

Introduction to the Special Issue: Title IX and Its Future in Shaping Inclusive Excellence in College Sport

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When Title IX of the Education Amendments Act was passed in 1972, uncertainty abounded as to the effect that it would have on schools receiving federal funding. Those espousing liberal feminist notions of fairness and equity celebrated the creation of pathways for women to access professional careers once blocked by gender discriminatory policies and practices. Expansive in its scope and reach, Title IX has been credited with dramatically impacting the shape of educational institutions in the United States, opening more doors to occupations for women in aerospace, business, engineering, law, media, medicine, the military, politics, sport, and technology.

In the five decades that have come and are nearly gone since its passage, Title IX's application to intercollegiate athletics has led to robust and ongoing conversations about the allocation of resources on the basis of gender within athletic departments impacting participation opportunities, athletic scholarship allocations, and investments in women's sports programs in an array of operational areas. Much work has also been done in terms of the application of Title IX as it applies in areas of college athlete and coach compensation, pregnancy, retaliation, and sexual abuse/harassment.

The question of whether Title IX has been a transformative piece of legislation in addressing entrenched sexist attitudes and sexism in college sport remains very much up for question. While majorities of U.S. citizens typically support the general idea of gender equity as it is associated with Title IX, few constituencies within athletic departments have a sound knowledge of the law or what it requires (Druckman et al., 2014; 2020; Staurowsky & Weight, 2011, 2013). Five decades after the law went into effect, few NCAA Division I Title IX athletics coordinators (or those who are tasked with doing the job) report conducting face to face or online sessions to educate athletes and coaches about Title IX as it applies to athletics (Staurowsky & Rhoads, 2020).

Research done by Nancy Hogshead-Makar (Champion Women Communications, 2022), Staurowsky et al. (2022), and others point to large patterns of systemic



discrimination within the college sport system that favor men athletes and men's programs. Using rationales that were no different from those in the 1970s, athletics administrators at a number of schools attempted to and/or were successful in cutting women's programs in the midst of the COVID-19 pandemic (Hensley-Clancy, 2021). Women remain significantly underrepresented in the head coaching ranks of college and university athletic programs (LaVoi & Wasend, 2018). In keeping with longstanding tradition, Title IX has been used politically to resist change, as evidenced in claims by opponents of efforts to compensate college athletes for their labor that such efforts would undermine the fair treatment of women athletes (Staurowsky, 2018). Speaking to limitations of Title IX in addressing systems of oppression that have historically left women of color behind or rendered them invisible (Evans, 1998), *New York Times* reporter William Rhoden (2012) concluded, "The most glaring outcome of the legislation is that white women – as athletes and administrators – have been the overwhelming beneficiaries" (para. 4).

In this special issue we explore the national dialogue about Title IX and its impact on sport through a diverse set of perspectives. In our lead article entitled *The Struggle is Real: Examining the Impact and Ability of Title IX to Provide Equitable Opportunities in College Sports for Black Women*, Drs. Courtney L. Flowers, Jasmine Hamilton, and Joyce Olushola Ogunrinde examine Title IX through the lens of Critical Race Theory (CRT) and the impact it has had on Black women in the college sport system. They point out that while there is a general lack of compliance in terms of colleges and universities providing women athletes with fair access and treatment, the burden of navigating this space has been much heavier for Black women. Benefits accrued under Title IX in the college sport space have been distributed primarily to White women athletes, coaches, and administrators while barriers to Black women athletes, coaches, and administrators remain largely unaddressed. They conclude that "Title IX cannot provide a simultaneous remedy for race and gender and hence this law provides protection for white women while not protecting Black women student-athletes" and that Title IX contributes to rendering Black women invisible in college sport.

The relationship between human capital, race, and gender forms the basis of the analysis author Tarlan Chahardovali and colleagues undertook in their work entitled *Title IX and Career Pathways of Women Across NCAA Women's Basketball Programs: An Intersectional Approach to Human Capital in Hiring*. The substance of this study involved an examination of job-related qualifications of incoming and outgoing coaching hires between 1984 and 2020 within National Collegiate Athletic Association (NCAA) Division I athletic departments affiliated with the Power Five Conferences and Historically Black Colleges and Universities. While opportunities for women coaches remained consistent over that span of time, ". . . they do not seem equitable at the Power Five level when considering a coach's race as Black women were hired at a much smaller rate compared to their White counterparts." Further, ". . . women need more human capital than men to obtain head coaching positions which marks the presence of gender discrimination in the NCAA coaching labor market."

This special issue provides perspectives from authors who elaborate on four very different ways in which schools have resisted Title IX compliance. It also explores the effects of limited to no effort to educate athletes and coaches about their rights under Title IX and to hold administrators accountable for lack of Title IX compliance. In the article by Erika Guenther, Elizabeth Sorensen, and Lance Champagne entitled *Pregnancy Rights Information Increases Female Intercollegiate Student Athletes' Intent to Seek Help*, a study of women college athletes (n=146) examined the perceptions of women athletes in the event they got pregnant while competing and decided to remain pregnant. In the absence of information about their rights under Title IX, the women college athletes in this study thought that they would be cut from the team, lose financial aid, and would be prevented from returning to the team. Following an intervention where the women athletes' rights under Title IX were explained, they were less likely to expect negative consequences in the event they get pregnant.

Legal scholar Erin Buzuvis examined enforcement practices and compliance trends related to Title IX's requirement for gender equity in the distribution of athletic financial aid in the article entitled *Athletic Scholarships and Title IX: Compliance Trends and Context*. An analysis of Equity in Athletics Disclosure Act (EADA) data for the academic year 2020-2021 confirms that athletic scholarship allocations for women athletes in the most competitive athletic programs remain disproportionately underfunded and that the magnitude of the negative financial impact on women college athletes is underestimated because women athletes are not afforded proportional athletic participation opportunities. The article concludes with a call for "regulators, scholars, and advocates to monitor disparities in athletic financial aid and to ensure that these existing disparities are not replicated as universities expand the scope of economic benefits that students receive as a result of their participation in college athletics."

In an article entitled *The Financial Impact of Eliminating a NCAA Division I Men's Sport on the Athletic Budget: Is Title IX to Blame for Cutting Men's Sports?* author Anne Marx and her colleagues "examine changes to the budgets of women's athletics, men's basketball, and football when an NCAA Division I intercollegiate men's team was eliminated" using 15 years of data submitted by 85 institutions in accordance with the Equity in Athletics Disclosure Act (EADA). Debunking the myth that cuts to athletic programs harm men's sports, the authors conclude that "when a men's sport program had been eliminated, the budget resources of the eliminated program were reallocated primarily to the budgets of men's basketball and football rather than to the women's athletics budget". They further found that arguments made by athletic administrators that program cuts were due to the need to comply with Title IX were not supported.

In the final article in this collection, Ellen J. Staurowsky explores the important role that public disclosure plays in the Title IX accountability mechanism. In the article entitled *Strengthening the Equity in Athletics Disclosure Act to Improve Gender Equity Transparency & Institutional Accountability in the Future*, she examines the "current state of Title IX compliance and gender equity in college sport, revisits the

history of the EADA, provides an overview of what the EADA covers and who uses it, explores the criticisms and limitations of the EADA, and concludes with recommendations for making the EADA a more effective tool.”

Taken as a collection, this special issue affirms the continuing need for greater governmental and institutional accountability for systemic Title IX non-compliance that perpetuates the second-class status of women within the college sport system. At this 50th anniversary juncture, there needs to be greater awareness among lawmakers, college sport executives, higher education officials, and researchers that Title IX does not address myriad barriers to participation and access for Black women. Moving into the future, more informed equity strategies that recognize intersectionality between race and gender will be critical to creating more inclusive environments in college and university athletic programs.

References

- Champion Women Communications. (2022, June 19). Is your school treating female athletes fairly? TitleIXSchools.com. Retrieved from <https://titleixschools.com/2022/06/19/eadadata>
- Druckman, J. N., Gilli, M., Klar, S., & Robison, J. (2014). Athlete support for Title IX. *The Sport Journal*. <http://thesportjournal.org/article/athlete-supportfortitle-ix/>
- Druckman, J., & Sharrow, E. (2020). Public opinion, crisis, and vulnerable opulations: The case of Title IX and COVID-1. *Politics & Gender* 16, 1084-1092. Retrieved from <https://faculty.wcas.northwestern.edu/jnd260/pub/Druckman%20Sharrow%20Public%20Opinion%20Crisis.pdf>
- Evans, T. M. (1998). In the Title IX race toward gender equity, the Black female athlete is left to finish last: The lack of access for the “Invisible Woman,” *Howard Law Journal*, 42, 105- 128.
- Hensley-Clancy, M. (2021, March 25). Colleges cut sports to save money amid the pandemic. Then came the Title IX lawsuits. *Washington Post*. Retrieved from <https://www.washingtonpost.com/sports/2021/03/25/college-sports-cuts-title-ix/>
- LaVoi, N. M., & Wasend, M .K. (2018, July). Athletic administration best practices of recruitment, hiring and retention of female collegiate coaches. ucker Center for Research on Girls & Women in Sport. Retrieved from <https://www.cehd.umn.edu/tuckercenter/library/docs/research/AD-Report-Best-Practices.pdf>
- Rhoden, W. (2012, June 10). Black and white women far from equal under Title IX. *New York Times*. Retrieved from <https://www.nytimes.com/2012/06/11/sports/title-ix-has-not-given-black-female-athletes-equal-opportunity.html>
- Staurowsky, E. J. (2018). College athletes as employees and the politics of Title IX. In E. King-White (Ed), *Sport and the neoliberal university* (pp. 97-132). Rutgers University Press.
- Staurowsky, E. J., Flowers, C., Buzuvis, E., Darwin, L., & Welch, N. (2022). Title IX at 50: We’re not done yet. Women’s Sports Foundation. Retrieved from <https://>

www.womenssportsfoundation.org/articles_and_report/50-years-of-title-ix-were-not-done-yet/

- Staurowsky, E. J., & Rhoads, A. (2020). Title IX athletics coordinators in NCAA Division I institutions. *Journal of Issues in Intercollegiate Athletics*, 13, 381-404.
- Staurowsky, E. J., & Weight, E. A. (2011). Title IX literacy: What coaches don't know and need to find out. *Journal of Intercollegiate Sport*, 4(2), 190-209.
- Staurowsky, E. J., & Weight, E.A. (2013). Discovering dysfunction in Title IX implementation: NCAA administrator literacy, responsibility, and fear. *Journal of Applied Sport Management*, 5(1), 1-30.

Examining the Ability of Title IX to Provide Equitable Participation Opportunities for Black Women College Athletes

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The purpose of this study was to reveal Title IX fueled obstacles which prevent Black women from achieving equity in college sports. The researchers sought to provide a critical analysis of the synchronous burden of race and gender discrimination experienced by Black women in college sports. The study found this form of discrimination is unique to Black women as they experience sex discrimination similar to White women and race discrimination similar to Black men, but neither White women or Black men experience simultaneous forms of race and gender discrimination as Black women do. Title IX is a single-axis equity law which uses sex to factor discrimination, yet as Black women experience both race and gender discrimination synchronously this law does not protect Black women from discrimination in the way they experience it. Yet, examining the effectiveness of Title IX to prevent race and sex discrimination is problematic because even with the law, schools have not achieved gender equity in college sports since its enactment in 1972. Another challenge is the National Collegiate Athletic Association (NCAA) Emerging Sports Program for Women uses a single axis lens to increase athletic opportunities for women. Therefore, Black women are barred from benefiting from the increased access and athletic opportunities produced through the Emerging Sports program as it uses sex as a solo determinant to increase athletic opportunities. It is worth noting the extreme lack of research on Black women in sports has rendered Black women college athletes invisible in data on women's sports. This adds to the complexity of examining forms of discrimination experienced by Black women in college sports. The study found racial clustering, the single-axis lens of Title IX, and NCAA gender equity programs collectively provide harm to Black women in college sports and uniquely attack their ability to achieve equity in college sports.

Keywords: Title IX and Black women, Black women in NCAA sports, gender equity in college athletics



Introduction

It is undeniable that the 37 words authored by Sen. Birch Bayh of Indiana, championed by Reps. Edith Green of Oregon and Patsy Mink of Hawaii, and signed into law by President Richard Nixon, have increased participation opportunities for women in college sports (Johnson, 2022). In 2022, Title IX turned 50 and many commemorated the anniversary through examining the impact of this civil rights law on the growth of women's sports, with reports published by the National Collegiate Athletic Association (NCAA) (Wilson, 2022); National Women's Law Center (NWLC) (2022); USA Today (Armour et al., 2022); and the Women's Sports Foundation (WSF) (Staurowsky et al., 2022). Further the NWLC and WSF reports also addressed a need to examine obstacles to Title IX compliance that have historically prevented women and girls from achieving gender equity in sports.

It is through these reports and others that the 50-year landscape of Title IX's impact on women's sports was revealed. Furthermore, these documents are vital to uncovering the obstacles embedded in the formation of Title IX which have created participation barriers for Black women and girls in sports. For example, in the Women's Sports Foundation report, *"50 Years of Title IX: We're Not Done Yet"*, the researchers found after 50 years of Title IX, "... 86% of all NCAA athletic programs across all divisions offered higher rates of athletic opportunities to male athletes disproportionate to their enrollment" (Staurowsky et al., 2022, p. 3). These statistics are not surprising as historically girls' opportunities have lagged behind boys' opportunities in sports (Butler & Lopiano, 2003; Carter-Francique & Flowers, 2013; Cooper & Newton, 2021; Kaplan et al., 2021; Staurowsky, 2011, 2020, 2022). Yet, since research consistently has cited Title IX's challenges in preventing sex discrimination in sports, there is a need to further examine obstacles preventing this law from assisting women from achieving gender equity in participation opportunities in college sports.

The NWLC identified another Title IX obstacle by noting that high schools were offering 1.3 million fewer chances for girls to play sports compared to boys (Staurowsky et al., 2020 as cited in NWLC, 2022, p. 3). Moreover, NWLC (2022) reported that Black girls participate at far lower rates than White girls or Black boys. These discrepancies are exacerbated as young people transition from high school to college sport programs. In addition, this data revealed a distortion of Black girl's participation rates through racial clustering or stacking of Black girls on basketball and track and field teams. Comparable results were found by Staurowsky et al. (2022) in the WSF report, where researchers noted racial clustering is a barrier which prevents Black women in college from achieving gender equity in college sports, where Black women are overpopulated in sports which require less financial funding such as basketball and track and field. Consequently, racial clustering explains the increased numbers of Black women participants on college athletic track and field and basketball teams, which means more Black women vie for the same sport opportunities as opposed to pursuing opportunities in a category referred to as emerging sports for women (Staurowsky et al., 2022).

The concept of developing an emerging sports program for women was introduced to the NCAA by the NCAA Gender Equity Task Force in 1994. At that time, a study of gender equity within NCAA member schools revealed that more than 20 years after the passage of Title IX, schools were underfunding women's sports and failing to provide equal access for athletic participation to women. The goal of the NCAA Emerging Sports for Women program is to provide NCAA member institutions a resource tool to increase sporting opportunities for women at their schools. More details highlighting the NCAA Emerging Sports for Women Program will be examined thoroughly later in this study. Additionally, the impact of racial clustering and NCAA emerging sports teams on skewing representation numbers, limiting access and opportunities for Black women in college sports, will also be introduced in this case study.

The NCAA report "*The State of Women's Sports*" also described racial clustering as a barrier for Black women in achieving gender equity, citing "In 2020, almost one-third of participants on women's teams for NCAA championship sports were minority females. However, more than half of minority female participants played basketball and indoor/outdoor track" (Wilson, 2022, p. 8). Staurowsky et al. (2022) and NWLC (2022) both concurred with this notion, identifying racial clustering as a tool which distorts sex discrimination data in women's sports by omitting the actual number of Black women represented on sports teams.

Title IX uses a single axis lens which solely focuses on sex discrimination and ignores race (Staurowsky et al., 2022). The combination of racial clustering and the single axis lens through which equal access is viewed under Title IX contribute to a distortion within participation data for Black women in college sports. Additionally, as the NCAA officials developed the Emerging Sports program as a resource tool for complying with Title IX policies, they failed to consider the ways in which race and gender intersect, resulting in the creation of a list that favored White women athletes while limiting participation opportunities for Black women in college sports.

Intersection of Race and Gender under Title IX

Scholars have used an intersectional lens to examine discrimination experienced by Black women in sport (Carter-Francique & Flowers, 2013; Cooper & Newton, Corbett & Johnson, 2000; Dees, 2008; Flowers, 2015; McDowell & Carter-Francique, 2016; Pickett et al, 2012; Staurowsky et. al., 2022). Examining both the racial and gendered forms of discrimination sustained by Black women is critical in comprehending the gender equity barriers they are currently facing in sports. Alfred Mathewson (1996) frames these challenges in his article "*Black Women, Gender Equity, and the Function at the Junction*". Professor Mathewson uses a legal lens to examine the meaning of gender equity and then provides proposed frameworks to structure equitable athletic opportunities for Black women in college sports. Furthermore, the article examines two law articles which both focus on the structural and systemic barriers which fuel discrimination for Black women. In sum, these sources speak to the power of the legal lens to provide a robust understanding of the discrim-

ination Black women face and how they can be redressed from this experience.

Focusing on the works of Crenshaw (1988) and Mathewson (1996), this study employs intersectionality to frame the discrimination Black women experience. For context, Crenshaw suggests “Black women are sometimes excluded from feminist theory and antiracist policy discourse because both are predicated on a discrete set of experiences that often does not accurately reflect the interaction of race and gender” (Crenshaw, 1988, p. 140). In relation to sport, intersectionality posits that the data on sex discrimination in college sports typically represent discrimination of White women while omitting the suffering of Black women due to the same form of discrimination (Carter-Francique & Flowers, 2013; Cooper & Newton, Corbett & Johnson, 2000; Dees, 2008; Flowers, 2016; McDowell & Carter-Francique, 2021; Pickett et al, 2012; Staurowsky et. al., 2022).

To separate the discrimination experience of Black and White women in college sports, we can use Crenshaw’s theory of intersectionality. Specifically, Crenshaw (1988) states “Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated” (Crenshaw, 1988, p. 140). Mathewson (1996) dives deeper into this notion, arguing “The essence of gender is a White woman model; the essence of Blacks is a Black male model” (Mathewson, 1996, p. 243). Therefore, solely Black women face the burden of navigating both gender and race simultaneously. This notion suggests that Black women not only have to tackle discrimination faced by their White female and Black male counterparts, but they also must face additional obstacles overcoming simultaneous discrimination due to race and gender, hence double jeopardy (Crenshaw, 1988; Flowers, 2015; Mathewson, 1996).

The 2007 Rutgers women’s basketball team and Don Imus controversy provides a realistic example of double jeopardy. In 2007, the Rutgers women’s basketball team emerged as the Cinderella team of the tournament, having made it to the NCAA women’s championship game for the second time under legendary head coach C. Vivian Stringer. In the aftermath of Rutgers being defeated by the University of Tennessee, the women competing in the game from Rutgers were defamed by shock jock Don Imus during his radio show the next day which aired at the height of the morning commute nationally. Horrifically, Imus focused his discussion of the game not on the accomplishments of the players but on their physical appearance. For example, Imus said, “That’s some rough girls from Rutgers. Man they got tattoos . . . That’s some nappy-headed hos there. . . .And the girls from Tennessee, they all look cute” (Baldwin, 2019, para. 10). Imus’ decision to focus on athletes’ physical appearance versus athletic ability was a form a sex discrimination. No members of the Rutgers or Tennessee basketball teams were excluded from this form of discrimination as they were all competing in the same basketball game. In an interview Dr. Akilah Carter-Francique, scholar on Black women in sports, stated:

There are those societal expectations that fall in line with gender norms that are couched in patriarchy about how women should present themselves . . . From hair to makeup to clothing . . . so that they can be more in line

with this notion of girlhood, of womanhood, of what is deemed femininity (Pruitt-Young, 2021, para. 11).

Dr. Carter-Francique's unpacking of sports' patriarchal structure highlights a societal push to enforce femininity in women's sports. While all members of the Rutgers and Tennessee basketball teams were subjected to Imus' sexist comments, when Imus attacked members of the Rutgers women's basketball team by defaming them as "nappy headed hoes", he solely attacked the Black women on the team hence forcing them to face the double jeopardy of being discriminated against based on sex and race. Yet, Black women in college sports are not monolithic and therefore do not experience this form of double jeopardy similarly. The case of Moody vs. Iowa State University (ISU) can be used as an example of this. In 2016, Nichole Moody, a former ISU women's basketball player, filed a civil rights lawsuit seeking damages for race and retaliation discrimination against ISU and her former coach William Fennelly (Flowers, 2016).

In this case, Moody cited frequent racial discrimination throughout her four years on the ISU women's basketball team. She reported being called a "thug" by William Fennelly, then the head coach of the women's basketball team. The lawsuit also made a claim of retaliation of discrimination as Moody reported Fennelly worked in getting her released from the San Antonio Stars. In contradiction to the racial discrimination cited by Moody, some on her team shared their support of Fennelly, and a hashtag #standbycoach was developed and shared through social media. Also, ISU was able to recruit four Black women to the team during the lawsuit. One recruit, Rae Johnson, reported she attended practices at ISU and games and did not witness the racial hostility alleged by Moody. Johnson further noted she found Fennelly's reputation as a "hard-driving coach" as a positive (Birch, 2016, para. 9). However, a former college athlete of Fennelly's, Cheyenne Shepard, supported Moody's claims of racial discrimination. In a letter to the *DesMoines Register*, Shepard identified herself as non-Black Cuban, but stated she had also been subjected to Fennelly's hostile environment given her race. Moreover, Shepard corroborated Moody's claims of Fennelly directing racially charged words to Black women competing on his women's basketball team (Shepard, 2016).

In 2017, the state of Iowa Attorney General's office reached a settlement in this lawsuit. Moody was awarded \$35,619.13 per the agreement however there was no admission of liability by any of the defendants (Flowers, 2016, para.7). Moody experienced an isolated form of racial discrimination which was shared by some and contradicted by other athletes on her team of the same gender and race. Yes, Black women can obviously share common experiences of discrimination and systematic oppression, however, as individuals, each college athlete's story is shaped differently. The Moody case establishes that those on the same team who share the same gender and race can experience the same and/or different types of discrimination. Insightfully there is a need to understand not only the commonality of discrimination felt by Black women.

Defining Race, Gender, and Gender Equity in Sports

This study provides a critical analysis of the impact of race and gender on equity policies and programs used by the NCAA. Therefore, there is a need to explain and define terms used throughout this study. The NCAA uses the definitions published by the U.S. Census to define race and gender in its demographic data and research (NCAA, 2022). This study employed the race and gender definitions used by the NCAA (2022) and U.S. Census Bureau (2022).

The U.S. Census Bureau (2022) uses the social definition of race which accepts the racial and national origins of the term while recognizing race as a sociocultural group. Yet, this definition of race omits the biological, anthropological, and genetic component of race (U.S. Census Bureau, 2022). Race is a social category which distinguishes one's genetic dissimilarity from another (Cunningham, 2011; Coakley 2021). Coakley (2021) states race exists when individuals use a classification system based on physical traits which divide people into distinct categories.

The terms Black and White are used in this study to convey racial categories. Black was used to describe "a person having origins in any of the Black racial groups of Africa (NCAA, 2022; US Census, 2022) and White was used to describe "person having origins in any of the original peoples of Europe, the Middle East or North Africa" (NCAA, 2022; U.S. Census Bureau, 2022).

Moreover, this study conformed to the definitions used by the NCAA (2022) and U.S. Census Bureau (2021) regarding gender, gender equity, and sex discrimination. According to the U.S. Census Bureau (2021) gender omits the biological attributes of men and women and instead accepts the sociocultural behaviors associated with masculinity and femininity. Moreover, Cunningham (2011) cites that gender includes "the social roles expected of men and women, including expectations related to attitudes, behaviors, and interests perceived to be appropriate for, or typical of, men and women" (p.103).

In concert with this terminology, woman and female express categories of gender in this study. For example, this case study denotes women student-athletes as those competing on NCAA teams which were developed for females or women in college athletics.

The authors of the present study acknowledge using the terms females and women interchangeably can cause complexity in identifying the specific population being examined in this study. We also recognize, however, that Title IX uses jurisprudential underpinnings which link the term female exclusively to White females (Mathewson, 1996). This is a key finding in this study as it provides a path towards explaining how statistics and narratives on Black women are sometimes invisible in women's sports research and discussions.

Furthermore, the jurisprudential underpinnings of gender equity laws can also be used to shine a light on the complexity of Title IX to provide equitable opportunities for Black women in college sports as it does for White women. To provide more context, Mathewson (1996) further states:

The gender equity jurisprudence gives them the right to participate where

there are opportunities; it does not create opportunities in general where there are not already existing opportunities for boys or require the expenditure of resources where they are not already expended for boys (p. 248).

As Title IX of the Education Amendments of 1972 prohibits sex discrimination in any education program or activity receiving federal financial assistance and the NCAA uses Title IX to assess gender equity in its programs, there is also a need to address the meanings of gender equity and sex discrimination used in this study. This study defines sex discrimination as introduced by the Office of Civil Rights (OCR, 2020) and uses the NCAA (2022) interpretations of gender equity.

According to the OCR (2020) Title IX prohibits discrimination based on gender identity which includes

situations where individuals are harassed; disciplined in a discriminatory manner; excluded from, denied equal access to, or subjected to sex stereotyping in academic or extracurricular opportunities and other education programs or activities; denied the benefits of a school's programs or activities; or otherwise treated differently because of their sexual orientation or gender identity" (OCR, 2020, para.8).

Therefore, Title IX uniquely prohibits discrimination based on gender identity which for Black women is a burden as the law ignores race.

In addition, the NCAA Gender Equity Task Force in 1992 established "an athletics program can be considered gender equitable when the participants in both the men's and women's sports programs would accept as fair and equitable the overall program of the other gender" (NCAA, 2016, para. 6). Like the complexity of Title IX which focuses uniquely on gender, the NCAA being bound to adhere to the OCR rules and regulations of Title IX also uses gender to establish and assess equitable programs for women. This provides challenges for Black women as they only receive benefits and protections based on gender and not race.

Using an Intersectional Lens to Establish Title IX as a Single Axis Law

It is well documented that Title IX as a gender equity law uses a single axis lens to prohibit sex discrimination in college sports (Cooper & Newton, 2022; Crenshaw, 1988; Evans, 1998; Flowers, 2015; Mathewson 1996; McDowell & Carter-Francique, 2016; Pickett et al., 2012; Staurowsky et al., 2022). The single categorical axis of Title IX prevents the law from providing equitable opportunities for Black women in college sports as it ignores race, therefore not providing a remedy for race discrimination (Crenshaw, 1988; Evans, 1998; Flowers, 2015; Mathewson 1996; Pickett et al., 2012; Staurowsky et al., 2022). Accordingly, Title IX does not provide protection in the manner that Black women experience discrimination and hence cannot remedy the simultaneous discrimination of race and gender. Sport and Title IX scholar, Dr. Erin Buzuvis, affirmed this thought in an interview:

. . . when Congress passed the law, it was building off existing laws that targeted racial discrimination to make an analogous but separate framework

for gender-based discrimination. And even gender-based discrimination in college athletics was hardly the primary focus of a piece of legislation that would fundamentally transform American life (Nerkar, 2022, para. 3).

Mathewson (1996) shares the sentiments of Dr. Buzuvis but dives deeper into unpacking this thought by separating the impact of cause of action of the discrimination and remedies of discrimination provided Black women in college athletics. Specifically, “the problem is not one of a single-axis cause of action, but rather one of single-axis remedies” (Mathewson, 1996, p. 249). Wherefore, as Title IX provides remedy for sex discrimination and does not mitigate racial discrimination, the law creates an “imbalance in gains” between Black and white women athletes in college (Crenshaw 1988; Mathewson, 1996).

Interestingly, Professor Crenshaw states the single-axis framework of Title IX “erases Black women in the conceptualization, identification and remediation of race and sex discrimination by limiting inquiry to the experiences of otherwise-privileged members of the group” (Crenshaw, 1989, p. 138). As a result, in “race discrimination cases, discrimination tends to be viewed in terms of sex- or class-privileged Blacks; in sex discrimination cases, the focus is on race- and class-privileged women” (Crenshaw, 1988, p. 138).

Title VI of the Civil Rights Act of 1964.41 (Title VI) prohibits discrimination based on race in educational systems receiving federal funds. Both Black women and Black men benefit from Title VI, yet this law still does not provide protection in the way Black women experience discrimination as Title VI does not regulate forces of gender discrimination. Therefore, just as Title IX does not provide the same protection for White and Black women in college sports, Title VI similarly does not provide the same protection for Black men and Black women in college sports. Mathewson (1996) provides a caveat to this theory by introducing how the idea of Title IX providing same treatment changes when Black women and men attend Predominately White Institutions (PWI) versus Historically Black Colleges and Universities (HBCUs). Explicitly, Mathewson (1996) argues Black women should receive the same treatment as Black men, however HBCUs provide a caveat to this notion. For example, HBCUs “requires participation numbers to mirror the gender composition of an institution’s student body, Black women would be entitled to more participation opportunities than Black men at many historically Black institutions” (p. 250). In support of this argument, Mathewson (1996) debates PWIs need not mirror the gender makeup of its Black student body and therefore can increase participation opportunities for White women. Using an intersectional lens to examine this notion further, treatment of Black women cannot be examined in either the PWI or HBCU systems without acknowledging the simultaneous experience of racism and sexism sustained by these college athletes. Crenshaw (1988) argues “any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated” (p. 141). It is worth noting an interaction of privilege, race, and gender is essential to understand how Black women in college sports experience discrimination differently than White women and/or Black men. The simultaneous experience of racism and sexism attacks the privilege

of whiteness and maleness as race and sex are significant when they are experienced asynchronously and cannot be remedied through Title IX for sex discrimination or Title VI for race discrimination. Crenshaw (1988) critically examines this theory and shares that anti-discrimination laws are limited to race and sex. Consequently, these laws are defined in terms of experiences of those who are privileged based on the racial characteristics of privileged Black people or Black men and sexual characteristics of White women.

Summarizing this thought, Black women in college sports are marginalized by anti-discrimination laws which support race and gender as asynchronous forms of discrimination. The problem is Black women in college sports can only receive protection from discrimination when their experiences are reflected in antidiscrimination laws which strive for equality in sports. Further the privilege of whiteness and maleness aligns with the single-axis lenses of Title IX and Title VI hence preventing remedies of synchronous forms of discrimination experienced by Black women in college sports. As such these laws do not equally provide remedy from discrimination for Black women in college sports as neither law was developed to support an intersectional frame of discrimination.

Exploring NCAA Gender Equity Programs

The NCAA Emerging Sports Program for Women (Emerging Sports Program) was founded in 1994 as a recommendation from the NCAA Gender Equity Task Force (The Task Force). The Task Force conducted a study and reported a need to strengthen and increase opportunities for women in college sports. For example, the study found only 30% of women athletes were being provided an opportunity in the early 90's to participate in college sports (NCAA, 2016, para. 6). The NCAA uses the Emerging Sports Program to assist its member institutions in strengthening gender equity in their athletic programs. Specifically, an emerging sport is defined as meeting the definition of a sport, being accepted, and recognized by the NCAA as providing additional athletics opportunities to women student-athletes (NCAA, 2016).

The Committee on Women's Athletics and NCAA staff members (the committee) manage the Emerging Sports program. The committee facilitates and manages the program through monitoring and engaging with emerging sport representatives. To be considered an emerging sport, an applicant sport is recommended to the committee and then to members of Divisions I, II and III sports. Each division determines whether an applicant sport will be added to the Division's emerging sport list (NCAA, 2016, para.12).

The Committee on Women's Athletics defines a sport "as an institutional activity, sponsored at the varsity or club level, involving physical exertion for the purpose of competition against teams or individuals within an intercollegiate competition structure" (NCAA, 2016, para. 7). Furthermore, the committee specifies a sport "operates under standardized rules with rating/scoring systems ratified by at least one official regulatory agency and/or governing body" (NCAA, 2016, para. 10). Therefore, institutions that sponsor an emerging sport must follow NCAA regulations which

include playing and practice seasons, financial aid, recruiting, eligibility, and amateurism. Violations of rules related to an emerging sport are addressed in the same manner as rules violations of NCAA championship sports.

Since the Emerging Sports Program was established in 1994, five sports have earned NCAA championship status: rowing in 1996, women's ice hockey and water polo in 2000, bowling in 2003 and last, women's beach volleyball in 2015 (NCAA, 2016). Currently, six sports are identified by the NCAA as emerging sports: acrobatics and tumbling, equestrian (Division I and II), rugby, triathlon, wrestling, and STUNT (DII) (NCAA, 2023).

Once 40 Division I and II and 28 Division III institutions sponsor a sport at the varsity level, the sport is no longer identified as an emerging sport and is established as a championship sport (NCAA, 2022). According to the NCAA (2023), "A varsity intercollegiate sport is a sport that has been accorded that status by the institution's president or chancellor or committee responsible for intercollegiate athletics policy" (para. 13).

The purpose of the Emerging Sports Program is "to grow meaningful intercollegiate sport participation opportunities for female student-athletes in sports that have the potential to reach the required number of varsity teams to be considered for NCAA championship status" (NCAA, 2016, para. 13). However, the program has struggled to provide opportunities for Black women in college sports. Emerging sports teams typically represent country club sports which historically have restricted access based on race and income (Carter-Francique & Flowers, 2013). Further these teams do not yield a high participation rate of Black women in college sports or Black girls in high school sports (Carter-Francique & Flowers, 2013). As such, the NCAA Emerging Sports Program and emerging sports teams are problematic in growing participation opportunities for Black women.

For example, in 2022, the largest number of Black women participating on an emerging sports team was 78 in Acrobatics and Tumbling. In comparison, 604 of the Acrobatics and Tumbling athletes identified as White women and 216 identified as "Other". The NCAA uses the term "Other" in the database to denote college athletes who identify as American Indian/Alaska Native, Asian, Hispanic/Latino, Native Hawaiian/Pacific Islander, and/or Two or More Races (NCAA, 2022). The NCAA demographics categories were modeled after the U.S. Department of Education data collection. As such, the following definitions for ethnicity/race are used in the database:

American Indian/Alaska Native - A person having origins from North America and who maintains cultural identification through tribal affiliation or community recognition.

Asian - A person having origins from the Far East, Southeast Asia, or the Indian Subcontinent.

Hispanic/Latino – A person of Cuban, Mexican, Puerto Rican, Central or South American or other Spanish culture or origin.

International - A person who is not a citizen or national of the United States and who is in this country on a visa or temporary basis.

Native Hawaiian/Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Two or More Races – A person identifying with more than one race/ethnicity category. Unknown – A person whose race/ethnicity is unknown (NCAA, 2022).

Table 1 shows demographic data for women competing in the five NCAA emerging sports in 2022. Racial demographic data provided on the table represents NCAA athletes who identify as White, Black and Other women. Again the NCAA uses the term “Other” is cluster all of the other race denoted above besides those who identify racially as Black and White.

Table 1
2022 Emerging Sports for Women Data

Sports	White Women	Black Women	Other
Acrobatics & Tumbling	604	78	216
Equestrian	1,209	18	177
Rugby	405	78	186
Triathlon	180	5	67
Wrestling	289	59	218

NCAA (2022). NCAA Demographic Database. Retrieved from NCAA Demographics Database - NCAA.org

STUNT was added to the emerging sports list in January 2023 so no demographic data were available during the time of this study. Therefore, only five emerging sports were examined in this study: acrobatics and tumbling, equestrian, rugby, triathlon, and wrestling.

Overall, 3,789 women competed on an NCAA emerging sports team in 2022, and of that 71% identify as White, 28% were noted as “Other”, and 6% identify as Black. The data revealed the NCAA Emerging Sports program is not equally providing opportunities for Black women as compared to White women.

Also, the addition of emerging sports teams in the NCAA is also providing greater opportunities for “Other” racialized women as compared to Black women. The data also suggest that these women identified as “Other” may not experience racism in the same ways Black women do, particularly when discussing access to structural and economic resources. For example, research has noted that economics

and accessibility play a vital role in providing sport opportunities (Veliz et al., 2019). For example, Veliz et al. (2019) found,

For public schools that offered sports to students during the 2015-16 school year, low-poverty schools indicated offering 17.1 sports compared to only 12.2 sports at high-poverty schools. Low-poverty schools indicated offering 31.7 sports teams compared to only 18.4 sports teams at high-poverty schools (p. 3).

These statistics suggest Black women face the burden of limited access to emerging sports teams due to the economic inequality barriers they are confronted with in high school.

It is appropriate to note that funding of high school sports supports greater or less access to athletic opportunities for athletes. Schools with less financial resources will offer less sporting options, conversely high schools with more funding resources will offer more sporting opportunities. Athletes attending high schools which offer more sporting options will consequently have more accessibility to emerging sports teams versus athletes attending poverty level high schools who might be racial stacked into sports which require less funding. Pickett et al. (2012) stated, "among each of the most widely available sports (except for basketball and track & field), African American female participation is less than 10%" (p. 1587). It is worth noting high schools attended by some lower income Black girls tend to not offer sports found in the NCAA Emerging Sports Program which could lead to less access to college athletic scholarships (Pickett et al., 2012).

Black girls attending lower income high schools can also contribute to an increased number of participants on basketball and track and field teams in college. Therefore, racial clustering can be used to explain the larger numbers of Black women college athletes on track and field and women's basketball teams. Racial clustering will be discussed further in the next section of this study.

Furthermore, if Black girls are subjected to economic factors with fewer sporting opportunities on the high school level in comparison to White girls, this can also greatly impact their ability to participate on emerging sports teams in college. Evans (1998) argues "many colleges and universities have complied with Title IX by adding women's sports, such as golf, squash, and tennis, which are played predominantly by white women" (p. 7). Therefore, as universities use Title IX to comply with gender equity laws and continue to add emerging sports, which Black high school girls have limited access to, Black women will continue to have less participation opportunities in college sports in comparison to White females.

Thus, it is not feasible to change the structure of Title IX as Black women have benefited from this legislature as women. However, it is viable to restructure the NCAA Emerging Sports Program to offer emerging sports which have not historically restricted access based on race or economics. Further, using growing trends amongst Black girls in high school sports to introduce new emerging sports could also potentially assist in increasing the participation rate of Black women on emerging sports teams.

Racial stacking in NCAA Women's Sports

Racial stacking or clustering describes the collection of athletes in a particular sport and/or athletic team position based on race. Yetman and Eitzen (1984) define stacking as the selection of Black athletes for certain team positions based on stereotypical natural athletic ability whereas White athletes are selected based on their stereotypical ability of superior critical thinking. In the NCAA's report on the state of college sport in Title IX's 50th anniversary year, there is mention made of racial clustering skewing participation data on Black women. As Wilson (2022) noted, “. . . in 2020, almost one-third of participants on women's teams for NCAA championship sports were minority females. However, more than half of minority “female participants played basketball and indoor/outdoor track” (p.11).

Yet, prior to explaining how racial stacking skews participation rates of Black women in college sports it is key to summarize thus far, this study has found that Black women athletes are omitted from NCAA women's sports data, do not benefit from NCAA gender equity programs as their White female counterparts do, and are not protected from anti-discrimination laws as they experience race and gender simultaneously. In this section of the study racial clustering was examined using data from the NCAA Demographics (2022). The database provides racial and gender demographics of college athletes in DI, DII, and DIII member institutions. The database also reports information on college athletes, coaches, and administrators and provides a general view of current and historical data of racial and ethnic groups by gender, sport, division, and title.

The present study examined data from 2022 which provides participation numbers of Black, White, and “Other” women who competed in NCAA college athletics on women's teams. These data also include numbers of women college athletes at HBCUs and all divisions of the NCAA.

The authors of this study acknowledge the NCAA Demographics Database provides a limited scope of Black women college athlete participation. Specifically, women born outside of the United States who identify as “Black” are omitted from this data set. For example, the NCAA does not provide racial demographic data for international students. International is defined as “a person who is not a citizen or national of the United States and who is in this country on a visa or temporary basis” (NCAA, 2022, para 9).

