

Are Gender-based Scholarships Problematic?

Not for AAUW, but the current legal and political climate has made universities wary to offer them.

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Title IX of the Higher Education Act of 1972 bans sex-based discrimination in educational institutions that receive federal funding. An outgrowth of Title VII of the Civil Rights Act of 1964, which offers workplace protections on the basis of 'sex,' Title IX was created to address historical marginalization on the basis of sex/gender in education. In sum, Title IX was created to provide women with equal access and success in educational institutions, to redress the historical marginalization of women in educational settings relative to men.

The definition of what counts as sex-based discrimination has necessarily expanded over the years, eventually coming to protect everyday Americans from things like pregnancy discrimination and gender-stereotype discrimination (e.g. not getting a promotion because you are not performing in a way that aligns with the gender you are perceived to be). In 2024, the Biden Administration extended a 2020 Supreme Court decision about LGBTQ+ workplace discrimination to Title IX, providing protections to the LGBTQ+ community by acknowledging that LGBTQ+ discrimination is often the result of animus derived from gender stereotyping.

The spirit of Title IX is to protect those who have been historically marginalized on the basis of sex/gender. However, as part of the larger pushback against social justice and Diversity, Equity, and Inclusion (DEI), we have seen a sharp uptick in watchdog efforts and legal action around educational programs and scholarships focusing on fostering gender (and racial) equity. **Those bringing these lawsuits suggest that programs and scholarships that are explicitly for women violate Title IX** because they discriminate against men. For instance, between 2016 and 2022, Mark Perry, an emeritus professor at the University of Michigan's Flint campus and a senior fellow at the American Enterprise Institute, filed 410 Title IX complaints against universities that offer programs or awards for women, but not men.

Lawsuits like those brought by Mark Perry **lean in to the concept of equality**, the idea that fairness is giving everyone the exact same things. This is opposed to **leaning into the concept of equity**, where fairness is reaching equilibrium by giving some individuals and groups different protections and support to make sure that everyone has what they need to succeed. If one student scrapes their knee and you give everyone a bandaid, this is equality. If one student scrapes their knee and you give only that student a bandaid, this is equity. Leaning into equality work does not make sense when equity should be the target to redress an historical and/or current harm.