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## Celebrating 50 Years: Title IX and Physical Education Curriculum

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# CELEBRATING 50 YEARS: TITLE IX AND PHYSICAL EDUCATION CURRICULUM

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## I. INTRODUCTION

Since the Title IX law was enacted in 1972, physical education classes in the United States have generally become coeducational in nature and have allowed males and females to participate in similar activities. It is suggested that physical educators and district leaders acknowledge the provision as a must-have coeducational experience but still implement curriculum based on content knowledge as opposed to policy.

Title IX addresses gender discrimination in education. The law states that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial

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assistance.”<sup>1</sup> This law has been used to increase female opportunities in many educational programs.

Although the law generally prohibits single-sex classes or activities at the kindergarten through grade twelve levels, there are exceptions to this rule. For a physical education course, the main exceptions allow for sex-based separation if the class or activity involves bodily contact, grouped by skill or ability, or if the school itself is a single-sex institution.<sup>2</sup>

The following study examined Title IX law and its influence on one junior high school physical education curriculum in the northeast region of the U.S. More specifically, qualitative case study methods were used to describe the district administrator and teachers’ perceptions of why single-sex classes might benefit students in their respective school ethos. Data were represented using constant comparison summary narrative.

“Since Title IX was enacted[,] Physical Education classes have generally become coeducational in nature and have allowed boys and girls to participate in similar activities.”<sup>3</sup> Most curriculum is delivered to coeducational groups in schools primarily because of the interpretation of Title IX. It is suggested that physical educators, school building and district leaders perceive the provision as a must-have coeducational experience but still implement a curriculum based on content knowledge instead of legal policy or standards.<sup>4</sup> This paper summarizes the Title IX history, its physical education curricular implementation, the social impact of single sex and coeducational physical education courses, and includes a contemporary case study.

## II. TITLE IX AND PHYSICAL EDUCATION

### A. Background

In 1972, the United States passed Title IX, which is a civil rights law protecting individuals from discrimination based on sex in education settings.<sup>5</sup> Title IX covers educational activities such as admissions, financial aid, student

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1. 20 U.S.C. § 1681(a) (2022).

2. 34 C.F.R. § 106.34 (2022).

3. Grant M. Hill et al., *Physical Education Teachers’ and University Teacher Educators’ Perceptions Regarding Coeducational vs. Single Gender Physical Education*, 69 *PHYSICAL EDUCATOR* 265, 266 (2012) (citing Ritchie Gabbei, *Achieving Balance: Secondary Physical Education Gender-Grouping Options*, 75 *J. PHYSICAL EDUC., RECREATION & DANCE* 33, 33-39 (2004); Grant Hill & Brian Cleven, *Comparison of 9th Grade Male and Female Physical Education Activities Preferences and Support for Coeducational Groupings*, 62 *PHYSICAL EDUCATOR* 187, 187-94 (2005)).

4. Nancy E. Lay, *A Title IX Dialogue*, 61 *J. PHYSICAL EDUC., RECREATION & DANCE* 83, 83 (1990).

5. 20 U.S.C. §§ 1681-1688 (2022).

services and counseling, and athletics.<sup>6</sup> The law applies to “all educational levels, from elementary to higher education” that receive federal funding.<sup>7</sup> The law has been used differently throughout the past fifty years. Early applications of the law increased access to science, technology, engineering, and mathematics (STEM) courses and majors for underserved (mostly female) student populations. The use of Title IX to create additional sport participation levels has been well-documented. For the past generation, Title IX has protected students against sexual harassment and sexual assault claims.

Arguably, Title IX utilization in the collegiate context receives greater media exposure; however, the law also applies to high schools. This is a very large student segment. In the fall of 2021, Title IX applied to 49.453 million elementary and high school students.<sup>8</sup> Although the law may be applied at a high school in similar situations as the intercollegiate model, this paper’s focus is on physical education courses, which are a high priority for state and federal governmental oversight. In fact, many states’ constitutions, including New York’s, require that all students are provided with the “opportunity for a sound basic education,” including course offerings in physical education.<sup>9</sup> This means physical education classes are required by state law and must follow Title IX guarantees.

