#### CHAPTER

**17**

**EFFECTS OF TITLE IX on INTERCOLLEGIATE ATHLETICS, 1972– 2012**

**Nancy Lough**

###### KEY TERMS

 **gender equity ** **grantinaid**

 **proportionality**

 **sex discrimination**

 **Equity in Athletics Disclosure Act (EADA)**

When Title IX was passed as a section of the Education Amendments that President Richard M. Nixon signed in 1972, it was intended as an education law to remedy sex discrimination within American educational institutions. Bernice Sandler has been credited with drafting portions of the legislation, spurred by her personal experience of being denied a tenure-track position in the late 1960s because she “came on too strong for a woman” (Edwards, 2010, p. 303). Sandler began studying the issue, resulting in the accumulation of 250 complaints of sex discrimination against colleges receiving federal contracts. This list of complaints served as the impetus for the initial introduction of a bill requiring gender equity in education. The bill changed over time, with language used replicating Title VI of the Civil Rights Act of 1964, in which “sex” was substituted for “race, color, or national origin,” resulting in the following: “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 educational program or activity receiving Federal financial assistance” (20 U.S.C. 1681).

Originators of the law purposely worked to draw as little attention as possible during the process, concerned attention would weaken the chances of the law passing. As Sandler indicated, “We had no idea how bad the situation was—we didn’t even use the word sex discrimination back then—and we certainly had no idea the revolution it would start” (Wulf, 2012, para. 4). The resulting significance of Title IX has been the profound increase in opportunities for women, both in sports and in higher education. While gains for women in college sports have been impressive, with a 622% increase in participation numbers from 1971–1972 to 2009–2010, gains in education have been equally impressive. In 1972 women earned less than 10% of both law and medical degrees and only 13% of doctoral degrees. By 2012, nearly half of all law and medical degrees and more than half of all doctoral degrees were earned by women.

As a result, some have pointed to Title IX as the most important step toward gender equality, beyond the Nineteenth Amendment giving women the right to vote. Yet the original intent to provide equal educational opportunity for women quickly became lost within a high-profile debate centered on football. Sports became the lightning rod for those opposed to Title IX. Both the National Collegiate Athletic Association (NCAA) and the College Football Association expressed alarm, as they contended Title IX would harm college football.

Two divergent points of view prevailed throughout the decades following Title IX’s passage. On one side, Title IX was credited with creating improved gender equity within U.S. colleges and universities, by empowering generations of women to successfully pursue higher education. Contrastingly, those who opposed the law blamed Title IX for the elimination of men’s sports programs. Opposition to Title IX never declined, requiring continued vigilance on the part of those who support the law.

#### WHY WAS TITLE IX NEEDED?

In the decades leading up to Title IX, discrimination against women who sought degrees and careers in higher education was common. For example, during a three-year period in the state of Virginia prior to Title IX, 21,000 female applicants were denied admission to college, while all male applicants were accepted. Several barriers existed throughout the United States for women interested in higher education. Admissions criteria were often 30 to 40 points higher for women applicants than men. Quotas admitting one or two women were an accepted standard within law schools, medical schools, and even doctoral-degree-granting programs, where classes of men could be upwards of 100 or more. This culture of discrimination was also evidenced by requirements for women to live on campus, while men were free to select where they would live. The on-campus housing requirement often was an additional expense, thus acting to impede the opportunity for those women without financial means for the added cost.

While these barriers restricted access to higher education for women, the situation in college sports was no different. Before Title IX, athletic opportunities at the collegiate level were often in the form of “play days” organized by women physical educators. Perhaps most telling, the legendary Billie Jean King, who won multiple Grand Slam titles, was not provided an athletic scholarship, labeled grant-in-aid by the NCAA, to compete in tennis at UCLA. This example points out how the first steps toward a remedy for sex discrimination were awareness and acknowledgment a problem existed.

The congressional passage of Title IX demonstrated the highest level of support toward seeking gender equality in federally funded educational programs. Yet initial interpretations of the law questioned whether it applied to intercollegiate athletics. While the Department of Health & Human Services delayed the initial deadline for institutional compliance until 1978, the Office of Civil Rights (OCR), charged with enforcement of Title IX, did not issue a policy interpretation statement until 1979. The most critical aspect of the 1979 interpretation was labeled the three-prong or three-part test (Johnson, 1994).

Compliance with Title IX requires an institution demonstrates *one* of the following:

[Part One:](#_bookmark1) Substantial Proportionality. Satisfaction of this part occurs when participation opportunities are “substantially proportionate” to the respective undergraduate enrollment for men and women.

[Part Two:](#_bookmark45) History and Continuing Practice. Satisfaction of this part occurs when an institution can show a history and continuing practice of expanding programs in response to developing interests and abilities of the underrepresented sex.

[Part Three:](#_bookmark59) Effectively Accommodating Interests and Abilities. Satisfaction of this part occurs when the interests and abilities of female students have been met by the institution, even where there are disproportionately fewer females than males participating in sport. (U.S. Department of Education, 1997)

Despite this clarification, many institutions were unclear to what degree they were expected to comply with Title

IX. The first true legal test required resolution by the Supreme Court in 1984, which for a time meant Title IX did not apply directly to intercollegiate athletics. There have been four distinct stages in the evolution of Title IX, including resistance, marginalization, advocacy, and backlash (Lough, 2012). In each of these stages, major milestones contributed to development of the law as it is understood today.

#### STAGE 1: RESISTANCE

In the initial period following the passage of Title IX, the rhetoric was often divisive. The conflict was centered primarily on the NCAA’s contention that a choice needed to be made between football and women’s sports. The NCAA petitioned Congress to be considered “exempt” from Title IX on multiple occasions. The perception was that allocating funding to support women’s sports would compromise the established men’s programs. During the initial grace period given for implementation and clarification, several amendments were drafted by the NCAA to make men’s revenue-producing college sports exempt from Title IX. All were rejected. Then in 1975, final regulations were issued, establishing a three-year time frame for institutions to become compliant with the law. This regulation was reviewed by Congress and signed into law with additional provisions banning sex discrimination. Similarly, the 1979 Policy Interpretation provided the three-prong test for determining compliance, which provided guidance on the requirements for sport participation opportunities. With this, the Office for Civil Rights was assigned oversight authority for Title IX.

The time period from the passage of Title IX through the end of the 1970s, was one marked by limited understanding resulting in a lack of enforcement. One estimate suggested NCAA women’s Division IA sports accounted for 14% of the overall athletics budgets in 1977, which meant 86% of all expenditures were on men’s

sports. For decades the men’s programs had benefited from receiving mandatory student fees with this revenue allocated exclusively to men’s athletics operating budgets. This was one of many practices demonstrating gender discrimination, yet among college sports leaders it was perceived as fair. Widely accepted practices such as this point to the crux of the struggle for acceptance that women’s sports faced in this initial stage of resistance. Change is most often met with resistance, which is one partial explanation for reluctance to share resources. Finally in 1981, after numerous failed attempts to avert Title IX, the NCAA officially adopted women’s sports.

#### STAGE 2: MARGINALIZATION

The marginalization stage is noted for the milestone litigation resulting in suspended operation of women’s sports programs among athletic departments from 1984 through 1988. The landmark case of *Grove City College v. Bell* questioned whether programs had to be in *direct* receipt of federal funds to be held to Title IX compliance. The resulting U.S. Supreme Court decision provided two instructive points. First, indirect federal funding did result in Title IX jurisdiction, but in this ruling “the jurisdiction of Title IX applied only to the subunit within the institution that was the *direct* recipient of the federal funding” (Carpenter & Acosta, 2005, p. 195). The second part of this decision resulted in athletic departments no longer falling within the scope of Title IX. In essence, federal funding was linked mostly to grants and financial aid for students; however, in the case of athletics, if an athlete received this type of funding, it was not via the athletic department. Since athletic departments did not directly receive federal funding, there was no need for compliance with Title IX. This case is particularly instructive even today, as the ruling demonstrated that many athletic and institutional leaders were willing to stop the progress that had been made and, in some cases, take steps backward.

During this same period the rapid decline in women’s athletic programs and departments led by women, and concomitantly the dissolution of the Association for Intercollegiate Athletics for Women (AIAW), was unfolding. The AIAW had served in the leadership role for women’s college sports for decades, offering 41 national championships in 19 sports for more than 6,000 teams representing 960 member institutions (Carpenter & Acosta, 2005). The AIAW had been successful in obtaining television contracts for its women’s basketball national championship, which unfortunately led to the NCAA perceiving the AIAW as a competitor. Given the influence the NCAA had with the media, it effectively blocked the AIAW from acquiring new television contracts, which compromised a key revenue source. The AIAW then sued, but lost its antitrust case against the NCAA. The AIAW then dissolved, due largely to an inability to compete with the money the NCAA offered to member schools who qualified for national championships.

