

**Title IX Proportionality Prong: Compliance of Division I FBS
Universities**

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Abstract

Title IX of the Education Amendments Act of 1972 (Title IX), enacted to protect individuals from discrimination based on gender in educational programs, is enforced by the Office for Civil Rights. In regard to collegiate sport, the enactment of Title IX has resulted in increased opportunities; however, sport organizations frequently fail to meet compliance with proportionality. The purpose of this study is to examine the compliance of Division I Football Bowl Subdivision (FBS) conference schools with the proportionality prong of the Title IX test. Results suggest that data from 2011-2012 for total athletes in all FBS conferences ($M=4.59$, $SD=4.39$) was significantly different from data in 2005 ($M=9.2$), $N=11$, $t=-3.488$, $p=0.006$. Additionally, data for unduplicated athletes ($M=7.23$, $SD=4.63$) was not significantly different from data in 2005 ($M=9.2$), $N=11$, $t=-1.416$, $p=0.187$. The actual number of Division I athletes, reflects no significant change in the proportionality gap since 2005. A positive correlation was found between female undergraduate percentage and the proportionality gap with total athletes ($r= 0.760$, $p=0.007$, $\alpha \leq .05$) and an even stronger positive correlation between female undergraduate percentage and the proportionality gap with unduplicated athletes ($r=.0858$, $p=.001$, $\alpha \leq .05$). Although changes are being made to improve gender equity within Division I, on-going consideration is needed of additional opportunities to improve gender equity in collegiate sports.

Introduction

The success of collegiate athletic teams often unites the student body, faculty, and alumni through a sense of camaraderie. Furthermore, the feeling of belonging is shared between and among teammates and supporters, which creates a sense of belonging is influential in ensuring success during the collegiate experience and beyond. For example, participation in organized sports provides opportunities to succeed in the workforce (e.g., networking, understanding personal and interpersonal relationships, and exposure to job opportunities) (Boxill, 1993). However, recent figures suggest that fewer females participate in Division I sports when compared to their male peers (Irick, 2011). To help ensure equality between males and females, Title IX of the Education Amendments of 1972 was enacted to protect individuals from discrimination based on gender in educational programs that receive federal funding (including interscholastic sports).

The History of Title IX

Title IX is enforced by the Office for Civil Rights (OCR), which was formed in 1980 after the Department of Health, Education and Welfare was eliminated and currently resides within the Department of Education. Congress passed Title IX in 1972 in response to the need for equality within an educational setting. Title IX states:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” (U.S. Department of Education, 1972).

Although the intent of Title IX to include equity in sport was widely accepted (Rishe, 1999), the vagueness of the passage led to questions regarding its implications; resulting in delayed implementation.

In 1974, the U.S. Department of Health, Education, and Welfare (HEW) published draft regulations to Title IX for public comment. These regulations were developed in order to assist organizations in their efforts to comply with the law through the provision of a thorough explanation of Title IX. The draft

regulations confirmed that collegiate sports were also subject to Title IX requirements. In response, the National Collegiate Athletics Association (NCAA) and the College Football Coaches Association (CFCA) opposed the application to athletics (Ridpath et al., 2009). However, because Title IX mandated equal educational opportunities, oppositions of educational institutions were denied (Ridpath et al., 2009).

From 1975 to 1979, numerous complaints were filed with HEW concerning noncompliance in universities. Continued inconsistencies with interpretation of Title IX prompted the HEW to issue a 1978 proposed interpretation of the policy, which went into effect the following year (U.S. Department of Education, 1979). While the program was aimed to address 13 different programs, one area was developed to ensure that athletics was appropriately meeting the HEW's policy. Title IX was instated to ensure that all students were receiving equal and effective accommodations to their interests and abilities. The interpretation included a three-pronged test used in determining compliance. The test required federally funded institutions to meet at least one of the compliance standards. The three-prong test included: a) substantial proportionality – providing opportunities for participation in intercollegiate sports by gender in approximate proportion to undergraduate enrollment; b) continued expansion – demonstrating a history of a continuing practice of expanding opportunities for the underrepresented gender; and c) full accommodation – presenting proof that the university fully and effectively accommodates the athletic interests of the underrepresented gender (U.S. Department of Education, 1979). Demonstration of compliance in one or more areas was considered to be sufficient in meeting Title IX. The 1978 interpretation provided the guidance needed to more fully understand the requirements of the law.