### *B. Gender-Based Physical Education Instruction*

Title IX provides “the historically underrepresented gender in sports—females—with equal opportunity to participate in athletic activities”<sup>10</sup> including allowing “equal access and opportunities to physical education” courses.<sup>11</sup> “Title IX regulations generally prohibit single-sex classes or activities<sup>12</sup> such

6. *Equal Access to Education: Forty Years of Title IX*, U.S. DEP’T OF JUST. 1-2 (June 23, 2012), <https://www.justice.gov/sites/default/files/crt/legacy/2012/06/20/titleixreport.pdf>.

7. *Sex Discrimination in Education: Exemptions Under Title IX*, FINDLAW, <https://www.findlaw.com/education/discrimination-harassment-at-school/sex-discrimination-in-education-exemptions-under-title-ix.html> (June 20, 2016).

8. *Enrollment in Public Elementary and Secondary Schools by Region, State, and Jurisdiction: Selected Years, Fall 1990 through Fall 2030*, NAT’L CTR. FOR EDUC. STAT., [https://nces.ed.gov/programs/digest/d22/tables/dt22\\_203.20.asp](https://nces.ed.gov/programs/digest/d22/tables/dt22_203.20.asp) (last visited Dec. 30, 2022).

9. *Know Your Rights: Physical Education*, CAMPAIGN FOR EDUC. EQUITY 1, [http://www.centerforeducationalequity.org/publications/know-your-educational-rights/29529\\_Phys\\_Ed\\_1\\_14.pdf](http://www.centerforeducationalequity.org/publications/know-your-educational-rights/29529_Phys_Ed_1_14.pdf) (last visited Dec. 30, 2022).

10. Lee Green, *Nine Ways Title IX Protects High School Students*, NFHS (Apr. 27, 2021), <https://www.nfhs.org/articles/nine-ways-title-ix-protects-high-school-students/>.

11. Jane M. Shimon, *Activity Choice and Title IX*, 78 J. PHYSICAL EDUC., RECREATION & DANCE, 3, 3 (2007).

12. Rod Paige, Sec’y of Educ., *Guidelines Regarding Single Sex Classes and Schools*, U.S. DEP’T OF EDUC., OFF. FOR CIV. RTS. (May 3, 2022), <https://www2.ed.gov/about/offices/list/ocr/t9-guidelines-ss.html>.

as all-girl home economics or all-boy industrial arts[;]”<sup>13</sup> however, it does allow for two exemptions: (1) physical education classes where the major activity involves bodily contact or separates based on ability level, and (2) elementary and secondary classes that deal exclusively with human sexuality.<sup>14</sup>

For example, Title IX allows sex-separate physical education classes based on “contact sports such as hockey, football and wrestling.”<sup>15</sup> It also allows the students to be separated by relevant objective performance standards that may result in all-male or all-female classes.<sup>16</sup> Recently California has increased options for physical education credits for transgender students.<sup>17</sup>

Since the roll out of Title IX, there have been (and continue to be) a variety of personal opinions and preferred educational philosophies pertaining to coeducational versus single-sex education in PE. Some physical education teachers may favor single-sex classes because they might feel that there is less distraction with having just one sex. Conversely, some might prefer the coeducational setting where they concentrate on giving male and female students more opportunities to be challenged in the same class. The debate over coeducation versus single-sex physical education has involved numerous school districts since the ninetieth century. “Research suggests that for some students, a coeducation class may not be the most appropriate environment for learning.”<sup>18</sup>

Brown (2006) noted that “[s]everal studies have shown gender-based and single-sex education to benefit both boys and girls by allowing teachers to provide gender-specific instruction based on learning style.”<sup>19</sup> Other proclaimed advantages “include improved behavior in classrooms, higher

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13. Cathy D. Lirgg, *Effects of Same-Sex Coeducational Physical Education on the Self-Perceptions of Middle and High School Students*, 64 RSCH. Q. FOR EXERCISE & SPORT 324, 324 (1993).

14. 34 C.F.R. § 106.34(a)(2) (2022).

15. Crystal Vargas et al., *The Effects of Single-Sex Versus Coeducational Physical Education on American Junior High PE Students' Physical Activity Levels and Self-Competence*, 13 BIOMEDICAL HUM. KINETICS 170, 170 (2021).

16. *Sex Discrimination in Education: Exemptions Under Title IX*, *supra* note 7.

