AN EXPLORATORY STUDY OF SUCCESSFUL UNIVERSITY FOOTBALL PROGRAMS AND THE LEVEL OF COMPLIANCE WITH TITLE IX

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Abstract

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AN EXPLORATORY STUDY OF SUCCESSFUL UNIVERSITY FOOTBALL PROGRAMS AND THE LEVEL OF COMPLIANCE (206 pp.)

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Title IX is the reference for the federal law prohibiting discrimination on the basis of sex by universities receiving federal funding. Issues of compliance related to intercollegiate athletics are guided by a 1979 Office of Civil Rights Policy Interpretation, and its provisions are still current. Three areas of compliance were identified and referred to as the three prongs to demonstrate compliance. The third prong requires universities to demonstrate that student interest for opportunities of participation in intercollegiate athletics is met. Three options provide specific guidance to determine compliance, but one option has been used most frequently to determine compliance and been the basis for most of the lawsuits related to intercollegiate athletics compliance with Title IX. Are intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments? Compliance with this provision can be particularly difficult for athletic departments that attempt to support football teams competing in Division I-A. Those are also the universities that can create the most revenue from successful football programs.

Comparisons of championship and non-championship football programs, football program revenue levels and overall athletic program success through analysis of variance to determine whether those differ significantly in regard to proportionality of women

undergraduates, women athletes, athletic scholarship, recruiting budget, operating budget and coaching budget allocation for women provide insight as to status of proportionality compliance from 1996 to 2005. The results indicate significant statistical differences in some areas. Scholarship allocation proportionality compliance is increasing and the proportionality of women athletes with women undergraduates is becoming more proportionate over the ten years studied.

No penalty has been assessed by an enforcement branch of the federal government to a university for lack of compliance with these provisions of Title IX. This is in contrast to other federal legislation for equal rights such as the Campus Security Act and the Americans with Disabilities Act. As long as the compliance measures used revolve around the standard of proportionality, more should be done by universities, athletic personnel and those charged with enforcement of Title IX provisions.

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I thank God for all of the gifts and opportunities He's provided in my life and pray that I can use them to serve His purposes.

For

Steve, Alex, Lyndsey, Colton

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CHAPTER ONE

Proportionality Compliance in Title IX

On July 21, 1975, chapter 34 of the Code of Federal Regulations, section 106 (34 C.F.R. §106.41 (a) became law, after being signed by President Gerald Ford. The Department of Health, Education and Welfare took jurisdiction of the compliance mandates of the code section and issued regulations. The regulations specifically prohibit discrimination by gender in intercollegiate athletics.

The number of opportunities for women to participate has increased as the number of women's teams has increased from 5,695 in 1981 to 9,479 in 1999 (GAO-01-297, 2001). However, those participation and team increases for women are not repeated in increased spending for women's collegiate teams. In the five years from 1995 to 2000, for every new dollar going into athletics at the Division I and II levels, male sports receive 58 cents, while female sports receive 42 cents (National Coalition Of Women And Girls In Education, 2002; National Collegiate Athletic Association, 1996; National Collegiate Athletic Association, 2000). In 2001, NCAA Division I athletic departments averaged an expenditure of $34,000 per male athlete. This was an increase of 26% from the 1997 expenditures. NCAA Division I athletic departments averaged an expenditure of $20,000 per female athlete which was an increase of 18% from the 1997. Men's programs of Division I-A institutions are allocated 47% of total athletic department expenditures, while women's programs are allocated, on average, 20% of total athletic department expenditures (National Collegiate Athletic Association, 2001).

The impact of the increased opportunities and participation has come about due to a reallocation of resources within intercollegiate athletics programs (Murr, 2003; Suggs, 2003). Universities had to take existing funding and existing programs and work towards increasing historically diminished opportunities for women. Resources within athletic departments were reallocated (Passeggi, 2002). The numbers of opportunities for women were to be proportionate to the number of women enrolled at the university. The majority of universities were not close to achieving proportionate athletic opportunities for women when Title IX provisions became effective. As a result of the need to create athletic opportunities for women, and to do so within an existing funding structure, athletic departments sometimes reallocated funding to women that had previously been allocated to men. Some universities chose to decrease the numbers of men's varsity teams they sponsored and some chose to decrease the amount of scholarship funding to male athletes to spend it on women's scholarships. Several lawsuits were filed alleging that Title IX created discriminatory actions against men. One of the most recent suits of this type was filed by an association of collegiate wrestlers which based the suit on the elimination of their member teams at several universities due to reallocation of funding at those institutions (*National Wrestling Coaches Association v. Department of Education*, 2003).

Title IX requires the numbers of athletic opportunities by gender at universities to be proportionate to the undergraduate enrollment by gender. For example, if the male undergraduate population of a university is 45% and the female undergraduate population is 55% of the student body, a university should provide male athletes 45% of all intercollegiate athletic opportunities at the institution and provide female athletes with

55% of the opportunities. This proportionality requirement focuses on where the athletics department of a university provides the opportunities. Title IX and its regulations do not impose numerical limitations for teams or scholarships – it only requires proportionality with the undergraduate population. The limitations in numbers of athletes for each sport or team are made by the governing bodies of leagues or associations. The National Collegiate Athletic Association (NCAA) is the largest intercollegiate athletic association and provides regulation regarding the numbers of athletes that can comprise teams in each sport. An athletic department cannot be a member of the NCAA and exceed the number of scholarships the NCAA establishes for each intercollegiate sport. Without such a limitation, a university could, theoretically, choose to provide all of the scholarships they have available for men to basketball players. Such a scenario could create a university with an empire that would not have significant competition as well as limiting a widespread interest in diverse sports.

Measures of Success

Do successful intercollegiate athletic programs have greater compliance with proportionality in regards to the expenditures and participation rates of their women's programs? Variations in leagues, competition, resources and institutional support may make it difficult to define success. While each sport and each league may define success in terms of wins, there is only one program that provides a measurement of athletic program success. An accurate measurement is only achieved by considering all of the sports that an institution sponsors and comparing them to other institutions' programs. The National Association of Collegiate Directors of Athletics began an annual

recognition program in 1993 honoring athletic programs that win championships in a broad range of men's and women's sports. This program, the Director's Cup, takes into account the quirks of each institution's specific sports and their performance within their leagues. Once points are tallied within the process, those institutions having the most successful athletic programs overall, are identified and recognized with a trophy (National Association of Collegiate Directors of Athletics, n.d.). This process can provide information about successful intercollegiate athletics programs and allows for an examination of their proportionality efforts. Do those intercollegiate athletic programs that are successful in winning championships across a broad range of sports, have a better rate of proportionality in participation and funding for women's athletics than those schools that do not win championships?

Football was the sport identified by legislators in the early stages of Title IX enactment as possessing attributes to allow its exemption in the proportionality tests. The sport with the most scholarship opportunities for men is football (National Collegiate Athletic Association, 2003).

Football is permitted 85 scholarships and is a sport comprised of male participants. It is a contact sport that has no equivalent female sport and it is also revenue generating. The large number of scholarship opportunities made available by football creates a problem for athletic administrators who must provide a proportionate number of athletic scholarship opportunities for women. In addition to the scholarship opportunities, facilities and comparable resources must be made available for the women's sports that are offered. If an institution cannot afford to create proportionate additional opportunities

for women, it may elect to cut male sports, scholarships and related resources. Those sports that are not revenue generating are most likely the first male sports to be considered for elimination. Football is not only a revenue generating sport for universities. It is the sport that historically helps tie alumni to a university (Porto 2003; Beyer, Hannah 2000; Canode, Chang 2002).

The number of participants in football and their impact on the remainder of the opportunities available has been an issue of concern since Title IX was debated in Congress. Advocates of college football have cited Title IX as a deterrent to their sport and claim that the intent of the legislation was to exclude football from the mandates of Title IX. Suggested amendments to exclude revenue-generating sports from inclusion in the numbers to be considered for proportionality, failed to make it to the final legislation. Congress had the opportunity at four separate points in the legislative process to specifically create the exception and it did not (117 Cong. Rec. 30,156. (1971);1972 U.S.C.C.A.N. 2595 (1972); 118 Cong. Rec. 2806 (1972); 118 Cong. Rec. at 5815 (1972); *Davis v. Monroe County Board of Education* (1996). It did recognize that the needs of sports will vary in terms of equipment, facilities, competition locations and other operational aspects. Congress did legislatively approve of the possibility for such variations with the passage of the Javits Amendment (Curtis & Grant, n.d.).

As male sports have been cut and the provisions of Title IX continue to be blamed for the cuts, advocates for female athletes point to the large numbers of scholarships attributed to football as a cause for inequities. Collegiate football advocates cite the revenue generated by football games and the support provided to other sports from that

revenue, as a basis for exemption from Title IX mandates (Naughton, 1998). However, some football programs may be using up to 50% of athletic department expenditures while most, up to 74% of collegiate football programs, do not even generate enough money to pay for their expenditures each year (Lopiano, 2002a). Among Division I-A football programs, more than a third create a deficit of one million dollars or more each year (Lopiano, 2002b). Basketball is a revenue generating sport as well but it differs from football in that female athletes also play the sport.

The price of fielding a football team is very high. It costs an average of $900 annually to equip a football player (Fizel & Fort, 2004). Football and basketball account for an average of 72% of athletic department budgets. The remainder of the other teams, men's and women's, are provided a portion of the remaining 28% (Title IX: quick facts, n.d.). The cost for 85 players' scholarships, equipment, coaches, facilities, medical and scholastic support can be exorbitant. Many universities do not generate more revenue from their football program than they expend. Yet, football continues to be supported and promoted by those schools that field teams. In fact, only about 15 NCAA Division I schools spend more on all women's sports combined than on football (Keating, 2002).

The argument that successful football teams will be profitable and subsequently provide financial support for those teams that do not generate revenue has been made. Are those schools with successful football teams more compliant with the provisions of Title IX than the schools that do not have successful football programs? Success can be measured many ways but two of the most obvious are 1) winning programs and championships, and 2) generating money. This study will review athletics programs

where the football team has won national or league championships and compare their proportionality compliance to schools that have not won championships or league titles. It will also review the programs that have generated the most reported revenue from football and compare their proportionality compliance to programs that generate the least amount of revenue.

The first measure of successful football programs for purposes of this study will be championship wins. Conferences and leagues determine their champions each year and the Bowl Championship Series currently determines the national collegiate football championship. The rankings, not only of those in the National Bowl Championship Series but those of the individual leagues can provide patterns for evaluation of expenditures and participation.

A second measure of success for football programs is revenue generation. Teams that can create increased funding can create more opportunities for their players, their programs and possibly their athletic department as a whole. While the funding models of universities differ, each institution is required to report expenditures and revenues to the federal Department of Education, pursuant to the Equity in Athletics Disclosure Act (34 CFR Part 668.41 – 668-48). Football revenue and expenditures are reported as a portion of that act. That act also requires the disclosure of athletes' participation and a declaration of the undergraduate population by gender. Do those universities that report the highest revenue from their football program have women's athletic participation percentages more closely aligned to women's undergraduate population than the universities that report the lowest football program revenue?

Statement of the Problem

Title IX, as it relates to intercollegiate athletics and as it is interpreted by regulatory agencies and courts, in part requires universities to provide athletic opportunities for women in proportion to the undergraduate enrollment of women. That law was enacted in 1972 yet lawsuits and complaints alleging inequities in opportunity for women in intercollegiate athletics continue. The evolution of standards, as defined by the courts, and the resulting actions by universities have apparently not created the proportionality required by the law. Many reasons may play a role in the result but one of the factors contributing to lack of proportionality for Division I-A universities is the establishment and support of a football team. The number of men who play on a football team is not matched in number by any single sport available to women. Moreover, successful football programs create the opportunity for generating substantial revenue to support continued football program success as well as providing financial support for other sports and administration. The expense, potential generation of revenue, as well as the historical and cultural connections of alumni, students and community to football keeps the sport in a primary position for most athletic departments. As a result, intercollegiate athletic opportunities for women may be reduced in number or quality. Most women's sports do not generate income so funding must be reallocated from other sports if new sources are not identified. If a university adds sports for women in order to comply with Title IX, resources are usually reallocated from existing funding rather than drawing resources from the general funds of the university. Both of those circumstances, numerical proportionality and funding, mean that achieving compliance with Title IX will

cause a change in how athletics departments and universities provide intercollegiate athletic opportunities for women. The changes are mandated by law however and must occur. Why then, more than thirty years after the enactment of the law, are many universities not offering intercollegiate athletics opportunities to women in the proportion of women undergraduates? If football is such a significant element of intercollegiate athletics that teams must continue regardless of the inequity created in proportionality do those universities with the most success in terms of football championships also provide successful opportunities for women athletes in their programs? Do the financially successful football programs generate enough revenue to support both male and female sports? If universities that support successful football programs, either financially or in championships, are proportionate in terms of compliance with Title IX continued support of those programs and the striving of other programs' development makes sense. A larger measure of the same question of success is whether those athletic programs that are successful across a wide range of men's and women's sports are more often proportionately compliant than those programs that are not widely successful. If those programs that are successful in football, revenue generation, championships or overall athletic success are more often compliant then other institutions can strive for the same kind of success knowing that compliance with the federal law should occur also. If the compliance rates are significantly different than those schools that don't have championship football programs, produce high levels of football revenue or sponsor successful athletic programs then the arguments about football's contributions or revenue spent on athletic programs should not carry weight as the basis for compliance.

Research Questions

The following research questions will guide this study.

*Research Question 1***:** Do championship football programs and non-championship football programs differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Research Question 2: Are there significant differences among the Division I-A football programs ranked by amount of revenue generation with regard to women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Research Question 3: Do Division I-A athletic programs that have championship success across a broad range of their offered sports and athletic programs that do not have championship success across a broad range of their offered sport differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Definition of Terms

The focus of the research will center on whether successful Division I-A football and athletic programs are more likely to be proportionately compliant with the provisions of Title IX than the football and athletic programs that are not successful.

Proportionality is one area within the three prongs identified by the Office of Civil Rights and described in the Title IX Policy Interpretation (Federal Register, Vol. 44,

No. 239, 1979) to assess compliance with Title IX. Are intercollegiate level participation opportunities for male and female students provided in numbers substantially proportionate to their respective enrollments? The supporting factors for women athletes of scholarships, recruiting, coaching and operating budgets should also be provided in the same proportion as the percentage of enrolled undergraduate women, according to the federal mandates. The percentages of each category are the most accurate means to determine the proportionality performance of each institution as Title IX requires that the institutions' proportionalities of women athletes reflect the proportion of women students in the general student body. The percentage allocated for operating, recruiting, scholarship and coaching budgets for women's sports should mirror the percentage of women athletes that those budgets serve.

Successful football programs are those that win championships and generate revenue. The Bowl Championship Series has identified the top ranking Division I-A football teams since 1998. The Massey rankings provide a list of all football team performance rankings and are used for comparisons of football teams at the top and bottom of Division I-A. The amount of revenue generated from the most to the least in Division I-A each year will be used for comparisons with the information coming from the Equity in Athletics reports mandated of each athletic program each year.

Championship athletic programs will be determined from the standings of the Directors Cup, an annual program honoring athletic programs that win championships in a broad range of men's and women's sports.

Significance

The principles that serve as basic foundations that this country was founded upon relate to the protection of individual rights, choice and freedom for all citizens. Many laws and processes relate to insuring those tenants. The legislation that created Title IX was designed to create opportunities for women to participate in intercollegiate athletics. Continued legislation and court decisions further provided interpretation of equity for women in intercollegiate athletics and the results have been striking. The number of women participating in intercollegiate athletics has increased dramatically since the legislation became effective. The court decisions provide some insight to progress made as do the compliance information provided by each institution; comparing like statistics from universities across the nation. As more women have come to participate in intercollegiate athletics and universities have had to face issues related to funding more women in their sports programs, the debate has changed often to one that pits female interests against male interests. One of the specific debates relates to the requirement for universities to provide intercollegiate athletic opportunities for women proportionate to the undergraduate women's enrollment of each institution. That requirement has been cited by some universities to diminish the number of men's teams and scholarship opportunities.

Another argument is that the proportionality issue would be resolved if the numbers of football scholarships were not included in the calculations to be used for men's sports as compared to women's opportunities. The argument is that if those numbers were removed from the calculations, the remainder of the sports opportunities

would more accurately reflect proportionality. (Pieronick, 1994) It is also argued that the football programs generate funding for athletic departments to support all other sports, including women's sports. By reviewing the revenues, participation rates and football championships of Division I-A athletic programs, three measures of the results of Title IX will aid in the evaluation of its effectiveness.

There is a larger question regarding Title IX and its effectiveness. No penalty has ever been assessed for non-compliance by the federal administrative system (Agathe & Billings, 2000; Office of Civil Rights Customer Service Team personal correspondence June 6, 2005). Thus the only remedy for an aggrieved person is through the court system and in fact the only affirmation or sanctioning of non-compliance has come through the courts. The process of complaining, through administrative or legal avenues about a Title IX violation may take years to resolve. "As a result, few if any of the women against whom the college may be discriminating will actually play on the team founded to redress that discrimination" (Naughton, 1997, p. 42). At the end of the complaint, if a college adds a new women's team, because it is mandated or it chooses to increase or create a new women's team, it is most likely to recruit women from outside the current university population. In contrast are federal laws that are more recently enacted to protect the rights and freedoms of citizens.

The Crime Awareness and Campus Security Act was enacted in 1990 (20 USC §1092 (f) as a part of the Higher Education Act of 1965) as a federal law requiring colleges and universities to disclose certain timely and annual information about campus crime and security policies. All post-secondary institutions that receive federal funding

are subject to the terms of the law and violations are punishable by fines up to $27,500 for each violation. The Department of Education was the responsible agency for administering the provisions of the law and promulgated policy guidance for universities in 1991 but final regulations were not promoted until 1994 and a clarifying letter provided in May of 1996.

Less than four months after the clarifying letter was provided to institutions, the first investigation resulting in a finding of non-compliance was against Moorhead State University in Minnesota in September of 1996. Virginia Tech was found in violation in June of 1997; Clemson University was found in violation in July of 1997; Miami University of Ohio was found in violation in September 1997. These schools were among the fourteen schools found to have violated the law by not reporting information about reported crime on their campuses, failing to properly classify reported crimes or failure to remedy identified areas of violation. Salem University was assessed a fine of $250,000 for non-compliance of terms of the law in May, 2004. The amount was subsequently reduced to $200,000 by settlement in February 2005 when the university acknowledged non-compliance and agreed to future compliance. Miami University of Ohio is currently facing a fine assessment for violations found in 2005 (Security On Campus, n.d.).

This federal law is part of the same law as the provisions of Title IX that govern gender equity in higher education. The penalties for violation of this law are the same as Title IX violations for intercollegiate athletics proportionality inequities. Institutions were penalized for violation of the law within six years of enactment and within two years of regulatory direction.

An additional example of the enactment of a federal law and compliance requirements is the Americans with Disabilities Act of 1990 (42 U.S.C) (ADA)enacted on July 26, 1990 that prohibits discrimination in employment, public services, public accommodations and telecommunications. The provisions became effective in 1992 to allow the establishment of regulatory and compliance mechanisms. Federal agencies provide extensive educational and technical assistance but have also recovered over $400 million through administrative oversight and penalties. The Equal Employment Opportunity Commission has also filed over 498 lawsuits for non-compliance of ADA provisions (The United States Equal Employment Opportunity Commission, 2007).

The contrast between enforcement and compliance of the gender equity issues in intercollegiate athletics passed more than thirty years ago and the campus crime act and ADA both passed less than twenty years ago is striking. Does the threat of penalty increase the likelihood of compliance and sets the compliance with Title IX in intercollegiate athletics apart from other federal laws where enforcement is demonstrated?

Limitations of the Study

The data used to evaluate compliance with the proportionality requirements of Title IX is provided by the universities to the Department of Education as required by the Equity in Athletics Disclosure Act of 1996 (34 CFR Part 668.41 – 668-48). The accuracy of the reported data is not verified by any governmental oversight. Self-reporting assumes truthfulness in response so data accuracy may be limited by mistake or omission.

The rankings used by the National Association of Collegiate Directors of Athletics (NACDA) for overall athletic program success and by Massey and the Bowl Championship Series were provided by each entity without other corroboration. The scrutiny of the football rankings by academic and non-academic people would increase the likelihood that errors in rankings were likely.

Delimitations of the Study

The study was delimited to data provided by Division I-A universities from 1996 to 2004. The case law cited was delimited to reported cases with decisions cited and published to federal appellate reports. The legislative material used was delimited to congressional and administrative reported discussions and transcripts.

Definition of Terms

The following terms are defined for clarity:

Division I-A is a classification made by the National Collegiate Athletics Association related to the size and investment of a university sponsored athletic program. Division I universities must sponsor at least seven sports for men and seven for women. Alternatively they could sponsor six sports for men and eight sports for women. At least two of the sports for each gender must be team sports. Each playing season has to be represented by each gender, a minimum number of participants for each sport, and scheduling requirements that define levels of competition. Division I-A football programs have minimum attendance requirements and must provide athletic financial aid awards according to ranges of aid permissible by sport (www.NCAA.org/about).

The National Collegiate Athletics Association (NCAA) is a voluntary association of approximately 1,200 universities, athletic conferences and organizations that make the rules for the operation and governance of those organizations. It also serves as the administrator of finances for operation of championships and media contracts (www.NCAA.org/about).

CHAPTER TWO

Review of the Literature

A visit to any elementary school playground where a group of young children is getting ready to play an impromptu game of kick ball will provide a glimpse of the expectations of the participants. As the group divides into teams, the children will divide themselves so that the talent of each group is substantially equal. Each team will have some players who excel at that sport and some whose gifts are in other areas. The children recognize the issue of fairness involved in dividing teams in order to have more balanced competition. In another part of the playground a different group of children takes turns swinging on the swing set or going down the sliding board. Yet another group of children stand in line for their turn to play four square or tether ball. Their expectations are that each will have an opportunity to participate. It's a sense of fairness that provides that expectation of opportunity.