Due to political pressure and multiple investigations brought against universities regarding Title IX, additional clarification was required to properly enforce the law. In 1996, The Office for Civil Rights (OCR) issued another clarification of the law. The OCR's interpretation of substantial proportionality stated that proportionality would be achieved “when the number of

opportunities that would be required to achieve proportionality would not be sufficient to sustain a viable team” (OCR, 1996, p. 5). Further explanation for continued expansion stated that there were no fixed intervals of time or required number of additional teams needed to demonstrate compliance, and the OCR provided general descriptions of evidence that could be used to demonstrate compliance (OCR, 1996). For full accommodation, OCR made clarifications that there cannot be compliance when there is sufficient interest in a team, ability to sustain a team, and an expectation of competition for a team that is not yet offered (OCR, 1996). OCR also stated which type of data they would use to determine compliance for full accommodation and permitted schools to assess interests of the underrepresented gender (OCR, 1996). In 2005, OCR released additional clarification for full accommodation, which explained that schools were allowed to use a web-based prototype survey to assess athletic interests on campus (OCR, 2005). The 2005 clarification was later overturned in 2010 by the Obama administration (Barnett & Hardin, 2010).

Addressing issues of noncompliance with Title IX.

Since the inception of Title IX and the OCR’s involvement with ensuring compliance, opportunities for female athletes to participate in collegiate sport have increased. However, the requirements included in the substantial proportionality are rarely met, and continues to be a significant concern. Proportionality, according to the three-part test, is met by providing opportunities in intercollegiate sport, by gender, in approximate proportion to undergraduate enrollment (U.S. Department of Education, 1979). One of the main issues for colleges was defining “approximate proportion” specific to the school in question. The notion of approximate proportion may vary based upon the specifics of that particular school.

The impact of male sports on Title IX compliance (student ratio and roster size).

One contributing factor to the significant disproportionality is that there is no single women’s sport that has a roster size close to that of football (Rishe, 1999). As such, women’s rowing provides

the largest roster size, which includes approximately 60 female athletes compared to approximately 100 male athletes on the football roster. Although women's rowing teams do provide an opportunity for female athletes to participate, few schools have the financial support (as rowing is very expensive) to support such athletic teams. Therefore, it is unlikely that women's rowing is a solution to the proportionality argument, as there is still at least a 40% participation gap even with the availability of rowing. Furthermore, due to the rulings on 'proportion' schools with a larger number of female undergraduates will likely find it even more difficult to demonstrate compliance (Anderson et al., 2006). The result is that many schools will remain out of compliance according to substantial proportionality.

In 2005-2006, at Division I Football Bowl Subdivision schools (FBS), men's athletics accounted for 70% of total expenses; in Division I Football Championship Subdivision schools (FCS), men's athletics accounted for 61% of overall expenses; in NCAA Division I schools without a football program, men's athletics accounted for 52% of overall expenses (Women's Sports Foundation, 2009). In 2005-2006, NCAA Division I schools, on average, expended more total funds on football programs (\$5,740,000) than on all women's teams combined (\$4,447,900) (2005-2006 Gender Equity Report). When considering the cost of football and the large numbers of male athletes, some may argue that football presents significant barriers to Title IX compliance. Advocates of Title IX claim that proportionality can be reached if universities were more diligent with resources. However, some advocates believe that reducing the resources allocated for football would open up other opportunities for both male and female athletes.

The pressures placed on universities to demonstrate Title IX compliance resulted in officials seeking alternative ways to bridge the proportionality gap. One solution included reducing men's sports in an effort to neutralize the discrepancy. In 2011, 26% of coaches surveyed expressed a concern that Title IX was being used to eliminate or reduce men's sports (Staurowsky and Weight, 2011). Between 1995 to 2005 there were increases in both collegiate men and women sport participation (7,000 and 25,000 participant

increase respectively) (Cheslock, 2007). Although there were increases in collegiate sport participation for both men and women, men's collegiate sport teams were eliminated in some schools (Cheslock, 2007 & Leung, 2009). However, the reasons behind these reductions are up for debate. Even with the apparent decrease in the numbers of male athletes, trends in spending over the past five years indicate that approximately half of collegiate athletic dollars are spent on men's sports (U.S. Department of Education, 2012). The Knight Commission has reviewed the high cost of athletic programs, finding that the continuing rise in costs is not sustainable (The Knight Commission, 2011).

Roster management.

