HOME

SUNDAY NEWS

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Vol. 52. No. 8 New York, N.Y. 10017, Sunday, June 25, 1972* WEATHER: Partly cloudy, breezy and mild.

Tells Law Firm It Has Galitosis

By JEAN CRAFTON

The city's Human Rights Commission said today that the Park Avenue law firm of Royall, Koegel & Wells discriminates against women in hiring its attorneys. A hearing was set for June 29.

A statement issued by Commissioner Eleanor Holmes Norton charged that there is a "virtual exclusion of female attorneys" in the firm. She said an investigation disclosed a "pattern and practice" of discriminatory recruitment, hiring, promotion and treatment of women attorneys.

Mrs. Norton said she had called the hearing "because of the law firm's refusal to agree to appropriate remedies to correct discriminatory practices."

Charges Are Denied

"We have denied the charges," said the firm's managing partner, Caesar Pitassy. He added, "Since there's going to be a hearing, we won't make any further statements at this time."

Pitassy refused to say whether his firm has any women lawyers.

The Human Rights Commission began investigating Royall, Koegel & Wells, along with nine other law firms, after 13 women law students brought individual complaints of sex discrimination in June 1971.

The commission said its investigation of Royall, Koegel & Wells had disclosed that "almost without exception," the firm "rejected women applicants for permanent and summer employment although women with qualifications equal to and better than the male applicants have applied."

"To Discourage Women"

The investigation, the commission said, also showed that the firm's "interviews are conducted in such a manner as to express a preference for men and to discourage women."

The firm also "has restricted its female representation to one division—trusts and estates," the commission charged.

The complaint against Royall, Koegel & Wells was lodged by Margaret Kohn when she was a second-year law student at Columbia University. She said she had been denied summer employment because she was a woman.

The commission said its investigation had disclosed that Miss Kohn's qualifications were "equal to, and no less than the three male law students from Columbia who were granted employment."

Ex-secretary of State Ends Sex Discrimination

NEW YORK (AP) — Former Secretary of State William P. Rogers' Park Avenue law firm has agreed in a court settlement to give women attorneys the same opportunities as men for assignments, advancement, salaries and other benefits.

The women also get one benefit their male counterparts don't have — six weeks' paid maternity leave.

Harriet Rabb, assistant dean of the Columbia Law School, sued in federal court four years ago on behalf of Margaret Kohn, now a Washington, D.C., attorney, charging the firm of Rogers & Wells with sex discrimination against women.

Rogers, the late President Dwight D. Eisenhower's attorney general and secretary of state under former President Richard M. Nixon, is one of 51 partners in the firm, only one a woman.

Information Act may face major test

WASHINGTON (AP) — Three large insurance companies are asking the Supreme Court to block an attempt by the National Organization for Women — NOW — to obtain government documents that outline hiring and job-classification practices of the three firms.

The requests eventually could lead to a major test of what information may be released under the Freedom of Information Act, passed by Congress to combat secrecy in government.

The insurance firms, Prudential, Metropolitan Life and John Hancock, won a temporary victory Thursday when Chief Justice Warren E. Burger ruled that the documents may remain confidential until he weighs the legal arguments. Burger asked the Justice Department for its views about the controversy.

In 1975, the Washington chapter of NOW, a women's rights group, sought release of numerous documents submitted to the government by the three firms dealing with employment opportunities for minorities and women.

After the companies objected to such a release, federal courts ruled that many of the documents sought by the women's rights group should be released, especially those reports filed in compliahce with the Civil Rights Act of 1964. All private companies with more than 100 employes are required under the 1964 law to file such reports.

Attorney Margaret Kohn, who represents the women's group, said Thursday that NOW has never charged the three insurance firms with sex discrimination but had received complaints from some members.

In opposing any further delay in release of the records, NOW lawyers told Burger, "At stake is whether an organization seeking to eliminate employment discrimination should continue to be barred from access to equal employment data . . . "

While aspects of the case still are pending in the U.S. Circuit Court of Appeals in Washington, the insurance companies took the extraordinary step of asking the Supreme Court, through Burger, to review the entire case before the lower court reaches a judgment.

Only once before in the last decade has the high co . granted such a request to review a case before a final judgment by a lower court. That case, in 1974, involved then-President Richard M. Nixon's confidential White House tape recordings.

The firms want Burger or the full court to block release of the documents already approved for public consumption until a full review by the high court is completed.

Such an expedited procedure is needed, the companies contend, because release of the documents would make further appeals meaningless.

If Burger or the full court denies the request, the documents will be released.

In their request, the three companies argued that the documents should be exempt from the information act because such exemption is provided for in the Civil Rights Act.

That legislation, in part, states: "All reports and information obtained from individual reports will be kept confidential." The insurance companies argue that language precludes any requirements of the newer information law.

Electronic letters

Alexandria Daily Town Talk

Sports B

Tuesday, April 12, 1977 Section

Mid-Summer Ruling Likely On NCAA's Title IX Suit

KANSAS CITY, Kan. (AP) — How much power should federal bureaucrats wield over major college athletics to protect against sex discrimination?

That, basically, is the question U.S. District Court Judge Earl O'Connor took under advisement Monday after listening to more than two hours of arguments in the National Collegiate Athletic Association's suit against the department of Health, Education and Welfare.

