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## Title IX Trickles Down to Girls of Generation Z

By BILL PENNINGTON

**R**ussell Johnson, a 45-year-old pipe fitter from the river city of Gadsden, Ala., never intended to be a champion of women's athletic rights.

"Title IX didn't mean nothing to me," Johnson said, referring to the federal law against sex discrimination in education. "I had no clue."

Lauren Cruz, a 15-year-old high school sophomore from Alhambra, Calif., was not steeped in gender-equity statutes, either. "Didn't know much at all," Cruz said.

But Johnson and Cruz are at the forefront of a new phase in the evolution of Title IX; each recently filed a federal lawsuit accusing the local school district of discriminating against the girls' high school softball team. Their lawsuits seek better fields, locker rooms and equipment - facilities and services that would be comparable, they say, to those already afforded the boys' high school baseball teams.

There have been dozens of such suits in recent years nationwide, centered on claims of shoddy, weed-strewn ball fields for girls' teams or inadequate girls' locker rooms - with the vast majority of cases settled in favor of the female athletes.

These suits are often initiated by fathers like Johnson, who are part of what is known as the angry-dad phenomenon among people involved in Title IX matters.

"The fathers tend to get more riled up," said Sam Schiller, a Tennessee lawyer, who with his partner, Ray Yasser, has been involved in more than 30 Title IX lawsuits. "The fathers have already experienced the benefits of a full high school athletic experience. Then they have a daughter and she goes to high school and they can't believe she isn't being treated like they were."

While the familiar battles over Title IX take place at colleges and universities, the battleground has been extended to high schools and middle schools. It is not only lawsuits that have become more common. At the federal Department of Education, the agency responsible for enforcing Title IX, the number of complaints involving sex discrimination in high school and even middle school athletics has outpaced those involving colleges by five to one since 2001.

"High school is where the Title IX action is," said Bob Gardner, the chief officer of the National Federation of State High School Associations. "The colleges get all the attention, but Title IX isn't about the nation's elite college athletes. It's about providing a grass-roots gateway to sports that benefits millions."

Increasingly, people have decided to take it into their own hands to determine exactly how wide that gateway should be.

¶In Owasso, Okla., a local firefighter, Ron Randolph, sued his school district for discrimination under Title IX and received a settlement that led to the construction of a state-of-the-art softball complex and spawned 13

similar suits in Oklahoma.

¶In Kentucky, a landmark suit concerning a high school softball team in Boone County coincided with the state athletic association's decision to annually review all 284 member school districts for Title IX compliance - a process that often leads to fines and penalties for the noncompliant and has brought about the construction of more than 70 softball fields.

¶In Indiana, where there was a state championship in pole vaulting for boys but not for girls, Steve Allen, whose daughter Tori was a top pole-vaulter, sued; the Indiana high school association agreed to add a girls pole vaulting state championship.

¶In Arlington, Va., a suit against the county school district by Kenneth Boehm, whose daughter Christine played field hockey, led to a settlement in which the district agreed to make a lengthy list of improvements to facilities for field hockey, girls gymnastics and softball.

¶In Cheatham County, Tenn., a complaint to the federal Department of Education led to an investigation and new lights for the softball field, paid for by the school district.

¶Another complaint to education department's Office for Civil Rights concerned the West Linn-Wilsonville School District in Oregon, which later agreed to build a \$390,000 softball batting cage and to construct restrooms, dugouts and training facilities that were more like those for the boys' baseball team.

¶After a Title IX suit, two high schools in Westchester County were ordered to move girls soccer from the spring to the fall, so the girls' teams would have the same opportunity as the boys' teams to compete in regional and state soccer championships.

¶Two weeks ago, the United States Supreme Court agreed to hear a case involving Roderick Jackson, a girls basketball coach in Birmingham, Ala., who contends that he was dismissed after he complained to his supervisors that the girls' team was receiving fewer resources than the boys' team.

The new focus on Title IX in high schools might be tied to a significant increase in sports participation for high school girls. In 1972, when Title IX was enacted by Congress, there were 295,000 girls participating in high school sports, or roughly one in 27. Now, there are more than 2.8 million girls, or approximately one in three.

There are other factors cited by experts for the increase in lawsuits and gender-equity complaints, including the fathers who want their daughters to have the same opportunities they had in high school.

"The angry dads won't tolerate going backwards," said Sue Hinrichsen, assistant executive director of the Illinois high school association. "They want what they had for their daughter. And they're not afraid to say something."

### Frustration, Not Anger

When Russell Johnson decided to file his lawsuit, he said it was more out of frustration than anger.

"We moved to Gadsden three years ago, and when I saw what the town offered the girls athletically, I was heartbroken," Johnson, whose three daughters play sports, said. "The boys had a nice baseball field with a locker room attached to the field's dugout right there at the high school, but the girls had to go to a city park field, and they would get kicked off that sometimes because the city wanted to use it. The girls had nowhere to change there at all, and their uniforms were old and not too good anyway.

"They didn't have any real equipment, just a few bats. If five or six games were rained out, they wouldn't even

bother rescheduling them. The girls just got nothing."

Johnson said he went to Gadsden school officials. "They were nice about it, but nothing got better," he said. "So I went on the Internet, and for the first time, I read about these Title IX suits. I didn't know anything about Title IX, but I wanted to do something for my children and other people's children."

On May 1, Johnson and the Gadsden public schools reached a settlement, with the school district agreeing to establish for the softball team the exclusive use of one city field. The nearby Gadsden Coliseum will be available for use as dressing quarters. New uniforms, other equipment and footwear are being ordered and additional coaches for softball and basketball will be hired. Most important, a new high school in Gadsden, scheduled to be complete in 2006, will have equivalent state-of-the-art facilities for boys and girls.