17. Tara Q. Mahoney et al., *Progress for Transgender Athletes: Analysis of the School Success and Opportunity Act*, 86 J. PHYSICAL EDUC., RECREATION & DANCE 45, 45 (2015).

18. Hill et al., *supra* note 3, at 266 (citing Julie A. Derry & D. Allen Phillips, *Comparisons of Selected Student and Teacher Variables in All-Girls and Coeducational Physical Education Environments*, 61 PHYSICAL EDUCATOR 23, 23-34 (2004); James C. Hannon & Thomas Ratliffe, *Opportunities to Participate and Teacher Interactions in Coed versus Single-Gender Physical Education Settings*, 64 PHYSICAL EDUCATOR, 11, 11-20 (2007)).

19. Shanin R. Brown, *Legislative Brief 06-4: Gender-Based Education*, WIS. LEGIS. REFERENCE BUREAU 1 (2006).

graduation rates for both sexes, and improved social behavior.”<sup>20</sup> Therefore, the question becomes, do students learn better and progress better through life if they are exposed to a coeducational physical education? Beveridge and Scruggs (2000) found that in schools that do not mandate physical education in curriculum, “girls are less likely than boys to be enrolled in daily physical education during high school.”<sup>21</sup> More recently, Oliver and Kirk (2016) suggested that professionals “have yet to find [a] ‘solution’ to the ‘problem’ of girls and physical education. As a result, little progress appears to have been made in terms of changing things for the better for the majority of girls.”<sup>22</sup>

There are three factors that can contribute to the success or failure of females and physical activity.<sup>23</sup> The first one is the teacher, next the learning environment, and finally the curriculum.<sup>24</sup> These three factors combined can influence a female’s behavior and attitude towards physical education, which can persuade them to either learn the basics of how staying active is an important part of life, or cause them to lead a less active lifestyle.

In a society that is continuously attempting to overcome obstacles such as gender bias, segregating our students in the classroom may set us back decades.<sup>25</sup> One must consider the impact of how young people interpret the contribution and role in the community or environment. Therefore, it is argued that placing students in coeducational physical education classes offer these students a more complete and authentic learning environment. Students must learn to work with individuals of different backgrounds, assets, perceptions, and experiences in physical activity settings. They need to be exposed to these conditions in order for them to be better prepared for circumstances that will arise in the future. Furthermore, educational policy and standards often focus on college/career readiness.

### *C. Social Impact of Co-Educational and Single-Sex Classes*

Although Title IX requires the use of coeducational physical education courses, the social outcomes of such classes are disputed. Previous research

20. *Id.*

21. Sandy Beveridge & Philip Scruggs, *TLC for Better PE: Girls and Elementary Physical Education*, 71 J. PHYSICAL EDUC., RECREATION, & DANCE, 22, 22 (2000).

22. Kimberly L. Oliver & David Kirk, *Towards an Activist Approach to Research and Advocacy for Girls and Physical Education*, 21 PHYSICAL EDUC. & SPORT PEDAGOGY 313, 313 (2016).

23. Beveridge & Scruggs, *supra* note 21, at 22.

24. *Id.*

25. Tanya Schevitz, *Doubts About Same-Sex Classes / No Proof That Segregated Education Helps Girls*, *Report Says*, S.F. GATE (Mar. 13, 1998), <https://www.sfgate.com/education/article/Doubts-About-Same-Sex-Classes-No-proof-that-3011928.php>.

found that single-sex physical education “classes may create a more . . . engaging environment” for the students.<sup>26</sup> For example, female students may be more comfortable learning about soccer without male students who may dominate play with aggressive behavior leading to “[f]eelings of embarrassment, lack of confidence, [and] body image concerns . . . .”<sup>27</sup> Humbert (1996) observed that coeducational classes led to male harassment and intimidation to the point where females had lower participation.<sup>28</sup> Results from qualitative research suggest that adolescent females often prefer single-sex classes in physical education.<sup>29</sup>

Murphy, Dionigi, and Litchfield (2014) noted that there are a multitude of different factors that influence participation levels in physical education.<sup>30</sup> These can include social constructions of gender, gender stereotypes, support systems and social influences, classroom environment, the instructor, and the competitive design of the class. Additionally, they note a lack of self-efficacy, feelings of embarrassment, body image concerns, a lack of interest in the activity, and the dominance of males as other reasons why females dislike participating in physical activity during physical education classes. “In many cases, coed classes have had a negative effect on . . . participation levels.”<sup>31</sup> Some females (especially younger females) may not wish to be seen as overly competitive when competing against males. Additional research has indicated that the effort level of females is increased when males are not present;<sup>32</sup> however, Wallace, Buchan, and Sculthrope (2020)<sup>33</sup> noted that using self-

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26. Shimon, *supra* note 11, at 3.