The advocacy stage came about largely as a result of the Civil Rights Restoration Act, which in effect restored the original intent of Title IX. Throughout the next decade, the lack of investment in women’s sports and failures to focus on Title IX compliance by universities resulted in several lawsuits. The need for litigation to begin the progress toward Title IX compliance marks the beginning of the advocacy stage.

#### STAGE 3: ADVOCACY

After the first 20 years of Title IX, more opportunities for women’s sport participation existed, but sex discrimination continued. The Office of Civil Rights was admittedly reluctant to punish institutions, largely because removal or elimination of federal funding from an institution of higher education was simply too harsh a consequence to levy.

The ramifications would be far reaching and clearly beyond the scope of problems existing in the athletic program. As a result, those advocating for change turned to litigation.

One of the most crucial court decisions came from the *Franklin v. Gwinnett County Public Schools* in 1992.

While this case was not centered on sports, it was illuminating because it demonstrated that monetary awards, in the form of punitive and compensatory damages, could be awarded to successful Title IX plaintiffs. In this case, the actual issue involved sexual harassment. Initially, Franklin filed a complaint with the OCR, but the result did not meet her expectations. By exercising her private right of action, the case reached the Supreme Court, where a unanimous decision affirmed monetary damages may result from a Title IX lawsuit. This was an important point, since it served as a wake-up call to higher education institutions. In essence, noncompliance with Title IX now posed the threat of substantial financial loss. Some institutions realized the most fiscally appropriate action would be to adhere to compliance standards. However, the male model of college sports was a deeply gendered subculture, which meant advocacy would be met with resistance.

With little help from the OCR, female athletes increasingly pursued litigation to remedy the discrimination in

college sports. As higher education began to feel the challenge of an economic downturn in the early 1990s, athletics budgets were reduced and a common response was to eliminate sports, often focusing on women’s programs.

Multiple lawsuits challenged universities that chose to eliminate women’s sports. Perhaps one of the most notable was the case in which the National Organization for Women (NOW) sued the entire California State University system (19 schools at the time). In this case the Cal State system lost, resulting in a settlement that forced it to develop a plan to provide women sport participation opportunities more closely reflecting the student body ratio of females to males. To achieve the new targets, some institutions chose to eliminate men’s sports, instead of adding women’s sports. This practice led to media accounts repeatedly blaming Title IX and women’s sports for elimination of men’s nonrevenue sport programs. Rhetoric around gender equity was typically framed as “battle of the sexes,” a “dispute,” “fight,” or “tug of war” (Staurowsky, 1998, p. 7).

Still the most definitive case to date was *Cohen v. Brown University*. Initiation of the lawsuit was in response to Brown’s decision to cut sports for both men and women. Cohen represented the female athletes suing to reinstate their sports. Brown believed the cuts were fair. However, at the time of the cuts, the ratio of male to female athletes was 63.3% to 36.7%. This case is particularly illustrative of a practice many institutions pursued, which was to eliminate an equivalent number of female and male sports. Brown University spent millions of dollars defending its position, which led to more clarity on a number of issues tied to gender equity. First, terminating the same number of sports for men and women is not a “safe passage” to compliance. Second, the “relative interests” theory was pursued as a key argument by Brown. The idea was that by surveying students regarding their interest in sports, the ratio of responses could then be used as a gauge to measure proportionality and thereby demonstrate compliance with Title

IX. The courts rejected this approach.

In addition to striking down the “relative interests” argument, the court also rebuked the use of “quota” and “affirmative action” language when pursuing Title IX compliance. Additionally the ruling clarified that actual participants, not participation opportunities, need to be reported. Similarly, using ratios acquired from a survey would freeze opportunity levels and thereby sustain past discriminatory practices. Because a new group of students can potentially represent a new level of interest, a survey of interests typically captures only one moment in time, as opposed to developing interests and abilities.

Cutting men’s sport was suggested by the Supreme Court as one potential remedy to discrimination, noting the OCR had deemed proportionality as a “safe harbor.” With mounting pressure following the *Brown* ruling, The NCAA Gender Equity Task Force created the most comprehensive definition to guide institutions toward Title IX compliance: “An athletics program can be considered gender equitable when the participants in both the men’s and women’s sports programs would accept as fair and equitable the overall program of the other gender. No individual should be discriminated against on the basis of gender, institutionally or nationally, in intercollegiate athletics” (NCAA Gender Equity Task Force). Put in clearer terms, if the men’s basketball team would trade all aspects of its program, including coaches, travel, uniforms, practice, and competitive facilities with the women’s basketball program, then gender equity has truly been achieved. Also, around this time, the task force recommended the creation of emerging sports, to address growing interest and continue the development of sport opportunities for women.

Perhaps one of the most impactful steps was creation of the Equity in Athletics Disclosure Act (EADA) in 1996, which was a federal mandate for disclosure of data by every NCAA athletic department and included categories such as operating expenses for all sports, per capita expenses for all sports, recruiting and scholarship allocations, salaries for head and assistant coaches, and revenues and expenses for basketball and football. The EADA was proposed to provide an avenue for parents and athletes to assess the level of commitment each school provides for its athletic programs. The notion was that a more informed decision could be made when selecting a college or university. Also, the belief was athletic programs would be held more accountable through this annual disclosure of data. Yet, in a study examining EADA data, Hattery, Smith, and Staurowsky (2007) found gender inequities have clearly continued, even as the fourth decade of the law was unfolding.

#### STAGE 4: BACKLASH

While each prior stage involved aspects of backlash against Title IX, the thirtieth anniversary of the law marked the beginning of a period of significant challenges. In 2002 the Bush administration formed a commission to study Title

IX. Spurred on by critics such as the National Wrestling Coaches Association (NWCA), the Commission on Opportunity in Athletics held hearings across the country over a period of eight months. Ultimately, Title IX was not reformed in any significant way, although proponents were reassured that the progress made over the past 30 years could easily be reversed if the law was weakened or eliminated. Following the commission hearings, in 2003 the

OCR issued further clarification indicating Title IX does not encourage or expect reduction of men’s sport programs, as many had suggested the proportionality test advocated.

Similarly, criticism of prong three continued, with the primary concern being that universities fail to meet either the spirit or intent of Title IX when using manipulative strategies to demonstrate “interest” among women has been met. Following a 2005 clarification debacle, the OCR issued new guidelines in 2010 regarding the use of interest surveys. Notably, the OCR indicated a survey cannot stand alone, and its evaluation will focus on both the content and target population of the survey. In essence, prong three can be used to determine compliance but only if the demonstration of interest employs sound survey methods and seeks information from the underrepresented population.

In total there are 13 areas for compliance including equipment and supplies, scheduling, travel and per diem, tutors, coaches, facilities, medical care and training, housing, publicity, support services, and recruiting. To demonstrate a disparity in any of these areas the differences must be based on sex with a negative impact on athletes of one sex, and the disparity must be so substantial as to deny equal opportunity to athletes of the one sex. This is not to say that all areas must be exactly equal or equivalent. Permissible differences are recognized by the OCR based on the unique aspects of each sport. For example, event management costs are far higher for football than any other sport, as are equipment costs for all sports requiring protective equipment. While there is not room here to discuss each of the 13 areas, scholars have shown disparities in a number of these areas. Yet Staurowsky and Weight (2011) found Title IX knowledge is lacking among both athletes and coaches. Without a full understanding of gender equity, all 13 areas covered by Title IX, discriminatory practices are likely to go unchallenged.

###### CASE STUDY

**Sport Media Guides**

Messner (2002) argued sport media is the primary vehicle that legitimizes “unequal power relations between the sexes” and makes female athletes and their bodies “contested ideological terrain.” Following Title IX, media portrayals of female athletes replicated social norms, even though sports was believed to empower women and serve as a means to foster change. Guided by the notion “media coverage of sport offers fertile ground for any investigation that explores images, symbols, and myths related to power,” Kane and Buysse (2005) analyzed Division I media guide covers from the 1990s to the early 2000s seeking differences in gender portrayals. Media guides from 12 sports at 68 colleges in six major Division I athletic conferences, resulted in 528 guides for analysis. Media guides were chosen because they are considered a marketing tool used to advertise teams to sponsors, donors, alumni, and key stakeholders, while also used as a recruitment tool for future college athletes. Three aspects were examined: Were the athletes in or out of their uniforms, on or off the court, and in active or passive poses? In earlier studies, women’s teams were often depicted as “ladylike” being portrayed in dresses, in passive poses, and in a nonsports environment.

The authors found males and females were portrayed in uniforms on most media guide covers. Approximately 80% of the women and 86% of the men were portrayed in their competitive venue. Females were portrayed in active poses in 71% of the media guides compared to 78% for men. The results “clearly indicate strong and consistent trends regarding the seriousness with which male and female athletes were portrayed” (Kane & Buysse, 2005, p.