Accuracy in reporting of rosters has been a concern for many years, yet is infrequently discussed. Inaccurate reporting of roster numbers could be used to address the proportionality issues that often plague universities' compliance with Title IX. The concept known as 'padding rosters' comes into play when universities count one female athlete as two separate athletes when that athlete happens to participate in two different sports. Additionally, schools may pad rosters by mis-identifying who is on the team. For example, if the women's basketball team has 8 men who are on the practice squad, the university may include those 8 male athletes on the roster's total number of participants, resulting in roster padding (Colleges lie about Title IX compliance: Report. *The Huffington Post*. 2011).

Although the United States has taken steps to bridge the proportionality gap, opportunities for growth continue to present themselves. Title IX has played a significant role in this increase of female athletes throughout the past four decades, and has greatly impacted intercollegiate sports (Cheslock, 2007). The number of female athletes has risen dramatically in collegiate sports. In 1982, 73,742 men and 26,461 women played Division I college sports, and in 2011 the number had raised to 91,013 men and 78,024 females respectively (Irick, 2011). Similar results were noted in high school athletics as the numbers of female participation increased to over 2.8 million by 2002 (Carpenter & Acosta, 2005). Despite these improvements, general equality between males and females is not yet commonplace in sports or in our society. Due to the subjective

nature of continued expansion and full accommodation, substantial proportionality may be the only true way to demonstrate compliance with Title IX policy of equality. The purpose of this study is to examine the compliance of Division I FBS conference schools with the proportionality prong of the Title IX test.

Research Questions

The following research questions guided this study:

1. To what extent do NCAA Division 1 conferences meet the 6% threshold of proportionality? How do NCAA Division I conferences comply with Title IX proportionality?
2. How does the current average proportionality gap for NCAA Division I universities compare to the average proportionality gap in 2005?
3. Is there a correlation between compliance to Title IX and the number of undergraduate students enrolled at the university?

For research question one, it was hypothesized that the Southeastern Conference (SEC) would be in lower compliance than other schools because they are reported to be the highest spenders per athlete when compared to all Division IA universities (Gregory, 2013). For question two, it was hypothesized that average proportionality gap would be smaller when compared to 2005. For research question three, it was hypothesized that larger enrollment rates make it more difficult to demonstrate compliance with Title IX because larger enrollments would require greater allocation of resources for women's athletics.

Methodology

Prior to the start of the study, the researcher assessed page content and features of NCAA Division I FBS sport websites. The Equity in Athletics Data Analysis website (U.S. Department of Education, 2012b) and the National Center for Education Statistics (U.S. Department of Education, 2012a) were independently reviewed during a two-week period in February of 2013. The two-week timeframe was determined to be of sufficient length to obtain

meaningful data through a snapshot approach, which is consistent with the exploratory nature of the study. The current research was a descriptive study using secondary data; therefore, it was not necessary to obtain informed consent.

A purposeful sample was chosen in order to identify schools that may be subject to closer scrutiny related to Title IX in athletics. The participants in this study were 128 universities from the FBS which include the following conferences and the number of corresponding schools as members: ACC-12, SEC-12, Big Ten-12, Big 12-10, Big East-16, Conference USA-12, WAC-10, MAC-13, Mountain West-7, Sun Belt-12, and Pac 12-12. All schools that were members of one of these conferences during 2011-12 were used in the study. The schools consist of a combination of public and private universities across the United States.

Procedures

To begin data collection, an initial excel file was created with a separate sheet made for each conference. For each specific conference, the schools' names were added to the left side of the page. To the right of each school's name, there was a column for male undergraduate percentages and female undergraduate percentages. On the top of each sheet, room was left to put in the grand total of female and male athletes in the conference and the unduplicated number of female and male athletes from each conference provided by the Equity in Athletics Data Analysis website (U.S. Department of Education, 2012b).

Once the data was entered for each conference, the schools' average enrollment rates for each conference were calculated. These statistics were obtained from the U.S. Department of Education (2012a). The average proportionality gap was found by subtracting the percentage of female athletes from the percentage of female undergraduate students.

Data Analysis

Descriptive statistics were generated for the variables included in this study to determine whether or not an aggregate of the data of the schools in each conference met the 5% standard. A

paired-samples t-test was used compare the means of two data points (2005-6 and 2011-12) to detect whether there were any statistically significant differences. A modern statistical software package was used to perform the analysis (SPSS ver 17.0) and statistical significance was set a priori at $\alpha < 0.05$.