O'Connor took under advisement motions for summary judgment from both sides and is not expected to issue a ruling until mid-summer.

The NCAA, the 700-member ruling body of college athletics, filed suit against HEW last year asking for a permanent injunction against the HEW wording of regulations designed to force compliance with the controversial Title IX.

The HEW regulations stipulate that any college receiving financial assistance would be subject to withdrawal of those funds if sex discrimination in athletics was practiced.

Four groups have entered the case as intervenors, and Judge O'Connor interrupted the proceedings at one point and gestured to the six female lawyers seated at the government table.

"It looks to me," he said with a wry smile, "that from the makeup of each side's counsel, this is another battle of the sexes."

"That's not what it is, your honor," said Charles Clarke, attorney for the NCAA. "But that's what the the government would have you believe it is."

Clarke contended that the NCAA would have to rewrite its bylaws under the regulations and that member schools would suffer financially because of it.

"The NCAA has no quarrel with women's athletics," he said. "But if these regulations are allowed to stand, it means that for every football scholarship the University of Michigan grants, it would have to grant one field hockey scholarship.

"And last year the revenue generated by Michigan's football program paid for every aspect of the school's athletic department, including women's athletics."

Clarke also argued that college athletic programs should be exempt from the regulations because they do not directly receive federal assistance, but Jack Thornton, HEW attorney, took direct exception.

"Certain activities have been exempted from it, (Title IX) fraternities and sororities, for example," he said. "But Congress has refused to exempt athletics."

Margaret Kohn, reprsenting two intervenors — the National Education Association and the National Student Association — argued that federal assistance was used by college athletics.

"Maybe not direct payments, but assistance payments are used to buy and maintain equipment and build huge physical plants," she said.

Female tumor surgery probed

WASHINGTON (AP) — As a medical student in New York 10 years ago, Michelle J. Harrison used to wonder why she couldn't feel the fibroid tumors in poor women who had been scheduled for hysterectomies.

"I just figured I was inept and inexperienced and just couldn't feel them," she said at a recent Health, Education and Welfare Department hearing on sterilization.

Now, after years of practice, the Rutgers Medical School professor says: "I believe I did not feel all those fibroids because they were not there. The uterus is held in low regard within the medical profession."

The fibroid tumors generally are benign anyway, she added.

HEW held the hearing on proposed regulations which would bar federal funding for hysterectomies performed solely to sterilize a woman. The rules also would extend to 30 days the mandatory three-day wait between a patient's signing of a consent form and the actual operation.

The federal government, which pays for 10 percent of the 1 million sterilizations performed in the United States each year, estimates that 20 percent of the 750,000 hysterectomies done annually are performed solely to sterilize.

A disproportionate number of these are performed on black and other minority women, according to Dr. Sidney Wolfe of the Health Research Group.

A congressional health subcommittee estimated last year that 30 percent to 40 percent of all hysterectomies were unnecessary.

"Unnecessary hysterectomies only serve to unjustly enrich physicians and hospitals at patient expense," testified Margaret A. Kohn of the Women's Legal Defense Fund in the National Women's Political Caucus.

Hysterectomies involve far more risk for the surgical patient than other methods of sterilization, such as tubal ligations. They also cost more — about $2,600 for a hysterectomy compared to $800 for a tubal ligation in a hospital.

Some witnesses expressed concern that the more stringent federal rules would discourage poor women who want to be sterilized.

Dr. Tommy N. Evans of the American College of Obstetricians and Gynecologists said waivers of the 30-day waiting period should be allowed for women in medical emergencies, such as an ectopic pregnancy. Otherwise, these women face the added risk and cost of a second operation if they wish to be sterilized, he said.

Dr. Henry W. Foster Jr. of Nashville, Tenn., speaking for the Planned Parenthood Federation of America, praised HEW's sterilization proposal, but said there was an "ironic contradiction" between it and the Carter administration's "unceasing efforts to deny the option of safe, legal abortion to poor women."

Eight women athletes sue Temple

By Gail Shister
Inquirer Staff Writer

Eight Temple women varsity athletes yesterday filed a class-action lawsuit in U. S. District Court charging Temple with "illegally conducting a sex-discriminatory athletic program."

The suit, brought under Title IX of the Education Amendments of 1972 prohibiting sex discrimination in schools and universities, was filed by athletes covering a wide range of women's sports.

The suit was filed by junior Rollin Haffer, captain of the badminton team and Women's Intercollegiate Athletics (WIA) Student Athlete Council president; junior Patricia Hilferty, WIA vice-president and captain of the swimming team; junior Gladys Boone, cross country and track; sophomore Suzanne Weksel, badminton, volleyball and track and field; Anastasia McHugh, field hockey; sophomore Tonya Darby, badminton; Beth Enderson, gymnastics, and Kimberly Gray, softball.

The suit charges that women are not receiving their fair share, according to the law, in almost every area — scholarship money, equipment, practice time and facilities, coaching staff, recruiting budget, scheduling, locker rooms and travel allowance.

Haffer said that over the summer she contacted the Women's Rights Project (WRP) of the Center for Law and Social Policy in Washington, D. C., whose attorneys are representing the women in the suit. In a meeting last October, the WIA — which includes more than 150 athletes — decided to go ahead with the suit.