223). A visual analysis also revealed women in hockey, softball, basketball, and tennis were most likely to be in active poses, compared to sports of golf and gymnastics. Not surprisingly, traditionally feminine sports were sometimes portrayed in a passive pose, adhering to gender stereotypes. This analysis demonstrated “significant shifts in the representations of sportswomen from the early 1990s to 2004, shifts that led to the construction of females as serious, competent athletes” (p. 231). Notably, Kane and Buysse found these recent portrayals of college sportswomen represented a stark contrast to the images found in mainstream media. They concluded:

The impact of Title IX, and its relationship to higher education, is behind our second suggestion for why stereotypic narratives did not rule the day … In large measure because of Title IX, more and more girls are exposed to formalized, competitive sports at an early age. This not only creates a greater interest in sports among females but also produces a sense of entitlement that is often expressed in the expectation of an athletic scholarship … consequently, colleges and universities are now required to make meaningful athletic opportunities and experiences available to women. One way to do this is to structure women’s athletics around the highly competitive and commercialized “male model” of sports.

Women’s intercollegiate athletics have thus become more commercialized and, as a result, institutions of higher education now have a stake in making them more appealing to a broader audience. (pp. 234–235)

**Questions to Consider**

1. Given the 13 areas for Title IX Compliance, in which area(s) would this issue reside? Why?
2. Given the need for college sports programs to generate revenue and garner media attention, discuss the need for women’s athletic programs to emulate the commercialized “male model.”

#### UNINTENDED CONSEQUENCE

Paradoxically, growth in sport participation opportunities for women occurred as the numbers of women coaches and administrators diminished. For more than 30 years, Acosta and Carpenter (2012) kept track of these trends. Despite a record number of sports offered, the representation of female coaches has remained below 50% for decades. Women athletic directors, also few in number, have seen little growth even though the pipeline for leadership should be filled with an unprecedented number of former college athletes. For a better understanding of this issue, readers are encouraged to access Acosta and Carpenter’s (2012) full report.

###### STAKEHOLDER PERSPECTIVE

**NCAA Emerging Sports for Women**

In 1994 the NCAA’s Gender-Equity Task Force recommended a list of emerging sports as a way to continue to grow opportunities for women. During the past 17 years, rowing, ice hockey, water polo, and bowling have become championship sports. To remain on the list, emerging sports are required to attain a minimum of 40 varsity programs within 10 years or show steady progress toward the goal. Marilyn Moniz-Kaho’ohanohano, chair of the NCAA’s Committee on Women’s Athletics (CWA), indicated the CWA was supportive of forwarding triathlon for consideration as an emerging sport. Triathlon is believed to be a natural fit for colleges and universities, with more than 150 campuses currently supporting triathlon clubs. At the 2013 national collegiate championship, triathletes from 46 states participated, including more than 400 women. USA Triathlon’s data further support interest, with women representing more than 40% of all collegiate participants. Moniz-Kaho’ohanohano said the CWA was impressed with the level of support offered by USA Triathlon, including a coach’s certification program and events in 50 locations utilized to introduce triathlon to new communities while developing future participants.

Marymount University is one of a list of institutions adding the sport, which will increase to 15 the sports offered in the 2012–2013 seasons. Dr. Chris Domes, Marymount’s vice president for student development and enrollment management, said “We’re very excited because these will be the first sports added at Marymount since 2003, when we launched men’s and women’s cross country. More sports mean more opportunity for athletes; in our experience, these are students who tend to do well academically and who serve as leaders and role models on campus. As an NCAA Division III school, Marymount values athletics as part of a well-rounded educational experience; we also recognize the important role that sports can play in building community and promoting school spirit.”

Relatedly, some believe the decline in women coaches is reflective of a climate that does not value women. For decades, women’s sports coaches were fired for speaking out regarding gender inequities. Yet the scope of Title IX regarding retaliation for whistle blowers did not reach the Supreme Court until 2005 in *Jackson v. Birmingham Board of Education*. This case, pursued by a male girls’ basketball coach, resulted in the court expanding the range of permissible plaintiffs. In essence, the ruling indicated that Title IX protects victims of retaliation, even when the plaintiff was not a direct victim of the discrimination. This watershed ruling opened the door for coaches who had lost their jobs as a result of advocating for gender equity in their programs. The numbers of coaches and administrators who fell victim to this form of discrimination is unknown, but clearly the backlash would have continued had this critical ruling not come about in 2005.

Most recently the scope of Title IX has been broadened within higher education, as this educational law has also been utilized to address inequities in access to higher education, career education, employment, the learning environment, math, science and technology, sexual harassment, and standardized testing, as well as treatment of pregnant and parenting students. As further evidence of how college sports continues to be predominantly a male model, the NCAA failed to recognize the need to protect athletes during pregnancy until 2005. For many women, the

protection provided by Title IX also presented various forms of backlash.

#### THE FORTIETH ANNIVERSARY AND EMERGING FIFTH STAGE

Forty years of Title IX has not resulted in the elimination of sex discrimination, even within college sports, where it has received the most attention. Instead, Title IX as applied to intercollegiate athletics has been deemed “the most visible gender controversy” (Suggs, 2005). Even recent accounts continue to illustrate the divergent views initiated in the 1970s. Title IX has been credited with increasing sport participation opportunities for women, while also being blamed for cuts to men’s collegiate sport teams. Upon examining narratives regarding Title IX’s impact, Hardin and Whiteside (2009) confirmed the notion that many believe women do not deserve the equality Title IX affords them.

#### CONCLUSION

Twenty years after the initial passage, a shift toward gender equity began due largely to litigation pursued by women athletes interested in restoring or improving athletic opportunities. To date, the OCR has never used its authority to penalize a school for noncompliance, and at the same time, every institution of higher education sued for noncompliance with Title IX in intercollegiate athletics has lost in court. From the beginning, college football proponents pointed to Title IX as the cause for financial challenges, which has been refuted consistently in scholarly work. Examples over the past 40 years lead many to believe that the eradication of Title IX would result in the elimination of women’s programs and thereby educational opportunities. At the heart of this legislation created to eliminate sex discrimination is the fact that each opportunity to participate in athletics is in fact an educational opportunity. Few would argue that men deserve more opportunities to pursue a degree in higher education than women. Yet this is the essence of the arguments used to privilege men’s sports over women’s. Continued advocacy and education are needed as accurate knowledge of Title IX remains limited, even among coaches of women’s sports, athletes, and athletic administrators.

#### CHAPTER

**18**

**KEY CASE LAW and LEGISLATION SHAPING WOMEN’S OPPORTUNITY in INTERCOLLEGIATE ATHLETICS**

**Jennifer Lee Hoffman, Jacqueline McDowell, and Valyncia Raphael**

###### KEY TERMS

 **Title IX**

 **gender equity**

 **women college athletes ** **women coaches**

*Equal athletic treatment is not a luxury. It is not a luxury to grant equivalent benefits and opportunities to women. It is not a luxury to comply with the law. Equality and justice are not luxuries. They are essential elements, which are woven into the very fiber of this country. They are essential elements now codified under Title IX.*

Cook v. Colgate University (1992)

When Title IX of the Educational Amendments of 1972 (Title IX) was passed, it fundamentally changed women’s access for equal opportunity in all educational programs, and women reemerged in the competitive landscape of sports in colleges and universities. Born in a climate of social change that focused on individual rights and fairness and the emergence of liberal feminism that advocated for giving women equal access to the same opportunities as men, Title IX policies reflect these themes. Modeled after Title VI of the Civil Rights Act of 1964, Title IX promotes gender equity efforts by mandating equal access and equitable treatment of men and women in educational institutions: “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” (Title IX, 1972). Most schools receive federal support directly or indirectly via student loans or federal research funding; hence this component of the law extends Title IX application to nearly all public and most private educational institutions.

Although Title IX is highly associated with women’s sports, this legislation has broader coverage and has significantly helped increase equity in men’s and women’s educational opportunities in college and career preparatory programs; science, technology, engineering, and math (STEM) fields; and technical fields. Moreover, Title IX offers protection against sex- and gender-based harassment and violence and discrimination against pregnant and parenting students, and it promotes equity in admissions, financial aid, housing, employment, and other educational services and benefits (Office of Civil Rights, 2012).

Unlike other educational areas, in interscholastic and intercollegiate sports Title IX permits a gender-separate system of opportunity. This structure of gender-separate opportunities is known as the dilemma of difference and presents a unique legal framework in which to interpret and implement the law (Brake, 2010). Although enacted after the 1954 *Brown v. Board of Education* decision wherein justices asserted in the field of public education the doctrine of separate but equal has no place, Title IX solidified a separate but equal doctrine. The adoption of this philosophy, presents questions about how to pursue equality for women’s opportunity without unquestioningly accepting sameness based on men’s athletics (Festle, 1996).