27. Vargas et al., *supra* note 15, at 171.

28. M.L. Humbert, *How Do Girls Perceive Coed Physical Education Classes?*, 67 J. PHYSICAL EDUC. 1, 4 (1996).

29. See Laura A. Hills & Amanda Croston, *‘It Should Be Better All Together’: Exploring Strategies for ‘Undoing’ Gender in Coeducational Physical Education*, 17 SPORT EDUC. & SOC’Y 591, 600 (2012); Menno Slingerland et al., *Differences in Perceived Competence and Physical Activity Levels During Single-Gender Modified Basketball Game Play in Middle School Physical Education*, 20 EUR. PHYSICAL EDUC. REV. 20, 30 (2014); Gay Timken et al., *‘It Doesn’t Seem Like PE and I Love It’: Adolescent Girls’ Views of a Health Club Physical Education Approach*, 25 EUR. PHYSICAL EDUC. REV. 109, 119 (2019).

30. Brooke Murphy et al., *Physical Education and Female Participation: A Case Study of Teachers’ Perspectives and Strategies*, 24 ISSUES EDUC. RSCH. 241, 243 (2014).

31. Vargas et al., *supra* note 15, at 170.

32. Jarmo Liukkonen et al., *Motivational Climate and Students’ Emotional Experiences and Effort in Physical Education*, 103 J. EDUC. RSCH. 295, 303 (2010); Minjeong Lyu & Diane L. Gill, *Perceived Physical Competence, Enjoyment, and Effort in Same-Sex and Coeducational Physical Education Classes*, 31 EDUC. PSYCH. 247, 255 (2011); Ian M. Taylor et al., *Motivational Predictors of Physical Education Students’ Effort, Exercise Intentions, and Leisure-Time Physical Activity: A Multilevel Linear Growth Analysis*, 32 J. SPORT & EXERCISE PSYCH. 99, 111 (2010).

33. Laura Wallace et al., *A Comparison of Activity Levels of Girls in Single-Gender and Mixed-Gender Physical Education*, 26 EUR. PHYSICAL EDUC. REV. 231, 237 (2020).

report questionnaires to measure effort is a limitation. In their study, females who participated in single sex and coeducational classes were not aware that their effort level changed between the conditions, while accelerometer data clearly indicated a higher level of activity in a single sex environment.

Koca (2009) suggested that gender inequality, which is prevalent in physical education, is perpetuated by gender stereotyping.<sup>34</sup> And that to eliminate these gender stereotypes from the learning environment would be difficult given that they are so deeply ingrained in our culture. Even still, Sima and Cohen (2020) posited that the group is a place where “gender equality can be nurtured and gender stereotypes eliminated.”<sup>35</sup> According to Song, Zuo, and Yan (2016), the proper selection of the makeup of groups can be a way to eliminate gender stigmas.<sup>36</sup> In physical education classes, the composition of groups can be coed or separated by sex.

According to Smith, Lounsbury, and McKenzie (2014), “[a]rguments for or against coed PE are typically based on concerns for equality, socialization, emotional and physical safety, and student and teacher preferences” even though limited objective empirical evidence related to student participation in PE currently exists.<sup>37</sup> Results of existing studies vary depending upon the subject-matter content of classes, student grade level, instructional model, research methodology employed, etc. Even still, Smith, Lounsbury, and McKenzie assert that “PE teachers understand the potential sociological advantages of coed classes and comply with state standards.”<sup>38</sup>

Lentillon-Kaestner and Roure (2019) examined the role of situational interest between males and females in physical education contexts.<sup>39</sup> Their findings suggest that coed physical education classes can enhance students’ motivation and engagement when practicing learning tasks centered on technical skills. Even still, they note that while their study showed positive effects of coed classes in physical education, “it is important not to reduce the

34. Canan Koca, *Gender Interaction in Coed Physical Education: A Study in Turkey*, 44 *ADOLESCENCE* 165, 175 (2009).

35. Zach Sima & Rona Cohen, *Motivational Climate in Physical Education Classes: Is It Really Determined by the Instructional Model?*, 77 *PHYSICAL EDUCATOR* 426, 431 (2020).

