

2003

Title IX Thirty Years Later: Where Are We Going with This?

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Recommended Citation

Christensen, Fern, "Title IX Thirty Years Later: Where Are We Going with This?" (2003). *Senior Research Projects*. 77.
https://knowledge.e.southern.edu/senior_research/77

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Fern has dug deep into this issue & has provided a very good overview & historical summary. a great Bib has been provided I'm very pleased with the content

Introduction

Cynthia Pemberton had recently discovered that her school needed to look into its Title IX standing. She opened the “Title IX Toolbox” and read, “before you start inquiring about and/or pushing for Title IX compliance and gender equity, try to imagine the worst possible response scenario. Try to imagine how bad it could possibly be, and then know it will be worse” (2002). Little did she know that her experience with Title IX compliance would really be that difficult. In her book, *More Than a Game*, she wrote that the school she worked for put on a public image that was inconsistent with reality in terms of Title IX. “That’s what makes it difficult to recognize and cope with discrimination: its subtlety” (Pemberton, 2002). She would eventually succeed in helping her school move toward compliance, but it was not easy. From the outside, Title IX compliance seems fair and reasonable. It is not always that way on the inside. Intercollegiate athletics have been run the same way for decades. It is not easy to alter an entire cultural institution like men’s college sports have become. Title IX has been around for thirty years and has barely cracked the surface. The former UCLA legend John Wooden said, “The problem with Title IX is that it started way too late. I wouldn’t want *anything* to happen to that program.”

Title IX has made progress over the last thirty years, but it is time for a change. Female athletes cannot afford to wait another thirty years for gender equity issues to dissolve. In 2002, the Bush administration may have begun the stirring.

To understand fully the issues surrounding Title IX, it is necessary to start with the history of women’s intercollegiate sport.

A History of Women's Intercollegiate Sport Before Title IX

Women's sport, particularly at the college level, began to make itself known as the twentieth century rolled around. Since that time, women have been fighting for the chance to compete amidst many less-than-accurate beliefs. First came the medical profession's beliefs about the frailty of the female body. It was believed that a woman's uterus might fall out if she ran too much and that various other detriments might occur to a woman's reproductive system and all around constitution as a result of physical exertion. Women's basketball had been restricted to half court, and at the 1928 Olympic Games in Amsterdam it was reported that several women collapsed after running the 800 meter race. Subsequently, women were banned from running any distance over 200 meters in Olympic competition.

Views about the proper feminine image also created hurdles for women's sport. Women were seen primarily as mothers and wives, and along with those ideals came views about what was considered feminine. Even women physical educators sought to protect their students from the dangers of competition. Serious competition held the potential to add stress and anxiety, and it altered proper decorum (Hult, 1994). Games were encouraged because they taught self-control, fortitude and persistence, but competitive play was not allowed to "contaminate" the feminine image (Vertinsky, 1994). Clothing was designed to maintain femininity and restrict movement. Tennis players wore full-length skirts and petticoats, while swimmers wore long woolen suits with skirts.

By the 1920s, college sports for women took the form of "play days." Schools would gather and instead of playing school against school, they would combine teams.

Then those combined teams would compete against other combined teams. During this era, women physical educators began to voice concerns over female athletes of Olympic caliber. They feared that women's collegiate athletics would become involved in the elitism and exploitation going on in men's competition. Women's leaders fought steadily to avoid the inclusion of women's sports in the Amateur Athletic Union, which governed men's athletics. Women had been in control of women's physical education and sport, and they wanted to keep it that way. The educators were not against competition itself, but against the "wrong kind" of competition. They were against varsity or elite athletics, which were at the expense of the majority of girls (Hult, 1994).

A struggle for power in women's intercollegiate athletics emerged. Three organizations were at the heart of this struggle: the Committee on Women's Athletics (CWA), the Women's Division of the National Amateur Athletic Federation (NAAF), and the Amateur Athletic Union (AAU). Membership in the AAU was faltering and the National Collegiate Athletic Association (NCAA) was challenging the authority of the AAU in men's sports, so the AAU announced that its jurisdiction would include female athletes. Women were concerned about the commercialism and over-emphasis on winning that might creep into women's programs. As a result, the CWA repeatedly refused to affiliate with the AAU. Eventually, the AAU would hold control over non-school and Olympic competition, and the women would remain in control of high school and college athletics (Hult, 1994).

As World War II came around, women physical educators found themselves running highly competitive athletic programs in support of the war effort. The level of competition experienced by future physical educators led them to question the old

attitudes. The interests of physical educators, amateur athletic establishments and popular culture came together to create an environment conducive to highly competitive women's sports (Hult, 1994).

In the 1950s, conflicting ideas between established women's leaders and younger members led to a transition into competitive athletics in education. However, the ideals and standards of conduct among the older leaders still predominated (Hult, 1994).

By the 1960s, women's sports were governed by liberal physical educators. They envisioned varsity sport with an emphasis on the needs of students and rejection of commercialization. The Commission on Intercollegiate Athletics for Women (CIAW) was formed in 1967, and served as a sanctioning body for tournaments and sponsor of national championships. At this point the NCAA began to discuss taking over women's athletics. The CIAW perceived this as a serious threat and formed the Association of Intercollegiate Athletics for Women (AIAW) to respond to the expanding problems and needs of women's athletics. By the 1971-72 school year the AIAW had been handed control by the CIAW. Changes to women's intercollegiate sports would continue throughout the 1970s due to Title IX of the Education Amendments of 1972 (Hult, 1994).