In athletics an overall determination of compliance in Title IX includes effectively accommodating students’ interests and abilities by the types and quality of sport opportunities provided; requiring athletic scholarships to be awarded substantially proportionate to the participation rates of male and female athletes; and requiring males and females to receive equivalent treatment, benefits, and opportunities in coaching, academic assistance, travel and per

diem expenses, equipment and supplies, practice and competitive facilities, recruitments, housing and dining services, locker rooms, medical, training facilities, publicity, and scheduling of games and practices and support services (O’Shea, 1998). Moreover, in 1979 the Office of Civil Rights’ (OCR) Intercollegiate Athletics Policy Interpretation of Title IX established a three-part test to assess whether institutions were providing equitable participation opportunities. Specifically, intercollegiate athletic departments must provide participation opportunities for male and female students substantially proportionate to their undergraduate enrollment, show a history and continuing practice of program expansion for men and women, *or* demonstrate that the interest and abilities of the underrepresented sex are fully and effectively accommodated. OCR has consistently reinforced that schools needed to satisfy only one of the three alternatives, but the proportionality test has become the salient, and sometimes controversial, face of Title IX (Reynolds, 2003).

Similar to other civil rights laws, Title IX has a litigious history characterized by successes and setbacks. Title IX legislation and cultural shifts in gender ideologies have resulted in significant increases in women’s sport opportunities at the interscholastic and intercollegiate levels; but these improvements, however, were not achieved without struggles. As noted by Hogshead-Makar and Zimbalist (2007), “The strength of civil-rights laws hinges on the ability and willingness of our citizens to prevent and expose violations and to bring the goal of equality to fruition” (p. 187); and after futile efforts to address inequities and discrimination, legislation would prove to be instrumental in opening up, and sometimes closing, opportunities for women in sport.

Title IX has been an evolving law, dynamic and changing with each generation, as it is interpreted through decisions by the courts, Congress, and executive order. This chapter highlights key court cases that illustrate the tensions and dilemmas in the contemporary sporting context in education: athletic programs are separated by a gender-separate model of participation, yet opportunity must remain equal under the law. This chapter does not present an exhaustive description of how Title IX has been shaped but highlights themes of opportunity through several prominent legal cases that have influenced athletics for women in higher education.

**THE LINK BETWEEN OPPORTUNITY AND INTEREST: *COHEN V. BROWN UNIVERSITY***

In 1993, citing budgetary problems, Brown University demoted women’s volleyball and gymnastics and two other men’s teams to club status. The women athletes sued citing discrimination and not promoting equal opportunities for women to participate in intercollegiate athletics. Before the cutbacks, Brown University was already offering only 36% of its participation opportunity to women. The three-part test for participation equity became a key feature of the *Cohen v. Brown University* case and became the legal test for this method of determining participation equity (Brake, 2010). Not only was the three-part test upheld, but substantial proportionality became the standard for calculating equity in participation.

The *Cohen v. Brown University* case reveals several important issues in equity in participation. First, cutting women’s teams is legally risky (Estler & Nelson, 2005). Repeatedly, the courts and OCR rulings have upheld the three-part test as constitutional. Second, when Brown University attempted to cut the women’s varsity gymnastics team and demote it to an unfunded club team, it revealed other inequities in the athletic program that were detrimental to cultivating interest among women athletes. These inequities contributed to an environment in which participation and interest are interrelated. The court in *Cohen* found that “because interest is developed and not inherent, disparities in sport opportunities themselves suppress women’s interest in sports” (Brake, 2010, p. 78).

From 1991 to 1997, Brown University repeatedly argued against the three-part test as reverse discrimination against men because “men are more interested than women in intercollegiate athletic participation” (Brief, *Cohen v. Brown University*, 1996, p. 1). Brown University’s position was that less interest in athletics participation among women is “unrelated to disparities in opportunities” (Brief, *Cohen v. Brown University*, 1996, p. 1). Brown University maintained that women were less interested in participating in sports and the three-part test itself was a quota that forced discrimination against men (Brake, 2010).

One of the unintended outcomes of securing the three-part test as constitutional and highlighting the relationship between interest and opportunity was solidifying rhetoric that Title IX creates opportunities at the expense of men— particularly among the Olympic or non-revenue-producing sports. Title IX’s three-part test prescribes not how to increase opportunity for women, only that one of the three parts must be satisfied. The strategy of cutting some men’s teams rather than creating new opportunity pits the participation interests of women athletes against the financial interests of big-time football and basketball. The themes of women’s interests and football interests resonate in other gender equity cases.

**CALCULATING EQUITY IN A GENDER-SEPARATE PROGRAM: *BLAIR V. WASHINGTON STATE UNIVERSITY***

In the fall of 1979, women athletes and coaches sued Washington State University, claiming the school discriminated against women’s athletics in violation of Washington State’s Equal Rights Amendment (*Blair v. Washington State University*, 1983). In the lower-court decision, the state found that football operated “for profit under business principles” (*Blair*, 1983). To achieve equity in funding women’s scholarships required increases in yearly increments until the university’s financial support for women’s scholarships “reaches a level representing the same percentage as women represent of the total undergraduate population at the university … excluding football” (*Blair*, 1983, 1987; see also Reynvaan, 1992, p. 28). Additionally, the court found that football would be excluded from the calculation of equity in participation because football is a “largely self-sustaining sport” (Reynvaan, 1992, p. 28; see also *Blair*, 1983).

The trial court ruling that self-generated funds from football are program specific and designated the operation of football as a business endeavor rather than an educational endeavor was reversed. The Washington State Supreme Court ruled that football would not be eliminated in football revenues, scholarships, or participation opportunities (*Blair*, 1987). Thus, football could not be separate from the rest of the department and still considered educational.

In deciding the case, the state Supreme Court observed that the state equal rights amendment “contains no exception for football” (*Blair*, 1987; see also Kaplin & Lee, 1995, p. 564). Despite football’s unique commercial characteristics, it could not be excluded from the educational interests of the university and must be included in determining equity between men’s and women’s athletics. The reinforcement between football and education is notable in the Blair case. In *Blair*, the lower court attempted to differentiate football as a business model, citing that “football is operated for profit under business principles” (*Blair*, 1983; see also Graff, 1988). However, with the State Supreme Court reversing this decision, it clarified football as an educational endeavor noting, “Football is a large and essential part of intercollegiate athletics at the University” (*Blair*, 1987). This ruling under state-level gender equity law reveals the legal connection between athletics and education for all aspects of the athletic program. It also strengthens the interdependence between women’s athletic participation and big-time football in the educational interests of college sports programs.

**IN THE PURSUIT OF FAIRNESS: *KELLMEYER ET AL. V. NATIONAL EDUCATION ASSOCIATION ET AL.***

Fern Lee “Peachy” Kellmeyer was a star tennis player, who competed in the U.S. Tennis Open at the age 15 and became the first woman to compete for a men’s college team at the University of Miami (Rykoff, 2011). She was also the first person hired full time by the Women’s Tennis Association. However, the biggest mark she left on women’s sports was the class-action lawsuit filed against the Association for Intercollegiate Athletics for Women (AIAW), the former governing body for collegiate women’s athletics, challenging the rule that women on athletic scholarships could not compete in AIAW-sponsored competitions (Rykoff, 2011).

AIAW rules prohibited women from obtaining athletic scholarships out of concerns over commercialization, professionalization, pressure recruiting, and financial burdens (Sack & Staurowsky, 1998). However, after Title IX passed the legality of this gendered policy was challenged in *Kellmeyer et al. v. National Education Association et al.* (U.S. District Court, Southern District of Florida, no. 73, 21 Civ NCR).

In January 1973, Kellmeyer, director of physical education at Marymount College and a group of female tennis players and coaches from Marymount College and Broward Community College argued that the prohibition on scholarships denied them equal protection of the law, citing violations of the Fourteenth Amendment and Title IX. The case did not proceed to court. Instead, AIAW abrogated the scholarship rule preemptively.

This landmark change in the AIAW’s scholarship rule did more than provide women athletes with equitable opportunities to obtain financial assistance—it was instrumental in changing the structure and governance of women sports. This move was seen as the first step away from the AIAW’s education-based philosophy and toward the National Collegiate Athletic Association’s (NCAA) commercialized sports model (Wu, 1999). Moreover, by “exposing the traditional sex-separate philosophy of women’s sport to the law of equal protection, the *Kellmeyer* litigation paved the way for the NCAA’s initiative in women’s sports” (Wu, 1999, p. 47). This ruling was among the catalysts that resulted in the control of women’s sports shifting from women leaders in the AIAW to the men’s NCAA governing association.

**ALL SPORTS ARE NOT CREATED EQUAL: *STANLEY V. UNIVERSITY OF SOUTHERN CALIFORNIA***

Title IX has created more participation opportunities for women in sports, and the law has led to substantial increases in resources being allocated to women’s sports. Title IX extends beyond obtaining equal opportunities for college athletes to coaches’ compensation but is specific in its scope. Protection from employment discrimination is limited to differences where the coaching compensation impacts the availability or quality of coaching “due to the sex of the team rather than the sex of the coach” (Weiss, 2002, p. 154). In addition, many coaching contracts include compensation from third parties, such as apparel companies or athletic associations, and are not subject to Title IX regulations (Gentry & Alexander, 2012).

