several of which have recently become NCAA championships as a result.

At the same time, the NCAA has increased the minimum number of sports sponsored for both men and women as part of an institution's membership requirements across all three divisions.

The Association's revenue-distribution plan recognizes the value of broad-based programs, both in terms of the number of sports and the number of athletics grants-in-aid.

In 1996, the NCAA membership established a moratorium that precluded the discontinuation of any championships through 1998-99, thus protecting both men's and women's Olympic sports where sponsorship had declined. The moratorium was replaced in 1997 by legislation that specifies that even if sponsorship for an Olympic sport drops below minimum established requirements (40 schools for championships established before 1995 and 50 for those thereafter), the championship remains unless the membership specifically votes to dissolve it.

This action shows strong support on the part of NCAA members to maintain Olympic sports as part of the NCAA championships program even though individual members may have chosen to no longer sponsor an Olympic sport.

Like any civil rights legislation designed to change the deeply embedded status quo, Title IX has had - and still has - its critics. Over the last 31 years, the voices of dissent have been less strident regarding the law itself - perhaps as more daughters, granddaughters, sisters and acquaintances have benefited from access to athletics participation - and have grown more concerned with the standards used to measure compliance.

The Department of Education's standards consider an athletics program to be in compliance with Title IX if its student-athletes by gender are in proportion to the gender makeup of the undergraduate student body, OR if the program can demonstrate a history of expanding its program to meet the needs of the under-represented gender, OR if the program can demonstrate that it has fully and effectively accommodated the interests and abilities of the under-represented gender.

Critics argue that the focus of courts and the Offices of Civil Rights has been on the proportionality test and that it has become the de facto single test used to determine compliance.

The unintended consequence of Title IX, they say, has been the cutting of so-called "nonrevenue" sports in order to get the number of athletics participants for an institution more in line with the undergraduate population by gender.

Others may argue that the increased expenses of providing opportunities for women to comply with Title IX have resulted in a reduction in spending for men's sports. In fact, the most recent financial reports of spending for Division I show that for every new dollar spent on women's sports, three new dollars are being spent on men's sports. Still, the charge remains that as a result of Title IX, programs for men have been cut. The sport most often cited is wrestling. Allow me to share the perspective of a former wrestler, University of Arizona President Peter Likins:

"As an old wrestler (Stanford '57), I have been deeply saddened by the wholesale elimination of wrestling teams under Title IX pressures. However, I assign fault to male leadership, and not to Title IX. We have as a national society decided that we prefer to allocate the fair distribution of opportunities for male athletes in a peculiar way, assigning very large numbers of these opportunities to one sport and correspondingly contracting the number of men's sports we can sponsor within economic constraints."

President Likins position is supported by findings of study made by the United State General Accounting Office in March 2001. The United States Congress included provisions in the Higher Education Amendments of 1998 that required the GAO to study participation in athletics, including schools' decisions to add or discontinue sports teams. They examined the membership of both the NCAA and the National Association of Intercollegiate Athletics (NAIA).

Among the GAO's findings are these: Athletics participation for both men and women has increased since 1981. The number of women participating in intercollegiate athletics at four-year colleges and universities increased substantially, while the number of men participating has also increased, though more modestly.

The total number of teams has increased for both men and women. Several women's sports and men's sports experienced net decreases in the number of teams - notably, gymnastics for women, wrestling for men.

Since 1992, 963 schools added teams and 307 discontinued teams. Most were able to add teams - usually women's teams - without discontinuing any men's teams.

The level of student interest was the factor schools cited most often as greatly or very greatly influencing their most recent decision to add or discontinue both men's and women's teams.

Other reasons cited for discontinuing teams included the need to reallocate the athletics budget to other sports and gender-equity concerns.

The conclusions are clear. The decisions to discontinue specific sports are made at the institutional level for a variety of reasons. If the decision is made to eliminate sports for gender-equity reasons, it is because institutions have chosen this path, not because Title IX dictates such action. Rather, Title IX has been used as an excuse to close these programs; it is not the reason.

Given the economic circumstances in which both state and private institutions find themselves, the pressures to cap or cut programs will increase. In the last few weeks, we have seen three more institutions - the University of West Virginia, the University of Toledo and Fresno State University - cut men's programs and some women's programs.

It is always painful when participation opportunities are taken away, as it is when opportunities are never made available.

In ideal circumstance we would be adding sports to fully meet the interests and abilities of all male and female students. As the Fresno, Toledo and West Virginia situations describe, financial conditions on campuses are at a critical stage currently and difficult decisions are being made based on institutional circumstances.

The decisions reflect institutional priorities, not Title IX mandate. If resources don't allow for fully meeting the interests and abilities of both genders, civil rights law dictates that the under-represented gender not be discriminated against. Ultimately, the solution lies with individual campuses based on their priorities, philosophy and how they choose to allocate their resources. But whatever the institutional choice might be, compliance with the law cannot be overlooked.

My position on Title IX is clear. This is the real field-of-dreams story. If you build it, they will come. If you provide the athletic participation opportunities, the interest in women to participate will grow.

In a speech to the National Press Club in March, I called on Secretary Paige to implement those recommendations that clarify and enhance enforcement, such as assuring all Offices of Civil Rights (OCR) use the same interpretation of Title IX, but reject all recommendations that weaken the intent of this legislation.

Today, we are getting reports that OCR has suspended its reviews because it has been told changes are coming. I hope these reports are in error. If not, the stakes have increased dramatically.

This inaction must be brought to the public's attention and it must be reversed immediately. There is nothing more fatal to civil rights legislation than enforcement neglect.

My message today is the same as it has been over the last four months. Title IX is not broken, and it does not need to be fixed. Rather, it needs to be supported, enforced, and allowed to finish the job it was designed to do - provide equal opportunities for athletics participation without gender bias.

Now is not the time to say, "Close enough," and watch all the hard work undone - the hard work of individuals like you on our campuses and of individuals like Birch Bayh, who set the course for gender equity in higher education 31 years ago.

Now is not the time to say, "Close enough." Now is the time to say, "Close the gap!" Let us make sure the next Robin Roberts or Dot Richardson is allowed to discover their potential through athletics participation.

In his recent comments about Title IX, President Likins went on to say, "I've often said that I learned to be a professor in the classroom but I learned to be a university president on the wrestling mats...(I)n my youth those learning opportunities were largely limited to young men. Title IX has changed all that...Women are now learning the same lessons of life that gave men competitive advantages fifty years ago, and they're now demonstrating the mastery of those lessons in corporate and governmental organizations all over America."

Athletics participation is of value to both men and women. Let us leave no one behind because we think sport participation is the right of one gender over another.

Title IX has taught us otherwise.

Thank you.