Ironically, Title IX would lead to the failure of the AIAW. The AIAW would not allow scholarships to its athletes so female athletes began to sue the AIAW for scholarship money under Title IX. The NCAA began offering championships to women's teams in 1981, and it was not long before the AIAW lost its television contracts and other financial support (Hult, 1994). Women's intercollegiate sport was then left to the NCAA.

Title IX

On June 23, President Richard Nixon signed the Education Amendments of 1972 into law. Title IX of that legislation reads, “No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity receiving Federal financial assistance” (1972). The legislation then goes on to establish what institutions the law does not apply to, what is considered a “program or activity,” and that it cannot be used in abortion issues. If it had not been for Oregon congresswoman Edith Green, Title IX would not have even included athletics (Pemberton, 2002). Title IX also states:

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community.

Title IX includes a safety clause, which assures that efforts to bring equity should not require preferential treatment. No actual part of Title IX itself outlines requirements of compliance. In fact, what is commonly referred to as “Title IX” really consists of four documents: Title IX of the Education Amendments of 1972, the Government Regulations of 1975, the 1979 Policy Interpretations, and the 1996 Clarification letter from the Assistant Secretary of Office for Civil Rights.

The 1975 Government Regulations concerning Title IX further defined where Title IX might be applied and required that all institutions be in compliance no later than

1978. Equal opportunity would be determined not just by number of athletic opportunities but also in allocation of athletic resources:

- provision and maintenance of equipment and supplies
- scheduling of games and practice times
- travel and per diem expenses
- opportunity to receive coaching and academic tutoring
- assignment and compensation of coaches and tutors
- provision of locker rooms, practice and competitive facilities
- publicity

For instance, it would be considered discriminatory for a women's softball team to play on a field with poor lighting and temporary bathroom facilities while the men play baseball on a brand new field with permanent facilities. Nor would it be lawful for a women's team to have practice times in the middle of the day while the men's team would only get to practice early in the morning or late at night, unless this was agreeable to both teams. Nowhere is it stated that quantity must be equal.

The Office for Civil Rights (OCR) was appointed to enforce Title IX, and in 1979, the OCR, under the Department of Health, Education, and Welfare, issued "A Policy Interpretation: Title IX and Intercollegiate Athletics." This Policy Interpretation provided what is known as the "three-prong test." According to the three-prong test compliance would be established by meeting one of the three prongs. First, an institution could comply by providing athletic participation opportunities for male and female students proportionate to their respective enrollments (Policy Interpretation, 1979). For

example, if 59 percent of B University's student body is female and 41 percent male, then 59 percent of the athletic opportunities should be female and 41 percent male.

The second way through which an institution may show compliance is by providing evidence of a "history and continuing practice of program expansion" for the underrepresented sex (Policy Interpretation, 1979). For instance, B University added women's volleyball and basketball teams in 1979. Then two years later, it realized there was interest in two additional women's teams in rowing and archery, and subsequently, added them.

Lastly, the institution could show that the "interests and abilities of the members of that sex have been fully and effectively accommodated by the present program" (Policy Interpretation, 1979). In other words, a school's athletic proportions may not be equal to its enrollment proportion, but as long as there are no women's club sports seeking upgraded status of varsity and no other interest in any new women's sports, the school is in compliance.

Throughout the 1970s, attempts were made to exclude football and other revenue-producing sports from issues of proportionality. These efforts to exclude football failed, but the Javits Amendment allowed for quality and not necessarily quantity in terms of spending. It costs more money per player to run certain sports due to the inherent nature of the sport. For instance, football requires more equipment per player than most team sports because of all the padding and uniform parts. The Javits Amendment declared that expenditures need not be equal as long as the quality of equipment, uniforms, etc is equivalent.

In 1996, the Assistant Secretary of the OCR, Norma Cantu, issued the “Clarification of Intercollegiate Athletics Policy Guidelines: The Three-Part Test”. As for the third prong, Cantu states that the OCR will consider whether there is unmet interest in a particular sport, sufficient ability to sustain a team in that sport, and a reasonable expectation of competition for the team. Essentially, both the second and third prongs require subjective analysis by the OCR.

Three Decades of Title IX

According to NCAA statistics 15,182 girls played college sports in 1966-67. That number nearly doubled to 29,977 by 1972 (Department of Education, 2003). In 1971 (the year before Title IX was passed), one in twenty-seven high school girls played sports. The next year that statistic had grown to one in nine high school girls participating in athletics (Gavora, 2002). Even without gender equity legislation, interest in women’s intercollegiate athletics had begun to grow.

Title IX had been passed in 1972, but full compliance was not required until 1978. A longitudinal study by Acosta and Carpenter (2002) reported that there was an average of two women’s intercollegiate teams per school in 1972. By 1978, the average was 5.61 women’s teams per school. By that year, female high school participation in athletics had reached two million, but had begun a slight decline. A similar decline was taking place in male participation. Whether the growth in female participation is to be solely accredited to Title IX is indeterminable, but it certainly provided fuel for the fire.

The 1980s were a decade of limited enforcement in terms of Title IX. In *Grove City v. Bell* in 1984, the court ruled that programs not directly receiving federal funds were governed by Title IX. Essentially, this decision exempted athletics from Title IX.