Marianne Stanley was hired as head coach of the University of Southern California’s women’s basketball team in 1989 with a four-year contract. Her salary was $60,000 per year with a $6,000 housing stipend (O’Brien, O’Brien, & Sarfo-Kantanka, 2009). Two months before the contract expired in 1993, Stanley and the athletic director, Michael Garrett entered into contract negations for a three-year contract. Stanley wanted a base salary comparable to that of the men’s basketball coach’s $135,000 annual base salary (Ryan, 1999). Garrett denied her request and when negotiations failed after her first contract expired, Garrett informed her that he would start looking for a new coach (*Stanley v. University of Southern California*, 1994).

In response Marianne Stanley filed a 1993 lawsuit against the University of Southern California and the athletic director, Michael Garrett, claiming sex-based discrimination and retaliatory discharge. The court ruled that there was not a violation of the Equal Pay Act, FEHA, the Constitution, or Title IX because Stanley failed to show discriminatory conduct. The men’s basketball coach was deemed to have sufficiently more relevant experience and qualifications than Stanley, warranting the pay difference. The court ruled that since Stanley’s contract expired and she had not successfully renegotiated a contract that was acceptable to her, it was not retaliation or wrongful discharge. Moreover, no violation of express employment contract or good-faith and fair-dealing violations occurred because Garrett offered her a multiyear deal during contract negotiations, and it was Stanley’s choice to not accept the offered terms (*Stanley*, 1994).

In the 1993 *Stanley* case, the court asserted that there were significant differences between the men’s and women’s basketball coaching positions, in relation to public relations and promotional activities. It was also opined that Coach Raveling, the men’s basketball coach, had more experience and higher qualifications than Stanley. In the eyes of the court, these differences were sufficient to support differential compensation packages. These findings set precedent for future EPA and Title IX rulings regarding university coaches. Repeatedly since *Stanley*, the courts have affirmed that a revenue-generating sport (versus a nonrevenue one) constitutes a sufficient difference in job duties to allow a pay difference due to further obligations, such as media appearances and public relations that are required of those coaches. They have also held years of coaching experience, level of education, and service to the university as distinguishing markers that can merit a pay difference (O’Brien et al., 2009).

**COMPETITIVE CHEERLEADING AND EQUITY: *BIEDIGER V. QUINNIPIAC UNIVERSITY***

Cheerleading began before World War II, with men who were yell leaders, but it later developed into feminized hallmark of men’s sports. As other women’s opportunities for sport participation have grown, rather than calling into question the presence of cheerleading, the number of girls in cheering activities has expanded. Contemporary sideline rally and entertainment-style cheerleaders are a prominent feature at most college football and men’s basketball games and are accepted as an important role in the formation of community around spectator sports. Cheerleaders contribute to the collegiate ideal (Toma, 2003; Toma & Kezar, 1999), just the same as the mascot, colors, logos, songs, and other rituals and ceremonial practices common at intercollegiate events that are traditionally male gendered ([Figure 18.1](#_bookmark213)). The role of cheerleaders in the support of athletic events falls under the guidelines for equal program support required by Title IX.

Cheerleaders are present at many women’s basketball events as well. But the highly feminized role of cheerleaders at women’s events raises questions about what constitutes the cultivation of traditions and customs at sporting events when the participants and the cheerleaders are both women. The presence of cheerleaders equally dispatched to boys and girls athletic contests was the subject of a 2007 Title IX complaint in New York State (Hu, 2007). A complaint filed by the parent of a girls’ high school basketball player was that boys’ teams regularly had cheerleaders and girls’ basketball teams only had occasional support from cheerleaders, such as during the playoffs

or championship contests. Yet when cheerleaders appeared at girls’ basketball games, they were met with resistance from the girls’ basketball players.

In addition, a new form of competitive cheerleading has emerged that includes strenuous tumbling, complicated jumps, and tossing maneuvers. These acrobatic skills and performances are an organized activity where the primary goal is competition; complete with scoring, judges, and a national champion-type award structure. Like gymnastics, figure skating, or synchronized swimming, cheering teams are judged on elements that require strength, skill, and agility found only in highly athletic activities.



**Figure 18.1.** Cheerleaders are under the guidelines for equal program support required by Title IX but raise questions about their gendered role at athletic events. (Photo, Department Defense, Cherie Cullen.)

###### CASE STUDY

**Cheerleaders or Gymnasts?**

State University, a school with a Division II athletic program, was hit hard by the recent economic downturn. Budgets for many academic units were cut. Because the athletic department received a reduction in student fees for athletics, it has a deficit of approximately $500,000 and has been unable to close the budget gap.

After several years of deep cuts, all teams have been retained, but the only options at this point are to begin cutting teams. Despite the strong interest in gymnastics across the state, the ability to attract many of the region’s gymnasts to State University, and a record of earning national academic honors and individual and team championships, the gymnastics programs are slated for elimination. Transferring to another program is not likely for most of the gymnasts, as the schools in the region with gymnastics programs are Division I, and the rate of transfer to these programs has historically been very low. State University will honor the scholarships of all current scholarship gymnasts—women and men—who would like to remain at State University and complete their degrees.

The athletic department is considering an unusual move in this decision. The university has a strong commitment to athletic participation, and several other conference members are considering adding competitive cheerleading to comply with Title IX. Interest in competitive cheerleading has grown around the state, with club teams in almost every city, and many of the state’s women gymnasts are opting to participate in these clubs instead of continuing in gymnastics as they approach high school age. The university is exploring this option; and if a new competitive cheerleading squad is started, any current woman gymnast can join the new competitive cheerleading team permanently until her eligibility is exhausted.

The campus athletics board has been notified and asked to weigh in on the possibility of adding competitive

cheerleading. The board knows of the growing popularity of competitive cheerleading in the state and how it has created more opportunities for women students to do something they love after they can’t perform in a sport that favors only a small portion of the population. Despite the growing interest, the view of cheerleading, no matter how competitive, is mixed among the board members. What should their recommendation be to the athletic department?

Competitive cheer has been tested as a sport under Title IX. In March 2009 Quinnipiac University cut the women’s volleyball team and replaced it with competitive cheerleading. In July 2010 the U.S. District Court ruled that competitive cheerleading did not meet the requirements as a sport under Title IX and upheld on appeal. To qualify as a sport under Title IX, the ruling suggested several guidelines for competitive cheerleading to be met before being recognized as a sport under Title IX law. The guidelines set specific criteria for qualifying competitive cheerleading in colleges and universities as a sport. For cheerleading to be considered a sport under Title IX, it must be a fully developed and organized activity characterized by:

1. Competitions against other squads in a defined season
2. Coaches and practices
3. Resemblance to all other varsity sports at an institution in structure and operation
4. A governing organization

In addition, the primary goal of the cheerleading activity must be competition. Although competitive cheer meets some of the requirements, it lacks sufficient development in others: number and quality of competitions; availability of conference; and state-, regional-, and national-level competition. In addition, the NCAA does not yet sanction competitive cheerleading with emerging sport or championship status. Without the competitive opportunities or governance structure, meeting the quality of competition and governing organization standards remains a challenge. Until these requirements are consistently met, competitive cheerleading will not be considered a sport for Title IX purposes.

**FIGHTING FOR THE RIGHT TO PLAY: *RICHARDS V. UNITED STATES TENNIS ASSOCIATION***

During Title IX’s inception years, fears prevailed that the law would result in athletic opportunities becoming coeducational (Ware, 2007). Instead Title IX legislation resulted in high school and college sports becoming highly defined and divided by sex and gender. Title IX’s legitimization and encouragement of a gender binary has resulted in ambiguity about transgender and intersex athletes’ access to sport participation opportunities. Transgender athletes’ fight for equal access to competition in *Richards v. United States Tennis Association* (USTA) paved the way for transgendered athletes to be granted equal access and rights to compete.

The lawsuit against the USTA was brought about by Dr. Renée Richards, who was born a male but in 1975 underwent sex reassignment surgery (Kozlowski, 2009). Prior to the operation, Richards competed in professional tennis tournaments; but upon becoming a woman, the United States Open Committee (USOC) and Women’s Tennis Association prevented her from qualifying and participating in the 1976 women’s singles U.S. Open by instituting a sex-chromatic test. The USTA and USOC’s contention was that men who had undergone “sex change” surgery have a competitive advantage over biological females because of the physical training and development that they experienced as a male (*Richards*, 1977). Richards claimed the test violated her rights under the New York State Human Rights Law (NY Exec. Law §297(9)) and the Fourteenth Amendment to the U.S. Constitution and sought a preliminary injunction prohibiting the USTA from subjecting her to a sex verification test. In an unprecedented judgment, the New York’s trial court lifted USTA’s testing policy and opined that the defendants intentionally targeted Richards and discriminately instituted the Barr body test to prevent her from participating. Moreover, the court found USTA’s requirement that Richards pass a chromosomal test was “grossly unfair, discriminatory and inequitable, and violative of her rights under the Human Rights Law of this State” (*Richards*, 1977).

