

# Title IX at 47: A brother's reflections on an Olympic gymnast, a track pioneer, and a Nike executive

BY JOHN E. THIES

What do you call the brother of three sisters including an Olympic gymnast, a pioneering track athlete at a Big Ten university, and a state qualifying tennis player (now Nike executive)? For me, it means a lawyer who has witnessed first-hand some of the ups and downs associated with Title IX.<sup>1</sup> This landmark legislation turns 47 this year, giving me pause to reflect on some of my sisters' experiences—positive and negative—associated with Title IX.

Title IX, passed in 1972, states that:

“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.”

Both private and public institutions are governed by Title IX regulations, and this has affected most colleges, universities, as well as state and local educational institutions due to their receipt of federal assistance. According to the United States Department of Education, “[t]hese agencies include approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States.” While Title IX was intended to expand opportunities for women and girls in a wide range of areas, much of the public focus on this law has been with regard to athletics.

My sister **Nancy Thies Marshall** was a member of the 1972 United States Olympic Gymnastics Team that competed in Munich. In the course of that competition,

Nancy—who was 15 years old at the time—successfully completed the first back summersault on the balance beam in Olympic history. During her four years on the U.S. National team, she was a national champion in two events and competed all over the world. Ultimately, Nancy was inducted into the World Acrobatics Hall of Fame (among her many other recognitions).

Despite her significant prior achievements in the sport, when Nancy entered the University of Illinois (U of I) in the fall of 1975 and became a member of the school's women's gymnastics team, she was given only a *partial* athletic scholarship. Instead of receiving a full one, she was informed by the athletic department that, unlike the hundreds of male athletes with inferior credentials, she would have to “prove herself” before receiving this level of aid. The administrator who made this proclamation (incidentally, a woman) had a background as a physical education instructor.

Unbelievable as this story may read, it exhibits several “growing pains” that followed Title IX's enacting. First, Title IX didn't result in instantaneous practical reforms—it would be years before we would see the greater parity that exists today amongst men's and women's college sports programs. Second, it's a window on the need at the time for women's programs to shift from a model that was more focused on teaching people how to be *physically fit* to one that emphasized competition at the highest levels and which created pathways for athletes to do this.

Nancy clearly did “prove” her worth to the university. During the two years she competed at the U of I prior to her retirement from the sport to join NBC

Sports as its gymnastics commentator, she won nine Big Ten individual titles, led the school to two Big Ten team titles and was the school's first female Athlete of the Year. Ultimately, Nancy was included in the first class of athletes—male and female—inducted into the U of I Athletics Hall of Fame, joining Dick Butkus and other Illinois sports luminaries. To her, the growing pains of Title IX presented just one more hurdle to overcome. But, at least she had a varsity college sport to begin with (albeit one that didn't deem her worthy of a full scholarship until her sophomore year!), a rarity for women on prior U.S. National teams.

My sister **Susie Thies Harrison** had a different but also significant experience with Title IX implications. When she arrived at Indiana University (IU) as a freshman in 1976, there was no varsity women's track and cross country program. IU had a distinguished varsity men's program in these sports (one I participated in as an athlete five years later), but the school had to date been unwilling to extend this status to women. Accordingly, when she got to campus, Susie became a “club team” athlete and went to work trying to persuade athletic department officials that varsity programs should be established.

To make her case, Susie worked with another club team member to prepare an exhaustive review of the costs and benefits of such programs; the success of the IU club team members; and the talented athletes already available to represent the school. After much persistence, the IU Athletic Department eventually relented and established varsity track and cross country for women beginning in 1978 crediting Susie and her teammate for the role they played in this achievement. I have little doubt that

the existence of Title IX (and the tool it provided to potential litigants) played a role.

Our younger sister **Anne Thies Peters** has also been impacted by Title IX, but given her age (she is nine years younger than Nancy and eight years younger than Susie), her experience was less direct, but equally important. Thanks to Title IX, Anne entered high school with a wide range of athletic opportunities (she chose tennis, where she qualified for the Illinois State Meet three times) and had many options if she had wanted to compete in college. For a young woman interested in participating in organized sports, there was a big difference between being born in 1957 (like Nancy) and 1966 (like Anne).

Anne's most direct connection to Title IX may be how it is affecting her now. Anne

is an executive with Nike in Oregon; she travels across a globe where it is difficult to find a place where women (and girls) are not wearing Nike shoes and gear competing in them at the highest levels. I would venture to say that these markets—in the U.S. and beyond—experienced *billions* of dollars in expansion due to Title IX.

In the sports arena, Title IX has been far from perfect. To begin with, many men's sports teams have been eliminated throughout the country in order to achieve greater parity. It is ironic that a law designed to advance opportunity for many, has taken it away from more than a few—a significant culprit of this at the collegiate level has been men's football with its hundreds of scholarships. This particular problem is one worth fixing. But in the interim, no one can dispute that

Title IX has led to enormous advancement in the engagement of women and girls in tremendously fulfilling athletic and other pursuits—a *very* good thing. And in reflecting back, I have been an up-close witness as a proud brother to a share of this.

---

*John E. Thies is a past president of the Illinois State Bar Association (ISBA) and practices with the Champaign-Urbana law firm, Webber & Thies P.C. concentrating in the areas of general litigation and business representation where he can be reached at [jthies@webberthies.com](mailto:jthies@webberthies.com). He is the current president of Land of Lincoln Legal Aid, which serves low income individuals and seniors in the southern 65 counties in Illinois.*

1. To paraphrase an old joke, some would also say a "feminist."
2. 20 U.S.C. A § 1681(a) (1972).
3. <http://www2.ed.gov/about/offices/list/ocr/docs/tixdis.html>.

Boost your practice IQ @

# PracticeHQ

## Practice Management and Technology Resources

- ✓ Open a Firm
- ✓ Build
- ✓ Manage
- ✓ Protect
- ✓ Wind Down



ISBA.ORG/PRACTICEHQ