Eventually the decision would be reversed in the Civil Rights Restoration Act of 1987, thus, leaving a three year period when Title IX had no effect on intercollegiate athletics.

According to NCAA research (2001; see Appendix D), men's college athletic participation numbers peaked during the 1984-85 school year—the same year as *Grove City v. Bell*. In the time between *Grove City v. Bell* and the Civil Rights Restoration Act, men's participation numbers fell by a little over 10 percent. Women's participation peaked during the 1985-86 school year and dropped by only about 7 percent by 1987. By the 1989-90 school year, there was an average of 214 male athletes per institution and 107.7 female athletes.

The 1980s were a period of decline for several men's sports. From 1981 to 1990 men's gymnastics dropped from 1,367 participants to 664. That is a drop of 51 percent. Fencing went from 1,419 male participants to 965 during that same time period. Wrestling lost over 1100 participants. Sailing had disappeared completely by 1989 and men's teams in archery, badminton and bowling were virtually non-existent. In fact, the only sports that gained a significant number of participants were team sports such as football, baseball, basketball, ice hockey, soccer, water polo and lacrosse. Since Title IX enforcement was limited during this time period, the numbers would suggest that men's gymnastics and wrestling had begun a slow decline in participation. This decline would continue over the next twenty years.

Female sports also lost a number of participants in field hockey, gymnastics, fencing and rowing. Squash, ice hockey, rifle, bowling and badminton were completely lost as intercollegiate sports during the 1980s. This suggests that there was an overall decline in many individual sports such as gymnastics, wrestling and fencing. For a hand

full of women's sports, Title IX served as an intervention in declining participation numbers. Swimming and diving, tennis and golf all remained quite steady in both men's and women's numbers.

According to Gavora (2002), active enforcement of Title IX did not begin until the early 1990s with the Clinton administration. Participation numbers from the NCAA indicate that male participation per institution had declined by an average of 16 athletes and female participation per institution had increased by about 34 athletes during the period from 1990 to 2000. The 1990s brought the return of women's ice hockey, bowling, badminton, archery and squash. For the first time, synchronized swimming, team handball, water polo and equestrian sports were added to women's programs. Archery, badminton, bowling, and sailing reappeared as men's athletics along with the first appearance of men's equestrian sports. No sports were completely eliminated on a nation-wide basis in either male or female programs.

The women's programs in fencing, field hockey and gymnastics reached lows in participation numbers during the 1992-93, 1991-91, and 1992-93 school years, respectively. By the year 2000, as Title IX enforcement rose, so did the participation statistics in those three sports. However, they were still lower than the female participation numbers from 1981-82. In all other female sports, participation had either remained relatively the same or increased steadily since 1981-82. A catalyst for Title IX enforcement was *Cohen v. Brown University*.

In 1991, Brown University decided to downgrade four sports to club status. Two sports were men's and two sports were women's. Amy Cohen and eight other athletes from the two eliminated women's teams filed a class action suit against Brown

University for violating Title IX. The athletes sought only to have their teams reinstated at varsity status. Brown University did not comply with Title IX under the proportionality or continuing expansion prongs, but Brown legal counsel asserted that the interests and abilities of its female population were being met. The initial outcome of *Cohen v. Brown University* found in favor of the plaintiffs and reinstatement of the teams was ordered. The case lasted until 1996 through appeals, when the U.S. Court of Appeals First Circuit upheld the lower court's ruling. A year later the Supreme Court declined to hear the case. Part of the significance of *Cohen v. Brown University* lay in the issue of determining whether all the interests and abilities of female students had been met. Neither Title IX itself, the 1975 Regulations, nor the 1979 Policy Interpretation gave guidance as to how a university could determine whether it fulfilled the third part of the three-prong test. The Assistant Secretary of the OCR, Norma Cantu, released "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" in 1996. In her Clarification, Cantu (1996) declared that the use of student surveys was not a sufficient way to show that interests were being met.

In men's athletic programs from 1990 to 2000, general declines in participation were seen in fencing, gymnastics, water polo and wrestling. Swimming and diving declined slightly, but in 2000, the numbers were still quite close to the 1981 numbers.

From the 1981-82 participation statistics, men's swimming and diving had decreased by only four percent over a 19-year period. Wrestling, fencing, gymnastics and water polo had decreased by 21, 58, 74 and 18 percent, respectively.

Currently, the National Association for Girls and Women in Sport (NAGWS) estimates that at least 80 percent of all colleges and universities are not in compliance

with Title IX (2003). Male athletes also receive \$133 million dollars more than female athletes in terms of scholarship money (NAGWS, 2003). Because of the Equity in Athletics Disclosure Act, the Office of Postsecondary Education provides access to information on participants, operating expenses, coaching staff, revenues and expenses, and coaching salaries for every postsecondary educational institution. The information disclosed by five NCAA universities were chosen (see Appendix E): Harvard University, the University of North Carolina—Chapel Hill (UNC), the University of Tennessee at Chattanooga (UTC), Michigan State University (MSU), and Brigham Young University (BYU). Only one of the five universities had the same proportion of female athletes as female enrollment—Brigham Young University. Michigan State was two percentage points from exact proportionality. Harvard was seven points behind, UNC was 14 points behind, and UTC was 25 percentage points away from proportionality. Ironically, UTC is known to have strong women's basketball and softball teams. BYU offers 11 men's teams and 11 women's teams. The BYU football team carries 117 players, but the women's cross country and track teams have over twice the roster size as the male cross country and track teams. Brigham Young's total operating expenses for men's teams exceed the expenses of women's teams by over \$2 million. Factor out the cost of football, and the women's teams would have higher operating expenses than the men's. Factoring out football's revenues would also leave men's and women's sports nearly equal in revenues at BYU.