36. Jingjing Song et al., *Effects of Gender Stereotypes on Performance in Mathematics: A Serial Multivariable Mediation Model*, 44 *SOC. BEHAV. & PERSONALITY* 943, 951 (2016).

37. Nicole J. Smith et al., *Physical Activity in High School Physical Education: Impact of Lesson Context and Class Gender Composition*, 11 *J. PHYSICAL ACTIVITY & HEALTH* 127, 128 (2014).

38. *Id.*

39. See Vanessa Lentillon-Kaestner & Cédric Roure, *Coeducational and Single-Sex Physical Education: Students’ Situational Interest in Learning Tasks Centered on Technical Skills*, 24 *PHYSICAL EDUC. & SPORT PEDAGOGY* 287 (2019).



gendered context in [physical education] to class sex composition.”<sup>40</sup> The role of the teacher must also be examined as their practices, discourses, behaviors, and/or characteristics have the potential to reinforce gender stereotypes and therefore impact student experience.

When examining whether a coeducational or same-sex setting is more effective for student outcomes in physical education, Williams and Hannon (2018) suggested that more studies need to be conducted and added to the limited body of research before any evidence-based decision is made.<sup>41</sup>

#### *D. Legal Analysis*

As previously mentioned, Title IX was enacted to create educational opportunities for the under-represented sex. This meant assigning women and males into separate physical education classes was no longer allowed.<sup>42</sup> Traditionally this meant the males were placed into team sport and contact sport classes, whereas females focused on individual sports emphasizing flexibility and grace.<sup>43</sup> Early attempts to comply with Title IX included ignoring the law, replacing the classes with less competitive and more skill development activities, offering choice options that resulted in the same previous gender segregation, and requiring females to pass a skills test in order to participate in a traditional male-only class.<sup>44</sup>

Title IX challenges to physical education curricula appears to be a novel issue. However, other high schools applied Title IX cases can offer an understanding of a court’s process. Title IX guarantees have been applied to high school athletics.<sup>45</sup> In 2014, the *Sweetwater* court found a high school district violated Title IX with its female softball team being treated unequally to the male baseball team with practice and game facilities, locker rooms, training facilities, equipment and supplies, travel and transportation, scheduling of practices and games, and more.<sup>46</sup>

More recently, Title IX has been applied to high schools via female student athletic participation without much success. In fact, female high school plaintiffs lost Title IX challenges for a decision to hold tryouts for a female

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40. *Id.* at 296.

41. Skip M. Williams & James C. Hannon, *Physical Activity Levels in Coed and Same-Sex Physical Education Using the Tactical Games Model*, 75 *PHYSICAL EDUCATOR* 525, 527-28 (2018).

42. Ellen J. Staurowsky et al., *Gender Equity in Physical Education and Athletics*, in *HANDBOOK FOR ACHIEVING GENDER EQUITY THROUGH EDUCATION* 381, 394 (Susan S. Klein et al. eds., 2d ed., 2007).

43. *Id.*

44. *Id.*

45. *See, e.g., Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843 (2014).

46. *Id.* at 853.

tennis team and not for a male tennis team;<sup>47</sup> a school district's failure to sanction female tackle football as a high school sport because the female plaintiff failed to demonstrate a reasonable likelihood of competition;<sup>48</sup> and a female wanting to play on the men's team (the school had a women's team) was denied a preliminary injunction because the claim wouldn't succeed on merits nor irreparable injury was shown.<sup>49</sup> The only recent Title IX success was a decision to allow a class certification.<sup>50</sup>

Title IX has been applied to physical education courses albeit in a different context than our current review. Poloceno alleged discriminatory use of physical punishment in a physical education class.<sup>51</sup> Although the punishment was neutral on its face and applied to similarly situated male students, it was complained about being disproportionately impacted by an instructor forcing five female students to do jumps as punishment for not dressing properly for class. This punishment increased from an initial thirty jumps to 260 jumps by the end of the term resulting in visits to the school nurse for pain then ultimately a hospital admission for rhabdomyolysis (breakdown of muscle tissue) for one student. The court held Title IX does not allow disparate impact claims but *only intentional* discrimination.<sup>52</sup> Because Poloceno did not allege any intentional discrimination, the case was dismissed.