As those same children get older and attend high school, the opportunity for school sponsored play limits the number of children who can participate. Try-outs or demonstrations of performance to determine who gets the opportunity to play on one of those teams take place. There may be some arguing about whether the best performing players get chosen, whether individuals get enough playing time or the motives of players or coaches can be questioned but there is a sense of fairness in the opportunity to participate. The tradition of fairness and opportunity in this country is formalized in the government's founding documents and legislation. Those principles serve as the touchstones by which opportunities and resource allocations are provided. The process of

ensuring the provision of opportunity and fairness has come to some groups within our population at a slower rate than other groups. Cultural perceptions of who is entitled to opportunity can sometimes hamper provisions and governmental sanctions. One such area of dispute relates to the opportunity for women to participate in programs of higher education. The legal requirement of opportunity for women to participate in programs related to higher education came just thirty-four years ago but the full implementation and enforcement of that legal requirement is still often unmet. The historical foundations, legislative requirements, administrative and court driven decisions that have shaped opportunities for women to participate in intercollegiate athletic programs provide the context in which to view issues related to the future provision of opportunity.

Constitutional Provisions

The founding principles of the United States include provisions related to the protection of equitable opportunities for every citizen. Beginning with the Declaration of Independence in 1776, the rights of all men were of primary importance.

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness…

The Constitution of the United States reiterates the premise of equitable opportunity and protection in the preamble. The Bill of Rights and later amendments also addressed issues related to the assurance of opportunity. The issues related to the discussion and enactment of these provisions were centered on the degree of inclusion. To whom did these documents apply? To what extent were people recognized by the government to be

entitled to the protections listed in these documents? Amendments to the Constitution clarified the recognition of groups of people not previously included in governmental recognition. The Fourteenth Amendment defined the term citizen for the United States and individual states. If one is born in the United States or naturalized, one is a citizen. Citizen rights include the prohibition of abridging privileges. Expanding upon the coverage of specific privileges, the fourteenth amendment also offers protection of the laws of the country for appropriate and fair processes to “any person” against deprivation of life, liberty or property. Every person within the United States is to be afforded the protection of the laws of the United States equally. Citizens receive privilege and immunity under some laws but every person will receive due process and equal protection, regardless of citizenship.

The Fifteenth Amendment guarantees the right to vote to citizens of the United States. Fifty years after the Fifteenth Amendment was passed, the Nineteenth Amendment recognized a woman’s right to vote as a citizen of the United States.

The Twenty-fourth Amendment insured the right to vote to all citizens without requiring a financial ability. The Twenty-sixth Amendment recognized the right to vote by citizens at the age of 18.

These constitutional provisions seem to be very clear by their content in scope of application and intent of the legislators who created and enacted them. The application and extent of coverage, however, remains ambiguous enough to create opportunity for conflicting application by individuals as well as

governmental agencies charged with compliance. The Fourteenth and Fifteenth Amendment seem to clearly state that those born in the United States, regardless of race, should be able to pursue educational and recreational opportunities as they desire. Yet arguments and laws related to segregation of education, employment, and recreational opportunities persisted to the United States Supreme Court through the 1950's and 1960's – nearly 100 years after the Fourteenth and Fifteenth Amendments were ratified.

Legislative Provisions

In the 1960s the Congress of the United States addressed issues related to racial civil rights in application of federal funding and oversight. The Equal Pay Act of 1963 prohibited sex-based pay differentials on jobs. (29 USC §206(d). The Civil Rights Act of 1964 contained several sections relevant to individual opportunities and abilities. (42 U.S.C. §1971, et seq.) Title VI prohibited public access discrimination, strengthening the efforts of school desegregation. Title VII prohibited employment discrimination based on race, sex, national origin, or religion. Title VIII was the original "federal fair housing law," later amended in 1988. In 1965, Executive Order 11246 outlined affirmative action requirements of government contractors and subcontractors effective in 1967 (30 FR 12319, 12935, 3 CFR). The Architectural Barriers Act of 1968 required accessibility for disabled persons in buildings and facilities financed with federal funds (42 USC §§ 4151 et seq).

Attention also turned to women's rights. Women were not admitted to some programs of higher education and attention to this issue grew. President Lyndon

Johnson's daughter, Luci, was refused readmission in 1966 to the Georgetown University School of Nursing after she married, as married women were not permitted to be students by the school (Cantu, 1997). One of the most prestigious colleges in Virginia was the College of Arts and Sciences at the University of Virginia. State law prohibited admission of women until 1970 when a court ordered the change (*Kirstein v. Rector and Visitors of University of Virginia, 1970*).

Title IX's Origin

By 1971, Congress began examining issues related to federal funding of higher education programs. The Education Amendments of 1972 required that educational institutions receiving federal funding certify that they did not discriminate on the basis of gender. Title 20, Chapter 38, Section 1681 (also known as Title IX) is the federal code section prohibiting discrimination by any education program receiving federal funding on the basis of sex.

> 20 U.S.C. 1681(a) Prohibition against discrimination; exceptions
> 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…

Proposed regulations were authored to assist in the application of the provisions, and were published June 20, 1974, in the Federal Register to allow for public comment. During the time period that the proposed regulations were published and subject to public

comment, nearly 10,000 comments were received. Most of the comments about the proposed regulations were related to the impact of Title IX on intercollegiate athletics. The final regulations were not promulgated until July 21, 1975, (34 C.F.R. Part 106) providing specific requirements for athletics (34 C.F.R. Sect. 106.41) and for athletics scholarships (34 C.F.R. Sect. 106.37(c).

During this period of public and congressional consideration and comments, many provisions were proposed for inclusion that would either limit or expand the scope of influence of Title IX on intercollegiate athletics. One of the proposals that passed was Section 844 of the Education Amendments of 1974, also known as the Javits amendment. The amendment required inclusion in the Title IX regulation of reasonable provisions considering the nature of particular sports in intercollegiate athletics. The Conference Committee deleted a Senate floor amendment that would have exempted revenue-producing sports from Title IX jurisdiction, an issue strongly supported and promoted by collegiate football interests and the NCAA (Dillon, 1997).

Intercollegiate athletics programs were not specifically mentioned in the code provisions, but in the years following their ratification, several legislative attempts were made to address concerns that intercollegiate athletics programs would suffer negative financial impacts as a result of the code's mandate.

On July 21, 1975, chapter 34 of the Code of Federal Regulations, section 106 (34 C.F.R. §106.41 (a) became law, after being signed by President Gerald Ford. The Department of Health, Education and Welfare took jurisdiction of the

compliance mandates of the code section and issued regulations. The regulations specifically prohibit discrimination by gender in intercollegiate athletics.

> No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. 34 C.F.R. Part 106.41 (a).

Subsections b through d address specific requirements related to intercollegiate programs (Appendix A).

Increased Participation

Has Title IX been effective in creating opportunities for women in intercollegiate athletics? Among the most dramatic representations of this effect is the percentage of women participating as varsity athletes in universities increased approximately 403 percent from 1971 to 2001-2002 (Fizel, Fort, 2004). In order to make comparisons of the data of gender participation, in the period from 1981 to 2001, women's participation in collegiate athletics increased 122% cumulatively across the three divisions from 68,062 to 150,916. Men's participation grew from 156,131 to 208,866, an increase of 34% (NCAA Participation Study, 2001).

The scope and expectation of eligibility and participation in intercollegiate athletics changed when Title IX was enacted June 23, 1972 (Passeggi, 2002; Brand, 2003). It was designed to address the historical disparity in the provision of opportunities in competitive athletics for girls and women and it was directed at educational institutions that had generally rejected intercollegiate competition for females and established athletic programs almost exclusively offered to males. Title IX clearly made those sports' policies and practices unlawful (Mathewson, 1999). This act created enormous opportunities for women where there had been very few. Title IX and issues related to equity in intercollegiate athletics are important for several reasons. It provides opportunities for women not otherwise available. Congress noted in discussion prior to enactment that research and testimony presented in support of the legislation found that:

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit; (Section 360B(b) of Pub. L. 103-382).

Intercollegiate athletics gives purpose to students, "to learn the kinds of discipline, cooperation, and ability to meet challenges that often produce success in later public and private life. Women are disadvantaged because they are seen as incapable of cultivating these qualities,"(Lamber, 2000, p. 154). Girls who play sports in high school have also been proven to possess a higher level of confidence than those girls who don't play and improve their academic efforts. They will also be statistically less likely to become

sexually active, smoke, use alcohol and drugs and drop out of school. (The President's Council on Physical Fitness, 1997; The Women's Sports Foundation, 2000). The evolution of this act provides some insight as to the effects it has had and highlights the continuing areas of need.

The specific terms of federal legislation and regulatory actions created by the United States Congress are not the only guidance or controlling authority for the provisions of Title IX. The federal courts interpret the provisions of federal law and their interpretations become the standards to follow. Several decisions followed the enactment of Title IX that provide institutions of higher education with specific guidance related to intercollegiate athletic and gender equity. "The confusion surrounding the extent of Title IX coverage and the acceptable methods of compliance arose from the absence of secondary legislative materials" (Starace, 2001, p. 210). "Congress included no committee report with the final bill and there were apparently only two mentions of intercollegiate athletics during the congressional debate" (Cohen, 991 F.2d at 893).

Litigation Begins

As courts began to review cases filed alleging violation of Title IX, among the first decision to be made was what level of constitutional protection should be given to women alleging gender-based discrimination. In *Frontiero v. Richardson*, (1973), the United States Supreme Court held that discrimination based on sex is a violation of the fourteenth amendment's Equal Protection Clause. In keeping with the standards used to review behavior that would violate the constitutional standards, the Supreme Court used the standard of the highest

scrutiny in reviewing the action that formed the basis for the case in question. The standard of highest scrutiny is that standard also used for "suspect" classes and allegations of violations of fundamental rights, like the right to free speech and religious freedoms. The choice of that standard was made by a plurality of the Supreme Court and not a majority of the court. The use of that standard was never ratified or endorsed by the whole court so it did not become the standard to be used by all courts to evaluate cases involving issues related to gender. Instead the United States Supreme Court later held that the intermediate standard for review should be used. That intermediate standard is whether the classification by gender serves important governmental objectives and is substantially related to the achievement of those objectives (*Craig v. Boren*, (1976); Lewis, 1989).

One of the first notable cases involving Title IX began in 1974 when two girls in middle school competed for positions on the boys' basketball team. The school district was small with only 220 children enrolled in the middle school but the school's philosophy was to integrate as many educational activities as possible at the middle school level. Additionally, the school was unable to field a girls' team as there was insufficient participation from within their school and there were no other schools available for middle school girls' competition. The school board excluded them from the boys' team citing a regulation of the Ohio High School Athletic Association they believed prohibited girls' participation on boys' basketball teams. In January 1978, the Sixth District Court ruled in a case arising from the facts where the issue was whether girls could play on boys' teams in middle school (*Yellow Spring Exempted Village School*

District Board of Education v. Ohio High School Athletics Association, 1978). The district court held that it was unconstitutional for a school district to limit girls' athletic team activity to girls-only teams and granted a summary judgment to the school board allowing the girls to play on the boys' team. The appeal of the matter was to the Sixth Circuit Court of Appeals. That federal appeals court found that the state association's regulation was more restrictive than Title IX and therefore in violation of the federal provisions. The decision of the lower court was reversed because the basis for the lower court's decision was a finding that Title IX was unconstitutional. The appeals court found the athletic association's rule requiring separate teams to be impermissible and Title IX to be constitutional. The school's original intention to allow the girls to play on the same team with boys was the correct action under Title IX (*Yellow Spring Exempted Village School District Board of Education v. Ohio High School Athletics Association*, 1981).

In May of 1979, the United States Supreme Court issued a decision in a case based on a Title IX complaint filed by a woman seeking admission to medical school who was denied admission. The aggrieved party, Cannon, sued alleging a violation of Title IX (*Cannon v. University of Chicago*, 1979). Two issues reviewed by the United States Supreme Court pertinent to this case are that the plaintiff alleged she was denied admission to the medical college because she is a woman and the college received federal funding, thereby making the college subject to the mandates of Title IX. The second issue was whether the complainant could sue for admission. That would be a private right of action, rather than the government bringing the action on her behalf. She said she could; the medical college said she couldn't because there was no specific cause of individual

action for remedies under Title IX. The only remedy specifically outlined in Title IX is a cessation of federal funding to the college found to violate the provisions of Title IX. The United States Supreme Court found that the complainant should be able to receive a personal remedy. It found the similarities of Title IX to Title VI to be so close that personal remedies should be available even though not specifically enunciated in the statutory language. Title VI is the legislation enacted as part of the Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance (42 U.S.C. §2000d et seq.).

While the courts were hearing complaints based on allegations of Title IX violations the legislative mandates regarding Title IX were evolving as well. The Office for Civil Rights of the U.S. Department of Education was designated by statute as the agency responsible for enforcement of Title IX. It was also given authority to develop policy on the regulations it enforces. In the three years following the issuance of the regulations, HEW received numerous discrimination complaints regarding more than fifty universities across the nation (Starace, 2001). To address continuing issues of compliance related to intercollegiate athletics' relation to Title IX, the Office of Civil Rights developed an Intercollegiate Athletics Policy Interpretation, issued December 11, 1979, (44 Fed. Reg. 71413 et seq (1979) and its provisions are still current. It is this policy that provides more specific direction for intercollegiate athletics programs that the courts have used for reference and interpretation of issues brought before them related to Title IX.

The composition by gender of teams, an exception to inclusion for contact sports and equal opportunity factors such as team travel and practice conditions, equipment, coaching compensation and athletic support services are delineated in the administrative rules of the Federal Register (34 C.F.R. 106.41). The Office of Civil Rights issued Title IX Policy Interpretation (Federal Register, Vol. 44, No. 239, 1979) and received over 700 comments about the proposals. The office also consulted with several universities to attempt to apply the policy interpretations to practical settings. As a result the policy interpretations as published were to provide further guidance on compliance with Title IX provisions. Three areas of compliance were identified and more commonly referred to as the three prongs to demonstrate compliance.

1. Compliance in Financial Assistance (Scholarships) Based on Athletic Ability: Pursuant to the regulation, the governing principle in this area is that all such assistance should be available on a substantially proportional basis to the number of male and female participants in the institution's athletic program.

The first section requires universities to provide scholarship assistance to athletes in proportion to their numbers and participation in the intercollegiate athletics program. Compliance with this standard would occur by dividing the amounts of aid available for members of each sex by the numbers of participants by each gender. The institution is in compliance if the amounts available are approximately equal. Amounts apportioned to each gender need not be equal but should be relative to the proportion of members of each gender participating in the athletics program (45 CFR Part 26, VII, A).

2. Compliance in Other Program Areas (Equipment and supplies; games and practice times; travel and per diem, coaching and academic tutoring; assignment and compensation of coaches and tutors; locker rooms, and practice and competitive facilities; medical and training facilities; housing and dining facilities; publicity; recruitment; and support services): Pursuant to the regulation, the governing principle is that male and female athletes should receive equivalent treatment, benefits, and opportunities.

The second section requires universities to provide equivalent accommodations for athletes of both genders. This provision encompasses factors such as equipment provision, scheduling opportunities for games, travel and practices, coaches and their salaries and experience and skills, facilities, medical and tutoring availability, housing. There is opportunity for institutions to have different provisions for men and women in these categories should the nature of the individual sports necessitate. The evaluation will consider whether the policies of an institution are discriminatory in effect, whether there is an unjustified difference in the treatment and provisions for male and female athletes are similar and if those differences in treatment are substantial enough to demonstrate inequitable treatment of athletes because of gender.(45 CFR Part 26, VII, B).

3. Compliance in Meeting the Interests and Abilities of Male and Female Students: Pursuant to the regulation, the governing principle in this area is that the athletic interests and abilities of male and female students must be equally effectively accommodated (45 CFR Part 26, IV).

The third section requires universities to demonstrate that student interest for opportunities of participation in intercollegiate athletics is met. The Office of Civil Rights would evaluate effective accommodation of interest by considering if and how the institution has met female student athletic interests and what levels of competition are available for team competition (45 CFR Part 26, VII, C, 2). "The regulation does not require institutions to integrate their teams nor to provide exactly the same choice of sports to men and women. However, where an institution sponsors a team in a particular sport for members of one sex, it may be required either to permit the excluded sex to try out for the team or to sponsor a separate team for the previously excluded sex" (45 CFR Part 26, VII, C, 2). Guidance is provided for assessing whether a university should be mandated to provide team opportunities for both contact and non-contact sports (45 CFR Part 26, VII C, 4). This section provides specific areas of review to determine compliance.

(1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or

(2) Where the members of one sex have been underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex; or

(3) Where the members of one sex have been and are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice

> of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program (45 CFR Part 26, VII, C, 5 (a).

Additional review for this standard could also include reviews of schedules and continuous improvement in opportunities for the sports of the historically underrepresented gender (45 CFR Part 26, VII, C, 5 (b).

Appellate court decisions and governmental review of the effectiveness of Title IX have centered on the proportionality prong. The "only realistic option is the alternative of substantial proportionality" (Starace, 2001, p. 214). "The substantial proportionality prong is considered the only realistic option under the effective accommodation test because the other two prongs, continuing expansion and full accommodation, are both extremely difficult to meet. The second prong, continuing expansion, necessitates in most instance, spending more money than would usually be spent on women's program." (Starace, 2001, p. 214). The substantial proportionality prong "implicitly embraces the constitutional ideal of equality" because it compares participation to student body numbers by gender. "If a university's method of funding athletic programs for one gender is equivalent to the percentage of that gender's membership in the student body, it can be assumed that even if the university is not able to meet the interests of all students, it has divided the athletic funding that it can afford in an even manner"(Starace, 2001, p. 216).

Grove City

In February of 1984, the United States Supreme Court effectively nullified the effects of Title IX by ruling that individual university and college departments or units are not bound by Title IX because they do not individually receive federal financial aid. Most universities only receive federal financial aid for students through their financial aid office. Under this ruling only the financial aid office of a university would be covered by the requirements of Title IX. In the United States Supreme Court ruling in *Grove City College v. Bell* (1984) the impact of the scope of federal oversight of educational programs and the potential for gender discrimination was greatly diminished.

Grove City College is a private, four-year liberal arts college located about sixty miles north of Pittsburgh, Pennsylvania with an enrollment of approximately 2300. Founded in 1876 with an affiliation to the Presbyterian Church, the school prides itself on its independence from federal and state regulation and funding. (http://www.gcc.edu) Pursuant to Title IX, the college was asked to provide the statement that would signify their agreement to abide by the provisions of Title IX in order to receive federal funds. Grove City College did not submit an Assurance of Compliance form to the Department of Education and Welfare and in July of 1977 it refused to comply with requests to do so. Grove City College took the position that it was not subject to reporting or Title IX compliance because it did not accept any federal financial aid. The Department of Education found that Grove City College was subject to coverage of federal requirements under Title IX because some of their students accepted federally funded educational grants.

The only link to any federal money being used in the college came from some students who held Basic Educational Opportunity Grants (BEOG) that were federally funded. The case eventually made it to the United States Supreme Court and it found that the assurance of compliance requirement was necessary but Title IX only applied to the specific program receiving federal aid. The financial aid department of Grove City College was the only college involvement by the institution. The Supreme Court found the term "program or activity" of Title IX only applied to the financial aid office of Grove City College and the federal requirements did not extend to the entire institution. In examining the provisions, the court held that there was no distinction in the legislation between the programs or activities of a college and the college as a whole (*Grove City College v. Bell*, at 565).

The application of Title IX to funding that comes from the federal government then was not the issue that the court applied to this case. It was rather the question "… of identifying the "education program or activity" of the College that can properly be characterized as "receiving" federal assistance through grants to some of the students attending the College" (*Grove City v. Bell* at 570). The court found that the Title IX compliance form would only relate to the programs receiving the federal funding, if only through the students' BEOG funds. The program affected in the Grove City College case was the financial aid office and therefore that was the only program that was required to complete a compliance form under Title IX.

Under the parameters of this decision, the financial aid office was not permitted to discriminate on the basis of gender but the rest of the college, including academic programs as well as the athletic department did not have to prove gender equity in the provision of their programs or services. The Office of Civil Rights had no jurisdiction to investigate any allegations of discrimination unless it was alleged to have occurred in the financial aid department. The Grove City decision would change the effectiveness of Title IX for several years.

Revised Legislative Action

Congress moved to correct the decision of *Grove City v. Bell* and passed the Civil Rights Restoration Act of 1987. Then-president Ronald Reagan vetoed the Act, but in March of 1988, the legislation became law with an override of the veto. The federal law now states

> 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, except that:
> (1) Classes of educational institutions subject to prohibition in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;(20 U.S.C. 1681)

Further definitions of the code provisions include a specific definition for the word “program”.

> For the purposes of this chapter, the term "program or activity" and "program" mean all of the operations of -
> 2) (A) a college, university, or other postsecondary institution, or a public system of higher education; or
> (B) a local educational agency (as defined in section 2854(a) (10) of this title), system of vocational education, or other school system;(20 U.S.C. 1687).

The congressional intention for application to all university programs and activities, regardless of whether the individual program or activity received federal funding was then very clear.

In April 1990, the Office of Civil Rights presented a new investigator’s manual that provided guidance to those whose jobs involved looking into allegations of violations of Title IX and recommending sanctions against athletic departments and universities should violations occur.

In 1992, the National College Athletic Administration released the first gender equity study of their members. It found and identified disparities between men’s and women’s programs, identified better implementation plans and promoted a gender equity study. The NCAA also announced plans to move towards gender equity reviews of athletic departments as part of their certification process.

More significant to evaluations of Title IX applications was a 1995 letter. Norma V. Cantu was Assistant Secretary for Civil Rights. Ms. Cantu issued a letter to athletics department administrators whose institutions were covered by Title IX on September 20, 1995. The purpose of the letter was to provide clarification for the Policy Guidance issued in 1979, specifically clarification for the three part test. In the cover letter to the clarification portion of the issuance, Ms. Cantu listed three points to be considered regarding the letter and policy clarification. The policy elaborated only upon the standards involved in the three-part test and confirmed the decisions of the federal courts that a university need only prove one of the three prongs to be considered compliant. The letter also reinforced the premise that men's sports need not be cut for compliance to occur. For prong one there were specific parameters for who is to be included in the counting process when determining how many athletes of each gender were participating. Included in the definition are those students who receive financial aid, those who participate in practice sessions and team activities, those who are listed on an eligibility list for the particular sport and those who receive other kinds of institutional support that are part of the supporting system of the sport like coaching, equipment and medical services. Part one clarification also provides the Office of Civil Rights' perspective of proportionality. The ratio of men and women participating on athletic teams may not be identical to the proportion of men and women enrolled in the institution due to fluctuations in or participation rates in a given year. The examples provided to illustrate this fluctuation allow for a 2% variance. The Department of Education determined that proportionality compliance equates to no more than a 1% difference between percentage

of athletic aid expenditures and athletic participation by gender match the undergraduate enrollment by gender by one percent (Agathe & Billings 2000).