Michigan State spends almost \$16,000 more per person on male basketball players than on female basketball players. Basketball for women and basketball for men

should be nearly the same since there are no major differences in terms of equipment or nature of the game.

Harvard offers 18 men's sports and 17 women's. Men's soccer carries 83 athletes on its roster, while the women's carries 51. If Harvard were to make their soccer rosters equal in size at 51, the university would go from being seven points from proportionality to only two points. Total operating expenses for men's and women's teams are nearly equitable. Harvard's entire athletic operating expenses come to only \$2.5 million. Harvard is the only institution of the five selected that comes out even in expenses and revenues.

The University of North Carolina makes over \$8 million in revenue above expenses. Men's basketball and football account for all of UNC's profits. Enrollment at UNC is 59 percent female. For UNC to reach proportionality, it would have to lose 224 male athletes. The university would have to cut six of its 11 men's teams. If 224 female opportunities were added, UNC would still be three percentage points behind.

The problem with UTC's participation numbers is in part due to its smaller size and the fact that enrollment is 58 percent female. If the football program were completely eliminated, the male-female athlete ratio would only be 50/50. UTC carries only 8 men's teams and only 9 women's teams. Wrestling and football are the only sports that carry more than 20 athletes on their rosters. Minus football, the women's operating expenses are higher.

It is easy to look at numbers and make an assumption. For instance, BYU gives 61 percent of its athletic financial aid to male athletes. There must be discrimination. That is, unless, the female athletes all have partial or full academic scholarships. In

which case, they would not need athletic scholarships. UTC shows very little disparity in terms of roster size, sports offered, or operating expenses. **Yet**, UTC is vastly deficient as far as proportionality is concerned.

Title IX should not be all about numbers. Nor should all policies apply to all colleges and universities. Harvard and UTC are in the same NCAA division yet they have vastly different financial capabilities and student interests.

Title IX cannot be about fully accommodating interests. By nature, competitive teams are exclusive. There are many more men who would like to participate in intercollegiate athletics than already do, if given the opportunity. If every single female who wanted to play on an intercollegiate team were given the opportunity, would it not also be fair to allow every single male those same opportunities? Ideally, intercollegiate sports would be based on intramurals, where everyone who wants to play gets the chance. It is very interesting how this is exactly what the women physical educators of the past were advocating.

Title IX Complaints

During the course of Title IX's thirty-year existence, there have been several points of contention. Today, there are primarily three general complaints concerning Title IX: (1) many women's groups argue that enforcement is weak and must be strengthened; (2) many administrators of educational institutions believe that many policies were initiated without following proper rule-making procedure and that subsequent guidance has been weak and vaguely worded; and (3) due to recent cutting of several men's minor sport programs at the collegiate level, coaches and athletes feel that

Title IX has been used to establish a quota system thus, discriminating against men while providing preferential treatment toward women.

The argument that Title IX could be better enforced has its merits. First of all, schools were provided with six years to be in compliance. By the end of that period, many individuals and institutions were not sure what exactly determined compliance. The penalty for noncompliance was supposed to be the loss of federal funding; yet not one educational institution has had sanctions of that magnitude placed on it (NAGWS, 2003). The consequences for noncompliance have primarily come through individual litigation in which plaintiffs were awarded damages. On the other hand, thirty years ago the majority of college students were male. It was easier to comply when the schools had a smaller number of women.

Secondly, the 1996 Clarification states, "There are no fixed intervals of time within which an institution must have added participation opportunities." Therefore, it is difficult to determine when an institution has quit actively expanding its women's athletic program. Perhaps the area of enforcement could be improved through more definitive guidance in this area.

The issue of questionable policy authority lies primarily in the 1996 Clarification document issued by Norma Cantu and the Policy Interpretation of 1979. Many feel that the clarifications made by the OCR are not lawful because they are interpretations rather than explicitly stated legal interpretations made by legislators or courts. In the summary of the 1979 Policy Interpretation it says, "The following Policy Interpretation represents the Department of Health, Education, and Welfare's interpretation of the intercollegiate

athletic provisions of Title IX....” No law-making body approved the three-prong test. It is an interpretation of the law by the government agency assigned to enforce the law.

Part one of the three-prong test states that compliance is confirmed if “intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments” (Policy Interpretation, 1979). The question is what is meant by “substantially”? It implies that proportionality need not be exact. If that is the case, how close must the numbers be? Controversy also surrounds the OCR’s designation of the proportionality part of the three-prong test as a “safe harbor” (Commission Report, 2003). The term originally meant that an institution would have no cause to worry if it was meeting the proportionality prong. However, the term may also be interpreted to mean that the proportionality prong is more important than the other two parts.

Finally, the most public criticism of Title IX—and perhaps the most impassioned—is that it has resulted in gender quotas and discrimination against males in minor sports. As schools attempt to comply with proportionality, they find that their current budgets will not allow for added women’s teams. So instead of searching for a different solution, some schools chose to eliminate men’s minor sport programs. The term “minor sports” refer to low-profile sports that do not have large commercial appeal or have lower participation rates. Major recognition in these sports primarily occurs at the international level, such as in the Olympics. Examples of minor sports are wrestling, gymnastics, swimming and diving. They are smaller sports and are often referred to as “nonrevenue-producing” sports. Although it should be noted that even some men’s

major sports, particularly baseball, have been eliminated by schools under the guise of gender equity.