The *Richards* case was pivotal in bringing about social change for transgender athletes at the collegiate and professional levels of sport. Since the *Richards* lawsuit, governing associations have changed their policies to allow transgender athletes to compete. In 1999 the IOC eliminated its mandatory gender testing; and in 2004, it adopted the Stockholm Consensus that allowed transgender athletes to compete in the Olympic games. The United States Golf Association in 2005 and the Washington Interscholastic Activities Association in 2007 (Zeigler, 2011) followed

IOC’s precedent and passed their own policies permitting transgender people to compete. In 2010 the LPGA preemptively voted to remove the “female at birth” requirement, and in 2011 the increased emergence of transgender athletes and concerns about potential constitutional and Title IX lawsuits prompted the NCAA to approve a policy to allow athletes to participate on teams based on their gender identity (Lawrence, 2011). Despite the gender binary that Title IX preserves in sports, the protection against gender-based harassment this policy provides offers a possible “legal recourse” for transgender athletes (Griffin & Carroll, 2010, p. 51).

#### CONCLUSION

This chapter has highlighted several lawsuits that helped create social change and gender equity in competitive sports. These lawsuits exemplify progress in advancing women’s opportunities in sports, but even after 40 years of Title IX policy there were a record number (900) of complaints alleging Title IX violations in athletic programs between 2009 and 2011 (Office for Civil Rights, 2012). These complaints exemplify the systemic inequities and discriminatory behaviors that continue to prevent girls and women from fully participating in interscholastic, intercollegiate, and professional athletics.

#### CHAPTER

**20**

**BARRIERS to LEADERSHIP for WOMEN in COLLEGE ATHLETICS**

**Erin E. Buzuvis**

###### KEY TERMS

 **gender women coaching**

 **leadership athletics**

Today there is an enormous gender disparity among collegiate head coaches and athletic administrators in the United States. Women fill less than a quarter of head coach and athletic director positions in college athletics and are even minorities among coaches of women’s teams (Acosta & Carpenter, 2012). Few other professions are as impervious to gender integration. Leadership in college athletics is, in the words of one scholar, one of the “few male bastions remaining” (Kane, 2001, p. 115), which raises the question: Why are women so starkly underrepresented in leadership positions within college athletics? There is no easy answer, but rather a variety of factors that exclude, deter, or cause an early exit for women who would have otherwise pursued careers in college athletics. After presenting the demographics of leadership in college athletics to illustrate this gender disparity, this chapter considers the unique barriers women face when seeking entry to the profession, the ways in which athletic departments operate to constrain women’s advancement and retention in their jobs, and the combined effect of these and other factors on women’s interest and motivation to pursue or remain in leadership positions in college athletics.

#### THE CHANGING DEMOGRAPHICS OF COLLEGE ATHLETICS

Today the number of female college head coaches is at an all-time high. According to the most recent update by Acosta and Carpenter (2012) to their 35-year longitudinal study of the gender demographics of college athletics, there are 3,974 women serving as head coaches of women’s teams, plus another estimated 200–300 women who coach men’s teams.

Yet despite the gains by women in absolute terms, two comparisons suggest that the number of female head coaches is not as high as it could or should be. First is the comparison to the number of men serving in similar positions. The 3,974 women coaching women’s teams constitute only 42.9% of head coaching positions in women’s college sports. More than 5,300 women’s teams (57%) have a male head coach. Men outnumber women as head coaches of women’s teams in all three athletic divisions, but are particularly overrepresented in Division II, where they coach 62.5% of women’s teams. Male dominance in head coaching positions also varies by sport. Men are the extreme minority among coaches of women’s sports like synchronized swimming (0%), field hockey (6.2%), equestrian (10.0%), and lacrosse (14.9%). Men are also outnumbered—though considerably less so—among coaches of women’s softball (37.9%), basketball (40.5%), and volleyball (46.7%). Yet men dominate as head coaches of women’s sports like rowing (63.1%), soccer (67.8%), tennis (70.1%), swimming and diving (73.8%), ice hockey (75.5%), cross country (78.8%), and track and field (80.8%). In contrast, the number of female head coaches of men’s teams amounts to only 2%, demonstrating that cross-gender coaching is almost entirely the domain of men.

The second relevant comparison is to the percentage of female head coaches over time. According to Acosta and Carpenter’s (2012) data, the percentage of female head coaches in women’s college sports has been declining since the passage of Title IX. In 1972, when Congress passed the law prohibiting sex discrimination in education, there

were far fewer women’s teams than there are today; yet women coached a vast majority (90%) of them. By 1978, the year the federal government initially designated as the deadline for compliance with Title IX, the number of women’s athletic teams more than doubled—from an average of about 2.5 teams to 5.6 teams per school—creating many new coaching positions in women’s sports. Correspondingly, the percentage of women coaching women’s teams decreased to 58.2% in that short time. The percentage has dropped fairly steadily since then, reaching its lowest in 2006 (42.4%) and recovering slightly between then and 2012 (42.9%).

Acosta and Carpenter (2012) have also reported on the gender demographics of college athletic administrators.

In 2012 there were 215 female athletic directors—36 in Division I, 46 in Division II, and 133 in Division III. Expressed as a percentage, 20.3% of college athletic directors are female. For historical perspective, it is important to note that in 1972, men’s and women’s athletic programs were separate, and the vast majority of women’s programs were led by a female director. Today, nearly all colleges have merged once-separate programs into a single department. The fact that only 1 in 5 athletic directors are women suggest that mergers more often expanded the jurisdiction of male administrators of men’s athletics at the expense of female administrators of women’s athletics than the other way around (Hoffman, 2011).

Looking more broadly at college athletics administration, women have somewhat higher levels of representation but are still a minority, constituting about a third of athletic administrators overall. Acosta and Carpenter (2012) have kept tabs on the percentage of colleges in which there is not a single woman serving in the athletic department administration and report that figure to be at an all-time low of 9.2%. Yet many schools employ female administrators in a token capacity, as suggested by the fact that the average number of female administrators per administration is 1.41. While their longitudinal study does not indicate the types of jobs women are more likely to hold within college athletics, others report that women who serve in athletics administration are relegated to support positions such as academic advising, compliance, marketing, life skills, and sports information (Coakley, 2008).

They are also assigned to oversee women’s sports and excluded from oversight of revenue-producing sports (Inglis, Danylchuk, & Pastore, 2000).

Acosta and Carpenter’s longitudinal data should also be considered in conjunction with others that examine the racial demographics of college athletics. The National Collegiate Athletic Association (NCAA) regularly reports such data for its member institutions, most recently, for the 2009–2010 academic year (Irick, 2011). At that time, there were 208 female athletic directors, 21 of whom were black and 3 Asian, 1 Hispanic, and 1 who responded “two or more races.” In that same year, women held 4,214 head coaching positions (23%) overall. Of those women, 87% were white, 9% were black, and the remaining 4% reflect the combined percentage of Hispanic, Asian, Native American/Pacific Islander, and those who reported “two or more races.” A deeper examination of the data suggests that these low percentages of minority female coaches are disproportionately low in some contexts. For instance, black women constitute 10.7% of head coaches of women’s basketball despite making up 50.1% of the athletes participating in that sport (Borland & Bruening, 2010).

#### HEGEMONIC MASCULINITY IN SPORTS

To understand the gender gap in college athletics, we must first understand the interconnected nature of sport, power, and gender in our society. Sport has, from its origins, operated as a means to ascribe power to men, by creating the highly visible, symbolic linking of power with masculinity in a way that makes that association appear natural and legitimate (e.g., Messner, 1988; Willis, 1982). As a result, the ways in which women are denied access to sports and its associations with power are largely unquestioned and unseen. In fact, the hegemonic nature of this phenomenon means that men and women alike perpetuate the association of masculinity and power through sports. Women are excluded from opportunities within sports, whether through lawful or unlawful means, or their interest suppressed by external social forces that make their actions appear to be internal and agentic, or their opportunities to engage in the sporting enterprise are constructed on different terms so as to pose no threat to the gender order. Evidence of hegemonic masculinity in sports can help explain the imperviousness of college athletic departments to leadership of women (Whisenant, Pedersen, & Obenour, 2002), as it offers a framework to explain the barriers to entry, job constraints, and the construction of women’s athletic interest and motivation that all contribute to the gender imbalance of leadership in college athletics.