"We were very adamant that we were in Title IX compliance in the first place," said Josh Sullivan, a lawyer representing the Gadsden school board. "We thought there were only minor differences in the boys' and girls' facilities. But we wanted to take any extra steps to make sure things were equal."

Like the majority of those who brought recent Title IX lawsuits, Johnson sought improvements, promises about the future of girls sports and restitution for lawyer's fees, but no money for damages.

While the most common Title IX complaint involves the disparity between the fields and the facilities for softball and baseball, there are many other ways that schools' athletic departments can be in violation of Title IX. The law and related regulations cover much more than only fields and locker rooms.

Perhaps the most misunderstood factor is the use of money raised by booster groups. This money, often contributed by parents or local sponsors, is frequently used for a particular, high-profile sport like football, with some booster groups raising as much as \$40,000 in a season.

But for Title IX purposes, any money spent on any team, even by a private booster group, is treated as if it were public money appropriated by the school district. It is the obligation of the district to ensure that outside financing does not tip the balance, making the athletic experience inequitable for girls or boys. Many school districts have convinced booster groups to contribute to a variety of sports instead of only one or two, but that remains a controversial policy in many places.

Among other athletic department matters covered by Title IX is equal access for boys and girls to a school's training staff and weight rooms. Scheduling is often a major issue; schools are not permitted to have either the boys' or girls' teams use all the desirable evening or weekend times for games or the most popular after-school times for practice. Gymnasiums must be shared. The mode of transportation to games or practices must be fundamentally equivalent.

Coaching salaries also must be comparable. The schools must make an effort to publicize girls teams the way they publicize boys teams. Title IX even covers the cheerleaders, who are not supposed to cheer more often for boys teams than for girls teams.

### A Dearth of Data

Colleges and universities are required by federal law to disclose all pertinent data on how they are treating and financing their athletic programs for men and women, but public schools' athletic departments have no disclosure requirement. So there is no data to assess the true level of gender equity nationally in high schools, middle schools or elementary schools.

Monitoring compliance is left to local school boards, activists, the courts or the Department of Education's Office for Civil Rights, which generally investigates after it receives a complaint. It does conduct periodic independent compliance reviews.

Many women's rights advocacy groups would like to see the Office for Civil Rights be more aggressive in pursuing high schools that are not in compliance with Title IX.

"The Office for Civil Rights has never once withdrawn federal funds from a school over a Title IX athletics violation," said Deborah Brake, a University of Pittsburgh law professor and former litigator for the National Women's Law Center. "Just one or two examples where a school district lost even a portion of its federal money for mistreating female athletes and it would be a different world out there."

Ken Marcus, who oversees the education department's Office for Civil Rights, defended his agency, saying it is sometimes criticized for being overzealous in its investigations and sometimes criticized for being too passive. "What we have tried to do over the last couple of years is to make sure our investigations were full and fair," Marcus said.

A large percentage of high schools, perhaps even a majority, are still not in compliance with Title IX, said the leaders of several state high school athletic associations. At the same time, many state sports executives said they thought there has been tremendous progress.

"In one generation, we've gone from powder-puff basketball games to a competitive, beneficial, broad-based sports environment for girls," said Dorothy McIntyre, who recently retired after more than three decades as the executive director of the Minnesota State High School League. "But it was not accomplished without a lot of blood, sweat and tears. There were a lot of boys coaches slamming their fists on the table and a lot of girls coaches slamming their fist back and saying: 'I'm not going to take this.' "

And yet, while Title IX issues tend to be divisive at the collegiate level, many officials insist that many of the problems are resolved amicably in high schools. For example, it is unheard of for a high school to cut a boys team to help achieve gender equity, something that has become commonplace in colleges.

### Neighbors Making Decisions

"Obviously, one big difference between high schools and colleges is that no one is on scholarship and the sports revenue dollars are so much smaller," said Gardner, the leader of the national high school federation. "But at the high school level it is also true that the decision makers are much closer to the people that they impact with their decisions.

"If a local school board member cuts the high school wrestling program, that school board member sees the parents of those wrestling kids at the grocery store, at church and at the gas station. So they find a way to keep the team and just add another girls team."

Not everyone thinks Title IX's impact in high schools is completely favorable. Bruce Gibbs is the director of schools for Cheatham County in Tennessee, where, after a complaint, lights were added to the softball field.

"Title IX provides almost a disincentive to parents who want to donate their time or money to improve the athletic facilities," Gibbs said. "Because those parents will want to do it for the one sport their kid plays. But a lot of school systems can't allow that kind of effort for just one sport because it can cause an imbalance."

In Alhambra, Calif., Lauren Cruz said her softball team must change out of school clothes and into softball uniforms in a tin shed alongside the school field. In the lawsuit she and three other plaintiffs filed, they said there were no working toilets at the field and inadequate maintenance of the bumpy, weedy playing surface.

"The boys' baseball team plays in a place they call the 'Field of Dreams,' " Cruz said, referring to Moor Field, a city facility that Alhambra recently spent more than \$900,000 to renovate.

Gary Gibeaut, a lawyer for the Alhambra School District, denied that the girls' softball field was dilapidated, and he said it was well maintained.

The two sides, however, may not be hunkering down for a protracted court fight. Since it is a high school Title IX case, a settlement has already been discussed.

"And that is an excellent idea," Gibeaut said.