"We haven't had a chance to review the charges," said a Temple spokesman yesterday. "Over the past several years, our expenditures for women's collegiate athletics have increased consistently, including the areas of scholarships and operating expenses. We have 13 men's teams and 13 women's teams."

Margaret Kohn of the WRP said that Temple would have 20 days from the time the university is officially served with the complaint to decide what formal response it will make.

"The university is aware of the women's problems," said Temple athletic director Ernie Casale. "It's doing whatever it can. I have nothing to do with the women's program. I have no idea of their budget. I have no idea of how many participants they have."

The men's athletic budget is reported to be $700,000, the women's $188,000.

Women blasting Reagan for Title IX rowback threat

WASHINGTON (AP) — Feminists dismayed by an administration decision to take another look at a rule barring sex discrimination in school sports are accusing President Reagan of reneging on a campaign promise to uphold women's rights.

"It's a major attack on women and women's education programs," complained Janet Wells, of the National Coalition for Women and Girls in Education.

"During the campaign, President Reagan assured us all that he is for equal rights for women, just without the Equal Rights Amendment," said Hollie Knox, director of the Project on Equal Education Rights.

"He promised to enforce the statutes against sex discrimination. Now, here is the adminstration talking about eliminating some of the basic rights that women have: equal education rights and the right to equal employment treatment at education institutions."

The quick outcry was in response to Vice President George Bush's announcement yesterday that Title IX of a 1972 antidiscrimination act will be reviewed with an eye toward changing what he called its vague requirements.

Bush said colleges and universities have found complying with Title IX to be administratively burdensome. He also contended that the schools were unhappy at being required to provide equal pay for male and female coaches and equal supplies.

However, supporters of Title IX said the vice president was misinformed on both points.

Title IX requires schools receiving federal aid to evaluate themselves and make sure their programs don't discriminate, said Margaret Kohn of the National Women's Law Center. Extra paperwork is required only when a school is found not to be complying with the law, she said.

And the rule does not require equal pay for male and female coaches unless they are doing comparable work and have the same qualifications and levels of experience, she said.

The regulations require schools to provide the same quality of equipment for sports in which both women and men participate and to treat athletes of both sexes in the same way.

For example, if male athletes are given single rooms on out-of-town trips, female athletes should have the same privilege.

One reason the women's groups are upset is that Title IX only now is beginning to be enforced although it has been on the books almost a decade. Regulations for implementing it had to be drafted and then there was a delay in enforcing them until a final policy interpretation was announced late in 1979.

Even before Bush's announcement, the Education Department under the new Reagan administration had signaled it does not concur with the old interpretations.

For one thing, the department appears to be leaning toward an interpretation that would limit the scope of Title IX to schools whose athletic programs receive federal funds instead of any school which receives any federal funds.

For another, Education Secretary T.H. Bell has asked the Justice Department to switch sides in a pending Supreme Court case and argue for the first time that the provision applies to students only — not to employees of an institution receiving federal funds.

The Title IX review was announced by Bush as part of the administration's attack on federal regulations it considers unnecessary or counterproductive.

Temple Women Win 1st Round

United Press International

An attorney representing women athletes who have filed a discrimination suit against Temple University says a federal judge's decision to hear the case is a clear indication that Title IX legislation applies to athletics.

Margaret Kohn, a member of the National Women's Law Center in Washington, said yesterday a ruling by U.S. District Judge Joseph S. Lord in the 1980 suit was "a victory for the women at Temple and for women athletes in general."

Lord Thursday ruled that Title IX — a 1972 federal law that makes exclusion from any education program on the basis of sex illegal — does pertain to athletics.

He allowed the female athletes to continue to act on their charges that they have been discriminated against in Temple's athletic programs. No trial date has been set.

"It's an important interpretation of Title IX," Kohn said. "There has been a lot of arguments from universities that intercollegiate athletics shouldn't be covered by Title IX. But this is a clear and distinct decision."

Temple AD Ernie Casale said he could not comment on Lord's decision.

Eight women athletes at Temple filed suit in April 1980 claiming the university discriminated against them in issuing equipment and uniforms and providing locker-room facilities, tutoring service, laundry service, scholarship funds and travel costs such as food and lodging.

Kohn said the university has made some improvements since the suit was filed. She said officials have opened a locker room for women athletes and have provided better laundry and transportation services but added, "That hasn't solved the whole problem."

Rule would ease rights in colleges

WASHINGTON (AP) — A possibly illegal move to exempt 1,000 small colleges and technical schools from the reach of civil rights laws is being proposed by the Education Department's general counsel.

In a Dec. 2 memo, Daniel Oliver, the department's top lawyer, urged Education Secretary T.H. Bell to change the definition of federal financial aid to exempt from the civil rights laws schools that receive no federal money except from student grants and loans.

THE CHANGE would mean that rules barring race, sex or handicap discrimination would not apply to colleges whose only link to federal aid is through Guaranteed Student Loans, Parent Loans or Pell Grants.

A department spokesman said Tuesday that no decision had been made on the proposed change.

In his memo, Oliver said William Bradford Reynolds, head of the Justice Department's civil rights division, "believes we would not be successful in court," but Oliver argued, that "success in litigation should (not) be the criterion for determining this issue . . . the decision should be made on a strategic-political level."

SPOKESMEN FOR women's groups criticized the proposal.

