

A Legacy of the Civil Rights Movement, "Title IX," A Brief History

Part 1

"Too Strong for a Woman"--The Five Words That Created *Title IX*

By Bernice R. Sandler

SOURCE: <http://bernicesandler.com/id44.htm> (Note: this is a shortened version of the original)

The year was 1969. I had been teaching part-time at the University of Maryland for several years during the time I worked on my doctorate and shortly after I finished it. There were seven openings in the department and I had just asked a faculty member, a friend of mine, why I was not even considered for any of the openings. It was not my qualifications; they were excellent. "But let's face it," he said, "You come on too strong for a woman."

My reaction? I went home and cried. I had no idea that this rejection would not only change my life but would change the lives of millions of women and girls because it would lead ultimately to the passage of Title IX, the law that prohibits sex discrimination in educational institutions receiving federal dollars. Instead, I bemoaned the fact that I had spoken out at staff meetings with suggestions for improving procedures. I lamented the times that I had discussed teaching and professional issues with faculty members. I regretted my participation in classes as a graduate student. In short, I accepted the assessment that I was "too strong for a woman."

It was my then husband who helped me understand what the words "too strong for a woman" meant. He labeled the department's behavior as "sex discrimination" -- a label that started me thinking. Was this really a question of my being "too strong?" After all there were many strong men in the department. Yet the label of "sex discrimination" was a new one for me and initially I was not ready to apply it to my not getting the position at Maryland. Like many women at that time, I was somewhat ambivalent about the women's movement and halfway believed the press descriptions of its supporters as "abrasive," "man-hating," "radical," and "unfeminine." Surely I was not like that.

In the next few months I had two more similar rejections. A research executive who interviewed me for a position spent nearly an hour explaining to me why he wouldn't hire women because they stayed at home when their children were sick. (That my children were in high school was deemed irrelevant.) Then an employment agency counselor looked at my resume and told me that I was "not really a professional" but "just a housewife who went back to school."

Although later, in retrospect, I would discover other instances of sex discrimination in my life, at that point I had

not consciously noticed it. Yet here were three incidents within a short period which I could not rationalize away. I began to think about the ramifications of discrimination and the burgeoning women's movement and to explore how the law treated sex discrimination. Knowing that sex discrimination was immoral, I assumed it would also be illegal.

But this was 1969. Although sex discrimination was indeed illegal in certain circumstances, I quickly discovered that none of the laws prohibiting discrimination covered sex discrimination in education. Title VII of the [1964] *Civil Rights Act* which prohibited discrimination in employment on the basis of race, color, religion, national origin and sex, excluded "educational institutions in their educational activities," meaning faculty and administrators were exempt. Title VI of the same act prohibited discrimination on the basis of race, color and national origin in federally assisted programs, but did not cover sex discrimination. Thus students were not protected against sex discrimination. The *Equal Pay Act* prohibited discrimination in salaries on the basis of sex but exempted all professional and administrative employees, including faculty. The *Fourteenth Amendment* to the Constitution assures all persons "equal protection of the laws," but at that time no case concerning discrimination against women in education had ever been decided in favor of women by the Supreme Court.



Co-sponsor of Title IX, Representative Edith Green (Democrat)—an indefatigable champion of education, civil rights, fair labor practices, and gender equity—with President John F. Kennedy, 1963



I began to read more about the civil rights movement to see what African Americans had done to break down segregated school systems and employment discrimination, with the hope of learning what might be applicable to women's issues. The breakthrough occurred when I was reading a report of the U.S. Commission on Civil Rights which examined the impact of antidiscrimination laws on race discrimination. The report described a presidential Executive Order prohibiting federal contractors from discrimination in employment on the basis of race, color, religion and national origin. There was a footnote, and being an academic, I quickly turned to the back of the report to read it. It stated that *Executive Order 11246* had been amended by President Johnson, effective October 13, 1968, to include discrimination based on sex.