The clarification of the second prong discussed issues related to a history of expansion for the underrepresented gender. This prong did not have a specific time frame attached for expansion to be measured against. Instead the Office of Civil Rights will look at whether the expansion of opportunities for the underrepresented gender was made in response to the interests and abilities of the underrepresented gender. An institution may be able to demonstrate compliance with this prong if there is a demonstrated history of adding or upgrading teams for the underrepresented gender; the number of participants of the underrepresented gender increases; or there is a demonstrated responsiveness to requests by the underrepresented gender to accommodate additional sports or elevate sports to the intercollegiate level. If an institution produces a plan to develop additional sports or a plan that provides a mechanism to survey student interest the institution is also in compliance with his prong. This part of the clarification also discussed the scenario of elimination of athletic opportunity in order to meet the proportionality prong.

> However, OCR will not find a history and continuing practice of program expansion where an institution increases the proportional participation opportunities for the underrepresented sex by reducing opportunities for the over represented sex alone or by reducing the participation opportunities for the over represented sex to a proportionately greater degree than for the underrepresented sex. This is because part two considers an institution's good faith remedial efforts through actual program expansion. It is only necessary to examine part two if one

sex is over represented in the athletic program (Cantu, 1995, "THREE PART TEST- Part Two" section, para.6).

The third prong evaluates whether an institution is effectively accommodating interests and abilities of the underrepresented gender. The clarification provided three conditions to be considered in this prong. The first condition asks if there is there an unmet interest in a particular sport. Requests by students to add a sport, elevate a club sport to varsity level, evaluations of the participation levels of intramural, interscholastic and club sports and the results of interviews or surveys of current student interest and ability in intercollegiate sports are to be considered in determining whether an institution has complied with this prong. The level of participation in school or community associations in sports in the areas from which the institution draws student enrollment may also be an indicator of unmet student interest.

The second condition for consideration in prong three is whether there is sufficient ability to sustain an intercollegiate team. Have admitted students been able to perform in a sport competitively in clubs, intramural or interscholastic programs? Do other coaches, athletic administrators and student athletes believe that there is a potential ability to sustain a team? A losing record or the inability for a new team to play at the same level of competition as the other teams of an institution is not a sufficient basis to eliminate the potential for a team to be formed. "It is sufficient that interested students and admitted students have the potential to sustain an intercollegiate team" (Cantu, 1995).

The third condition is whether there is a reasonable expectation of competition for the prospective sport in the institution's competitive region. Are there competitive

opportunities afforded by the schools against which the institution regularly competes or are there opportunities for competition available in the geographic area of the institution where the institution does not regularly compete? An institution may be able to meet this condition if they actively encourage the establishment of competitive activities for a sport not yet established in that region.

Litigation Refines Parameters

With the apparent establishment of federal regulation several court cases rose to the appellate and Supreme Court levels, providing further clarification of the interpretations and application of Title IX.

The availability of monetary damages for an individual claim of violation of Title IX was addressed in *Franklin v. Gwinnett County Public School* (1992). A high school student in the district alleged she had been sexually harassed and abused by a teacher in the district and she sued the district for damages under a Title IX of the Education Amendments. The federal District Court dismissed the complaint because Title IX does not authorize the awarding of damages and the federal Court of Appeals affirmed that decision. The United States Supreme Court overturned that ruling and held that damages are available to petitioners under Title IX.

The longstanding general rule is that unless there is specific language that prohibits or otherwise directs it, federal courts can award any relief that seems appropriate for a case based on a federal statute. The defendant argued that no remedy was available to the complainant and if there was remedy available, it should be limited to monetary damages incurred, as in a back pay situation or other remedy related to the

teacher. Because she was a student and had no wages and because Hill had resigned and was thus unavailable to the school district for reimbursement, the defendant's argument was that they should not be liable for damages. The court found that Congress had never expressed any intention that Title IX not be available for monetary damages. This case settled the issue that Title IX is enforceable through an implied right of action as in the Cannon case (*Canon v. University of Chicago*,1979).

Several lawsuits based on provisions of Title IX came about when universities eliminated women's sports. Colorado State University wanted to eliminate women's varsity fast-pitch softball and the plaintiffs of the lawsuit were members of the team who filed the suit as individuals alleging that the elimination amounted to a failure to effectively accommodate the interests of the underrepresented gender at that school (*Roberts v. Colorado State Board of Agriculture*, cert. denied, 1993). The case was heard by the Tenth Circuit Court of Appeals which sanctioned the three-prong test to determine whether there was effective accommodation of interests and abilities of the members of each sex, as set forth in the first program area of the "equal opportunity" section of the Title IX regulation. The first (substantial proportionality) and third prong (current accommodation) must be proven by the plaintiff and the second prong (history and continuing expansion of opportunities) must be proven by the defendant. In July of 1993, the Tenth Circuit Court of Appeals affirmed the issuance of a permanent injunction requiring reinstatement of the women's softball team at Colorado State University.

In 1993, Indiana University of Pennsylvania wanted to eliminate four varsity teams to decrease costs. The teams to be eliminated were men's tennis and soccer, and

women's gymnastics and field hockey. Female varsity athletes filed a class action suit, in *Favia v. Indiana University at Pennsylvania*, seeking an injunction to restore gymnastics and field hockey (*Favia v. Indiana University at Pennsylvania*, aff'd, 1993). Even though there was an equal number of male and female varsity teams, men accounted for 62 percent of the athletes while women represented 38 percent. The amount of money spent on the athletic programs of the two genders also was disproportionate. Male athletes received a percentage of approximately $8.00 each while female athletes received approximately $2.75 per athlete. The district court found a Title IX violation and issued a preliminary injunction to restore gymnastics and field hockey. Following the district court's ruling Indiana University at Pennsylvania wanted to substitute soccer for gymnastics but the court found no basis to change the original court order. The university's argument that it was experiencing a financial crunch and therefore needed to make cuts in the athletic programs offered did not obviate the university's obligations to the women at the university. "Title IX does not provide for an exception to its requirements simply because of a school's financial difficulties" (*Favia v. Indiana University at Pennsylvania*, at 583).

In September of 1993, a federal district court considered the case of *Kelley v. Board of Trustees of the University of Illinois* (1993). The University of Illinois decided to discontinue the men's swimming and fencing teams as well as the men's and women's diving teams. The women's swimming team was retained. The members of the men's swimming team sued the university to restore their team. The members of the men's team argued that the university's cutting of their team constituted a violation of Title IX.

"Quite frankly, these interpretations have converted Title IX from a statute which prohibits discrimination on the basis of sex (defined as the elimination of or exclusion from participation opportunities), into a statute which provides "equal opportunity for members of both sexes" (*Kelley v. Board of Trustees of the University of Illinois* at 241).

The plight of the individual members of the men's swimming team was not the issue to be used in determining whether discrimination existed. "… [M]embers of the men's swimming team have not been discriminated against under Title IX. Even though elimination of their program excluded them from varsity participation as individuals, the percentage of all men participating in the varsity program is more than "substantially proportionate" to the percentage of men represented by the undergraduate population. This status did not change following the cut" (*Kelley v. Board of Trustees of the University of Illinois* at 242). Under the provisions and interpretations of Title IX, the whole of the male student body must be compared to the whole of the female student body at the university.

The men's swimming team also alleged a violation of the Equal Protection Clause of the Constitution. To prevail on an equal protection violation claim, the plaintiffs must allege the creation of an illegal gender classification. A plaintiff must allege the government intentionally discriminated against the plaintiffs by "classifying him or her for different treatment under the law than one similarly situated" (*Kelley v. Board of Trustees of the University of Illinois*, p. 242). A violation of the equal protection clause would occur if the government intentionally classified similarly situated individuals for different treatment based on an impermissible characteristic. To avoid the constitutional

violation, the contested standard must serve an important governmental objective and be substantially related to achieving the objective. In this case, the objective was to remedy discrimination against underrepresented female athletes. While the university eliminated the men's swimming team and not the women's swimming team, the classifying of men for different treatment is based on Title IX. "Compliance with Title IX serves a remedial purpose which qualifies as an important state interest which is substantially related to eradicating historical discrimination against women…" (*Kelley v. Board of Trustees of the University of Illinois*, p. 243). The court granted summary judgment for the university based on Title IX and the Fourteenth Amendment Equal Protection Clause. The decision was affirmed a year later by the Seventh Circuit Court of Appeals.

The issue that the courts do not address consistently is the reconciliation of individual rights versus the classification or group's rights. Effective accommodation is ostensibly the goal of Title IX yet courts assume that substantial proportionality equates to effective accommodation. This should be a rebuttable presumption but has not been considered as such by the courts to date (Randall, 2003).

Brown University demoted their women's gymnastics and volleyball teams as well as their men's water polo and golf teams in May of 1991 in an effort to save money pursuant to university wide budget cuts. The cuts would have saved $78,000 per year with $62,000 coming from the cuts in women's sports and $15,700 from the cuts to men's teams. Women still retained the same ratio of athletic opportunities with 36.6% while men had 63.4% of all varsity positions. A class action suit was filed in April 1992, on behalf of present, future and potential women attending Brown University who

participate, seek to participate or are deterred from participating in intercollegiate athletics funded by Brown University (*Cohen v. Brown University*, 809 F. Supp. 978 (D.R.I. 1992). The Federal District Court heard the arguments of women athletes who were members of the teams to be cut. The alleged violations of Title IX were that Brown University 1) failed to provide equal opportunities to female teams and athletes and 2) that Brown University failed to remedy discriminatory policies and practices. The District Court first heard arguments requesting a preliminary injunction to stop the demotion of the women's two teams from varsity to donor status and granted the request for injunction in July 1992. Brown University appealed that injunction and a panel of the first Circuit Court of Appeals upheld the injunction (*Cohen v. Brown University*, 991 F. 2d 888 (1st Ct. Appls. 1995). The District Court next heard arguments on the merits of the case in September of 1994, issuing a decision in March of 1995. The factual hearings taken by the District Court and the resulting decision by the District Court have formed the current review standard for the issue of effective accommodation of interests. Brown University operates a Division I, National Collegiate Athletic Association athletic program for all sports except football. The sports could exist either as a varsity sport funded by the University or as a donor sport funded only by the teams' own efforts fund-raising. The District Court found that donor sports cannot effectively compete at the same level of competition as the varsity sports due to lower levels of funding, which affect coach and athlete recruiting as well as travel and equipment availability (*Cohen v. Brown University*, 879 F. Supp. 185 at 189-190 (D.R.I. 1992).

The second issue raised in the lawsuit was that Brown University provided a disproportionate share of resources to the male teams. The argument was that even though it appeared to be an even cut of intercollegiate teams, women's teams were not supported equally prior to the cuts and the cuts furthered the inequity. The Court found that during the 1990-91 academic year Brown University funded 31 intercollegiate athletic teams – 16 men's teams and 15 women's teams. 566 or 63.3% of the athletes were male while 328 or 36.7% were women. At the same time, the percentage of undergraduate enrollment at Brown University was 52.4% male and 47.6% female. Using the three prong test as a barometer for compliance, Brown did not meet the 'percentage' test in that the percentage of male and female athletes was not the same or similar to the percentage of male and female athletes. There was not a demonstrated history of expansion of the athletic programs for women in that most women's teams were added between 1971 and 1977 when Brown University merged with Pembroke College, a women's college. The only women's sport added later was winter track, in 1982 (*Cohen v. Brown*, 809 F. Supp. 978 at 980). The fact that a group of women from a team demoted to donor status were part of the class action suit was evidence of unmet interest of women to participate.

The District Court's decision found Brown University had violated Title IX (*Cohen v. Brown University*, 879 F. Supp. 185, 214 (D.R.I. 1995) and asked Brown University to suggest a plan to effect compliance with Title IX. The plan submitted by Brown University in July 1995 did not satisfy the District Court and it ordered Brown to implement the court's plan for remediation. Brown University

appealed that plan but the first Circuit Court of Appeals affirmed the District Court's plan in November of 1996. In February of 1997, Brown University asked to be heard by the United States Supreme Court. The Supreme Court refused the request in April 1997, leading to the submission of a new plan by Brown University to the District Court. A new judge was assigned to the case from the District Court in June 1997 and settlement conferences occurred throughout the summer and fall of 1998. The case was finally settled by the parties in June of 1998 and gained the District Court's approval in October of 1998. Attorney's fees and costs were directed to be borne by Brown University pursuant to 42 U.S.C. 1988 (b) who contested the amount. A final order as to total costs was entered by a magistrate of the District Court of New Hampshire on August 10, 2001 (2001 U.S. Dist. LEXIS 22438 (2001). The recommendation was that Brown University pay $1,059,473.05 in attorneys' fees and $21,385.20 in associated costs.

In the appeal of the District Court's opinion, the First Circuit Court of Appeals addressed the "equal opportunity" requirement. The court analyzed the history of Title IX, the regulations and sanctioned the tri-part analysis in the 1979 Policy Interpretation to decide whether the recipient of federal funds is satisfying the requirement: "selection of sports and levels of competition effectively accommodate the interest and abilities of members of both sexes" (*Cohen v. Brown University*, 991 F2d 888 (1993) at 896). This is the first referral by a federal court of appeals to the three-prong test.

The court found that "…athletics offers an opportunity to [execute] leadership skills, learn teamwork, build self-confidence, and perfect self-discipline" (*Cohen v.*

Brown University, 991 F. 2d 888, 891). If an underrepresented sex displays adequate interest and ability that is not satisfied by an existing team, the school has failed to effectively accommodate those students. Brown's overall athletic program was unfairly disproportionate by gender.

The plaintiff, or complaining party, bears the burden of proving an unequal gender proportion of students to student-athletes indicating the existence of an unequally represented gender. The plaintiff must demonstrate that the group has not been effectively accommodated by the existing athletic program because there exists an unmet interest in the group. The university then has an affirmative defense if it can display a history of increasing its athletic programs over time as necessitated by the interests and abilities of the underrepresented group (Haggerty, 2001).

"…Brown University had to argue that it was justified in offering a smaller percentage of participation opportunities to women than their percentage of the student body. The crux of their argument was that the relative allocation of participation opportunities in its athletic program reflected the relative amounts of interest and ability within its student body" (Mathewson & Rogers, 1999, p. 136). The District Court, hearing the case after the Court of Appeals heard the case and sent it back to the District Court, rejected Brown University's argument that "an athletics program equally accommodates both genders and complies with Title IX if it accommodates the relative interests of its male and female students" (*Cohen V. Brown (Cohen II)*, 101 F.3d 155 (1st Cir.1996) at 174). Several lawsuits and their resulting decisions are a result of actions taken at universities to cut men's sports. Universities will often attempt to reduce their proportionality

discrepancies by reducing male athletic opportunities. *Boulahanis v. Illinois State University* is the decision of an appeal of a federal District Court decision granting summary judgment to the University of Illinois. The original lawsuit was filed by members of the men's wrestling and soccer teams, which had been eliminated by the university. They alleged a violation of Title IX. They also alleged violations of the civil rights code in Title VII. The Seventh Circuit Court of Appeals affirmed the district court's decision. The case filed in the district court was named *Harper v. Illinois State University*, but some of the athletes who were part of the original suit were no longer eligible student-athletes when the case went to the appeals process.

The university had ten options from which to choose to bring the institution into compliance with the three-prong test. They chose to eliminate men's wrestling and soccer and to adjust some of the scholarship offerings in other sports. The plaintiffs could no longer participate in their sports. The Court of Appeals reviewed the facts of this case and used the court's decision in *Kelley v. University of Illinois* (1993) for guidance. The plaintiffs in this case though tried to distinguish the two cases: one based on financial considerations alone that impacted a men's sport (Kelley) versus one based only on gender that would financially result in compliance. The court found that the two issues were linked in both cases but the university's decision did not violate Title IX. The university's decision would bring it into compliance with Title IX by meeting the substantial proportionality standard.

One of the arguments of the plaintiffs was that the university should have chosen an alternative, from among the ten options available, that was the least disruptive to

athletes. The court found that poor choices or inappropriate announcements regarding sport elimination did not negate the appropriateness of the actions necessary under Title IX. The plaintiffs' argued that other options were available to the university that would not negatively impact minorities to the extent as the disputed cuts and the university had therefore violated Title VII. The court found that the numbers of participants did not rise to the level to support a Title VII claim. The plaintiffs did not provide evidence of the impact necessary to raise the issue to the level of review. The possibility of a lesser impact on the athletes involved was not a necessary action by the university when deciding actions to comply with title IX.

In another case, *Chalenor v. University of North Dakota* (2000), where men alleged a violation of Title IX due to a male sports team elimination but the federal district court found no violation. Plaintiffs were students at the University of North Dakota recruited there by the wrestling coach. The wrestling program was discontinued to "attain proportionality between the gender composition of the student body" (*Chalenor v. University of North Dakota* at 1155). The court found that, " Clearly, the elimination of men's athletic programs is not a violation of Title IX as long as men's participation continues to be substantially proportionate to their enrollment." (*Chalenor v. University of North Dakota* at 1157). The men had also argued that the university could have looked for alternative funding to continue the wrestling program. The court found that the manner of funding is not the issue. "Simply put, money is not a justification for discrimination" (*Chalenor v. University of North Dakota* at 1157).

Colgate University was sued by women who wanted to elevate the women's ice hockey team to varsity status. The district court compared the women's ice hockey team to the men's ice hockey team, rather than comparing the entire women's athletic program as compared to the entire men's athletic program (*Cook v. Colgate University*, 1992). The Second Circuit Court of Appeals vacated the district court's ruling however as moot. The plaintiffs in the case had graduated from the university by the time the appeals court reviewed the case. The court of appeals held that if the plaintiffs had filed the case as a class action the court could review the case.

Female students substantially outnumbered male students at California State University, Bakersfield in 1996 but male athletes comprised 61% of all student athletes and received 68% of all athletic scholarships. Following a consent decree through the federal district court, the university was to have the proportion of female athletes within five percentage points of the proportion of female undergraduate students. To do so the school would have to decrease the number of men on their teams. Following the planned decrease of men's athletic opportunity, the federal district court again reviewed the case. The district court in *Neal v. Board of Trustees*, found that the university's action of decreasing men's sports violated Title IX. The Ninth Circuit Court of Appeals overruled the district court's opinion. The court considered the argument that the university could offer fewer opportunities to women if they were still meeting the needs of the student population. The Neal court rejected this argument as inconsistent with the intent of Title IX. The court suggested this interpretation would allow universities to do almost nothing

to equalize opportunities for men and women if they could prove that women were less interested in participating in the university's athletic programs (Starace, 2001).

It seemed that federal courts were going to continue using the three prongs of accommodation test until a federal district court in Louisiana heard a case filed by women who were students at Louisiana State University. The court in *Pederson v. Louisiana State University*, a 1996 decision, rejected the use of the first prong of the three-prong effective accommodation test but still found the university violated Title IX. Female college students brought suit against Louisiana State University (L.S.U.) after being denied the opportunity to participate in varsity collegiate athletics. The Fifth Circuit Court of Appeals found that LSU violated Title IX in failing to accommodate the plaintiffs' interest in intercollegiate athletics and the court found LSU's actions amounted to intentional discrimination.

Five women wanted to participate in varsity soccer and fast-pitch softball at LSU. LSU's history of offering women sports opportunities began in 1977, 84 years after men's sports were first offered. Varsity soccer and fast-pitch softball were scheduled to begin competition in 1995. The university's commitment to providing opportunities for these sports was questionable when considering the quality of their facilities however. The women's soccer team had to share a football field with a local high school team. The field they used for practices was a debris-littered, damaged field also used for parking for LSU football games. Five women became the plaintiffs in *Pederson v. Louisiana*.

The district court found problems with the certification of the class comprising the plaintiffs in the suit. It questioned the ability of the complainants to participate at the

collegiate level and one of the plaintiffs graduated before the case was heard. That woman would be unable to participate and thus the court's decision could not affect her. The court found no intentional discrimination but merely "confusion" on the part of LSU regarding requirements of Title IX leading them to provide less than equal opportunity and required the university to provide a plan for future compliance of Title IX issues for women.

The plaintiffs appealed the decision to the Fifth Circuit Court of Appeals. The Court of Appeals found that the class met the requirements for certification to be a class action suit and made findings about the ability of some of the individual plaintiffs to be awarded monetary damages. It also found an intentional discrimination on the part of the university relying on evidence of athletic administrators' use of stereotypes, while discounting that their actions came from ignorance of the law. The court expressed frustration that little guidance existed from the original legislation, the Office of Civil Rights or other courts on the issues presented by this case of re-institution or implementation of teams that previously did not exist (Haggerty, 2001).

One of the district court's errors was a finding that plaintiffs could only have standing to sue if they had enough skill to earn a varsity position. In an ineffective accommodation suit, standing can be demonstrated simply by showing the plaintiff is willing and able to compete on a non-existent team – the injury suffered is not the lack of skill but the lack of opportunity. The appeals court found there were clearly fewer opportunities for women to participate when 71% of the athletes were male. The

university had attempted to argue that women were less interested in participating in sports than men.

There was no history of fostering growth of women's sports at LSU. Evidence of the use of derogatory language in reference to women athletes, an unwillingness to add women's athletic teams and a satisfaction with the state of women's athletic programs suggested an intention to deal with women differently than men. Evidence that women were treated differently than men included Athletic Director Joe Dean's comments calling one of the plaintiffs "honey" and "sweetie" and patronizingly cooing that "[he would] love to help a cute little girl like [her]" (Haggerty, 2001 p. 392). Dean perpetuated the discriminatory behavior with statements that soccer could be a varsity sport at LSU because women "would look cute running around in their soccer shorts," but that he would only add additional women's sports "if forced to" (Haggerty, 2001 p. 392). Further evidence of discrimination was the appointment of a man to be the senior women's administrator's position, higher compensation for men's team coaches, more money for men's team travel, staff and practice facilities. The university's answer to these charges was that their dependence on outdated values was not necessarily linked to intentional discrimination and that their "puzzlement" or lack of knowledge regarding Title IX excuses any intent to treat women differently. The court found that arguments to be lacking in credibility (*Pederson v. Louisiana State University,* 1996). Through consideration of the testimony the court found that LSU did not possess evidence of its female students' interests and it failed all three parts of the Policy Interpretation – scholarships, equivalent treatment and accommodation (Haggerty, 2001).