#### BARRIERS TO ENTRY

Women’s representation among the ranks of coaches of collegiate women’s teams dropped precipitously in the early

years of Title IX, as the new law motivated colleges and universities to rapidly expand and improve athletic opportunities for women. Before the statute’s passage in 1972, women’s sports was, in the words of one historian, “a small time venture, hardly noticed by anyone but the participants” (Festle, 1996, p. 99). Women had opportunities to engage in intercollegiate competition, but these opportunities were less numerous, less visible, and received considerably fewer resources than the athletic opportunities afforded to men. Women with backgrounds in physical education organized and coached athletic opportunities for women, and did so through organizations like the Commission on Intercollegiate Athletics for Women (CIAW) (1966–1972) and the Association for Intercollegiate Athletics for Women (1971–1983). These organizations provided opportunities for women’s leadership of women’s athletics, and they espoused an athlete-centered model of sports rooted in educational values that was distinctly different from the competitive, commercial model of the NCAA (Staurowsky, 2011). But Title IX’s passage brought changes to women’s sports. The law’s mandate for equal treatment and equal opportunity meant that women’s sports could no longer be treated like a little stepsister by university athletic departments. To university leaders, this meant striving to conform existing women’s sports programs to the dominant, competitive, and commercial model of sports espoused by the NCAA, which had begun holding women’s championships in 1981–1982. Perceiving the NCAA to be the more legitimate governing body for what would now be competitive programs in women’s sports, colleges and universities withdrew their affiliations with the AIAW, causing its demise, and established the male-dominated NCAA as the premier athletic association for both men’s and women’s sports (Drago, Hennighausen, Rogers, Vescio, & Stauffer, 2005).

These rapid changes in the early years of Title IX explain the precipitous decline in the ranks of female leaders in women’s sports. The integration of women’s sports into the prevailing, high-stakes commercial model of college athletics squeezed out women leaders, with their athlete-centered, educational approach. Some left head coaching and other leadership positions rather than compromise their values, while others were likely seen as unqualified to coach newly created women’s teams that were expected, like their men’s counterparts, to win at all cost (Hasbrook, Hart, Mathes, & True, 1990). Men, in turn, were likely attracted to the new positions of leadership in women’s sports now that those positions were infused with Title IX’s promise of support and the NCAA’s venire of legitimacy.

Since that time, men have been successfully competing with women for positions in women’s sports, but the reverse is rarely true. Discrimination, motivated by stereotypes about women and their compatibility for leadership in competitive athletics, is believed to erect significant barriers for entry to women seeking to advance into head coaching or senior administrative positions in athletics.

#### Homologous Reproduction

Researchers have offered several theoretical lenses through which to examine and explain these barriers to entry. One is homologous reproduction, the tendency for the dominant group to preserve that dominance by “systematically reproducing themselves in their own image” (Stangl & Kane, 1991, p. 50). The theory helps explain why athletic departments led by men have fewer women in other positions of leadership, as several studies have shown (Acosta & Carpenter, 2012; Stangl & Kane, 1991; Welch & Sigelman, 2007). The homologous character of a dominant group of insiders is reproduced by extending a presumption that those of the same sex or race as the insider group are qualified to be insiders, and requiring others to prove their qualification for membership. As applied to athletics, this may explain other research findings that women who are hired for head coaching positions are in some ways better credentialed than their male counterparts (Hasbrook et al., 1990), why those credentials do not help women in the pipeline for head coaching positions as much as they help men (Cunningham & Sagas, 2002), and why “social capital” (stronger interpersonal networks) is more predictive of job success for male than for female administrators (Sagas & Cunningham, 2004). It could also explain why male athletic directors are generally hired younger and at more prestigious institutions than their female counterparts (Whisenant et al., 2002). Without access to the same favorable presumptions of legitimacy, it takes women longer to reach the top.

#### Social Role and Role Congruity Theories

Another set of related theories, social role theory and role congruity theory, also explain how stereotypes and biases hamstring women’s entry into leadership positions in college athletics. Social role theory is the idea that society has different expectations for men and women. While women are expected to be communal in nature—described with such adjectives as “affectionate, helpful, kind, sympathetic, interpersonally sensitive, nurturing, and gentle”—men are ascribed “agentic” characteristics, such as “being aggressive, dominant, forceful, self-confident and self-

sufficient” (Burton, Grappendort, & Henderson, 2011). Therefore, jobs that society associates with characteristics expected of women are viewed as incompatible for men, and vice versa. Known as role congruity theory, this idea explains why jobs deemed to require communal characteristics are seen as more appropriate for women, while jobs seen to require agentic characteristics are deemed appropriate for men. Role congruity theory also explains prejudice against both men and women who hold or aspire to positions that are inconsistent with their perceived roles.

Researchers have found evidence suggesting that role congruity theory operates in college athletic departments. For example, participants in one study perceived certain managerial qualities to be masculine, as well as associated with the expectations of an athletic director (Burton, Barr, Fink, & Bruening, 2009). These associations could contribute both to bias against female applicants for athletic director positions, a possibility supported by a follow- up study in which college athletic administrators predicted that a hypothetical male candidate was much more likely to be selected for an athletic director position and that a hypothetical female candidate was more likely to be selected for the position of life skills director. Internalized perceptions of gender roles and expectations about role congruity may also explain why women would engage in self-limiting behavior, such as choosing not to apply for an athletic director position or expressing disinterest in leadership (Sartore & Cunningham, 2007).

Pervasive gender roles also create the expectation that women serve as the primary caretaker of children. This expectation leads many hiring decision makers, consciously or otherwise, to assume that a female applicant for a leadership position in college athletics is less capable of succeeding in demanding job like head coach or athletic director. A male applicant may be seen as less encumbered by family responsibilities, and thus more likely to be devoted to the job (Dixon & Bruening, 2005). Expectations that women are not competitive or aggressive may also disadvantage women aspiring to head coaching positions. These expectations may also explain why positions coaching men are largely off-limits to women, and why when women are hired to coach men it is usually in men’s sports with the least prestige and in the least competitive divisions (Kamphoff, Armentrout, & Driska, 2010).

#### Intersectionality

Stereotypes about race and sex orientation intersect to magnify the barriers to entry experienced by those who are or are perceived to be minorities in additional ways than sex. People of color are also underrepresented among positions of power in college athletic departments, so the tendency of homologous reproduction puts women of color at a double disadvantage. Women of color also report serving a “token” candidate to help hiring committees create the appearance of inclusivity and cover for the fact that a nonminority candidate had the inside track all along (Borland & Bruening, 2010).

Heterosexism and antilesbian bias suppress the hiring of women as well, due to the perception that lesbians do not comply with expected social roles for women and are thus destabilizing to male-dominated culture (Griffin, 1998). Lesbians are saddled with negative stereotypes such as sexually seductive and predatory, masculine, aggressive, and harmful toward children (Sartore & Cunningham, 2007). “In general, it is perceived that lesbians are bad for the ‘image of women’s sport.’ Lack of sponsorship, fan support, and respect for women’s sport is often blamed on the ‘lesbian presence’” (Krane & Barber, 2005, p. 68). These stereotypes and negative attitudes force female applicants who are lesbian to remain closeted and privilege indicia of heterosexuality. As one research participant told Borland and Bruening (2010), “The easiest way to get a head coaching position is to be married” (p. 413). A strong bias operating against a large subset of women—that is, those who are not married to male partners or can otherwise claim heterosexuality—cuts significantly into the pool of women deemed hirable by athletic departments trading in such concerns and surely contributes to women’s overall underrepresentation in coaching and leadership hires.

#### CONSTRAINTS TO WOMEN’S ADVANCEMENT AND RETENTION

College athletic departments may be structured in ways that constrain women’s opportunities to advance or remain in head coaching positions and in positions of administrative leadership. One such constraint is due to the fact that women’s athletic programs, the programs to which women’s coaching opportunities are effectively limited, in general receive less support than men’s programs, which can set female coaches up to appear less successful than their male counterparts. A female coach with comparatively fewer assistant coaches, a lower operating budget, fewer resources for recruiting, and diminished access to quality equipment and facilities does not have the same potential for success as her well-supported male counterpart (Inglis et al., 2000). Yet, especially at the most competitive institutions, a coach’s ability to produce wins is highly influential in the decision to renew her job contract. The fact

that more female head coaches are found in prestigious institutions that devote more resources to women’s sports (Welch & Sigelman, 2007) supports the notion that resource allocation is essential to the success of female coaches.

Another set of constraints to retention and promotion of women in athletics can be found in the way job responsibilities are distributed. Women report being “set up to fail” by the assignment of “hidden” job responsibilities and expectations that do not appear on paper (Inglis et al., 2000). Women are also more likely to be saddled with the responsibilities that are not as valued within the department. Gender equity, for example, is marginalized as an issue of concern for female staff, not the entire department (Inglis et al., 2000). Yet women who take on this responsibility may be targeted for retaliation for advancing an agenda that may conflict with the objective of the dominant group, which has a stake in men’s athletics (Buzuvis, 2010).

Women’s job responsibilities may also position them outside the track to advanced levels of leadership. For example, black female assistant coaches in basketball reported that they must also serve as “token recruiters” (i.e., of black female athletes) and, as a result, are not exposed to other facets of the job that would enable them to be strong, well-rounded candidates for head coaching positions (Borland & Bruening, 2010). A similar tendency was reported by women who serve as senior associate athletic directors at Division I institutions, who were kept at arms’ length when it came to the facets of the job that serve as a proving ground for future athletic directors (Hoffman, 2011). A gendered division of labor among senior administrators operates to deny women the opportunity to cultivate business credentials—by working on football and men’s basketball and in such areas as fundraising, development, and contract negotiation. The areas in which women’s leadership is welcome, while crucial to the department, are not valued as strongly by those setting hiring priorities (Hoffman, 2011).