Even though I was alone, I shrieked aloud with my discovery: I had made the connection that since most universities and colleges had federal contracts they were forbidden from discriminating in employment on the

basis of sex. Yes, there was a legal route to combat sex discrimination even though few people knew it at the time.

I called the Office of Federal Contract Compliance at the Department of Labor to be certain that sex discrimination was covered by the Executive Order. I was immediately connected to the Director, Vincent Macaluso who had been waiting for someone to use the Executive Order in regard to sex discrimination. We met, and together we planned the first complaint against universities and colleges, and the strategies to bring about enforcement of the Executive Order.

[...]

But something else was happening in the months following the initial complaints. Rep. Edith Green (OR) (also a member of WEAL's national advisory board) had long been aware of sex discrimination in higher education, and the lack of coverage by civil rights laws. As chair of the subcommittee that dealt with higher education, she was in a unique position to shape new legislation. She had been urged to hold hearings by Phineas Indritz (a Congressional staff member who "dabbled" in civil rights issues) but she was hesitant to do so because there was little data available and apparently no constituency whom she could count on to testify.

[...]

The first Congressional hearings on the education and employment of women were held by Rep. Green in June and July of 1970. This was the official beginning of the bill that eventually became Title IX. The original bill, part of a larger measure on higher education, proposed to amend Title VII of the Civil Rights Act to cover employees in educational institutions, Title VI to cover sex discrimination in federally assisted programs, and the Equal Pay Act to cover executives, administrators and professionals.

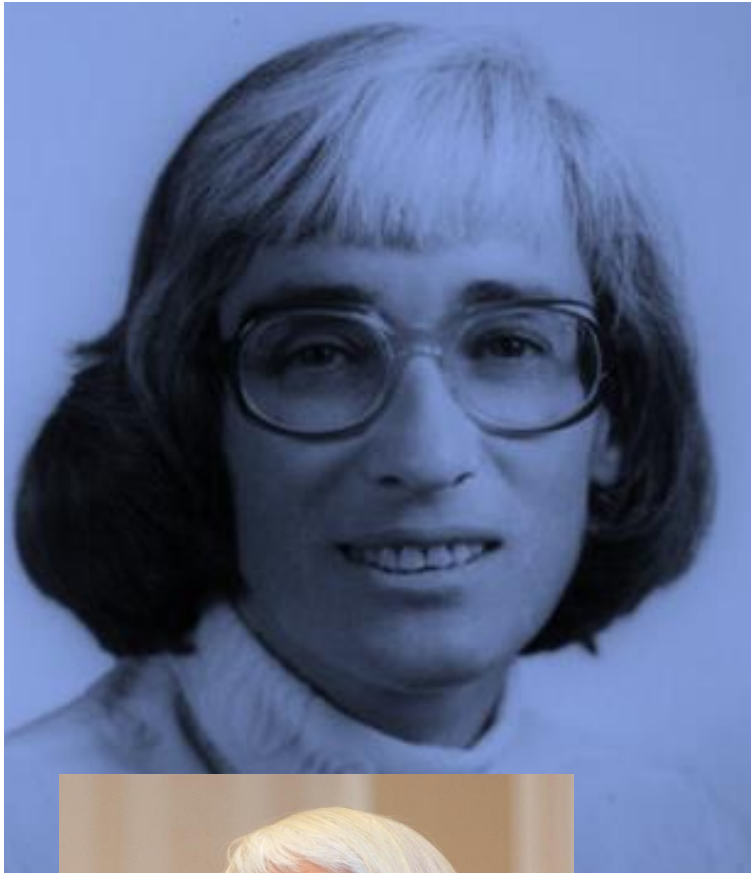
[...]