Moreover, women who identify as Black could fall into multiple categories specifically, two or more races. The NCAA (2022) defines students of two or more races as “a person identifying with one race/ethnicity category.” (para, 9). Last, the NCAA Demographics Database data are self-reported by its member schools, therefore, the authors also acknowledge the possibility of misidentification of racial/ethnic categories of college athletes if the athlete does not solely provide these data.

An examination of NCAA data across all divisions in 26 sports for the 2022 academic year, revealed outdoor track and field had the highest representation of Black women at 20%, whereas White women represented 60%, and 20% were identified

as other. These data aligned with Staurowsky et al. (2022), who reported “Black women’s participation in sports has been historically limited to track and field and women’s basketball due to limited access to resources,

. . . and being unjustly deemed unfit to participate in ‘country club sports’ (i.e., tennis, golf, swimming)” (p. 4).

Also, there is a disproportionate representation of Black women college athletes on track and field and basketball teams as compared to the emerging sports teams. For example, the lowest representation of Black women college athletes was on the NCAA triathlon teams where only 3% identified as Black, 71% identified as White, and 26% identified as Other. Disappointingly, no Black women were represented on the Rifle or Skiing teams in 2022, and there were no Black women represented on NCAA rifle teams during the 2021 season either.

In total, only 28 Black women participated in rifle during the 2012-2022 academic year, whereas 777 White and 177 women who self-identified as other participated. Country club sports like skiing, tennis, or golf, denote an historical racial and class divide that continues to widen as socio-historical trends in sport are used to justify the disengagement of Black females from these sports. As such, country club sports which have historically limited access to people of color through access and/or costly memberships have typically had fewer Black women athletes’ representation when compared to White athletes.

Shown below in Table 2 are the participation numbers for NCAA athlete’s competing in all divisions of women’s sports in 2022. These numbers also include HBCU women’s participation numbers for all NCAA divisions in 2022.

Table 2
2022 NCAA Women College Athlete Participation DI, II, & III Data

Sports	White women	Black women	Other
Acrobatics & Tumbling	604	78	216
Basketball	8,409	5,066	3,384
Beach Volleyball	1,100	50	349
Bowling	576	144	153
Cross Country	10,875	1,059	2,998
Equestrian	1,209	18	177
Fencing	297	32	396
Field Hockey	5,321	111	1,077

Golf	3,530	127	2,047
Gymnastics	1,091	131	485
Ice Hockey	2,161	32	658
Indoor Track & Field	17,564	5,602	5,611
Lacrosse	11,041	420	1,801
Outdoor Track & Field	18,575	6,075	6,308
Rifle	57	0	11
Rowing	5,168	157	1,500
Rugby	405	78	186
Skiing	294	0	97
Soccer	21,232	11,341	7,246
Softball	15,686	1,203	4,490
Swimming	10,218	219	3,143
Tennis	4,242	446	3,697
Triathlon	180	5	67
Volleyball	12,808	2,046	3,750
Water Polo	857	17	482
Wrestling	289	59	218

NCAA (2022). NCAA Demographic Database. Retrieved from NCAA Demographics Database - NCAA.org

Racial clustering of Black women in track and field and basketball misrepresents the numbers and data on participation opportunities for Black women in college athletics. These findings can be used to explain the overpopulation of Black women in sports which require less financial funding. These findings can also explain the extreme underrepresentation of Black women on NCAA Emerging Sports teams. Also, as the NCAA uses the Emerging Sports Program as a tool to provide gender equity assistance to its member institutions, it is encouraging to see the use of a resource which promotes sports that have historically denied access to members based on race and finances.

In addition, the extremely low representation of Black women on Emerging Sports teams further validates this program is not properly increasing gender equity in the NCAA. Furthermore, as the Emerging Sports Program supports Title IX compliance, its current iteration uses a single axis lens of gender to increase equity in the NCAA. The single axis form of increasing gender-based opportunities discriminates against Black women in college sports as it does not account for the access and treatment discrimination Black women have historically faced while participating in sport.

While college participation rates of Black women athletes' have increased since the enactment of Title IX (Butler & Lopiano, 2003; Cooper & Newton, 2021; Flowers, 2015; McDowell & Carter-Francique, 2017), the "single axis" lens of Title IX and racial clustering require a more critical lens to understand how and where Black women are participating in collegiate sport.

Conclusion

The present study explored case studies using intersectionality as an analysis tool to critically examine the barriers constructed by Title IX, and the rippling impact on Black women which prevents them from equitable participation in college athletics. Moreover, this study examined 2022 data from the NCAA Demographic Database to comprehend the current participation numbers of Black women in college sports. The NCAA database was also used to examine the impact of the NCAA Emerging Sports Program on providing athletic opportunities for Black women.

The overarching concern found in this study was Title IX cannot provide a simultaneous remedy for race and gender and hence, this law provides protection for White women while not protecting Black women college athletes. Evans (1989) argued: "despite the simultaneous influence of race and gender endured by Black women, the legal remedies for race and gender discrimination are separate" (p. 6).

Furthermore, as Title IX is the primary vehicle for gender equity protection amongst colleges and universities, institutional barriers will continue to directly impact the low participation numbers of Black women in college athletics. Subsequently, invisibility suffered by Black women will continue to increase, further increasing the gap of athletic participation between them and their White female counterparts.

Yet, surpassing the inequity surrounding the limited numbers of Black women participating in sports, statistics on college sports also present another challenge as

most data are limited to athletes receiving financial aid at non-HBCU Division I schools. Unfortunately, data on Black women participating in HBCU athletics and those not receiving financial aid are extremely obscure. Therefore, there is a need for expanded research to address HBCU Black women athletes and Black women athletes who are not receiving financial aid to attend college.

The omission of Black women in college athletics research presents a blurred view of gender equity in college sports. Consequently, this practice provides a notion which defines and accepts programs which are employed to increase opportunities for women in college sports like the NCAA Emerging Sports Program as blanket strategies for equity. However, athletic equity practices and strategies which ignore race and focus solely on gender will fuel athletic participation barriers for Black women. Therefore, there is a need to examine gender equity strategies used in college sports to better understand the effectiveness of these tools on providing equity for all athletes.

In conclusion, as Title IX is an educational amendment and not an athletic policy, the single axis lens cannot be resolved without legislative intervention. However, impactful changes can be made to the NCAA Emerging Sports Program to provide more equitable opportunities for Black women in college athletics. An example is supporting the addition of sports which require less financial support from institutions and athletes. Another strategy could be to include high school sports which yield a larger population of Black, Indigenous, and other People of Color (BIPOC) girls. Last, promoting emerging sports which have not historically restricted access and participation based on race and gender could also support growth of athletic opportunities for Black women in college.

References

- Armour, N., Axon, R., Berkowitz, S., Datagir, A., Jacoby, K., Luther, J., Schnell, L., & Wolken, D. (2022). Title IX: Falling short at 50. *USA Today*. Retrieved from <https://www.usatoday.com/in-depth/news/investigations/2022/05/26/title-ix-falling-short-50-exposes-how-colleges-still-fail-women/9722521002/>
- Baldwin, C. (2019, December 30). Rutgers controversy was one of Don Imus's biggest regrets. *Patch.com*. Retrieved from <https://patch.com/new-jersey/new-brunswick/rutgers-thing-one-imus-few-regrets-he-told-interviewer>
- Birch, T. (2016, April 16). Iowa State recruits unswayed by lawsuit against Bill Fennelly. *Des Moines Register*. Retrieved from <http://www.desmoinesregister.com/story/sports/college/iowa-state/basketball-womens/2016/04/27/iowa-state-recruiting-bill-fennelly-nikki-moddy-lawsuit-allegations/83396474/>
- Butler, J., & Lopiano, D. (2003). Title IX and race in intercollegiate sport. NY: Women's Sports Foundation. Retrieved from https://www.womenssportsfoundation.org/wp-content/uploads/2016/08/title_ix_and_race_full.pdf
- Carter-Francique, A. R., & Flowers, C. L. (2013). Intersections of race, ethnicity, and gender insport. In E. Roper (Ed.), *Gender relations in sport*. Sense Publishers. 73-93

- Coakley, J. (2021). *Sports in society: Issues and controversies* (13th ed.). McGraw Hill.
- Cooper, J. N., & Newton, A. (2021). Black female college athletes' sense of belonging at aHistorically Black College and University (HBCU). *The Journal of Negro Education*, 90(1), 71-83.
- Corbett, D., & Johnson, W. (2000). The African-American female in collegiate sport: Sexism and racism. In D. Brooks and R. Althouse (Eds.), *Racism in college athletics: The African American athlete's experience*, *Fitness Information Technology*, Inc.199-255
- Crenshaw, K. (1988, May). Race, reform, and retrenchment: Transformation and legitimation in antidiscrimination law. *Harvard Law Review*, 101(7), 1331-1387. Retrieved from <https://harvardlawreview.org/wp-content/uploads/2020/09/Crenshaw-Race-Reform-and-Retrenchment-pdf.pdf>
- Cunningham, J. (2011). Diversity in sport organization (2nd ed.). Holcomb Hathaway.
- Dees, J. A. (2008). Access or interest: Why Brown has benefited African-American women more than Title IX. *University of Missouri Kansas City Law Review*, 76, 625-642.
- Evans, T. M. (1998). In the Title IX race toward gender equity, the Black female athlete is left to finish last: The lack of access for the "Invisible Woman," 42 *Howard Law Journal*. 105-28
- Flowers, C.L. (2016). Former women's basketball star files civil rights lawsuit against Iowa State University. *Sport Litigation Alert*, 13(12). Hackney Publications.
- Flowers, C. L. (2015). Legal issues and the Black female athlete's collegiate experience at HBCU's. In B. J. Hawkins, J. Cooper, A. R. Carter-Francique, & J. K. Cavil (Eds.), *Black college athletes: The sporting life at Historically Black Colleges and Universities* (pp. 129-144). Rowman & Littlefield Publishing Group.
- Kaplan Hecker & Fink, LLP. (2021, August 2). NCAA gender equity external review report: Phase I. Retrieved from, <https://kaplanhecker.app.box.com/s/6fpd51gx-k9ki78f8vbhqcqh0b0o95oxq>
- Mathewson, A. D. (1996). Black women, gender equity, and the Function at the Junction. *Marquette Sports Law Journal*, 6(2), 239-266.
- McDowell, J., & Carter-Francique, A. (2016). Experiences of female athletes of color. In E. Staurowsky (Ed.), *Women and sport: Continuing a journey of liberation to celebration* Human Kinetics. 95-115
- McDowell, J., & Carter-Francique, A. (2017). An intersectional analysis of the workplace experiences of African American female athletic directors. *Sex Roles*, 77(5), 393-408.
- National Women's Law Center. (2022). Title IX at 50: A report 'by the National Coalition for Women and Girls in Education. Retrieved from <https://nwlc.org/resource/newge-title-ix-at-50/?ms=titleixat50page>
- Nerkar, S. (2022, June 22). Title IX didn't guarantee Black women an equal playing field. *Fivethirtyeight.com*. Retrieved from <https://fivethirtyeight.com/features/title-ix-didnt-guarantee-black-women-an-equal-playing-field>

- NCAA (2016). Emerging Sports for Women Program. Retrieved from, <https://www.ncaa.org/sports/2016/3/2/emerging-sports-for-women>
- NCAA (2022). NCAA Demographic Database. Retrieved from, <https://www.ncaa.org/sports/2018/12/13/ncaa-demographics-database.aspx>
- NCAA (2023). NCAA Emerging Sports for Women Process Guide. Retrieved from, <https://www.ncaa.org/sports/2016/8/26/ncaa-emerging-sports-for-women-process-guide.aspx>
- Office for Civil Rights (2020). Requirements under Title IX of the Education Amendments of 1972. Retrieved from, https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- Pickett, M. W., Dawkins, M. P., & Braddock, J. H. (2012). Race and gender equity in sports: Have White and African American females benefited equally from Title IX? *The American Behavioral Scientist*, 56(11), 1581-1603.
- Pruitt- Young (2021, July 23). The sexualization of women in sports extends even to what they wear. *NPR.org*. Retrieved from, <https://www.npr.org/2021/07/23/1019343453/women-sports-sexualization-uniforms-problem>
- Shepard C., (2016, April 20). Ex - player: I was the target of Fennelly's meanness, too. *Des Moines Register*. Retrieved from, <https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2016/04/20/cheyenne-shepherd-bill-fennelly-nikki-moody-iowa-state/83301328/>
- Staurowsky, E. J., Flowers, C.L., Buzuvis, E., Darwin, L., & Welch, N. (2022). *50 years of Title IX: We're not done yet*. Women's Sports Foundation. Retrieved from https://www.womenssportsfoundation.org/wp-content/uploads/2022/05/13_Low-Res_Title-IX-50-Report.pdf
- Staurowsky, E. J., Watanabe, N., Cooper, J., Cooky, C., Lough, N., Paule-Koba, A., Pharr, Williams, S., Cummings, S., Issokson-Silver, K., & Snyder, M. (2020). *Chasing equity: The triumphs, challenges, and opportunities in sports for girls and women*. Women's Sports Foundation.
- Staurowsky, E. J., & Weight, E. A. (2011). Title IX literacy: What coaches don't know and need to find out. *The Journal of Intercollegiate Sport*, 4(2), 190-209.
- Veliz, P., Snyder, M., & Sabo, D. (2019). *The state of high school sports in America: An evaluation of the nation's most popular extracurricular activity*. Women's Sports Foundation. Retrieved from <https://www.womenssportsfoundation.org/wp-content/uploads/2019/10/state-of-high-school-sports-report-final.pdf>
- U.S. Census Bureau. (2021, December 16). *About age and sex*. Retrieved from, <https://www.census.gov/topics/population/age-and-sex/about.html>
- U.S. Census Bureau. (2022, March 1). *About the topic of race*. Retrieved from <https://www.census.gov/topics/population/race/about.html>
- Wilson, A. (2022). The state of women in college sports. National Collegiate Athletic Association. Retrieved from, https://s3.amazonaws.com/ncaaorg/inclusion/title-ix/2022_State_of_Women_in_College_Sports_Report.pdf
- Yetman N., & Eitzen, S. D. (1984). Racial dynamics in American sport: Continuity and change. In S.D. Eitzen (Ed.), *Sport in contemporary society*. New York. (2) 88-95

Title IX and Career Pathways of Coaches Across NCAA Women's Basketball Programs: An Intersectional Approach to Human Capital in Hiring

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The purpose of this article is to examine the career pathways of NCAA women basketball coaches after the passage of Title IX, with a special attention to the relationship between human capital (i.e., job related qualifications), race, and gender of coaches in the sample population. As such, we looked at job related qualifications of incoming and outgoing coaching hires from 1984-2020 at universities within the Power Five Conferences and HBCUs at the Division I level, considering nine different variables. These variables include a coach's immediate previous position, number of years as an NCAA coach, years of overall coaching experience prior to hire, highest prior division coached, NCAA championship win as a coach, NCAA championship win as a player, highest level of play, highest division played as an athlete, and highest educational degree. Regarding the overall impact of Title IX on women head coaching opportunities, our data show relatively consistent opportunities for female coaches across the Power Five Conferences and Division I HBCU schools since 1984. Although the opportunities for women were consistent, they do not seem equitable at the Power Five level when considering a coach's race as Black women were hired at a much lower rate compared to their White counterparts. Our data also reveal that despite more women being hired overall, on average, women have greater qualifications as NCAA women's basketball coaches compared to male coaches. This finding shows that women need more human capital than men to obtain head coaching positions, which marks the presence of gender discrimination in the NCAA coaching labor market.

Keywords: Title IX, intercollegiate athletics, women and human capital in coaching, women's basketball

Title IX of the Education Amendments—also known as the Patsy T. Mink Equal Opportunity in Education Act—was passed nearly 50 years ago in 1972. One of the main goals of Title IX was to ensure that no individual would be denied access to or prevented from participating in federally funded programs in the United States on



the basis of sex. To that end, Title IX has helped increase the number of girls and women participating in sport and physical activity (Naughton, 1997) and has created more athletic opportunities at the collegiate level for women (Acosta & Carpenter, 2000). While Title IX discussions generally involve students' access to athletic and academic opportunities, Title IX provisions are equally applicable to educational employees and administrators (Lanser, 2016). However, when it comes to the representation of women in coaching and leadership positions, Title IX seems to have fallen short of ensuring equitable access to all genders. In fact, despite the growing number of coaching positions in women's athletic programs, the number of women coaches leading those programs has plummeted since the passage of Title IX (Larsen & Clayton, 2019). A longitudinal work by Acosta and Carpenter (2014) revealed that the percentage of women's intercollegiate teams in the United States that were coached by women had fallen from 90% in the 1970s to 42.9% in 2014. In 2020-2021, women held 41% of head coaching positions at women's Division I athletic programs while only holding 4.2% and 4.5% of the head coaching positions in men's Division I and II athletic programs, respectively (Lapchick, 2021).

While Title IX was not initially devised to combat gender discrimination in coaching, as Lanser (2016) argued, no conversation in the United States about women in sport can be separated from Title IX. Relatedly, the decline of women in leadership and coaching positions after Title IX has been well documented (Acosta & Carpenter, 2002; Heishman et al., 1990; Holmen & Parkhouse, 1981; LaVoi, 2013; Rhode & Walker, 2008). Additionally, a number of scholars have developed theoretical frameworks to analyze the underrepresentation of women in leadership positions (Burton 2015; Lavoie, 2016; Cunningham 2010; Knoppers, 1987; Yiamouyiannis & Osborne, 2012). Most findings illustrate that women face discrimination in the hiring process (Knoppers, 1992; Lovett & Lowry, 1988; Stangl & Kane, 1991) and that there is an absence of a support network for women to mitigate workplace discrimination (Inglis et al., 2000).

Furthermore, research on leadership diversity in intercollegiate athletics also shows that access discrimination and treatment discrimination can have negative impacts on hiring opportunities and work experiences of minoritized employees (Cunningham & Sagas, 2005; Fink et al., 2001). Access discrimination occurs at the time a job is advertised and filled which prevents certain groups from acquiring that job or entering that organization (Cunningham & Sagas, 2005; Ilgen & Youtz, 1986). Treatment discrimination occurs when specific groups receive fewer rewards, recourses, or opportunities than they deserve during their employment (Greenhaus et al., 1990).

In addition to societal and structural barriers such as access and treatment discrimination, another explanation for the underrepresentation of women in leadership and coaching positions rests in the potentially different qualifications, also referred to as human capital, possessed by men and women (Cunningham & Sagas, 2002). Human capital theory (Becker, 1975) suggests that individuals with more personal job-related investments such as education, experience, and training will have more career success (Becker, 1975; Nordhaug, 1993), career satisfaction (Judge et al., 1995; Wayne et al., 1999; Yap et al., 2010), and higher salaries (Veum, 1995) than

people who invested less in those areas throughout their lifetime. For example, from an educational standpoint, individuals with a graduate degree possess greater human capital and a broader knowledge base than their counterparts who lack such educational training (Cunningham & Sagas, 2004). In the context of coaching, studies have shown that prior playing and coaching experience serve as crucial sources of human capital as they relate to a coach's professional socialization, occupational commitment, and occupational turnover intent (Cunningham & Sagas, 2002; Cunningham et al., 2001; Sagas & Cunningham, 2005).

Consequently, from a human capital standpoint, gender and racial differences in the career success of female coaches might be explained by differences in coaches' investments in their human capital rather than by access or treatment discrimination. For example, human capital explanations such as that of Becker (1985) suggest that the reason for the gender pay gap and the overrepresentation of women in low paid occupations is not due to discrimination but because they invest less in the development of their human capital and, as a result, develop fewer skills and fewer qualifications and have less labor market experience compared to men (Hakim, 1996).

On the contrary, in the coaching realm, Acosta and Carpenter (1985) surveyed 307 male and female athletic administrators and found that athletic administrators, who were mostly men, *perceived* women to be less qualified than their male counterparts. Nevertheless, researchers have shown that despite low returns, women often have higher human capital investments than men (Cunningham & Sagas, 2002). In two independent studies of interscholastic coaches, Hasbrook et al. (1990) showed that women in fact had better professional training and greater experience when considering professional experience in the organization, delivery, and evaluation of sport skills and strategies. Likewise, drawing from human capital theory, Cunningham and Sagas (2002) found no differences in educational training between male and female intercollegiate basketball assistants but indicated that women had considerably greater playing experience and received more honors (e.g., academic honors, team captain, etc.) than their male counterparts. Similarly, in their study of racial differences in the career success of assistant football coaches from a human and social capital standpoint, Sagas and Cunningham (2005) observed that discrimination had a greater impact than human capital differences for creating disparities in the career success of Black assistant coaches.

Despite its limitations, many consider Title IX as a victory for women in sport. However, as critics have noted, for the most part, middle and upper-class White women have been the main beneficiaries of Title IX (Brake, 2010; McGovern, 2021). Research has shown that National Collegiate Athletic Association (NCAA) coaches from racialized backgrounds are more likely to experience race as a barrier in their career success (Kopkin, 2014; Nessler et al., 2021). Borland and Bruening (2010), for example, identified access discrimination, lack of support, and pervasive stereotypes as the most common barriers impacting the underrepresentation of Black women in head coaching jobs in Division I women's basketball programs. This means gender inequality is not uniformly distributed as the impacts of access discrimination are much more severe for racial minority women (Cunningham, 2019). Consequent-

ly, a thorough consideration of the inequitable distribution of the benefits of Title IX requires an intersectional approach (Crenshaw, 1991) to assess how race and gender interact with each other to impact the opportunities and experiences of racialized women in leadership roles in sport (Cunningham et al., 2021).

Intersectionality was a term originally coined in 1989 by Kimberlé Crenshaw, a law professor and social theorist, to make sense of the ways in which a person's experiences can be influenced by the interaction of multiple identities which can then result in relative privilege and oppression of those identities. Put simply, intersectionality maps out how systemic inequalities based on race, gender, and class enable Whites to be perceived as superior to Blacks, men to women, and rich to poor (Collins, 2002). Crenshaw (1989) utilized intersectionality to investigate the ways in which the lived experiences of women of color were absent from different political and social discourses. As such, intersectionality is a critical framework which aims to examine and promote "fairness and desires to understand, confront, and transform systems of exploitation and oppression in social life" (Coakley, 2004, p. 49). In the context of sport, intersectionality can function as a theoretical framework for understanding the structural dynamics of Black women within the institution of sport (Flowers, 2015).

Crenshaw (1991) introduces three constructs of intersectionality to understand the challenges and barriers that women of color face within social and cultural institutions. These constructs include representational intersectionality, political intersectionality, and structural intersectionality. Representational intersectionality examines how the marginalization of women of color is linked to historical and contemporary representation of marginalized people in cultural imagery. Political intersectionality examines how policy and practice often function in a way to marginalize one categorical oppression (i.e., race) over another (i.e., gender) while structural intersectionality is concerned with how hierarchical power structures create differential treatment and experiences for marginalized groups (Crenshaw, 1991). In other words, political intersectionality is concerned with the intersection of political projects and agendas such as feminism and antiracism while structural intersectionality concerns the intersection of unequal social groups and the differentiating experiences of Black and White women (Borchorst & Teigen, 2010; Walby et al., 2012).

In this study, an intersectional approach allows for a more robust analysis of the impacts of Title IX on women of all races and ethnicities in coaching positions, especially in sports such as women's basketball where Black women make up a large number of women basketball players, but only a small fraction of women basketball coaches within the NCAA. In 2021, for example, around 40.7% of NCAA Division I women's basketball players identified as Black or African American while only 18.5% of the head coaches at the same level identified as Black or African American women, and 4.6% as Black or African American men (Lapchick, 2021).

Drawing from NCAA data, Cunningham (2019) also showed that women are underrepresented in leadership positions compared to their male counterparts while this disparity is even greater when considering race. Case in point, in Cunningham's (2019) study, White women were 11.2 times more likely than their Black counter-

parts to be an intercollegiate head coach and 90.5 times more likely to serve as intercollegiate athletic directors. Similarly, Bruening (2005) examined multiple marginalized identities in sport and found that Black female athletes often face different types of discrimination compared to White female and Black male athletes. Moreover, Walker and Melton (2015) conducted in-depth interviews with NCAA coaches and observed that race intersected with women's gender and sexual orientation while impacting a coach's identity disclosure, career mobility, and job satisfaction. Previous research also reveals that Black women in sport face obstacles and barriers (e.g., good old boys' networks, racism, sexism) that hinder their ability to obtain leadership roles in sport (McDowell & Carter-Francique, 2017; Nelson, 1999; Wicker 2008). McDowell and Carter-Francique (2017) particularly emphasized the value of intersectionality when they demonstrated the ways in which race and gender coalesce with each other to impact societal perceptions towards leadership abilities of Black women athletic directors.

As such, one of the purposes of this study is to examine the career pathways of NCAA Division I basketball coaches—after Title IX was fully in effect—with a special attention to job-related qualifications of hired coaches. By focusing on coaches' qualifications, this study particularly aims to explore the extent to which the underrepresentation of women in NCAA women basketball coaching positions might be due to differences between human capital investments among male and female coaches. Whereas scholars such as Cunningham and Sagas (2002); Sagas & Cunningham (2004, 2005) looked at either gender or racial differences with respect to human capital among assistant coaches and athletic administrators, this study takes an intersectional approach which considers both race and gender as significant determinants of career success among head coaches. This study particularly targets NCAA Division I women's basketball because of its relatively better media coverage in comparison to other women's intercollegiate sports and its high participation levels, especially among racial minorities (Lapchick, 2017). Media coverage is generally considered as an important factor in increasing revenues and popularity. Additionally, as Acosta and Carpenter (2014) argued, further popularity of women's intercollegiate sport has resulted in the decline of women coaches in the NCAA. Moreover, gender representation trends seem slightly more encouraging in NCAA Division I women's basketball, notwithstanding the unfortunate fact that women of color continue to be underrepresented in these positions. As Larsen and Clayton (2019) indicated, despite making up over 60% of athletes in DI women basketball programs, only 17.6% of the head coaches in their study were women of color.

Consequently, utilizing an intersectional approach, this study considers not only gender, but also racial differences in the career pathways and qualifications (human capital investments) of coaches across Division I women basketball programs from 1984 (when Title IX was in full effect) to 2020. This study adds to the literature in a number of ways by examining the impacts of Title IX on hiring patterns of women basketball coaches across Power Five and Historically Black College or University (HBCU) schools, the representation of women of color across those coaching positions, and the relationship between coaches' job-related qualifications and hiring pat-

terns. This study is led by a foundational inquiry about the representation of women as head basketball coaches in the NCAA, and a more specific question focused on hiring patterns and the qualifications of hired candidates:

RQ: What is the relationship between hiring patterns of women basketball coaches and their job-related qualifications?

Methods and Coaching Data

For this study, we looked at incoming and outgoing NCAA women's basketball coaching hires at universities within the Power Five conferences ($n = 240$) according to their conference membership status for the 2020-2021 season in addition to HBCUs at the Division I level ($n = 127$) for a total of ($n = 367$) hires. Black head coaches have historically faced and continue to face barriers in becoming—or continuing as—head coaches across various sports, both at the collegiate and professional levels (Lapchick, 2020). Given that HBCUs tend to hire Black coaches and administrators at much higher rates compared to primarily White institutions (PWIs), we included HBCUs in our sample to increase the number of Black head coaches in our study which would provide us with another level of understanding about head coach trajectories broadly. More importantly, including HBCUs could potentially deepen the discussion around inclusion and social justice. As Hawkins et al. (2015) suggest, “HBCUs are not irrelevant and inaccessible in their ideals, nor should they be expected to replicate or assimilate the ideals and images of [Historically White Colleges and Universities] HWCUs” (p. 252). Additionally, several HBCUs compete at the Division I level and yet they are often left out of the college sport discussions, which exacerbates their current invisibility and undermines their ability to broker media deals and other financial opportunities that are critical in developing competitive and sustainable athletic programs (Hawkins et al., 2015).

To answer our research question, we employed a coefficients test, one-way ANOVA tests, and post-hoc tests. These tests are based on nine human capital qualifications across gender and race/ethnicity—analyzing hiring choices amongst schools in the Power Five and HBCUs and for Power Five head coaching hires exclusively. Each of these tests were used to examine a set of hypotheses related to our research question regarding the association between human capital qualifications and hiring practices in NCAA women's basketball.

Data on coaching tenure was gathered from the NCAA statistics database, university athletic department websites, team yearbooks and media guides, as well as from story highlights in regional and local newspapers. Data from the 1980s and 1990s were more difficult to collate, particularly for HBCUs, due to the limited sport reporting for these universities. Further, we gathered data from the end of the 1984 season to the end of the 2020 season, capturing only incoming hires and outgoing coaches. Although Title IX was passed in 1972, it was not immediately enforced until 1984 which marks an important milestone in the enforcement of Title IX for two reasons. First, the Carl D. Perkins Vocational Education Act was passed in 1984,

earmarking about 10.5% of its budget to eliminate sex bias and stereotyping (Stromquist, 2013). Second, *Grove City College v. Bell* 1984 was the first Supreme Court Title IX case which had two major accomplishments, even though its ruling has been perceived by members of the Congress and Title IX advocates as not being interpreted within the spirit of the Amendment. With that Supreme Court ruling, courts began enforcing Title IX, even if it was not as far reaching as it was intended to be (Rice, 1986).

The *Grove City College v. Bell* decision held that the enforcement of Title IX applied only to the specific educational program or activity receiving federal financial assistance, not to the entirety of the educational institution (Stromquist, 2013). While *Grove City* may have arguably had a positive impact on Title IX enforcement generally, it had a negative impact on Title IX's application to athletic departments. The result was a relaxation of Title IX efforts in athletic programs and a slowing or reversal of progress to provide equitable opportunities and treatment to women athletes. According to Villabos (1990), "Without the threat of Title IX, several schools responded to financial pressures by cutting women's sports teams and reducing their budgets for women's athletic programs" (p. 151).

This holding, however, was overturned when Congress passed the *Civil Rights Restoration Act of 1987*, also known as the *Grove City Bill*, which specified that entities who are recipients of federal funds must comply with civil rights laws across all areas of their operations, not just the program or activity receiving federal aid. This decision was meant to restore the broad and institution-wide application of Title IX in laws such as Education Amendments of 1972, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Civil Rights Act of 1964 (Civil Rights Act, 1987).

Additionally, we defined a "hire" as coaches who were officially hired by the university to serve as the head women's basketball coach. We excluded interim coaches from our sample due to the transient nature of their position. Table 1 shows there were 367 head coach changes across nine conferences between 1984 and 2020, which included 86 universities between the Power Five conferences and HBCUs. The Power Five had 240 hiring changes across six conferences, which included 63 universities, while HBCUs had 127 hiring changes across 3 conferences, which included 23 universities.

Table 2 reveals that Blacks compose just 17% of all Power Five hires, but 98% of HBCU hires. White men and women composed 82% of all Power Five hires, while Black men were hired at a rate of 2% of all incoming hires. At the HBCUs, white men made up less than 2% of the incoming HBCU hires and White women were not hired to lead those programs. Table 3 highlights the number of incoming NCAA women's basketball head coaches at HBCUs and Power Five schools in five-year intervals by race/ethnicity and gender. Between 1996 and 2000, the hiring of Black women grew to be on par with White women, with a continued increase up to 2020 in which Black women composed 17% of head coaching hires compared to the 11% of White women.

Table 1

Number of NCAA women's basketball head coach changes at HBCU and Power Five schools by year, 1984-2020.

Year	No. of Head Coach Changes
1984-1985	23
1986-1990	45
1991-1995	41
1996-2000	57
2001-2005	54
2006-2010	42
2011-2015	54
2016-2020	51
Total	367

Table 2

Number of women and male Division I women's basketball coaching hires in the Power Five and HBCUs, by race and ethnicity, 1984-2020.

Conference	Race/Ethnicity	Woman	Men	Total
Power Five	Black	36 (20.93)	5 (7.35)	41 (17.08)
	Latino/a	1 (0.58)	0 (0.00)	1 (0.42)
	White	135 (78.49)	63 (92.65)	198 (82.50)
	Total	172 (68.53)	68 (58.62)	240 (65.40)
Historically Black Colleges and Universities	Black	79 (100.00)	46 (95.83)	125 (98.34)
	Latino/a	0 (0.00)	0 (0.00)	0 (0.00)
	White	0 (0.00)	2 (4.17)	2 (1.57)
	Total	79 (31.47)	48 (41.38)	127 (34.60)
Grand Total		251 (100.00)	116 (100.00)	367 (100.00)

Note. Percentages are reflected in parentheses under the raw number.

Table 3

Number of incoming NCAA women's basketball head coaches at HBCUs and Power Five schools in 5-year intervals by race/ethnicity and gender for 1984-2020.

Gender	Year	Race/Ethnicity			Total
		Black	Latino/a	White	
Women	1984-1985	4 (3.47)	-	14 (10.37)	18 (7.17)
	1986-1990	7 (6.09)	-	18 (13.33)	25 (9.96)
	1991-1995	11 (9.57)	-	17 (12.59)	28 (11.16)
	1996-2000	23 (20.00)	1 (100.00)	23 (17.08)	47 (18.73)
	2001-2005	14 (12.17)	-	24 (17.78)	38 (15.14)
	2006-2010	17 (14.78)	-	10 (7.41)	27 (10.76)
	2011-2015	19 (16.52)	-	14 (10.37)	33 (13.15)
	2016-2020	20 (17.39)	-	15 (11.11)	35 (13.94)
Total	1984-2020	115 (69.28)	1 (100.00)	135 (67.50)	251 (68.39)
Men	1984-1985	1 (1.96)	-	4 (6.15)	5 (4.31)
	1986-1990	14 (27.45)	-	6 (9.23)	20 (17.24)
	1991-1995	5 (9.80)	-	8 (12.31)	13 (11.21)
	1996-2000	4 (7.84)	-	6 (9.23)	10 (8.62)
	2001-2005	8 (15.69)	-	8 (12.31)	16 (13.79)
	2006-2010	6 (11.76)	-	9 (13.85)	15 (12.93)
	2011-2015	4 (7.84)	-	17 (26.15)	21 (18.10)
	2016-2020	9 (17.65)	-	7 (10.77)	16 (13.79)
Total	1984-2020	51 (30.72)	-	65 (32.50)	116 (32.49)
Grand Total	1984-2020	166 (100.00)	1 (100.00)	200 (100.00)	367 (100.00)

Note: Percentages are reflected in parentheses under the raw number.

We created a database of all incoming and outgoing Power 5 and HBCU women's basketball coaches with data that were collated from media guides, regional and local newspapers, and the NCAA and university media guides and yearbooks. We found that more women (251) were hired compared to men (116) between 1984 and 2020. Only one Latina woman was hired during this timeframe. Although White women have experienced a decline in their incoming numbers since 2006, they remain the most hired. Similarly, White male head coaches are hired more than Black male coaches. These preliminary findings informed our research in examining the career pathways and hiring criteria of women's Division I basketball coaches, within the sample size of Power Five conferences and Division I HBCUs.

To identify a coach's racial/ethnic identity we utilized indicators from the coach's professional association memberships (ex. African American Coaches Association), minority-specific awards, interviews, and news articles. Coaches' qualifications or their human capital investments were measured across nine variables, including coaches' immediate prior position to being hired into the head coaching position at a Power Five school or HBCU, number of years of NCAA coaching experience, coaching experience prior to hire at all levels (e.g., WNBA, head coaching experience at the DI, DII, DIII levels, Associate, Assistant, National Association of Intercollegiate Athletics (NAIA), National Junior College Athletic Association (NJCAA), and high school levels), highest prior division coached, winning an NCAA championship as a coach, winning an NCAA championship as a player, highest level of play (e.g. NBA or WNBA, overseas, NCAA Division I, II, III, NJCAA, or high school), highest division played as an athlete, and highest education degree obtained (PhD, JD, Masters, Bachelors). While playing experience does not necessarily determine a candidate's success as a coach, more elite or professional playing experience provides a potential coaching candidate with more social capital to be recognized within the hiring process (Peterson, 2018). This suggests that candidates who are more recognized within the basketball network, are more likely to be valued by the athletic program to bring in a fan base, and consequently hired.

Results

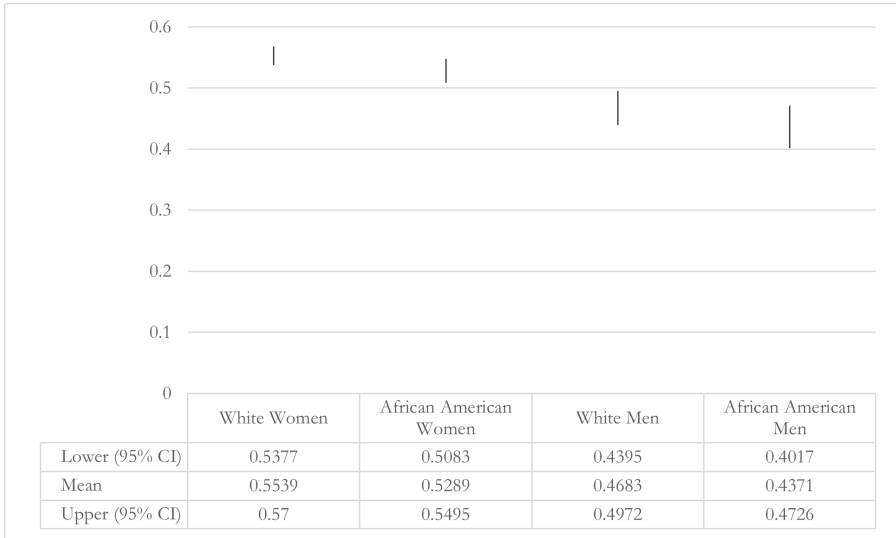
As mentioned in the previous section, our analysis is based on a coefficients test, one-way ANOVAs, and post-hoc tests. Results from these tests for the Power Five and HBCUs appear in Tables 4 and 5, and Power Five head coaching hires exclusively are found in Tables 6 and 7, and further discussed later in this section. We also conducted one-way ANOVA tests using a weighted average of years of coaching experience at different coaching levels as a head coach, associate, and assistant within the ranks of the NBA/WNBA, DI, DII, DIII, NJCAA, and high school. Division I coaching positions also included positions at the associate and assistant coaching levels in addition to that of head coaches. Years of coaching experience was split across nine coaching levels, with weights ranging from one to nine. Coaching experience at the NBA and WNBA levels were weighted the highest with a score of nine, since serving as a head coach within the NBA and WNBA is the most elite level

of coaching possible within professional basketball. A head coach at NCAA Division I level had a score of eight as this is the next highest coaching position within our basketball coaching sample in intercollegiate athletics, followed by an associate head coach at the Division I level with a score of seven. Assistant coaches at the DI level were ranked higher than Division II head coaches. This decision was based on several factors. Within our sample size, assistant coaches all coached at the NCAA Division I level. Division I schools typically have more funding than Division II programs, which results in better facilities, higher-paid coaches, more scholarship money, and more considerable resources.

The competition level for Division I athletes is also more rigorous compared to Division II and Division III programs which offers greater flexibility for athletes to participate in another sport or activity. That said, due to the competition level and funding capabilities, coaches at Division I schools have higher salaries, which suggests that Division I coaches can be of a higher caliber than a Division II or Division III coach, who may have even hold other job responsibilities in addition to coaching. This suggests that while a head coach is generally a higher-ranking position than an assistant coach, there is greater potential for an assistant coach to successfully move across different conferences at the Division I level, gaining the experience needed to become a head coach at a Division I school, compared to that of a head coach at Division II. Based on the potential for career mobility and familiarity with the expectations of a Division I program, it was decided that assistant coaches at the Division I level should be weighted slightly higher with a score of six compared to head coaches at the Division II level, who were given a score of five. Coaches at the NAIA level were also given a score of five. NAIA consists of 300 schools and 13 sports, and is a smaller association than the NCAA, which includes two divisions, Division I and Division II. NAIA Division I is comparable to NCAA Division II in which students are still provided small athletic scholarships. Based on the similarities between the two divisions, NAIA head coaches received the same weight as Division II head coaches. Division I in the NAIA is comparable to Division II in the NCAA. Similarly, Division III head coaches were ranked slightly lower than Division II head coaches with a score of four, due to the flexibility in coaching expectations and different compliance regulations from the NCAA. Head coaches at the junior college level, NJCAA, were given a weighted score of two, while high school coaches are the lowest ranked within the sample size and were provided with a score of one. The number of years coached at each of these levels was multiplied by the indicated score, and an average was calculated across the nine coaching levels for each coaching hire.