Poloceno argued that a "heightened risk" analysis should be applied to support the disparate impact claim. Although this court rejects the use in this case, it does recognize that Title IX cases where students commit sexual assault to other students have used this argument.<sup>53</sup> The court briefly evaluates such a claim if it did accept the heightened risk argument and concludes that the argument would fail using the *Gebser* framework.<sup>54</sup> *Gebser* held that damages may not be recovered under Title IX in an implied private action unless a school district official who has authority to institute corrective measures had actual knowledge of a teacher's misconduct, and was deliberately indifferent to the teacher's misconduct.<sup>55</sup> The *Gebser* Court reasoned that Congress did not contemplate unlimited damages against a

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47. See Clemons *ex rel.* T.W. v. Shelby Cnty. Bd. of Educ., 818 F. App'x 453 (6th Cir. 2020).

48. See Gordon v. Jordan Sch. Dist., 522 F. Supp. 3d 1060 (D. Utah 2021).

49. See Gregor v. W. Va. Secondary Sch. Activities Comm'n, No. 2:20-CV-00654, 2020 WL 6292813, at \*4 (S.D.W. Va. Oct. 27, 2020).

50. See A.B. v. Haw. State Dep't of Educ., 30 F.4th 828 (9th Cir. 2022).

51. Poloceno v. Dallas Indep. Sch. Dist., 826 F. App'x 359, 360 (5th Cir. 2020).

52. *Id.* at 363-64 (This reflects the court's emphasis of *only intentional* discrimination).

53. *Id.* at 363 (citing Simpson v. Univ. of Colo. Boulder, 500 F.3d 1170 (10th Cir. 2007); Karasek v. Regents of Univ. of Cal., 956 F.3d 1093, 1112 (9th Cir. 2020)).

54. *Id.* at 363 (Sometimes known as the *Gebser/Davis* framework).

55. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274, 274 (1998).

funding recipient (school) that is unaware of discrimination in its programs.<sup>56</sup> Further, the Court examined Title IX as essentially a contract between the Government and the school based on the school's promise not to discriminate.

*Davis* further distinguished this issue.<sup>57</sup> Here, the Supreme Court adds that the "harassment is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school."<sup>58</sup>

While the *Gebser*, *Davis* and *Poloceno* cases deal with intentional discrimination, collectively it shows a high bar of potential success for a complaint within the judicial system. Instead of the courts, many Title IX complaints are decided within the Department of Education's Office of Civil Rights (OCR). The OCR considers whether an institution is providing equal opportunities for both sexes. This organization receives complaint letters then may hold an investigation then offer a decision. This process is most often assisted by the school district that implements the OCR recommendations. When the school district rejects the OCR recommendations, then a court challenge may result.

Analyzing OCR complaint letters may provide insights into how such a claim would be handled. Most of the female athlete complaints deal with sexual harassment or assault. One complaint alleged discrimination against a physical education instructor unfairly grading the participation of female students.<sup>59</sup> Although the OCR investigation did not find any discrimination supported by direct evidence, it did notice grading discrepancies. From what appears to be a draft of the complaint letter stated additional steps such as reviewing additional information and interviewing the teacher would be needed.

There are a few that deal with interscholastic sports opportunities, such as athletic facilities, locker room provisions, and practice/game times but no complaints that deal specifically with physical education course offerings.<sup>60</sup>

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56. *Id.* at 285.

57. *See* *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629 (1999).

58. *Id.* at 629.

59. Letter from Letisha Morgan, Team Leader, U.S. Dep't of Educ., Off. for Civ. Rts., to Dr. Shirley Perry, Superintendent, Carroll Cnty. Pub. Sch., *Re: OCR Complaint No. 11-17-1342, OCR Complaint No. 11-17-1409, Resolution Letter* (Oct. 16, 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/11171409-a.pdf>.