The court found that the plaintiffs in the LSU case may not have been competitively able to be varsity athletes. “One must keep in mind that LSU is not required by Title IX to provide any athletic opportunity for any of its students. However, should LSU choose to provide athletic opportunities for certain of its students, it then must provide equal athletic opportunity for both sexes and not exclude either group from participation because of their sex...One must never lose sight that the key concepts involved in this challenge are *exclusion from* participation and *equal* athletic *opportunity*. Exclusion, in this instance, requires the existence of an interest to participate and the existence of an ability to participate. Opportunity is the possibility of participation, not the guarantee of participation” (*Pederson v Louisiana State University*, 1996 p. 905).

Cases have been filed where the conditions surrounding or involved in gender based suits can be the basis for a Title IX action as in a lawsuit based on action taken by an athletic association in *Communities for Equity v. Michigan High School Athletic Association*, 178 F. Supp.2d 805 (2001). A group of parents whose children were in various Michigan High Schools found they had common concerns regarding the state athletic association’s policies for girls’ sports. After a series of discussions and issue-raising forums, the suit was filed by the committee representing the parents and two mothers of girls who had been or were high school athletes. The basis of the lawsuit was that the Michigan High School Athletic Association set all rules and seasons of all high school athletic sports. The association set many of the girls’ seasons in different seasons than girls’ sports seasons in most of the rest of the country and different than the boys’ or collegiate seasons. This caused the girls to miss opportunities in recruiting, competition

regionally and nationally, as well as the general lack of participation in the culture of the sport when it was moved from the traditional seasons. The Michigan High School Association asserted that the changes in seasons were needed to adjust to facility needs and to better accommodate the logistics of competition among all levels of high school teams.

The court found that the Michigan High School Association was in violation of Title IX by failing to make the accommodations and arrangements for the girls' teams equitable. The change in seasons did not provide the same opportunities that the boys had. The Michigan High School Association was subject to Title IX because its members were schools receiving federal aid and those participating or administering the activities. The officials and the operations people were all public school officials from schools that received federal aid. The court directed the association to rearrange the schedules of girls' sports.

The Court's decision addressed the question of whether different provisions for boys and girls sports were equitable and if there were differences how much difference was permissible? This court's decision indicates that while sports are separate for each gender, all of the provisions and environments must be the same.

Issues of Proportionality

On January 16, 1996 OCR released the "Clarification of Intercollegiate Athletics Policy Guidance: The Three Part Test." The three-part test of proportionality to measure whether an institution has accommodated student interest and ability is the most contested of the OCR Policy Interpretations. "The proportionality test's main virtue,

specificity, is also its most significant drawback and is controversial for several reasons. The most vocal opponents attack the standard as an impermissible quota. Others argue that participation rates address only one aspect of compliance with Title IX and that whether an institution is in violation of Title IX ought to take into account how an institution is complying in other parts of its athletic program. Others complain that the Policy Interpretation's "substantial proportionality" standard is too vague. Still other critics assert that the standard is impossible to meet so that institutions will only be able to comply at the expense of male athletics or African American athletes" (Lamber, 2000).

Those critics of the proportionality standard characterize it as a quota mandate. The example they cite is that Title IX would not permit statistical balancing of enrollments in classes or programs at a university. Courts however reject that argument if made because the proportionality standard is only one means of complying with Title IX and is not required. It is also not a rational argument as long as teams are segregated by sex in intercollegiate athletics. Sex segregated teams begin with a fixed number of participants for the specific teams they have chosen to sponsor. "The quota argument, then, is only an argument about how to divide those opportunities, whether to change from the current two-thirds male to one-third female quota to something more closely approximating equal treatment or gender equality" (Lamber, 2000, p. 161).

Critics of the proportionality standard also argue that it harms minority athletes, creating opportunities for white women of upper class backgrounds who are likely to play those sports added by universities, like field hockey and lacrosse while the sports to be cut will decrease athletic opportunities for minority males. "African Americans who

participate in intercollegiate athletics do so disproportionately in football, basketball, and track; these sports rarely are the ones Title IX opponents claim institutions have eliminated" (Lamber, 2000, p. 162).

There is also a criticism of the use of the word "substantial" in the proportionality standard. "There is no evidence, however, that the Policy Interpretation's use of "substantial" was a term of art; rather it is used as common understanding dictates, to account for the year-to-year fluctuations in undergraduate enrollments and the minor changes in athletic opportunities" (Lamber, 2000, p. 163).

"Critics say that meeting the second prong of the test requires making progress towards meeting the first, and that meeting the third requires a statically validated excuse for not making such progress…There are not three prongs," says Douglas B. Fullerton, commissioner of the Big Sky Conference. "There is really only one prong. All roads lead to proportionality" (Naughton, 1997, p.A42).

The lack of interest argument relies on general, dated stereotypes that women do not have interest in sports. Courts have rejected this position in much the same way as courts have rejected similar arguments in employment discrimination cases (Lamber, 2000).

The debate regarding the effects of Title IX on men's sports continues with discussion citing specific college's decisions. Providence College dropped three men's programs to free up money to comply with Title IX (Monaghan, 1998). This is an example used by opponents of Title IX who allege that Title IX hurts men's sports. "How crazy is it that, in order to create athletic opportunities for women, Providence College

has had to take athletic opportunities away from men?"(Monaghan, 1998, p. A41). Eliminating sports was never the intent of Title IX, but it has been the result according to author Jessica Gavora. She asserts that the framers of Title IX did not intend to alter the composition or format of intercollegiate athletics as it stood in 1972 (Gavora, 2002). She also asserts that Title IX did not have the effect of creating more opportunities for girls and women in sports. But the facts do not support that position. A report by the Women's Sports Foundation showed that from 1978 to 1996, 853 men's division 1 programs had been dropped and 927 added. Women added 1658 programs in the same period of time (Sabo, 1998). The two factors that seem to motivate most colleges to examine their programs and make changes are the fear of lawsuits over compliance issues and the peer review process of the NCAA. Providence could not afford to add women's sports but could only reallocate the money already spent for athletics. They were not interested in moving from Division 1A status because they wanted to continue to offer their athletes the highest competitive collegiate level. Cutting scholarships for men was their only alternative (Monaghan, 1998).

There are some things learned from the Title IX suits. Class action suits will hold the claims of the plaintiffs against a university's practices until the claim is resolved even though the individual plaintiffs who generated the suit may graduate and not be able to benefit from a court decision made several years after the suit is filed. Another issue that now seems clear is that plaintiffs to a case involving a non-existent team do not need to prove any level of athletic ability to file a case. Those teams that are already in existence

and are to be eliminated however must have plaintiffs who have participated and lost the continued ability to play.

Continuing Review of Title IX Effects

Continued review by of Title IX occurred through the 1990s and into this century. A report was issued in 1993, by the Lyndon B. Johnson School of Public Affairs at the University of Texas. The report found many of difficulties with the Office of Civil Rights and its enforcement of Title IX from 1988 through 1991.Among the difficulties were late investigations and compliance reviews, frequently overlooked evident disparities that favored males, the overlooking of underlying discriminatory issues favoring male programs and no confirmations of remedies for violations (Staurowsky, 1996).

Equity in Athletics Disclosure Act

In 1994, Senator Carol Mosley-Braun sponsored Senate Bill 1468 at the same time that Representative Colins sponsored House Resolution 921. Both measures became the Equity in Athletics Disclosure Act that required coeducational institutions of higher education that have an intercollegiate athletics program and the institution receives any federally funded student financial aid to disclose information annually about its athletic program. In the fall 1994, the Equity in Athletics Act of 1994 passed as part of the Improving America's Schools Act, (Pub.L. 103-382) an act related to higher education resources and student assistance. In subchapter IV, Part F, Section 1092, provisions include requirements for universities to report information about student financial aid processes, campus crime statistics and related programs and student athletic participation. Subsection (e) (1) lists the information that an institution must disclose about its athletic

department and the students participating in athletic programs if the institution receives federal aid.

> (A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;
>
> (B) the number of students at the institution of higher education, broken down by race and sex;
>
> (C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;
>
> (D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;
>
> (E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and
>
> (F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(Title 20, Chapter 28, IV, Part F, Section 1092).

The Secretary of Education is required in subsection (5) (g) (1) to prepare a compilation report of all reporting institutions and make it available. The information is to be compiled annually from September 1 to August 31 and to be reported to the Secretary of Education by July 1 of the following year. The first reporting period mandated by the law began October 1, 1996 (Title 20, Chapter 28, IV, Part F, Section 1092 subsection (5) (g) (1).

In January 1995, the American Football Coaches Association asked Congress to review the implementation of Title IX and the College Football Association, the National Wrestling Coaches Association and the Men's Non-revenue Sports Coalition supported the request (Staurowsky, 1996). Congress held an oversight hearing on May 9, 1995, in response to concerns raised about the elimination of men's sports by universities to comply with the mandates of Title IX. The argument by those groups to Congress rested on the position that the only way proportionality could be achieved is to eliminate or significantly reduce football or emasculate men's programs (Staurowsky, 1996, p. 196). The Congressional hearing came less than three years after the NCAA surveyed its' membership regarding gender equity. The results of the survey about athletes revealed a disproportionate availability of opportunity and resources for men's programs. The surveys indicated that 69.5% of all intercollegiate athletes were male; men's programs received 70% of athletic scholarships, 77% of operating budgets and 84% of recruiting dollars (NCAA, Gender Equity, 1992).

The next level of significant federal legislative review did not occur until 2002 when the Secretary of the Department of Education, Rod Paige, created a commission to review Title IX impact and make recommendations for revision or continuation of the interpretations of Title IX. The policy interpretations by the Office of Civil Rights were interpretative bases all given by that office. The opportunity and possibility for change in the interpretations made many nervous as it could be altered, without Congressional approval, by whoever directs the OCR (Naughton, 1997).

The Commission on Opportunity in Athletics was appointed by the Secretary of Education in June 2002. The commission forwarded to Secretary Paige 23 recommendations for future action involving changes in how the provisions of Title IX are carried out. The commission members represented a variety of constituency groups including athletic directors, faculty, lawyers, representatives of the Olympics and media. The committee held four public meetings from June 2002 to February 2003 in different geographic areas across the country. Several recommendations for change related to the proportionality prong. One of the proposals recommended changing the participant percentage from the current standard that relates to the undergraduate enrollment to a 50/50 percentage for each gender with the permissive variance of two or three percent. Another set of proposals sought to re-define which athletes would be classified as participants for purposes of the proportionality prong. Those proposals would exclude from the undergraduate population used to calculate institutional population non-scholarship, walk-on players and non-traditional students.

> Concerns of members of the commission and from those who had interest in the outcome because they are athletic directors, representatives of sporting associations or civil rights advocates raised diverse issues ranging from erosion of current opportunities for women to the reinstatement of practices and participation that occurred prior to the adoption of the three prong standards adopted by the Office of Civil Rights. The recommendations of the committee were generally grouped into four areas: commitment to the principles of Title IX and equity; clarity regarding the terms, expectations and enforcement of the provisions of Title IX; fairness in the review of scholarship procedures, the cutting of teams for compliance and the review of the possibility of excessive expenditures in athletics; enforcement must become consistent and predictable by the Office of Civil Rights and efforts should be undertaken to assist in the development of surveys that would more effectively measure the interests of those eligible to participate in intercollegiate athletics (*Open to All: Title IX at Thirty*, Washington, D.C.).

The Department of Education Office for Civil Rights issued another letter to institutions on July 11, 2003, following the Commission's report. The letter, signed by Gerald Reynolds, Assistant Secretary for Civil Rights, reaffirmed a commitment to the principles of Title IX and to the three-prong test set forth in the 1979 letter of the Department of Education, Office of Civil Rights. It noted that each of the three prongs is an independent means to prove compliance with the expectations of the federal

government. It did note that the letter of 1996 spoke to the proportionality prong, thus causing some to believe that was the only option for compliance.

The elimination or reduction of men's teams to achieve a proportional balance at an institution was specifically identified as a disfavored practice. Consistent reviews of athletic programs and their efforts towards compliance and strong enforcement efforts were specifically listed as well. Of the fifteen unanimous recommendations from the review, the Department of Education adopted four. The first addressed the disfavored practice of cutting men's teams to achieve proportionality and reinforced that nothing in the legislation or interpretation requires cutting or reducing men's participation. Secondly it endorsed the sanctioning of colleges that do not enforce or participate in Title IX standards. The enforcement and investigation of complaints would become standardized across the regions of the United States as it had been alleged that measures of compliance had varied dependent on the views of individual investigators for the Department of Education. The final recommendation adopted was the endorsement of the standards used to determine compliance with Title IX mandates (Suggs, July 25, 2003).

Comments and Research

The results of reports made to the Department of Education indicate that progress needs to be made at all levels of colleges. While funding opportunities and availability vary by division, compliance in proportionality seems to elude most colleges no matter what their populations and financing. Division I schools tend to have more female athletes proportionally than smaller schools but smaller schools tend to allocate more of their athletic department budgets to their women's sports (Suggs, June 18, 2004).

Ellen Staurowsky (Staurowsky, 1996) argues that men's sports associations created resistance to the enforcement of Title IX by convincingly representing male athletes as victims and female athletes as victimizers. She argues that the only way to achieve gender equity and comply with Title IX is to shift ideological perspectives to the point that participation in sports is a basic human right. Staurowsky's position is that current ideological positions cannot change with the current ideologies present. Those ideologies are "connected to biologic and performance criteria" (Staurowsky, 1996, p. 194). Those ideological definitions of successful athletic performance relate to physical strength and interest in sports. Those underlying philosophical definitions fuel the perceptions by the various groups most concerned about Title IX's success.

One of the most vocal groups protesting Title IX was the College Football Association (CFA). They continued to allege that football was so unique that it should not be part of the formula for proportionality (Staurowsky, 1996). The CFA's description of college football as more than a game continues the position that successful athletic performance relates to strength. Those in men's non-revenue sports, big-time college football and women's sports are so entrenched in their positions that they are unable to work towards a mediated resolution that would serve all parties' interests (Staurowsky, 1996, p. 195). Continuing to blame the women for men's sports elimination continues the underlying attitudes that perpetuate the blaming of women's sports. "The dynamic of male athletes as victims and females as victimizers transforms the group that would ordinarily be thought of as the victims because of their underrepresented status (i.e. female athletes) into a group that is advantaged, preferentially treated, and in control.

Basically, the female victims become the victimizers, thus deserving of blame. Conversely, the male majority is seen as vulnerable and defenseless against the dictates of an unfair and unjust law" (Staurowsky, 1996, p. 203).

Congressional hearings were held but Staurowsky asserts that the hearings were unnecessary. The statistics regarding the numbers of men's sports, participation levels, and the money expended for men's sports, have remained the same or increased from the passage of the law to the time of the congressional hearings (Staurowsky, 1996). The two arguments in opposition to the three prong test includes the arguments that 1) the Office of Civil Rights and the courts have overemphasized the proportionality prong and ignored the other two prongs and 2) the concept of proportionality comprises an illegal or impermissible quota system (Staurowsky, 1996).

With regard to the argument that Title IX forces universities to cut men's sports to support women's teams, the argument overlooks the fact that those male sports that have large numbers of male participants or that are expensive to maintain continue to be funded by the same university that cuts a male sport to comply with the proportionality standard. "It is only when athletic programs that offer substantially more athletic opportunities for men than women choose to support large numbers of participants in football or large expenditures in other sports, such as men's basketball or soccer, that the institutions are faced with cutting men's athletic opportunities" (Lamber, 2000, p.161).

"Ironically and importantly, the men's sports associations never ascribe blame to the athletic directors who are actually cutting the programs or refusing to consider creative alternatives, the overwhelming majority of whom are male." "Within a

patriarchal system, it is far easier to blame women than it is to take on the male power elite." "…[I]n the end the protection the men's non-revenue sport associations search for in the resolution of the Title IX problem does not rest with women. Women are not, as a group, in power, nor are they an integral component of intercollegiate athletics decision making" (Lamber, 2000, p. 206).

Examining the same question from another perspective centers around the question of whether using the framework of men's athletics and duplicating it for women best serves the interests and abilities of women (Besnette, 1995). Because the historical framework of athletics has been male constructed and administered, women's athletics were established within the same framework. Any opportunity for a different organizing and administrative structure, which might evolve and prove to be more advantageous for women, would not develop. "The absorption of the now defunct Association of Intercollegiate Athletics for Women (AIAW) by the National Collegiate Athletic Association (NCAA) and the merging of once-separate men's and women's athletic programs has resulted in a decrease in the percentages of women coaches and athletic administrators….This set of circumstances, in conjunction with the evolving case-law surrounding gender equity in athletics, has bred women's programs and expectations which mirror traditional and existing men's programs. Little thought has been paid to whether such provisions best and most equitably accommodate women's interest in athletic participation – particularly if they happen to be different than the status quo" (Besnette, 1995, p. 58). In a study to determine how perceptions, interpretations, and definitions of gender equity in intercollegiate athletics vary or coincide among a selected

group of individuals from each institution within a major Division 1-A conference two theories of legal equality were discussed. Formal equality factors involve numbers, or the measurable aspects, of an athletic program. The substantive equality factors are those which are more relative, open-ended, and are outcomes-based. The substantive equality factors are one of the standards by which universities decide what to offer "whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes" pursuant to 34 C.F.R. Section 106.41c 1-10, 1992. (Besnette, 1995, p. 61). Rather than investigate what this statement means for women, institutions have primarily assumed that the interests and abilities of women would be satisfied by the status quo. Because societal and consumer norms have evolved based on men's athletics, a women's team seldom compares to the "separate-but-equal" men's team in terms of prestige, spectator interest and support, and media coverage. "When men and women play the same game with the same set of rules and expectations, differences in ability and style are highlighted. Such a scenario can breed inequity rather than eliminate it" (Besnette, 1995, p. 60). Thirty-two years after the enactment of Title IX, where the format of women's sports, recruitment and training emulate men's sports, it is unlikely that women's sports will stop the practices of so long and redefine the future of women's sports for the next thirty-two. Is there a way to ascertain a more efficient and accurate means to measure female interest in athletic opportunities at a university? Criticism of the current proportionality and interest measures include issues related to accuracy in the evaluations because of historical lack of access by women.

Mathewson and Rogers (1999) have proposed specific measures to be taken to accurately address women's interests. They assert that insufficient attention has been given to the second prong. "This prong more than the other two contemplates the development of a plan for compliance"(Mathewson & Rogers, 1999, p. 132). The authors liked the premise that demand should be used as a measure of equality because of its inherent logic that resources within an academic institution should be allocated in accordance with the demand for them. Their survey process "sought to measure the relative amounts of athletic participation that would be consumed if a university satisfied all demand for it. Secondly, we attempted to measure demand potential, what would be demanded, instead of mere demand, what is consumed" (Mathewson & Rogers, 1999, p. 135). The substantive concern of the courts was with the eradication of gender-based stereotypes in athletics. In the *Cohen v. Brown* First Circuit Court of Appeals view, the level of interest and ability of females is due to the historical unavailability of the opportunity to participate. Title IX was legislatively enacted to create the opportunity and thereby increase the preferences and ability to compete in intercollegiate athletics (Mathewson & Rogers, 1999).

How can a college set up participation opportunities that eliminate gender based discrimination? There are two models for evaluating opportunities – relative demand and substantial proportionality (Mathewson & Rogers, 1999). The substantial proportionality standard is based on the probability of selection out of the student body. It is an administratively offered method for determining demand but it is inconsistent with real-world application. All students enrolled at a university are not offered athletic

opportunities in intercollegiate athletics. The problem with this conclusion is that most athletes do not come from within a university's existing population. Athletes are recruited to come to that institution to fill positions on teams for sports that have been determined desirable by the institution. Those students become part of the university's population. Proposing to change this method would require that university's not recruit athletes. Universities would present an offering of sponsored sports to the student body, provide try-outs and pick a team. Given the historical competition and culture of collegiate sports this approach is unlikely (Mathewson & Rogers, 1999).

Under the relative demand standard, male and female athletes have the same probability of selection out of the separate pools of interested and able male and female athletes. Issues related to determining demand usually involve surveys. What to measure and who participates determines the findings. Due to historically male centered expectations and participation in athletics, surveys may be continuing the status quo. Relating to constantly changing populations and different interest would be a nightmare for most universities so the authors suggest using regional or conference surveys to make determinations. They also promote the idea that surveys should be structured to measure a variety of athletic and sports and fitness activities so that differences between male and female interests can be used to make representative choices for athletic offerings for women until the point in time is reached where women do not carry the historical baggage of discrimination (Mathewson & Rogers, 1999). The difficulties involved in the use of regional surveys as proposed still include the need to hit a constantly moving target. Regional populations still completely change every four to six years. The regional

surveys would be less focused on the specifics of individual institutions and their student populations – thus not reflecting true interest or providing opportunities specific for differences in university composition or uniqueness. Regional surveys would still include the historically male centered expectations and offering a variety of fitness activities that might be more attractive to women could make even less clear the greatest areas of athletic interest (Mathewson & Rogers, 1999).

Football's Role

Athletics programs in universities have been an integral part of the college experience since the 1800's. The kinds of values and exhibitions involved in athletics programs are the demonstrations of characteristics or rituals valued by the society in which they exist (Beyer & Hannah, 2000). Winning programs and demonstrated physical prowess exemplify the kinds of attributes that members of society want to see in themselves, translated in more mundane, practical terms. The opportunity to engage in competition, even if only vicariously, appeals to the fans of intercollegiate athletics. The expenditure of funds for a fan or an athletic department demonstrates the ability to engage in excesses and attain something that others do not possess or obtain an advantage others do not have. The growth and integration of athletics within a university and then with the alumni and community helps to create the cultural significance of a university (Beyer & Hannah, 2000). Athletics provides name exposure for those schools with little name recognition in the general public domain. Even for those schools with great and well known academic reputations and programs, the athletic programs are most likely to be the focus of recognition of the general public and potential students (Goff, 2000).

Football has been a central feature of intercollegiate athletics for over a century. Yale and Princeton played for the first championship of college football on Thanksgiving Day in 1876. They participated in the championship game as the culmination of league play between Harvard, Yale, Princeton, and Columbia. From the late 1800's to the early 1900's football became part of the collegiate experience not only for the players and the university students but for a growing fan base. Newspapers used the chance to focus on a sport during the fall and piqued the interest of local fans by providing details about teams, coaches and players which in turn fed the popularity and fan base.

For most people in the early 1900s college football was their only contact with higher education. College presidents saw the new interest from an unexpected source as an opportunity to attract contributions and additional students. Athletically talented sons of Irish, Italian and Eastern European families saw the chance to advance their social standing and opportunities by using football as their entrée into universities usually not otherwise available to them (Fizel & Fort, 2004).