In comparing the lower and upper bounds of confidence intervals of the average hiring qualifications of NCAA Division I women's basketball coaches as displayed in Figure 1, we found that, on average, there were no significant differences in the hiring qualifications of coaches across racial groups, but rather across gender. White women and Black women did not have a significant difference in qualifications when being hired for NCAA Division I head coaching positions. The lower bound and upper bounds of the confidence intervals for White women were 0.5377 and 0.577 respectively, while the lower and upper bounds of the confidence intervals for Black

Figure 1
Coefficients testing of average head coaching qualifications.



women were 0.5083 and 0.5495. The overlap of the upper bound of Black women and lower bounds of White women suggests that from the sample size, White women and Black women do not have significantly different qualifications. Similarly, the lower and upper bounds of the confidence intervals for White men were 0.4395 and 0.4972, respectively, while the lower and upper bounds of the confidence intervals for Black men were 0.4017 and 0.4726, respectively. The overlap between the upper bound of the confidence interval for Black men and the lower bound of the confidence interval for White men suggests that there is no significant difference in qualifications between White and Black men in this sample size. Since there is no overlap of confidence intervals between women and men, we can infer that on average, women have greater qualifications as NCAA Division I women’s basketball coaches based on the nine qualifications selected for this study compared to their male counterparts. Despite the initial results from the confidence interval tests, we decided to also run a one-way ANOVA to determine whether the overlap between White and Black women and those of White and Black men were significant.

The one-way ANOVA test was also used to determine differences in coaching qualifications across the four demographics (White women, Black women, White men, Black men). Of the nine variables listed in Table 4, the highest degree obtained (HDO), was the only variable that did not have a statistically significant difference between the four demographic groups. This suggests that educational attainment may not have played a major factor in the hiring process of Division I women’s basketball coaches.

Table 4
One-way ANOVA test of NCAA Division I women's basketball coaching hires among Power Five and HBCUs, 1984-2020.

Variable	White Women		Black Women		White Men		Black Men		F	p
	M	SD	M	SD	M	SD	M	SD		
Average	0.5539	0.0947	0.5289	0.11207	0.4683	0.11641	0.4371	0.126	19.025	0.001***
IPP	0.6933	0.21413	0.5034	0.26701	0.6369	0.25222	0.4353	0.28483	19.772	0.001***
YPC	0.3662	0.19255	0.2575	0.19063	0.4111	0.28626	0.2656	0.23404	10.016	0.001***
HPD	0.9585	0.15472	0.869	0.31219	0.9754	0.13466	0.851	0.3221	5.499	0.001***
WinNCAAC	0.3901	0.189	0.3477	0.16087	0.4051	0.21644	0.3333	0.11547	2.756	0.042**
HLP	0.6163	0.15072	0.6828	0.19394	0.4123	0.29554	0.502	0.20928	28.201	0.001***
HNCAAD	0.7511	0.36851	0.8448	0.3274	0.3631	0.44566	0.5216	0.4597	26.185	0.001***
WinNCAAP	0.3457	0.18397	0.4397	0.25481	0.241	0.17187	0.2941	0.10847	15.593	0.001***
HDO	0.3096	0.09991	0.2862	0.10624	0.3015	0.10077	0.2941	0.16176	0.944	0.420

Note. IPP (immediate previous position), YPC (years prior coaching experience), HPD (highest prior division coached), WinNCAAC (won an NCAA championship as a coach), HLP (highest level of playing experience), HNCAAD (highest NCAA division played), WinNCAAP (won an NCAA championship as a player), HDO (highest degree obtained).

*p < 0.05, **p < 0.01, ***p < 0.001.

Tukey's HSD post-hoc tests (see Table 5) were then used to determine which demographic groups had statistically different means scores across the nine variables. After normalizing each variable, an average was taken to determine statistical difference across the four demographic groups. Based on the ANOVA testing between groups, we found that on average, there is no statistically significant difference between White and Black women's overall coaching qualifications. However, when comparing White women with both White men and Black men, as well as Black women with White men and Black men, women were found to have higher coaching qualifications than both male groups. On average, White men and Black men did not have statistically significant different coaching qualifications to one another. Once again, these results demonstrate that there is no statistically significant difference in the average coaching qualifications across racial groups, but rather across gender.

In respect to the weighted average for women's basketball coaches across the Power Five and HBCUs, in which we weighted coaching experience based on years coached from professional basketball, different levels across the NCAA down to high school basketball, we found that White women and White men had more years of coaching experience at the higher weighted levels compared to Black women and men. Interestingly, we also found that more White men coached at higher weighted NCAA levels than White women, which demonstrates that compared to their Black counterparts, White women and men had significantly greater weighted levels of experience across the Power Five conference and HBCUs combined. This illustrates that there is a larger concentration of Black coaches at the lower weighted coaching levels. We found that White coaches, both women and men, had higher ranking immediate previous positions prior to being hired to the current head coaching position at a school within a Division I Power Five conference or Division I HBCU. We also observed that White women have the most years of experience coaching at the various levels across the NCAA. It is also interesting to note that White coaches, both men and women, have more years of experience coaching in the NCAA, compared to their Black counterparts, which could suggest a historical bias in the hiring of people of color with more employment opportunities granted to White coaches in general. This also highlights that White candidates were more likely to have a lateral move as head coach or were coaching within the NBA or WNBA compared to their Black counterparts.

Similarly, with respect to years of previous coaching experience, prior to being hired, White women were shown to have more years of coaching experience compared to Black women, although they did not possess more years of coaching experience compared to White men. Interestingly, Black women's years of coaching experience was not statistically different compared to Black men. This highlights that when considering years of coaching experience as a component of the overall hiring criteria for Division I basketball coaches, White women and White men had more years of coaching experience compared to their Black counterparts, demonstrating greater differences across race as opposed to gender in years of experience. This could imply that White candidates were given more opportunities throughout their coaching careers to accumulate greater years of coaching experience, again,

contributing to a possible historic bias in college sports hiring.

Moreover, when it comes to the highest level of coaching experience, White women were more likely to have coached at the highest basketball divisions prior to their current appointment compared to Black women and men. There is no significant difference between White women and White men in respect to the highest prior division coached. White men and women coached at higher levels than their Black counterparts, which highlights a racial difference as opposed to a gender difference for this variable within the overall hiring process. This suggests that White women and men were given more opportunities to coach at highly ranked universities compared to their Black counterparts.

For the criteria of winning an NCAA championship as a coach, we found no statistically significant difference across the four demographic groups. It can be inferred that because winning an NCAA championship is quite rare, not one demographic group is outperforming the other for this specific criterion. It could also be inferred that if a coach wins an NCAA championship, it is less likely that they would willingly leave that school, or alternatively, be fired and hired somewhere else. Schools tend to retain coaches who win championships, therefore in our dataset which studies hiring trends, it is likely that we did not capture groups of coaches who may have won one or more NCAA championships during their coaching tenure—since they probably did not leave the university during our timeframe, or if they did move universities, it was not captured within the Power Five conferences or amongst HBCUs. Furthermore, for this study, we did not capture assistant coaches who may have been on the coaching staff of a team who won an NCAA championship. This might have shown a greater correlation, as schools provide assistant coaches from successful Division I programs more opportunities to transition to head coaching positions.

Additionally, highest level of play was categorized as playing within the NBA and WNBA as the highest with a score of six, and high school as the lowest with a score of one. Consequently, we found White and Black women having higher levels of playing experience compared to White and Black men. Highest level of playing experience demonstrates there is more of a gender divide for this variable as there was no significant difference in highest level of play between White and Black men.

Table 4 indicates that there is also no significant difference in highest level of play between White and Black women. That said, while the data reveal no significant difference, Black women have a slightly higher playing experience mean score compared to White women at the 0.051 significance level. The higher levels of playing experience among both groups of women could suggest that there are higher standards and expectations of women hires to have a higher level of playing experience compared to men.

For highest NCAA division played (DI, DII, DIII), there was no significant difference between White and Black women. White men and Black men also did not demonstrate a large difference in highest division of basketball played. However, there is a significant difference between women and men. Women coaches played both at a higher overall professional level than men and within the NCAA ranks. Moreover, White and Black women were also more likely to have won an NCAA

Table 5
Tukey HSD post-hoc analysis on NCAA women's basketball coaching hiring criteria among Power Five and HBCUs, 1984-2020.

Variable	WW-BW		WW-WM		WW-BM		BW-WM		BW-BM		WM-BM	
	MD	p	MD	p	MD	p	MD	p	MD	p	MD	p
Average	0.02497	0.27	0.08556*	0.001	0.11674*	0.001	0.06058*	0.002	0.09176*	0.001	0.03118	0.42
Weighted Average	0.11529*	0.001	-0.05692	0.03113	0.10687*	0.03389	-0.17221*	0.001	-0.00841	0.995	0.16380*	0.001***
IPP	0.18989*	0.001	0.05641	0.437	0.25804*	0.001	-0.13347*	0.001	0.06815	0.003	0.20163*	0.001***
YPC	0.10866*	0.001	-0.04485	0.521	0.10058*	0.026	-0.15351*	0.001	-0.00808	0.996	0.14543*	0.002
HPD	0.08955*	0.017	-0.01687	0.966	0.10754*	0.033	-0.10642*	0.022	0.01799	0.029	0.12440*	0.029
WinNCAAC	0.04242	0.235	-0.01500	0.944	0.05679	0.21	-0.05743	0.159	0.01437	0.963	0.07179	0.136
HLP	-0.06646	0.051	0.20399*	0.001	0.11434*	0.004	0.27045*	0.001	0.18080*	0.001	-0.08965	0.090
HNCAAD	-0.09372	0.22	0.38803*	0.001	0.22954*	0.002	0.48175*	0.001	0.32326*	0.001	-0.15849	0.125
WinNCAAP	-0.09398*	0.001	0.10465*	0.003	0.05156	0.397	0.19863*	0.001	0.14554*	0.001	-0.05309	0.487
HDO	0.02342	0.355	0.00809	0.964	0.01551	0.836	-0.01533	0.815	-0.00791	0.975	0.00742	0.985

Note. Note: IPP (immediate previous position), YPC (years prior coaching experience), HPD (highest prior division coached), WinNCAAC (won an NCAA championship as a coach), HLP (highest level of playing experience), HNCAAD (highest NCAA division played), WinNCAAP (won an NCAA championship as a player), HDO (highest degree obtained).

^aWW (White Women), BW (Black Women), WM (White Men), BM (Black Men)

^bMD (mean difference)

*p < 0.05, **p < 0.01, ***p < 0.001.

championship as players compared to both White and Black men. Yet, Black women demonstrated higher levels of winning an NCAA championship compared to White women. This may reveal that women coaches must have more playing experience at more elite levels and have won an NCAA Championship as a player to be considered for a head coaching position within NCAA Division I women's basketball, compared to their male competition.

We also analyzed hiring criteria of Division I women's basketball coaches exclusively across the Power Five conferences since both Black women and men coaches were concentrated within the HBCUs and therefore decided it was important to determine whether there were qualification differences for Black coaches across the Power Five. Table 6 shows that across the different hiring criteria, the significant differences across the four demographics are evident for variables including highest level of play, highest NCAA division played, and whether the candidate won an NCAA championship as a player.

Variables such as immediate previous position, years of previous coaching experience, highest prior division coached, and winning an NCAA championship as a coach did not provide a statistically significant difference across the demographic groups, as they had when Power Five universities and HBCUs were analyzed together. In observing the mean scores across the four demographics, Black coaches still had less years of coaching experience. Black women had a mean score of 0.3108 and Black men a score of 0.2625, compared to their White counterparts, 0.3662 and 0.4043 for women and men, respectively. The sample size of Black coaches within the Power Five conferences is quite small and therefore the mean estimates for qualifications based on years of experience are uncertain. Due to the small sample size of Black coaches in the Power Five, we cannot prove that there are discriminatory hiring practices occurring, but these results can show that Blacks are an underrepresented group within the hiring pool for Power Five universities.

Table 6
One-way ANOVA test of NCAA Division I women's basketball coaching hires among Power Five Schools only, 1984-2020.

Variable	White Women		Black Women		White Men		Black Men		F	Total	p
	M	SD	M	SD	M	SD	M	SD			
Average	0.5539	0.09470	0.5814	0.08499	0.4689	0.11628	0.5211	0.05951	13.727	0.001***	
IPP	0.6933	0.21413	0.5568	0.20621	0.6508	0.24088	0.5600	0.32863	4.026	0.008	
YPC	0.3662	0.19255	0.3108	0.17004	0.4043	0.28469	0.2625	0.29778	1.785	0.151	
HPD	0.9585	0.15472	0.9459	0.22924	0.9746	0.13675	0.8000	0.44721	1.644	0.180	
WinnCAAC	0.3901	0.18900	0.4054	0.22409	0.4074	0.21952	0.3333	0.0000	0.294	0.830	
HLP	0.6163	0.15072	0.7459	0.18042	0.4159	0.29469	0.7200	0.17889	24.127	0.001***	
HNCAAD	0.7511	0.36851	0.9405	0.18776	0.3587	0.4431	0.9200	0.17889	24.725	0.001***	
WinnCAAP	0.3457	0.18397	0.4865	0.31026	0.2381	0.17381	0.3333	0.000	11.572	0.001***	
HDO	0.3096	0.09991	0.2595	0.10398	0.3016	0.10079	0.2400	0.08944	2.991	0.032	

Note. IPP (immediate previous position), YPC (years prior coaching experience), HPD (highest prior division coached), WinnCAAC (won an NCAA championship as a coach), HLP (highest level of playing experience), HNCAAD (highest NCAA division played), WinnCAAP (won an NCAA championship as a player), HDO (highest degree obtained).

^aWW (White Women), BW (Black Women), WM (White Man), BM (Black Man).

^bMD (mean difference)

*p < 0.05, **p < 0.01, ***p < 0.001.

Table 7
Tukey HSD post-hoc analysis on NCAA women's basketball coaching hiring criteria for Power Five Schools only, 1984-2020.

Variable	WW-BW		WW-WM		WW-BM		BW-WM		BW-BM		WM-BM	
	MD	p	MD	p	MD	p	MD	p	MD	p	MD	p
Average	-0.02756	0.439	0.08494*	0.001	0.03272	0.887	0.11250*	0.001	0.06027	0.578	-0.05223	0.668
Weighted Average	0.08095	0.166	-0.05073	0.393	0.06335	0.912	-0.13168*	0.015	-0.01761	0.998	0.11407	0.649
IPP	0.13658*	0.006	0.04254	0.594	0.1333	0.555	-0.09404	0.177	-0.00324	1.000	0.09079	0.177
YPC	0.05539	0.526	-0.03806	0.668	0.1307	0.728	-0.09346	0.171	0.0481	0.967	0.14177	0.508
HPD	0.01257	0.980	-0.01608	0.929	0.15852	0.186	-0.02866	0.854	0.14595	0.290	0.17460	0.134
WinNCAAC	-0.01528	0.977	-0.01728	0.943	0.05679	0.926	-0.002	1.000	0.07207	0.876	0.07407	0.858
HLP	-0.12965*	0.004	0.20042*	0.001	-0.1037	0.677	0.33007*	0.001	0.02595	0.993	-0.30413*	0.008
HNCAAD	-0.18943*	0.030	0.39238*	0.001	-0.16889	0.743	0.58181*	0.001	0.02054	0.999	-0.56127	0.006
WinNCAAP	-0.14081*	0.001	0.17058*	0.004	0.01235	0.999	0.24839*	0.001	0.15315	0.397	-0.09524	0.748
HDO	0.05017*	0.038	0.00804	0.953	0.06963	0.427	-0.04213	0.183	0.01946	0.977	0.06159	0.553

Note. IPP (immediate previous position), YPC (years prior coaching experience), HPD (highest prior division coached), WinNCAAC (won an NCAA championship as a coach), HLP (highest level of playing experience), HNCAAD (highest NCAA division played), WinNCAAP (won an NCAA championship as a player), HDO (highest degree obtained).

^aWW (White Women), BW (Black Women), WM (White Men), BM (Black Men)

^bMD (mean difference)

*p < 0.05, **p < 0.01, ***p < 0.001.

Table 6 presents which hiring criterion had significantly different mean scores by demographic group across the Power Five conferences. We found that across the nine hiring criteria, using both a normalized average and a weighted average, there is no statistically significant difference in overall coaching experience between White and Black women. White women, however, on average have more experience across the nine criteria compared to all four demographic groups. Women also had more experience across the nine variables compared to men. When analyzing the weighted average of years of coaching experience by division, White men were found to have more coaching experience at higher division levels compared to Black women. There is, however, uncertainty to this weighted average estimate due to the small sample size. We also found that White women had higher level immediate previous positions than Black women, but there was no statistical difference for the other demographic groups. Moreover, women had significantly higher playing experience overall compared to their male counterparts, while Black women had the highest levels of playing experience compared to the four demographic groups. Black women coaching hires within the Power Five conferences also played at higher divisions compared to White women and White men. Similarly, Black women coaching hires won more NCAA championships as players than White women, and White and Black men.

By analyzing the hiring criteria of women's Division I basketball coaches hired into the Power Five conference schools exclusively, we find that the number of Black coaches hired overall is very small. That is, out of a pool of 240 coaching hires, only 41 Black men and Black women coaches were hired. This small number of coaches suggests that the uncertainty of these provided estimates is wide, and concrete differences are difficult to detect. Furthermore, the overall sample size of the study in general is quite small which adds to the uncertainty in determining actual differences in qualifications across the nine chosen hiring criteria.

Discussion

While previous studies have either studied gender or racial differences with respect to human capital among assistant coaches and athletic administrators, this study provides an intersectional approach which considers both race and gender as significant determinants of career success among head coaches. Based on our one-way ANOVA and the Tukey post-hoc tests, in comparing women's basketball coaching hires across the Power Five universities and HBCUs, our results demonstrate that there is a clear intersection between gender and race in terms of coaching qualifications. However, when analyzing overall coaching qualifications, our results demonstrated a more significant split on gender. On the other hand, when analyzing the estimates from the weighted average of years of coaching experience across the different divisions, there was a greater racial divide. Across the nine hiring criteria selected, on average, White women and Black women had more coaching qualifications than their male counterparts. Additionally, when analyzing the estimates from the weighted average of the nine criteria, the racial divide was more prominent. Black coaches in general, have less years of coaching experience due to less opportunities provided

than their White counterparts. Despite Black women having higher playing level experience at the professional levels as well as within the NCAA, White coaches consistently had more opportunities to coach at higher levels within the NCAA and were therefore provided with more opportunities to improve their coaching resumes than Black women. Besides, this also means that women Division I basketball coaching candidates need greater playing experiences than men to be hired into their current positions. From our estimates, to be validated as a coach, overall playing experience is divided along gender lines. Black women coaches, in particular, are found to be exceptional players, having played at more competitive levels than White women and have won more NCAA championships as players than all other demographics. Despite these qualifications, Black women are provided less opportunities at the head coaching levels and therefore there is a greater concentration of Black women and Black men coaches as either assistant coaches at the Division I level or coaching within the DII, DIII, NJCAA, or high school level. This illustrates that while Title IX was intended to provide equal opportunities for all members of an underrepresented sex in educational settings, White women have been the main beneficiaries of Title IX in the NCAA coaching realm. This is emphasized in our results that despite Black women having played at more competitive levels than White women, and having won more NCAA championships, they have still not been provided the same number of opportunities to progress into head coaching positions. This allows White women to progress faster up the coaching ladder, leaving Black women having to coach for longer periods with lower salaries at the assistant head coaching level.

Human Capital Implications

The main purpose of this study was to examine the relationship between human capital and the race and gender of coaches in the sample population. This effort was mainly due to some proponents of human capital model relegating the underrepresentation of women and people of color in labor markets to individuals' job-related qualifications and/or preferences (see Hakim, 2002) as opposed to access and/or treatment discrimination and other institutional constraints. In doing so, we looked at coaches' qualifications or their human capital investments across nine different variables. With respect to our research question, our data indicate that, on average, women have greater job-related qualifications as NCAA women's basketball coaches compared to their male counterparts. This finding shows that women candidates need more human capital than men candidates to obtain head coaching positions which marks the presence of gender discrimination in the NCAA coaching labor market. Nevertheless, when looking at the ratio of White women ($n = 135$) to Black women coaches ($n = 36$) hired at the Power Five level, we see that Black women were hired at a much lower rate compared to their White counterparts. When looking at qualifications across race, we see that White women had more coaching experience while Black women had more playing experience and won more championships as players. While occupational experience is a valuable human capital (Nordhaug, 1993), in the athletic context, prior playing experience is also known to function as a salient source of human capital (Cunningham & Sagas, 2002; Cunningham et

al., 2001). Nevertheless, more playing experience and winning more championships is not translating to more coaching opportunities for women of color which might attest to the presence of discrimination as a factor in the hiring process of women of color basketball coaches. As Smith (1992) argues, racialized perceptions towards the athleticism of women of color might fuel their popularity as athletes, but those same perceptions can hinder their consideration as coaches. Our results are also in line with the findings of Sagas and Cunningham (2005) and Cunningham (2021) who found that while White coaches possessed more occupational tenure compared to Black coaches and racial minorities in general, racial minority coaches held more experience in the form of professional playing experience. Nevertheless, as Sagas and Cunningham (2005) suggest, less occupational experience in the form of tenure by Black coaches compared to White coaches is often because White coaches are given more chances to accrue occupational experience. Indeed, this represents evidence for the presence of access discrimination in the NCAA women's basketball coaching labor market, especially as it relates to coaching opportunities for women of color.

Underrepresentation of Women of Color

With 50 years passed since the enactment of Title IX, this study was also led by a foundational inquiry about the representation of women as head basketball coaches in the NCAA. As such, we looked at the hiring patterns of NCAA women's basketball head coaches across Power Five and Division I HBCU colleges with a special attention to coaches' job-related qualifications. Consequently, we found that out of the 367 incoming Power Five and Division I HBCU head coaches between 1984 and 2020, 251 (68.39%) were indeed women. While a more robust examination would consider the representation of women in coaching positions across all NCAA divisions, our data show relatively consistent opportunities for female coaches across Power Five and DI HBCU schools since the passage of Title IX. Nevertheless, these opportunities do not seem equitable when considering a coach's race. That is, Black women represented just 21% (36 out of 172) of the women hired as head coaches of Power Five schools between 1984 and 2020 even though, in 2019-2020, Black women made up 48.1% of women basketball players at the same level (Kalman-Lamb et al., 2021). This lack of representation of women coaches of color in comparison to their White counterparts shows the relevancy and significance of both structural and political intersectionality discussed earlier (Crenshaw, 1991). On one hand, the underrepresentation of Black women as head coaches of women basketball programs manifests the implications of structural intersectionality as it demonstrates how different social factors like gender and racism work together to negatively impact coaching opportunities for women of color (Rhoden, 2012; Carter-Francique & Olushola, 2016). On the other hand, this lack of representation exposes the need for political intersectionality, revealing how by providing more head coaching opportunities to White women over women of color, Title IX as a policy and a political project, might have failed to enact gender equity for women of color in athletics. This effect is especially pernicious in a sport such as women's basketball where many players identify as women of color. As Flowers (2015) argues, increasing opportunities for women

in college athletics can indeed be attributed to the passage of Title IX, but Title IX has also been associated with decreasing opportunities and increasing discrimination against Black women in college athletics.

Limitations and Future Research

One of the biggest limitations of this research study is the sample size. We concentrated on hiring transitions of incoming and outgoing women's Division I basketball coaches in the Power Five conferences and Division I HBCUs from 1984-2020 which means this study did not capture the entire head coaching personnel across the Power Five schools and HBCUs during that time period. This study should be further extended to smaller conferences across Division I schools where more diversity might be present in the hiring process. Moreover, since HBCUs are more likely to hire minority candidates, the inclusion of HBCUs somewhat skewed our estimations of racial impacts compared to analyzing the data exclusively across the Power Five. Similarly, given our small sample size for the Power Five, particularly those of Black coaches, the estimates are uncertain. While we cannot conclude, with certainty, that there are discriminatory hiring practices occurring across the Power Five conferences, we can note that coaches of color are indeed underrepresented within the hiring pool relative to the number of Black players competing within the NCAA or at the professional levels. For this reason, it is important to extend the study to the other Division I conferences to determine whether coaches of color are underrepresented across all women's basketball program hires.

Another limitation that we did not consider in this study is the university's overall budget allocation for Athletics. Universities will typically pay more for their coaches if they have historically better performing teams. This suggests that the popularization of coaches may determine higher wages. These universities will therefore want to hire the most experienced coaches and are less likely to provide opportunities to up and coming coaches who are hoping to gather more experience. Moreover, Power Five universities have the most resource rich women's basketball programs within Division I, and therefore there might be more opportunities and lateral hiring moves occurring at universities outside of the Power Five conferences. Finally, our study did not contain a control group, nor do we know who else was being considered for the same positions that were being filled between 1984 and 2020. We do not know for instance, what percentage of minority candidates applied, and who was not considered for the position overall.

Lastly, it should also be noted that hiring more women/people of color for head coaching or other leadership positions, without concrete efforts (i.e., substantial support systems) towards retaining these candidates, does not necessarily mean that anti-discrimination laws such as Title IX have served their full purpose. As several studies have shown, coaches of color are often the last hired and the first fired (Cochran & Mehri, 2002; Madden, 2004; Shropshire, 2004). As we celebrate the 50th anniversary of Title IX, we should recognize that increasing coaching opportunities for women should be an intersectional goal which takes the interests of all women

into consideration while pushing for meaningful change within organizations with the aim of providing long-lasting support networks for women and coaches of color to not only get hired, but to succeed in the long run.

References

- Acosta, R. V., & Carpenter, L. J. (1985). Status of women in athletics—Changes and causes. *Journal of Physical Education, Recreation & Dance*, 56(6), 35-37. [https://doi.org/ 10.1080/07303084.1985.10603790](https://doi.org/10.1080/07303084.1985.10603790)
- Acosta, R. V., & Carpenter, L. J. (2002). Women in intercollegiate sport: A longitudinal study. twenty-five-year update, 1977-2002. *Unpublished manuscript*, Brooklyn College, Brooklyn, New York. <https://files.eric.ed.gov/fulltext/ED465739.pdf>
- Acosta, R. V., & Carpenter, L. J. (2000). Women in intercollegiate sport: A longitudinal study—twenty-three-year update—1977-2000. *Women in Sport and Physical Activity Journal*, 9(2), 141- 144.
- Acosta, V. R., & Carpenter, L. J. (2014). *Women in intercollegiate sport: A longitudinal national study, thirty-seven-year update*. <http://www.acostacarpenter.org/>
- Becker, G. S. (1975). *Human capital*. University of Chicago Press.
- Becker, G. S. (1985). Human capital, effort, and the sexual division of labor. *Journal of labor economics*, 3, S33-S58. <http://www.jstor.org/stable/2534997>
- Borchorst, A., & Teigen, M. (2010). Political intersectionality: Tackling inequalities in public policies in Scandinavia. *Kvinder, køn & forskning*, (2-3).
- Borland, J. F., & Bruening, J. E. (2010). Navigating barriers: A qualitative examination of the under-representation of black females as head coaches in collegiate basketball. *Sport Management Review* 13(4), 407–420.
- Brake, D. L. (2010). *Getting in the Game: Title IX and the Women's Sports Revolution*. NYU Press.
- Bruening, J. E. (2005). Gender and racial analysis in sport: Are all the women White and all the Blacks men? *Quest*, 57(3), 330–349. <https://doi.org/10.1080/00336297.2005.10491861>
- Burton, L. J. (2015). Underrepresentation of women in sport leadership: A review of research. *Sport Management Review*, 18(2), 155-165. <https://doi.org/10.1016/j.smr.2014.02.004>
- Carter-Francique, A. R., & Olushola, J. (2016). Women coaches of color: Examining the effects of intersectionality. In N. M. LaVoi (Ed), *Women in sports coaching* (pp. 81-94). Routledge. <https://doi.org/10.4324/9781315734651>
- Civil Rights Restoration Act of 1987. Pub. L. No. 100-259, 102 Stat. 28 (1987). <https://www.govinfo.gov/content/pkg/COMPS-347/pdf/COMPS-347.pdf>
- Coakley, J. (2004). *Sports in society: Issues and controversies* (8th ed.). McGraw-Hill.
- Cochran, J., & Mehri, C. (2002). Black coaches in the National Football League: Superior performance, inferior opportunities. *Mehri & Skalet, PLLC*. https://www.documentcloud.org/documents/23117804-black-coaches-in-the-nfl?itid=lk_in-line_enhanced-template

- Collins, P. H. (2002). *Black feminist thought: Knowledge, consciousness, and the politics of empowerment*. Routledge.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 138–167. <https://doi.org/10.3917/drs1.108.0465>
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43, 1241–1299. <https://doi.org/10.2307/1229039>
- Cunningham, G. B. (2010). Understanding the under-representation of African American coaches: A multilevel perspective. *Sport Management Review*, 13(4), 395–406. <https://doi.org/10.1016/j.smr.2009.07.006>
- Cunningham, G. B. (2019). *Diversity and inclusion in sport organizations: A multilevel perspective* (4th ed.). Routledge. <https://doi.org/10.4324/9780429504310>.
- Cunningham, G. B., & Sagas, M. (2002). The differential effects of human capital for male and female Division I basketball coaches. *Research Quarterly for Exercise and Sport*, 73(4), 489–495. <https://doi.org/10.1080/02701367.2002.10609051>
- Cunningham, G. B., & Sagas, M. (2004). People make the difference: The influence of the coaching staff's human capital and diversity on team performance. *European Sport Management Quarterly*, 4(1), 3–21. <https://doi.org/10.1080/16184740408737464>
- Cunningham, G. B., & Sagas, M. (2005). Access discrimination in intercollegiate athletics. *Journal of Sport and Social Issues*, 29(2), 148–163. <https://doi.org/10.1177/0193723504271706>
- Cunningham, G. B., Sagas, M., & Ashley, F. B. (2001). Occupational commitment and intent to leave the coaching profession: Differences according to race. *International Review for the Sociology of Sport*, 36(2), 131–148. <https://doi.org/10.1177/101269001036002001>
- Cunningham, G. B., Wicker, P., & Kutsko, K. (2021). Gendered racial stereotypes and coaching intercollegiate athletic teams: The representation of Black and Asian women coaches on US women's and men's teams. *Sex Roles*, 84(9), 574–583. <https://doi.org/10.1007/s11199-020-01186>
- Fink, J. S., Pastore, D. L., & Riemer, H. A. (2001). Do differences make a difference? Managing diversity in Division IA intercollegiate athletics. *Journal of Sport Management*, 15(1), 10–50. <https://doi.org/10.1123/jsm.15.1.10>
- Flowers, C. L. (2015). Legal issues and the Black female athletes' collegiate experience at HBCUs. In B. Hawkins, J. Cooper, A. Carter-Francique, & K. Cavil (Eds.), *The Athletic Experience at Historically Black Colleges and Universities: Past, Present, and Persistence*, (pp. 129–144). Rowman & Littlefield.
- Greenhaus, J. H., Parasuraman, S., & Wormley, W. M. (1990). Effects of race on organizational experiences, job performance, evaluations, and career outcomes. *Academy of Management Journal*, 33(1), 64–86. <https://doi.org/10.2307/256352>
- Hakim, C. (1996). *Key issues in women's work: Female heterogeneity and the polarization of women's employment* (Vol. 4). A&C Black.

- Hakim, C. (2002). Lifestyle preferences as determinants of women's differentiated labor market careers. *Work and Occupations*, 29(4), 428-459. <https://doi.org/10.1177/0730888402029004003>
- Hasbrook, C. A., Hart, B. A., Mathes, S. A., & True, S. (1990). Sex bias and the validity of believed differences between male and female interscholastic coaches. *Research Quarterly for Exercise and Sport*, 61(3), 259-267. <https://doi.org/10.1080/02701367.1990.10608688>
- Hawkins, B., Cooper, J., Carter-Francique, A., Cavin, Kenyatta. (2015). *The athletic experience at historically Black colleges and universities: past, present, and persistence*. Rowman & Littlefield.
- Heishman, M. F., Bunker, L., & Tutwiler, R. W. (1990). The decline of women leaders (coaches and athletic directors) in girls' interscholastic sport programs in Virginia from 1972 to 1987. *Research Quarterly for Exercise and Sport*, 61(1), 103-107. <https://doi.org/10.1080/02701367.1990.10607486>
- Holmen, M. G., & Parkhouse, B. L. (1981). Trends in the selection of coaches for female athletes: A demographic inquiry. *Research Quarterly for Exercise and Sport*, 52(1), 9-18. <https://doi.org/10.1080/02701367.1981.10609290>
- Ilgén, D. R., & Youtz, M. A. (1986). Factors affecting the evaluation and development of minorities in organizations. In K. Rowland & G. Ferris (Eds.), *Research in personnel and human resource management: A research annual* (pp. 307-337). JAI Press.
- Inglis, S., Danylchuk, K. E., & Pastore, D. L. (2000). Multiple realities of women's work experiences in coaching and athletic management. *Women in Sport and Physical Activity Journal*, 9(2), 1-26. <https://doi.org/10.1123/wspaj.9.2.1>
- Judge, T. A., Cable, D. M., Boudreau, J. W., & Bretz Jr, R. D. (1995). An empirical investigation of the predictors of executive career success. *Personnel Psychology*, 48(3), 485-519. <https://doi.org/10.1111/j.1744-6570.1995.tb01767.x>
- Kalman-Lamb, N., Silva, D., Mellis, J. (2021, March 17). I signed my life to rich white guys': athletes on the racial dynamics of college sports. *The Guardian*. <https://www.theguardian.com/sport/2021/mar/17/college-sports-racial-dynamics>
- Knoppers, A. (1987). Gender and the coaching profession. *Quest*, 39(1), 9-22. <https://doi.org/10.1080/00336297.1987.10483853>
- Knoppers, A. (1992). Explaining male dominance and sex segregation in coaching: Three approaches. *Quest*, 44, 210-227. <https://doi.org/10.1080/00336297.1992.10484051>
- Kopkin, N. A. 2014. You're fired! The impact of race on the firing of Black head coaches in major college football." *The Review of Black Political Economy*, 41(4): 373-392. <https://doi.org/10.1007/s12114-014-9195-9>
- Lanser, D. (2016). Title IX, and how to rectify sexism entrenched in NCAA leadership. *Wisconsin Journal of Law, Gender, & Society*, 31(2), 181-206.
- Lapchick, R. (2021). The 2021 racial and gender report card, college sport. *The Institute for Diversity and Ethics in Sport*. https://www.tidesport.org/_files/ugd/403016_14f7be7c35154a668addb71b75b7e14f.pdf

- Lapchick, R. (2017). College sport racial and gender report card. *The Institute for Diversity and Ethics in Sport*. <https://www.tidesport.org/files/ugd/7d86e5ddd5846e0c4d45da8dba2c32d10d27b2.pdf>
- Lapchick, R. (2020). The 2019 racial and gender report card: College sport. *The Institute for Diversity and Ethics in Sport*. Retrieved from: https://www.tidesport.org/files/ugd/7d86e5_d69e3801bb8146f2b08f6e619bcddf22.pdf
- Larsen, L. K., & Clayton, C. J. (2019). Career pathways to NCAA Division I women's basketball head coach positions: Do race and gender matter? *Women in Sport and Physical Activity Journal*, 27(2), 94-100. <https://doi.org/10.1123/wspaj.2018-0068>
- LaVoi, N. (2013). The decline of women coaches in collegiate athletics: A report on select NCAA Division-I FBS institutions, 2012-13. *University of Minnesota. Tucker Center for Research on Girls & Women in Sport*. Retrieved from the University of Minnesota Digital Conservancy, <https://hdl.handle.net/11299/162551>.
- LaVoi, N. M. (2016). A framework to understand experiences of women coaches around the globe: The ecological-intersectional model. In N. M. LaVoi (Ed.), *Women in sports coaching* (pp. 13-34). Routledge.
- Lovett, D.J., & Lowry, C. (1988). The role of gender in leadership positions in female sport programs in Texas colleges. *Journal of Sport Management*, 2, 106-117. <https://doi.org/10.1123/jsm.2.2.106>
- Madden, J. F. (2004). Differences in the success of NFL coaches by race, 1990-2002: Evidence of last hire, first fire. *Journal of Sports Economics*, 5(1), 6-19.
- McDowell, J., & Carter-Francique, A. (2017). An intersectional analysis of the workplace experiences of African American female athletic directors. *Sex Roles*, 77(5), 393-408. <https://doi.org/10.1007/s11199-016-0730-y>
- McGovern, J. (2021). The intersection of class, race, gender and generation in shaping Latinas' sport experiences. *Sociological Spectrum*, 41(1), 96-114. <https://doi.org/10.1080/02732173.2020.1850378>
- Naughton, J. (1997). A confidential report details salaries of athletics officials. *The Chronicle of Higher Education*, 43, 49-50.
- Nelson, A. D. (1999). Discrimination through the eyes of African American women coaches and athletic administrators at historically Black colleges and universities. [Doctoral dissertation, Florida State University]. <https://www.proquest.com/docview/304500023?pq-origsite=primo>
- Nessler, C., Gomez-Gonzalez, C., & Gasparetto, T. (2021). Head coach tenure in college women's soccer. Do race, gender, and career background matter? *Sport in Society*, 24(6), 972-989. <https://doi.org/10.1080/17430437.2019.1710133>
- Nordhaug, O. (1993). *Human capital in organizations*. Oxford.
- Peterson, A. (2018). *Hiring NCAA Division I Head Coaches: Standardizing the Selection Process*. [Unpublished master's thesis]. Catholic University. https://cuislandora.wrlc.org/islandora/object/cuislandora%3A186742/datastream/OBJ/download/Hiring_NCAA_Division_I_Head_Coaches_Standardizing_the_Selection_Process.pdf

- Rhode, D. L., & Walker, C. J. (2008). Gender equity in college athletics: Women coaches as a case study. *Stan. JCR & CL*, 4, 1. Available at SSRN: <https://ssrn.com/abstract=1089493>
- Rhoden, W. C. (2012, June 10). Black and White women far from equal under Title IX. *The New York Times*. Retrieved from <http://www.nytimes.com/2012/06/11/sports/title-ix-has-not-given-black-female-athletes-equal-opportunity.html?>
- Rice, W. E. (1986). Judicial and administrative enforcement of Title VI, Title IX, and Section 504: a pre- and post-Grove City analysis. *The Review of Litigation*, 5(2-3), 219-297.
- Sagas, M., & Cunningham, G. B. (2004). Does having “the right stuff” matter? Gender differences in the determinants of career success among intercollegiate athletic administrators. *Sex Roles*, 50(5), 411-421. <https://doi.org/10.1023/B:SERS.0000018895.68011.fa>
- Sagas, M., & Cunningham, G. B. (2005). Racial Differences in the career success of assistant football coaches: The role of discrimination, human capital, and social capital. *Journal of Applied Social Psychology*, 35(4), 773-797. <https://doi.org/10.1111/j.1559-1816.2005.tb02146.x>
- Shropshire, K. L. (2004). Minority issues in contemporary sports. *Stan. L. & Pol’y Rev.*, 15, 189-211.
- Smith, Y. (1992). Women of color in society and sport. *Quest*, 44(2), 228-250. <https://doi.org/10.1080/00336297.1992.10484052>
- Stangl, J. M., & Kane, M.J. (1991). Structural variables that offer explanatory power for the underrepresentation of women coaches since Title IX: The case of homologous reproduction. *Sociology of Sport Journal*, 8, 47-60. <https://doi.org/10.1123/ssj.8.1.47>
- Stromquist. (2013). Education policies for gender equity: Probing into state responses. *Education Policy Analysis Archives*, 21(65). <https://doi.org/10.14507/epaa.v21n65.2013>
- Veum, J. R. (1995). Sources of training and their impact on wages. *Industrial Labor Relations Review*, 48, 812-826. <https://doi.org/10.2307/2524358>
- Villabos, P. M. (1990). The Civil Rights Restoration Act of 1987: Revitalization of Title IX. *Marquette Sports Law Journal* 1(1), 149-169.
- Walby, S., Armstrong, J., & Strid, S. (2012). Intersectionality: Multiple inequalities in social theory. *Sociology*, 46(2), 224-240. <https://doi.org/10.1177/0038038511416164>
- Walker, N. A., & Melton, E. N. (2015). The tipping point: The intersection of race, gender, and sexual orientation in intercollegiate sports. *Journal of Sport Management*, 29(3), 257-271. <https://doi.org/10.1123/jsm.2013-0079>
- Wayne, S. J., Liden, R. C., Kraimer, M. L., & Graf, I. K. (1999). The role of human capital, motivation and supervisor sponsorship in predicting career success. *Journal of Organizational Behavior*, 20(5), 577-595.
- Wicker, I. L. (2008). African American women athletics administrators: Pathway to leadership positions in the NCAA a qualitative analysis. [Doctoral dissertation, North Carolina State University]. <https://repository.lib.ncsu.edu/handle/1840.16/4702>

- Yap, M., Cukier, W., Holmes, M., & Hannan, C. A. (2010). Career satisfaction: A look behind the races. *Relations Industrielles/Industrial Relations*, 65(4), 584-608.
- Yiamouyiannis, A., & Osborne, B. (2012). Addressing gender inequities in collegiate sport: Examining female leadership representation within NCAA sport governance. *Sage Open*, 2(2), <https://doi.org/10.1177/2158244012449340>

Title IX Information Increases Female Collegiate Athletes' Intent to Seek Help

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Female intercollegiate student athletes continue to lack knowledge of their pregnancy rights. Uninformed athletes may react to pregnancy by concealing it or worse, risking their health and the health of their fetus. This study aimed to determine a) baseline pregnancy rights knowledge in a contemporary sample of female athletes; and b) the extent to which pregnancy rights information, when provided, affected their intent to seek help for pregnancy. A convenience sample of 146 female student athletes from nine teams at one National Collegiate Athletic Association (NCAA) Division I university (mean age 20.2 ± 1.5 years) responded to an anonymous, online, author-designed survey. Halfway through the survey, Title IX information was provided. Prior to the intervention most participants were unaware of pregnancy rights. If they experienced pregnancy and particularly if they decided to remain pregnant to the completion of their pregnancy, participants expected to be cut from the team, lose financial aid, and be unable to return to the team. Following the intervention, participants were significantly less likely to expect negative consequences and significantly more likely to seek help from athletic staff. Those who were aware of federal pregnancy rights were significantly unlikely to be aware of NCAA protections. Recommendations to the NCAA and universities include more vigorous, effective provision of complete, timely pregnancy rights information. Recommendations for student athletes include anticipating unplanned pregnancy and self-education.