Miami University of Ohio found itself eight percent behind in the proportionality test. Over half of the student population was female, but only 42 percent of the school's athletes were female. So instead of adding two or three women's teams, the school chose to eliminate the men's wrestling, tennis and soccer programs. Those three teams only used 4.7 percent of the school's athletic budget. Seventy male athletes lost the opportunity to participate in intercollegiate athletics (Gavora, 2002).

Preferential treatment towards women is embedded in the fact that women's teams are rarely, if ever, cut. The Clarification states, "Cuts in the program for the underrepresented sex, even when coupled with cuts in the program for the overrepresented sex, cannot be considered remedial because they burden members of the sex already disadvantaged by the present program" (1996). The only time a women's team may be cut is if the school has achieved proportionality and then eliminates both men's and women's teams thus, maintaining that proportionality. In almost every other case, it would be a Title IX violation. The men are turned away and the bottom of the women's barrel gets scraped.

It should be noted that the Clarification states that an institution cannot meet the second part of the three-prong test by simply cutting opportunities for the overrepresented sex (1996). Also, nowhere is it suggested that men's teams be cut—the institution is responsible for deciding how the school will comply. Administrators cut teams not Title IX.

There are many strong emotions tied to Title IX. Alumni, administrators, students and fans feel strongly about their schools. Athletes and coaches are committed to the sports they love. Parents love their children and want the best in terms of opportunities and enjoyment for them. Many women are tired of having their public needs placed behind men's desires. Title IX affects male chauvinists, feminists and everyone in between. It affects boys, girls, parents, athletes, coaches, and administrators. With personal stakes so high, it is important to examine all the issues surrounding and affecting Title IX and its progress.

Underlying Issues

Deeper than Title IX policies, interpretations and enforcement are the attitudes and values that American society holds in terms of women in sports, college sports and even women in general. Five issues in particular demand attention relative to Title IX: historical perceptions about women in sport, attitudes about women's sports today, the commercialism of intercollegiate athletics today, innate gender differences and radical "isms."

As was discussed earlier, women physical educators had clear goals as women's athletics grew. They wanted to prevent the "evils" of men's sports from infecting women's competition. Physical educators wanted all girls to be able to reap the benefits of competition, rather than just the more highly skill athletes (Hult, 1994). Cooperation was the main focus, as opposed to competition. The AIAW ran an educational sports model. The philosophy was that sport was an avenue to learn more about one's self and the values pertaining to self (Grant & Darley, 2001). This philosophy is what led the AIAW to have different rules for transfer students, recruiting, financial aid and

participation. There was even a Student-Athlete Bill of Rights. Women's programs were "educationally sound and fiscally prudent" (Grant & Darley, 2001).

Prior to the 1970s, some female athletes were marketed as objects. Male promoters of female baseball leagues during World War II would hold beauty pageants among players and place strict rules about dress and hairstyles on the women. They played in skirts. In order to promote women's sports, women's femininity was promoted. It is simply the way it was. Pretty women drew crowds—they still do.

On the other hand, many female athletes were criticized for their lack of femininity. There were definite expectations for women and deviations were questioned. Women were to always be modestly dressed and conduct themselves with feminine grace. Men were strong, intimidating and muscular. Women were coy and charming, men were dashing and aggressive. Any woman who exhibited "masculine" traits had her sexual orientation and even her sexuality attacked. Babe Didrickson is a prime example.

She dominated her events at the 1932 Olympics in Los Angeles, and at first, the press adored her. However, some questioned her physical skills and strength. She eventually found it difficult to escape the insinuations—even after she was married in 1938. She could handle it because she loved the attention and possessed a quick wit. Nevertheless, female athletes had to carefully consider their public image. There seemed to be no middle ground for female athletes. They were either beautiful objects or masculine freaks.

Society has changed a great deal in terms of female norms and expectations, but barriers persist in the recognition of successful female athletes. Rick Reilly wrote in his sarcasm-laden column that one of the only ways for a female athlete to get attention in

the sports world would be for her to “play crappy tennis but look hot pulling the second ball out of [her] briefs” (2003). This statement was referencing the fact that more people in this country know Anna Kournikova, who has yet to crack the top ten ranking in tennis, than know the number one ranked player. After all, Kournikova makes swimsuit calendars.

The Connecticut women’s basketball team won their 55th straight game in January 2003, breaking the all-time women’s record. It could only be seen on Connecticut Public Television (Reilly, 2003). That same month Pat Summitt, coach of the University of Tennessee Lady Volunteers basketball team, won her 800th game. She was the first woman to do so and only the fourth Division I coach to achieve that milestone, yet there was less media coverage than when North Carolina’s Dean Smith had done the same thing seven years earlier. Internationally, golfer Annika Sorenstam won 13 out of 25 tournaments in 2002. Tiger Woods won only six of 22. Woods made \$60 million in endorsements. Sorenstam made \$2.5 million.

Paula Radcliffe lowered the gender gap in the marathon to twelve minutes in 2002. Her time was two hours and seventeen minutes. According to Reilly (2003), women have improved their marathon record by more than an hour over the last 40 years. During that same time span men have improved their record by only nine minutes. Both Duke University men’s and women’s basketball teams have been ranked number one. Every men’s home game has been sold out since 1990. The women have yet to sell out a game (Reilly, 2003).