###### CASE STUDY

**Sex Discrimination in College Athletics**

In 2006 two former head coaches and one former associate athletics director filed lawsuits against California State University, Fresno. The three plaintiffs, all women, alleged that they had lost their jobs in retaliation for having spoken out against sex discrimination within the athletics department. The facts of their cases demonstrate how dangerous it can be for female coaches and administrators to challenge hegemonic masculinity in athletics. At the same time, however, the outcomes of these cases should serve as a cautionary tale to deter other athletics departments from behaving similarly in the future.

One plaintiff was Associate Athletic Director Diane Milutinovich, a 22-year department veteran who in 2002 filed a complaint with the Department of Education’s Office for Civil Rights, alleging that Fresno State was violating Title IX by failing to devote sufficient resources and opportunities to female athletes and by discriminating in the compensation of employees of women’s athletics. Soon after filing this complaint, Milutinovich learned that her position had been eliminated and that she was being transferred outside the department. When she continued to advocate for gender equity in athletics, she was terminated from that position as well.

Head volleyball coach Lindy Vivas also filed a complaint about Title IX violations stemming from the department’s lack of support for her program. In addition, she blew the whistle on the department’s practice of awarding shorter employment contracts to female coaches. In apparent response, the athletics director decided not to renew Vivas’s contract, despite her success as a coach for 14 years. Soon thereafter, the director terminated another female head coach, Stacy Johnson-Klein, who was threatening to complain publicly about sexual harassment and discriminatory treatment of the women’s basketball team.

All three women filed Title IX lawsuits challenging these acts of apparent retaliation. In October 2007, Fresno State settled with Milutinovich for $3.5 million. But Vivas’s and Johnson-Klein’s lawsuits both went to trial, where they produced not only multimillion-dollar verdicts for the plaintiffs but volumes of testimony about the department’s hostile and homophobic environment and discriminatory treatment of female coaches and staff. For example, one witness in Vivas’s trial testified about the athletics director’s vilification of those he perceived to be lesbians and his preference for hiring female coaches who were “straight and attractive.” And the testimony in Johnson-Klein’s case revealed how attractive, feminine coaches were vulnerable to sexual harassment and exploitation.

The jurors in both cases agreed that the plaintiffs were unlawfully terminated. In Johnson-Klein’s case, this verdict came notwithstanding the fact Johnson-Klein had suffered from an acknowledged drug addiction, the university’s stated reason for firing her. The jury nevertheless believed that her termination was retaliatory, because known drug problems in the men’s basketball program were not punished as severely.

In the end, both coaches won multimillion-dollar verdicts that were the largest ever in a Title IX case. Fresno

State had to pay $4.5 million to Vivas and will pay another $9 million to Johnson-Klein over the course of 23 years, the largest compensation ever in a Title IX case. Because of all three Fresno State plaintiffs, university athletic departments everywhere are on notice that Title IX protects those who challenge sex discrimination in athletics and that retaliation doesn’t pay.

Negative recruiting is another way in which female coaches are constrained in their abilities to succeed and stay or advance in their jobs (Krane & Barber, 2005). Negative recruiting is when a coach uses the perception of another coach’s lesbianism during the recruiting process, in an effort to undermine her with potential players and their parents (Griffin, 1998). This tactic relies on the susceptibility of recruits and parents to the antilesbian bias, which studies show is still present in significant ways despite the improving public perception of gays and lesbians (e.g., Gill, Morrow, Collins, Lucey, & Schultz, 2006; Sartore & Cunningham, 2008). Relatedly, married male coaches are able to use their wives and children to help construct the image of their team as “family” in order to enhance their recruiting efforts. This tactic trades in heterosexual and marital privilege as it is unavailable to unmarried female coaches. These gendered recruiting practices have the potential to put many female coaches at a distinct professional disadvantage, especially in programs with high expectations for head coaches to recruit a winning team.

###### STAKEHOLDER PERSPECTIVE

**Success Coaching Men: A Product of Belief**

Jennifer Kolins is the head coach of the men’s and women’s tennis teams at Western New England University in Springfield, Massachusetts. She is among the small minority of women who coach male athletes at the college level. Though she did not set out to coach men, she attributes her unique position to her own playing experience growing up with mostly male opponents and teammates in high school and in the National Junior Tennis League. Having played successfully with and against boys, it never occurred to Kolins that she could not coach them. In 2001 Western New England hired Kolins to head coach both the established men’s and the then-fledgling women’s teams.

Today, the athletic department’s website touts Kolins’s .591 winning percentage for the men’s team, .689 winning percentage for the women’s teams, among the highest of coaches in the region. But to Kolins, success is the cultivation of her athletes’ self-confidence, a cornerstone of their overall development as students. This attitude underscores her strong, athlete-centered coaching philosophy, which she modeled after that of her tennis hero, Arthur Ashe, who taught that success is an outcome of believing in oneself.

As a female coach of male athletes, Kolins certainly faces challenges that men in her position would not.

Opposing coaches and parents of recruits have, on initial contact with Kolins, questioned her knowledge, ability, and authority. But it is hard for anyone who knows Kolins to hold onto these negative stereotypes for long. Kolins’s athletes, successful on and off the court, reflect well on her coaching and convey respect for her and the program she leads. Kolins also benefits from a supportive department, strong mentors, and an understanding partner. But at the root of Kolins’s success is the same philosophy that she espouses to her athletes. To succeed—whether as a student, a player, or a coach—you’ve got to believe you can. And Kolins certainly believes.

Female coaches who coach men are also constrained in their jobs by the unique challenges they face to cultivating credibility and respect among athletes, parents, and officials. These women have also reported difficulty cultivating mentors in the profession, since they have virtually no female colleagues within their sport and because many male coaches may be deterred by pride or ego from extending professional support to a female opposing coach (Kamphoff et al., 2010).

#### WOMEN’S MOTIVATION AND INTEREST

The biases and job constraints not only operate as formal barriers to women’s entry, retention, and advancement in college athletic leadership but influence women’s desire to pursue or stay in those careers as well. Female athletes have reported less interest in pursuing coaching careers than male athletes for reasons that include many that are gendered in nature, such as the perception that female and minority coaches are treated differently than male and white coaches and that they are held back by exceeding pressure to win (Kamphoff & Gill, 2008).

Researchers examining why female coaches have reported less desire to remain in coaching than their male

counterparts have found compelling evidence to suggest that these desires are constructed by the constraints of the workplace. For example, a survey of assistant coaches revealed that women who experience the workplace of the athletic department to be inclusive—that is, free from sexual and racial harassment, accepting of all sexual orientations, striving for equal representation of men and women, and supportive of female coaches’ career longevity

—are more likely to desire a long career in college athletics (Cunningham, Sagas, & Ashley, 2003). And former coaches interviewed by another researcher suggested that inequitable allocation of resources, facilities, compensation, job duties, and administrative support strongly motivated their desires to the leave the profession (Kamphoff, 2010).

Due to gendered cultural norms around caretaking, women are more likely to be required to engage in stressful contortions to balance professional and family responsibilities. Coaching is a particularly challenging career to balance with parenting, as it requires availability evenings and weekends when children are not in school and when day care is not readily available (Dixon & Bruening, 2007). This conflict can deter women from continuing on in coaching careers (Bruening & Dixon, 2007), and indeed former coaches with children have reported that they were motivated to leave the profession in part by the lack of support for their caregiving responsibilities (Kamphoff, 2010).

Homophobia and negative recruiting also detrimentally affect women’s desires to remain in coaching. Both create internal pressure on women of all sexual orientations to suppress their homosexuality or conform to a heterosexual norm. Both those who can conform and those who cannot can experience this requirement as a source of stress and dissatisfaction and may be influenced by it to abandon career aspirations in college coaching (Kamphoff, 2010; Krane & Barber, 2005).

#### CONCLUSION

As many sport scholars have acknowledged, the gender imbalance in coaching and athletic leadership is an important social problem because it is rooted in the hegemonic masculinity of sport. The stereotypes, role conflicts, and job constraints discussed in this chapter all operate to construct the appearance that women are less qualified, and less interested, in positions of athletic leadership, so that the narrow associations between sport, leadership, and masculinity remain unchallenged. Women are underrepresented in athletic leadership because their presence there is destabilizing to the patriarchy. But it is precisely because of their destabilizing potential that women must be seen in positions of athletic leadership (Kane, 2001). Not only does their presence suggest “that the field of coaching is a legitimate option with respect to employment, but the visibility and responsibility associated with coaching implies that women are capable of leadership positions of any kind” (Stahura & Greenwood, 2002, p. 2). Therefore, efforts must continue to expose and suppress the bias and stereotypes that infect hiring decisions, to eliminate double standards and job constraints, to affirmatively address and compensate for women’s greater family demands and unique vulnerability to homophobia and negative recruiting, and to compensate for women’s lack of existing power and social capital that is necessary for advancement and success in college athletic leadership.