There were seven days of hearings. Except for Rep. Green, who was in attendance throughout the hearings, only a few subcommittee members made short token appearances. Federal officials testified that they supported the aim of the bill but not the bill "in its present form"-- a euphemism for opposition. Women employed in educational institutions across the country testified in support of the bill and provided data. Rep. Shirley Chisholm (NY) (another WEAL national advisory board member [and one of the few African Americans in Congress]) testified that during her entire political history, her sex had been "a far greater handicap than [her] skin pigmentation. Other African-American women and female members of the Congress also testified in support of the bill. Much of the testimony dealt with the employment of women both in and outside of higher education; there was some testimony (but not much) about women students, mainly focusing on admissions and counseling.

When the hearings were finished, I was asked by Rep. Green to join the subcommittee staff to put together the written record of the hearings. (Thus I became the first person ever appointed to the staff of a Congressional committee to work specifically in the area of women's rights.)

[...]

As the bill drew close to passage, a group of women (including myself) who represented women's organizations, met with Rep. Green to offer our lobbying services. She informed us that it would be better if we did not lobby because there was no opposition to the bill, and the less that people knew about the bill, the better its chances were for passage. We were skeptical, but she was absolutely right.



In the spring of 1972, two years after the hearings, a portion of Rep. Green's original bill became law when Title VII of the Civil Rights Act was amended by Congress in a separate action to cover all employees in educational institutions. Initially, Rep. Green had also initially sought to amend Title VI of the Civil Rights Act (prohibiting discrimination on the basis of race, color and national origin in all federally-funded activities) to include sex discrimination. However, at the urging of African-American leaders and others, who were worried that opening Title VI for amendment could weaken its coverage, she proposed a separate and new title, which became Title IX. In its final form, Title IX was identical to that of Title VI, except that it was restricted to educational activities, contained additional exemptions and included the amendment to the Equal Pay Act. On June 23, 1972, Title IX of the Education Amendments of 1972, was passed by the Congress and on July 1, was signed into law by President Richard Nixon.

The historic passage of Title IX was hardly noticed. I remember one or two sentences in the Washington papers.



It would be another three years before the regulation for Title IX would be issued, and then another year before it would take effect. By then, higher education and the country understood that Title IX was going to change the landscape of higher education forever.

**Dr. Bernice R. Sandler in 2010.
Her efforts started the ball rolling that led to the passage of Title IX**

The entire WEAL campaign had cost a few hundred dollars in postage, but hours and hours of time from women in academe who patiently and painstakingly gathered and analyzed data about men and women in their institution, who pressed their Representatives and Senators for action, organized together and became advocates for change. They are the true unsung heroes of this story. They took enormous risks. Many did not have tenure and as a result of their activities never received it and were lost to the higher educational community. Some became lawyers or found other successful careers. A few went on welfare.

It was the words “too strong for a woman” that turned me into a feminist although I did not know it at the time. I have often wondered what would have happened if I had been considered, for a position at Maryland. I might still be a part-time faculty member. Title IX, or something like it, would have eventually been enacted but probably in a weaker version with more exemptions, because of subsequent backlash.

For myself, I had no idea what I was getting into. I had no legal, political or organizing experience and had no idea that the political and legal action I began would force open the issue of sex discrimination on campus. I was extraordinarily naive; I believed that if we passed Title IX it would only take a year or two for all the inequities based

on sex to be eliminated. After two years, I upped my estimate to five years, then to ten, then to twenty five, until I finally realized that we were trying to change very strong patterns of behavior and belief, and that changes would take more than my lifetime to accomplish.

[...]

Because of Title IX, the campus has changed irretrievably, and the world of higher education, and the nation will never again be the same.

This article appeared in the Spring 1997 issue of About Women on Campus, the former newsletter of the National Association for Women in Education.

NOTE: Title IX of the Education Amendments of 1972, was renamed in 2002 as *Patsy Takemoto Mink Equal Opportunity Education Act of 1972* in honor, following her death, as one of its co-sponsors and co-author.

Part Two

The Mother of *Title IX*: Patsy Mink

By Kristina Chan April 24, 2012

SOURCE: <https://www.womenssportsfoundation.org/education/mother-title-ix-patsy-mink/>

Patsy Mink was one of the principal authors of the *Education Amendments of 1972*, largely referred to as *Title IX*, which was later renamed the *Patsy T. Mink Equal Opportunity in Education Act*, after her death in 2002. As the first Asian American woman and woman of color to serve on the United States Congress, she battled gender discrimination and racism from the very start.