American culture has taken great strides in accepting women’s sports. However, there is something lingering in society that refuses to fully embrace women’s sports

despite the successes. It is this that serves as a reminder that Title IX is still vital to women's sports.

Women's sports are not the only sports people are not watching. Men's minor sports have also had many success stories. Perhaps what is hurting these sports is the increase in commercialism in intercollegiate sports. Men's college football and basketball are very popular. They are easy to market. The more they are marketed, the more they become entertainment.

Men's football and basketball have their own set of problems to deal with. Belinda Lovett of "The Bowdoin Orient" (2001) reported that men's major sport athletes in her school's local conference had SAT scores over 125 points lower than those of male non-athletes. Two-thirds of those same athletes were found in the bottom third of their class (Lovett, 2001). According to ESPN.com (2002), only 54 percent of male student-athletes in NCAA Division I graduate. In 2002, that statistic was 51 percent. Male basketball players' graduation rate is 36 percent, and only 52 percent of football players finish their degrees. The NCAA survey that tracks these graduation rates allows six years for graduation, but apparently, only half of male college athletes go on to get a degree. Many athletes use college as a farm league to prepare them for professional sports.

Incidences of violence committed by male student-athletes have increased. Edgar Thompson (2003) reported that a University of Florida recruit was charged with attempted sexual battery and burglary after allegedly assaulting a female student after he had been out drinking with some University of Florida players. The University of Colorado is facing a \$1 million lawsuit because a woman claims she was raped at a party for football recruits (Thompson, 2003).

Perhaps the most disconcerting changes to men's major sports over the last thirty years are the large amounts of money poured into the programs. The University of Florida flew two recruits to the campus for a visit. Each young man was flown on a private jet (Thompson, 2003). Steve Erber, the director of athletics at Muhlenberg College, said:

How did we ever get to the point where in order to participate in intercollegiate sports, an athlete needs a mahogany locker or a carpet that's four times more plush than you have in your living room? In major sports, the colleges have gotten into an arms race (NCAA News, 1999).

The more a team wins, the more money comes in to the school, the more fame and recognition the players, coaches, and school receive. Suppose B University spends a huge amount of money to hire a good coach. University X spends a greater amount of money on a better coach. University X flies their recruits first class for a visit. B University flies those same recruits to their campus in a private jet. The race goes on and on with each school escalating the expenditures.

Football and basketball are generally referred to as "revenue-producing" sports. However, it is important to note that revenue-producing is not equivalent to profit-generating. A study by Daniel Fulks in 1999 found that 78 percent of all NCAA football programs had budget deficits (NCWGE, 2002). Including schools that do not even have football programs, 73 percent of all NCAA basketball programs run deficits. Men's basketball budgets increased by two and one half times (NCWGE, 2002). From 1985 to 1999 average football expenditures in Division I-A more than doubled.

San Diego State University spent \$4,383 on helmet decals, \$40,720 for 600 pairs of sneakers and \$37,796 for hotel rooms and buses on nights before home games. The athletic director subsequently cut the men's volleyball program to save \$134,000 (NCWGE, 2002).

The average football roster size in Division I-A is 117.3 athletes. Nearly one half of a percentage point of the entire athletic budget is spent on each individual football player, accounting for a total of 55 percent of the athletic budget spent on football alone. Men's basketball rosters generally accommodate 15 student-athletes, and a full one percent of the budget is spent on each basketball player. Combined, football and men's basketball use 72 percent of an institution's athletic budget (NCWGE, 2002).

School finances are also spent on coaches and assistant coaches. There are five football programs in the Southeastern Conference that pay their nine assistants more than \$1 million combined, each year (NCWGE, 2002). The University of Louisville pays its head basketball coach \$1.025 million a year in base salary. If he stays for the entire length of his six-year contract, he will receive a \$5 million bonus (NCWGE, 2002). Frequently, coaches' salaries can increase through postseason bonuses and radio, TV and internet compensation. Assistant football coaches make more than a professor with a doctorate degree at the same university.

Some of the expenditures of football and basketball programs can be covered through outside sources. For instance, basketball teams that make it to the Final Four at the end of the season are given money to participate by the NCAA. Ticket sales also aid in recouping money spent. Hence, the term "revenue-producing." In fact, 22 percent of NCAA football programs and 27 percent of NCAA basketball programs are self-

supporting (NCWGE, 2002). That means that an even smaller percentage can support other sport programs. Unfortunately, excess revenues do not always assist other programs. Many times those revenues go back into the football or basketball program in order to further the arms race.

The commercialism and other problems plaguing major men's intercollegiate athletics points directly at the type of organized sport that early women physical educators and the AIAW were trying to avoid. Currently, female intercollegiate sport—or men's minor sport, for that matter—has not been subject to the extreme commercialism or degradation of morality that men's major sports have seen. Perhaps this speaks to the more ideal, educational nature of athletics. Instead of spending more money on women's sports and eliminating men's minor sports, maybe institutions of higher learning should start spending less money on men's football and basketball. It might not be great for business, but it might be good for the student-athlete.