Margaret A. Kohn, an attorney with the National Women's Law Center, called the memo "outrageous," and said Reagan administration officials are more concerned with politcal consequences than with the legality of their actions.

Barbara Stein, who chairs the National Coalition for Women and Girls in Education, sent President Reagan and Bell telegrams warning that the change would seriously reduce protection against discrimination.

No Civil Rights In Student Loans

Administration Plans To Take That Position; Private Schools Affected

By Charles R. Babcock
Washington Post

WASHINGTON — Reagan administration officials have decided to exempt the government's most extensive student aid program from federal laws governing discrimination.

Officials said they consider loans granted under the Guaranteed Student Loan program "contracts of guaranty," excluded from coverage under civil rights laws barring discrimination based on race, sex and handicap.

This latest administration turnabout would exclude from federal civil rights enforcement a few hundred schools of business and other proprietary schools whose only federal aid is GSLs, they said.

If those schools wish to discriminate against students in the future, "We can't keep them from doing it," one Education Department official said.

Yet, the administration's new stance doesn't go as far as Secretary of Education Terrel H. Bell had hoped. He wanted the government to change the definition of "federal financial assistance" in civil rights laws to exclude grants to needy students, as well as GSLs, on the grounds that the aid went to students, not directly to the schools.

That would have freed more than 1,000 schools from coverage. But Justice Department attorneys said that would not be defensible legally because the students used the aid for tuition, a benefit for the schools.

Private civil rights lawyers said Wednesday they were confident the change on GSLs would be rejected by the courts, but expressed dismay at the administration's continuing apparent insensitivity to minority rights.

The administration's support for tax-exempt status for discriminatory Bob Jones University caused a furor in January.

Margaret Kohn, of the National Women's Law Center, said the latest change "is totally consistent with the administration's repeated actions to cut back civil rights enforcement." She said the switch seems to make it possible for Bob Jones students now to get GSLs.

The first hint of the new position came last Friday in a footnote in a court case involving Grove City College of Pennsylvania.

The school, which has no complaints of discrimination against it, refused to sign federal forms saying it was in compliance with sex-discrimination regulations.

In return, the Education Department tried to cut off the school's federal grants and loan aid.

The college sued to block the cuts, a lower court upheld the school's position, and the case is now in the U.S. Court of Appeals for the 3rd Circuit in Philadelphia.

In making the policy shift on GSLs, the administration rejected legal arguments followed by earlier Republican and Democratic administrations.

In 1976, for instance, lawyers for Edward J. Levi, President Ford's attorney general, rejected the "contract of guaranty" exclusion. They said that GSLs are covered because the government is paying huge interest subsidies as well as guaranteeing that the bank loans will be repaid.

One official involved in the decision said the Department of Education will soon propose changes in its regulations making it clear that GSLs and other federal loan programs fall within the exclusion and thus aren't covered.

"We haven't been concerned about the number of schools covered," he said. "We're concerned with the breadth of Title IX investigatory and compliance authority. . . . We've taken the smallest step possible."

The administration took more than a year of internal debate to reach its legal position on the Grove City case. The school filed its brief in the court of appeals in December 1980.

Early last December, Daniel Oliver, general counsel of the Department of Education, noted the Justice Department's legal objections to dropping both grants and loans from coverage.

He argued that the decision should be made on political rather than legal grounds, saying the point made by limiting federal jurisdiction would outweigh the damage of seeming to pull back from supporting civil rights.

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★★★★

The Courier-Journal

High court extends sex-bias prohibition to cover school staffs

By JIM MANN

WASHINGTON — The Supreme Court ruled yesterday that a law prohibiting sex discrimination by schools and colleges receiving federal funds covers the institutions' employees as well as their students.

The justices, in a 6-3 ruling, greatly widened the scope of what is commonly called Title 9, a law requiring schools and colleges to treat men and women equally.

The court's decision means that the federal government may play a powerful role in regulating aspects of employment including pay, hiring, promotions and pregnancy and maternity leave at schools and colleges throughout the United States. Any institutions found in violation of Title 9 may face a loss of federal funds.

The U.S. Department of Education distributes as much as $15 billion a year to schools and colleges; many of the institutions need federal aid to survive. Any institution that accepts such money is obliged to comply with Title 9.

"We're delighted," said Margaret Kohn of the National Women's Law Center. "It's an important victory for women and girls."

Feminist and civil rights groups had filed a friend-of-the-court brief urging the court to rule as it did.

It was the first major sex-discrimination decision in which Justice Sandra Day O'Connor has participated since taking her seat on the court. She parted company with the conservative justices she has often joined in recent months and voted with the majority to broaden Title 9.

The decision was written by Justice Harry A. Blackmun, who said the law passed by Congress in 1972 "appears on its face to include employees as well as students." Justices William J. Brennan Jr., Thurgood Marshall, John Paul Stevens, Byron R. White and O'Connor concurred.

The dissenters were Chief Justice Warren E. Burger and Justices Wil-

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ban on sex bias

Continued from Page One

liam H. Rehnquist and Lewis F. Powell Jr. Writing for the three, Powell said Congress never intended for Title 9 to cover employment practices and said the ruling "will result in needless duplication of government bureaucracy."

The case involved sex-discrimination disputes in two Connecticut school districts.

