



Title IX Civil Rights Protection for Women And Girls in Education

Congress Acts

- Congress passed Title IX of the Education Amendments of 1972 prohibiting discrimination on the basis of sex in any education “program or activity” receiving federal funds.

John Roberts Supported Narrow Interpretations of Title IX That Would Have Effectively Gutted the Statute

- Officials in the Reagan administration worked to narrow the scope of civil rights protections and weaken the enforcement of those protections. Roberts was right there with them. In 1981, for example, he wrote a memorandum to the Attorney General supporting the proposal by the Reagan Department of Education to narrow the coverage of Title VI, Title IX, and Section 504 of the Rehabilitation Act by redefining “federal financial assistance” in the regulations issued under those laws, so that federal financial aid provided directly to students would not trigger coverage of those laws as to an educational institution. The Civil Rights Division, headed by ultraconservative William Bradford Reynolds, wouldn’t even go as far as Roberts, but concluded instead that direct federal grants to students did trigger coverage of these important civil rights laws.
- Also being debated within the Reagan Administration at that time was another means to significantly limit Title IX (and by extension other civil rights laws) by taking the position that only the specific program that received federal funds within an educational institution was subject to Title IX, not the entire school. Roberts made it clear in a memorandum written in 1982 that he supported this extremely limited interpretation of Title IX, one that would effectively eviscerate the law by allowing schools that received federal funds in one program (e.g., scientific research) to engage in sex discrimination in other programs (e.g., athletics). Agreeing with Reynolds that the government should not appeal a district court ruling that adopted this “program-specific” interpretation of Title IX, Roberts wrote that “Under Title IX federal investigators cannot rummage wily-nily [sic] through institutions, but can only go as far as the federal funds go.”
- In a reversal of the policy of three prior administrations, the Reagan Administration actually advocated the narrow, “program-specific” interpretation of Title IX before the Supreme Court in *Grove City College v. Bell*, which in a 6-3 ruling in 1984 adopted it. The Court held that federal financial assistance to students at Grove City College required only that the school’s financial aid program comply with Title IX - not the entire school. This was the same restrictive view of Title IX that Roberts had supported in 1982.

- After the *Grove City* decision, and, as Congress began the process of considering legislation to overturn the program specific aspect of the decision, John Roberts, still working in the White House, wrote that, “we are engaged in a struggle to prevent the dramatic expansion of civil rights coverage proposed by some under the guise of overturning *Grove City*.”

Congressional Fix

- Congress, despite the opposition of the Reagan administration, passed the Civil Rights Restoration Act of 1987 overturning the “program-specific” aspect of the *Grove City* decision and requiring that all institutions receiving federal funds in any program or activity be bound institution-wide to the non-discrimination requirements of Title IX.
- The problems created by the *Grove City* case went beyond sex discrimination because Congress had passed statutes triggered by federal funds to protect people from discrimination based on race, age, or disability with language similar to that of Title IX. Thus, when Congress passed the Civil Rights Restoration Act of 1987, it also had to make changes to Title VI of the 1964 Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 to ensure that the “program-specific” interpretation (with which Roberts had agreed) did not undermine Congress’ intent to protect minorities, people with disabilities, or older people from discrimination by institutions receiving federal financial assistance.
- The Senate vote to pass the Civil Rights Restoration Act was 75-14 and was bipartisan, enjoying the support of 27 Republicans in addition to 48 Democrats.
- President Reagan vetoed the bill, but it became law when the Congress overrode the veto. The Senate veto override vote was 73-24.

Current Senators Who Voted to Pass the Civil Rights Restoration Act and to Override Reagan Veto

Akaka (House Member)	Durbin (House Member)	Mikulski
Baucus	Harkin	Bill Nelson (House Member)
Bingaman	Jeffords (House Member)	Reid
Boxer (House Member)	Johnson (House Member)	Rockefeller
Byrd	Kennedy	Sarbanes
Carper (House Member)	Kerry	Schumer (House Member)
Conrad	Lautenberg	Snowe
Dodd	Leahy	Specter
Domenici	Levin	Stevens
Dorgan (House Member)	McCain	Wyden (House Member)