Some administrators and athletic directors assert that women are not as interested in sports as men, thus making it possible for proportionality to be a less than ideal way of evaluating the way women's interests and abilities are met. Feminists declare such conjecture as pure blasphemy, but is it possible that women do not desire to participate at the same rate as men? If it is *possible*, then proportionality would indeed be very close to being a quota.

It is part of everyday life and common knowledge that men and women are anatomically and physiologically different. That is why they cannot compete against each other in most sports. However, are there psychological and sociological differences that further separate the spheres of female and male sport participation and values?

One piece of evidence to support such a possibility lies within the brain itself. There are certain areas of the brain that differ in size according to gender (Sabbatini, 1997). This is partly what has led to the research-based conclusion that generally speaking, females excel in empathy, verbal skills, social skills and security seeking, while independence, dominance, spatial and mathematical skills and rank-related aggression are higher in men (Sabbatini, 1997). This does not mean there can be no crossover or that either brain is superior to the other. It simply means there are general differences. Research with rats has led to the possible conclusion that male aggression can be caused by naturally occurring reduced levels of serotonin rather than just through learned behavior (Australian Broadcasting Company, 2001). This is significant because some people believe male aggression and behavior are products of the environment in which our society raises its young men. Society does not wholly determine a gender's dispositions.

Piedad Lozada (2001) reports that there are differences in motivation for participating in sports between males and females. In studies conducted on gender motivation in athletics, females were motivated more by making friends, learning new skills, and exercise. Males were motivated by winning, competition and the challenge of sport. In fact, females are less likely than males to take part in sport solely for the sake of winning (Lozada, 2001).

In a study on men and women who make donations to athletic programs, researchers found that women donors placed greater emphasis on curiosity, involvement and commitment when deciding to donate, whereas men placed more emphasis on power, self-esteem and material benefits (Robinson, 2001).

Several separate research studies conducted between 1975 and 1994 yielded interesting attitudes among high school students in terms of choice of high school remembrance roles. Four remembrance roles were presented to adolescent males and females: brilliant student, most popular, athletic star or leader in activities. Each student was to choose which role best described how he or she would like to be remembered. Consistently, the male majority chose star athlete. However, star athlete was the least chosen alternative for females. The majority of females chose leader in activities and brilliant student (Holland, 1999).

Looking again at the graduation rates of NCAA athletes, female athletes graduate at a rate of 69 percent compared to just 54 percent of male athletes (ESPN.com, 2002). The rate for female basketball players is 65 percent while the rate for male players is 36 percent (ESPN.com, 2002). Steve Sloan, athletic director for the University of Tennessee at Chattanooga, said, "Generally speaking, the women have higher GPAs than the men" (Wiedmar, 2003). He went on to say, "They have a total picture of things, rather than tunnel vision about their sport" (Wiedmar, 2003). Gavora (2002) writes, "Because women are less willing to ride the bench—and less willing to 'walk on' to a team and play without receiving an athletic scholarship—women's team sizes tend to be smaller than men's" (Wiedmar, 2003).

Without making assumptions or speculating as to what might be the cause, there is enough research to provide reasonable doubt as to whether women value college athletics at proportionately the same rate as men. It may indeed be possible that some athletically gifted women choose not to participate in intercollegiate athletics because they are more focused on their studies, are involved in other activities, or simply do not

wish to participate at a higher level of competition. Men and women are not exactly the same. Two women are not even exactly the same, for that matter.

Title IX head butting can also be attributed to what could be called the radical “isms.” Male chauvinism, feminism and heterosexism all provide voices for or against Title IX and its ideals. Male chauvinists do not want any change. Feminists want everything to change. Heterosexists tell female recruits not to play for certain teams or coaches because they are lesbian—whether it is true or not. Each radical branch of the “isms” points fingers and makes villains where there need not be villains. The subject is athletics in educational institutions. Where is the education? Everyone should be looking for a common goal in providing the best possible education for each and every student. In an ideal world nothing else would come first—not money, not status, not self. Nonetheless, Title IX exists in a real world. Therefore, decisions must be made that not everyone will agree with, but instead, serve the overall purpose. This is where the law and rules come in. This is where the Secretary of Education’s Commission on Opportunities in Athletics comes in.

The Title IX Commission

In 2002, Title IX celebrated its thirtieth birthday. That same year a major lawsuit was filed against the Department of Education. In *National Wrestling Coaches Association v. U.S. Department of Education*, the coaches were suing because they claimed that the rules associated with Title IX, namely proportionality, were created using improper procedure. Court cases such as *NWCA v. U.S. Department of Education* along with claims from college administrators that guidance on Title IX compliance is not clear led the Secretary of Education to charter a Commission on Opportunity in

Athletics to look into Title IX policies. The purpose and function of the Commission as defined in its charter was to, “collect information, analyze issues, and obtain broad public input directed at improving the application of current Federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX” (Secretary of Education, 2003). On February 28, 2003 the Commission handed in its report to the Secretary of Education on whether standards should be revised, and how they should be changed if it is deemed necessary. The report also recommended other ways that may serve to further the goals of Title IX (The Secretary of Education’s Commission on Opportunity in Athletics, 2003).