One involved a complaint from teacher Elaine Dove that the North Haven school district had violated Title 9 by refusing to rehire her after a one-year maternity leave.

The other arose when a former guidance counselor named Linda Potz contended that the Trumbull Board of Education was guilty of sex discrimination when it didn't renew her contract.

Both school districts receive federal funds, and in both instances the U.S. Department of Health, Education and Welfare, the forerunner of the Department of Education, investigated their employment practices. The school boards then went to court, claiming that Title 9 was never meant to cover employees.

Two years ago, the 2nd U.S. Circuit Court of Appeals in New York ruled in favor of the school districts. The Supreme Court overturned that decision yesterday, sending the case back to the appeals court for a decision as to whether the school districts' federal aid should be cut off.

Four federal appeals courts and several federal district courts had ruled that the law didn't apply to employees, and the case had created a conflict within the Reagan administration.

Last summer Secretary of Education Terrel H. Bell asked the Department of Justice for permission to revoke all regulations covering employment practices of schools and colleges.

But the Department of Justice, which has the final say on Title 9 questions, turned down Bell's request. Last December, U.S. Solicitor General Tex E. Lee appeared before the Supreme Court to argue that Title 9 was meant to be interpreted broadly.

In other actions yesterday, the court:

✓ Ruled 5-4 that, once a person who says he was the victim of employment discrimination has lost his case in a state court, he cannot try to win the case by suing in federal court under the 1964 Civil Rights Act.

White wrote the decision. Blackmun, Brennan, Marshall and Stevens dissented.

✓ Agreed to decide whether a suspect's refusal to take a sobriety test may be used as evidence of guilt in the prosecution of a drunk-driving charge.

The justices will review a decision by the South Dakota Supreme Court that a refusal to submit to blood-analysis or other sobriety tests is protected by the Fifth Amendment guarantee against self-incrimination. The justices will hear the case in the term that begins in October.

Justice Dept., Court Differ On College Athlete Sex Bias Law

By William Freivogel
Post-Dispatch Washington Bureau

WASHINGTON — On the same day that the administration decided that a key sex discrimination law did not apply to most women's athletic programs, a federal appeals court in Philadephia ruled that it did.

In that ruling Tuesday, the 3rd U.S. Circuit Court of Appeals in Philadelphia held that the federal law barring sex discrimination in education applied to all programs at any college at which students got federal loans or grants.

Later that same day, the administration said it agreed with a decision by U.S. District Judge D. Dortch Warriner of Richmond, Va. He said the law applied only to college programs that directly get federal grants.

In interpreting that decision, the administration decided that because the athletic program at the University of Richmond did not directly receive federal money, it was not covered by the law. For this reason, the administration said, it would not appeal the judge's ruling.

The man who made the administration decision, William Bradford Reynolds, said through a spokesman Friday that he had been unaware of the appellate court's ruling when he made his decision. Reynolds is the head of the Justice Department's Civil Rights Division.

The Justice Department spokesman said one of Reynolds' deputies had known about the appellate court decision but had not passed the information on to Reynolds.

Reynolds said later Friday that he had lacked time to review the appellate court decision in detail but believed that the analysis by Judge Warriner was better.

The result of all this is that the same law has been interpreted differently in different parts of the country. U.S. district judges in Texas and Michigan have issued decisions similar to the one in Virginia. The Supreme Court often hears cases when federal judges disagree.

What is finally determined will be crucial to deciding the scope of the law outlawing sex discrimination in federally assisted educational programs. The law is known as Title IX of the Education Act, as amended in 1972.

If the decision of the appellate court prevails, nearly every college program in the country will be covered by Title IX, because nearly every college has students getting aid.

But if the administration policy based on the ruling by Judge Warriner prevails, most programs will not be covered. One study estimated that only about 4 percent of the federal education funds would carry Title IX protection with them.

The appellate court's decision resulted from a lawsuit filed by eight women at Temple University in Philadelphia. They charged that the university discriminated against women in intercollegiate athletics because only 13 percent of the funds spent on athletics at Temple went to women's programs. About 42 percent of intercollegiate athletes at the school are women.

Department of Education regulations based on Title IX require that the amount of funds spent on women be proportional to the number of women athletes.

The university maintained that Title IX did not apply to its athletic program because it got no federal grants earmarked for the athletic program. The university pointed to the wording of Title IX, which limits it to "any education program or activity receiving federal financial assistance."

But the appellate court held that Temple's receipt of Basic Educational Opportunity Grants for students was enough to bring all of its programs under Title IX.

The court said it was relying on a decision issued last month by another panel of its judges. In that decision, the appellate court had ruled that a small Presbyterian college in Pennsylvania, Grove City College, had to comply with Title IX even though it got no direct federal grants.

Ironically, the Grove City decision resulted from a suit that was pressed by the administration after a long internal debate.

Reynolds said last week that his decision not to appeal the U.S. district judge's ruling in Richmond did not mean that the administration was reversing its position in the Grove City case.

But critics such as Margaret A. Kohn of the National Women's Law Center say the appellate court's decision demonstrates that the Grove City reasoning cannot be squared with the Justice department's position in the Richmond case.

Female athletes still don't get a fair shake

By Lyle Denniston

Washington.

Put a basketball in Karen O'Connor's hands, and she turns into a marvel.