An unexpected benefit to the university from the football program was the revenue that came from the games. In 1903, Yale earned a profit of $103,000 from their football program and the University of Chicago made enough money in 1905 to sponsor activities in the Department of Physical Culture and Athletics, which happened to be the department where the football coach taught. (Fizel & Fort, 2004).

The continuing escalation of expenses in the athletic departments of universities and football programs specifically has been referred to as the arms race. As state subsidies decrease to universities and the manner in which the allocations within the

university units are made becomes more scrutinized, academic units and professors begin to criticize the expenditures to units that are not directly related to the academic mission and some faculty groups begin to aggressively question university priorities. Faculty senates at Arizona State, Stanford, Oregon State, Washington State, Oregon, University of California at Berkeley have passed resolutions calling for the increased oversight of academic support programs for athletics, curbing the "arms race" and resistance to over-commercializing collegiate athletics (Suggs, May 25, 2001). Their calls are for universities to put academics first and to support that proposition with their expenditures. There are many examples of the excesses in collegiate football programs (Passeggi, 2002).

Bowl games generate money for the institution but that money may be used for athletic department needs. Football programs often work to create increased funding for themselves in an effort to get bigger and better than the competition. An example is the University of Wisconsin program in 1999. The football team received $1.8 million for playing a post season game at the Rose Bowl. Their expenses from that trip however were $2.1 million. Expenses were covered for 832 people who included the team, coaching and administrative staff as well as the coaches' families, six baby-sitters for the coaches' children, the marching band, cheerleaders and three mascots. Additionally, the Rose Bowl is held on January 1 so the university provided a New Year's Eve party costing $34,400. The opportunity to reduce the athletic department operating deficits for the University of Wisconsin in 1999, came and went as the bowl game actually increased that deficit (Fizel & Fort, 2004).

During the 1998-89 fiscal year, the University of Michigan's football team won the Big Ten championship, the Rose Bowl, had seven games televised nationally and played before an average home crowd of 105,000 people. Michigan's men's basketball team won NCAA championship basketball, and also appeared a number of times on national television. The University of Michigan only earned a profit of $1 million dollars that year as gross revenues were $35 million and expenses were $34 million. (Porto, 2003) Universities often eliminate men's non-revenue producing sports citing the financial inability to comply with Title IX and maintain existing men's programs. In each of the following examples the university described eliminated a men's sport during the same year as the story described occurred. A Division I-A university spent $300,000 to put lights on a practice football field that was never used for football practice. The lights were installed on the practice field because the football coach wanted to show recruits the commitment of the university to the athletic program. In the coach's four years at that institution, he never used the field.

Preseason football camp usually brings the football team to campus before classes begin. The team members are usually housed in dormitories during that preseason period. A Division I-A football team was housed in a hotel during preseason football camp instead of the university dormitories, when the end of the preseason practice overlapped with students moving back into the dorms. The team would have been moved to a hotel for those two days but because the coach didn't want to disrupt the team or schedule the team spent all of the preseason in the hotel. The snack bill alone at that hotel during that training camp was $86,000. Another Division I-A football team spent more than $50,000

in the summer of 2003 to have its meals catered during training camp. The entire travel budget for one women's team sport at the same institution was $22,000. Following a football season in which a Division I-A football team won seven games, the head coach, the coaching staff and their wives received to a trip to the Bahamas at the university's expense.

> What is broken, however, is the college football experience and the outrageous expenditures that are made in an attempt to win the 'arms race.' … The excesses in every area of the game from roster sizes to the size of coaching staff to the outlandish travel arrangements and the piano players for the recruits, could all be combined to pay for several minor sports programs." Barbara Schroeder, Regis University Director of Athletics (Secretary's Commission for Opportunity in Athletics, 2004, p.228, line 8).

Addressing the issue of responsibility for making funding determinations for sport program selection, Lopiano explains:

> The problem is not Title IX. The problem is college presidents not putting a stop to the embarrassing waste of money in football and men's basketball programs. There are no fiscal controls in place…. Just because the football and/or basketball teams bring in money at the gate doesn't mean they have a right to spend it however they wish and to waste it. All revenues generated by institutional activities, from tuition income to student musicals and athletic events, are institutional funds (Lopiano, 2001).

Do football programs generate funds in a sufficient amount to cover football program expenses and other athletic department programs? One study used data collected from the NCAA to assert that 71% of Division I-A schools reported a profit from their football programs during the 1996-97 school year. “Calculations based on Fulks’ estimation of average total revenues and average total costs show football earns 43% of total sports revenues and incurs 26% of total sports costs in an average Division I-A institution” (Agathe, 2000, p. 30). The author of that study looked at NCAA data again from the 1998-99 academic years and found that Division I-A football programs usually broke even in their athletic department expenses. In the 1998-99 study 64% reported a profit from their football program. In the study year of 1996-97 the same institutions lost an average of $800,000 (Suggs, November 17, 2000). The number was a significant increase of loss from 1994-95 figure of $237,000 (Porto, 2003).

Tiers of Football Financial Gain

There is a large financial difference between those universities that belong to the Bowl Championship Series and the rest of Division I schools and it appears to grow each year. In 2002-2003, the schools belonging to the conferences in the Bowl Championship Series averaged athletic department expenditures of 35 million dollars, an increase of $1 million from the year before. Non-BCS conference athletic departments averaged expenditures of $15 million during the same period (Suggs, 2004). The BCS schools have many more resources with which to manage their sports. Clearly those non-BCS schools, while in the same division and competing within the same parameters of requirements of Division I, have far less financial ability to compete.

In 1999-2000, the average football budget for BCS member conferences was $6.4 million. Schools that are not BCS conference members had football budgets averaged $2.9 (Porto, 2003). The BCS schools have athletic budgets almost three times the non-BCS schools (Porto, 2003). A more illustrative comparison of the funding inequities as illustrated in 2002, there were 115 Division 1A institutions. 91% spent more on their football teams than they spent on their entire women's athletic programs (Fizel, 2004).

Three schools provide a good example of the effect of the differences in benefits and opportunities of BCS schools versus non-BCS schools. The University of Colorado at Boulder is a Division I-A school and a member of the BCS. The football program will earn more than $25 million this year and were ranked 37th nationally in pre-season polls. The athletic department will receive about $9 million from their conference, the Big 12, this year just for being a member of the conference. The money comes from the profit sharing in the conference from bowl games and television contracts of conference games. Colorado's athletic budget will be $35 million for this year. Their in-state rival, Colorado State, is also a Division I-A school and was ranked in the top 25 nationally in pre-season polls but expected to earn only about $2.8 million. Their conference is the Mountain West Conference and Colorado State will probably receive about $1.7 million as their share as a conference member. The Mountain West Conference is not part of the BCS so they would not be able to compete for a national football championship. Colorado State's total athletic budget is $14.5 million for this year. The University of Idaho is also a Division I-A school but is a member of the Sun Belt Conference with an athletic budget of $8 million. Idaho will get $284,000 as a conference member this year and will have

difficulty meeting the requirements of Division I-A participation because their football attendance will likely not meet the 15,000 spectator requirement, they will not be playing a minimum of five home football games against other Division I-A teams, and is currently not sponsoring 16 varsity sports. Besides the implications for differences in football programs, resources for football program development and associated possibilities for fundraising and development efforts as a result of football activities, the other sports in those universities bear significant differences in resources. At Colorado, Olympic sports will receive $500,000 on average while Olympic sports at Colorado State will receive and average of $174,000 and Idaho's Olympic sports can expect to receive $133,000. Those kinds of differences are common in the range of schools that exist in Division I-A. Those differences lead to calls for changes in the BCS format as well as the division status and allocation of schools within the divisions. The fear of the smaller schools is that they will be further removed from the competitive and financial benefits that the largest schools currently receive (Suggs, 2004).

These figures speak to the general state of fiscal issues related to athletic departments and funding but does football fund women's programs? Women's programs in Division 1 schools may benefit from profitable football, but football generally tends to drain funding for women's programs. Generally, an increase of $1000 in funding for men's sports other than football results in an increase of $282 of increased spending for women' s sports. A $1000 increase in football program spending though reduces expenditures for women's sports by $112. A $1000 increase in a football program's net

revenue increases expenditures on women's sports by only $34 (Leeds, Suris, Durkin, 2004).

It seems then that there is a need for a basic level of funding to provide and support athletic teams at a Division I-A level. Beyond that basic level, funding additions can be spent to further enhance the sports provided. An analogy to the difficulties in funding healthcare costs for institutions provides an example. An institution decides to raise the employees' share of cost for health insurance and decides that all employees will pay 10% of their compensation towards the cost of healthcare for institutional employees. The executive officers point to the fairness of everyone paying the same percentage. The clerical workers object citing the practical differences of the decision. The clerical workers average salary is $25,000 and 10% of that to pay for health insurance would reduce their available income to $23,500. That level of income must pay food, housing, childcare, transportation, utilities and other expenses needed for living in a modest manner. An executive who makes $100,000 would see 10% reduce the take home amount to $90,000 and while a larger dollar amount than the clerical person pays, the resulting take home amount far exceeds the amount needed for living expenses. The clerical person would see the percentage cutting into the amount available for basic living necessities while the executive would see the cut coming into the amount available for optional expenditures. So while the mandates seem to sound fair, the impact of the mandates is very different for the two groups of employees. The same situation occurs for Division I-A athletic departments.

A difficulty in escalating costs of university athletic departments is that their competitors may face the competition without having made the conscious decision and without having the resources necessary to remain competitive. For example, the University of Kansas was a member of the Big Eight for many years and competed sufficiently to win basketball titles and occasional football titles. When the members of their league voted to change the memberships and add four teams from Texas, it added location and increased travel costs and pointed out the physical plant deficiencies of the facilities of the athletic department at the University of Kansas. The salaries of the coaches and administrators increased as the league competitors gained more exposure while the revenues for television coverage for Kansas games did not keep up with others in the league that had the advantage of large viewing community and alumni populations. Boosters and fans who were accustomed to feeling they were a part of a winning program abandon support of the athletic program both financially and physically when the wins stop. This further leads to the spiraling decrease in revenue. This is the kind of example that pressures athletic departments to make efforts to keep up with the Jones rather than following their own plans (Suggs, 2001b).

The opposite scenario is found at the University of South Carolina from 1997 to 2001. South Carolina hired Coach Lou Holtz to lead its football program. One researcher cites a creation of $6,821,066 total economic impact on the local economy surrounding the increased success of South Carolina football. Fans coming to the area spend money on football game days on food, hotels and souvenirs. Additionally, applications for enrollment at the University of South Carolina increased during the same time period.

Again, while the football program may not have been the primary reason that applicants wanted to come to University of South Carolina, the publicity surrounding the football program raised the exposure of the university's attributes (McCartha, 2002). Robert McCormick also found a link between college football, applications and the caliber of students who apply at those schools. McCormick found that schools with major football programs attract students with higher SAT scores and that successful football seasons have a direct impact on the number of applications received by the school that year (McCormick, 1987).

Troy State moved from Division I-AA to I-A by adding a football team. The Athletic Director said in 2000 that the move would cost the university millions of dollars but the possibilities of increasing revenue and publicity would eventually pay off for the entire university. The Athletic Director knows, "his program is going to run a deficit for the foreseeable future. That's OK, he said, because the athletics department is essentially a marketing product for the university…. Publicity is more valuable than the dollars alone, he said" (Suggs, 2000, A73).

Kansas State University may be a good case study of the difference a successful football program can make to an athletics department and to the university it is a part of. Kansas State had a football program at the bottom of Division I-A rankings I 1989. By 1998, the Kansas State football team was ranked number one in national polls until the end of the season. That kind of performance may explain the economic benefit of football success. From 1991 to 1998 the football program raised $49 million while incurring $32 million in debt. The athletics department covered its own expenses. With additional

support form the university and donors, the university also invested $13 million in capital projects to support the football program. Other programs at the university have bloomed during that same time although it is difficult to say their performance is a direct result of the football program's success. A renovated library, a new museum and increased enrollment have all occurred in the same time periods that the football program improved. Fund raising increased more than three times in the ten year period from 1989 to 1999. Neither the president of the university in 1999 nor the president of Kansas State University's foundation can directly link the football program's success with increases in fund-raising or attracting the best students but they both believe the football program provides the starting point for their discussions with prospective donors and applicants (Suggs, 1999). Can the arms race be changed? The culture of intercollegiate athletics would need to change and to some it would require widespread changes. There are strong emotions tied to the traditions and values represented by the athletic teams and those emotions would need to change. The traditions and cultural meanings attached to athletic competition are tied to the history of the institution and the history of the students – both past and present. Changing these issues would require the change of the perceptions of alumni, community supporters, current students and university personnel (Beyer and Hannah, 2000). Given the effort and time that institutions use to create the cultural perceptions, it seems unlikely that such a change would occur without legislative or administrative requirements otherwise.

If the most financially successful football programs do not consistently contribute to the women's programs at their universities, what are the reasons? The answer may lie

in the historical and cultural perception of football and the kind of importance placed on intercollegiate athletics. Athletic programs and universities have not willingly invested in women's sports because they don't believe that women's sports generate much prestige or support (Leeds, Suris, & Durkin, 2004). The protection of football programs by universities often leaves the remainder of revenue in the athletic budget for both women's athletic programs and for the men's programs that are not football or basketball. Title IX requires funding to be allocated to the women's programs in proportion to their enrollment while men's programs are not protected by any legislative mandate. Title IX requires schools with hypothetically equal numbers of male and female undergraduates to spend equal amounts on men's and women's sports. Since women's sports are generally unprofitable, schools that obey Title IX spend more on women's programs than they do on the unprofitable men's sports. If the men's programs do not generate prestige or money, then it is more likely that an athletic program will cut the men's programs to pay for women's sports before cutting any resources from any of the other men's programs – like football or basketball (Leeds, Suris, & Durkin, 2004).

Universities that make the decision to maintain their football program but do not meet the proportionality requirement, or any of the other measures of compliance for Title IX, have decided to cut the less profitable men's sports. Do those program cuts allow the universities to achieve proportionality? When schools have reduced men's teams in an effort to comply with the proportionality requirement, the reduction results in a relatively small adjustment in the percentages. In 1999-2000, thirty-one colleges reduced their offerings by a male sport. Of those thirty-one colleges, one moved

statistically closer to their proportionality requirements. The colleges that did not drop men's sports got 0.7 percent farther away from proportionality compliance at their institution that year (Fizel & Fort, 2004). Division I-A athletic departments have increased budgets, on average, over the past several years. That increased funding has not gone solely towards reducing the inequity in funding of women's sports. "NCAA research shows that for every three new dollars going into college athletic programs over the last five years, two are going to men's sports and only one to women's sports. The one dollar to women's sports is not closing the significant expenditure gap, and the majority of the new money allocated to men's sports is pumping up the already bloated budgets of men's football and basketball" (Lopiano, 2001, para.2).

There is only one measure of success in athletics for some people and that measure is winning. National championships in women's sports tend to go to those schools where financial opportunities are greater and those opportunities are found in the BCS schools. In 2002-2003 the only women's national championships won by non-BCS schools were those where a school has a history of specializing in a sport. Harvard University won the rowing title; the University of Portland captured the soccer title; Princeton University won the lacrosse championship and the University of Minnesota at Duluth won the women's ice hockey national title. The remainder of national titles for women's sports went to teams from BCS schools (Suggs, 2003).

What conclusions can be drawn from the facts, figures and anecdotes of Division I-A universities regarding compliance in the intercollegiate athletic departments with the proportionality provision of Title IX? Clearly if an institution has more money it has an

opportunity to comply and to excel in competition. It has greater opportunity to provide the amenities for its teams, facilities, alumni and academic programs than those schools that do not have money. Are there common factors within the athletic departments of Division I-A schools that indicate which schools are more likely to comply with the proportionality requirements of Title IX? Can those schools serve as models for the methods to achieve fairness that can be recognized even by those who possess various ideological priorities? If those schools could be identified and the contributing factors of success identified then the expectations of fair opportunity based on athletic ability would be available to everyone regardless of gender.

Relationship of Football Championships to Proportionality Compliance

Are those schools with championship football teams more compliant with the proportionality provisions of Title IX than the schools that do not have championship football programs?

Prior to 1998, the naming of a national football championship was accomplished by polls. The Associated Press college football poll of sportswriters and broadcasters evolved to be the most widely circulated college football ranking process, beginning in 1936 (http://www.ncaafootball.net). Former Associated Press Editor In Chief Alan J. Gould takes credit for originating the collegiate football poll to create a forum for controversy to increase interest in the college football. "It was a case of thinking up ideas to develop interest and controversy between football Saturdays. Papers wanted material to fill space between games. That's all I had in mind, something to keep the pot boiling. Sports then was living off controversy, opinion, whatever. This was just another exercise

in hoopla. Making it a top 10 was an arbitrary decision. It seemed logical to confine it to that number. It was tough enough to pick a top 10 in those days, let alone 15 or 20" (Barra, 2002, para. 2). The BCS poll currently only lists the football programs ranked in their top 25 (Matt Rehm, for CollegeSports.com, e-mail March 5, 2004). The location within the list of other schools is not provided.

Kenneth Massey has produced rankings of football program standings since 1995. Originally using the rankings from five to ten polls, he now uses data that combines the polling results of approximately 100 football program rankings. Through the listings of programs by consensus and correlation from the polls, Massey provides a list of all football programs participating in Division 1A and ranks them based on the information and rankings of the contributing polls. (www.masseyratings.com)The consensus figure is determined by a least squares determination based on paired comparisons between teams for each of the listed ranking systems. The Massey poll also reflects the possibility that the predicted results do not match actual results. He uses a formula to account for the possibility of ranking difference and importance.

$$\text{weighted mistakes} = \frac{\text{sum (games with Rl > Rw) } (Rl-Rw)*(2n-Rw-Rl)}{1000}$$

[where n = # teams, Rw = rank of winner, Rl = rank of loser]

The result is divided by 1000 so that three significant digits can be easily displayed in the table. His process attempts to consider cases where teams are not ranked by all polls or where teams may have advantages or disadvantages in their schedules. Massey lists all of the schools sponsoring football programs.

Other entities also produced polls reflecting their choices for football rankings. United Press, International News Service, the Football Writers Association, and the National Football Foundation began ranking college football teams in the 1950's. The American Football Coaches Association contributed to the United Press/International News Service and that entity joined the USA Today/ESPN efforts at ranking. (www.football.about.com). While the polls may have named national champions in college football based on the opinions of their contributors, the format for recognizing a national college football champion changed in 1998.

The national championship in collegiate football has been determined since 1998 through the Bowl Championship Series. The sponsors and administration of the largest collegiate football bowls, the FedEx Orange, Nokia Sugar, Rose and Tostitos Fiesta Bowls, joined with the Atlantic Coast, Big East, Big 12, Big Ten, Pacific-10 and Southeastern Conferences and the University of Notre Dame to form the Bowl Championship Series (BCS) (About the BCS). The BCS was established to determine the national champion for college football while maintaining and enhancing the bowl system. Prior to the establishment of the BCS, top ranked teams may not have been matched at any time in post season competition, thereby allowing a continuing argument about which program was the best. The BCS provided the opportunity for top ranked teams to be matched to answer the questions related to the best collegiate football team each year.

The criticism of the Bowl Championship Series is that it excludes some football programs that are not members of the BCS member conferences. They are excluded not

only from the opportunities to claim the national championship title but are also excluded from profits generated by the BCS. “Through a conference revenue sharing plan, the BCS group will distribute over $40 million to non-participating BCS institutions during its eight-year history. Those monies go to Division I-A and I-AA conferences in support of the game of college football. Additionally, the BCS distributes $200,000 per year to the National Football Foundation and College Hall of Fame for calculating and administering the BCS Standings.” That $40 million over five years does not compare to the amount of money that the original leagues receive. During the 2002 bowl series, “BCS leagues will receive between $11.78 - 14.67 million depending on the conference affiliation of the at-large participants. Should the at-large participants come from outside the original BCS conferences -- ACC, Big East, Big Ten, Big 12, Pac-10 or SEC -- those participants will receive $13.78 million. If one or both at-large selections come from within the original BCS group, the conference shall receive $13.54 million for the first participant and $4.5 million for the second participant from that same league. The remaining dollars (the difference between $13.54 million and $4.5 million) will be split among the BCS conferences” (About the BCS).

The process that the BCS uses to form the rankings consists of four components. Each of those four components has several subcategories. The first component consists of poll results of football team rankings based on their performance. Fifty percent of the polls component is comprised of the AP and ESPN/USA Today Coaches Poll. The two polls are averaged together and form 50 percent of the poll factor. The results of these polls are not subject to any particular rules or regulations, relying instead on the

experience and perspective of collegiate football coaches and sports writers who cover college football. The other fifty percent of the poll component for rankings comes from an average of 8 computer polls chosen for particular points of view in ranking teams. The highest and lowest rankings are discounted with the remaining six to form an average of varied points of view (Billingsley, 2002).

The second component is the strength of schedule. This component attempts to provide a comparison of college football teams and their relative winning ability compared to each other. “[T]he 132 year history of college football has proven to us repeatedly that teams with one or more losses on the season are indeed better than some undefeated teams that have played weaker schedules”(Billingsley, 2002). There are four steps to obtain this component score.

- Determine the cumulative won/loss records of a team's opponents, with only wins over other Division I-A teams being counted. All losses are counted. This calculation carries a weight of 66 2/3 percent.
- Determine the cumulative won/loss records of the opponents' opponents. This calculation carries a weight of 33 1/3 percent.
- Add the first two calculations and rank the results in ascending order from No. 1-No.117, (the current number of teams being used in the BCS calculations).
- Take that rank and divide by 25. The end result becomes the figure used in a team's strength of schedule. For example, the team that plays the number one-rated schedule each week receives a value of 0.04 (1/25), the number twenty-five

team gets a value of 1 (25/25), and the number thirty-five team gets a value of 1.40 (35/25).

The third component considers team losses by adding one point for each loss. The fourth component was added in the 2001 season to recognize those teams that defeat other teams ranked in the top fifteen. “Since the lowest score wins in the final tabulations, points are deducted for beating the best teams. Beat the No. 1 team, deduct 1.5 point. Beat No. 2, deduct 1.4. Beat No. 3, deduct 1.3 and so on down through 15, where you deduct 0.1 points” (About the BCS). The BCS only announces the top 25 football programs.