Keywords: college, student athlete, pregnancy, rights, Title IX, NCAA

Congress enacted Title IX of the Education Amendments Act of 1972 (20 U.S.C. § 1681; 2018) “with two principal objectives in mind: to avoid the use of federal resources to support discriminatory practices in education programs, and to provide individual citizens effective protection against those practices” (U.S. Department of Justice, 2021). In 2003 Sorensen, a nurse, recognized the serious health risks for college student athletes who conceal pregnancy and began a national conversation on the problem by writing to the National Collegiate Athletic Association (NCAA; Sorensen, personal letter to R. Stallman, Director of Education Outreach, NCAA, 2003). The U.S. Department of Health and Human Services’ Office of Civil Rights



(OCR) strongly reinforced its prohibition of pregnancy discrimination in college athletics (Monroe, 2007) in response to numerous published anecdotes of pregnant student athletes feeling pressured to choose between concealing or aborting their pregnancies and losing financial aid (e.g., Rosenberg, 2004; Rovegno, 2007) and in response to NCAA member schools' independent advocacy to protect pregnant student athletes (Rosenberg, 2004; Smith, 2004; Sorensen et al., 2009). In 2008 the NCAA developed Pregnant and Parenting Student Athletes: Resources and Model Policies (Hogshead-Makar & Sorensen, 2008). In 2009 the NCAA revised Division I Bylaws to protect pregnant athletes' financial aid and extend pregnant athletes' competitive eligibility, but problems remain. While the new NCAA Bylaws carried some weight, use of the NCAA Model Policies was never mandatory. No consequence - other than general notice of university-wide Title IX violation - was attached to ignoring the Model Policies. Policies which facilitate compliance with law can only be effective when all stakeholders - authors, enforcers, implementers, and the target population - are well informed. Unfortunately, pregnant female student athletes still lack knowledge of their options and legal protections. This study aimed to determine a) baseline pregnancy rights knowledge in a contemporary sample of female athletes; and b) the extent to which pregnancy rights information, when provided, affected their intent to seek help for pregnancy.

Literature Review

Crisis Pregnancy

Unintended pregnancy during college may result from consensual or non-consensual sexual activity, or from responsible use of pregnancy prevention methods. About 45% of all pregnancies in the United States are unintended, with the highest rate of unintended pregnancy occurring to women aged 20-24 years (Finer & Zolna, 2016). Women who were unmarried and cohabiting had quadruple the rate of unintended pregnancy compared to women who were married (Finer & Zolna, 2016). Between 17% and 31.6% of U.S. women experience multiple unintended pregnancies (Azatlan-James et al., 2017). In a sample of 70,087 American college students, about 17% reported their or their partner's use of emergency contraception after sex, about 1.2% (about 840 individuals) reported their or their partner's unintended pregnancy, and 4.1% reported participation in varsity sports [American College Health Association (ACHA), 2021]. Unintended pregnancy in college-aged women places this population at greater risk of failing to complete a college degree, suffering economic hardship, and experiencing psychological distress (Power to Decide, 2015). The frequency of pregnancy in female intercollegiate student athletes was reported as 4% in a sample of 517 female intercollegiate student athletes from four universities (Jaco, 2009).

Sorensen, Sincoff, and Siebeneck (2009) argued that unintended pregnancy is a crisis for the student athlete, necessitating re-evaluation of years of training and possibly leading to coping in ways that are unhealthy to both mother and baby. Pregnant student athletes reported concealing their pregnancies to continue participating

in competitive sports (Ford, 2004; Lehman College, 2001; Potts, 2001; Schonbrun, 2007; Sorensen et al., 2009; Willis, 2001), feeling forced to abort (Portnoy, 2004; Rovegno, 2007), feeling forced to choose between their financial aid and pregnancy (Rovegno, 2007), and fearing expulsion or other negative stereotypes (Portnoy, 2004). In two separate instances student athletes concealed their pregnancies, gave birth in their dorm rooms, and were arrested for the homicides of their full-term infants (Student charged, 2007; Former athlete, 2007).

Title IX and Pregnancy Discrimination

In 2007, Stephanie J. Monroe, Assistant Secretary, Office of Civil Rights (OCR), U.S. Department of Health and Human Services, emphasized OCR's concerns over "recent media reports of college athletics practices of terminating scholarships of female athletes on the basis of pregnancy . . . and students choosing to terminate their pregnancy for fear of losing their athletic scholarships" in a Dear Colleague letter copied to athletics directors and Title IX coordinators (Monroe, 2007, p. 1). Monroe (2007) quoted Title IX's requirement of nondiscriminatory treatment of pregnant students and reiterated that terminating or reducing financial assistance on the basis of pregnancy was prohibited:

Title IX of the Education Amendments Act of 1972 (20 U.S.C. § 1681) prohibits recipients [the term "recipients" refers to all schools, colleges, universities, and other educational institutions that receive Federal funds] from applying any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. The regulation also states that a recipient shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient. Regarding financial assistance to any of its students, a recipient shall not apply any rule . . . concerning eligibility for assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status. or assist in application of any rule (p. 1).

Monroe offered the OCR's support for "voluntary efforts to comply with Title IX" (p. 1), a telling statement about the difficulties enforcing this law unless an abused party sues. Individuals who are not legal experts may not understand that a Title IX violation in one department (e.g., athletics) constitutes an institutional Title IX violation. It was unclear if the Monroe letter was received and read by athletics staff as well as the institutional leadership team (president, provost, and legal representatives) and women's health advocates (women's centers, healthcare professions, student health clinics).

Beyond its prohibition on pregnancy discrimination, Title IX requires institutions and their athletic departments to educate student athletes on their rights and protections. Section 86.9 requires recipients to implement:

specific and continuing steps to notify applicants for admission and . . . students . . . that it does not discriminate on the basis of sex in the educational programs or activities which it operates. Such notification shall contain such information . . . as necessary to apprise such persons of the protections against discrimination assured to them by Title IX . . . Notification shall include publication in . . . written communications distributed to every student [45 CFR 86.9(a)(2)(ii)].

This statement implies that intercollegiate student athletes should reasonably expect to find “such information as necessary to apprise [them] of the protections against discrimination assured to them by Title IX”, i.e., pregnancy rights information in “written communications distributed to every student”, i.e., their student athlete handbooks which are provided by the athletic department.

Brake (2008) provided a critical analysis of Title IX’s legal dynamics and the difficulty that athletic departments have with accommodating student athlete pregnancy. To comply with Title IX, the NCAA historically directed member institutions to ensure that resources like facilities, financial aid, sport participation, and support services were equivalent for female and male athletes. Pregnancy, Brake argued, was absent from that paradigm because the ability to become pregnant and birth children is unique to female bodies. Thus, pregnancy and parenting rights were often left out of sex equality arguments in intercollegiate athletics, an open door to discrimination. Brake offered this observation regarding the OCR letter and NCAA guidelines:

. . . whether the OCR letter actually results in any gains for pregnant athletes will depend on the athletes’ awareness of their rights and their resolve to enforce them. Without concerted education efforts on this issue, the OCR letter may make little difference in the lives of women whose college athletic careers are interrupted by pregnancy (p. 350).

Sex and pregnancy discrimination take on unique forms in athletics compared to the general academic community. Prior to 2006 female student athletes were subjected to mandatory contracts requiring them to relinquish their financial aid if they became pregnant or submit to pregnancy urine tests if their coaches or care teams had reasonable suspicion the student athlete was pregnant, requirements not faced by fellow male student athletes (Rainey, 2006). “These dramatic stories of . . . young women should remind us of how powerfully sports can affect young people’s lives . . . and how vulnerable students are to the decisions and judgements of those who govern these opportunities” (Brake, 2008, p. 356).

NCAA Response

Prior to 2007 the NCAA did not address student athlete pregnancy. In 2003 Sorensen recognized the absence of NCAA guidance and began advocating for change, arguing for recognition of the health, legal, and ethical risks associated with ignoring student athlete pregnancy (Sorensen, personal letter to R. Stallman, Director of Education Outreach, NCAA, 2003). In May 2007 the presentation *Best Practices: Pregnancy Policies* (Sorensen et al., 2007) was given to the NCAA Gender Equity and Issues Forum. In June 2007 NCAA President Myles Brand charged the Committee

on Women's Athletics (CWA) with studying this issue, calling for university athletic administrators to submit their policies for review (NCAA, 2007a). In July 2007 the CWA produced a Statement (NCAA, 2007b) calling for NCAA institutions to "conduct their intercollegiate athletics programs in a manner designed to protect and enhance the physical and educational well-being of student athletes" including treating "female students . . . who may be pregnant in accordance with federal law". In 2007, the ESPN program "Outside the Lines" dedicated an episode to the challenges and fears faced by student athletes who experienced a pregnancy (Rovegno, 2007). This episode was aired several times and viewers expressed sympathy for the student athletes whose college careers were interrupted by pregnancy. This public support created a push for new national policies addressing student athlete pregnancy (Brake, 2008). At that time 90% of university athletic departments lacked written pregnancy policies (Sorensen et al., 2009). The NCAA was moved to action, perhaps, by their ethic of caring for student athletes, by their desire to better serve their member schools, and by a groundswell of OCR, member, and media attention to the issue.

In 2008 the NCAA produced its publication *Pregnant and Parenting Student Athletes: Resources and Model Policies* (Hogshead-Makar & Sorensen, 2008) to educate its member schools and the student athletes in their charge about pregnancy, health, and Title IX. The work was intended to help NCAA members understand healthy participation in sport while pregnant; help them comply with Title IX's requirements regarding participation, financial aid, and return to sport following pregnancy; and increase members' awareness of Title IX violations. The publication emphasized the need to create athletics environments in which athletes could feel safe revealing pregnancy and could seek help with decisions. The publication explained Title IX's prohibition of institutional discrimination against pregnant individuals, their financial aid, and their participation in sport before, during, and after pregnancy; including a Title IX requirement that the individual be returned to the position held before pregnancy. The NCAA distributed two printed copies of the Model Policies to every NCAA member school and made the information available online. Yet, the NCAA could not mandate that members adopt the Model Policies recommendations and actively share Title IX information with student athletes, i.e., the university mandate flows from Title IX, not the NCAA.

In 2009 the NCAA implemented new Division I Bylaws (NCAA, 2021a; Walker, 2008). Bylaw 15.3.4.3 now stated that institutional financial aid could not be decreased, removed, or cancelled due to a medical condition (which, although not specifically named, included pregnancy). Bylaw 12.8.1.5 now granted a female student athlete an additional year of eligibility, beyond the usual five years of competitive eligibility, for reasons of pregnancy. While the new Bylaws were landmark, laudable NCAA responses, they remain imperfect in creating a safe environment for pregnant athletes to ask for help. No bylaw requires compliance with Title IX, and no bylaw requires reinstatement to the position held before pregnancy as Title IX requires. The Bylaws still retain substantial "trap door" problems for pregnant athletes and for those who advocate for creating a safe environment for revealing pregnancy. Bylaw 15.3.4.2 allows an institution to withdraw an athlete's financial aid when the athlete:

renders himself or herself ineligible for intercollegiate competition; fraudulently represents any information on an application, etc.; engages in serious misconduct; and/or voluntarily withdraws from sport (NCAA, 2021a).

Student athletes who lack knowledge of their legal protections under Title IX may incorrectly believe that pregnancy renders them ineligible to participate in sports. Student athletes at universities in which sexual activity and pregnancy are considered serious misconduct resulting in expulsion may be especially unmotivated to reveal pregnancy. Students who lack knowledge of NCAA 15.3.4.3 and Title IX may unknowingly voluntarily withdraw from their sport without revealing that they are pregnant, inviting summary cancellation of their financial aid without any further conversation (Sorensen, et al., 2009). Additionally, if they feel that they cannot or should not seek help, the student athlete may not realize that they have time to decide what to do before action is needed (Brake, 2008; Sorensen et al., 2009).

Female Student Athletes Lack Pregnancy Rights Knowledge

Jaco (2009) surveyed 517 NCAA Division I female student athletes (age range 18 – 22 years; 66% received athletic aid) at four Division I universities to determine pregnancy prevalence and pregnancy rights knowledge. Nearly all (96%) reported heterosexual identity. Four percent of participants indicated that they had been pregnant at some time. Only three percent were aware that Title IX provided protection to student athletes. Eighty-four percent were not aware of any NCAA rules regarding pregnancy. Jaco reported that:

More study participants believed that they would be released from the team, lose their eligibility to compete, and be treated differently by their coaches and teammates if they became pregnant than those who believed the opposite (p. 73).

Jaco concluded that “when educated, female student athletes remember what the NCAA legislation requires, and it is important to them” (p. 75).

Williams (2017) used a qualitative design to examine the lived experiences of 12 mothers aged 22 – 35 years who previously experienced pregnancy while competing and receiving athletic financial aid at a Division I or II university. Time since participating ranged from 0 - 10 years (mean 3 years). Eleven (92%) reported that the pregnancy was unplanned; 9 participated in sports knowingly or unknowingly while pregnant. Five reported receiving information about their pregnancy rights from athletic staff while seven reported that they did not. Upon learning of the pregnancy, participants described feeling shocked and devastated. One expressed surprise that her pregnancy was more advanced than she thought. Three participants reported fears of losing their scholarship. When they learned of their pregnancies, most concealed it “for a long time”, for “6 months”, or disclosed it to a small number of confidants but not their coaches. Some reported supportive responses which allayed their fears about losing scholarships, while some experienced unsupportive responses: coaches tacitly recommended abortion or tied the athlete’s scholarship to their sport participation, e.g., “... if you can run again, I’ll let you keep your scholarship” (p. 109). One participant reported being denied access to facilities, e.g., “I

worked out the whole pregnancy, but they banned me from the athletic training facility . . . (saying) ‘we don’t want you here’” (p. 110). The unsupportive responses are violations of Title IX. Participants recommended improved support from the NCAA and their athletic departments. Cumulatively the results indicated that coaching staff as well as participants lacked knowledge of pregnant athletes’ rights.

Specific Aims

Arguably, female intercollegiate student athletes experience unplanned pregnancy as a crisis. Despite a 50-year history of federal protections for pregnancy rights, and stakeholder advocacy to protect and inform these young women at risk, they remain uninformed. Uninformed student athletes who experience pregnancy remain at risk for concealing pregnancy or acting on a decision about their pregnancy before or without receiving essential information. This study aimed to determine a) baseline pregnancy rights knowledge in a contemporary sample of female athletes; and b) the extent to which pregnancy rights information, when provided, affected their intent to seek help for pregnancy. We hypothesized that if athletes lacked Title IX knowledge, then providing Title IX information would increase their intent to seek help.

Method

Following internal review board approval from a large Midwestern NCAA Division I university, a convenience sample of female athletes completed an anonymous, online, author-developed survey during spring semester 2021. Completing the survey constituted informed consent.

Participants

Individuals were invited to participate if they were female, at least 18 years of age, active or temporarily inactive (e.g., redshirted) members of one or more of the university’s 12 women’s intercollegiate sports teams, could access the online survey, and were enrolled as university students. Potential participants were recruited by sharing a link to an online, anonymous survey with all female sport representatives on the university Student Athlete Advisory Council at one NCAA Division 1 university. The representatives were asked to share the link with their respective teams through a group-message style platform. Individuals who were excluded were males, were not intercollegiate student athletes, and/or were not enrolled as university students.

Instrument

An investigator-designed survey instrument was developed based on Jaco’s work (2009). Jaco used a self-developed, 20-item survey consisting of female college athletes’ demographic, financial aid, sexual activity, birth control, and pregnancy experience information with mostly dichotomous yes/no response options. Jaco inquired whether participants expected negative consequences from being pregnant

and whether pregnancy rights information was known. Jaco provided pregnancy rights information at the end of the survey, but no follow-up questions. Jaco did not report instrument validity or reliability.

The current survey instrument extended Jaco's work. The current survey consisted of 38 items including participant demographics (age, year in school, current year of NCAA eligibility, athletic aid proportion, athletic team, sexual orientation, sexual activity, birth control use, and birth control methods used). Pregnancy-focused items tested pregnancy knowledge and expected consequences related to pregnancy using rank-ordered, dichotomous, and narrative response options. Title IX information was provided about halfway through the instrument, followed by items assessing for changes in knowledge, expectation of negative consequences, and intent to seek help. The current survey's pre-test/post-test format allowed for determining the extent to which pregnancy rights information, when provided, affected participants' knowledge and intent to seek help. The survey, illustrated below, was pilot tested with five recently graduated female student athletes from the institution to develop face validity.

Data Analysis

Data were analyzed via Statistical Analysis Software JMP version 14 and IBM SPSS Statistics software. Paired, two-tailed t-tests were used to compare mean group responses and determine statistical significance in continuous variables. Chi square tests were used to compare frequencies and determine statistical significance in categorical variables. The $p < 0.05$ level was used to establish statistical significance.

Results

Demographics

Of 314 eligible participants, 146 (46.5%) completed the survey. Participants averaged 20.2 ± 1.5 years of age. Two thirds were freshmen, sophomores, and juniors. Participants represented women's basketball, cross country, hockey, rowing, soccer, swim and diving, tennis, track and field, and volleyball teams. Eighty percent were in their first, second, or third year of athletic eligibility. Sixty-two percent reported receiving athletically related financial aid. Eighty-six percent identified as heterosexual or straight. The majority (59.7%) reported having vaginal sex at some point with a male partner since attending the university. Seventy-eight percent reported always using birth control during vaginal sex. Participants' demographic characteristics are presented in Table 1. Responses to pregnancy-focused survey items are found in Table 2.

Table 1
Sample Demographics

Age, years	Range 18 – 24	Mean 20.2	SD 1.5		
Year in school	Freshmen 27.8%	Sophomore 22.9%	Junior 22.9%	Senior 18.1%	Graduate 8.3%
Athletic eligibility year	1 st 36.9%	2 nd 24.8%	3 rd 19.9%	4 th 9.9%	5 th 7.8%
Receive athletic aid	Yes 62.5%	No 35.4%			
Athletic aid % of total tuition	< 25 13.5%	25-49 15.6%	50-74 10.4%	75-99 16.7%	100 31.3%
Sexual identity	Heterosexual 86.4%	Bisexual 11.1%	Other 2.5%		
Heterosexual intercourse since attending university	Yes 59.7%	No 39.6%			
Use of birth control to prevent pregnancy	Always 77.7%	Almost always 7.8%	Half time 1.9%	Never 12.6%	
Type of birth control used *	Male condom 3.9%	Female condom 0.5%	Pill 11.8%	IUD 7.4%	Hormone implant 1%
Note: % = % of sample. * = Not mutually exclusive: participants could “select all that apply”.					

Table 2
Pregnancy-Focused Items

The following questions discuss hypothetical scenarios of experiencing an unplanned pregnancy as a student athlete. Please answer based on your current knowledge or understanding.		
Item	Response Options	Result
If you became pregnant:		
. . . and you have not made a decision about your pregnancy, or you decided not to continue your pregnancy, and you disclose this to your coach or athletic trainer, you expect to: *	Released or cut from team	11.9%
	Suspended from team	23.7%
	Lose athletic aid	11.9%
	Lose NCAA eligibility	6.7%
	None of these	67.4%

. . . and you decided to continue the pregnancy and give birth, and you disclose this to your coach or athletic trainer you expect to: *	Released or cut from team	46.6%
	Suspended from team	27.9%
	Lose athletic aid	31.6%
	Lose NCAA eligibility	16.9%
	None of these	33.8%
. . . and you decided to give birth, would you be able to return to the team after birth if you wanted to?	Very likely	6.7%
	Likely	20.1%
	Unsure	43.3%
	Unlikely	19.4%
	Very unlikely	10.4%
. . . how important are the impacts on your athletic status (scholarship, participation, eligibility) in making decisions about your pregnancy?	Extremely important	51.5%
	Moderately important	29.1%
	Slightly important	12.7%
	Not at all important	6.7%
How concerned are you about an unplanned pregnancy in general?	Very concerned	9%
	Moderately concerned	12.7%
	Somewhat concerned	14.2%
	Slightly concerned	24.6%
	Not at all concerned	39.6%
How concerned are you about an unplanned pregnancy affecting your scholarship, NCAA eligibility, and athletic participation?	Very concerned	15.7%
	Moderately concerned	15.7%
	Somewhat concerned	14.2%
	Slightly concerned	18.7%
	Not at all concerned	35.8%
Do you believe that you have any legal rights protecting your status (scholarship, eligibility, athletic participation) as a pregnant student athlete?	Yes	60.9%
	No	39.1%
Are you aware of any NCAA rules that address student athlete pregnancy?	Yes	9.7%
	No	90.3%
Have you received information from the athletics department (not a teammate) with instructions about what to do if you are pregnant?	Yes	2.2%
	No	97.8%
If you answered yes to the previous question, how was this information provided to you?	Coaches	0%
	Athletic administrators	0%
	Athletic Trainers	1.3%
	Athletic doctors	0%
	NCAA Division 1 Manual	2.5%
	Compliance meeting	1.3%
	It was not provided to me	95%

Have you received information about student athlete pregnancy rights from any source other than the athletics department?	Yes	3.2%
	No	96.8%
If you suspected pregnancy, what would you likely do within the first week? *	Home pregnancy test	91.5%
	Contact team physician	0.04%
	Contact athletic trainer	13.8%
	Contact coaches	0.05%
	Go to student health clinic	33.1%
	Go to outside clinic/doctor	43.1%
	Contact parents	29.2%
	Contact sexual partner	66.9%
If pregnant, how likely are you to approach someone in the athletics department for help?	Very likely	8.5%
	Likely	14.6%
	Unsure	33.1%
	Unlikely	24.6%
	Very unlikely	19.2%
If you confirmed you were pregnant, would you choose to:	Terminate (abortion)	49.6%
	Continue pregnancy	21.1%
	Unsure	29.3%
<p>[Intervention] Legal rights and NCAA bylaws regarding pregnancy among student athletes. You <u>cannot</u> be removed from the athletic team, removed from scholarship, or discriminated against because of a pregnancy or pregnancy-related absences by your coaches, teammates, or the athletic department. Additionally, you are granted an additional year of NCAA eligibility if you choose to continue your pregnancy until birth, sometimes known as a pink shirt. More information will be available after survey completion via a link on the final page after survey submission.</p>		
Were you aware of this information prior to this survey?	Yes, all of it	3.9%
	Yes, some of it	27.1%
	No	69%
Does the information change any of your answers about the impacts on your athletic status (participation, scholarship, eligibility) in the previous sections of this survey?	Yes, all of it	3.9%
	Yes, some of it	27.1%
	No	69%
Does the information provided change any of your answers about the hypothetical decisions you would make about a pregnancy in the previous sections of this survey?	Yes	26.2%
	No	73.8%

Knowing this information, if pregnant in the future, how likely would you be to approach someone in the athletics department for help?	Very likely	13.3%
	Likely	43.8%
	Unsure	21.1%
	Unlikely	14.1%
	Very unlikely	7.8%
Should the athletic department provide more information about pregnancy rights to student athletes at risk for an unplanned pregnancy?	Yes	97.6%
	No	2.4%
If athletic medicine provided access to birth control, how likely would you be to utilize this aspect of care?	Very likely	49.2%
	Likely	30.5%
	Unsure	11.7%
	Unlikely	3.1%
	Very unlikely	5.5%
Notes: % = % of sample. * = Not mutually exclusive; participants could “select all that apply”. Internal consistency reliability (Cronbach’s alpha) on mutually exclusive items = .488.		

Baseline Pregnancy Rights Knowledge

This study aimed to determine baseline pregnancy rights knowledge in a contemporary sample of female athletes. The results support a conclusion that female athletes continue to lack knowledge. While 60.9% of participants believed that they “had [some] “legal rights protecting their status (athletic aid, eligibility, and participation) as a pregnant student athlete”, significantly fewer (9.7%) were aware that NCAA rules protected them (paired, two-tailed $t = 21.45$; $df = 80$; $p < .001$). Almost all participants reported not receiving pregnancy rights information from either their school athletics department or university (98% and 97%, respectively). The majority (69%) reported being unaware of any pregnancy rights prior to participating in the study. Almost all participants (97.6%) believed that the university athletic department should provide more information about pregnancy and pregnancy rights.

Participants were significantly less concerned about the effects of unplanned pregnancy in general than they were about its effect on their athletic participation. While 21.6% were very concerned or moderately concerned about unplanned pregnancy in general, 31.4% were very concerned or moderately concerned about its effect on their athletic status (Table 3).

Table 3
Concerns about the Effects of Unplanned Pregnancy

	Very	Moderately	Somewhat	Slightly	Not At All
Concerned in general	9%	12.7%	14.2%	24.6%	39.6%
Impact on athletic status	15.7%	15.7%	14.2%	18.7%	35.8%
n = 134. Chi square = 10.1, df = 4, p = .039. Post hoc observed power = .805, observed effect size medium.					

Significantly fewer participants expected negative impacts (loss of athletic eligibility, athletic aid, and team participation) to their athletic status if they chose to terminate the pregnancy than if they chose to remain pregnant and potentially give birth. If they chose to terminate the pregnancy, under one fourth (23.5%) expected negative impacts. If they decided to remain pregnant and potentially give birth, half (49.9%) expected negative impacts (Table 4).

Table 4

*Expected Negative Impacts of Unplanned Pregnancy if Disclose Pregnancy**

	If terminate pregnancy	If remain pregnant
Released or cut from team	11.9%	46.6%
Suspended from team	23.7%	27.9%
Lose athletic aid	11.9%	31.6%
Lose NCAA eligibility	6.7%	16.9%
None of these	67.4%	33.8%

* = Not mutually exclusive. Participants were invited to "check all that apply". n = 88. Paired, two-tailed $t = 9.99$; $df = 87$; $p = 4.3 \times 10^{-16}$. Post hoc: observed power = .996, observed effect size large.

Intent to Seek Help If Pregnant

The second aim of this study was to determine the extent to which pregnancy rights information, when provided, affected participants' intent to seek help for pregnancy. We hypothesized that if participants lacked Title IX knowledge, then providing it would increase their intent to seek help. Pregnancy rights information was offered about halfway through the survey instrument. Participants who imagined themselves as pregnant were significantly more likely to approach someone in athletics for help after reading the pregnancy rights information. Before receiving Title IX information 23.1% were likely or very likely to ask for help from athletics staff. After receiving the information 57.1% were likely or very likely to ask for help (Table 5). Thus, the study's results supported the hypothesis.

Table 5

Likelihood of Approaching Athletic Staff for Help when Pregnant Before and After Pregnancy Rights Information

	Very likely	Likely	Unsure	Unlikely	Very unlikely
Before	8.5%	14.6%	33.1%	24.6%	19.2%
After	13.3%	43.8%	21.1%	14.1%	7.8%

n = 88. Paired, two-tailed $t = 8.17$; $df = 126$; $p = 2.7 \times 10^{-13}$. Post hoc: observed power = .996, observed effect size large.

Summary

This study aimed to determine a) baseline pregnancy rights knowledge in a contemporary sample of female athletes; and b) the extent to which pregnancy rights information, when provided, affected their intent to seek help for pregnancy. We found that baseline pregnancy rights information was low. While participants reported awareness of some legal protection should they experience pregnancy, they were not aware of any NCAA protections. They reported not receiving pregnancy rights information from the athletic department or their university and felt that the ath-

letic department should provide the information. Respondents were less concerned about unexpected pregnancy in general than concerned about its negative impact on their sport, especially if they decided to remain pregnant rather than terminate the pregnancy. The finding that more than two-thirds of participants expected negative consequences if they decided to remain pregnant rather than terminate the pregnancy is of concern, indicating a lack of knowledge about healthy pregnancy, healthy athletic participation while pregnant, and federal protections for pregnant individuals. Providing Title IX information within the survey significantly increased participants' intent to seek help from athletic staff.

Recommendations

For the NCAA

Although Jaco (2009) reported a 4% incidence of pregnancy in her sample and anecdotal stories abound, scientific knowledge about student athlete pregnancy, pregnancy decisions, and pregnancy experiences remains sparse. Two NCAA Committees are well-positioned to fill the gap. The NCAA Committee on Competitive Safeguards and Medical Aspects of Sports (CSMAS) “promotes and sponsors research to address relevant health and safety issues” and “operates a national injury surveillance program (ISP) to monitor injury trends and enhance safety in intercollegiate athletics” (NCAA, 2021b). A review of publications using ISP data indicates that the instrument collects orthopedic data (e.g., injuries to feet, elbows, hips, knees, etc.). College student athlete pregnancy frequency may be measured through the American College Health Association’s National College Health Assessment (ACHA NCHA; American College Health Association, 2021), which includes items inviting self-reports of gender, pregnancy, and participation in varsity sports. Crosstab analysis could reveal the frequency of pregnancy in the male and female student athlete subpopulation. We recommend that the CSMAS add pregnancy and other mental health issues to the list of medical conditions currently being collected via the ISP (voluntarily reported by athletic staff), and commission ongoing analysis of the ACHA NCHA data (self-reported by athletes) to develop evidence.

The NCAA Committee on Women’s Athletics (CWA) “provides leadership to the association in its efforts to provide equitable opportunities, fair treatment, and respect for all women in all aspects of intercollegiate competition” (NCAA, 2021c). The failure of pregnancy-related information to effectively reach female student athletes is a gender equity issue. We recommend that the CWA take a more active role in ensuring that timely, effective Title IX information is shared. We recommend that the CWA commission research on NCAA member universities’ adoption of the NCAA Model Policies and commission both quantitative (e.g., Jaco, 2009) and qualitative (e.g., Williams, 2017) research on student athlete pregnancy experiences.

For Athletic Departments and Universities

The athletic department and academic institution possess greater experience, knowledge, and power than the student athlete. It is safe to assume that student ath-

letes themselves do not, on their own initiative, study Title IX and the NCAA Bylaws but rather they rely on their university athletics staff to inform and protect them when unexpected events like pregnancy occur. Participants in the current study reported receiving no information about pregnancy from their athletics department and believed that their athletics staff should provide more information about pregnancy health and pregnancy rights.

Athletic trainers serve as first responders on each team, managing medical appointments, rehabilitation, and acute injuries, while also regularly interacting with all student athletes on a team. To ensure that the student athlete is well supported, the athletic institution should ensure that all athletic trainers who work with student athletes at risk for an unplanned pregnancy understand the full scope of crisis pregnancy and pregnancy rights, are prepared to answer immediate questions, and are empowered to make appropriate referrals to university resources outside of athletics. Most importantly the athletic trainer can emphasize that a pregnant athlete has time to consider options.

Every university athletics department has four established vehicles for imparting knowledge to student athletes. The NCAA requires annual compliance meetings and annual forms for all student athletes (NCAA, 2021). Intercollegiate student athletes are provided with written guidance on responding to any number of academic, athletic, and personal challenges via the university student athlete handbook. The handbook, usually updated annually, lists numerous resource people and their contact information. Unfortunately, student athletes may rely solely on the student athlete handbook; in this case the 2020-2021 student athlete handbook for the site university does not mention pregnancy or the NCAA resources. Student athletes attend life skills classes intended to optimize their athletic and academic success; for example, time in near-future life skills classes will certainly be dedicated to counseling athletes on the recent NCAA rule changes allowing athletes to profit from their names, images, and likenesses (e.g., Moody, 2021). Finally, the NCAA mandates that its members develop a Student Athlete Advisory Committee made up of representatives from each team. All four vehicles are opportunities to share information about Title IX, Infant Safe Haven Laws (Child Welfare Information Gateway, 2022), and contacts within and outside of athletics in the event of unplanned pregnancy.

There is one existing vehicle by which university faculty resources may bridge the gap between an athletic department and the resources of the larger university. The NCAA requires that every member school appoint and involve at least one NCAA Faculty Athletic Representative (FAR) to:

ensure the academic integrity of the athletics program, to serve as an advocate for student-athlete well-being and to play a part in maintaining institutional control of the athletics program. The FAR who must be on the faculty or administrative staff and may not hold a position in the athletics department. (NCAA, 2013, p. 13).

In 2013 the NCAA surveyed 658 FARs from 651 institutions (NCAA, 2013). In each division, over two-thirds of FARs were males (65%, 74%, and 67% in Divisions I, II, and III, respectively) of white race (89% in each division). The FARs were tenured

faculty members (96%, 80%, and 79%, respectively). They had worked in higher education for an average of 27, 24, and 22 years, respectively and had served in the FAR position for an average of 7 years. About one-fourth of the sample reported competing in college athletics as undergraduates. The FARs' most frequently reported academic areas were social sciences and history (16.9%, 17.3%, and 18.6%, respectively), business management (14.6%, 13.7%, and 14%, respectively), and other (12.3%, 12.2%, and 13.2%, respectively). FARs with academic backgrounds in health and medicine comprised about a tenth of the sample (11.9%, 11.7%, and 7.4%, respectively). This suggests that 90% of FARs might not be optimally prepared to advocate or serve as resources for healthy pregnancy, pregnancy rights, and university athletics Title IX compliance; and that the FAR position does not get refreshed very often. While the FAR position carries other important functions, we recommend that universities appoint more healthcare experts to the FAR position.

The university's manifest objective is to facilitate every student's work towards completion of her/his college education. College health professionals focus on optimizing students' physical and psychological health in the pursuit of university objectives. The university, supported by college health services, has a primary interest in encouraging all students' academic progress even during difficult circumstances, which include injury, disability, and pregnancy (Sorensen et al., 2009). University departments of women's studies, women's centers, student health services, and health studies actively advocate for pregnant students. However, pregnant student athletes may not be aware of expert support outside the athletic department or may not be referred toward these expert resources by athletic staff. We recommend that university women's centers, women's health, and legal advisors carefully assess the female student athlete experience, Title IX implementation in athletics, and student athlete handbooks.

For Student Athletes: Do Your Homework in Advance

The results of this study were consistent with Jaco's (2009) and Williams' (2017) findings that female student athletes continue to lack knowledge of their pregnancy rights under Title IX. While the current sample believed they had some legal protection for their athletic status if they experienced an unplanned pregnancy, very few knew of NCAA rules. The current study was the first to embed Title IX information within the instrument, allowing for comparisons of participant responses before and after the intervention. Within this study, receiving pregnancy rights information significantly changed participants' expectations for negative impacts on athletic status, and increased their likelihood of seeking help rather than concealing pregnancy. Some participants reported that pregnancy rights information might change the decisions they would make about their unplanned pregnancy. Title IX information when provided was effective in both increasing knowledge and increasing likelihood of seeking help.

Student athletes should not wait on the actual occurrence of an unexpected event to form an effective plan for its potential occurrence. Student athletes who participate in consensual sexual activity, even while responsibly using pregnancy prevention

methods, should anticipate the occurrence of unplanned pregnancy. During recruiting visits, they should ask about women's health services. They can review online the university's student athlete handbook and the availability of support resources outside of the athletic department. Student athletes should also initiate discussions among peers on Title IX, the NCAA Model Policies, Infant Safe Haven Laws (Child Welfare Information Gateway, 2022), and options for responding to crisis pregnancy. They should know that their health, athletic aid, decisions about the pregnancy, sport participation, and return to sport following pregnancy *are protected by federal law*. Although student athletes will feel in crisis, they should understand that they have time to decide and safe places – hopefully within athletics, within the larger university, and outside the university – to reach out for help and to find people who are completely committed to helping.

Limitations

The current study has several limiting elements. The selected quantitative approach may have failed to explore the full scope of participants' experiences, especially with such a nuanced and personal topic as unplanned pregnancy. The study design could have been strengthened by including comparison groups of male student athletes or female non-athlete students. The sample size was sufficient, but the sample was conveniently selected without *a priori* power analysis to determine a necessary sample size, and the participants were recruited by word-of-mouth. The investigator-designed survey instrument contained a few non-mutually exclusive response options ("select all that apply") which could not be included in statistical analysis. While face validity was reasonably established, it is the weakest form of validity. Instrument reliability was less than optimal. Further instrument development will be important if this instrument is used in future research. Anonymous survey methods are limited to self-reporting, which may be exaggerated or biased. Respondents may feel safer with anonymity, but that design choice also limited our ability to follow up or clarify responses. Lastly, while the survey asked about sexuality and pregnancy prevention practices, it did not ask whether participants had actually experienced pregnancy (planned or unplanned) and did not ask whether actual pregnancies were terminated (electively or involuntarily) or continued to childbirth. Data on pregnancy frequency and outcomes in this specialized sample of young adult college students could have contributed new information to the current knowledge. Despite these limitations the study contributed to knowledge by confirming other researchers' findings that female student athletes lack knowledge, and by stimulating continued research on this unsolved, dangerous problem.

Conclusion

The United States has a long history of advocating for the rights of pregnant women, intercollegiate women's sports, and crisis pregnancy. However, despite clear federal laws, NCAA resources, and nearly 20 years of advocacy and research on

college student athlete pregnancy, female intercollegiate student athletes still lack knowledge of pregnancy rights and protections. The lack of knowledge is concerning as it may lead to concealing pregnancy and other forms of unhealthy coping including infanticide. Continued work and advocacy are needed at the local and national levels. We must do better.