Last season, she was so good—averaging 24 points a game—that she routinely left the game at the half, her team far ahead.

At MacArthur Junior High School, in Prospect Heights, Ill., and for miles around, Karen seems to have had few equals on the court. Still, she didn't have the kind of season she wanted.

She was on the girls' basketball team, but she wanted to be on the boys' team, and nearly everyone conceded she was good enough. But school rules said no.

Now, just turned 13 and newly enrolled as an eighth grader at Hewes Intermediate School in Santa Ana, Calif., she expects to try out for the boys' basketball team. This time, she is in a school that says it has no objection.

If she makes the team—in fact, just by trying out—this teenager will have maneuvered around the U.S. Supreme Court, the Constitution, a federal law known as "Title IX, Education Amendments of 1972," and government rules on enforcing Title IX.

Karen O'Connor and her family tried everything the law allows, but that was not enough to break down a sex barrier in prep school sports.

What worked for her was that her father, Joseph O'Connor, Jr., accepted a new job halfway across the continent, making a new opportunity for Karen, too. Her athletic future "certainly was a factor in our decision to go ahead and take the job," according to her mother, Frances O'Connor.

Few girls, and not a great many older women athletes, can make a switch as big as Karen did to pursue their strong interest in sports competition. But many female athletes apparently share her plight.

Sex discrimination is still a fact of life in many school and college athletic programs, a decade after that kind of inequality supposedly was outlawed, according to Margaret A. Kohn, an attorney with the National Women's Law Center here.

The Supreme Court has been taking sex equality seriously as a constitutional matter since 1971, and Congress required it in all schools and colleges getting federal aid when it enacted Title IX.

If a female athlete thinks she has been discriminated against because of her sex, she may sue the school or college—if it is public—for violating her constitutional right to equality.

By and large, women's rights lawyers say, those constitutional lawsuits have helped female athletes, in contrast to Karen O'Connor's experience. Her particular problem turned out to be that there apparently is no constitutional right to join a team set up for the opposite sex, even though there may be a right to protection against other methods of limiting female athletic opportunity.

The decade-long campaign to improve the plight of female athletes has focused increasingly on Title IX, not on the Constitution. That's partly because an athlete may not have to sue to benefit from Title IX, since the U.S. Department of Education helps enforce it by regulations.

Another factor is that the prospect of losing federal aid—the price for discriminating in violation of Title IX—supposedly is a strong inducement for schools and colleges to treat the sexes equally in sports. Still another factor is that the law applies to private as well as public institutions.

Over the decade, "there has been a lot of change, but there is still a long way to go," Ms. Kohn adds. "There are still school districts, schools and colleges which have extremely discriminatory athletic programs."

For girls in elementary, junior and senior high schools, the problem often may be the one that Karen O'Connor faced: a female athlete appears capable of playing in a male sport, but that is forbidden, especially when the sport is one involving physical contact, like basketball or football. (Federal regulations under Title IX exempt contact sports from the requirement of equal treatment of the sexes.)

In addition, prep school girls may be faced with lower spending on equipment, facilities and coaching, and with more limited schedules.

At the college level, where women athletes are much less interested in playing on the men's teams, the main indication of sex inequality is the wide differences in spending.

Nationwide, members of the National Collegiate Athletics Association plan to spend $32 million on men's sports this year, but only $1 million on women's sports.

(At the University of Maryland, approximately the same amounts are spent on coaches' salaries for men's non-revenue sports, $248,000, and women's non-revenue sports, $261,000. And operating budgets in these areas are nearly equal—$90,000 for women's non-revenue sports and $100,000 for men's non-revenue sports. The swimming, track and tennis teams have both men and women members and cost the university about $100,000 in operating expenses.

(The big gap comes, of course, in revenue-producing sports. The university budgets about $995,000 for football costs and salaries, not counting scholarships and about $440,000 for men's basketball (also not including scholarships).)

There are some distinct signs of progress, though. Marking the 10th anniversary of Title IX last summer, the National Coalition for Women and Girls in Education looked at the positive side of the law, noting these gains:

In 1972, only 7 percent of the high school varsity athletes were girls. Last year, the proportion was up to 35 percent.

Ten years ago, only 2 percent of the average school's spending for sports went for women's athletics. Now, the figure is approaching 20 percent.

In 1971, before Title IX, no colleges or universities offered scholarships to women athletes. Now, 10,000 scholarships exist for women.

The U.S. Civil Rights Commission, in its last major study of the issue two years ago, concluded that "women and girls have made considerable progress in participation rates and increased budget allocations, but they nevertheless have not achieved equal athletic opportunity. Colleges and high schools continue to spend much more for their male athletes than their female athletes."

Margot Polivy, a Washington lawyer who has served as general counsel for the Association for Intercollege Athletics for Women, says that there are two sides to the present situation.

Participation has risen sharply for female athletes, despite the continuing difference in spending levels, but there has been a major loss of opportunity for women as coaches and athletic directors, according to Ms. Polivy.

"The dark side of Title IX is that women are fairly well getting wiped out of athletic leadership," she argues.

The federal law has led to mergers of many women's sports departments into men's departments, and that has often meant that men have held onto their coaching and directing positions but women have not, Ms. Polivy asserts.