The rankings for football championships, the football revenue generation figures and the rankings for success in intercollegiate athletic programs provide an evidentiary basis from which to draw conclusions about whether Title IX as been successful in bringing about equitable opportunities for women.

CHAPTER THREE

Methodology

Purpose of the Study

The purpose of this study is to determine whether Division I-A institutions having successful programs are more likely to comply with the proportionality requirements of Title IX than those institutions that are not successful. This chapter provides the operational definition of the variables, describes the data that addresses the research questions and explains the data analysis procedures. A quantitative research method was utilized. The measures of success for this study include Division I-A football programs that have won championships, Division I-A football programs that generate the highest amounts of revenue and the general success of institutions with Division I-A intercollegiate athletic programs as defined by the Director's Cup sponsored by the National Association of Directors of Collegiate Athletics. Those programs are contrasted with those Division I-A football programs that have ranked at the bottom of the division by losing the most games, those Division I-A football programs that generate the least amount of revenue and the athletic programs that have the least total programmatic success. The data providing the mechanism to identify successful programs comes from information provided by institutions through the Equity in Athletics Disclosure Act (Title 20, Chapter 28, IV, Part F, Section 1092), the Bowl Championship Series, Massey ratings and the National Association of Collegiate Athletic Directors. Data will be examined by year from 1996 to 2005 for each of the questions.

Compliance with the proportionality provisions of Title IX requires the percentage of undergraduate women at an institution be the same as the percentage of women athletes. The supporting factors for women athletes of scholarships, recruiting, coaching and operating budgets should also be provided in the same proportion as the percentage of enrolled undergraduate women, according to the federal mandates. The percentages of each category are the most accurate means to determine the proportionality performance of each institution as Title IX requires that the institutions' proportionalities of women athletes reflect the proportion of women students in the general student body. The percentage allocated for operating, recruiting, scholarship and coaching budgets for women's sports should mirror the percentage of women athletes that those budgets serve. The study design is descriptive and non-experimental.

Research Design: Operational Definition of the Variables

Independent Variables

Championship football programs are the first independent variable. The final standings of the Bowl Championship Series will be gathered for the years it has been in place – 1998 through 2005. Additionally, the final standings of the Massey polls from 1996 to 2005 will be gathered. The BCS standings designate the top twenty-five football programs only and for purposes of this study, only the top fifteen for each year will be used. The Massey standings rank all Division I-A schools for each year and they will be used to designate the top fifteen schools for the years before the BCS began and to designate the bottom fifteen schools for all years from 1996 to 2005. To determine the

bottom schools for consideration, the Massey polls from 1996 to 2005 were used to determine the lowest ranking 15 Division I-A institutions each of those years.

The second independent variable is football program revenue as determined by the reporting in the Equity in Athletics information required of each university each year. Rankings of the amount reported by individual schools will provide the ability to determine the top revenue generators and the bottom revenue generators each year.

Championship athletic programs were derived from the standings of the Directors Cup. The Directors Cup is an annual program honoring athletic programs that win championships in a broad range of men's and women's sports. The program began in 1993-1994 for Division I sports. Originally sponsored by the National Association of Collegiate Directors of Athletics and USA Today, the Sears Corporation sponsored the program for several years. Sponsorship of the program rests with the United States Sports Academy. Divisions II and III as well as the NAIA are now included in the competition. (National Association of Collegiate Directors of Athletics, 2007).

The athletics program possessing the highest number of points in each division wins the Directors Cup. Points are obtained by an institution's ranking in both men's and women's NCAA or NAIA championships, as defined by division. Championships must have at least 12 teams participating and there is no maximum number of team participants. The specific number of points a championship team may receive will depend on the sport, whether the championship is determined by grouping into brackets or individual or team competition. A Division I institution will compete in 10 of 14 sports in each of the men's and women's championship offerings for point totals. This manner of

evaluating athletic programs allows for variations in sport choice and conference affiliations. All Division I-A athletic programs receive a ranking each year and the bottom ranked fifteen each year will be used for the correlation questions of least successful athletic programs. The Directors Cup program is the only nationally recognized program that rewards an athletic program's total success. Other recognition programs are for an individual sport or for league or conference achievements. (National Association of Collegiate Directors of Athletics, Directors Cup Scoring).

Dependent Variables

The first dependent variable is the proportion of enrolled undergraduate women compared to the women athletes of the university for each year. To obtain this calculation, the percentage of athletes who were women was subtracted from the percentage of enrolled, undergraduate women's for each year for each institution. Title IX compliance with the proportionality requirement is that the percentage of enrolled undergraduate women match the percentage of women athletes at the institution. Absolute compliance with this requirement would result in zero percent. Negative percentage results means that the institution exceeds the compliance requirement and has proportionately more women athletes than the proportion of enrolled undergraduate women.

Scholarship allocation, recruiting budget, operating budget and coaching budget all provide the supporting structures within which women athletes operate. The percentage of the total budget allocated to each of these areas should also be equal to the percentage of enrolled undergraduate women at the institution. To obtain these figures,

the percentage of budget attributed to each was subtracted from the percentage of enrolled undergraduate women for each year. Compliance would result in a zero sum. A negative percentage result would indicate that the institution was providing more support in the area than required by law. Revenue generation of football programs for each year was obtained from the Equity in Athletics Disclosure Act information.

*Research Question 1***:** Do championship football programs and non-championship football programs differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

To determine whether championship football programs and non-championship football programs differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality an analysis of variance will be determined for the institutions with football teams that have been ranked in the top 15 each year from 1996 to 2005 in the BCS and Massey polls as well as for the teams that have been ranked among the bottom 15 of the Massey polls from 1996 to 2005. Programs that sponsor football programs that are not ranked in the top or bottom 15 each year will also be examined for results to determine any relationship to the top and bottom 15 programs. Institutions ranked most often in the top fifteen of the BCS and Massey polls from 1996 to 2005 are listed in Appendix A. The institutions ranked in the bottom fifteen of the Massey polls from 1996 to 2005 are listed in Appendix B.

Research Question 2: Are there significant differences among the Division I-A football programs ranked by amount of revenue generation with regard to women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Some institutions and organizations that have argued that Title IX creates proportionality requirements for women's athletic opportunities for which funding is not available. The argument is that a finite source of funding is allocated to athletics and that source is not enough for most athletic departments to provide additional, competitive opportunities for women's programs. If that argument is true then those schools that have been able to create a football program that generates large revenue should have more revenue with which to provide programming for its athletic program in general. More revenue for an athletic program should allow more funding availability for women's athletic programs that would result in proportionality rates closer in compliance with the mandates of Title IX interpretations than the schools with football programs that do not generate revenue.

To determine whether those programs that make the most money from their football programs more compliant with the proportionality provisions than the 1) other Division I-A schools and 2) the schools that make the least amount of money or lose money with their football programs the financial information from the Equity on Athletics Disclosure Act will be used. The category of football revenue will be used for the financial identification and comparisons.

Research Question 3: Do Division I-A athletic programs that have championship success across a broad range of their offered sports and athletic programs that do not have championship success across a broad range of their offered sport differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Athletic programs that are able to achieve performance success over a broad range of sports may have achieved that because they have adequate financial support for all sports. A university must be able to win championships in both men's and women's sports to rank highly in the Director's Cup. The compliance percentage of successful programs may provide statistical proof that championships offer many benefits in addition to the prestige and reputation of athletic success.

To determine whether athletic programs ranked in the top 15 of the Director's Cup and those athletic programs ranked in the bottom 15 differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality an analysis of variance will be determined. Athletic programs not ranked in the top or bottom 15 each year will also be examined for results to determine any relationship to the top and bottom 15 programs.

Data Analysis Procedure

Data analysis was provided through the use of Statistical Package for the Social Sciences (SPSS), 13.0. Once data collection was completed descriptive statistics for all

independent and dependent variables were computed. The following null hypotheses are proposed to determine whether Division I-A institutions having successful programs are more likely to comply with the proportionality requirements of Title IX than those institutions that are not successful.

Ho_1: Championship football programs and non-championship football programs do not differ significantly in regard to their women-athlete/women undergraduate proportionality.

Ho_2: Championship football programs and non-championship football programs do not differ significantly in regard to their women-athlete/women undergraduate scholarship allocation proportionality.

Ho_3: Championship football programs and non-championship football programs do not differ significantly in regard to their women-athlete/women undergraduate recruiting budget proportionality.

Ho_4: Championship football programs and non-championship football programs do not differ significantly in regard to their women-athlete/women undergraduate operating budget proportionality.

Ho_5: Championship football programs and non-championship football programs do not differ significantly in regard to their women-athlete/women undergraduate coaching budget proportionality.

Ho_6: There are not significant differences among the Division I-A football programs by amount of football revenue generation with regard to women-athlete/women undergraduate proportionality.

Ho_7: There are not significant differences among the Division I-A football programs by amount of revenue generation with regard to scholarship allocation proportionality.

Ho_8: There are not significant differences among the Division I-A football programs by amount of revenue generation with regard to recruiting budget proportionality.

Ho_9: There are not significant differences among the Division I-A football programs by amount of revenue generation with regard to operating budget proportionality.

Ho_{10}: There are not significant differences among the Division I-A football programs by amount of revenue generation with regard to coaching budget proportionality.

Ho_{11}: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their women-athlete/women undergraduate proportionality.

Ho_{12}: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their women-athlete/women undergraduate scholarship allocation proportionality.

Ho_{13}: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their women-athlete/women undergraduate recruiting budget proportionality.

Ho_{14}: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their women-athlete operating budget proportionality.

Ho_{15}: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their women-athlete/women undergraduate coaching budget.

Each hypothesis will be analyzed using analysis of variance. Analysis of variance (ANOVA) compares the means of several groups and tests the significance of the null hypothesis of equal populations (Agresti, A., & Franklin, C. (2007). Each group in the ANOVA represents a population of subjects. If the null hypothesis is false, all of the population means may differ but it may be the case that only one differs from the others. ANOVA provides a means to determine whether the differences among the sample means could reasonably have occurred by chance if the null hypothesis of equal population means were true. The assumptions necessary for ANOVA are:

1) The observations are independent of other observations (the value of one observation is not related to any other observation).
2) The variances on the dependent variable are equal across groups.
3) The dependent variable is normally distributed for each group (Agresti and Franklin 2007).

If the results of the ANOVA displayed a significant mean difference between groups a post hoc test was necessary to insure that the null hypothesis was not rejected when it was in fact true – a Type I error. The post hoc test used was a Tukey HSD which

is considered to be a moderately conservative test. An alpha level of .05 was set a priori to determine if the data differences were statistically significant. If the results indicated significance at the .05 level further tests were conducted to determine significance at .01.

Summary

This chapter explains the methods and procedures to be utilized in this study. The design and variables for the study were presented followed by information about the data origination, data analysis and assumptions of analysis of variance.

CHAPTER FOUR

Methodology

Introduction

This chapter will present the findings of the analysis of the data related to the focus of the study. A description of the equity in athletics reporting data drawn from Division I-A universities from 1996 to 2005 will be provided and the results of the analysis of the differences between the institutions reported data will be discussed.

The number of Division I-A universities reporting data from 1996-1997 to 2004 - 2005 varied from 113 to 117. The average percentage proportion at those reporting Division I-A universities of women undergraduate students enrolled compared to the women athletes enrolled at the universities ranged from .1350 to .0728 from 1996-1997 to 2004-2005. The proportionality requirement from Title IX would mandate an equal proportion (a 0 reported percentage) of undergraduate women enrolled compared to women athletes as well as the supporting factors of recruiting, operating and coaching. Progress has been made on average with the proportionality of undergraduate women to women athletes. The proportion of athletic scholarship budget provided to women athletes ranged from .15 to .10 over this same time period. Progress towards complete compliance to proportionality is 5 percent closer than in 1996 but was not completely proportionate at 0 percent as directed by the standards of Title IX, on average as of 2004-2005 reporting. The proportion of athletic budgets allocated to recruiting, operating and coaching has been consistently disproportionate to the enrolled women undergraduates at

the universities by approximately 20 percent each year from 1996 – 1997 to 2004-2005 (Table 1).

Table 1.

Yearly Division I-A Average Proportionality Allocation of Equity Measures

Year	N	Undergrad/Athletes	Scholarship	Recruiting	Operating	Coaching
1997	117	.1351	.15	.23	.00	.00
1998	117	.1273	.14	.22	.22	.20
1999	117	.1031	.13	.22	.21	.20
2000	117	.0970	.12	.21	.21	.19
2001	117	.0865	.12	.21	.21	.20
2002	117	.0816	.11	.21	.21	.20
2003	113	.0843	.11	.21	.22	.21
2004	115	.0751	.11	.21	.22	.21
2005	114	.0728	.10	.21	.21	.21

*Research Question 1***:** Do championship football programs and non-championship football programs differ significantly in regard to their female-athlete/female undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality? To explore the possible answers to this question, the following null hypothesis are examined.

Ho1: Championship football programs and non-championship football programs do not differ significantly in regard to their female-athlete/female undergraduate proportionality. Are there statistically significant differences between the female-athlete/female undergraduate proportionality on those Division 1A football teams ranked in the top fifteen and those Division 1A football teams ranked as the bottom fifteen?

A statistically significant difference was found among the percentage of difference in female-athlete and female undergraduate population in schools with football programs ranked at the top and bottom of Division 1A, F (2, 1040) = 10.661, p = .000. (Table 3) Table 2 shows the mean percentage in the proportionality difference of female-athletes to female undergraduates of Division 1A schools. The mean percentage of those schools with top fifteen ranked football programs is .0790, .1225 for Division 1A schools with the bottom ranked fifteen football programs and .0948 for Division 1A programs not in the top or bottom fifteen of Division 1A. The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between the top ranked 15 football programs and the bottom ranked 15 football programs and between the bottom ranked 15 programs and those programs not in the top or bottom of the rankings at $p<.05$. Table 4 displays the results of the Tukey test. The largest mean difference (.0435) is found between the ranked top 15 and bottom ranked 15 teams with the other significant difference between the schools not ranked in the top or bottom and the bottom 15 ranked schools (.0276). The null hypothesis is rejected.

Table 2.

Means and Standard Deviations Comparing The Percentage Differences of Female-Athletes to Female Undergraduates with Division 1A Football Programs Rankings

	Number of Cases	Mean	Standard Deviation
15 top ranked football programs	136	.0790	.0556
15 bottom ranked football programs	126	.1225	.0945
Not top or bottom15 ranked football programs	781	.0948	.0780
Total	1043	.0961	.0784

Table 3.

Analysis of Variance

	df	Mean Square	F	Sig.
Between Groups	2	643.443	10.661	.000
Within Groups	1040	60.358		
Total	1042			

Table 4.

Tukey HSD

(I) In Top or Bottom 15 Football	(J) In Top or Bottom 15 Football	Mean Difference (I-J)
Top	bottom	4.3474206*
	not top or bottom	1.5822063
Bottom	top	-4.3474206*
	not top or bottom	-2.7652144*
not top or bottom	top	-1.5822063
	bottom	2.7652144*

* The mean difference is significant at the .05 level.

Ho2: Championship football programs and non-championship football programs do not differ significantly in regard to their female-athlete scholarship allocation proportionality.

A statistically significant difference was found among the percentage of difference in the proportion of scholarships awarded to female athletes in schools with football programs ranked at the top and bottom of Division 1A, F (2, 1023) = 32.036, p = .000. (Table 6). Table 5 shows the mean of scholarships awarded to female athletes in schools with football programs ranked in the top 15 (.0871), schools with football programs ranked in the bottom 15 (.1498) and schools with football programs not ranked in the top 15 or bottom 15 (.1219). Compliance with the proportionality requirement of Title IX would mean that the female-athlete scholarship allocation would equal the

female undergraduate population of the school resulting in 0% difference. The mean of the top ranked 15 football programs was closer to compliance with the proportionality requirement than the bottom ranked or non ranked schools. Levene's statistic for homogeneity was significant at .007. Tukey's HSD indicated significant differences in the means of each pairwise comparison at .001 and therefore the null hypothesis is rejected. There are statistically different allocations of female athlete scholarship allocations among the top and bottom ranked football programs as well as between the ranked programs and the non-ranked programs. The null hypothesis is rejected.

Table 5.

Means and Standard Deviations Comparing The Proportionality Differences of Female Athletic Scholarships with Division 1A Football Programs Rankings

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football	136	.0871	.05172
15 Bottom Ranked Football	120	.1498	.06911
Not Top or Bottom Ranked	770	.1219	.06405
Total	1026	.1206	.06507

Table 6

ANOVA

	df	Mean Square	F	Sig.
Between Groups	2	.128	32.036	.000
Within Groups	1023	.004		
Total	1025			

Table 7.

Tukey HSD

(I) In Top or Bottom 15 Football	(J) In Top or Bottom 15 Football	Mean Difference (I-J)	Sig.
Top	bottom	-.06265*	.000
	not top or bottom	-.03475*	.000
Bottom	top	.06265*	.000
	not top or bottom	.02790*	.000
Not top or bottom	top	.03475*	.000
	bottom	-.02790*	.000

* The mean difference is significant at the .01 level.

Ho3: Championship football programs and non-championship football programs do not differ significantly in regard to their female-athlete/female undergraduate recruiting budget proportionality.

The proportion of the recruiting budget allocated for women's athletics should be equal to the proportion of women enrolled as undergraduates at universities. Table 8

provides the means of the proportion of recruiting budgets allocated to women's athletic programs compared to the percentage of enrolled undergraduate women grouped by football programs ranked in the top 15 (.2070), ranked in the bottom 15 (.2212) or not ranked in the top or bottom of championships (.2137). A proportionately compliant program would have a mean of 0. The ANOVA, presented in Table 9, was not significant F (2, 1040) = 1.123, p = .326. The Tukey HSD follow-up test confirmed that none of the pairings are significantly different. The null hypothesis is not rejected.

Table 8.

Means and Standard Deviations Comparing The Percentage Differences of Female Recruiting Budget with Division 1A Football Programs Rankings

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football Schools	136	.2070	.06500
15 Bottom Ranked Football Schools	126	.2212	.10064
Not Top or Bottom Ranked Football Programs	781	.2137	.07392
Total	1043	.2138	.07658

Table 9.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.013	2	.007	1.123	.326
Within Groups	6.098	1040	.006		
Total	6.111	1042			

Ho4: Championship football programs and non-championship football programs do not differ significantly in regard to their female-athlete/female undergraduate operating budget proportionality.

The proportion of the operating budget allocated for women's athletics should be equal to the proportion of women enrolled as undergraduates at universities. Table 10 provides the means of the proportion of operating budgets allocated to women's athletic programs compared to the percentage of enrolled undergraduate women grouped by football programs ranked in the top 15 (.2104), ranked in the bottom 15 (.2061) or not ranked in the top or bottom of championships (.1842). A proportionately compliant program would have a mean of 0. The ANOVA, presented in Table 11, was not significant F (2, 1036) = .094, p = .910. The null hypothesis is not rejected.

Table 10.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Operating Budgets with Division 1A Football Programs Rankings

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football Programs	135	.2104	.05987
15 Bottom Ranked Football Programs	124	.2061	.08543
Football Programs Not Ranked at Top or Bottom	780	.1842	.90108
Total	1039	.1902	.78153

Table 11.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.115	2	.057	.094	.910
Within Groups	633.883	1036	.612		
Total	633.998	1038			

Ho5: Championship football programs and non-championship football programs do not differ significantly in regard to their female-athlete/female undergraduate coaching budget proportionality.

The proportion of the operating budget allocated for women's athletics should be equal to the proportion of women enrolled as undergraduates at universities. Table 12 provides the means of the proportion of operating budgets allocated to women's athletic programs compared to the percentage of enrolled undergraduate women grouped by football programs ranked in the top 15 (.1892), ranked in the bottom 15 (.2042) or not ranked in the top or bottom of championships (.2032). A proportionately compliant program would have a mean of 0. The ANOVA, presented in Table 13, was not significant F (2, 923) = 1.948, p = .143. The interaction between the top ranked, bottom ranked and non-ranked football programs was not statistically significant so the null hypothesis is not rejected.

Table 12.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Operating Budgets with Division 1A Football Programs Rankings

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football Programs	121	.1892	.06030
15 Bottom Ranked Football Programs	111	.2042	.08976
Football Programs Not Ranked in Top or Bottom	694	.2032	.07277
Total	926	.2015	.07362

Table 13.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.021	2	.011	1.948	.143
Within Groups	4.992	923	.005		
Total	5.013	925			

Research Question 2: Are there significant differences among the Division I-A football programs ranked by amount of revenue generation with regard to women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality? Ho6: There are not significant differences among the Division 1A football programs by amount of football revenue generation with regard to female-athlete/female undergraduate proportionality.

Table 14 shows the mean percentage in the proportionality difference of Division 1A female-athletes to female undergraduates compared to the football programs by revenue. The mean percentage of those schools with top fifteen ranked football revenue programs is .0732, .1337 for Division 1A schools with the bottom fifteen ranked football revenue programs and .0937 for Division 1A programs not in the top or bottom fifteen football revenue programs of Division 1A. A statistically significant difference was found among the percentage of difference in female-athlete and female undergraduate

population in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 1040) = 22.096, p < .000. (Table 15). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between all of the pairs examined: the top ranked 15 football revenue programs, the bottom ranked 15 football revenue programs and those programs not in the top or bottom of the revenue rankings at p<.05. Table 16 displays the results of the Tukey test. All pairwise comparisons are significant at .05. The largest mean difference (6.0477561) is found between the ranked top 15 and bottom ranked 15 revenue football programs with the other significant difference between the schools not ranked in the top or bottom and the bottom 15 ranked football revenue schools (3.9967190) at p<.01.The differences between the groups are statistically significant so the null hypothesis is rejected.

Table 14.

Means and Standard Deviations Comparing The Percentage Differences of Female-Athletes/Undergraduate Female Enrollment with Division 1A Football Programs' Revenue

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football	134	.0732	4.9985429
15 Bottom Ranked Football	132	.1337	8.5100485
Football Programs Not Ranked in Top or Bottom	777	.0937	7.9169046
Total	1043	.0961	7.8407159

Table 15.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	2611.003	2	1305.502	22.096	.000
Within Groups	61447.849	1040	59.084		
Total	64058.853	1042			

Table 16.

