



Written by [Bob Adelman](#) on April 1, 2014

Feds Determine Bleachers Are Unequal, Must Be Torn Down

Six years ago some parents of high-schoolers in Plymouth, Michigan, decided they couldn't see their students play baseball very well through the chain-link fence surrounding the field, so they chipped in and built some bleachers so they could see better.



But last week, the U.S. Department of Education's Office for Civil Rights (OCR), in the interest of fairness and equality, [told them to take the bleachers down](#). One of the parents who helped pay for and build the bleachers, Dan Gilbert, told a local Fox News affiliate, "It was hard to watch the game through the black chain link fence, so we created our seating deck to sit above it." They also bought a new scoreboard as well, using their own money.

But someone — anonymously — complained that the new bleachers were nicer than the ones at the girls' softball field, so the situation wasn't fair and equal. The OCR stepped in, and by federal edict the bleachers are being dismantled.

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Plymouth High School Superintendent Michael Meissen decided not to protest, saying instead that he wants to be "fair to everyone." Unfortunately the school doesn't have the money to rebuild new seating to be in compliance with the Title IX law under which OCR brought the complaint, so the bleachers are gone.

Gilbert didn't think it was fair: "I don't think parents sitting has anything to do with on-field competition. I can't believe we are tearing something down as opposed to building something," he said.

Requiring fairness and equality, of course, was the initial purpose of the Title IX amendment to the 1964 Civil Rights Act (signed into law under President Lyndon Johnson), stating in part:

No 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 assistance.

Nothing was mentioned about sports in the law, nor was there any language in the 1964 act that referred to sports. But then inevitable "mission creep" set in, and without congressional approval, executive orders by Johnson began to "clarify" and enhance and expand the law. His Executive Order 11375 ended discrimination on the basis of sex in hiring and employment in 1967, and two years later Bernice Sandler used it in her fight to keep her job at the University of Maryland.



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In 1970 Sandler was invited to join the House Subcommittee on Higher Education. She and the chairman, Rep. Edith Green (D-Ore.), proposed Title IX to expand the 1964 act, but even then there was almost no mention of athletics. Its focus was on the hiring and employment practices at federally financed institutions.

Enter Democrat Senator Birch Bayh of Indiana. He crafted and sponsored Title IX legislation and helped herd it through the Senate. After it was passed in 1972, Bayh noted that the new law would be a large expansion of federal power to enforce fairness and equality, but he said nothing about athletics:

While the impact of this amendment would be far-reaching it is not a panacea. It is, however, an important first step in the effort to provide for the women of America something that is rightfully theirs — an equal chance to attend the schools of their choice, to develop the skills they want, and to apply those skills with the knowledge that they will have a fair chance to secure the jobs of their choice with equal pay for equal work.

It was all about equality and fairness without mentioning athletics.

It wasn't until 1975, after the Department of Health, Education, and Welfare (HEW) was split into the Department of Health and Human Services (HHS) and the Department of Education that the enforcement arm of the agency — the Office for Civil Rights — was given to the latter.

Following the Supreme Court's ruling in *Grove City College v. Bell* in 1984 that Title IX only applied to programs receiving direct federal aid, Congress passed the Civil Rights Restoration Act, which extended Title IX to all programs of any educational institution that receives any federal assistance, whether direct or indirect.

From there, mission creep pushed the federal government into athletics. In 1994, the Equity in Athletics Disclosure Act was passed, requiring higher education institutions to disclose information on sports teams' roster sizes, funding, budgets for recruiting, and the like.

In November 2006, Title IX regulations were expanded to include authority in athletics at the primary and secondary school levels. Today, Title IX covers all education activities, including athletics as well as non-sports activities such as school bands and clubs, all in the name of equality and fairness. The *Federal Register* now notes that

Title IX applies to an entire school or institution if any part of that school receives federal funds; hence, athletic programs are subject to Title IX even though there is very little direct federal funding of school sports.

After the OCR's investigation at Plymouth High, it threatened the school with fines unless it dismantled the "unequal" bleachers.

In June 2012, President Obama celebrated the 40th anniversary of Title IX, again reiterating its goal of fairness and equality:

Title IX ensures equality for our young people in every aspect of their education. It's a springboard for success.

As president, I'll do my part to keep Title IX strong and vibrant, and maintain our schools as doorways of opportunity so every child has a fair shot at success.

A Jewish rabbi saw where efforts to enforce equality and fairness in every aspect of life would eventually lead. Speaking with Glenn Beck on March 20, Rabbi Daniel Lapin said,



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For those seeking to increase tyranny and totalitarianism, fairness and equality is a great thing to work people up about, because you essentially get a population — particularly a docile population — to agree to almost anything in the name of equality and fairness....

Freedom is being eroded steadily ... in the name of equality.

Thanks to “bleacher envy” and mission creep, Title IX is one more tool being used to erode and eventually eradicate freedom.

A graduate of Cornell University and a former investment advisor, Bob is a regular contributor to The New American magazine and blogs frequently at www.LightFromTheRight.com, primarily on economics and politics. He can be reached at badelmann@thenewamerican.com.



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