References

- American College Health Association (2021). *National College Health Assessment Spring 2021 Undergraduate Reference Group Executive Summary*. American College Health Association. https://www.acha.org/documents/ncha/NCHA-III_SPRING-2021_UNDERGRADUATE_REFERENCE_GROUP_EXECUTIVE_SUMMARY_updated.pdf.
- Aztlan, E., McLemore, M., & Taylor, D. (2017). Multiple unintended pregnancies in U.S. women: A systematic review. *Women's Health Issues*, 27(4), 407-413.
- Brake, D. (2008). The invisible pregnant athlete and the promise of Title IX. *Harvard Journal of Law & Gender*, 31, 323-366. https://scholarship.law.pitt.edu/cgi/viewcontent.cgi?article=1013&context=fac_articles
- Child Welfare Information Gateway (2022). Infant Safe Haven laws. US Department of Health & Human Services, Administration for Families, Children's Bureau. Retrieved February 27, 2022 from <https://www.childwelfare.gov/pubpdfs/safe-haven.pdf>.
- Education Amendments Act of 1972, 20 U.S.C. §§ 1681-1688. <https://www.justice.gov/crt/title-ix-education-amendments-1972>.
- Education Amendments Act of 1972, 45 CFR 86.9(a)(2)(ii). <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-86>.
- Finer, L., & Zolna, M. (2016) Declines in unintended pregnancy in the United States 2008-2011. *New England Journal of Medicine*, 374, 843-852. <https://www.nejm.org/doi/pdf/10.1056/NEJMsa1506575?articleTools=true>.
- Ford, P. (2004, March 6). Athlete kept pregnancy secret, played for eight months. *Cincinnati Enquirer*.
- Former athlete at Mercyhurst College charged with killing her newborn baby (2007). *Chronicle of Higher Education*. https://www.chronicle.com/article/former-athlete-at-mercyhurst-college-charged-with-killing-her-newborn-baby/?cid2=gen_login_refresh&cid=gen_sign_in.
- Hogshead-Makar, N. & Sorensen, E. (2008). Pregnant & parenting student-athletes: Resources & model policies. *National Collegiate Athletic Association*. <https://www.ncaa.org/about/resources/inclusion/pregnant-parenting-student-athletes>.
- Jaco, L. (2009). Pregnancy prevalence, outcomes, and knowledge of rights for NCAA Division I female student athletes. *Master's thesis*. <https://cdr.lib.unc.edu/concern/dissertations/m326m2061?locale=en>.
- Lehman College (2001). Athletics hall of fame inducts six new members. <https://lehmanathletics.com/honors/hall-of-fame/pauline-carney-tellone/18>.

- Monroe, S. (2007). Office of Civil Rights dear colleague letter. *United States Department of Health & Human Services*. <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20070622.html>.
- Moody, J. (2021, August 9). Name, image, likeness: What college athletes should know about NCAA rules. <https://www.usnews.com/education/best-colleges/articles/name-image-likeness-what-college-athletes-should-know-about-ncaa-rules>
- National Collegiate Athletic Association (2007). CWA takes educational approach to pregnancy issue. Retrieved February 27, 2022 from <https://ncaanewsarchive.s3.amazonaws.com/2007/Association-wide/cwa-takes-educational-approach-to-pregnancy-issue---07-30-07-ncaa-news.html>.
- National Collegiate Athletic Association (2021a). *2021-22 Division I Manual*. National Collegiate Athletic Association. <https://www.ncaapublications.com/p-4630-2021-2022-ncaa-division-i-manual.aspx>
- National Collegiate Athletic Association (2021b). Committee on Competitive Safeguards and Medical Aspects of Sports NCAA Injury Surveillance Program. National Collegiate Athletic Association. <https://www.ncaa.org/sports/2018/4/9/ncaa-injury-surveillance-program.aspx#:~:text=The%20Injury%20Surveillance%20Program%20is,injury%20database%20in%20the%20world>.
- National Collegiate Athletic Association (2021c). Committee on Women's Athletics. National Collegiate Athletic Association. <https://d67oz7qfnvmpz.cloudfront.net/governance/committees/committee-womens-athletics>
- National Collegiate Athletic Association (2013). *Roles, Responsibilities, & Perspectives of NCAA Faculty Athletics Representatives*. National Collegiate Athletic Association. <https://www.ncaapublications.com/productdownloads/FAR13.pdf>
- Power to Decide (2015). *Briefly: Unplanned pregnancy among college students and strategies to address it*. Washington, DC: Author. <https://powertodecide.org/what-we-do/information/resource-library/briefly-unplanned-pregnancy-among-college-students>.
- Potts, K. (2001, May 7). Family matters: In many ways student-athletes learn parenthood by trial & error. *NCAA News*. <http://ncaanewsarchive.s3.amazonaws.com/2001/Association-wide/family-matters---5-7-01.html>
- Portnoy, J. (2004, November 11). Lafayette student fights to break to break college norm. *The Express-Times*.
- Rainey, A. (2006, May 26). What athletes can expect when they're expecting. *Chronicle of Higher Education*, 52(38), A41-42. https://www.chronicle.com/article/what-athletes-can-expect-when-theyre-expecting/?cid2=gen_login_refresh&cid=gen_sign_in.
- Rosenberg, B. (2004, April 12). Legislative proposal crafted to benefit pregnant athletes. *National Collegiate Athletic Association News*, 29.
- Rovegno, L. (2007, May 12). Athletes often forced into heartbreaking decisions. *ESPN*. <https://www.espn.com/college-sports/news/story?id=2865230>.
- Schonbrun, Z. (2007, April 29). Fantasia Goodwin speaks about pregnancy. *Syracuse Daily Orange*. <https://dailyorange.com/2007/04/year-in-sports-fantasia-goodwin-speaks-about-pregnancy/>

- Smith, L. (2004). Changing times. *Training & Conditioning, XIV*(9), 31-39.
- Sorensen (2003). Personal letter to R. Stallman, Director of Education Outreach, National Collegiate Athletic Association.
- Sorensen, E., Sincoff, M., & Siebeneck, E. (2007). Best practices: Pregnancy policies. Paper presented at the NCAA Gender Equity & Issues Forum, New Orleans, LA.
- Sorensen, E., Sincoff, M., & Siebeneck, E. (2009). The need for an effective student-athlete pregnancy policy. *Journal of Issues in Intercollegiate Athletics, 1*, 25-45. http://csri-jiaa.org/old/documents/publications/research_articles/2009/JIAA_2009_3_Sorensen_Publish%20Copy_1.0.pdf
- Student charged with killing newborn (2007). *United Press International*. https://www.upi.com/Top_News/2007/10/25/Student-charged-with-killing-newborn/18631193368531/?tt=4.
- U.S. Department of Justice (2021). Title IX Legal Manual. Retrieved February 27, 2022 from <https://www.justice.gov/crt/title-ix#:~:text=Congress%20enacted%20Title%20IX%20with,effective%20protection%20against%20those%20practices>.
- Walker, T. (2008, January 13). NCAA acts on pregnant athlete issue. *The Post and Courier*. https://www.postandcourier.com/sports/ncaa-acts-on-pregnant-athlete-issue/article_8d400d18-7e68-53a3-ae50-11d74ea42f9c.html
- Williams, C. (2017). A qualitative exploration of a select group of student athlete mothers who experienced a pregnancy while competing at a NCAA Division I or Division II university. *Doctoral dissertation, Sam Houston State University*. <https://shsu-ir.tdl.org/bitstream/handle/20.500.11875/2562/WILLIAMS-DIS-SERTATION-2017.pdf?sequence=1&isAllowed=y>.
- Willis, M. (1996). Helping Paralympic athletes go for the dream. *Wright State University News & Events*, Fall 1996.

Athletic Scholarships and Title IX: Compliance Trends and Context

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This article evaluates enforcement practices and compliance trends related to Title IX's requirement for gender equity in the distribution of athletic financial aid. It confirms that universities in the most competitive athletic programs continue to underfund women's athletic scholarships relative to the proportionality standard required by law. It also confirms that the under-allocation of women's athletic opportunities at universities across divisions results in additional disparities in scholarship funding that is not captured by an analysis of compliance. This article concludes with suggestions that the government clarify its expectations and enforcement priorities. It further calls for regulators, scholars, and advocates to monitor disparities in athletic financial aid and to ensure that these existing disparities are not replicated as universities expand the scope of economic benefits that students receive because of their participation in college athletics.

Keywords: Title IX, scholarships, gender, commercialism

Introduction

This article presents the current state of colleges and universities' compliance with Title IX's requirements for gender equity in the distribution of athletic financial aid, also known as athletic scholarships. When examined narrowly as a matter of compliance with the regulation governing athletic financial aid, scholarship allocation appears to favor female athletes except in the most competitive athletic programs. However, as other authors have also pointed out (Osborne, 2017; Yiamouyiannis & Hayes, 2015), such narrow focus obscures the degree to which women are short-changed in athletic scholarship dollars by college and universities constraining their athletic opportunities in the first place. This article provides updated analysis and figures about the degree to which that is so, as well as historic social and legal context. It also examines enforcement practices that affect compliance. Last, it offers suggestions for regulatory adjustment to add clarity to the concept of compliance in this regard.



Background

Any analysis of gender equity in the distribution of athletic scholarships needs to acknowledge from the outset that college men's and women's athletic programs developed separately, with distinct objectives and values differently compatible with the notion of awarding financial aid on the basis of athletic talent. Early athletic programs provided opportunities for male students to engage in intercollegiate competition that was intended to raise the profile of the institution, and of higher education in general. (Sack & Staurowsky, 1998, pp. 19-20). To be effective marketing for the institution, athletic teams had to win. To that end, administrators invested in recruiting the most talented players incentivizing them to attend by subsidizing their education. As these athletes became distinct from other students—academically less qualified, not attending class and school functions, awarded aid based on athletic participation rather than financial need—college sport attracted critique for departing from the academic mission. (Sack & Staurowsky, 1998). This prompted the NCAA to ban college scholarships and other compensation in 1906, though corruption persisted despite the ban.

For example, the Carnegie Foundation's 1929 report on the state of college athletics confirmed that nearly every college football program was paying players (Smith, 2021). The Southeastern Conference did so openly in the form of athletic scholarships, while schools in other conferences like the Big Ten and Pacific Coast disguised player subsidies as a "jobs programs" that paid athletes for doing imaginary work (Kemper, 2009). In 1948 the NCAA voted to permit member schools to offer tuition and fee payments to athletes who had financial need. In 1956, the Association removed the financial need condition. While some schools—namely the Ivy League and schools that eventually became Division III—retained amateurism by imposing the same admissions and financial aid requirements on athletes that apply to all students, the NCAA's repeal of athletic financial aid restrictions unleashed a "spending spree to buy winning teams" (Sack & Staurowsky, 1998, pp. 47-48). Though the NCAA continued to call this "amateur" sport, colleges and universities continued to operate athletics programs with adherence to commercial rather than educational values. Here I mean "commercial" as the Carnegie Foundation did when it described such practices as "paid professional coaches whose business it is to develop the boy to be an effective unit in a team," and "a system of recruiting and subsidizing has grown up under which boys are offered pecuniary and other inducements to enter a particular college" as "the tendency to commercialize the sport [that] has taken the joy out of the game" (Carnegie Foundation, 1929, pp. xiv-xv). Thus, though varying in degree, the commercialization of college sport occurs across NCAA Divisions that recruit athletes, award athletic scholarships, and prioritize winning over their students' academic pursuits—including but not limited to the schools with the largest, most competitive, and highest-revenue generating programs.

In relation to the college athletics history described above, women's college athletics in general, and women's athletic scholarships in particular, have a distinct origin story. Women's opportunities to attend college arose more slowly than men's,

and the institutions that accepted them did not promote women's sport to enhance their brand. While sport for men raised an institution's social capital, sport for women was less socially acceptable and required its early proponents to constrain the version of sports they offered to female students to those most compatible with Victorian feminine ideals (Suggs, 2005). That meant an intramural model, overseen by professional educators, that emphasized participation more than competition and that complimented rather than detracted from a student's educational experience. As the opposite of the commercial model that had evolved in men's sport, which used sport for promotional and revenue purposes in ways that conflicted with, rather than supported educational values, women's sports faced no internal pressure to recruit the best players or induce them with athletic scholarships or other forms of remuneration. The education model of sport embraced by physical educators sought to ensure "a game for every girl and every girl in a game" rather than providing opportunities only to the most talented athletes who were likely to win (Sack & Staurowsky, 1998, p. 69).

These physical educators, organized as the Division on Girls' and Women's Sports (DGWS) and associated with the American Association for Health, Physical Education and Recreation (AAHPER), eventually embraced a varsity, intercollegiate model for women's sports, but one distinct from the prevailing, male model of sport and designed specifically to maintain an educational approach to sport (Suggs, 2005). They created the Association of Intercollegiate Athletics for Women (AIAW) in 1972 to oversee collegiate women's sports. The AIAW's rules for member institutions promoted broad participation more than competition and sought to ensure that athletics supplemented and supported the student's educational objectives rather than supplant them. For example, the AIAW required member institutions to set practice and competition schedules that provided students "sufficient time to gain personal satisfaction from skill achievement, but ...not deny the student the time to participate in other activities" (Suggs, 2005, p. 51). It also prohibited athletic scholarships and recruiting, which conflicted with their priority of seeking to enhance the student experience by providing opportunities to play sports, rather than selecting (only) those students who were athletically gifted. Scholarships would also diminish the educational model because awarding them would require coaches to spend more time recruiting, which meant less time teaching.

However, the AIAW's efforts to maintain a distinctive educational model for women's sports was short-lived, when its values came in conflict with the emerging notions of men's and women's equality reflected in the Constitution's Equal Protection Clause and Title IX. Equality does not inherently prefer either a commercial or educational model of sport, but it does make it difficult to justify one model for men and the other for women. When female athletes sued the AIAW in 1973 over its scholarship ban, arguing that it amounted to unconstitutional discrimination against its own athletes (Smith, 2021, p. 170), the AIAW conceded. To avoid a costly legal battle, the Association settled the case and changed its rules to permit scholarships. Still, it continued to speak out against athletic scholarships and tried to persuade schools not to implement them. At the very least, it sought to contain the harm in-

herent in the associated practice of recruiting, like pressure tactics and “exploitation” (Suggs, 2005, pp. 60-61). The AIAW attempted to reconcile the athletic scholarship with the educational model of sport by banning off-campus recruiting, capping the number of athletic scholarships that could be offered (8 per year in larger sports, 4 per year in smaller ones), and insisting that athletes had to be academically qualified to have their scholarships renewed. But the AIAW folded in 1983, and its distinct features in service of a pure education model were sacrificed in exchange for women’s equal opportunity to be used like men for the generation of institutional revenue, marketing, and other features of commercial model of sport (Smith, 2021, p. 175).¹ Given the exploitative nature of the commercial model employed by many college sports programs today, it is easy to have mixed feelings about this moment in sports history.

The most competitive college sports continued to develop on a commercialized model, with many institutions seeking to operate sports programs—typically men’s sports of football and basketball—with winning and therefore profit at top of mind. Echoing the AIAW’s concerns about “exploitation,” some contemporary critics of college sport argue that college athletes are not sufficiently compensated for their labor that universities are so eager to monetize (e.g., Branch 2011; McCormick & McCormick, 2010), and athletes themselves have used political advocacy, collective bargaining, and litigation as tools to expand their compensation beyond the value of traditional “grant-in-aid” athletic scholarships (tuition, room and board, books and supplies). As a result, more than half of U.S. states now codify the rights of college athletes to receive compensation from third parties licensing their name, image and likeness (Murphy, 2021). In 2021, the Supreme Court unanimously ruled the NCAA could not lawfully prohibit member institutions from paying athletes’ “non-cash education-related benefits” beyond the cost of attendance, such as post-eligibility scholarships, tutoring, study abroad expenses, and paid post-eligibility externships (*NCAA v. Alston*, 2021). This decision will likely fuel further challenges to NCAA’s amateurism rules, including rules that prevent athletes from receiving compensation not related to education, so-called pay for play.

Given its role in recruiting, colleges and universities have or will likely increase athletic financial aid awards to maximize all legally permissible athletic financial aid (i.e., education-related benefits) and to position themselves to benefit from NIL compensation by third parties without technically arranging it themselves—such as by offering training to its athletes on how to navigate contracts offered by third-party licensees, or make its logo available for athletes to use in their licensed image (Bryant & Joshi, 2021). Whether and how this kind of compensation-generating conduct on the part of a university will be done in a gender-equitable manner remains to be seen and serves as an important reason for frequent assessment of compliance in this regard.

1. The NCAA’s move to offer championships to women in 1980 was viewed by AIAW leaders as a hostile takeover (Rhoden, 2022; Staurowsky, Abney, & Watanabe, 2022). The AIAW unsuccessfully challenged the NCAA, alleging that the NCAA was violating antitrust law by exercising its power as a monopoly in men’s sports to intrude into women’s sports and effectively eliminate the AIAW as an organization (*Association for Intercollegiate Athletics for Women, v. National Collegiate Athletic Association*, 735 F.2d 577 (D.C. Cir. 1984)).

Title IX

In 1972, Congress passed statutory provisions known as Title IX, which prohibit sex discrimination in federally funded education programs (Title IX of the Education Amendments Act of 1972). While the statute itself does not address athletics expressly, the Department of Education's regulations implementing Title IX, promulgated in 1976 by its predecessor agency, the Department of Health, Education and Welfare, provide that compliance in athletics is governed by a "separate but equal" framework for equality. Instead of a formal equality model that would prohibit using sex as a selection criterion, as Title IX does in admissions and other facets of education, athletic programs may offer separate programs for men and women if those programs are equitable in both quantity and quality (Athletics, § 106.41).

Whether athletic programs offer an equitable number of opportunities is assessed by a three-part test, one of which must be satisfied: (1) proportionality—athletic opportunities distributed in the same ratio as the gender breakdown of the undergraduate student body; (2) program expansion—regardless of actual numbers, a history and continuing practice of expanding opportunities for the underrepresented sex; or (3) no unmet interest—regardless of the numbers, the underrepresented sex is fully satisfied with the opportunities that exist (A Policy Interpretation, 1979). The quality of athletic opportunities in women's sport must be similar to that of men's sport, taking into account such factors as facilities, equipment, coaching, medical support, academic support, and publicity and promotion (Athletics, § 106.41(c)).

In addition to these requirements, athletic programs must ensure that athletic scholarships or other athletic financial aid is awarded to "members of each sex in proportion to the number of students of each sex participating in ...intercollegiate athletics" (Financial Aid, § 106.37(c)). Like the first prong of the three-part test, the regulation governing equity in athletic financial aid employs the concept of proportionality. Proportionality requires schools to distribute benefits disparately to different groups of students, male and female, to ensure that male and female students have the same rate of access to that benefit. In a seemingly similar spirit, the regulation requires that schools with more male athletes than female (for example) allocate more money for male students' athletic scholarships, so that male student-athletes are not disadvantaged in the aggregate in the total scholarship dollars awarded to student-athletes. If a school has more female students but awarded an equal number of athletic opportunities to male and female students, female students would be disadvantaged by the lower rate of opportunity to participate in athletics. Assuming a proportionate allocation of scholarship dollars to athletes of each sex in this scenario, female students would also, be disadvantaged by their proportionately lower access to athletic financial aid.

We can tell the original intent of the athletic scholarship regulation was to ensure equitable distribution of athletic financial aid within the population of student athletes, rather than the student body as a whole, and without regard whether opportunities to become student athletes are themselves equitably distributed. When HEW's Office for Civil Rights (OCR) issued interpretive guidance of the Title IX regulations

in 1979, it included context for the regulation's proportionality requirement with respect to scholarships:

On most campuses, the primary problem confronting women athletes is the absence of a fair and adequate level of resources, services, and benefits. For example, disproportionately more financial aid has been made available for male athletes than for female athletes. Presently, in institutions that are members of both the National Collegiate Athletic Association (NCAA) and the Association for Intercollegiate Athletics for Women (AIAW), the average annual scholarship budget is \$39,000. Male athletes receive \$32,000 or 78 percent of this amount, and female athletes receive \$7,000 or 22 percent, although women are 30 percent of all the athletes eligible for scholarships (Office for Civil Rights, 1979, p. 71419).

This paragraph suggests that OCR's chief concern with scholarships is a narrowly defined formal inequality: female students similarly situated to male students in terms of their status as athletes were being treated dissimilarly and receiving lower athletic scholarship awards. The regulation's proportionality standard was aimed at addressing this problem, insisting simply that an institutions' scholarship budget be divvied up fairly between existing male and female athletes. OCR likely anticipated that the percentage of student athletes who are female would increase as institutions moved into compliance with the athletic opportunity regulation, § 106.41(c), so it made sense to measure equitable scholarship dollars with reference to the percentage of student athletes of each sex. Perhaps the regulation's drafters did not anticipate over forty years later that female college students would still receive the minority (44%) of athletic opportunities (National Collegiate Athletic Association, 2021), despite having become the majority (56%) of undergraduates (National Center for Education Statistics, 2020). The persistence of athletic opportunity disparity ensures the compliance bar for athletics set by the financial aid regulation is too low. Viewed today, it is apparent the athletic financial aid regulation does not take aim at a wider inequality: a commercial model of sport, having been eventually embraced by women's sports, still provides more opportunity for men to subsidize their college tuition by playing sport because male athletic opportunities are disproportionately favored.

OCR Enforcement of the Scholarship Regulation

In 1998, OCR published its response to Bowling Green University's inquiry about the scholarship regulation and the agency's expectations for compliance. At the time, OCR was investigating 25 complaints of inequitable distribution of athletic financial aid, and presumably intended the circulation of this response as an educational tool to help promote compliance. One clarification that OCR made in the Bowling Green letter was the permissible leeway between the AFA distribution ratio and the gender ratio of student-athletes:

If any unexplained disparity in the scholarship budget for athletes of either gender is 1% or less for the entire budget for athletic scholarships, there will be a strong presumption that such a disparity is reasonable and based on

legitimate and nondiscriminatory factors. Conversely, there will be a strong presumption that an unexplained disparity of more than 1% is in violation of the “substantially proportionate” requirement (O’Shea, 1998, para. 11).

This clarification was necessary because OCR had earlier instructed its investigators that they could determine proportionality using statistical tests to measure whether the disparity was statistically significant. The Bowling Green letter explained that OCR was no longer relying on these tests to measure compliance because they were too permissive and lead the agencies to endorse disparities as great as 3-5 percentage points. Statistical significance is appropriate for establishing whether a disparity is caused by intentional decision-making or simply exists by chance. Here, where colleges have direct control over the distribution of athletic financial aid to its men’s and women’s teams, “chance simply is not a possible explanation for disproportionate aid to one sex” (O’Shea, 1998, para. 11).

The Bowling Green Letter also deepened public understanding of what would constitute a “legitimate, nondiscriminatory factor” that could overcome the presumption of noncompliance in the face of a disparity greater than 1%. For example, a school with a disparity favoring one sex by more than 1% might nevertheless comply with the scholarship regulation if athletes of the favored sex have a higher percentage of out-of-state students (and thus larger scholarship awards) than athletes of the other sex—as long as this does not reflect some underlying discriminatory practice like sex-based differences in recruiting practices and resources. Another legitimate, nondiscriminatory factor is “unexpected fluctuations in the participation rates of males and females” which would exist, for example, if an athlete who had accepted a scholarship “decided at the last minute to enroll at another school” (O’Shea, 1998, para. 9):

Program expansion can constitute a legitimate nondiscriminatory factor. OCR recognized that a school might need to offer higher awards to attract athletes to a new program compared to one that is already established, though the Letter cautions that this rationale is only legitimate for a reasonable period of time, “in light of college sports practices to aggressively recruit athletes to build start-up teams quickly”

OCR also permitted schools to explain disparities by “legitimate efforts undertaken to comply with Title IX requirements, such as participation requirements” (O’Shea, 1998, para 9). Unlike the other legitimate, nondiscriminatory factors mentioned in the letter, this one contains no textual explanation, only a cite to a federal district court decision, *Gonyo v. Drake University* (1995). In this case, former members of Drake University’s discontinued wrestling team argued that the decision was unlawful because it exacerbated a disparity between the share of scholarship dollars afforded to male athletes, and the percentage of student athletes who are male. When Drake made the decision to cut wrestling for budgetary reasons, it had a predominantly female student body (57.2%) yet allocated less than a quarter (24.7%) of athletic opportunities to women (*Gonyo v. Drake University*, 1995, p. 1004). The elimination of wrestling did not eliminate this gap, but it did increase women’s share of athletic opportunities. It also reduced male athletes’ share of the scholarship budget, which

was already 47%—far below the 75% that would be expected if Drake had complied with the proportionality principle of the scholarship regulation. The court rejected the disappointed wrestlers’ argument that this consequence of Drake’s decision to terminate wrestling rendered its decision unlawful under Title IX.

The court recognized Drake’s dilemma, which was that to solve the budget problem it either had to cut from women’s or men’s athletics. If Drake had cut from women’s, it might have improved compliance with the financial aid regulation (helping male athletes) but exacerbated the disparity in opportunity (hurting female students). Cutting men’s opportunities, which narrowed the gap in opportunity (helping female students) while exacerbating noncompliance with the scholarship regulation (hurting male students), was the preferable approach to resolving that dilemma. This is because “the paramount goal of Title IX is equal opportunity to participate” (*Gonyo v. Drake University*, 1995, p. 1005). Violations of § 106.37 (the scholarship regulation) and § 106.41 (the opportunity regulation) are not weighed the same, which the court illustrated by imagining the consequence for athletics if the plaintiffs’ argument had prevailed: Drake would have been prohibited from downsizing its athletic program by either cuts to men’s scholarship or women’s teams (*Gonyo v. Drake University*, 1995, pp. 1005-06). In invoking the *Gonyo* decision in the Bowling Green letter, which was not prompted by a dispute about the termination of men’s team, OCR appears to have been endorsing the idea that schools should prioritize participation equity over scholarship equity as a prospective compliance strategy, not just when resolving the dilemma that arises when budgets require either men’s or women’s teams to be cut.

In recent years, OCR’s enforcement actions have taken positions consistent with that view in matters involving schools where female students received disproportionately low athletic opportunities but also disproportionately high scholarship dollars. Many of these cases involved double-digit percentage-point disparities in opportunity, such as Butler University where women received 36.5% of athletic opportunities despite constituting 59.6% of the undergraduate student population in 2010. However, that tiny population of female athletes was favored in the allocation of scholarship dollars—receiving 53.4% of scholarship dollars despite constituting 35.4% of the student athlete population. The charge that Butler violated Title IX’s scholarship regulation was resolved by Butler’s agreement to “examine” whether there are any legitimate nondiscriminatory explanations for disparity “such as differences related to reasonable professional decisions appropriate for program development” (Butler University Resolution Agreement, 2012, p. 8). Other schools in a similar position of drastically underserving female students with respect to athletic opportunities, but overserving female athletes with respect to scholarship dollars—including Louisiana State, Missouri Western, and University of Kentucky—were permitted the opportunity to justify scholarship non-compliance by showing “legitimate efforts undertaken to comply with Title IX requirements, such as participation requirements” (Louisiana State University Resolution Agreement, 2012, n.p.; see also Missouri Western State University Resolution Agreement, 2018; University of Kentucky Resolution Agreement, 2016).

In another case that follows this pattern, OCR noted the fact that Pittsburg State in Kansas wasn't yet fully funding the equivalency scholarships permitted in the women's sports that the athletic department claimed to prioritize for program development helped the university's case that this disparity was due to nondiscriminatory factors (Douglas, 2017). In its enforcement action against Southeastern Louisiana University, OCR offered its clearest endorsement of the relationship between scholarship noncompliance and participation compliance when it specifically acknowledged that the university would have to create 169 new athletic opportunities for women if it wanted to close its 22-percentage-point participation gap without eliminating any opportunities for men. It continued,

“Recruiting female athletes and providing them with scholarships is one way to add participation opportunities for female athletes. As the female participation rate increases, additional scholarships for women would be required for the University to demonstrate that it is in full compliance with its Title IX obligation to provide athletic scholarships in a non-discriminatory manner” (August, 2014, n.p.).

Institutional Response to OCR Enforcement

But while it seems like OCR is open to letting universities favor female athletes in the allocation of scholarships to help close gaps in participation, it is not clear from the examples of the compliance matters noted above that universities are getting the message. As part of my analysis for this work, I reviewed all enforcement actions that challenged universities' compliance with the participation regulation, for which material was made public in OCR's Resolution Database (U.S. Department of Education, 2022). This list includes those compliance matters in which OCR found violations of 34 C.F.R. 106.37 favoring female athletes that also involved serious underrepresentation of women in athletic opportunities, 34 C.F.R. 106.41(c)(1), as measured by a difference of 10 or more percentage points between the percentage of female undergraduates and the percentage of athletic opportunities for women. Nine compliance actions undertaken in the 2010s gave OCR opportunity to examine a disparity in scholarship dollars that favored female athletes by schools with a double-digit disparity favoring male athletes in the distribution of opportunities. I then used current data (2019-2020) from OCR's Equity in Athletics Data Analysis website to present a comparison between each institutions' compliance with the participation and financial regulations at the time of enforcement and today. Those compliance actions are summarized in Table 1 below.

Institutions that have gone through OCR enforcement for violations of both § 106.41(c) (participation) and § 106.37(c) (financial aid) manage to find the motivation to close the scholarship gap that favored women, but not the participation gap that favored men. Only one of these schools, University of San Francisco, has closed its participation gap that used to favor male students (14.2 to 0). It also managed to reduce, but not eliminate, the disparity in scholarship dollars that used to favor fe-

Table 1
Comparing disparities between the time of enforcement and now

Institution	Year of non-compliance*	At the time of noncompliance		At present (2019-2020 data)	
		Participation disparity**	Scholarship disparity***	Participation disparity**	Scholarship disparity***
Louisiana State University	2009	11.8	4.4	4.2	-.05
Southeastern Louisiana University	2010	22.0	2.2	22.3	1.5
Merrimack University	2010	12.9	2.7	2.4	2
Butler University	2010	23.1	18	13.9	6.1
University of Southern Mississippi	2014	23.0	1.5	24	-0.1
University of Kentucky	2014	14.0	5.4	12.1	1.5
Pittsburg State University (Kansas)	2014	21.0	6.4	16.5	-0.8
University of San Francisco	2015	14.2	10.7	0	6.7
Missouri Western State University	2015	27.0	9	18.2	6.2

*In cases where OCR's investigation found multiple years of noncompliance, only the most recent such year is included.

** Participation disparities are reported in percentage points, as favoring male students. The higher the positive number, the more female students are underrepresented in athletic opportunity.

*** Scholarship disparities are reported in percentage points, as favoring female athletes. The higher the positive number, the more female students are overrepresented in the distribution of athletic financial aid.

male athletes (10.7 to 6.7). Given OCR's suggestion to schools in this position that overfunding women's athletic scholarships can operate as a tool to support program expansion and compliance, it may in fact be the case that USF's initially high disparity in scholarship dollars (one of only two reported in the double digits) *contributed* to its ability to achieve proportionally compliant distribution of opportunities and thus should be viewed favorably rather than carry the stigma of noncompliance.

On the other hand, three schools in Table 1—Louisiana State University, University of Southern Mississippi, and Pittsburg State—have closed the financial aid gap and come into compliance with § 106.37(c), with two more—Southeastern Louisiana University and University of Kentucky—coming very close, within a half

percentage point, of doing so. These schools have still retained (or in SELU's case, *increased*) their double-digit disparity in opportunities, suggesting they emerged from OCR's scrutiny more motivated to fix the scholarship noncompliance issue that favored women than the participation noncompliance issue that favored men. If OCR is trying to give schools with participation disparities some leeway to favor female athletes with scholarship dollars to fix that problem, the examples of schools that have chosen to prioritize compliance with the scholarship provision before addressing egregious disparities in opportunity, suggest this message is not received or strong enough to change compliance incentives.

Compliance Analysis by the Numbers

When OCR interpreted the athletic financial aid regulation in 1979, women were a minority among college students and an even smaller minority among student-athletes. They also received an even smaller share of athletic financial aid. Today, it is *partially* still the case that women receive a smaller share of the average total scholarship budget than their share of the student athlete population. Using current (2019-2020) data from OCR's Equity in Athletics Data Analysis website, I calculated that among schools in NCAA's Division I Football Bowl Subdivision—the most competitive schools and those with the largest scholarship budgets—women's share of the average athletic financial aid budget (44%) is less than the percentage of student athletes who are female (46%). This disparity is also present in Division II schools that have football programs, where women's share of the average athletic financial aid budget is 40%, despite women's constituting 42% of student athletes. In the other Division I and Division II programs, the inequality narrowly described by OCR in 1979 has disappeared: women now receive a *greater* share of the athletic scholarship budget than their percent of the student-athlete population.

Borrowing from the example Professor Osborne set in her analysis of 2014 data in her article, *Failing to Fund Fairly* (Osborne, 2017), I used the publicly available data that athletic departments are required to report under the Equity in Athletics Disclosure Act to get a sharper view of compliance trends across NCAA subdivisions. From data reported for the 2019-2020 academic year, I assessed compliance with the financial aid regulation by comparing the ratio of athletic scholarship dollars for each sex to the percentage of student athletes of each sex for each education institution in one of the NCAA Division I and II subdivisions (excluding schools in the Ivy League which do not award scholarships, and schools that are single sex). Schools for whom these respective ratios matched within 1% were deemed in compliance; schools that awarded women a greater share of athletic financial aid than the female percentage of athletes had a disparity favoring women, and schools who awarded men a greater share of athletic financial aid than the male percentage of athletes had a disparity favoring men. Table 2 reports by NCAA subdivision the number of schools with each compliance outcome:

Table 2
Compliance outcomes by NCAA subdivision

	N	In compliance		Men favored		Women favored	
		N	%	N	%	N	%
Total schools	649	91	14%	167	26%	389	60%
DIFBS	126	26	21%	73	58%	28	22%
<i>Power Five only</i>	68	2	3%	65	96%	1	1%
DIFCS	119	22	18%	31	26%	66	55%
DI no football	96	2	2%	11	11%	83	86%
DII football	162	31	19%	26	16%	105	65%
DII no football	146	10	7%	26	18%	107	73%

Across all subdivisions, most schools are not in compliance with the scholarship regulation—only 14% ($n = 91$) report distribution of scholarship dollars that is within one percentage point of the gender ratio of their athlete population. Whether those noncompliant schools tend to favor female or male athletes depends on the division: In Division I's Football Bowl Subdivision, more than twice as many noncompliant schools are so because of disparity in scholarship dollars that favors male athletes (73), compared to those noncompliant because of a disparity that favors female athletes (26). Isolating only FBS institutions who are part of the Power Five conferences (ACC, Big 10, Big 12, Pac-12, and SEC) reveals an even stronger tendency to favor men in the allocation of athletic financial aid: nearly all (96%) of the schools in this category fail to comply with Title IX's financial aid regulation because they disproportionately favor men in the allocation of athletic financial aid.

In every other subdivision, noncompliance skews the other way. Sixty percent ($n = 389$) of all schools, and a strong majority of schools in the non-football subdivisions ($n = 83$, 86% of Division I no football; $n = 107$, 73% of Division II with no football) are out of compliance because female athletes receive a disproportionate share of athletic financial aid. In other words, there are many schools in the position that Drake University faced in *Gonyo*.

Moreover, the overall trend is still the same as when Professor Osborne reported on this data five years prior, only a minority of schools comply with 106.37(c): 99 then, compared to 91 today. Most noncompliant schools favor female athletes, except in Division I FBS, in which most noncompliant schools favor male athletes. Within Division I FBS, there has been a slight decrease in the number of compliant schools (32 then, 26 now) that corresponds to a slight increase in the number of non-compliant schools that favor male athletes (68 then, 73 now). When Professor Osborne reported the data from 2014-15, she noted that NCAA Division I had recently voted to expand athletic scholarship packages to include the full cost of attendance in response to litigation, and she predicted that this rule change could affect compliance with Title IX's scholarship regulation (Osborne, 2017). It is possible the FBS schools who have moved from compliant status to favoring male athletes is the ini-

tial evidence bearing out this concern. It will be worth noting in the future whether compliance trends continue in that direction.

Another way to understand the scope and impact of noncompliance is to consider the amount of money that is at stake. Calculating the dollar amount totals for each subdivision allows us to compare the aggregate impact of noncompliance among divisions and over time. For example, we can see from this chart that male students receive \$252 million more in athletic financial aid than female students. Unlike the trend in compliance, in which male students are disfavored in more subdivisions, the comparison in dollar amounts disfavors female students in more subdivisions—every subdivision except Division I without football. This is due, of course, to the proportionality requirement of Title IX’s financial aid regulation, which provides schools that favor male students with the athletic opportunities to favor them with athletic financial aid as well, and still be counted as compliant with the scholarship regulation.

Table 3
Total Athletic Financial Aid by Sex

	Men AFA total	Women AFA total	Delta (Women minus Men)
All schools	1,899,161,045.00	1,647,075,630.00	(252,085,415.00)
DIFBS	839,983,491.00	657,502,106.00	(182,481,385.00)
DIFCS	422,314,174.00	349,213,356.00	(73,100,818.00)
DI no football	231,014,366.00	300,692,948.00	69,678,582.00
DII football	251,481,948.00	167,914,951.00	(83,566,997.00)
DII no football	154,367,066.00	171,752,269.00	17,385,203.00

When compared to data from five years earlier, the figures in Table 3 show an overall increase in the amount of AFA in total, for both sexes, and across all divisions. The gap between the AFA for men in total and AFA for women has widened in terms of a dollar amount but has not changed much as a percentage of the total dollars overall. Comparing these totals to the aggregate Professor Osborne reported—\$1,537,611,729 for male students and \$1,318,491,018 for female students (Osborne, 2017, p. 95)—we see a percent increase for male students (19.04%), similar to the percent increase for women (19.95%).

By broadening our examination of inequity beyond compliance, we can start to better see unfairness. To this end, we can adjust our expectations for how much female students should receive in athletic financial aid if athletic opportunities were distributed proportionate to the gender breakdown of undergraduate students. This of course, is not what Title IX’s financial aid regulation requires, but it better captures the overall fairness deficiency by factoring in the impact of noncompliance with the participation regulation.

I calculated for each school the amount of athletic financial aid that female students would receive if athletic opportunities were distributed proportionate to enroll-

ment. This required, for each school, a determination of women's share of the total undergraduate population. Using that percentage as the target allocation of athletic financial aid, I calculated the additional aid that would need to be allocated to female athletes to bring women's share of AFA up to a proportional level. Table 4 presents, for each subdivision, the aggregate deficiency, i.e., the amount of money that schools in each subdivision would be required to make available for female students' AFA, if proportionate distribution of participation opportunities had first been attained. For comparison, it also reports the aggregate participation disparity in each subdivision, reflected both as the difference between the percent of undergraduates who are female and the percent of athletic opportunities available to female students, and as the absolute number of athletic opportunities that each subdivision would have to add to close that gap.

Table 4

Additional AFA for female students if participation opportunities were distributed proportionately by sex, by subdivision.

	Aggregate participation gap		Additional AFA for female students to receive funding proportionate to enrollment (\$)
	Percentage difference	Number of opportunities	
All schools	10.9	68,145	741,061,524.50
DI FBS	6.8	9203	284,552,079.11
DI FCS	13.8	15,885	224,652,440.01
DI no football	5.0	3640	5,538,820.98
DII with football	19.0	28,814	156,897,563.23
DII no football	11.2	10,603	69,420,621.17

In comparison to the analysis of compliance with the scholarship regulation above, this final table captures the true gender disparity in athletic financial aid. The scholarship regulation does not consider missing athletic opportunities for female students, so a compliance analysis does not capture this disparity. When those 68,145 missing opportunities are considered, we can see that female students are being shortchanged in the aggregate \$741 million. We can also see that while the gap between present funding and hypothetical varies widely by subdivision, a disparity disadvantaging female students is present in all of them.