60. Letter from Thomas J. Hibino, Reg'l Dir., Off. for Civ. Rts., U.S. Dep't of Educ., to Emmanuel Caulk, Superintendent, Portland Pub. Schs., *Re: Compliance Rev. No. 01-11-5001* (Sept. 26, 2013), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/01115001-a.pdf>; Letter from James M. Wood, Team Leader, U.S. Dep't of Educ., Off. for Civ. Rts., to Margaret A. Chester, *Case No. 09-13-1346* (July 22, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/09131346-a.pdf>; Letter from Adele Rapport, Acting Dir., U.S. Dep't of Educ., Off. for Civ. Rts., to Lewis D. Ferebee,

### III. RESEARCH METHOD<sup>61</sup>

#### *A. Participants and Setting*

Participants in this qualitative study were two junior high school teachers and one director of physical education, health education, and athletics in the Northeast Region, USA. Pseudonyms were provided for all participants. The school's student body was predominately white and economically disadvantaged (fifty-nine percent). At the time of the study, students received physical education class every other day during the school year.

The director of physical education, health education, and athletics, Mr. Patton had twenty-five years of experience in health and physical education. He taught physical education and coached high school athletics from 1999-2018 focusing on women's (or girl's) soccer for most of his time as a physical education teacher. He created a successful soccer program in the Northeast during his tenure, then shifted his attention on administration and completed an advanced certificate in spring of 2018. Mr. Patton was completing his third year as the districts' director of physical education, health, and athletics. It was his first administrative appointment.

The physical education teachers at the junior high school were Mr. Wright and Ms. Richardson, who both completed a master's degree in physical education and an undergraduate degree from the local university. Both teachers provided multiple examples of how Title IX affected their experience in college participation and what must be considered when coaching but did believe that the legislation negatively affected the physical education program.

The curriculum, instruction, and content delivered exemplified a sport-based, teacher-directed approach to physical education. Although they used a variety of content and tasks, as described, an observer walking into the learning environment would see them demonstrating how to perform skills followed by large-sided structured game play. Grading criteria universally included effort and participation with infrequent fitness and skill assessments. Both teachers identify as coaches. Mr. Wright coached seventh and eighth grade basketball and high school varsity baseball. Ms. Richardson coached

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Superintendent, Indianapolis Pub. Schs., *Re: Compliance Rev. No. 05-10-5002* (Feb. 25, 2014), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/05105002-a.html>; Letter from Ann Cook-Graver, Supervisory Att'y, U.S. Dep't of Educ., Off. for Civ. Rts., to Jesse H. Ruiz, Interim Chief Executive Officer, *Re: Chicago Public Schools District #299, OCR Case #05-11-1034* (July 9, 2015), <https://www2.ed.gov/documents/press-releases/chicago-public-schools-letter.pdf>; Letter from Lori Howard Bringas, Supervisory Att'y/Team Leader, U.S. Dep't of Educ., Off. for Civ. Rts., to Craig Dupuy, Superintendent, Cleveland Cnty Sch. Dist., *Ref: 06-14-1411* (Oct. 22, 2019), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/06141411-a.pdf>.

61. Study was conducted by the authors.

seventh and eighth grade field hockey and varsity softball. They shared a similar background in different decades leading up to their careers as physical educators. Both were multiple sport athletes in high school and then competed at the college level in their respective sport. Mr. Wright had been teaching K-12 physical education classes for nineteen years and Ms. Richardson for five years.

### *B. Data Collection and Analysis*

Qualitative methodology, or more specifically, a case study design was selected because of the nature of the research problem. One-one hour interview was conducted with 7-12th grade teachers and one district physical education, health education, and athletics director (N=3). The teachers were asked to interpret the classroom environment, instructional methods, and curricular decisions. Data collection and data analysis occurred simultaneously using constant comparison.<sup>62</sup>

## IV. RESULTS

All the participants interpreted Title IX as a direct relationship to school sport and student athletic participation, and not a physical education course issue. Common comments highlighted athletic budget, facilities, and access. For example, each interviewee commented that Title IX must be observed for equal opportunity athletic participation and each student athlete on their respective team must be provided a budget with similar funding. Mr. Patton shared that administrative reports must address "Title IX" issues, such as sport participation and opportunities for all students. While these reports are often a series of checklists there are examples of specifics that need comments. Specific include; facility scheduling and master plan strategies. All interviewees commented that "baseball currently has a state of the art facility and the plans for updating the softball facility is currently in the planning phase."