The native Hawaiian played basketball for Maui High School, but was never allowed to play full court because the school believed that it would be too arduous for girls. After her college years at the University of Hawaii, Mink applied to medical school but received twelve rejections due to what she believed to be gender discrimination.

She then decided to opt for law school, but continued to face sexism when she was denied a job at a law firm because she was a married woman. She tried to start her own practice, but government officials only allowed residents of Hawaii to take the bar exam. Although Mink had been born and raised in Hawaii, her husband hadn't, making her a nonresident of Hawaii. She had to fight for her right to take the bar exam. When she won and passed the exam, she became the first Japanese American woman lawyer in female Hawaiian history.

Mink was the kind of woman who faced endless challenges from society, but she never gave in. In the words of Peggy Simpson, WeNews correspondent, "when one door closed, she pushed another one open."

Her personal and professional experiences dealing with gender discrimination drove Mink to push for the ratification of Title IX, one of her greatest contribution to the United States.

It began in 1971 when she was Congresswoman Patsy Mink. She and Edith Green, a fellow congresswoman from Oregon, were given the chance to help other women pursue their dreams without gender discrimination, and they

took it. It wasn't a walk in the park, however. Title IX was highly controversial, and although some supported the law, others thought it would be too dangerous—"forcing" schools to accept women would ruin American education, some felt.

Mink and other gender equality advocates withstood the criticism and worked hard to pass Title IX. They won when Congress passed a final version of the bill in June 1972, and President Richard Nixon signed it into law on June 23rd. However, the fight was not over.

It was July 1975 when one congressman argued that gym classes should be able to separate girls and boys. But history shows that separate is certainly not equal. During the debate in the House of Representatives, one vote was needed to stop the change, and that one vote was Patsy Mink's.

The battle was still not over, though, as it had to be approved by the Senate, as well. Although Mink was not in Washington to help persuade senators to reject the House's change, her supporters stood by her efforts, chanting, "Give Women a Sporting Chance!" The Senate rejected the changes, but the House had to vote on Title IX once again. This time, the House listened to Mink's supporters, and followed their advice. The proposed changes were voted against, and the law went into effect across the country soon thereafter.

The first woman of color elected to the U.S. Congress, and co-author and co-sponsor of Title IX

However, there have been many times in the last forty years when it has been challenged. People have tried to change the law or abolish it completely. Title



IX has gone back to Congress many more times than most other laws—24 times by 2007.

Although Title IX is safe for now, "[w]e all need to be reminded that since Title IX was put in place by a legislative body, it can be taken away by a legislative body," Mink said.

Mink served as Congresswoman of Hawaii from 1965 to 1977 and again from 1990 to 2002. She was a democrat who supported social welfare state and had a huge impact on the national level.



“You were not elected to Congress, in my interpretation of things, to represent your district, period,” Mink said. “You are national legislators.”

The Women Behind “Title IX” and Gender Equity

Title IX

“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....”

(Title IX of the **Education Amendments of 1972**, renamed in 2002 as **Patsy Takemoto Mink Equal Opportunity Education Act of 1972** in honor, following her death, of one of its co-sponsors and co-author: Patsy Takemoto Mink.)

Dr. Bernice R. Sandler

Rep. Edith S. Green

Rep. Patsy T. Mink

She was an influential member of the Committee on Interior and Insular Affairs, Committee on Education and Labor, Budget Committee and other government institutions. Mink always stood by her liberal values regarding civil rights, education and welfare.

Mink perfectly embodies the spirit of the women’s movement of the 1920’s. She was outspoken, daring and honest. She was a true champion of women’s rights, social justice and civil rights.

Her legacy will continue to live on, but only with the perseverance and determination she instilled in the future generation.

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