Conclusion

This article evaluated enforcement practices and compliance trends related to Title IX's requirement for gender equity in the distribution of scholarship dollars. A few key take-aways emerge. First, it continues to be the case that in the most com-

petitive division, schools fail to fairly fund women's athletic scholarships even to the level artificially depressed by the tendency to short-change women's athletic opportunities. Singling out Power Five conference members makes this observation even more stark. Next, it also continues to be the case that women's underrepresentation in participation opportunities forestalls an equitable opportunity for female college students to have the same access to athletic scholarships. The difference between the aggregate dollar amount that female athletes currently receive, and the amount they would receive if athletic opportunities were proportionate to enrollment, is \$741 million. This disparity is easy to overlook if one is focused only on compliance with the scholarship regulation itself. It is important for universities—as well as other Title IX stakeholders, including scholars, advocates, and regulators—to keep the context in mind: compliance with the scholarship regulation doesn't mean much if women are not receiving the opportunity to include in the compliance equation in the first place.

By narrowly focusing on the equitable treatment of male and female student-athletes instead of male and female students, Title IX's financial aid regulation sets a low bar for compliance that is met by shortchanging women in athletic financial aid to the same degree that they are short-changed in athletic opportunities. It does not expect institutions to provide an equal amount of athletic financial aid for male and female students or give male and female students the opportunity to receive those scholarship dollars at an equal rate. Moreover, it also labels “noncompliant” those schools whose athletic financial aid distribution favors female athletes, even if an overall lack of athletic opportunities means that female *students* are still being short changed. Given the handful of examples in recent years, it seems more likely the case that a university emerging from enforcement oversight will have tightened up its compliance with § 106.37, the financial aid regulation, but failed to close the gap on participation—both of which are to women's detriment. OCR should therefore emphasize more strongly an enforcement priority on participation. Title IX's financial aid regulation also reflects the now out-of-date understanding on athletic financial aid that pre-dates the non-cash education-related benefits at issue in *Alston*, and the conduct that universities might engage in to facilitate athletes' NIL compensation from third parties. Though both are clearly covered by the equal treatment principle reflected in Title IX's separate-but-equal approach, they are at risk of being overlooked for not being expressly mentioned in the regulation (Bryant & Joshi, 2021; Buzuvis, 2015). Further clarification from OCR would be helpful in this regard.

Last, as college sport continues to commercialize and offer more opportunities for college athletes to receive remuneration in some form, it is important for scholars and advocates to continue to monitor compliance trends. As we see from the favoritism that is most pronounced in the Football Bowl Subdivision of Division I and especially the subset of those schools in Power Five conferences, the most competitive NCAA divisions already fail to meet the low bar of compliance set by Title IX's financial aid regulation. Thus, it appears likely that the same business incentives leading to the existing disparity in AFA will continue or expand as those schools maximize compensation to athletes in men's revenue sports in response to increasing permission from the NCAA. This could distort even more the inequities

discussed above.

References

- Athletics, 34 C.F.R. § 106.41 (2021).
- August, T. (2014, March 14). Letter to Southeastern Louisiana University Re: Compliance Rev. No. 06-10-6001. <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/06106001-a.html>
- Branch, T. (2011). The shame of college sports. *The Atlantic Magazine*, 308(3), 80–110.
- Bryant, A. & Joshi, C. (2021, November 10). *College sport NIL is headed for a collision with Title IX*. Sportico. <https://www.sportico.com/law/analysis/2021/college-sports-nil-title-ix-1234645328/>.
- Butler University Resolution Agreement (2021, April 21). Butler University and The Department of Education, Office of Civil Rights, No. 05116001. <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/05116001-b.pdf>
- Buzuvis, E. (2015). Athletic compensation for women too? Title IX implications of Northwestern and O’Bannon. *Journal of College and University Law*, 41(2), 297-341.
- Carnegie Foundation for the Advancement of Teaching (1929). *Bulletin No. 23*. http://archive.carnegiefoundation.org/publications/pdfs/elibrary/American_College_Athletics.pdf
- Financial Assistance, 34 C.F.R. § 106.37 (2021).
- Gonyo v. Drake University, 879 F. Supp. 1000 (S.D. Iowa 1995). Retrieved from <https://law.justia.com/cases/federal/district-courts/FSupp/879/1000/2264259/>
- Kemper, K. E. (2009). *College football and American culture in the Cold War era*. University of Illinois Press.
- Louisiana State University Resolution Agreement (2021, September 12). Louisiana State University and The Department of Education, Office of Civil Rights. Review No. 06-11-6001. <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/06116001-b.html>
- McCormick, R. A., & McCormick, A. (2010). Trail of tears: the exploitation of the college athlete. *Florida Coastal Law Review*, 11(4), 639-666.
- Missouri Western State University Resolution Agreement (2018, April 12). Missouri Western State University and The Department of Education, Office of Civil Rights. Review 07-16-6001. <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/07166001-b.pdf>
- Murphy, D. (2021, July 1). *NCAA name, image and likeness FAQ: What the rule changes mean for the athletes, schools and more*. ESPN. Retrieved from https://www.espn.com/college-sports/story/_/id/31740112/rule-changes-mean-athletes-schools-more
- National Center for Education Statistics. (2020). *Total undergraduate fall enrollment in degree-granting postsecondary institutions, by attendance status, sex of student, and control and level of institution: Selected years, 1970 through 2029*

- (Table 303.70). Digest of Education Statistics. https://nces.ed.gov/programs/digest/d20/tables/dt20_303.70.asp
- National Collegiate Athletic Association (2021). NCAA sports sponsorship and participation rates report. https://ncaaorg.s3.amazonaws.com/research/sport-part/2021RES_SportsSponsorshipParticipationRatesReport.pdf
- Association for Intercollegiate Athletics for Women v. National Collegiate Athletic Association, 735 F.2d 577 (D.C. Cir. 1984). Retrieved from <https://law.justia.com/cases/federal/appellate-courts/F2/735/577/212153/#:~:text=AIAW%20alleged%20that%20NCAA%20unlawfully,and%20entered%20judgment%20for%20NCAA>
- NCAA v. Alston, 594 U.S. ___ (2021). https://www.supremecourt.gov/opinions/20pdf/20-512_gfbh.pdf
- Office for Civil Rights (1979). A policy interpretation: Title IX and intercollegiate athletics. 44 Fed. Reg. 71413. <https://tile.loc.gov/storage-services/service/ll/fedreg/fr044/fr044239/fr044239.pdf>
- O'Shea, M. F. (1998, July 23). *Dear colleague letter*. U.S Department of Education. <https://www2.ed.gov/about/offices/list/ocr/docs/bowlgrn.html>
- Osborne, B. (2017). Failing to fund fairly: Title IX athletics scholarships compliance. *Tennessee Journal of Race, Gender, & Social Justice*, 6(1), 83-104.
- Rhoden, W. (2022, April 1). Forty years later, the NCAA's takeover from the AIAW still isn't perfect. *Andscape*. <https://andscape.com/features/forty-years-later-the-ncaas-takeover-from-the-aiaw-still-isnt-perfect/>
- Sack, A. J. & Staurowsky, E. J. (1998). *College athletes for hire: The evolution and legacy of the NCAA's amateur myth*. Praeger Publishers.
- Smith, R. (2021). *The myth of the amateur: A history of college athletic scholarships*. University of Texas Press.
- Staurowsky, E. J., Abney, R., & Watanabe, N. (2022). Intercollegiate athletics. In P. Pedersen, & L. Thibault (Eds.). *Contemporary sport management* (pp. 196-215). Human Kinetics.
- Suggs, W. (2005). *A place on the team: The triumph and tragedy of Title IX*. Princeton University Press.
- Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681-1688. <https://www.law.cornell.edu/uscode/text/20/chapter-38>
- University of Kentucky Resolution Agreement. (2016, December 16). University of Kentucky and The Department of Education, Office of Civil Rights. 03146002 [UCC S](#)
- Yiamouyiannis, A. & Hayes, K. (2015). Title IX and intercollegiate athletics: An analysis of EADA data on student enrollment, sport participation and scholarship allocation. *Women in Sport and Physical Activity Journal*, 23(1), 26-33. DOI: <https://doi.org/10.1123/wspaj.2014-0045>

The Financial Impact of Eliminating a NCAA Division I Men's Sport on the Athletic Budget: Is Title IX to Blame?

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The purpose of this study was to examine changes to the budgets of women's athletics, men's basketball, and football when an NCAA Division I intercollegiate men's team was eliminated. Stakeholder theory provided the theoretical framework for the study. Central to the research was the relationship between the elimination of men's teams and Title IX. Title IX of the Educational Amendments of 1972 is the landmark legislation passed to provide equal educational opportunities for women, including athletics. Eighty-five institutions were included in the study. Data were obtained from the Equity in Athletics Disclosure Act (EADA) for the four years before and after the elimination of a men's sport between 2007 and 2014, resulting in 15 years of budgetary data. Comparisons of budgets were conducted between the four years prior to when a men's sport had been cut and the four years after the sport had been eliminated. Analyses indicated that when a men's sport program had been eliminated, the budget resources of the eliminated program were reallocated primarily to the budgets of men's basketball and football rather than to the women's athletics budget. The argument of athletic administrators that decisions to cut programs were based on the need to comply with Title IX was not supported by the data and belied the prevailing view that men's sports were cut to fund women's sports to comply with Title IX.

Keywords: budgets, financial analysis, stakeholder theory, Title IX

Introduction

Title IX of the Educational Amendments of 1972 is the landmark legislation passed to provide equal educational opportunities for women in many areas, including athletics. The Office of Civil Rights (OCR) interprets Title IX compliance with respect to athletics in terms of three broad areas: 1) athletic financial assistance, 2) other program areas, and 3) accommodation of interests and abilities. Compliance with Title IX often requires colleges and universities to sponsor additional women's



athletic teams. Accordingly, the number of NCAA Division I women's athletic teams grew by 60% between 1990 and 2020, yet the number of NCAA Division I men's teams decreased during the same period (Dellenger & Forde, 2020; NCAA, 2021). Title IX is often blamed when cuts to men's sports are made (Staurowsky, 2016; Zimbalist, 2010).

Opponents of Title IX have historically held the law responsible for cuts to men's teams, arguing that it is financially impossible to operate men's "non-revenue generating" sports while funding women's sports (Marbella & Wells, 2013; Pennington, 2002). For example, Liberty University, Boston University, and Morrisville State College cut men's wrestling (Friday, 2013; Marvel, 2011; Roberts, 2011). Proponents of Title IX applaud the increase in women's intercollegiate athletic opportunities and blame men's revenue generating sports, basketball and football, for cuts to "non-revenue generating" sports (Marburger & Hogshead-Makar, 2003; Staurowsky et al., 2013; Zimmerman, 2014). Despite the controversy, no empirical study has examined how the budget is reallocated over multiple years when a sport is cut. Our study aims to offer an attempt at such an examination.

Stakeholder theory provides a framework for examining athletics administrators' budget decisions by focusing on the groups and individuals (i.e., stakeholders) who may affect or may be affected by an organization's actions (Friedman et al., 2004). According to Slack and Parent (2006), stakeholders can influence everything and everyone in a project or organization. Stakeholders within college and university athletic departments may include the NCAA, the OCR, university administration, boosters, alumni, coaches, athletes, spectators and perhaps in a university with shared governance, even faculty. The complexity of any decision, including one regarding athletic budgets, does not come without the scrutiny of the many stakeholders. However, the stakeholders with the most power and influence may have more impact on the decisions made by athletic administrators (Slack & Parent, 2006). Within the college landscape, men's football and basketball may be stakeholders with considerable influence since they often generate substantial revenue and public appeal. The OCR, which oversees compliance with Title IX, may also have significant influence on the decisions of athletic administrators.

This study was guided by stakeholder theory and utilized data obtained from the Equity in Athletics Disclosure Act (EADA) to examine the budget reallocation. The EADA is a federal law passed in 1994 and requires higher education institutions to disclose information about varsity teams, financial resources, and personnel (US Department of Education, 2020). Data are updated annually and are available to the public through the EADA database. Therefore, the purpose of this study was to examine changes to the budgets of women's athletics, men's basketball, and men's football when an NCAA Division I intercollegiate men's team was eliminated.

Literature Review

Title IX and Intercollegiate Athletics

The Education Amendments of 1972, including Title IX, was signed into law

by President Richard Nixon on June 23, 1972. According to the Office of Civil Rights, Title IX of the Education Amendments of 1972 reads: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." (1979) It provides equal educational opportunities for women in educational settings. Advocates who campaigned for inclusion of Title IX in the Education Amendments Act aimed to end discrimination in educational employment, an area previously excluded in earlier antidiscrimination legislation (Lieberwitz et al., 2016). Although Title IX is most known for its impact on athletics, it also addresses employment discrimination, opportunities to pursue math and science, fair treatment for pregnant and parenting students, and protection of students from bullying and sexual harassment in educational settings. Although Title IX provided a legal foundation for the advancement of women's sports within educational institutions in 1972, a legal interpretation pertinent to athletics was not established until 1979.

In 1979, the OCR released an interpretation of Title IX to explain regulations specific to athletics. Title IX compliance with respect to athletics was defined by three broad areas: 1) athletic financial assistance, 2) other program areas, and 3) accommodation of interests and abilities. Compliance with the first area, athletic financial assistance, is achieved when the amount of athletic aid is substantially proportionate (within 1%) to the ratio of male and female athletes (OCR, 1979; Osborne, 2017). For example, if 40% of the athletic participants are women and 60% are men, then 40% of the athletic scholarship dollars are to be awarded to women and 60% to men. Osborne (2017) examined scholarship compliance of NCAA Division I and II institutions using EADA data. Results indicated that only 15% of institutions complied with this first area of Title IX.

The second section of the OCR Title IX policy interpretation, other program areas, states that "male and female athletes should receive equivalent treatment, benefits, and opportunities" (OCR, 1979). Compliance with the second section of the policy interpretation involves 11 program areas outlined by the OCR: equipment and supplies, games and practice times, travel and per diem, coaching, tutoring, athletic facilities, medical facilities, housing and dining facilities, publicity, recruitment, and support services. For example, a parent alleged that his daughter's school district does not provide an equivalent weight room to female athletes (Ojeda, 2006). This would be a Title IX violation under the second area of compliance if the allegation is accurate. In 2020, the NCAA received widespread attention when discrepancies in weight rooms and swag bags were reported between the men's and women's basketball national championship tournaments. As established in the Supreme Court case *NCAA v. Smith*, the NCAA is not required to comply with Title IX since it does not directly receive federal financial assistance, although its member institutions do (Townes, 2021).

The OCR developed a three-prong test to assess compliance with the third area of Title IX, accommodation of interests and abilities. In short, institutions are to ensure that the interests of female students are effectively accommodated by the

athletics programs that are provided. Educational institutions are required to meet one of the three prongs to comply with this third area. The three prongs include 1) substantial proportionality, 2) history and continuing practice, and 3) effective accommodations.

The first prong, substantial proportionality, is met when the proportion of athletic opportunities for men and women are “substantially proportionate” to the ratio of men and women undergraduates (OCR, 1979). In Title IX’s three-prong test, substantial proportionality is generally identified as the “safe harbor” for compliance and refers to the number of male and female athletes in relation to undergraduate enrollment figures (US Department of Education, 1996; Reynolds, 2003). Anderson and co-authors (2006) examined determinants of Title IX compliance and found that the presence of a football team limited the ability of those institutions to comply with the first prong.

It is not necessary to comply with the first prong of the three-prong test to comply with the third area of Title IX, however. Institutions may choose to comply with the third area by satisfying the second prong, demonstrating a “history and continuing practice of program expansion” (OCR, 1979). To comply with this prong, educational institutions must have a history of increasing opportunities for the underrepresented sex. “History” is generally specified as within the last three to five years (Green, 2022). It is evident that many educational institutions have complied with the second prong since there was a 545% increase in the percentage of women playing college sports since 1972 (Brooke-Marciniak & De Varona, 2016; Schwartz, 2014). Recently, some colleges and universities cut women’s athletic programs to navigate COVID-19 pandemic revenue shortfall (Hensley-Clancy, 2021). This opened them up to Title IX lawsuits because they could no longer demonstrate a history and continued practice of program expansion (Hensley-Clancy, 2021).

Finally, if an institution does not comply with the first two prongs, it must show that it has satisfied the third prong, namely, that women are “fully and effectively accommodated by the present program” (OCR, 1979). Several factors indicate whether female students are interested in expanding athletic programs or are satisfied with the present state of athletic programs. The OCR (1996) identified the following factors as relevant to the third prong: 1) requests by students that a sport be added, 2) requests for a club sport to become a school sponsored sport, 3) participation in an intramural and/or club sport, 4) interscholastic sport participation 5) interviews with members of the institution, and 6) questionnaires. Therefore, if an institution demonstrates that female students are not interested in an expanded athletic program, this constitutes evidence of compliance with the third prong.

Equity in Athletics Disclosure Act

The Equity in Athletics Disclosure Act (EADA) is a resource that may assist in determining an institution’s Title IX compliance (Staurowsky, 2018). The EADA is a federal law passed in 1994 and requires higher education institutions to disclose information about varsity teams, financial resources, and personnel by October 15 in the form of an annual survey and annual report (US Department of Education, 2020).

If an institution does not complete the annual survey and annual report, participation in sports may be limited, suspended, or terminated by the Department of Education, and it may accrue a fine of up to \$57,317 (US Department of Education, 2019). The annual report, known as the Report on Athletic Program Participation Rates and Financial Support Data, must be published, and made readily available to the public. Frequently, such reports are published on their institution's website. The annual survey identifies the institution's name and undergraduate population, as well as several important figures including 1) athletic revenues by team, 2) athletic expenses by team, 3) athletic participation by team, 4) coaching salaries across all teams, and 5) athletic aid expenditures across all teams by sex.

Data are updated annually and are available to the public through the EADA database. Currently, this is the only database on intercollegiate athletic finances available to the public that provides longitudinal data. There are other databases (i.e., NCAA Institutional Performance Program, Winthrop Intelligence) that are not public, yet may assist athletic administrators to make informed decisions. The EADA Data Analysis Cutting Tool enables users to download custom data provided to the public on the EADA database. Data became available on the EADA database beginning in the 2003-04 academic year, the first year when higher education institutions reported the number of unduplicated athletes (Tatos, 2019).

There are multiple advantages to using the EADA database, as well as some limitations. First, all higher education institutions, including private schools, with intercollegiate athletic programs must complete the survey annually (Tato, 2019). This creates a significant volume of higher education institutions reporting. Secondly, the format of the data provides revenue and expenses for corresponding sports, something no other public database provides (Tatos, 2019). Lastly, EADA data have been broadly used in academic publications (Osborne, 2017; Staurowsky et al., 2013; Tatos, 2019). The most significant limitation of the EADA database is that there is no separation of earned revenues vs. allocated revenues (Tatos, 2019). Additionally, due to the nature and volume of reporting, there is evidence of gaps and typographical errors (Staurowsky, 2018; Wasley, 2005).

Growth and Decline of Division I Athletics Since 1990

Division I of the NCAA consists of 358 member institutions, 32 conferences, and three subdivisions, including the Football Bowl Subdivision, Football Championship Division, and schools without football (Dellenger, 2022; NCAA, 2022). In the last 30 years, research has shown that the number of teams sponsored in some intercollegiate sports has declined while other sports have increased, with women's sports growing more quickly than men's sports (Sabo & Snyder, 2013). For example, in 1992 there were three Division I women's soccer teams in the Southeastern Conference (SEC), not enough to host an SEC tournament since the NCAA requires four teams. By 1997, all 14 SEC schools sponsored a women's soccer program and teams had to qualify for the SEC tournament. On the other hand, Dellenger and Forde (2020) reported that between 1990 and 2020, eight Division I men's sports including wrestling, swimming, gymnastics, and tennis were sponsored by fewer

schools despite an increase of 58 Division I member institutions. The growth of women's Division I sports between 1990 and 2020 is in stark contrast as the number of women's teams increased by 60% during this same time (NCAA, 2021).

Staurowsky (2016) and Zimbalist (2010) have pointed out that Title IX is often blamed when cuts to men's sports are made. However, this argument becomes difficult to sustain when it is pointed out that there was a net gain of nearly 1,000 men's programs across all three NCAA divisions between 1988 and 2010 (Strauss, 2012). Furthermore, the NCAA Sports Sponsorship and Participation Rates Report indicated consistent growth in the number of male athletes between 1981 and 2021 (NCAA, 2021). Finally, in the case of James Madison University, although Title IX was cited as the reason for cutting several sports teams, evidence revealed that larger institutional resources were nevertheless committed to football (Staurowsky et al., 2013). In the 1996 Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test, the OCR acknowledged that there is nothing in Title IX requiring schools to eliminate men's teams and that when schools negotiate compliance agreements, solutions need not involve cutting sports (Reynolds, 2003). Specifically, the 1996 Clarification states:

OCR recognizes that the question of how to comply with Title IX and to provide equal athletic opportunities for all students is a significant challenge that many institutions face today, especially in the face of increasing budget constraints. It has been OCR's experience, however, that institutions committed to maintaining their men's program have been able to do so--and comply with Title IX--notwithstanding limited athletic budgets. In many cases, OCR and these institutions have worked together to find creative solutions that ensured equal opportunities in intercollegiate athletics. OCR is similarly prepared to join with other institutions in assisting them to address their own situations. (NCAA, 1996)

Despite the Clarification letter, many athletic departments have refused to constrain football and men's basketball budgets, facility improvements, and current and former coaches' salaries, choosing instead to cut other men's sports and to place the blame on Title IX (Women's Sport Foundation, 2019). For example, the average head coach was paid \$2.7 million and coach buyouts averaged nearly \$8 million in the Football Bowl Subdivision during the 2020-21 academic year (McMillen & Kirwan, 2021). Although the mission of the NCAA (2023, Mission and Priorities section) is to "cultivate an environment that", the reality is that intercollegiate athletics are big business worth billions of dollars (Lavigne, 2016).

The Arms Race in Intercollegiate Athletics

The term "arms race" initially was used to describe the accumulation of nuclear weapons during the Cold War between the United States of America and the Soviet Union (Goff, 2014). In intercollegiate athletics, "arms race" is a term used metaphorically to describe the increased spending within an athletic department that is triggered by the increased spending of another educational institution (Orszag & Orszag, 2015). Similarly, Tsitsos and Nixon (2012) used the term "star wars" to refer

to rising head coaches' salaries in college sports, specifically, football and men's basketball. The "arms race" in intercollegiate athletics is most apparent in escalating coaches' salaries, new and renovated facilities, and distinctive amenities.

Coaches' salaries have continued to rise despite the economic recession in 2008 and COVID pandemic in 2020, particularly in men's basketball and football (Berkowitz & Schad, 2021; Hirko et al., 2013). College head coaches were the highest paid state employees in 40 states (McMillen & Kirwan, 2021). Hirko and co-authors (2013) found that salaries for football coaches increased between three to 10 times as much as faculty salaries after the economic recession of 2008. The average FBS head coach salary increased to \$2.7 million, or 1.1%, in 2020-21 despite the COVID pandemic (Berkowitz & Schad, 2021). In 2022, Georgia University's head football coach, Kirby Smart, signed a 10-year contract extension making him the highest paid college football coach in history, with a base salary and supplemental compensation starting at \$10.25 million in 2022 (Al-Khateeb, 2022).

In addition to record setting salaries for current coaches, over \$300 million have been paid to former coaches over the past four years (McMillen & Kirwan, 2021). This money is often referred to as "dead money" since it is owed to former coaches to buyout part or all their contracts (Lavigne & Schlabach, 2021). In 2020-21, Auburn led the way in "dead money" at \$31.2 million, followed by Nebraska (\$25.8 million), Texas (\$21.5 million), Ole Miss (\$20.4 million), and Kansas (\$20 million; Lavigne & Schlabach, 2021).

The "arms race" is also pervasive in construction and renovations of collegiate athletic facilities (Peterson & Judge, 2021). Spending on athletic facilities and equipment increased more than 200% from 2005 to 2020 for NCAA Division I schools with football (Peterson & Judge, 2021). How well a college athletic department can compete in the facility "arms race" often depends on how well it can obtain capital spending for large scale projects. Such projects frequently include elaborate amenities to attract the most talented recruits. For example, Clemson University's \$55 million football-only facility includes a slide, bowling lanes, a miniature golf course, a basketball court, a wiffle ball field, a fire pit, and other recreational amenities (Gaines, 2019). Athletic facility spending to improve the "athlete experience" remains an important part of enrollment management to attract the best players to a program (Peterson & Judge, 2021).

Financial Decisions in Intercollegiate Athletics

Because college athletic finances have a significant impact on administrators and athletes alike, research has focused on how financial decisions are made (Mahony & Pastore, 1998; Mahony, et al., 2005). Stakeholder theory provides an approach to examine financial decisions of intercollegiate athletic administrators (Slack & Parent, 2006). From an organizational management perspective, centrality, formalization, and complexity have a significant impact on how decisions are determined (Slack & Parent, 2006). Freeman (1979) identified the following three measures of centrality: degree, betweenness, and closeness. Centrality metrics relate to the number of relationships within an athletic department, as well as to the way in which information

is disseminated. Thus, it is evident that centrality influences intercollegiate athletic department budget decisions.

A higher education department budget, including an athletic budget, is a highly formalized process requiring approval at many different levels. This process allows for influence from various stakeholders on the final decision (Slack & Parent, 2006). Slack and Parent (2006) noted that the complexity of any sport organization is evident in both horizontal and vertical forms. Horizontal differentiation is usually based on task differentiation and specialization. A Division I athletics department likely will have a lot of horizontal complexity with many compartmental units focusing on different functions (e.g., marketing, individual sports, strength training). The organizational structure of an athletic department may also have a lot of vertical complexity as evident in the number of individuals reporting to others in the “chain of command” (Slack & Parent, 2006).

College athletics departments may also be unique in their spatial complexity, both vertical and horizontal. The spatial complexity within college athletic departments requires attention to various stakeholders who may provide different viewpoints on athletic financial decisions, particularly those that may include adding or dropping a sport. These decisions have financial implications and may influence Title IX compliance.

Although Title IX does not require dollar-for-dollar spending, the financial disparity in funding and resources between men’s and women’s sports indicates that some sports may have more influence on decisions within an athletic department. Higher education institutions often struggle with securing funding and resources for women’s sports (Swanson & Smith, 2020). There is evidence that even some Division I men’s Olympic sports compete with men’s basketball and football for resources (Mahony et al, 2002; Mahony & Pastore, 1998; Weight & Cooper, 2011).

Numerous studies have shown that Power 5 institutions’ athletic leaders base many of their financial budget decisions on what they believe are the more popular sports, especially with regard to how they can generate revenue. (Mahony et al., 2002, 2005; Mahony & Pastore 1998; Weight & Cooper, 2011). Mahony and Pastore (1998) found that between 1973 and 1993, administrators at Division I institutions were more likely to allocate monies to revenue generating sports. Similarly, Mahony et al. (2002) found decisions at Division I institutions were more likely to be based on financial contribution. These decisions make it challenging for “Olympic” sports to compete with football and men’s basketball, as well as to attract fans, alumni donations, and sponsorships (Swanson & Smith, 2020). When financial decision-making evolves into a pattern of systemic discrimination, the reasons for the decisions are often portrayed by the administrators making the cuts in terms of financial exigency. As Weight and Cooper (2011) showed, athletic directors often justify their decision to cut a men’s program based on its financial shortcomings.

Coaches of these very same programs often believe that the main reason for the cuts was because of the role gender equity played in the decision. While this may be the result of a fundamental disconnect between administrators and coaches and the real basis for these decisions, such apparently systemic discrimination allows whatever perceived lack of fairness that played a role in the decision to be attributed to

concerns for gender equity (Weight & Cooper, 2011). Systemic discrimination may encourage using Title IX as a scapegoat rather than urging further investigation into the real reasons why finances have continued to grow. Member schools in the Power 5, which can often fully fund their sports programs, find themselves in a dilemma, since these programs may become less competitive when restricting financial aid and the number of players under scholarship to remain in compliance with Title IX.

According to the NCAA Division I Manual, member institutions must follow the bylaws when it comes to financial aid restraints (NCAA Manual, 2022). As Lawrence (2013) noted, the NCAA bylaws have been established to level the playing field by focusing on academics, recruiting, and eligibility. It does appear that there is much work to be done when it comes to financial equity. From an overall financial perspective, college athletics budgets have not been evenly distributed between male and female athletes (Lawrence, 2013; Swanson & Smith, 2020). For example, the average budget of an SEC men's basketball team was \$1.3 million in 2020 compared to \$890,000 for an SEC women's basketball team (US Department of Education, 2020).

Despite the fact that Title IX provided a financial boost for women's college sports, it was also used during the recent COVID-19 pandemic to revive men's programs (Lorin & Gardner, 2022). For example, one Power 5 university restored its men's track and cross-country programs after cuts to these programs resulted in women being overrepresented. As programs renew their focus on legal compliance and as enrollments tend towards increasing numbers of women, colleges and universities may face greater scrutiny of how they allocate resources to athletes and programs.

There is much debate about whether the current NCAA model allows Power 5 schools to remain compliant regarding Title IX and financial aid. Many football programs believe they are hindered in being allowed to award "only" 85 football scholarships (Staurowsky et al., 2013; Swanson & Smith, 2020). This, combined with the focus on men's basketball TV contracts and the money they can generate, increases the pressure placed on many athletic administrators to allocate resources to these programs. As such, it may be surmised the effort to achieve equity in athletics often reveals that only about a dozen schools remain in compliance annually.

Study Purpose

In general, the current study aims to increase the understanding of what happens to the budget resources allocated to a men's NCAA Division I athletic team when that team is cut. Although reports specifying where institutions plan to reallocate funds when they make the decision to eliminate a men's team are scarce, athletic directors have identified budget constraints, Title IX, and declining interest as the main reasons why programs were cut (Friday, 2013; Marvel, 2011; Roberts, 2011). To date there have been no studies that have examined an eliminated sports' budget reallocation over several years, both before and after the sport was cut. Overall, there has been a decline in the average number of men's teams sponsored per institution across the Division I level since 1990, despite the increase of NCAA Division

I membership by 58 schools (Dellenger & Forde, 2020; NCAA 2021). However, the number of women's teams sponsored across the Division I level has increased more than 60% during the same period (NCAA, 2021). Critics have suggested that Title IX has caused men's sports to be cut due to the need to fund women's sports (Marbella & Wells, 2013; Pennington, 2002). Lastly, football and men's basketball, continue to dominate the college sport financial landscape in program budgets, facility improvements, and coaches' salaries. Specifically, the purpose of this study was to examine changes to the budgets of women's athletics, men's basketball, and football when an NCAA Division I intercollegiate men's team was eliminated. The following research questions were developed to guide the study:

RQ1: What is the difference between intercollegiate women's athletic budgets at institutions before and after a NCAA Division I intercollegiate men's program has been eliminated?

RQ2: What is the difference between intercollegiate men's basketball budgets at institutions before and after a NCAA Division I intercollegiate men's program has been eliminated?

RQ3: What is the difference between intercollegiate football budgets at institutions before and after a NCAA Division I intercollegiate men's program has been eliminated?

RQ4: Is there a difference in women's athletic budgets before and after a sport has been eliminated between institutions with NCAA Division I intercollegiate football and those without a football program?

Research Methodology

Data Collection

Data were obtained through personal communication with the NCAA and the EADA database. The NCAA partnered with the Inter-university Consortium for Political and Social Research at the University of Michigan to provide the expertise and infrastructure for sharing data in 2009 (Petr & Paskus, 2009). Additionally, the NCAA established a disclosure review committee consisting of database management experts, data sharing specialists, and NCAA research staff for several years after 2009 (Petr & Paskus, 2009). The disclosure review committee was responsible for reviewing NCAA data archives and providing recommendations for moving forward (Petr & Paskus, 2009).

The NCAA asks member institutions to self-report the sports they sponsor annually (Petr & Paskus, 2009). The NCAA's Director for Research of Data Management provided a list of member institutions that eliminated a Division I men's team between 2007 and 2014. There were 185 NCAA Division I intercollegiate men's teams cut across 101 higher education institutions during the time examined. If higher education institutions eliminated multiple sports in the same year or more than four years apart, they remained in the study ($n = 21$). If higher education institutions eliminated multiple men's teams within a four-year period, they were removed from the study ($n = 6$).

Budgetary data were obtained from the EADA database. Budget data included four years prior to the elimination of a men's team and four years after the elimination of the team (year cut plus next three years) resulting in eight years of budget data for each institution included in the study. The four years before and after rubric was based on the 4-year graduation plan, as well as, the lack of a fixed interval of time in which a higher education institution must add a women's sport under Title IX (U.S. Department of Education, 1996). Specific budgetary data obtained from the EADA website included the 1) Grand Total Expenses, 2) Total Men's Team Expenses, 3) Total Women's Team Expenses, 4) Not Allocated by Gender/Sport Expenses, 5) Football Men's Team Expenses, and 6) Basketball Men's Team Expenses. Higher education institutions with incomplete data were removed from the study (n=10). This resulted in 85 institutions being included in the study. Of these 85 institutions, 61 had a football program and 24 did not.

Variables

Data obtained from the EADA website were used to create eight new variables: 1) Total Athletic Budget Before, 2) Total Athletic Budget After, 3) Percent of Women's Budget Before, 4) Percent of Women's Budget After, 5) Percent of Basketball Before, 6) Percent of Basketball After, 7) Percent of Football Before, and 8) Percent of Football After. Variable data corresponded to specific institutions in the study rather than institutions as a group.

A two-step process was used to create Total Athletic Budget Before and Total Athletic Budget After. First, the EADA item, Not Allocated by Gender/Sport Expenses, was subtracted from Grand Total Expenses. According to the User's Guide for the Equity in Athletics Disclosure Act Web-based Data Collection (US Department of Education, 2019, Expenses section), Not Allocated by Gender/Sport Expenses includes expenses such as "Expenses for varsity athletics staff not attributable to a particular sport, such as, athletic director, assistant athletic director, trainers, support staff" (p.68). Second, the mean value of the four years prior to a sport being eliminated was calculated resulting in the creation of Total Athletic Budget Before. Similarly, the mean value of the four years after a sport was eliminated, beginning the year it was eliminated, was calculated creating the variable Total Athletic Budget After.

To create variables 3-8, the mean values of the corresponding EADA items were calculated for the four years prior to a sport being eliminated and again for the four years after a sport was eliminated, beginning the year it was eliminated. Secondly, the percent of the mean value was determined as it related to the total athletic budget (before or after). For example, the mean value of the EADA item Total Women's Team Expenses of the four years prior to cutting a sport was used to complete the first step in creating Percent of Women's Budget Before. The second step in creating the Percent of Women's Budget Before variable was to calculate what percent it comprised of the Total Athletic Budget Before. This process resulted in the creation of the remaining variables.

Data Analysis

Following data screening, the data were analyzed to generate descriptive data and examine research questions. Research questions 1-3 regarding differences in budgets before and after eliminating a NCAA Division I intercollegiate men's sport were examined using a paired two-sample t-test. A two-sample F-test for variance and a t-test, assuming equal variances, were used to analyze the difference in women's athletic budgets before and after a sport was eliminated between a higher education institution with NCAA Division I intercollegiate football and those without football.

Results

Of the 85 schools included in the study, the mean value of the total athletic budget was \$11,368,700 and \$14,322,075, before and after a sport was cut respectively (Table 1). The school with the highest budget was Syracuse University with an average budget of \$64,634,063 for the four years after a sport was cut. The mean percent of the total budget allocated to women's sport before a sport was cut was 39.3% (before) and 39.8% (after). The school with the lowest percent of the total budget allocated to women's sports was Grambling State University with an average of 10% of the total athletic budget for the four years before a sport was cut. The mean percent of the total budget assigned to men's basketball was 15.9% before and 16.2% after a sport was eliminated. The mean percent of the total budget allocated to football before and after was 33% and 34.3%, respectively.

Table 1
Descriptive Statistics of Budget Variables

Variable	Frequency n	Mean	SD	Min.	Max.
Total Athletic Budget Before	85	11.37 million	9,470,239	1.75 million	51.24 million
Total Athletic Budget After	85	14.32 million	12,644,627	2.43 million	64.63 million
Percent of Women's Budget Before	85	0.393	0.081	0.100	0.550
Percent of Women's Budget After	85	0.398	0.085	0.113	0.560
Percent of Basketball Before	85	0.159	0.060	0.06	0.391
Percent of Basketball After	85	0.162	0.062	0.061	0.383
Percent of Football Before	61	0.330	0.097	0.096	0.532
Percent of Football After	61	0.343	0.102	0.087	0.544

A paired sample t-test was conducted to examine RQ1: What is the difference between intercollegiate women's athletic budgets at institutions ($n = 85$) before and after a NCAA Division I intercollegiate men's program had been eliminated? Results indicated no statistically significant difference in the percent of the total athletic budget allotted to women's athletics before ($M = 0.393$; $SD = 0.081$) and after ($M = 0.398$; $SD = 0.085$) an intercollegiate men's sport had been eliminated ($t = -1.638$; $p = .053$).

A paired sample t-test was conducted to examine RQ2 which compared men's basketball budgets at institutions ($n = 85$) before and after a NCAA Division I intercollegiate men's program had been eliminated. There was a statistically significant difference in the percent of the total athletic budget allotted to men's basketball before ($M = 0.159$; $SD = 0.060$) and after ($M = 0.162$; $SD = 0.061$) an intercollegiate men's sport had been eliminated ($t = -1.727$; $p = .002$).

A paired sample t-test was conducted to examine RQ3: What is the difference between intercollegiate football budgets at institutions ($n = 61$) before and after a NCAA Division I intercollegiate men's program had been eliminated? Results indicated a statistically significant difference in the percent of the total athletic budget allotted to football before ($M = 0.330$; $SD = 0.097$) and after ($M = 0.343$; $SD = 0.102$) an intercollegiate men's sport had been eliminated ($t = -3.051$; $p = .003$).

To examine RQ4, two analyses were conducted: a two-sample F-test for variance and a t-test assuming equal variances (Table 2). A two-sample F-test for variance confirmed equal variances for schools with and without football ($F = 0.654$; $p = .13$). A t-test assuming equal variances indicated no statistically significant difference in the percent of the total athletic budget allotted to women's athletics for schools with football ($M = -0.003$; $SD = 0.032$) and schools without football ($M = -0.009$; $SD = 0.026$) when an intercollegiate men's sport had been eliminated ($t = -1.674$; $p = .251$).

Table 2
T-test Results

	With Football	Without Football
Mean	-0.0034	-0.0089
Variance	0.001	0.001
Observation	61	24
df	83	
t-stat	-1.6743	
p value	0.251	

Discussion

This study examined changes to the budgets of women's athletics, men's basketball, and football when an NCAA Division I intercollegiate men's team was eliminated. Results indicated a statistically significant increase in men's basketball budgets ($t = -1.727$; $p = .002$) and football ($t = -3.051$; $p = .003$) budgets after a men's program had been cut whereas an increase in women's athletic budget was not statistically significant ($t = -1.638$; $p = .053$). Data for the study were obtained from the NCAA and the EADA. Limitations to the study include gaps and typographical errors in EADA data, as well as the potential for self-reporting response bias. This study enhances existing literature on Title IX, applications of stakeholder theory, and intercollegiate athletic finances. Future studies could examine the extent of men's basketball and football on intercollegiate financial decisions from an organizational structure or qualitative approach.