Each participant discussed that Title IX was not a topic they understood after their teacher education program. Most of the information received was "on the job training." In fact, Mr. Patton shared that the first time he was made aware that there is a Title IX report due annually he was charged with completing one for the school district. Again, interview responses tended to address athletics, but the curriculum, learning environment, and perceptions of physical education were highlighted.

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62. See SHARAN B. MERRIAM, QUALITATIVE RESEARCH AND CASE STUDY APPLICATIONS IN EDUCATION 151 (2d ed. 1998).

The physical education course content and at the time of the study was based on physical activity that catered to traditional male sport in the U.S. curriculum. It included games like football, basketball, dodgeball, and soccer, which for the most part, are physical activities enjoyed by adolescent males outside of the school day. However, traditional female content in the U.S. (especially the Northeast) such as volleyball, and gymnastics are implemented to both sexes throughout the school year. The teachers shared that most activities were viewed as “gender neutral” and therefore had space in the curriculum. For example, most racket activities were taught using the typical two to three week unit of instruction (pickleball, tennis, badminton) and sports like soccer, basketball, and track & field were viewed as neutral.

The learning environment affected the curriculum decisions. The teachers in the study perceived that males tend to really focus on the competitive nature of physical activity, while females enjoy “recreational participation” experience. Female students tended to view physical education classes as a physical activity break, while male student participation in physical education classes were seen as another way to workout or compete. The teachers contributed this response stemming from societal expectations of both genders before arriving at the junior high school. They continued to suggest that males and females have different attitudes towards learning in physical education classes. Adolescent females have their own philosophy when it comes to physical education. Noncompetitive females would participate more if they did not have to play with the males in class. Females who are shy and worried about how the males will perceive them, will not have to worry about these factors without males around. Fundamentals and learning how to play a game first help females understand what they need to work on, and sex separated classes accomplish that.

The perception that adolescent males are often “held back” by waiting for females in many ways was also shared by both teacher participants. For example, males tended to be quicker than females getting ready for class “dressing out.” Mr. Wright suggested that “single-sex classes help because males dress out quicker and enjoy longer physical education classes because they are not ‘waiting’ for the females.” Finally, the teachers commented that males enjoy playing the games more than learning the fundamentals of the games.

## V. CONCLUSION

Single-sex classes are not perfect for all levels of physical education classes. Despite Title IX requirements, many individual physical education classes fail to meet the legal (and moral) obligations. Further, rule

modifications should be utilized to decrease contact sport dangers. The teachers in this study found that single-sex classes were more appropriate for twelve through fourteen-year-old students in seventh and eighth grade. Both instructors perceived that their junior high students were more comfortable in single-sex classes. They noted that because female students may worry about skill level, appearance, social issues, and/or peer acceptance they may benefit from these classes being single sex. Additionally, they suggested that males who are not as skilled in sport skills and have a lower perceived competence would also benefit from having single-sex classes. If the goal is to increase students' positive perception of physical education classes, then the teaching professionals must decide what is most culturally relevant in their school district and address the curriculum, learning environment, and instruction to best meet students' needs.

A possible solution may be to create a choice-based program for physical education to satisfy Title IX requirements and provide a meaningful experience for students and instructors.<sup>63</sup> Allowing students to choose an activity course increases engagement since the students are more interested in the activity.<sup>64</sup> This would allow female students to participate against male students with the decreased contact sport dangers should they opt for a coeducational experience. It also allows both female and male students opportunities to participate in non-competitive physical education offerings as well. Further, offering activity choice also "allows teachers to instruct within their areas of interest and expertise."<sup>65</sup>

Lastly, Title IX information needs to be added to the physical education curriculum. The case study shows the law's application is known within the sport context but not the class setting. The addition of this subject can supplement teaching team-based and individual sport as well as skill development modules.

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63. Shimon, *supra* note 11, at 4, 12.

64. *Id.* at 4.

65. *Id.*