Tukey HSD

(I) In Top or Bottom 15 Football Revenue	(J) In Top or Bottom 15 Football Revenue	Mean Difference (I-J)	Standard Error	Sig.
Top	bottom	6.0477561**	.9426232	.000
	not top or bottom	2.0510371*	.7190067	.012
Bottom	top	-6.0477561**	.9426232	.000
	not top or bottom	-3.9967190**	.7236376	.000
not top or bottom	top	-2.0510371*	.7190067	.012
	bottom	3.9967190**	.7236376	.000

* The mean difference is significant at the .05 level.
** The mean difference is significant at the .01 level.

Ho7: There are not significant differences among the Division 1A football programs by amount of revenue generation with regard to scholarship allocation proportionality.

Table 17 shows the mean percentage in the difference of Division 1A female athletic scholarship compared to the football programs by revenue. The mean percentage of those schools with top fifteen ranked football revenue programs is .0697, .1580 for Division 1A schools with the bottom fifteen ranked football revenue programs and .1230 for Division 1A programs not in the top or bottom fifteen football revenue programs of Division 1A. A statistically significant difference was found among the percentage of difference in female athletic scholarship allocation and in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 1023) = 72.212, p = .000. (Table 18). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated

there were significant mean differences between the bottom ranked football revenue programs and the top ranked football revenue programs (.08835), the programs not ranked at the top or bottom and the top ranked football revenue program (.05337) and the bottom ranked and the non-ranked football revenue programs (.03498), all at the .01 significance level. The differences between the groups is statistically significant so the null hypothesis is rejected.

Table 17.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Scholarship Allocation with Division 1A Football Programs Revenue

	Number of Cases	Mean	Standard Deviation
Top Revenue Football Programs	134	.0697	.03317
Bottom Revenue Football Programs	132	.1580	.06262
Not Top or Bottom Revenue Football Programs	760	.1230	.06435
Total	1026	.1206	.06507

Table 18.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.537	2	.268	72.212	.000
Within Groups	3.803	1023	.004		
Total	4.340	1025			

Table 19.

Tukey HSD

(I) In Top or Bottom 15 Football Revenue	(J) In Top or Bottom 15 Football Revenue	Mean Difference (I-J)	Std. Error	Sig.
Top	bottom	-.08835*	.00748	.000
	not top or bottom	-.05337*	.00571	.000
Bottom	top	.08835*	.00748	.000
	not top or bottom	.03498*	.00575	.000
Not top or bottom	top	.05337*	.00571	.000
	bottom	-.03498*	.00575	.000

* The mean difference is significant at the .01 level.

Ho8: There are not significant differences among the Division 1A football programs by amount of revenue generation with regard to recruiting budget proportionality.

Table 20 shows the mean percentage in the difference of Division 1A female athletic recruiting budget allocation compared to the football programs by revenue. The mean percentage of those schools with top fifteen ranked football revenue programs is .2107, .2360 for Division 1A schools with the bottom fifteen ranked football revenue programs and .2105 for Division 1A programs not in the top or bottom fifteen football revenue programs of Division 1A. A statistically significant difference was found among the percentage of difference in female athletic scholarship allocation and in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 1040) = 6.460, p = .002. (Table 21). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between the bottom ranked football revenue programs and the top ranked football revenue programs (.02533) and the bottom ranked football revenue and the non-ranked football revenue programs (.02553), both at the .05 significance level. The differences between the groups are statistically significant so the null hypothesis is rejected.

Table 20.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Recruiting Budget Allocation with Division 1A Football Programs Revenue

	Number of Cases	Mean	Standard Deviation
Top 15 Football Revenue Programs	134	.2107	.05152
Bottom 15 Football Revenue Programs	132	.2360	.07546
Not Top or Bottom Football Revenue Programs	777	.2105	.07976
Total	1043	.2138	.07658

Table 21

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.075	2	.037	6.460	.002
Within Groups	6.036	1040	.006		
Total	6.111	1042			

Table 22.

Tukey HSD

(I) In Top or Bottom 15 Football Revenue	(J) In Top or Bottom 15 Football Revenue	Mean Difference (I-J)	Std. Error	Sig.
Top	bottom	-.02533*	.00934	.019
	not top or bottom	.00020	.00713	1.000
bottom	top	.02533*	.00934	.019
	not top or bottom	.02553*	.00717	.001
Not top or bottom	top	-.00020	.00713	1.000
	bottom	-.02553*	.00717	.001

* The mean difference is significant at the .05 level.

Ho9: There are not significant differences among the Division 1A football programs by amount of revenue generation with regard to operating budget proportionality.

Table 23 shows the mean percentage in the difference of Division 1A female athletic operating budget allocation compared to the football programs by revenue. The mean percentage of those schools with top fifteen ranked football revenue programs is .2021, .2130 for Division 1A schools with the bottom fifteen ranked football revenue programs and .1842 for Division 1A programs not in the top or bottom fifteen football revenue programs of Division 1A. No statistically significant difference was found among the percentages of difference in female athletic operating budget allocation and schools with football revenue programs in Division 1A in analysis of variance F (2, 1036) = .095, p = .910. (Table 24). There is no statistically significant difference between the groups so the null hypothesis is not rejected.

Table 23.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Operating Budget Allocation with Division 1A Football Programs Revenue

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Football Revenue Programs	134	.2021	.04628
15 Bottom Ranked Football Revenue Programs	132	.2130	.07068
Football Revenue Programs Not in Top or Bottom	773	.1842	.90547
Total	1039	.1902	.78153

Table 24.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.116	2	.058	.095	.910
Within Groups	633.882	1036	.612		
Total	633.998	1038			

Ho10: There are not significant differences among the Division 1A football programs by amount of revenue generation with regard to coaching budget proportionality.

Table 25 shows the mean percentage in the difference of Division 1A female athletic coaching budget allocation compared to the football programs by revenue. The mean percentage of those schools with top fifteen ranked football revenue programs is .1769, .2101 for Division 1A schools with the bottom fifteen ranked football revenue programs and .2043 for Division 1A programs not in the top or bottom fifteen football revenue programs of Division 1A. A statistically significant difference was found among the percentage of difference in female athletic scholarship allocation and in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 923) = 8.024, p = .000. (Table 26). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between the top ranked football revenue programs and the football revenue programs ranked in the bottom 15 (.03312) and those not ranked in the top or bottom of ranked football revenue and the top ranked football revenue programs (.02732), both at the .01 significance level. The differences between the groups are statistically significant so the null hypothesis is rejected.

Table 25.

Means and Standard Deviations Comparing the Percentage Differences of Female Athletic Coaching Budget Allocation with Division 1A Football Programs Revenue

	Number of Cases	Mean	Standard Deviation
15 Top Football Revenue Programs	119	.1769	.04823
15 Bottom Football Revenue Programs	118	.2101	.07981
Football Revenue Programs Not Top or Bottom	689	.2043	.07536
Total	926	.2015	.07362

Table 26.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.086	2	.043	8.024	.000
Within Groups	4.927	923	.005		
Total	5.013	925			

Table 27.

Tukey HSD

(I) In Top or Bottom 15 Football Revenue	(J) In Top or Bottom 15 Football Revenue	Mean Difference (I-J)	Standard Error	Sig.
Top	bottom	-.03312*	.00949	.001
	not top or bottom	-.02732*	.00725	.001
Bottom	top	.03312*	.00949	.001
	not top or bottom	.00580	.00728	.705
not top or bottom	top	.02732*	.00725	.001
	bottom	-.00580	.00728	.705

* The mean difference is significant at the .01 level.

Research Question 3: Do Division I-A athletic programs that have championship success across a broad range of their offered sports and athletic programs that do not have championship success across a broad range of their offered sport differ significantly in regard to their women-athlete/women undergraduate proportionality, scholarship allocation proportionality, recruiting budget proportionality, operating budget proportionality and coaching budget proportionality?

Ho11: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their female-athlete/female undergraduate proportionality.

Table 28 lists the mean percentage in the proportionality difference of Division 1A female-athletes to female undergraduates compared to the success of athletic programs reported by the Directors' Cup. The mean percentage of those schools with top programmatic success is .430334, .380502 for Division 1A schools with the bottom

fifteen ranked Directors' Cup and .447006 for Division 1A programs not in the top or bottom fifteen Directors' Cup programs of Division 1A. No statistically significant difference was found among the percentage of difference in female-athlete and female undergraduate population in schools with top ranking in total athletic program successes defined by the Directors' Cup , F (2, 1158) = .273, p = .761. (Table 29). There is no statistically significant difference between the groups so the null hypothesis is not rejected.

Table 28.

Means and Standard Deviations Comparing The Percentage Differences of Female-Athletes/Undergraduate Female Enrollment with Athletic Program (Director's Cup) Success

	Number of Cases	Mean	Standard Deviation
15 Top Ranked Athletic Programs	143	.430334	.0485341
15 Bottom Ranked Athletic Programs	139	.380502	.0786830
Athletic Programs Not Ranked in Top or Bottom	879	.447006	1.1402213
Total	1161	.436990	.9927404

Table 29.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.538	2	.269	.273	.761
Within Groups	1142.681	1158	.987		
Total	1143.219	1160			

Ho12: The most successful and least successful athletic programs as recognized by the Directors' Cup do not differ significantly in regard to their female-athlete/female undergraduate scholarship allocation proportionality.

The mean percentage in the difference of Division 1A female athletic scholarship budgets compared to the top and bottom ranked athletic programs as defined by the Directors Cup in illustrated in Table 30. The mean percentage of those schools with top fifteen ranked athletic programs is .0794, .1686 for Division 1A schools with the bottom fifteen ranked athletic programs and .1199 for Division 1A programs not in the top or bottom fifteen ranked athletic programs of Division 1A. A statistically significant difference was found among the percentage of difference in female athletic scholarship allocation and in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 1023) = 65.714, p = .000. (Table 31). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between the top ranked athletic programs all pairs of program rankings .The bottom

ranked and top ranked mean difference is .08920, the bottom ranked programs and those not ranked in the top or bottom (.04868) and the programs not ranked in the bottom or top of the Directors' Cup with the top ranked programs (.04052) all at the .01 significance level. The differences between the groups are statistically significant so the null hypothesis is rejected.

Table 30.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Scholarship Allocation with Directors' Cup Top and Bottom Ranked Division 1A Athletic Programs

	Number of Cases	Mean	Standard Deviation
15 Top Directors' Cup Programs	128	.0794	.04111
15 Bottom Directors' Cup Programs	120	.1686	.06222
Athletic Programs Not Ranked in Top or Bottom	778	.1199	.06388
Total	1026	.1206	.06507

Table 31.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.494	2	.247	65.714	.000
Within Groups	3.846	1023	.004		
Total	4.340	1025			

Table 32.

Tukey HSD

(I) In Top or Bottom 15 of Directors Cup	(J) In Top or Bottom 15 of Directors Cup	Mean Difference (I-J)	Standard Error	Sig.
Top	bottom	-.08920*	.00779	.000
	not top or bottom	-.04052*	.00585	.000
Bottom	top	.08920*	.00779	.000
	not top or bottom	.04868*	.00601	.000
Not top or bottom	top	.04052*	.00585	.000
	bottom	-.04868*	.00601	.000

* The mean difference is significant at the .01 level.

Ho13: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their female-athlete/female undergraduate recruiting budget proportionality.

Table 33 shows the mean percentage in the difference of Division 1A female athletic recruiting budget allocation compared to the top and bottom ranked programs in

the Directors' Cup. The mean percentage of the female recruiting budget allocation with those schools of the top fifteen ranked athletic programs is .2202, .2229 for Division 1A schools with the bottom fifteen ranked athletic programs and .2113 for Division 1A programs not in the top or bottom fifteen successful athletic programs of Division 1A. No statistically significant difference was found among the percentage of difference in female recruiting budget allocation and in schools with Division 1A athletic program success ranked at the top and bottom of the Directors' Cup, F (2, 1040) = 1.758, p = .173. (Table 34). The null hypothesis is not rejected.

Table 33.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Recruiting Budget Allocation with Directors' Cup Top and Bottom Ranked Division 1A Athletic Programs

	Number of Cases	Mean	Standard Deviation
15 Top Directors' Cup Programs	128	.2202	.06013
15 Bottom Directors' Cup Athletic Programs	126	.2229	.09035
Programs Not Ranked in Top or Bottom	789	.2113	.07649
Total	1043	.2138	.07658

Table 34.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.021	2	.010	1.758	.173
Within Groups	6.090	1040	.006		
Total	6.111	1042			

Ho14: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their female-athlete operating budget proportionality.

The mean percentage in the difference of Division 1A female athletic operating budget allocation compared to the top and bottom ranked programs in the Directors' Cup is shown in Table 35. The mean percentage of the female operating budget allocation with those schools of the top fifteen ranked athletic programs is .2121, .2166 for Division 1A schools with the bottom fifteen ranked athletic programs and .1824 for Division 1A programs not in the top or bottom fifteen successful athletic programs of Division 1A. No statistically significant difference was found among the percentage of difference in female recruiting budget allocation and in schools with Division 1A athletic program success ranked at the top and bottom of the Directors' Cup, F (2, 1036) = .160, p = .852. (Table 36). The null hypothesis is not rejected.

Table 35.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Operating Budget Allocation with Directors' Cup Top and Bottom Ranked Division 1A Athletic Programs

	Number of Cases	Mean	Standard Deviation	Standard Error
15 Top Directors' Cup Programs	128	.2121	.05936	.00525
15 Bottom Directors' Cup Athletic Programs	125	.2166	.08913	.00797
Programs Not Ranked in Top or Bottom	786	.1824	.89753	.03201
Total	1039	.1902	.78153	.02425

Table 36.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.196	2	.098	.160	.852
Within Groups	633.802	1036	.612		
Total	633.998	1038			

Ho15: The most successful and least successful athletic programs as recognized by the Director's Cup do not differ significantly in regard to their female-athlete/female undergraduate coaching budget.

Table 37 shows the mean percentage in the difference of Division 1A female athletic coaching budget allocation compared to the top and bottom ranked successful athletic programs. The mean percentage of those schools with top fifteen ranked athletic programs is .1859, .2131 for Division 1A schools with the bottom fifteen ranked successful athletic programs and .2022 for Division 1A programs not in the top or bottom fifteen successful athletic programs of Division 1A. A statistically significant difference was found among the percentage of difference in female athletic scholarship allocation and in schools with football revenue programs ranked at the top and bottom of Division 1A, F (2, 923) = 3.996, p = .019. (Table 38). The results of the ANOVA suggested that post hoc testing occur to examine the pairwise differences among the means of the groups. A Tukey HSD test indicated there were significant mean differences between the bottom ranked athletic programs and the top ranked athletic programs (.02724) at the .05 significance level. The null hypothesis is rejected.

Table 37.

Means and Standard Deviations Comparing The Percentage Differences of Female Athletic Coaching Allocation with Directors' Cup Top and Bottom Ranked Division 1A Athletic Programs

	Number of Cases	Mean	Standard Deviation
15 Top Directors' Cup Programs	114	.1859	.05311
15 Bottom Directors' Cup Athletic Programs	110	.2131	.09398
Programs Not Ranked in Top or Bottom	702	.2022	.07254
Total	926	.2015	.07362

Table 38.

ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	.043	2	.022	3.996	.019
Within Groups	4.970	923	.005		
Total	5.013	925			

CHAPTER FIVE

Summary

The purpose of this research study was to determine if significant differences exist between the compliance of the proportionality requirement of Title IX for gender equity in athletic programs that have football programs successful with championships and football revenue generation as well as athletic programs with overall success. It further sought to determine where there were statistically significant differences in the proportion of support mechanisms provided to women's athletics between successful and unsuccessful football and athletic programs.

The independent variables are championship football programs as defined by the Bowl Championship Series and the Massey polls, successful revenue generating football programs as determined by information reported in the Equity in Athletics report, and successful athletic programs as determined by the Director's Cup standings.

The dependent variables are proportion of number of women athletes compared to the number of undergraduate women enrolled at the institution for that year. This proportion should be 0 as the percentage of each should be equal. Scholarship allocation, recruiting budget, operating budget and coaching budget all provide the supporting structures within which women athletes operate. The percentage of the total budget allocated to each of these areas should also be equal to the percentage of enrolled undergraduate women at the institution.

Legislative and administrative reviews have occurred periodically over the last thirty-five years, defining terms and conditions of application and emphasis for Title IX

as it relates to intercollegiate athletics and corresponding opportunities for women. Attention most frequently turns to the three parts of compliance as defined by the administrative clarification of the Office of Civil Rights. Part one of the clarification provides the Office of Civil Rights' perspective of proportionality. The proportion of women athletes should be the same as the proportion of women undergraduates at the institution. The Department of Education determined that proportionality compliance equates to no more than a 1% difference between percentage of athletic aid expenditures and athletic participation by gender match the undergraduate enrollment by gender by one percent (Agathe & Billings 2000).

The second prong of clarification discussed issues relating to a history of expansion for the underrepresented gender. No specific time frame is provided for the expansion efforts but the Office of Civil Rights will look at whether the expansion of opportunities for the underrepresented gender was made in response to the interests and abilities of the underrepresented gender. The demonstrated history of adding or upgrading teams for the underrepresented gender; the number of participants of the underrepresented gender increases; or a demonstrated responsiveness to requests by the underrepresented gender to accommodate additional sports or elevate sports to the intercollegiate level would satisfy this prong.

The third prong evaluates whether an institution is effectively accommodating interests and abilities of the underrepresented gender through three conditions. The first condition asks if there is there an unmet interest in a particular sport. The second condition looks at whether there is sufficient ability to sustain an intercollegiate team.

The third condition is whether there is a reasonable expectation of competition for the prospective sport in the institution's competitive region. The proportionality prong has been the issue with the most attention as continuing expansion of opportunities requires financial investments in personnel and facilities that universities may feel they cannot afford. Determining the level of interest with which to make comparisons of unmet need requires a continuous exploration of interest and responsiveness that also may create expectations of expansion the universities cannot afford. Addressing the proportionality prong enables athletic administrators to more consistently plan and control the direction and offering of sports. Additionally, the majority of court decisions have been based on claims related to the proportionality prong.

The courts have created standards for review of Title IX applicability in intercollegiate athletics through decisions of cases brought by individuals and by groups through class action. The case law now stands that individuals can sue universities for decisions that create disproportionate athletic opportunities and they can recover money from those universities for those violations of the proportionality standards. Additionally, groups of individuals can bring suits on behalf of interested parties who may generally be affected by the proportionality requirements like the cases involving children whose parents challenged state athletic governing association regarding the rules by which high school athletes must comply. Universities will not be violating Title IX if they cut men's sports to attain proportionality if the elimination of the men's sports was done to become proportionately compliant for women athletes. While case law seeks to redress the

wrongs of decisions made, is it possible to determine which factors that may indicate likelihood of proportionality compliance?

The data and analysis provide insight into the factors that have been more successful in implementation of the compliance with the proportionality requirement of Title IX. It provides the evidence that portions of compliance have not been met, even thirty years after enactment of the law. The sample explored for analysis is the data reported by Division I-A universities in response to the Equity in Athletics Act. The academic years of 1995-1996 through 2004-2005 are included in this sample with information about reported enrollment of men and women undergraduates, men and women athletes, revenue and expenditures of football and basketball by gender and allocations for coaching, scholarship, recruitment by gender.

Data was analyzed by the categories in each hypothesis using SPSS 13.0 for analysis of variance (ANOVA) looking for differences between the groups. When significant differences between the groups were identified, Tukey HSD post hoc tests were performed to confirm the significance of the differences and identify the degree of differences between the individual groups.

The examination of the data related to championship football programs and non-championship football programs show that the 15 top ranked football programs are closer to proportionality compliance with a mean of .0790 than th4e bottom ranked football programs with a mean proportionality of .1225. The compliant program would be a mean of 0 with the percentage undergraduate women equal to the percentage of women athletes. The non-ranked football programs – those not in the top 15 or bottom 15 have a

mean of .0948. In this measure, the more successful the football program for championships, the more proportionately compliant the program. Similarly, the proportion of women athletes scholarship compared to the undergraduate women/women athlete is closer to compliant for the schools with top 15 championship ranked football programs at .0871 than for the bottom 15 ranked programs at .1498. The non-ranked programs had a mean of .1219 again indicating that the successful championship programs are more likely to be compliant than those programs with less success. The data indicate a statistically significant difference with regard to their female-athlete/female undergraduate proportionality and women's athletic scholarship allocation proportionality so the differences in means are likely to significant. There is no indication of a statistically significant difference between the championship football programs and non-championship football programs with regard to the proportion allocated to women's athletic recruiting budget, operating budget, or coaching budget.

The examination of the data related to the football revenue generation compared to female-athlete/female undergraduate proportionality indicate a statistically significant difference in women's athletic scholarship allocation proportionality, recruiting budget allocation, and coaching budget allocation. The proportionality compliance of the top fifteen football revenue generators indicate a mean of .0732 while the lowest 15 football revenue generators have a mean of .1337. The football programs with revenue generation not in the highest 15 or the lowest 15 have a mean between the others with .0937. The schools with football programs that generate the most revenue from football programs have better proportionality compliance than the schools that do not generate football

revenue. Additionally, those same top revenue producing football programs are more likely to closer to proportionality compliance with regard to the allocation of athletic scholarships for women than the schools that are not successful football revenue producers. There is no statistically significant difference between successful football revenue generation programs and women's athletic operating budget allocation.

The examination of data related to success of an athletic program in the Director's Cup and scholarship proportionality and coaching indicates statistically significant differences in the top ranked, bottom ranked and non-ranked athletic programs. The top ranked schools fare better in the comparison of scholarship proportionality with a mean of .0794 than the bottom ranked Directors Cup schools with a mean of .1686. The top ranked Directors Cup schools are also closer to 0 proportionality compliance related to coaching budget allocation with a mean of .1859 than the bottom ranked 15 schools with a mean of .2131. While statistically significant it is also one of the largest differences between the mean and proportionality compliance of 0. Undergraduate proportionality, recruiting budget allocation, operating budget allocation do not indicate differences between the athletic programs successful in the Director's Cup and those not successful in the Director's Cup.

Scholarship allocation proportionality is statistically significantly different in each of the examinations, prompting the thought that this should be one of the first items to check when assessing proportionality compliance in Division I-A athletics. It may be that scholarship offerings are monitored by entities in the university and in allocation origination outside the scope of authority of the individual athletic departments so that

scholarship awards are more evenly provided between genders. The proportion of female-athlete/female undergraduate proportionality and the coaching budget allocation for women's teams are statistically significant in two of the studied areas. Operating budget allocation for women's athletic teams is not statistically significant for any of the studied topics. Coaching, operating and recruiting budgets are established by the athletic departments of each university so allocations are more reflective of the value decided by the individual athletic program. Of the three research questions, the findings indicate that significant differences are most likely found using football revenue generation as the standard against which to make comparisons.

