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Bush-Era Policy on Sports Gender Equity Reversed

Schools Must Now Provide Stronger Evidence that They Offer Equal Opportunities for Female Athletes



"Discrimination continues to exist in college athletic programs - and we should be vigilant in enforcing the law and protecting this important civil right," U.S. Secretary of Education Arne Duncan said. **(AP Photo/Rich Pedroncelli)**

(AP) The [U.S. Department of Education](#) is repealing a Bush-era policy that some critics argue was a way to avoid complying with federal law in providing equal opportunities for female athletes.

Under the move, schools and colleges must now provide stronger evidence that they offer equal opportunities for athletic participation under the federal Title IX gender equity law.

It reverses a 2005 policy under former President George W. Bush that allowed schools to use just a survey to prove a lack of interest in starting a new women's sport and encouraged schools to consider a non-response to the questionnaire as disinterest.

"Discrimination continues to exist in college athletic programs - and we should be vigilant in enforcing the law and protecting this important civil right," U.S. Secretary of Education Arne Duncan said in a prepared statement.

Duncan was to announce the change alongside Vice President Joe Biden on Tuesday during an event at George Washington University in Washington, D.C.

"Making Title IX as strong as possible is a no-brainer," Biden said. "What we're doing here today will better ensure equal opportunity in athletics and allowing women to realize their potential — so this nation can realize its potential."

The Education Department has sent letters about the change in policy to more than 15,600 school districts and 5,600 college and university presidents.

"This is a great step, a reaffirmation of faith in equality for women," said former U.S. Sen. Birch Bayh, who helped pass the law in 1972 and called the change long overdue.

Schools have three ways to comply with Title IX: Match the proportion of female athletes to the proportion of women on campus; show a history of increasing sports for women; or prove the school has met the interest and ability of women to participate in athletics.

Before 2005, the third option required districts and colleges to use multiple indicators to assess athletic interests and abilities. The new letter informs institutions that survey results alone cannot justify an imbalance in women's sports.

It's unclear how many schools used the survey as a measure of federal compliance and what the impact was, since schools aren't required to state which of the three Title IX compliance standards they are using, said Neena Chaudhry, senior counsel for the National Women's Law Center, a nonprofit organization based in Washington.

There aren't any statistics to show opportunities for women were denied, but Chaudhry suggested it was a possibility.

"Why wouldn't they use this policy?" she said. "It's an easy way out."

She said her organization had heard of attorneys advising secondary schools to use the survey.

Researchers say the share of women participating in athletics increased only incrementally under Bush, even as female student enrollment increased.

Former Bush administration officials did not immediately return calls seeking comment.

Critics of Title IX say revoking the policy will have a chilling effect on students expressing their opinions.

"The problem comes in because most athletic departments have more male than female athletes," said Eric Pearson, chairman of the College Sports Council, which takes issue with

proportionality as a way of complying with Title IX.

"The disparity doesn't necessarily mean that there is discrimination," he said.

Nancy Hogshead-Makar, a law professor and senior director for advocacy with the Women's Sports Foundation, said female participation in sports is the most effective remedy against obesity and leads to more education and better employment prospects.

"That's why all of this is so important," she said.