She offers a statistic to illustrate her claim: at the largest colleges—so-called Division I of NCAA—6 percent of all sports departments included both men's and women's sports in 1974, and all of those departments had male athletic directors; today, over 80 percent are merged, and all still have males as directors.

The same is true, she insists, when separate teams have merged, as in the sports of swimming or tennis: the team needs only one head coach, and the job stays with the man.

This may not have an immediate effect on women's athletes, since they still are allowed to participate. But Ms. Polivy argues that, gradually, the merging of departments and of teams, along with the decline of women's leadership for both, affects the athletes, too.

Schedules get merged, and so do regional conferences, with the result that the actual competition switches for women's teams while remaining the same for men's. "We still have men deciding for the women, and that means that a lot of women's programs are forced into a mirror of the men's schedule," Ms. Polivy said.

The NCAA, which long has been the sole significant force in men's intercollegiate sports, has nearly taken over women's sports, too. As a result, Ms. Polivy's organization, the AIAW, has all but gone out of business. The AIAW, in fact, has sued the NCAA in federal court, claiming that it has gained a monopoly in the field by using money to buy out women's programs, allegedly in violation of the antitrust laws. A trial on that claim begins this month.

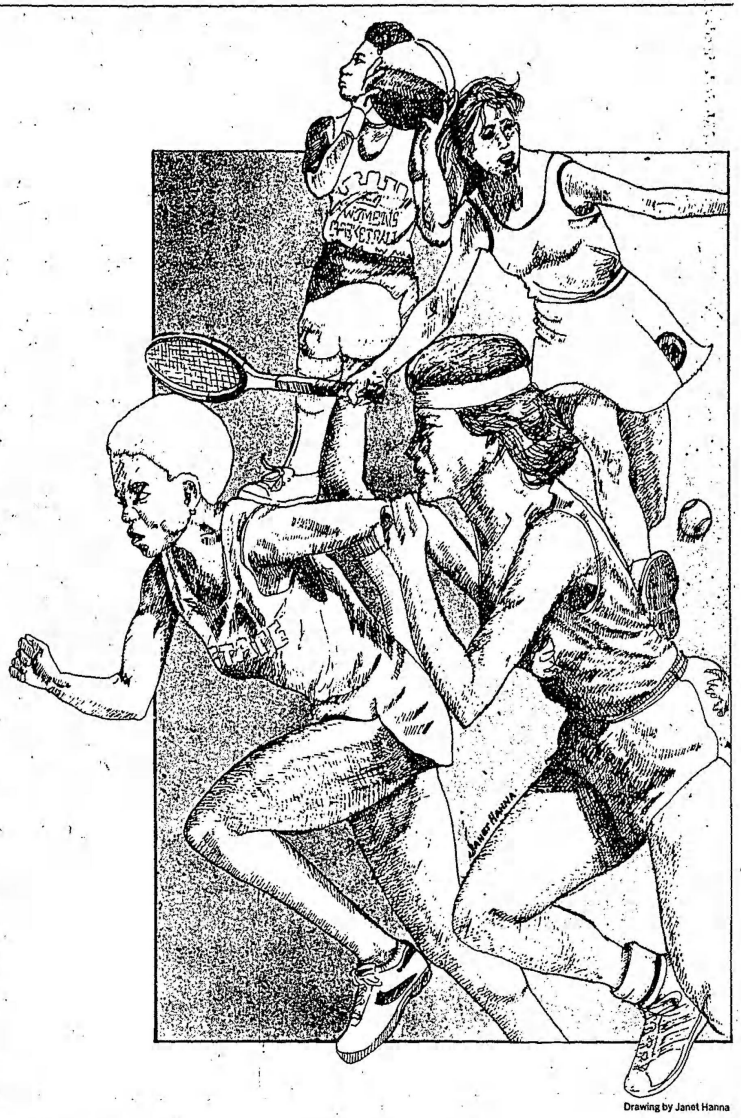
If equality eludes women athletes after 10 years, there still is a lot of hope among women's rights lawyers that Title IX can work to narrow the differences if not eliminate them.

Part of the disappointment with that law up to now is that it has taken so long to develop as a practical lawyer's tool, according to Ms. Polivy and other feminist attorneys.

Although Title IX became law in 1972, the government did not issue regulations to carry it out until 1975. Political opposition, stirred mainly by the fear among big-time college sports leaders about the impact on their programs, apparently caused that delay. After the rules came out, colleges were given three years to start obeying.

Even before the regulations were issued in final form, there were attempts in Congress to exempt college sports from Title IX. Those moves failed, however. After the regulations came out, the NCAA went to court in

See SPORTS, K2, col. 1



Drawing by Janet Hanna

Mr. Denniston, a member of The Sun's Washington Bureau, covers the Supreme Court.

White House Seeks Ruling On Sex Bias Law

WASHINGTON (UPI) — The Reagan administration, already under fire from civil rights groups and congressmen, has asked the Supreme Court to interpret narrowly a key sex discrimination law.

In papers filed at the high court yesterday, the Justice Department said a law banning sexual bias in schools and other federally funded institutions applies only to the programs receiving the money, not the entire school.

If the Supreme Court adopts that stand in a case involving Grove City College in Western Pennsylvania, civil rights groups fear it will shrink the effectiveness of laws banning bias against not only women, but also minorities and the handicapped.