Cutting a sports program is one way in which athletic administrators have traditionally responded to a financial crisis. More recently, the challenge for athletic administrators when navigating the financial fallout resulting from the coronavirus pandemic has brought Title IX back into the headlines as numerous Division I institutions reduced the number of sports programs (Anderson, 2020; Bohnenkamp, 2020). Although the coronavirus pandemic caused budget shortfalls, athletic administrators have long combated rising expenses in various ways to position themselves to make money from men's basketball and football, while adding women's sports. For example, several schools in the SEC are among the most recent to allow alcohol sales at football stadiums (Costa, 2019). When a men's sports team is cut and announced in a public forum, it is not in the best interest of the athletic director to admit that the budget resources would be reallocated to men's basketball, football, or capital projects associated with men's basketball or football. Rather, it would seem to be more advantageous, for a variety of reasons, to acknowledge the fact that women's sports ought not to be cut and, in fact, must be increased to remain compliant with Title IX. This may be accurate, but it is also potentially misleading. When the blame is placed on Title IX, it "pits the victims against the victims" or men's sports, other than football and basketball, against women's sports, all of which are underfunded when compared to men's basketball and football (Women's Sports Foundation, 2019).

Recruiting top-tier athletes is a key concern for NCAA Division I institutions who seek to maximize revenue in men's basketball and football. Many institutions have created lavish facilities that include entertainment amenities such as video game systems, volleyball courts, laser tag, mini golf, movie theater, and bowling lanes. These amenities come with a large price tag and are used to entice talented high school athletes (Hobson & Rich, 2015; Huml et al., 2019). Lapino (2018) suggests imposing a moratorium on capital projects as part of a comprehensive approach for athletic departments to respond to a financial crisis. However, the results of this study indicate that the "arms race" in collegiate athletics beyond capital projects may be in part responsible for men's sports programs being cut.

College athletics have been a big part of higher education since it first appeared in 1852. In 1972, Title IX was implemented in schools receiving federal financial aid and was an embedded part of any university's educational ventures. There has been much research on college athletics and on how revenues, alumni donations, sales of school merchandise, support of state legislatures, and quality of student applications might be correlated with the success of an institution's football and men's basketball teams (Humphreys & Mondello, 2007; Smart & Wolfe, 2000; Wells et al., 2005). Increased visibility, goodwill, and prestige are often associated with a winning athletic team. Concern about the rise of commercialism in college athletics has long been reported, beginning with the 1929 Carnegie Report on College Athletics (Meyer & Zimbalist, 2017). Evidence indicates that the culture in college athletics is more akin to a form of big business, rather than to an educational venture reflective of cultural ideologies rooted in neoliberalism (Beyers & Hannah, 2000). With the long history of rivalry between athletics and academics, it may be that the philosophy of Title IX remains the larger issue in the competing interests between college athletics and academics.

On the 50th anniversary of Title IX, the results of this study reflect much of the discourse that has taken place concerning its impact on gender equity. Much of the criticism that Title IX has received for its apparent impact on decision makers being forced to cut men's programs to restore financial equity in school budgets was not supported in the data. In the current era of highly paid "celebrity" coaches (often in football and men's basketball), the traditional chain of command when it comes to any decision may not come from the traditional "top down" format. One might reasonably surmise that it is stakeholders with the most power and influence who play a big role on what type of decision is made when it comes to athletics department budgets. The data show that the stakeholders with power and influence exert considerable influence when it comes to decisions on program cuts and where the resources are distributed before and after these decisions. Analyses focusing on the men's basketball budgets and football budgets revealed these budgets continued to increase overall, with a significant number of institutions experiencing a gain after a men's program had been cut. However, women's athletic budgets did not see a significant increase when a men's program was eliminated. The argument of coaches and athletic directors that decisions to cut programs are based on the need to comply with Title IX was not supported in the data, whether these athletic programs have football teams or not. Likewise, arguments that it was Title IX that forced athletic departments to cut men's teams and scholarship opportunities were not supported by the data.

References

- Al-Khateeb, Z. (2022, July 21). Kirby Smart Contract details: Georgia coach becomes highest-paid in college football with extension through 2031. *The Sporting News*. <https://www.sportingnews.com/us/ncaa-football/news/kirby-smart-contract-details-georgia-highest-paid-coach-college-football/vozvci1fpeloolcotk92qsy6>

- Anderson, D. J., Cheslock, J. J., & Ehrenberg R. G. (2006). Gender equity in intercollegiate athletics: Determinants of Title IX compliance. *The Journal of Higher Education*, 77(2), 225-250.
- Anderson, G. (2020, April 24). Pandemic hits college sports. *Inside Higher Ed*. <https://www.insidehighered.com/news/2020/04/24/financial-crisis-related-coronavirus-hits-athletic-departments>
- Berkowitz, S., & Schad, T. (2021, October 13). 5 surprising findings from college football coaches salaries report. *USA Today*. <https://www.usatoday.com/story/sports/ncaaf/2020/10/14/college-football-coaches-salaries-five-surprising-findings-data/5900066002/>
- Beyers, J., & Hannah, D. (2000). The cultural significance of athletics in U.S. higher education. *Journal of Sport Management*, 105-132.
- Bohnenkamp, J. (2020, August 21). Iowa cuts four sports. *FanNation*. <https://www.si.com/college/iowa/football/iowa-cuts-four-sports-082120>
- Brooke-Marciniak, B. A., & De Varona, D. (2016, August 25). Why we need to provide equal funding to women in sports? *World Economic Forum*. <https://www.weforum.org/agenda/2016/08/sustaining-the-olympic-legacy-women-in-sports-and-public-policy/>
- Costa, B. (2019, August 19). College football turns to an unlikely savior: Beer, beer and more beer. *The Wall Street Journal*. <https://www.wsj.com/articles/college-football-turns-to-an-unlikely-savior-beer-beer-and-more-beer-11565956854>
- Dellenger, R. & Forde, P. (2020, June 11) A collegiate model in crisis: The crippling impact of schools cutting sports. *Sports Illustrated*. <https://www.si.com/college/2020/06/11/college-sports-program-cuts-ncaa-olympics>
- Dellenger, R. (2022, January 20). The fight over the future of college sports is here: ‘It needs to implode’. *Sports Illustrated*. <https://www.si.com/college/2022/01/20/ncaa-future-power-5-football-basketball-money>
- Freeman L.C. (1979) Centrality in social networks conceptual clarification. *Social Networks*, 1(3), 215– 239.
- Friedman, M. T., Parent, M. M., & Mason, D. S. (2004). Building a framework for issues management in sport through stakeholder theory. *European Sport Management Quarterly*, 4(3), 170–190.
- Friday, L. (2013, April 5). University to discontinue wrestling in 2014: Athletics cites multiple reasons for move. *BU Today*. <https://www.bu.edu/articles/2013/university-to-discontinue-wrestling-in-2014/>
- Gaines, C. (2019). Clemson’s \$55 million football complex shows how swanky college football facilities have become for the top programs. *Business Insider*. <https://www.businessinsider.com/photos-clemsons-football-facility-2017-10>
- Goff, B. (2014, July 30). NCAA “Arms Race” metaphor gets the economics backwards. *Forbes*. <https://www.forbes.com/sites/briangoff/2014/07/30/ncaa-arms-race-metaphor-gets-the-economics-backwards/?sh=40ad7dfcacde>
- Green, L. (2022, February 8). Title IX compliance – part I: The three-prong test. *National Federation of State High School Associations*. <https://nfhs.org/articles/title-ix-compliance-part-i-the-three-prong-test/>

- Hensley-Clancy, M (2021, March 25) Colleges cut sports to save money amid the pandemic. Then came the Title IX lawsuits. *The Washington Post*. <https://www.washingtonpost.com/sports/2021/03/25/college-sports-cuts-title-ix/>
- Hirko, S., Suggs, D.W., & Orleans, J.H. (2013, April). *Athletics in the academic marketplace: Using revenue theory of cost to compare trends in athletic coaching salaries and instructional salaries and tuition* [Paper presentation]. 2013 American Educational Research Association Conference, San Francisco, California. <https://files.eric.ed.gov/fulltext/ED542372.pdf>
- Hobson, W., & Rich, S. (2015, December 23). Colleges spend fortunes on lavish athletic facilities. *Chicago Tribune*. R <http://www.chicagotribune.com/sports/college/ct-athletic-facilities-expenses20151222-story.html>
- Huml, M. R., Pifer, D. N., Towle, C. & Rode, C. R. (2019) If we build it, will they come? The effect of new athletic facilities on recruiting rankings for power five football and men's basketball programs, *Journal of Marketing for Higher Education*, 29(1), 1-18.
- Humphreys, B. R., & Mondello, M. (2007). Intercollegiate athletic success and donations at NCAA Division I institutions. *Journal of Sport Management*, 21(2), 265-280.
- Lapino, D. A. (2018, April 4). Common sense in responding to athletic program financial crisis. *Sport Management Resources*. <https://sportsmanagementresources.com/blog/common-sense-responding-athletic-program-financial-crisis>
- Lavigne, P. (2016, September 6th). Rich get richer in college sports as poorer schools struggle to keep up. *ESPN*. https://www.espn.com/espn/otl/story/_/id/17447429/power-5-conference-schools-made-6-billion-last-year-gap-has-nots-grows
- Lavigne, P. & Schlabach, M. (2021, November 5). FBS schools spent over \$533.6 million in dead money over 10+ years. *ESPN*. https://www.espn.com/college-football/story/_/id/32552130/schools-spent-5336-million-dead-money
- Lawrence, H. (2013). The Impact of Intercollegiate Athletics Financial Inequalities. *Journal of Intercollegiate Sport*, 6, 25-43. <https://doi.org/10.1123/jis.6.1.25>
- Lieberwitz, R. L., Jaleel, R., Kelleher, T., Scott, J. W., Yount, D., Reichman, H., Runyan, A. S., & Levy, A. (2016). The history, uses, and abuses of Title IX. *Academe*, 102(4), 69–99.
- Lorin, J. & Gardner A. (2022, January 7). How Title IX Helped Save College Sports Teams Cut During the Pandemic. *Bloomberg*. <https://www.bloombergquint.com/onweb/how-title-ix-helped-save-college-sports-teams-cut-during-the-pandemic>
- Mahony, D.F. & Pastore, D.M. (1998). An examination of participation opportunities, revenues, and expenses at NCAA Institutions—1973–1993. *Journal of Sport and Social Issues* 22(2), 127–152. <https://doi.org/10.1177/019372398022002002>
- Mahony, D. F., Hums, M. A., & Riemer, H. A. (2002). Distributive justice in intercollegiate athletics: Perceptions of athletic directors and athletic board chairs. *Journal of Sport Management*, 16(4), 331-55.
- Mahony, D.F., Hums, M.A., & Riemer, H.A. (2005). Bases for determining need: Perspectives of intercollegiate athletic directors and athletic board chairs. *Journal of*

- Sport Management*, 19(2): 170–192. <https://doi.org/10.1123/jsm.19.2.170>.
- Marbella, J. & Wells, C. (2013, April 3). Title IX law scrutinized as universities cut teams. *The Baltimore Sun*. <https://www.baltimoresun.com/maryland/bs-xpm-2013-04-06-bs-md-towson-title-ix-20130406-story.html>
- Marburger, D.R. & Hogshead-Makar, N. (2003). Is Title IX really to blame for the decline in intercollegiate men’s nonrevenue sports? *Marquette Sports Law Review*, 14(1), 65-93
- Marvel, K. (2011, April 5). Wrestling reclassified. *Liberty Champion*. <https://www.liberty.edu/champion/2011/04/wrestling-reclassified/>
- McMillen, T., & Kirwan, B. (2021, April 16). The ‘arms race’ in college sports is out of control. here’s how to stop it. *The Washington Journal*. https://madison.com/wsj/opinion/column/tom-mcmillen-and-brit-kirwan-the-arms-race-in-college-sports-is-out-of-control/article_d27b7af7-0b78-53ff-a72a-771bf84b6122.html
- Meyer, J., & Zimbalist, A. (2017). Reforming college sports: The case for limited and conditional antitrust exemption. *Antitrust Bulletin*, 62(1), 31-61.
- NCAA (n.d.). NCAA directory, Division I institutions. <https://web3.ncaa.org/directory/memberList?type=12&division=I>
- NCAA (2021, December 1). *NCAA sports sponsorship and participation rates report*. https://ncaaorg.s3.amazonaws.com/research/sportpart/2021RES_Sports-SponsorshipParticipationRatesReport.pdf
- NCAA (2023). *Mission and Priorities*. <https://www.ncaa.org/sports/2021/6/28/mision-and-priorities.aspx>
- Office of Civil Rights (1979). *A Policy Interpretation: Title IX and Intercollegiate Athletics*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/t9interp.html>
- Ojeda, F. (2006, April 18). High schools Chandler is subject of probe. *The Oklahoman*. <https://www.oklahoman.com/story/news/2006/04/18/high-schoolsbrchandler-is-subject-of-probe/61889732007/>
- Orszag, J. & Orszag, P. (2015). *The empirical effects of collegiate athletics: An update*. https://ncaaorg.s3.amazonaws.com/research/Finances/RES_EmpiricalEffectsOfCollegiateAthleticsUpdate.pdf
- Osborne, B.J. (2017). Failing to fund fairly: Title IX athletics scholarships compliance. *Tennessee Journal of Race, Gender, & Social Justice*, 6(1), 83-104.
- Pennington, B. (2002, May 9). More men’s teams benched as colleges level the field. *The New York Times*. <https://www.nytimes.com/2002/05/09/sports/colleges-more-men-s-teams-benched-as-colleges-level-the-field.html>
- Peterson, J., & Judge, L. (2021). Reframing the collegiate facilities arms race: The looming impact of NIL and conference realignment. *Journal of Applied Sport Management*, 13(2), 36-44.
- Petr, T.A. & Paskus, T.S. (2009). A process for sharing research data collected by the NCAA. *Journal of Intercollegiate Sport*, 1, 5-8.
- Reynolds, G. (2003) Further clarification of intercollegiate athletics policy guidance regarding Title IX compliance. *Marquette Sports Law Review*, 14(1), C1-C4.

- Roberts, A. (2011, March 21). Morrisville State College to discontinue sponsorship of men's wrestling. *SUNY Morrisville*. <https://www.morrisville.edu/news/morrisville-state-college-discontinue-sponsorship-of-mens-wrestling>
- Sabo, D., & Snyder, M. (2013). *Progress and promise: Title IX at 40* [White Paper]. SHARP Center for Women and Girls. https://www.womenssportsfoundation.org/wp-content/uploads/2016/08/titleixwhitepaper_2013.pdf
- Schwarz, R. (2014). Time out! Getting back to what Title IX intended and encouraging courts and the office of civil rights to re-evaluate the three-prong compliance test. *Washington and Lee Journal of Civil Rights and Social Justice*, 20(2), 634-677.
- Smart, D.L., & Wolfe, R.A. (2000). Examining sustainable competitive advantage in intercollegiate athletics: a resource-based view. *Journal of Sport Management*, 14(2), 133-153.
- Slack, T., & Parent, M. M. (2006). *Understanding sport organizations: The application of organization theory*. Human Kinetics.
- Strauss, V. (2012, June 24) Has Title IX, now 40 years old, harmed male athletics? *The Washington Post*. https://www.washingtonpost.com/blogs/answer-sheet/post/has-title-ix-now-40-years-old-harmed-male-athletics/2012/06/14/gJQAr-SCqdV_blog.html
- Staurowsky, E., (2016). Title IX in its third decade: The commission on opportunity in athletics, *Entertainment and Sports Law Journal*, 2(3), 70-93.
- Staurowsky, E.J. (2018, June 22). Recent complaint accuses Oregon State Athletics of falsifying EADA information: But did they? *Sports Litigation Alert*. <https://sportslitigationalert.com/recent-complaint-accuses-oregon-state-athletics-of-falsifying-eada-information-but-did-they/>
- Staurowsky, E.J., Murray, K., Puzio, M., & Quagliariello, J. (2013). Revisiting James Madison University: A case analysis of program restructuring following so called 'Title IX' cuts. *Journal of Intercollegiate Sport*, 6(1), 96-119. <https://doi.org/10.1123/jis.6.1.96>
- Swanson, R. & Smith, A.B. (2020) COVID-19 and the cutting of college athletic teams. *Sport in Society*, 23(11) 1724-1735. DOI: [10.1080/17430437.2020.1804106](https://doi.org/10.1080/17430437.2020.1804106)
- Tatos, T. (2019). An empirical evaluation of EADA and NCAA college sports financial data: Applications for research and litigation. *Marquette Sports Law Review*, 29(2), 411-450.
- Townes, C. (2021, March 19). *Where is title IX in the NCAA weight rooms?* Forbes. Retrieved July 21, 2022, from <https://www.forbes.com/sites/ceceliatownes/2021/03/19/where-is-title-ix-in-the-ncaa-weight-rooms/?sh=46e796ff7007>
- Tsitsos, W. & Nixon. H. (2012). The star wars arms race in college athletics: Coaches' pay and athletic program status. *Journal of Sport and Social Issues*, 36, 68-88. <https://doi.org/10.1177/0193723511433867>
- US Department of Education. (2020, June 11). *Equity in Athletics Disclosure Act*. <https://www2.ed.gov/finaid/prof/resources/athletics/eada.html#:~:tex->

- [t=The%20Equity%20in%20Athletics%20Disclosure,of%20Education%20on%20athletic%20participation%2C](#)
- US Department of Education, Office for Civil Rights (1996, January 16). *Clarification of intercollegiate athletics policy guidance: The three-part test*. <https://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>
- US Department of Education, Office of Postsecondary Education (2019). *User's guide for the equity in athletics disclosure act web-based data collection*. https://surveys.ope.ed.gov/athletics2k20/wwwroot/documents/2019_EADA_Users_Guide.pdf
- Wasley, P. (2005, October 28). Widespread errors in gender-equity reports compiled by colleges under the Equity in Athletics Disclosure Act remain largely ignored by the U.S. Department of Education, "USA Today" reported last week. *Chronicle of Higher Education*, 52(10), A54.
- Weight, E.A., & Cooper, C.G. (2011). Bridging the gap: The perceptions of athletic directors and coaches regarding nonrevenue program discontinuation decisions. *Journal of Sport Administration & Supervision* 3(1), 61-73. <https://quod.lib.umich.edu/j/jsas/6776111.0003.112>
- Wells, D.E., Southall, R.M., Stotlar, D., & Mundfrom, D.J. (2005). Factors related to annual fund-raising campaigns from individual donors to NCAA Division I-A institutions. *International Journal of Educational Advancement*, 6(1), 3-10. <https://doi.org/10.1057/palgrave.ijea.2140229>
- Zimbalist, A. (2010). Dollar dilemmas during the downturn: A financial crossroads for college sports. *Journal of Intercollegiate Sport*, 3(1), 111-124. <https://doi.org/10.1123/jis.3.1.111>
- Zimmerman, J. (2014, January 13). Jonathan Zimmerman: Blame football, not Title IX, for cuts in sports programs. *The Providence Journal*. <https://www.providencejournal.com/story/opinion/2014/01/14/20140114-jonathan-zimmerman-blame-football-not-title-ix-ece/35375038007/>

Strengthening the Equity in Athletics Disclosure Act to Improve Gender Equity Transparency & Institutional Accountability in the Future

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In 1994, the United States Congress enacted The Equity in Athletics Disclosure Act (EADA). The EADA requires colleges and universities receiving federal financial assistance to provide an annual public report on the number of athletic participation opportunities provided to men and women athletes at the varsity level and the allocation of resources and personnel made in support of those opportunities. The passage of the EADA occurred on the heels of the 20th anniversary of Title IX of the Education Amendments Act, a time marked by the realization that the vast majority of schools around the country were not in compliance with Title IX's requirements as applied to athletic departments two decades after its passage. The purpose of the EADA when initially proposed in 1993 was to provide accessible information to stakeholders, most specifically prospective students, the public, and the U.S. Congress, that would allow interested parties to raise questions regarding the fair and equitable treatment of women athletes in the nation's intercollegiate athletic programs. The annual report, colloquially referred to as the EADA report, is officially called The Report on Athletic Program Participation Rates and Financial Support Data. Three decades after the passage of the EADA and five decades after the passage of Title IX, there is reason to question whether the EADA has served its purpose. During Title IX's 50th anniversary year, researchers and journalists uniformly reported a systemic failure to comply with Title IX in the area of athletics. Over the years, some have argued that the EADA should be eliminated; others have documented how valuable the information from the EADA is to researchers, journalists, and litigators; others have recommended changes that would strengthen the data collection required under the EADA; and others have argued that something akin to an EADA requirement needs to be adopted nationwide to help address sweeping gender inequities in athletics at the high school level. This essay begins with an overview of the current state of Title IX compliance and gender equity in college sport, revisits the history of the EADA, provides an overview of what the EADA covers and who uses it, explores the criticisms and limitations of the EADA, and concludes with recommendations for making the EADA a more effective tool.

Keywords: Equity in Athletics Disclosure Act, EADA, gender equity in athletics, Title IX



Overview of the Current State of Title IX Compliance and Gender Equity in College Sport

The year 2022 marked the 50th anniversary of the passage of Title IX of the Education Amendments Acts of 1972, the law barring gender discrimination in educational institutions within the United States that receive federal financial assistance. Lauded for its impact in opening up opportunities previously foreclosed to citizens because of discrimination on the basis of gender, Title IX's 50th anniversary offered cause for celebration. At the same time, advocates, journalists (Axon, 2022), public policymakers (U.S. Senator Murphy's Staff, 2022), and researchers (Staurowsky et al., 2022; Wilson, 2022) noted that data from publicly available documents like the EADA report and lawsuits were strongly suggestive that the majority of athletic departments at the college level were not in compliance with Title IX's requirements and at the high school level, data to assess gender equity patterns in participation and resource allocations was largely unavailable, difficult to access, or limited in scope (Staurowsky et al., 2022).

An investigative series undertaken in 2022 by *USA Today* reporters revealed that out of 107 schools competing in the NCAA's Football Bowl Subdivision (FBS), only 30% met Title IX's substantial proportionality standard in terms of athletic scholarship allocation. Under that standard, schools are expected to provide athletic scholarship support that is proportional to the representation of men and women athletes, within one percentage point, unless there is a non-gender specific reason for a gap (for example, in-state tuition versus out-of-state tuition). In effect, if half of the athletes in a program are women, half of the athletic scholarship dollars should be allocated to them, with a one percentage point variance on either side (49% to 51%) (Jacoby, 2022).

The underfunding of women's athletic scholarships translates into significant financial deprivation. In the *USA Today* study cited above, 49 FBS institutions for the 2020-2021 academic year underfunded women athletes in terms of athletic scholarship support, a shortfall that would have required an additional \$23.7 million to rectify (Jacoby et al., 2022).

The issue of women college athletes not receiving their fair share of athletic scholarship support is amplified by the fact that the athletic scholarship calculation is based on the number of athletes in a program (Buzuvis, 2023, in this issue; Staurowsky et al., 2022). Women athletes have yet to be afforded athletic participation opportunities proportional to enrollment, a shortfall representing more than 81,000 missed athletic opportunities for women college athletes across all divisions and athletic associations in 2019-2020. As a consequence, their access to athletic scholarships is further undermined (Buzuvis, 2023, in this issue).

The economic advantage accorded to men athletes as a result of the inequity in the system is considerable. During the 2019-2020 academic year, men athletes competing at two- and four-year institutions across the country received \$252 million more in athletic scholarships compared to women athletes. If athletic programs at those schools had offered participation opportunities to women proportional to their

enrollment, “. . . they would have had to award an additional \$750 million in athletic scholarship assistance” (Staurowsky et al., 2022, p. 11). Commenting on the impact this kind of inequity has on women college athletes, Neena Chaudry, general counsel for the National Women’s Law Center, observed:

For many athletes, an athletic scholarship can make the difference between being able to go to school or not. In addition to sending a message to women about how they’re valued, this is real money that makes a real difference in people’s lives (Jacoby et al., 2022, para. 19).

Beyond the gender inequities in available athletic participation opportunities and athletic scholarship support, there are other areas of note system-wide that have drawn attention. In terms of recruiting, of the more than \$241 million expended in 2019-2020 by athletic departments in two- and four-year institutions, just over 30% of that was invested in finding the best talent for women’s teams (Staurowsky et al., 2022). In terms of compensation in 2019-2020, coaches of men’s college teams received more in compensation in every division across athletic associations. While the gaps in salary allocations were smaller in non-football playing divisions, no division compensated the head coaches of women’s teams equally or more as a general trend compared to head coaches of men’s teams. As a matter of magnitude, in the NCAA’s most elite division, the FBS, of the nearly \$1 billion expended on head coach salaries, 81% was awarded to head coaches of men’s teams with the remaining 19% allocated to head coaches of women’s teams (Staurowsky et al., 2022).

In terms of allocation of resources expended on supporting women’s athletic programs offered by colleges and universities,

Of the more than \$14 billion spent on athletic programs at the NCAA Division I level in 2018-19, 46% was spent on men’s programs (\$6.5 billion+), 22% on women’s programs (\$3 billion +), less than 1% on coed programs (\$5 million +), and 32% (\$4.5 billion+) to non-gender-specific allocations. Expenditures in men’s programs are more than twice what they are for women’s programs) (Staurowsky et al., 2022, p. 40).

History of the Equity in Athletics Disclosure Act

Events occurring in the early 1990s converged in a particular way to lay the groundwork for a discussion that would eventually lead to the proposal and passage of the Equity in Athletics Disclosure Act. As Title IX’s 20th anniversary approached in 1992, the NCAA was under fire from members of the U.S. Congress and the general public on a number of issues pertaining to equity and fairness. Studies at the time revealed low graduation rates among football and men’s basketball players compared to other athletes and students with several former college athletes testifying before Congress that they were functionally illiterate (Southall, 2014). An enterprise flush with financial resources from a newly negotiated men’s basketball tournament contract with CBS for an unprecedented \$1 billion was claiming that its ability to address racial and gender equity issues was hampered by budget limitations (Cooper et al., 2014; Staurowsky, 1996). The effectiveness and fairness of the NCAA’s

enforcement process and procedures were called into question with the creation of the Federation for Intercollegiate Fairness and Equity (FIFE), a coalition of state and federal legislators, current and former college coaches and athletes, and journalists, who were calling for federal intervention (Schmidtke, 1991). The issues raised about the NCAA's enforcement process at that time included criticisms that there was an imbalance in terms of the targets of investigations, penalties for wrongdoing punished the innocent, and a lack of a meaningful appeals process (Goplerud, 1991; Pernell, 1991; Schmidtke, 1991).

In the two years leading up to the proposal of the Equity in Athletics Disclosure Act in 1993, the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the U.S. House of Representatives Committee on Energy and Commerce hosted a series of hearings on college sport. Topics covered in those hearings included “. . . graduation rates of college athletes, problems faced by historically black colleges and universities, the fairness of the National Collegiate Athletic Association enforcement procedures, and gender equity” (Transcript, Hearing on Title IX's Impact . . ., February, 1993, p. 5).

In terms of gender equity, 20 years after Title IX had been passed only one NCAA Division I athletic department, Washington State University (WSU), was offering equal athletic participation opportunities and equal athletic scholarship support to women's sports. Washington State, however, was no hero in this regard. It was positioned to emerge as the only big-time college athletic program in the country to be in compliance with Title IX's requirements because its own women athletes sued them and won (*Blair v. Washington State University*, 1987). After losing the case, WSU was then compelled to comply with Title IX (Jordan, 1992). As then WSU assistant athletic director, Harold C. Gibson admitted, the institution had not been disposed to complying with Title IX voluntarily. He stated, "We were dragged kicking and screaming into the forefront" (Jordan, 1992, para. 12).

This growing recognition in Title IX's 20th anniversary year that schools were not complying was amplified for higher education officials when the U.S. Supreme Court rendered a decision in *Franklin v. Gwinnett County Public Schools* in February of 1992. When schools failed to respond to intentional sex discrimination, those subjected to that discrimination could seek monetary damages for the harms suffered (Jordan, 1992; Wright, 1992).

Pressure from the threat of Congressional oversight had prompted then head of the NCAA, Dick Schultz, to initiate an NCAA Gender Equity Study. With 646 colleges participating, the results confirmed that there were system-wide gender inequities. As Congresswoman Collins noted in her opening remarks in the February 1993 hearing, "The fact remains that, 20 years after passage of Title IX, men continue to dominate all areas of collegiate sports. They get the lion's share of the athletic scholarships, coaching salaries, and operating expenses" (Transcript, Hearing on Title IX's Impact . . ., February, 1993, p. 5).

Findings from the NCAA's study of gender equity in intercollegiate athletic programs revealed that women athletes in 1992 had access to 30% of athletic participation opportunities, despite the fact that women comprised 50% of the under-

graduate population. In the area of expenditures, women athletes received 30% of athletic scholarships while 23% of operating budgets and 12% of recruiting dollars were allocated to women's programs (NCAA Gender Equity Study, 1992; NCAA Staff, 1993). Commenting on those findings, associate athletic director and senior women's administrator at the University of Connecticut, Pat Meiser-McKnett, said: "Those numbers confirm everything that anyone who's operated in Division I athletics long suspected . . ." (Garber, 1992, para. 11).

The NCAA's executive director at the time, Dick Schultz, avoided admitting that the survey offered evidence of systemic non-Title IX compliance, preferring to refer to the findings as broad areas of gender inequities.¹ He did, however, concede that "While the study was not designed with a view to measuring Title IX compliance by institutions, much of the data did, in fact, provide a basis for analysis. That analysis was disturbing" (NCAA Staff, 1993, para. 4). Schultz was called out by Congresswoman Collins in the 1993 hearing for reporting that the NCAA membership had taken a "wait until next year" attitude toward addressing gender equity. Collins went on to say ". . . while he thinks the Association has a moral obligation to promote gender equity, he believes, and I quote, 'It is virtually impossible to try to put legislation in place to deal with gender equity'" (Transcript, Hearing on Title IX's Impact . . ., February, 1993, p. 6). Part of the rationale contributing to a belief that it was impossible to pass rules regarding gender equity within the NCAA at that time stemmed from an ongoing perception that men's sports, most particularly the sport of football, would be diminished or eliminated. In response to that, Collins went on to say,

I find it curious that the NCAA is quick to write rules to regulate student behavior but considers it impossible to write rules to end discrimination against women even though women's sports have been part of the NCAA for 10 years. Why is it that when a group asks for equal rights the dominant group's first reaction is defensive; the second reaction is to interpret equal rights for one group as diminished rights for another; and finally, to stall and stall and stall? (Transcript, Hearing on Title IX's Impact . . ., February, 1993, p. 6).

While the record showed that colleges and universities felt little pressure to comply with Title IX, Congresswoman Collins pointed out that the governmental agency

1. The NCAA's navigation around its own responsibilities under Title IX may have contributed to the express focus on "gender equity in college sport" rather than "Title IX compliance in college sport". This question of whether the NCAA itself is obligated under Title IX is one that is increasingly drawing attention from federal lawmakers. The NCAA has relied on a narrow ruling in *Smith v. NCAA* (1999) to argue that the Association is not subject to Title IX. Following the release of photo and video evidence of blatant gender inequitable treatment to which women athletes were subjected during the NCAA's Division I Women's Basketball Tournament in 2021, and a subsequent investigation revealing systemic gender discrimination within the NCAA itself (Kaplan Hecker & Fink, 2021), bills like the Gender Equity in College Sport Commission Act (Dellenger, 2022) and the Fair Play for Women Act have been proposed. The Fair Play for Women Act includes a provision that would "Hold athletic programs and athletic associations like the NCAA more accountable for Title IX violations and discriminatory treatment" (U.S. Senator Murphy's Staff, 2022, para. 9).

responsible for Title IX oversight, the U.S. Department of Education Office for Civil Rights (OCR), had also fallen short in executing its obligations. The Commerce Subcommittee's consideration of the issue of Title IX and gender equity in the nation's colleges and universities was happening during a presidential transition as newly elected President Bill Clinton assumed office in 1993, following President George H. W. Bush. Collins noted in her opening remarks that the enforcement record of the OCR under the Bush Administration had been, in her words, "woeful". She expressed a belief that with the new administration, there would be increased impetus to do a better job, observing that "Twenty years is too long to wait for enforcement of a law passed by Congress. It's clear that neither the NCAA nor colleges are going to do the right thing any time soon" (Transcript, Hearing on Title IX's Impact . . . , February, 1993, p. 7).

Collins announced she was introducing a bill modeled after the Student Right to Know Act (an act that required disclosure of information about graduation rates) and the Campus Security Act (requires disclosure regarding incidents of crime on college campuses). She considered the EADA to be ". . . the first step to increase compliance with Title IX" (Transcript, Hearing on Title IX's Impact . . . , February, 1993, p. 7). The purpose of the bill as she described it was to ". . . provide prospective students and the public with specific information on each school's efforts to provide gender equity and fairness for all of its students" (Transcript, Hearing on Title IX's Impact . . . , February, 1993, p. 7). Proposed on February 17, 1993, H.R. 921, titled the Equity in Athletics Disclosure Act, called for the Higher Education Act of 1965 to be amended so as to ". . . require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs" (para. 1). The EADA was enacted into law in 1994 with the first reports generated in 1996. The EADA applies to schools that are co-educational, offer intercollegiate athletic programs, and participate in a federally funded financial aid program (through Title IV of the Higher Education Act) (National Women's Law Center, 2015). Schools are required to complete the report on an annual basis, not later than October 15 of the reporting year. The federal agency charged with oversight of the EADA is the United States Department of Education. "Violations of the EADA are punishable by a variety of sanctions, including possible fines, limitations, suspension, or termination of participation in Title IV HEA programs" (National Women's Law Center, 2015, p. 107).

What the EADA Report Covers and Who Uses It

The purpose of the EADA is to inform interested stakeholders about how colleges and universities allocate resources to support men's and women's athletic programs. In keeping with that purpose, the EADA report requires schools to provide the following information:

- Undergraduate enrollment data by gender
- Number of athletic participation opportunities by gender
- Number of teams offered for men, women, and mixed-gender teams

- Number of athletes by gender
- Percent and amount of athletically-related financial aid distributed by gender
- Amount of recruiting dollars allocated by gender
- Number of head, assistant, part-time, and volunteer coaches
- Salaries of coaches reported in the aggregate and by full-time equivalent (FTE) average
- Game day expenses by sport and gender, and;
- Total expenses and revenues by gender as well as non-gender specific allocations.

Those completing the report may provide caveats to explain year-to-year changes in the data or to elaborate more fully on certain data categories where they deem helpful and appropriate. In order to achieve the goal of public accountability, the U.S. Department of Education Office of Postsecondary Education (OPE) curates a database that contains the information schools provide through the EADA survey and makes that information available online through the Equity in Athletics Data Analysis Cutting Tool.² As the U.S. Department of Education (USDOE) explains, “This analysis cutting tool was designed to provide rapid customized reports for public inquiries relating to equity in athletics data. The data are drawn from the OPE Equity in Athletics Disclosure Website database” (U.S. Department of Education, 2023a). As of this writing, the Equity in Athletics Data Analysis Cutting Tool contains data for reporting years 2003-2004 through 2020-2021 (U.S. Department of Education Office of Postsecondary Education, 2023b).

Given the intention of the EADA to help members of the public assess whether colleges and universities are investing equitably in athletic programs for men and women, the EADA report is available not just through the Equity in Athletics Data Analysis Cutting Tool. Any prospective student wishing to see the report must be informed of their right to do so by institutions. Requests for the report from prospective and current students and members of the general public must be responded to in a timely fashion. Institutions may not deny requests to members of the news media, nor are they permitted to charge a fee for the report or require individuals who wish to review the report to physically visit their campus (U.S. Department of Education Office of Federal Student Aid, 2021).

While the USDOE does not track the number of times the EADA Website is accessed or the number of requests that schools receive for EADA data, there is evidence that EADA data is used by researchers and litigators. As the director of Empirical Analytics in the Department of Economics at the University of Utah, Ted Tatos (2019) identified data collected from EADA surveys is one of the two most common publicly available data sources on intercollegiate athletics finances (the other being data from NCAA Financial Reports obtained by *USA Today* through public records requests). Tatos (2019) further noted that like other data sources, individuals

2. The U.S. Department of Education uses a private research company, Westat, to run the Equity in Athletics Data Analysis Cutting Tool and the actual survey registration and data collection.

interpreting the data need to understand both the advantages of the data set they are using and be clear in terms of what their research goals are.

To this point, EADA data offer insight into decisions made by athletics administrators as to how resources are allocated but data provided in an EADA report by itself is not determinative of Title IX compliance. This reality is addressed on the EADA Website, which cautions under the banner of “EADA and Title IX Compliance” that

The data collected in this survey are provided by institutions in accordance with the EADA and may not be the same as data used for determining compliance with other Federal or state laws, including Title IX of the Education Amendments of 1972 (USDOE, 2023b, para. 4).

In effect, the EADA provides access to information to raise questions about what an athletic department is doing in terms of resource allocations and Title IX compliance. Because Title IX compliance is determined on a case-by-case basis, the onus falls on an institution to explain whether and how it is complying with Title IX (Staurowsky et al., 2022).

EADA data, along with other information garnered from online rosters and other publicly available resources, has been used by investigative reporters, Title IX experts, and researchers to question, among an array of issues, the veracity of claims made by schools relative to the offering of participation opportunities (de Leon, 2016). By way of example, in an analysis of EADA data for 127 of the top football-playing institutions in the country for the academic year 2020-2021, Axon and Schnell (2022) found that 87% of those institutions did not provide athletic opportunities to women proportional to enrollment. Although schools can still meet Title IX requirements in the athletic participation area by demonstrating that they have a history and continuing practice of program expansion (meaning that athletic participation is not proportional but the institution is addressing the issue) or that the institution has met the needs of interested and qualified women athletes through the current athletic offerings, the fact that women athletes continue 50 years after the passage of Title IX to be afforded disproportionately fewer opportunities compared to men athletes is strongly suggestive of system-wide non-compliance. For 110 of the schools reviewed in the Axon and Schnell (2022) analysis, schools would need to add 11,501 opportunities. Per school, that would require on average adding 104 opportunities for women athletes per school. In athletic terms, that translates into three or four teams per school. Notably, annual reports submitted under the EADA are used at the local institutional level by student writers at colleges and universities to examine gender equity within their athletic programs, to raise questions about how decisions are made on their campuses, and to educate their own communities (Aferiat, 2018; Glunt, 2021; Long, 2020; Morgan, 2022; Mulkey, 2022; Skarboviychuk, 2021).

Consistent with the public accountability goal of the Equity in Athletics Disclosure Act, organizations like Champion Women (Champion Women Communications, 2022) and the Women’s Sports Foundation (Staurowsky et al., 2022) have drawn upon EADA survey data to generate reports on the status of gender equity ef-

forts within the college sport sector. And EADA data have been used by both women and men athlete plaintiffs seeking relief from gender discrimination under Title IX (*Balow v. Michigan State University et al.*, 2022; Bryant, 2021; *Ohlensen v. University of Iowa*, 2020; *Robb v. Lock Haven University*, 2019).

For an industry that is often criticized for its lack of transparency (Krishnan, 2018, Marsigliano, 2020), data gathered through the EADA by itself or in tandem with other data sets such as the NCAA Membership Financial Reports, have been used to shed light not only on gender equity issues but also more broadly on the industry itself. A critical aspect about the EADA data collection is that it is longitudinal, starting in 1996 and occurring thereafter on an annual basis, interrupted only once for some schools during the COVID-pandemic that spanned the spring of 2020 through 2021. The results of the EADA are required by law to be publicly available.

Demonstrably, EADA data provided a foundation for athlete plaintiffs and campus communities to challenge administrators who attempted to cut athletic programs in violation of Title IX during the COVID crisis. Following an announcement that seven sports were to be cut at William and Mary (three men's and four women's teams) despite historically falling short of Title IX's expectation across a range of issues from athletic participation opportunities, athletic scholarship allocation, and fair treatment in operational areas (uniforms, travel, accommodations), the ability of plaintiffs and lawyers to draw upon public records aided in an eventual acknowledgment that the cuts to women's programs had exacerbated Title IX non-compliance. The end result was the reinstatement of the four women's teams, the addition of a new women's team, and a commitment to remedying persistent inequities that had existed for decades (NBCSports Staff, 2021). Between 2020 and 2022, similar results occurred on behalf of both women and men athletes alleging discrimination under Title IX and other laws (such as Title VI) at Brown University, Dartmouth College, Dickinson College, East Carolina University, La Salle University, the University of North Carolina at Pembroke, and the University of St. Thomas (Bailey Glasser, 2021).