The Commission voted on twenty-six recommendations and passed twenty-three on to the Secretary along with one recommendation neither passed nor defeated due to a 7-7 tie in the vote. Recommendation two of the Commission suggested that any future clarification or policy interpretation go through the normal federal process. It was recommended unanimously that the Office for Civil Rights provide, “clear, consistent, and understandable written guidelines” for Title IX implementation and that proper education and enforcement is carried out. The Commission made it clear that Title IX progress should not be lost or halted and that cutting men’s teams to comply is a disfavored practice. While the Commission did not feel it was within their scope to make specific recommendations about reducing excessive expenditures in athletic budgets, it did suggest that the Department of Education encourage the addressing of those issues by educational institutions and governing athletic institutions. A major recommendation was to allow a set number of slots per team count toward proportionality. This would prevent schools from being found in noncompliance if they had teams that could not be

filled with female participants. An example of this might be that a normal men's college basketball team roster would have about fifteen slots. Perhaps only 13 girls from B University are interested in playing basketball, while the men easily filled all fifteen slots. For the sake of Title IX, B University would be counted as having 15 slots of opportunity in women's basketball.

The positive aspect of this recommendation is that a school will not be penalized if it provides opportunities, but no one is willing to take advantage of those offered. The down side to this proposal is that it may cap both men's and women's opportunities in certain sports. There is also the possibility that there may not be enough women to fill a roster because they were recruited at a substantially lower rate (De Varona & Foudy, 2003).

Another controversial recommendation concerned only counting athletes who receive full or partial scholarships and recruited walk-ons toward Title IX compliance. In other words, walk-on athletes would not be counted. Walk-ons are the athletes who just show up for team try-outs and do not receive scholarships. Most of the time they are not recruited athletes. This would be positive for programs because the school would not have to worry about turning away athletes who play simply because they love the game or the team. The problem with this is that it would lead to disparity in resource allocation because walk-ons use resources just like any other player.

Conclusions

The Commission's recommendations are a step toward more efficient education and enforcement. However, more could be done in terms of policy clarification. One policy issue, such as non-traditional students, can make Title IX compliance simpler for

one type of institution while making it more complicated for another. One Commission recommendation allowed for non-traditional students to not be counted in the total enrollment. Community colleges tend to have higher enrollments of non-traditional students, and it would be a disadvantage to those small schools if they could not count non-traditional athletes. In addition, the definition of non-traditional teeters dangerously close to allowing for inequity. Non-traditional students are defined as students not within the ages of 18 and 24 and those who have children. Women are more likely to be singled out as non-traditional since it is difficult to determine what men have fathered children.

Because of issues such as this one, it may be wise for policy makers to consider classification systems for postsecondary institutions. This way, policies may be designed to accommodate the needs of different sized institutions and their constituents. It is one reason that athletics governing bodies have athletic divisions.

The NCAA might also choose to take a more proactive stance in terms of curbing excessive expenditures and deficit spending. Football rosters should be capped, because the majority of college football teams have rosters over 100. The average is generally about 115. A large number of those team members will never have the chance to play in an actual game, and 85 of those 115 football players receive scholarships. Simply reducing the roster size to 90 would make a great deal of difference. It could mean the existence of an entire wrestling team.

Title IX can make a much greater impact if the NCAA, college and university administrators and other governing bodies would actively support Title IX and each other. Changes must be made all around because the problem lies all around. The Commission has taken a bold step by simply acknowledging that some change is needed.

College sports are not the same as they were in 1972. This is the opportunity for administrators to make a stand for the education of student-athletes instead of the business of student-athletes. Action should be taken now to end inequalities that have plagued intercollegiate athletics in recent decades. Higher education should stand for what is best for every student.

Attitudes and values related to sports in the new millennium reveal a complex network of needed change. In such an era, the three-prong test is too simplistic. Title IX policy should be a delicate balance of coherent principles clearly and explicitly outlined. There should not be too many regulations, nor should there be too few. Added effort must be exercised in informing and educating all involved parties of their rights and their obligations. This is a new era of Title IX.

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Times Free Press, p. D1, D5.

SOUTHERN SCHOLARS SENIOR PROJECT

Name: Fern Christensen Date: 1/8/2003 Major: HPER

SENIOR PROJECT

A significant scholarly project, involving research, writing, or special performance, appropriate to the major in question, is ordinarily completed the senior year. The project is expected to be of sufficiently high quality to warrant a grade of A and to justify public presentation.

Under the guidance of a faculty advisor, the Senior Project should be an original work, should use primary sources when applicable, should have a table of contents and works cited page, should give convincing evidence to support a strong thesis, and should use the methods and writing style appropriate to the discipline.

The completed project to be turned in duplicate, must be approved by the Honors Committee in consultation with the student's supervising professor three weeks prior to graduation. Please include the advisor's name on the title page.
The 2-3 hours of credit for this project is done as directed study or in a research class.

Keeping in mind the above senior project description, please describe in as much detail as you can the project you will undertake. You may attach a separate sheet if you wish:

Last year, 2002, was the thirtieth anniversary of Title IX of Educational Amendments of 1972. My project will trace the progress made toward compliance with Title IX in intercollegiate athletics and reflect upon the continued necessity of Title IX. My project will also address the controversial issues surrounding Title IX in athletics and provide possible solutions.

Signature of faculty advisor Phil Garver Expected date of completion 3/10/03

Approval to be signed by faculty advisor when completed:

This project has been completed as planned: Yes

This in an "A" project: (when some changes are made) Yes

This project is worth 2-3 hours of credit: 2

Advisor's Final Signature Phil Garver

Chair, Honors Committee _____ Date Approved: _____

Dear Advisor, please write your final evaluation on the project on the reverse side of this page. Comment on the characteristics that make this "A" quality work.