Margaret Kohn, a lawyer with the National Women's Law Center, said the Justice Department could have just as easily concluded that since student financial aid benefits programs throughout a school, the entire school is covered.

"It's a policy choice that they are making," she said. "It is a policy choice that in my view is inconsistent with ... Congress' intention to provide a remedy for the many different kinds of sex discrimination it found in the schools in 1972."

Solicitor General Rex Lee told the court he is only following legal precedent and the strict wording of the law in arguing that Title IX of the Education Amendments of 1972 prohibits sexual bias only in the specific "program or activity" receiving federal funds.

Because the only federal aid Grove City College receives is through federal grants and loans to its students, Lee said, only its financial aid program is obligated not to discriminate.

While that may prevent sex bias in scholarships and loans, criticized Rep. Claudine Schneider, R-R.I., "It turns a blind eye to any discrimination that may exist in the admissions process, the classroom or on the athletic field."

Associated Press

Schneider (left) and Stein speak to media about education law

Women seek to prevent limits on sex-bias law

From Inquirer Wire Services

WASHINGTON — Women's leaders said yesterday that barriers against all discrimination could be undermined if the Supreme Court accepted the Reagan administration's interpretation of a law banning sex discrimination in schools.

Rep. Claudine Schneider (R., R.I.) said, "It would be a major setback in providing educational opportunity for both our sons and daughters."

Schneider and leaders of the National Coalition for Women and Girls in Education met with reporters on the eve of oral arguments before the Supreme Court on a challenge to the scope of the law. The coalition contends that neither of the two attorneys who will argue opposing sides of the case today calls for a broad enough interpretation of the law, Title IX of the Education Amendments of 1972. Title IX bars sex discrimination in any education program that receives federal aid.

Under the law, the Education Department requires colleges to sign a form assuring the government that they do not discriminate against women. Grove City College, a presbyterian college in Pennsylvania, is challenging the law. Grove City says it does not discriminate, but it refuses to sign the form. The college accepts no direct federal aid, but several hundred students receive federal Pell Grants and Guaranteed Student Loans.

The Ford and Carter administrations maintained that such student aid made an entire college subject to the 1972 law. The Reagan administration, however, contends that the law covers only those college programs that receive direct federal aid.

Margaret Kohn, an attorney for the women's group, said if that view prevailed, women would be left with "a scattershot of rights, a piece of Swiss cheese."

Barbara Stein, a spokeswoman for the group, said, "At a given school, students and teachers could be protected from sex discrimination in biology lab but not in English class, in the cafeteria but not the gym, in shop class but not band practice, depending upon the exact types of federal aid received."

Members of the coalition will not have a chance to state their views before the justices. The court has scheduled an hour to hear arguments from an attorney for the government and an attorney representing the college.

To press the coalition's view, Schneider sponsored a resolution adopted overwhelmingly by the House on Nov. 16 declaring Congress' opposition to any change in the law that "will lessen the comprehensive coverage of [Title IX] in eliminating gender discrimination throughout the American educational system."

Federal appeals courts have given conflicting interpretations of Title IX, which bars sex discrimination "under any education program or activity receiving federal financial assistance."

Schneider said similar language could be found in the 1964 Civil Rights Act and the Rehabilitation Act of 1973, which protects the handicapped. Any move to restrict Title IX could be followed by efforts to restrict those laws, she said.

Ruling Called Women's Victory

Civil Rights Attorney Downplays Sex Discrimination Problems

WASHINGTON (UPI) — The Justice Department's chief civil rights enforcer suggested Thursday that sex discrimination is not as big a problem as it used to be and portrayed a controversial new Supreme Court ruling as a victory for women's rights.

"It is inaccurate to portray this as a retreat or disadvantage to women. . . . I think it is an expansion of women's rights," said William Bradford Reynolds, Assistant Attorney General for Civil Rights — expressing a view not held by outraged feminists.

As women's groups began an effort to press Congress into changing the law, Reynolds called a news conference to discuss the so-called Grove City ruling, which said schools must abide by discrimination laws only in programs that use federal funds.

Reynolds said the decision, released Tuesday, upholds a portion of the federal civil rights law that requires federal aid recipients to sign a statement that they will be free of sexual discrimination in programs using the money.

That is a victory, he said, because schools that allow their students to receive financial aid will have to promise that no sexual discrimination will occur in the offering of financial assistance.

But Rep. Claudine Schneider, R-R.I., said she will introduce a bill to deny funds to any school that discriminates by sex if it receives "direct or indirect assistance" in any "educational program, activity or institution."

Reynolds downplayed the entire problem, saying, "I don't think you have a lot of people out there trying to find ways to discriminate against women in this country. There are still some problems, but it is a different situation than it was."

Margaret Kohn of the National Women's Law Center said, "Women all over the country are going to be going to Congress to seek an amendment so there will be no mistaking what the intent of Congress was," Kohn said Thursday on CBS "Morning News."

The court accepted the administration position, rejecting arguments from minority and women's groups that anti-discrimination laws are like an umbrella covering the entire institution which receives federal money in any program.

The ruling came in the case of Grove City (Pa.) College, which argued that it should not have to comply with the law since it received no federal funds, although some of its students do.

The court ruled that only the program receiving aid, not the entire school, is subject to a funds cutoff for violations of the law.