In a time when big-time athletic programs are exploring avenues to sidestep open-records laws, the public disclosure requirement mandated by the EADA may prove to be increasingly important moving into the future. Illustrative of this point, when *Washington Post* reporters Emily Giambalvo and Rick Maese (2021) sought access to communications among presidents and chancellors of Big Ten institutions about their deliberations regarding football's return to play in the fall of 2021 during the COVID-19 pandemic, the reporters discovered that the Big Ten chief executive officers had deliberately moved their communications (exchanges, record-sharing) to a protected Big Ten platform, out of public view.

Criticisms and Limitations of the EADA

As useful as the EADA report is, it has been the subject of criticism over time. In this section, some of the most persistent criticisms are explored and critically examined.

Criticism 1. The EADA Falls Short of Its Intention to Inform Prospective and Current Students

On its face, the notion that prospective athletes still in their teen years who are going through that critical transitional period of their lives from high school to college, confronted with what is often one of the biggest decisions they have had to make up to that point, would a) know about the Equity in Athletics Disclosure Act, and b) feel compelled to read a data-dense report without any background or training might test credulity. In effect, the logic might suggest that the idea is good (educate athletes about their rights which have been routinely violated over the span of decades), but the implementation is bad (if an athlete has no history or context to appreciate where the EADA came from or what Title IX is, the compelling motive to pay attention is absent).

Vice president and general counsel for the American Council on Education, Sheldon Steinback, was particularly critical of the premise behind the EADA. In 2005, he observed,

Please. Student-athletes, male or female, who are seeking a full-ride scholarship at a Division I school will look at a lot of things . . . They will look at the training facilities. They will look at the size of the stadium. They will look at what meals are served at the training table. They will be influenced dramatically by who the coach is. But the last thing any of them would think to look at is financial data filed with the federal government (Brady, 2005, para. 10).

The common-sense perspective offered has some validity but ignores the fact that the mechanisms that were in place to foster an understanding about Title IX as it applies to schools in general and athletics in particular, as well as the EADA, have largely been disabled for decades. Historically, schools may suffer some public embarrassment if they fail to comply with Title IX and/or the EADA, moments generally revealed through investigative reporting efforts, and may lose in court, drawing attention to a laissez-faire attitude toward compliance, but schools have not been sanctioned in meaningful ways by the Federal government for failing to meet their obligations under Title IX and/or the EADA.

Each school obligated to abide by Title IX requirements was required to appoint a Title IX coordinator responsible for overseeing compliance, creating grievance procedures, and educating constituents about Title IX requirements no later than June of 1976. Schools were slow to appoint Title IX coordinators and empower them with the support they needed to execute their responsibilities (National Coalition of Girls and Women in Education, 2017). As late as 2017, during Title IX's 45th anniversary year, the National Coalition of Girls and Women in Education reported that schools still were not designating Title IX coordinators, and many were also not providing the necessary resources to ensure that Title IX coordinators had the training and/or authority to do their jobs (Nowicki, 2017; Staurowsky & Rhoads, 2020).

The disabling of mechanisms to routinely educate constituencies (e.g., athletes, coaches, parents) about Title IX as it applies to athletics has resulted in those most impacted by the legislation knowing very little about Title IX's athletics require-

ments or the EADA (Staurowsky, 2011; Staurowsky & Weight, 2011, 2013; Staurowsky et al., 2017). In one of the largest studies of Title IX knowledge among college coaches (n=1,093), 83% were found never to have received any formal training about Title IX as part of preparation for their jobs (Staurowsky & Weight, 2011). After surveying college athletes (n=1,303) about Title IX, Druckman, Gilli, Klor, and Robinson (2014) identified the “starkest finding is the evident lack of knowledge among athletes about the content and target of Title IX . . .” (para. 29). In a study assessing Title IX awareness among NCAA Division I and III athletes (n=210), 40 percent indicated that they did not know what Title IX was (Staurowsky et al., 2017).

In a study of those responsible for Title IX compliance efforts within NCAA Division I athletic programs in 2020 (n=90), there was relatively low outreach to athletes and coaches about Title IX matters. Among respondents, 11 percent indicated they met athletes from their advisory committees once a year along with their institutional Title IX compliance officer; 13 percent reported that they developed educational training for coaches; and 9 percent reported that they developed educational training for athletes (Staurowsky & Rhoads, 2020). Only 2-3 percent of respondents indicated that they provided athletes and coaches with education about the EADA (Staurowsky & Rhoads, 2020).

Criticism 2. EADA is a Cumbersome Report that Imposes a Burden on Schools

Under the George W. Bush Administration, Title IX’s impact on athletics was reviewed by the Secretary of Education’s Commission on Opportunity in Athletics (2003), which conducted its work between 2002 and 2003. One of the recommendations considered by the Commission, which ultimately failed to receive support, was the repeal of the Equity in Athletics Disclosure Act. Support for repealing the EADA stemmed from a belief that the reporting requirement was “overly burdensome, subjective and cumbersome” (Brady & Upton, 2005, para.12). As then president of the Pennsylvania State University, Graham Spanier, argued in a December 2002 meeting of the Commission,

If you totaled up the bill of what we are all spending on these reports that go to the Department of Education, it's probably a couple of hundred thousand dollars per institution. If we did away with all of the reports, we could add another women's sport. I'm dead serious about that (as quoted in Brady & Upton, 2005, para. 5).

While the governmental expectation that colleges and universities complete the EADA report on an annual basis has been met over the years with criticisms that it is a burden to complete, according to the Paper Burden Statement,

the Campus Equity in Athletics Disclosure Act (EADA) Survey Public reporting burden for this collection of information is estimated to average 5.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information (Cerny, 2022, para. 1).

One might ask just how onerous of a task completing the EADA could be for any

institution that was already attesting to Title IX compliance. If schools claim that they are in compliance with Title IX, something that they need to do in order to retain their eligibility to receive federal financial assistance, then reporting out the information requested by the USDOE in the EADA should be accessible with little to moderate additional effort. As a matter of determining Title IX compliance, and for other federal reporting requirements, schools track their undergraduate enrollment and allocations of financial aid (athletically related or not). From a budgetary perspective, schools know what their allocations of budget resources are in supporting recruitment efforts for athletes and other operational areas.

Deconstructing the claims that the EADA report is an onerous task that imposes difficulty on an institution may hint at the fact that an institution is not actually taking its obligations under Title IX seriously. In the absence of the EADA, there would be no national repository of publicly available information about college and university athletic programs and their provision of athletic opportunities and allocation of resources on the basis of gender.

Criticism 3. EADA Data is Limited

As Tatos (2019) noted in his assessment of the EADA, reports have different purposes and there are other reports, such as the NCAA Membership Financial Report (MFR), that provide a fuller accounting of college and university athletic department budgets at the NCAA Division I level. From an NCAA perspective,

The EADA report is a governmental report that is geared towards Title IX analysis, whereas the NCAA Membership Financial Report is geared toward institutional performance for comparison purposes with like institutions or within a conference. The EADA report may not match the NCAA Membership Financial Report (NCAA AUP and Financial Reporting FAQs, 2022, p.1).

There is a legitimate issue with the fact that the EADA does not provide a full and complete accounting of athletic department revenues and expenses. In point of fact, the definitions used for the EADA report are narrow. For example, capital expenditures (stadium expansions, new building projects, renovations of locker rooms), guarantees paid to opposing teams, and various other expenditures are not included (National Women's Law Center, 2015). The way in which revenues are calculated for the report forecloses on an opportunity to report profits per se:

Because the EADA requires reporting of total revenue, rather than net revenue, it is not possible to determine from the disclosure reports whether a program is actually profitable. Moreover, because the expenditures required to be disclosed under the EADA do not reflect the actual costs of operating athletics programs, such as facilities maintenance and improvements, crowd control, concession costs, appearance fees, capital expenditures and overhead costs, the disclosure reports tend to make many programs look more economically viable than they actually are (National Women's Law Center, 2015, p. 106).

Over the years, athletic directors have lamented what they perceive to be the inadequacy of the EADA. In 2003, Stanford athletic director, Ted Leland, found the limitations of the EADA to be problematic because schools employ a variety of methods when accounting for what is happening not just in athletic department budgets but institutional budgets generally (Brady & Upton, 2005). That very variability explains in part why the EADA devised narrow definitions in terms of how to account for revenues and expenditures. Upon questioning, schools have every opportunity to elaborate further on how they distribute resources but the EADA provides a snapshot in time to begin an inquiry or conversation.

It is notable that the NCAA pursued a strategy with the EADA similar to what the Association did with the Student Right to Know Act, an act that created the federally mandated requirement that schools generate graduation rate reports providing information on how college athletes receiving athletic scholarships compare to the undergraduate student population and how athletes in different sports compare to each other by gender and race. In the early 2000s, the NCAA devised a different graduation rate than that used by the federal government, one that the Association claims would more accurately reflect undergraduate enrollment and transfer patterns. The NCAA's metric is called the "graduation success rate".

As Southall (2014) has written about, this effort to create a new metric was part of a rebranding strategy by the NCAA to counter public criticism that the educational bargain promised to athletes as part of the athletic scholarship agreement was not being fulfilled. The NCAA's graduation success rate has allowed the organization to repeatedly publish reports and make claims that athletes continue to graduate at record rates and yet since this is an athletic-population-focused metric that offers no comparison to the larger full-time undergraduate population, offers an inflated view of college athlete graduation rates, particularly within the profit-generating sports of football and men's basketball. Using a metric called the Adjusted Graduation Gap (AGG), college football players were far less successful over a 12-year span of time to graduate when compared to full-time men undergraduates with the largest gaps in graduation happening among Black football players (Corr et al., 2022).

The NCAA's counter to the EADA was the Member Financial Report Survey (MFRS). In contrast to the EADA, the MFR is an audited report that "... likely does provide the most extensive coverage of the athletic department financials of member institutions" (Tatos, 2019, p. 415).

There are two key distinguishing features about the MFR that reveal the resistance the athletic community has to public disclosure. The first is the fact that there is no central place where the public can go to review these reports. For MFRs generated by public institutions, those so motivated may be able to obtain them through public records requests, requests that would need to be made to each institution. And second, approximately 35% of NCAA Division I institutions are private, thus their MFRs are not available unless those schools opt to voluntarily disclose them, a prospect that has historically not happened (Tatos, 2019).

The NCAA has at times taken the additional step of suggesting that data gathered from the EADA is flawed. In 2018, then NCAA Managing Director of Research,

Todd Petr, testified in a lawsuit against the NCAA that he regarded data gathered from the EADA to be “unreliable” (Tatos, 2018, p. 433). As Tatos (2019) rightly pointed out, data from the EADA is not flawed or unreliable but simply different. As he explained in terms of appreciating what a data set offers, a hammer is not unreliable if criticized when put to the wrong use, for example, using one to install a screw. A screwdriver and a hammer are both construction tools with each having a legitimate purpose.

Sorting through the fog around the EADA coming from the NCAA and athletic administrators reveals the fact that there is general resistance to public transparency in terms of athletic department practices and budget allocations. In 2018, U.S. Representatives David Price (D-NC) and Tom Petri (R-Wis.) introduced the Standardization of Collegiate Oversight of Revenues and Expenditures Act, also known as the SCORE Act (H.R. 5110). The bill called for 1,700 colleges and universities, including private institutions, to make their MRFS reporting of revenues and expenses on a sport-by-sport basis available to the public. The bill also proposed to extend public financial disclosures to the NCAA, conferences, and bowl entities (Berkowitz, 2014). In the end, the bill garnered considerable pushback from the very officials who criticized the limits of the EADA.

Criticism 4. EADA Mistakes v. Manipulation

In the course of discussions as part of the Commission on Opportunities in Athletics, then Assistant Secretary of Education, Sally Stroup, shared “The Education Department does not use the report and cannot verify the data that colleges publish under it” (Suggs, 2005, para. 18). While the U.S. Department of Education does encourage schools to check the accuracy of the data shared in the EADA survey before submitting, errors have been found.

A 2005 investigation of EADA data for 2003 and 2004 by *USA Today* reporters Jodi Upton and Erik Brady (2005) revealed that “Of the nation's highest-profile athletic programs, more than 34% had at least one error . . . The errors range from a few dollars to a \$34 million data-entry mistake in the University of Texas report” (para. 2). Errors could occur as a result of a typographical error, misreading a column of numbers, lack of familiarity with the form itself, putting a number in the wrong column, or miscalculating.

A persistent question with the EADA is when data errors are due to benign reasons (mistakes) versus deliberate attempts to be misleading. This question has often surfaced as a result of a pattern of errors found in data submitted for athletic participation opportunities and the number of athletes. An examination of data submitted for the 2018-2019 academic year by 107 of the public schools in NCAA Division I FBS Division, cross-checked with information obtained through public records requests (e.g., internal athletic department squad lists) and other publicly available information (such as online rosters), revealed “. . . widespread use of roster manipulation across many of the nation's largest and best-known colleges and universities” (Jacoby, 2022, para. 1).

Beyond discrepancies across data sources, Title IX athletics experts for years have been aware of the methods used to distort numbers to make it appear that the athletic opportunities offered by colleges and universities were more favorable to women than they actually are, including double-or triple-counting women athletes; including men who practice with women's teams as women; and the padding of women's rosters either by carrying large rosters that exceed a reasonable expectation of competing or including injured athletes who are not able to compete³ (Lopiano, n.d.). It should be noted that all three of these methods are permitted under the definitions that govern accounting of athletic participation opportunities in the EADA. In response to an analysis of roster manipulation on the part of colleges and universities in 2011, former U.S. Secretary of Health and Human Services who was serving then as president of the University of Miami, Donna Shalala, commented: "Those of us in the business know that universities have been end-running Title IX for a long time, and they do it until they get caught" (Thomas, 2011, para. 8).

Evidence of all three of those data manipulation methods was found in the *USA Today* analysis of athletic participation opportunities as reported for the 2018-2019 academic year. Under the EADA, there is nothing that prevents a school from double- and triple-counting women athletes. Thus, for a sport like track and field, a middle-distance runner (one athlete) may be counted three times because of their participation in cross country, indoor track, and outdoor track. When schools maintain their women's cross country and track and field programs as varsity but label one or more of their men's cross country and track and field programs as club, there is an appearance that the overall women's participation opportunities are better than what they actually are (the women are counted as varsity athletes; the men are not). The impact this has can be dramatic. As reported by *USA Today*, the double- and triple-counting of women athletes resulted in an additional 2,252 women's roster spots in 2018-2019 (Jacoby, 2022).

In terms of padding women's rosters, 27 schools reported rosters averaging 87 women per team in the sport of rowing. Those roster counters were more than double the maximum number allowed at most conference championships (Jacoby, 2022). The accumulated effect of that inflation amounted to at least 838 women rowers occupying spots that afforded little actual competition opportunity. In turn, the counting of men athletes skews the reporting of athletic opportunities for women in the EADA. By way of example, 52 out of the 107 EADA reports reviewed for NCAA Division I institutions revealed that 25% of the athletic participation opportunities in the sport of women's basketball, or one in every four, actually represented an opportunity in which a man participated. Although the EADA does provide space for schools to provide an explanation regarding men practice players, and some do, those unfamiliar with the report are likely not to be aware of this and not look to check. Further, if a school does not report men practice players then those numbers might be buried within the overall count. In actual numbers, 601 men athletes who

3. Schools have also been found to create "phantom" participation opportunities, meaning a number of spaces are created on a roster with the full understanding that a woman athlete will not actually fill that space.

practiced with women's teams were counted as women athletes that year (Jacoby, 2022).

Conclusions and Recommendations

When considered in light of the fact that colleges and universities have persistently failed to comply with Title IX in the athletics area for five decades (Bushnell, 2022; Hogshead-Makar, 2022; Staurowsky et al., 2022; *USA Today* Staff, 2022), the motive behind the EADA, a consumer protection measure was, as Congresswoman Collins pointed out in 2005, “. . . to make it easier for anyone to judge whether schools were treating athletes fairly” (Upton & Brady, 2055, para. 19). Viewed through the simplicity of that lens, the design of the report makes sense. Even if one is not an expert on Title IX, a cursory examination of an EADA report will offer certain insights into how an athletic department operates. A reader of the report may wonder why men athletes receive more athletic opportunities compared to women athletes; why men's operating budgets are larger than those for women; why men's sports have more head and assistant coaches and those coaches are paid more; why men athletes receive more money in athletic scholarship assistance; and why more money is spent on recruiting for men's sports than for women's sport. The EADA is not a Title IX audit but a compliant institution should readily be able to explain these systemic trends and offer defensible reasons as to why resources are allocated disproportionately to support men's sports. These trends by themselves are not enough to determine Title IX compliance but in a system that is segregated by gender, and where there has historically been exclusion, discrimination, lack of enforcement, and lack of transparency, public access to information remains crucial to achieving the ultimate goal of the legislation, that is a college sport system that is free from gender discrimination.

The 50th anniversary of Title IX offers an opportunity to acknowledge the value of the EADA but also to recognize its limitations. There are ways that the EADA could better fulfill its purpose of serving as a consumer information and protection mechanism and a mechanism for fostering greater transparency and accountability. Recommendations for strengthening the EADA as a data-collection instrument from the Women's Sports Foundation (Staurowsky et al., 2022)⁴ include the following:

- “The U.S. Congress and the U.S. Department of Education should adjust the Equity in Athletics Disclosure Act (EADA) and its regulations so that the annual data it requests on its form fully encompass the practices of athletic departments in order to comprehensively assess gender equity practices, including the reporting of information about an institution's athletics-related capital as well as operating expenses” (Staurowsky et al., p. 64). This would require an expansion of the EADA's methodology and definitions but would address criticisms that the information as reported is too narrowly focused.

4. Recommendations in the Women's Sports Foundation report on 50 Years of Title IX were developed in collaboration with Libby Sharrow, a researcher at the University of Massachusetts-Amherst.

It is clear, given that the NCAA collects these data through the MFR survey that it would not create a further reporting burden for schools.

- “The U.S. Department of Education should establish an external audit system to promote public confidence in and full accuracy of EADA reports. Such an auditing system would hold institutions accountable to the data reported; provide a mechanism for sanctioning institutions that fail to take their reporting obligations seriously; and better serve the public in general” (Staurowsky et al., 2022, p. 64). While Tatos (2019), in his comparison of EADA and NCAA MFRS data, found that even with audited reports there are errors, this would be an additional step to signal to schools that suffer no penalty at present for publishing inaccurate and/or misleading information that the stakes have been raised. In the alternative, schools should be required to have the report externally audited before submission.
- “U.S. Congress should pass legislation extending similar EADA intercollegiate disclosure requirements to primary and secondary school districts where schools sponsor interscholastic athletic programs, in order to promote transparency and enforcement of Title IX at the elementary and secondary level of education. This should include disclosure of information regarding participation, expenditures, and budgets to help make public full information about the status of Title IX implementation and the equitable treatment of girls in sport” (Staurowsky et al., 2022, p. 65). Given the lack of Title IX and EADA education in schools, extending national data collection efforts into the primary and secondary level would prompt greater public engagement at those levels that would carry forward generationally.

From the perspective of making the data gathered by the EADA more accessible to those who can benefit the most from it, the presentation of the data to the public could be improved through the creation of a data visualization feature within the EADA Website. As a case in point, a quick tutorial on Title IX’s three-part test of compliance as it is applied to athletic participation opportunities along with disclosure from schools as to which part or parts of the test they comply with would be instructive from a public access and accountability perspective.

The first part of the three-part test to assess whether athletic participation opportunities are being offered fairly is called substantial proportionality. A school needs to demonstrate that it is offering athletic participation opportunities to men and women proportional to the representation of men and women in the undergraduate student population. If a school does not meet this part of the test, it needs to demonstrate if athletic interest has been met either by showing a history and continuing practice of program expansion (meaning that athletic participation opportunities have been added over time and on a continuing basis to address shortfalls for the underrepresented sex) or that the athletic participation opportunities offered fully and effectively accommodate the existing interests of athletes who are qualified to participate (Staurowsky et al., 2022). One of the ways that the EADA could be made more user friendly is for the substantial proportionality figure to be calculated for the user so they would not have to find the data themselves and learn the calculation. If

the system shows a gap in athletic participation opportunities that favors one gender over the other disproportional to their enrollment, the notation by the school of what other part of the test they are using to comply with this standard would increase public accountability but also make the EADA data more usable and accessible.

Whether through the EADA or the enactment of other federal legislation, it is clear that there is a need for greater transparency in terms of the business practices employed by colleges and universities in the running of athletic departments. Thus, support for legislative initiatives such as the Standardization of Collegiate Oversight of Revenues and Expenditures (SCORE) Act and the Fair Play for Women Act would support and supplement the data gathered through the EADA. U.S. Senator Christopher Murphy (D-CT) re-introduced the SCORE Act in April of 2021, citing examples of how women college athletes were routinely treated as second-class citizens. Referencing events that occurred during March Madness in 2021, where social media posts from players and coaches captured profound gender inequities in terms of accommodations, training facilities, venues, health and safety measures for COVID, and food for NCAA Division I women college, he commented:

One of the ways we can help fix this problem is by shedding a light on how the NCAA and its members manage the billions they generate in revenue every year. The SCORE Act would shine a bright light on college sport finances, by requiring the NCAA, athletic conferences, and all colleges with Division I athletic programs to report far more data about their finances and provide the transparency that's desperately needed to fix the inequities and broader issues in college sports (U.S. Senator Murphy's Staff, 2021, para. 3).

The Fair Play for Women Act, also introduced by Senator Murphy and co-sponsored by U.S. Representative Alma Adams (D-NC) in December of 2022 would provide for three things:

- an expansion of reporting requirements to include not only colleges and universities but also elementary and post-secondary schools and to require schools when submitting reports to explain how they are complying with Title IX;
- establish greater clarity in terms of gender equity expectations for athletic associations that govern school athletic programs as well as authorize the Department of Education to levy fines against non-Title IX compliant institutions; and,
- increase efforts to educate stakeholders (athletes, parents, coaches, staff) about Title IX and their rights (U.S. Senator Murphy's Staff, 2022).

These efforts by themselves will not be sufficient to remedy the issues with Title IX compliance. At present, because the federal government does not employ available options to punish schools for Title IX non-compliance in athletics, the record of compliance among colleges and universities during the first 50 years of Title IX suggests that there is little incentive to voluntarily do so. Saliently, as a general observation, schools are more inclined to abide by NCAA rules than to comply with Title IX, which is a federal law. That should offer some insight to public policymakers and

legislators about what needs to happen to get the attention of college sport officials. A continuing push for greater public disclosure is warranted given this history, and a consideration of how to strengthen the role of the EADA has the potential to aid in those efforts.

References

- Aferiat, J. (2018, May 27). It doesn't look good for Sandy Barbour. *The Daily Collegian*. Retrieved from https://www.collegian.psu.edu/news/campus/it-does-not-look-good-for-sandy-barbour/article_fad30486-61ce-11e8-a142-a79e37a12a82.html
- Axon, R. (2022, December 15). What happens if a school doesn't comply with Title IX? Not a whole lot. *USA Today*. Retrieved from <https://www.usatoday.com/in-depth/news/investigations/2022/12/15/title-ix-enforcement-essentially-toothless-mired-red-tape-delays/10803850002/?eType=EmailBlastContent&cId=179ace1d-37e5-40a0-b40d-3a0306282eeb>
- Axon, R., & Schnell, L. (2022, June 3). 50 years after Title IX passed, most top colleges deprive female athletes of equal opportunities. *USA Today*. Retrieved from https://www.usatoday.com/in-depth/news/investigations/2022/06/03/title-ix-failures-50-years-colleges-women-lack-representation/9664260002/?gps-source=BRNMSVCPSPXXTITLEIX&itm_source=usat&itm_medium=onsite-spike&itm_campaign=titleix-storytellingstudio-n&itm_content=static
- Bailey Glasser (2021). Case studies: Title IX victories. *BaileyGlasser.com*. Retrieved from <https://www.baileyglasser.com/casestudy-casestudy-title-ix-victories>
- Berkowitz, S. (2014, July 15). Education lobbyist criticizes House bill targeting college sports. *USA Today*. Retrieved from <https://www.usatoday.com/story/sports/college/2014/07/15/house-bill-on-financial-reporting-terry-hartle-american-council-on-higher-education/12684537/>
- Brady, E. (2005, October 19). An overlooked resource. *USA Today*.
- Brady, E., & Upton, J. (2005, October 19). Financial report not standardized. *USA Today*.
- Bryant, A. (2021, March 12). Letter to President of Clemson University, James P. Clements, Re: Elimination of Men's Track and Field and Cross Country Teams in violation of Title IX. Retrieved from <https://www.baileyglasser.com/assets/htmldocuments/Letter%20to%20President%20Clements%20at%20Clemson%20University%20-%20March%2012%202021.pdf>
- Bushnell, H. (2022, June 23). After 50 years, Title IX compliance in college sports still lags. The reason? 'It has not teeth'. *Yahoo!Sports.com*. Retrieved from <https://sports.yahoo.com/title-ix-compliance-college-sports-enforcement-department-of-education-office-for-civil-rights-161545634.html>
- Buzuvis, E. (2023). Athletic scholarships and Title IX: Compliance trends and context. *Journal of Intercollegiate Athletics*.
- Cerny, D. (2022, July 14). Paperwork burden statement; Campus Equity in Athlet-

- ics Disclosure Survey. Retrieved from <https://omb.report/icr/202205-1840-001/doc/120979300>
- Champion Women Communications. (2022, June 19). Is your school treating female athletes fairly? *TitleIXSchools.com*. Retrieved from <https://titleixschools.com/2022/06/19/eadadata/>
- Cooper, J., Cavin, J. K., & Cheeks, J. (2014). The state of intercollegiate athletics at Historically Black Colleges and Universities (HBCUs): Past, present, & persistence. *Journal of Issues in Intercollegiate Sport* 7, 307-332.
- Corr, C., Eckard, W., Southall, R., & Nagel, M. (2022). 2021-2022 Adjusted Graduation Gap Report: NCAA FBS football. University of South Carolina College Sport Research Institute. Retrieved from https://static1.squarespace.com/static/5de5182fe743cb648d87d098/t/62058453aa7a1e14f8b4bed8/1644528723797/2021+AGG+Football_2-10-2022.pdf
- de Leon, R. (2016, May 16). How to investigate if your school is inflating gender equity numbers. *Revealnews.org*. Retrieved from <https://revealnews.org/article/how-to-investigate-if-your-school-is-inflating-gender-equity-numbers/>
- Dellenger, R. (2022, March 31). Congress introduces bill to investigate gender equity within NCAA operations. *SI.com*. Retrieved from <https://www.si.com/college/2022/03/31/congressional-bill-gender-equity-ncaa-investigation>
- Druckman, J. N., Gilli, M., Klar, S., & Robison, J. (2014). Athlete support for Title IX. *The Sport Journal*. Retrieved from <http://thesportjournal.org/article/athlete-support-fortitle-ix/>
- Emily Robb et al. (plaintiffs) v. Lock Haven University of Pennsylvania et al. (defendants)*. No. 4:17-CV-00964. (2019, May 7). Retrieved from <https://casetext.com/case/robb-v-lock-haven-univ-of-pa>
- Equity in Athletics Disclosure Act. (1994). 20 U.S.C. § 1092; 34 C.F.R. §§ 668.41 and 668.47. Retrieved from <https://www2.ed.gov/finaid/prof/resources/athletics/eadata.html>
- Garber, G. (1992, March 12). NCAA study shows gender equity exists. *The Hartford Courant*. Retrieved from <https://www.courant.com/news/connecticut/hc-xpm-1992-03-12-0000204715-story.html>
- Giambalvo, E., & Maese, R. (2021, March 5). Big Ten presidents kept return-to-school football communications out of public eye. *Washington Post*. Retrieved from <https://www.washingtonpost.com/sports/2021/03/05/big-ten-presidents-portal-football-covid/>
- Glunt, C. (2021, September 16). Gender equity issues persist within Ithaca College athletics. *The Ithacan*. Retrieved from <https://theithacan.org/sports/gender-equity-issues-persist-within-ithaca-college-athletics/>
- Goplerud, C. P. (1991). NCAA enforcement process: A call for procedural fairness. *Capital University Law Review*, 20, 543-560.
- Green, L. (2008). Proposed legislation would impact athletics programs. *High School Today: The Voice of Education-Based Athletics and Fine Arts Activities*. National Federation of State High School Associations. Retrieved from https://www.nfhs.org/media/1017202/high_school_today_february_08_layout.pdf

- Jacoby, K. (2022, May 26). Methodology behind *USA Today's* analysis of college athletic rosters. *USA Today*. Retrieved from <https://www.usatoday.com/story/news/investigations/2022/05/26/methodology-behind-usa-todays-analysis-college-athletic-rosters/9924290002/>
- Jacoby, K., Axon, R., Schnell, L., & Berkowitz, S. (2022, August 17). Female athletes stifled on scholarships at some of the biggest colleges in the country. *USA Today*. Retrieved from https://www.usatoday.com/in-depth/news/investigations/2022/08/17/female-athletes-stiffed-scholarship-money-colleges-title-ix/7640647001/?gps-source=BRNMSVCPSPXXTITLEIX&itm_source=usat&itm_medium=onsite-spike&itm_campaign=titleix-storytelling-studio-n&itm_content=static
- Jordan, M. (1992, June 21). Only one school meets gender equity rule. *Washington Post*. Retrieved from <https://www.washingtonpost.com/archive/sports/1992/06/21/only-one-school-meets-gender-equity-goal/4c11e2d7-eae9-4b92-9fed-905f17049c15/>
- Kaplan Hecker & Fink. (2021). NCAA gender equity review: Phase I: Basketball championships. Report from independent investigation commissioned by the National Collegiate Athletic Association. Retrieved from <https://kaplanhecker.app.box.com/s/6fpd51gxxk9ki78f8vbhqcqh0b0o95oxq>
- Karen Blair et al. (plaintiffs) v. Washington State University (respondents)*. No. 50591-8. 108 Wn.2d 558 (1987), 740 P.2d 1379. Retrieved from <https://law.justia.com/cases/washington/supreme-court/1987/50591-8-1.html>
- Keen, K. (2007). The Equity in Athletics Disclosure Act: Does it really improve the gender equity landscape? *Journal of College & University Law* 34(1), 227-246.
- Krishnan, A. (2018, January 30). Accountability in college athletics starts with transparency. *The Daily Texan*. Retrieved from <https://thedailytexan.com/2018/01/30/accountability-in-college-athletics-starts-with-transparency/>
- Long, B. (2020, April 20). GW outpaced A-10 peers in funding distribution last season. *The GW Hatchet*. Retrieved from <https://www.gwhatchet.com/2020/04/20/gw-outpaced-a-10-peers-in-funding-distribution-last-season/>
- Lopiano, D. (n.d.). The proper use and abuse of roster management. *Sportmanagementresources.com*. Retrieved from <https://sportsmanagementresources.com/library/proper-use-and-abuse-roster-management>
- Marsigliano, J. (2020, September 30). Resolution: W&M Student Assembly calls administration's lack of transparency about sports cuts 'appalling'. *Williamsburg Yorktown Daily*. Retrieved from <https://wydaily.com/news/local/2020/09/30/resolution-wm-student-assembly-calls-administration-lack-of-transparency-about-sports-cuts-appalling/>
- Morgan, J. (2022, April 6). Female varsity rowers face unequal athletic financial aid. *The USD Vista*. Retrieved from <https://uofsdmedia.com/toreros-address-sdsu-title-ix-lawsuit/>
- Mulkey, J. (2022, October 24). Taylor releases annual EADA report covering equal representation. *The Echo*. Retrieved from <https://www.theechonews.com/article/2022/10/taylor-releases-annual-eada-report-covering-equal-representation>

- National Coalition of Girls and Women in Education (2017). Title IX at 45: Title IX coordinators. National Coalition of Girls and Women in Education. Retrieved from <https://www.ncwge.org/TitleIX45/Title-IX-Coordinators.pdf>
- National Collegiate Athletic Assn. v. Smith*, 525 U.S. 459 (1999). Retrieved from <https://supreme.justia.com/cases/federal/us/525/459/>
- National Women's Law Center (2015, August). Legislative developments: Equity in Athletics Disclosure Act. Fact sheet. National Women's Law Center. Retrieved from https://nwlrc.org/wp-content/uploads/2015/08/BDB07_Ch7and8.pdf
- NBCSports Staff (2021). William and Mary violated Title IX for decades lawyers say. *NBCSports.com*. Retrieved from <https://www.nbcsports.com/washington/ncaa/william-mary-violated-title-ix-legislation-decades-lawyers-say>
- NCAA Gender Equity Study (1992). Findings. Retrieved from http://bailiwick.lib.uiowa.edu/ge/CHBGrant/di_ge.pdf
- NCAA Staff (1993, August 4). Gender-Equity Task Force. *The NCAA News*, pp. 14-16. Retrieved from <https://ncaanewsarchive.s3.amazonaws.com/1993/19930804.pdf>
- NCAA Staff (2007, April). *NCAA gender equity in intercollegiate athletics: A practical guide for colleges and universities*. National Collegiate Athletic Association. Retrieved from <https://static.goldenbullsports.com/custompages/PDFs/NCAA%20Gender%20Equity%20Manual.pdf>
- NCAA Staff (2022). NCAA AUP and financial reporting FAQs. National Collegiate Athletic Association. Retrieved from https://ncaaorg.s3.amazonaws.com/ncaa/finance/2022NCAAFIN_FAQs.pdf
- Nowicki, J. (2017, September 14). K-12 education: High school sports access and participation report. United States Government Accounting Office. Retrieved from <https://www.gao.gov/assets/gao-17-754r.pdf>
- Sage Ohlensehlen et al. (plaintiffs) v. University of Iowa et al. (defendants)*, 509 F. Supp. 3d 1085 (S.D. Iowa 2020)
- Pernell, L. (1991). A commentary on Professor Goplerud's article, NCAA enforcement process: A call for procedural fairness. *Capital University Law Review* 20, 561-566.
- Schmadtke, A. (1991, June 26). NCAA likely to act to ease criticism. *The Orlando Sentinel*. Retrieved from <https://www.orlandosentinel.com/news/os-xpm-1991-06-26-9106260148-story.html>
- Skarboviychuk, S. (2021, October 22). Univ. releases EADA report. *Brandeis Hoot*. Retrieved from <https://brandeishoot.com/2021/10/22/univ-releases-eada-report/>
- Sophia Balow et al. (plaintiffs) v. Michigan State University et al. (respondents)*. Appeal from the United States District Court for the Western District of Michigan at Grand Rapids.No. 1:21-cv-00044—Hala Y. Jarbou, District Judge. (Decided February 1, 2022). Retrieved from <https://www.opn.ca6.uscourts.gov/opinions.pdf/22a0019p-06.pdf>
- Southall, R. (2014). NCAA graduation rates: A quarter-of-a century of re-branding academic success. *Journal of Intercollegiate Sport* 7, 120-133.

- Staurowsky, E. J. (1996). Blaming the victim: Resistance in the battle over gender equity in intercollegiate athletics. *Journal of Sport and Social Issues, 20*(2), 194-210. <https://doi.org/10.1177/019372396020002006>
- Staurowsky, E. J. (2011). The Role of Title IX coordinators in fostering Title IX literacy among NCAA coaches & administrators. *Sport Litigation Alert*, n.p. Retrieved from <https://sportslitigationalert.com/the-role-of-title-ix-coordinators-in-fostering-title-ix-literacy-among-ncaa-coaches-administrators/>
- Staurowsky, E. J., Flowers, C., Buzuvis, E., Darwin, L., & Welch, N. (2022). Title IX at 50: We're not done yet. Women's Sports Foundation. Retrieved from https://www.womenssportsfoundation.org/articles_and_report/50-years-of-title-ix-were-not-done-yet/
- Staurowsky, E. J., & Rhoads, A. (2020). Title IX athletics coordinators in NCAA Division I institutions. *Journal of Issues in Intercollegiate Athletics, 13*, 381-404.
- Staurowsky, E. J., & Weight, E. A. (2011). Title IX literacy: What coaches don't know and need to find out. *Journal of Intercollegiate Sport, 4*(2), 190-209.
- Staurowsky, E. J., & Weight, E.A. (2013). Discovering dysfunction in Title IX implementation: NCAA administrator literacy, responsibility, and fear. *Journal of Applied Sport Management, 5*(1), 1-30.
- Staurowsky, E. J., Zonder, E., & Riemer, B. (2017). Title IX knowledge among college athletes and non-athletes in NCAA Division I and III institutions. *Women in Sport and Physical Activity Journal, 25*, 30-42
- Suggs, W. (2002, December 5). Members of federal panel on gender equity in sports suggest how they would change Title IX. *The Chronicle of Higher Education*. Retrieved from https://www.chronicle.com/article/members-of-federal-panel-on-gender-equity-in-sports-suggest-how-they-would-change-title-ix/?cid2=gen_login_refresh&cid=gen_sign_in
- The Secretary of Education's Commission on Opportunity of Athletics. (2003). Record of vote on recommendations proposed by the Commission (archived). Retrieved from <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.ed.gov%2Fabout%2Fbdscomm%2Flist%2Fathletics%2Ftitle9report.doc&wdOrigin=BROWSELINK>
- Thomas, K. (2011, April 25). College teams, relying on deception, undermine gender equity. *New York Times*. Retrieved from <https://www.nytimes.com/2011/04/26/sports/26titleix.html>
- Transcript. (1991). Intercollegiate Sports: Hearings before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce. House of Representatives, One Hundred Second Congress, First Session (June 19, 1991--Overview; July 25, 1991--Academics and Athletics; September 12, 1991--Historically Black Colleges and Universities). Retrieved from <https://eric.ed.gov/?id=ED343525>
- Upton, J., & Brady, E. (2005, October 19). Errors mar equity reports. *USA Today*.
- U.S. Department of Education Office of Federal Student Aid. (2021, March). Consumer information. U.S. Department of Education Office of Federal Student Aid.

- Retrieved from <https://fsapartners.ed.gov/sites/default/files/2021-03/0304Vol-2Ch7ConsumerInformation.pdf>
- U.S. Department of Education Office of Postsecondary Education. (2023a, January). Equity in Athletics Data Analysis Cutting Tool. Website. Retrieved from <https://ope.ed.gov/athletics/#/customdata/datafiltered>
- U.S. Department of Education Office of Postsecondary Education. (2023b, January). 2022 Equity in Athletics Disclosure Act Survey. Website. Retrieved from <https://surveys.ope.ed.gov/athletics/#/>
- U.S. Senator Murphy's Staff. (2021, April 16). Murphy, Price introduce bicameral legislation to promote transparency in college athletics. Press release. Retrieved from <https://www.murphy.senate.gov/newsroom/press-releases/murphy-price-introduce-bicameral-legislation-to-promote-transparency-in-college-athletics>
- U.S. Senator Murphy's Staff. (2022, December 20). Murphy, Adams introduce legislation to promote gender equity in sports. Press release. Retrieved from <https://www.murphy.senate.gov/newsroom/press-releases/murphy-adams-introduce-legislation-to-promote-gender-equity-in-sports>
- USA Today* Staff. (2022, May 26). Title IX: Falling short at 50. *USA Today*. Retrieved from <https://www.usatoday.com/in-depth/news/investigations/2022/05/26/title-ix-falling-short-50-exposes-how-colleges-still-fail-women/9722521002/>
- Wilson, A. (2022, July 12). NCAA Title IX 50th anniversary: The state of women's college sport. *NCAA.org*. Retrieved from https://s3.amazonaws.com/ncaaorg/inclusion/titleix/2022_State_of_Women_in_College_Sports_Report.pdf
- Wright, S. L. (1992). *Franklin v. Gwinnett County* "Public Schools": The Supreme Court implies a damages remedy for Title IX sex discrimination. *Vanderbilt Law Review*, 45, 1367-1382. Retrieved from <https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=2389&context=vlr>