Each of the reporting years for this study had between 113 and 117 cases reporting for a total of 1163 entries in the examined data set. It is possible to see that over all compliance proportionality – that percentage of the undergraduate population of a university compared to the percentage of women athletes – is coming closer to achieving the balance that Title IX and the courts have mandated. It also raises the question of why there is not complete compliance proportionality in the third decade after legislative enactment, especially when compared with other, more recent federal legislation affecting universities where penalties have been assessed.

Recommendations for future action that would create compliance proportionality come at three opportunities for action.

1) The Department of Education through the Office of Civil Rights could choose to begin investigations that attach penalties for non-compliance of universities that are beyond a defined percentage. If the variance in enrollment

percentages by gender and women athletes varies each year, the civil right investigators could use five percent as the cushion for absolute compliance interpretation. Currently, the majority of universities reporting are beyond ten percent in difference of proportionality. This kind of standard would address swings in enrollment but still provide the expectation that compliance would be substantially attained. The lack of a possible penalty has not provided enough motivation for a change in the overall compliance rate.

2) Those at universities responsible for making decisions about funding and allocations could take comprehensive steps to create proportionality. Athletic directors and presidents have traditionally been responsible for programming decisions and planning. If those hired for those positions in universities do not value the proportionality compliance of Title IX, their actions are less likely to follow with decisions that cause a change. Governing boards and alumni that support the provisions of Title IX must be vocal in their interests as have the opponents of Title IX over the last thirty years.
3) Women, their parents and organizations that are proponents of women's athletics can continue to use the legal system to create the standards that universities must adhere to in determining opportunities. The time and cost involved creates a hardship and substantial delay from the time of possible harm and loss of opportunity to the remedy. As demonstrated in some of the cases discussed, this option can take decades to resolve, all the while opportunities are lost for interested and talented women. As more and more

girls participate at younger ages in team sports, their expectations ant those of their parents may cause this option to be exercised more frequently for the benefit of others who will follow later.

Future research possibilities include the examination of each of the proportionality allocations by athletic conferences affiliation, geographical location and by size of the university's population. It would also be interesting to add data points to each case that would indicate the tenure of the athletic director and president for each institution to explore possible relationships.

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Appendix A

34 C.F.R. Part 106.41

34 C.F.R. Part 106.41(b) Separate teams. Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(c) Equal opportunity. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Assistant Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

Appendix B

The Top 15 Ranked Football Programs

1996Massey	1997Massey	1998BCS	1998Massey
Florida	Nebraska	Tennessee	Tennessee
Ohio St.	Florida St	Florida St	Ohio St
Florida St.	Michigan	Kansas St	Florida St
Nebraska	Florida	Ohio St	Wisconsin
Arizona St.	Tennessee	UCLA	Florida
Penn St.	UCLA	Texas A&M	Kansas St
Colorado	Kansas St.	Arizona	Arizona
Tennessee	North Carolina	Florida	UCLA
No. Carolina	Georgia	Wisconsin	Texas A&M
Brigham Young	Washington St.	Tulane	Michigan
Washington	Ohio St.	Nebraska	Air Force
Virginia Tech	Auburn	Virginia	Penn St
Notre Dame	Washington	Arkansas	Tulane
Alabama	LSU	Georgia Tech	Georgia Tech
Syracuse	Arizona St.	Syracuse	Nebraska

1999BCS	1999Massey	2000BCS	2000Massey
Florida St	Florida St	Oklahoma	Oklahoma
Virginia Tech	Nebraska	Florida St	Miami – Fl
Nebraska	Virginia Tech	Miami-Fl	Florida St
Alabama	Michigan	Washington	Virginia Tech
Tennessee	Kansas St	Virginia Tech	Oregon St
Kansas St	Michigan St	Oregon St	Nebraska
Wisconsin	Wisconsin	Florida	Washington
Michigan	Alabama	Nebraska	Florida
Michigan St	Tennessee	Kansas St	Kansas St
Florida	Penn St	Oregon	Oregon
Penn St	Marshall	Notre Dame	Michigan
Marshall	Florida	Texas	Notre Dame
Minnesota	Miami – Fl	Georgia Tech	Texas
Texas A&M	Mississippi St	TCU	Georgia Tech
Texas	So. Mississippi	Clemson	Clemson

2001BCS	2001Massey	2002BCS	2002Massey
Miami-FL	Miami-FL	Miami-FL	Ohio St
Nebraska	Florida	Nebraska	USC
Colorado	Tennessee	Colorado	Miami – FL
Oregon	Oregon	Oregon	Georgia
Florida	Texas	Florida	Oklahoma
Tennessee	Nebraska	Tennessee	Texas
Texas	Oklahoma	Texas	Kansas St
Illinois	Colorado	Illinois	Iowa
Stanford	LSU	Stanford	Alabama
Maryland	Syracuse	Maryland	Michigan
Oklahoma	Maryland	Oklahoma	Washington St
Washington St	Illinois	Washington St	Maryland
LSU	Washington St.	LSU	NC State
South Carolina	Florida St.	South Carolina	Notre Dame
Washington	So. Carolina	Washington	Penn St

2003BCS	2003Massey	2004 BCS	2004 Massey
Oklahoma	LSU	USC	USC
Louisiana St	USC	Texas	Utah
USC	Oklahoma	Penn State	Auburn
Michigan	Georgia	Ohio State	Oklahoma
Ohio St	Ohio St	Oregon	Louisville
Texas	Miami – OH	Notre Dame	Texas
Florida St	Miami – FL	Georgia	California
Tennessee	Michigan	Miami	Virginia Tech
Miami-Fl	Florida St	Auburn	Miami (Fl)
Kansas St	Iowa	VirginiaTech	Iowa
Miami-OH	Texas	W. Virginia	Georgia
Georgia	Kansas St	LSU	Boise St
Iowa	Maryland	Alabama	Arizona St
Purdue	Boise St	TCU	Florida St
Florida	Washington St	Texas Tech	Texas Tech

2005 BCS	2005 Massey
Southern California	Texas
Texas	USC
Penn State	Penn St
Ohio State	Ohio St
Oregon	Virginia Tech
Notre Dame	West Virginia
Georgia	LSU
Miami (Fla.)	Oklahoma
Auburn	Alabama
Virginia Tech	Miami FL
West Virginia	Wisconsin
LSU	UCLA
Alabama	Texas Tech
TCU	Oregon
Texas Tech	Georgia

Fifteen Schools Appearing the Most Frequently in the

Top 15 of Football Polls from 1996 to 2005

Florida	Nebraska
Florida St	Kansas St.
Miami – FL	Oklahoma
Michigan	Ohio St
Oregon	Alabama
Tennessee	Penn St
Notre Dame	Maryland
Georgia Tech	

Appendix C

The Lowest Ranked Football Programs

1996Massey	1997Massey	1998Massey	1999Massey
NE Louisiana	Army	Akron	Eastern Michigan
E. Michigan	Idaho	New Mexico St.	Nevada
Rutgers	Kent St.	AL-Birmingham	San Jose State
Duke	Iowa St.	Temple	South Carolina
San Jose St.	No. Texas	Utah St.	UNLV
Akron	Akron	Cincinnati	Central Michigan
Arkansas St.	TX Christian	E. Michigan	Rutgers
UNLV	Illinois	New Mexico	Tulsa
W. Michigan	Louisville	No. Illinois	Baylor
Texas El-Paso	C. Michigan	Arkansas St.	Kent St.
Hawaii	N Mexico St.	UNLV	North Texas
Kent St.	N. Illinois	SW Louisiana	Middle Tenn St.
Boise St.	SW. LA	Ball St.	UL Lafayette
No. Illinois	Rutgers	Hawaii	Ball St.
New Mexico St.	Arkansas St.	Kent St.	Buffalo

2000Massey	2001Massey	2002Massey	2003Massey
Baylor	Army	Troy St.	Temple
Bowling Green	Ohio	LA Lafayette	Illinois
Arkansas St	Buffalo	LA Monroe	Arkansas St.
North Texas	Rutgers	Wyoming	Idaho
Army	LA Lafayette	Navy	E. Michigan
Central Michigan	Duke	Idaho	New Mexico St.
Nevada	Texas El-Paso	SMU	UCF
Navy	LA Monroe	Kansas	C. Michigan
Duke	Connecticut	Kent St.	Ohio
Connecticut	Houston	Rutgers	E. Carolina
Wyoming	Idaho	E. Michigan	Buffalo
Buffalo	E. Michigan	Texas El-Paso	Texas El-Paso
Kent St.	Navy	Tulsa	LA Monroe
LA Lafayette	Tulsa	Buffalo	SMU
LA Monroe	Arkansas St.	Army	Army

2004 Massey	2005 Massey
LA Monroe	E Michigan
Army	LA Lafayette
LA Lafayette	Arkansas St
East Carolina	LA Monroe
Utah St	Middle Tenn St
Arkansas St	Duke
Ohio	Florida Intl
Idaho	UNLV
San Jose St	Syracuse
E Michigan	Troy
C Michigan	Utah St
Ball St	San Jose St
Buffalo	Temple
SE Louisiana	Rice
W Michigan	Tulane

Fifteen Schools Appearing the Most Frequently in the

Bottom 15 of Football Polls from 1996 to 2005

Arkansas State	Eastern Michigan
Army	Buffalo
Kent St.	LA Lafayette
LA Monroe	Rutgers
Central Michigan	Idaho
Duke	UNLV
Texas El-Paso	San Jose State
New Mexico State	

Appendix D

Director's Cup Top 15 Standings

1995-1996	1996-1997	1997-1998	1998-1999	1999-2000
Stanford	Stanford	Stanford	Stanford	Stanford
UCLA	North Carolina	Florida	Georgia	UCLA
Florida	UCLA	North Carolina	Penn State	Michigan
Texas	Nebraska	UCLA	Florida	Penn State
Michigan	Florida	Michigan	UCLA	North Carolina
North Carolina	Arizona	Arizona	Michigan	Nebraska
Arizona	Texas	Georgia	Duke	Florida
Nebraska	Ohio State	Washington	Virginia	Arizona
Penn State	USC	Nebraska	Arizona	Texas
USC	Louisiana State	Louisiana State	USC	Louisiana State
Georgia	Michigan	USC	Texas	Arizona State
Notre Dame	Washington	Arizona State	Arizona State	Georgia
Tennessee	Arizona State	Virginia	Brigham Young	Virginia
Auburn	Notre Dame	Arkansas	Nebraska	Ohio State
SMU	Minnesota	Penn State	Ohio State	California

2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Stanford	Stanford	Stanford	Stanford	Stanford
UCLA	Texas	Texas	Michigan	Texas
Georgia	Florida	Ohio State	UCLA	UCLA
Michigan	North Carolina	Michigan	Ohio State	Michigan
Arizona	UCLA	Penn State	Georgia	Duke
Ohio State	Michigan	UCLA	Florida	Florida
Florida	Minnesota	Florida	North Carolina	Georgia
USC	Georgia	North Carolina	Washington	Tennessee
Arizona State	Arizona	California	California	North Carolina
Penn State	Louisiana State	Arizona State	Texas	USC
Notre Dame	South Carolina	Minnesota	Louisiana State	Arizona State
California	Tennessee	Auburn	Arizona	Ohio State
Nebraska	Notre Dame	Notre Dame	Penn State	Virginia
Washington	Ohio State	USC	Tennessee	Washington
North Carolina	Arizona State	Georgia	Oklahoma	California

Sixteen Schools Appearing the Most Frequently in the

Top 15 of the Directors' Cup Standings from 1995 to 2005

Michigan	Florida
Stanford	UCLA
North Carolina	Georgia
Texas	Ohio State
Arizona	Arizona State
Penn State	Nebraska
Washington	California
Notre Dame	Louisiana State

Appendix E

Division 1A Football Programs Reporting the Highest Revenue

1995-1996 Highest 15 Ranked

Washington	$24,327,000
Florida	$22,883,000
Auburn	$18,998,000
Tennessee	$18,079,000
Penn St	$17,840,000
Alabama-Tuscaloosa	$16,938,000
Michigan	$16,866,000
Georgia	$16,863,000
Notre Dame	$15,204,000
Nebraska	$13,795,000
Ohio State	$13,218,000
Texas A&M	$12,369,000
U S C	$11,845,000
South Carolina	$11,709,000
Florida St	$11,646,000

1996-1997 highest ranked 15

Tennessee	$26,352,000
Florida	$25,526,000
Penn St	$22,159,000
Alabama-Tuscaloosa	$21,447,000
Washington	$21,056,000
Michigan	$19,803,000
Auburn	$19,610,000
Ohio State	$18,881,000
Georgia	$18,721,000
Notre Dame	$17,300,000
Louisiana State	$16,052,000
Iowa	$15,342,000
Nebraska	$14,618,000
U S C	$14,416,000
Clemson	$14,398,000

1997-1998 highest ranked 15

Florida	$26,443,165
Washington	$23,738,300
Michigan	$23,390,257
Penn St	$22,999,193
Alabama-Tuscaloosa	$21,575,362
Tennessee	$21,088,214
Ohio State	$20,143,362
Georgia	$20,069,504
Auburn	$19,665,478
Syracuse	$19,021,000
Louisiana State	$18,721,102
Notre Dame	$17,300,038
U S C	$16,450,215
Stanford	$15,185,769
Wisconsin	$14,824,964

1998-1999 highest ranked 15

Tennessee	$32,825,857
Florida	$29,669,188
Alabama-Tuscaloosa	$28,248,408
Notre Dame	$27,857,388
Ohio State	$26,445,720
Penn St	$25,422,289
Washington	$23,707,647
Auburn	$22,946,979
Georgia	$22,530,118
Nebraska	$21,925,356
Michigan	$21,691,978
Syracuse	$20,246,709
Texas Austin	$18,712,250
U S C	$18,221,001
Wisconsin	$18,181,771

1999-2000 highest 15

Tennessee	$37,211,192
Notre Dame	$33,401,971
Alabama-Tuscaloosa	$30,620,824
Florida	$29,067,975
Penn St	$27,684,731
Georgia	$26,782,882
Ohio State	$26,285,947
Nebraska	$24,571,712
Washington	$24,552,136
Auburn	$23,407,214
Texas Austin	$22,842,453
Stanford	$21,880,239
Michigan	$21,643,976
Louisiana State	$20,357,311
Wisconsin	$19,426,076

2000-2001 highest ranked 15

Arkansas	$66,289,838
Notre Dame	$43,519,215
Tennessee	$35,080,004
Florida	$30,095,377
Alabama-Tuscaloosa	$28,908,281
Auburn	$28,802,492
Georgia	$28,268,218
Ohio State	$27,473,207
Penn St	$26,974,964
Washington	$26,592,289
Texas Austin	$25,605,289
Louisiana State	$25,270,009
Nebraska	$23,492,057
Michigan	$22,064,625
Wisconsin	$21,624,466

2001-2002 highest ranked 15

Ohio State	$47,205,648
Arkansas	$40,209,410
Tennessee	$40,192,245
Alabama-Tuscaloosa	$35,643,689
Florida	$35,482,540
Penn St	$34,728,756
Nebraska	$32,609,231
Notre Dame	$32,015,894
Georgia	$31,369,803
Auburn	$31,205,035
Michigan	$29,521,062
Louisiana State	$29,488,232
Washington	$28,701,503
Texas Austin	$26,648,954
Texas A&M	$23,169,186

2001-2002 highest ranked 15

Ohio State	$47,205,648
Arkansas	$40,209,410
Tennessee	$40,192,245
Alabama-Tuscaloosa	$35,643,689
Florida	$35,482,540
Penn St	$34,728,756
Nebraska	$32,609,231
Notre Dame	$32,015,894
Georgia	$31,369,803
Auburn	$31,205,035
Michigan	$29,521,062
Louisiana State	$29,488,232
Washington	$28,701,503
Texas Austin	$26,648,954
Texas A&M	$23,169,186

2002-2003 highest ranked 15

Ohio State	$52,742,278
Penn St	$46,202,260
Texas Austin	$43,765,047
Tennessee	$41,462,602
Louisiana State	$39,854,796
Georgia	$39,668,322
Notre Dame	$39,103,268
Michigan	$36,667,585
Texas A&M	$35,943,884
Florida	$35,837,039
Auburn	$34,331,182
Nebraska	$31,306,575
Washington	$30,901,511
Arkansas	$27,430,586
U S C	$26,778,686

2004-2005 highest ranked 15

Texas	$53,204,171
Ohio State	$51,810,607
Georgia	$50,895,838
Michigan	$46,396,107
Florida	$43,317,641
Alabama-Tuscaloosa	$42,979,669
Notre Dame	$41,754,817
Auburn	$40,559,427
Louisiana State	$39,657,764
Texas A&M	$37,714,172
Wisconsin	$34,105,659
Penn St	$33,236,463
Oklahoma	$32,275,608
Iowa	$29,568,437
Tennessee	$29,326,709

Sixteen Division 1A Universities Reporting the

Highest Football Revenue From 1995-2005

Alabama-Tuscaloosa	Auburn	Florida
Georgia	Louisiana State	Michigan
Nebraska	Notre Dame	Ohio State
Penn St	Texas A&M	Texas Austin
U S C	University of Tennessee	
Washington	Wisconsin	

Appendix F

Division 1A Football Programs Reporting the Lowest Revenue

1995-1996 lowest ranked 15

Texas El Paso	$868,000
Toledo	$867,000
Miami-Ohio	$826,000
Bowling Green	$804,000
Central Michigan	$798,000
Utah State	$782,000
Eastern Michigan	$708,000
Kent	$592,000
Akron	$573,000
Middle Tennessee State	$499,000
Ball State	$497,000
Idaho	$429,000
Connecticut	$335,000
Troy State	$324,000
Buffalo	$85,000

1996-1997 lowest ranked 15

Northern Illinois	$1,190,000
Toledo	$1,123,000
Central Michigan	$988,000
North Texas	$957,000
New Mexico St	$934,000
Bowling Green	$719,000
Ohio	$689,000
Eastern Michigan	$599,000
Western Michigan	$540,000
Ball State	$498,000
Akron	$487,000
Kent	$458,000
Connecticut	$369,000
South Florida	$216,000
Troy State	$165,000

1997-1998 lowest ranked 15

Utah State	$1,279,488
Louisiana - Lafayette	$1,264,010
Central Michigan	$1,108,487
Bowling Green	$1,068,527
Akron	$960,250
Toledo	$920,515
Western Michigan	$884,216
Ohio	$689,395
New Mexico St	$633,560
Northern Illinois	$610,595
Ball State	$512,080
Eastern Michigan	$413,489
Connecticut	$382,449
Kent	$239,912
Troy State	$120,163

1998-1999 lowest ranked 15

New Mexico St	$1,433,134
Central Michigan	$1,319,836
Texas El Paso	$1,167,688
Arkansas St	$1,167,583
Toledo	$1,100,608
Louisiana -Lafayette	$1,006,850
Western Michigan	$993,169
Ohio	$957,401
Bowling Green	$838,414
Ball State	$728,303
Troy State	$571,609
Kent	$522,171
Connecticut	$499,898
Northern Illinois	$498,872
Akron	$411,632

1999-2000 lowest ranked 15

Western Michigan	$1,440,283
Toledo	$1,377,610
Louisiana - Monroe	$1,194,456
New Mexico St	$1,180,557
Tulsa	$1,150,945
Arkansas St	$1,017,556
Louisiana - Lafayette	$970,000
Ohio	$929,451
Connecticut	$829,963
Northern Illinois	$791,376
Troy State	$722,720
Ball State	$688,010
Akron	$656,576
Bowling Green	$656,273
Kent	$575,863

2000-2001 lowest ranked 15

New Mexico St	$1,572,652
Louisiana - Monroe	$1,455,651
North Texas	$1,409,634
Toledo	$1,367,030
Arkansas St	$1,364,584
Connecticut	$1,202,358
Louisiana - Lafayette	$1,128,413
Northern Illinois	$1,015,655
Ball State	$950,849
Bowling Green	$924,872
Ohio	$789,897
Buffalo	$771,103
Kent	$601,223
Troy State	$562,714
Akron	$356,694

2001-2002 lowest ranked 15

North Texas	$1,842,999
Western Michigan	$1,597,323
Connecticut	$1,321,682
Arkansas St	$1,249,514
Troy State	$1,190,134
Louisiana - Monroe	$1,185,775
Bowling Green	$1,090,968
Ball State	$1,067,878
Akron	$996,919
Kent	$989,368
Toledo	$970,672
University of Louisiana-Lafayette	$960,195
Northern Illinois	$923,810
Ohio	$776,516
Buffalo	$550,265

2002-2003 lowest ranked 15

New Mexico St	$2,193,079
Central Florida	$2,156,323
Houston	$2,053,918
Western Michigan	$1,918,166
Louisiana Lafayette	$1,870,741
U Texas El Paso	$1,867,519
Louisiana Monroe	$1,754,030
Eastern Michigan	$1,751,337
Toledo	$1,651,241
Arkansas St	$1,249,514
Northern Illinois	$1,223,198
Akron	$1,169,469
Ball State	$923,583
Buffalo	$916,862
Kent	$683,580

2003-2004 lowest ranked 15

Eastern Michigan	$2,472,022
Bowling Green	$2,271,728
New Mexico St	$2,006,652
Louisiana Monroe	$1,796,303
San Jose State	$1,778,361
Western Michigan	$1,754,840
Central Florida	$1,744,014
Louisiana -Lafayette	$1,574,181
Arkansas St	$1,565,937
North Texas	$1,514,116
Toledo	$1,343,825
Buffalo	$1,016,032
Ball State	$926,865
Kent	$866,242
Akron	$688,274

2004-2005 lowest ranked 15

No. Ill	$2,267,048
Central Florida	$2,262,178
Idaho	$1,996,166
Utah State	$1,867,704
Louisiana Monroe	$1,734,872
Arkansas State	$1,727,986
Western Michigan	$1,535,550
North Texas	$1,430,676
Toledo	$1,424,249
Louisiana-Lafayette	$1,286,266
San Jose State	$1,253,550
Buffalo	$991,824
Akron	$868,287
Ball State	$799,737
Kent	$777,969

Fifteen Division 1A Universities Reporting the

Lowest Football Revenue From 1995-2005

Akron	Arkansas St	Ball State
Bowling Green	Buffalo	Connecticut
Idaho	Kent	New Mexico St
Northern Illinois	Ohio	Toledo
Troy State	University of Louisiana-Lafayette	
Western Michigan		