Results

Seven of the 11 conferences that were used in the study were in compliance with Title IX in 2011-12 when using the grand total of athletes for each conference. However, when looking at the unduplicated number of athletes for each conference, only three of the 11 conferences were in compliance with Title IX. Table 1 lists data for each conference, including; the mean for total athletes and unduplicated athletes as well as undergraduate enrollment rates. The three conferences with the lowest level of policy compliance were Sun Belt (Total Athletes (TA)=15.18, Unduplicated Athletes (UA)=17.77), Conference USA (TA=9.52, UA=12.21), and SEC (TA=5.47, UA=7.86). The three conferences with the best compliance were Big Ten (TA=0.18, UA=1.49), Big 12 (TA=1.00, UA=2.39), and WAC (TA=1.04, UA=5.28).

Table 1
Average Proportionality Gap of conferences in the FBS

Conference	N	Ave. Prop. Total Athletes	Ave. Prop. Unduplicated	Male Undergrad	Female Undergrad
Big Ten	12	0.18	1.49	51.4	48.6
ACC	12	4.10	6.30	51.2	48.8
SEC	12	5.47	7.86	48.3	51.7
Big East	16	3.00	5.40	47.7	52.3
Big 12	10	1.00	2.39	50.7	49.3
Conference USA	12	9.52	12.21	45.3	54.7
MAC	13	5.07	8.67	47.1	52.9
Mountain West	7	3.90	8.10	45.4	54.6
Sun Belt	12	15.18	17.77	42.5	57.5
Pac 12	12	2.01	4.00	49.8	50.2
WAC	10	1.04	5.28	46.3	53.7
Total/Average	128	4.5882	7.2245	47.791	52.209

Note. Ave. Prop. = Average Proportionality is a percentage. Acceptable percentage is ≤ 5 . Undergrad = Undergraduate enrollment rate as a percentage.

In 2005, the average proportionality gap of all Division I universities was 9.2% (Cheslock, 2007). A t-test ($\alpha \leq .05$) revealed that data from 2011-2012 for total athletes in all FBS conferences ($M=4.59$, $SD=4.39$) was significantly different from data in 2005 ($M=9.2$), $N=11$, $t=-3.488$, $p=0.006$. Another t-test ($\alpha \leq .05$) revealed that data for unduplicated athletes ($M=7.23$, $SD=4.63$) was not significantly different from data in 2005 ($M=9.2$), $N=11$, $t=-1.416$, $p=0.187$.

Review of the correlation between the female undergraduate percentage and the proportionality gap found that there was a positive correlation between female undergraduate percentage and

the proportionality gap with total athletes ($r= 0.760$, $p=0.007$, $\alpha\leq.05$), and there was also a stronger positive correlation between female undergraduate percentage and the proportionality gap with unduplicated athletes ($r=0.858$, $p=.001$, $\alpha\leq.05$).

Discussion

The results of this study warrant continue to highlight the need for attention from professionals in collegiate athletics and provide insight regarding three specific research questions. The first research question investigated how NCAA Division I conferences compare with Title IX proportionality. According to the present study, data from the 2011 unduplicated number of participating athletes indicate that only three of Division I FBS conferences were in Title IX compliance. The hypothesis that SEC conference schools would be in lower compliance than other schools was supported given the above results. Therefore, the issues surrounding proportionality and spending allocated for male versus female athletic teams remains concerning. The results of the analysis of Title IX compliance in the present study were more closely related to athletic department budgets rather than geographic location.

When analyzing Title IX compliance with regards to athletic department budgets, the FBS can be further divided into Bowl Championship Series (e.g., Southeastern, Big 12, Pacific 10, Atlantic Coast, Big East (now American), and Big Ten) and Non-BCS (Conference USA, Mid-American, Mountain West, Sun Belt, and Western Athletic) conferences. The sports media term "BCS conference" refers specifically to the members of the six conferences whose champions received an automatic berth in one of the five BCS bowl games. To bring further concern to the issue, the American Institutes for Research released a report in early 2013 which stated that the BCS or power conferences for athletics reported spending as much as \$100,000 per athlete in 2010 which was at least six times the amount the university was spending for academics (Derochers, 2013). Furthermore, the FBS universities competing in the top tier conferences for Football, known as the BCS, spent over \$92,000 per athlete compared to the \$37,000-\$39,000 spent per athlete enrolled in Division I schools not in the BCS (American Institutes for

Research, 2013). This data suggest that budgets are often allocated to the larger more male dominated sports (i.e. football and basketball) rather than equally across the universities' entire athletic department and sports. The gap in spending for athletics between FBS universities in the BCS conferences versus other Non-BCS conferences suggests that proportionality may not be as accurately reported.

As such, the two FBS conferences with the lowest level of compliance were the non-BCS conferences of the Sun Belt and Conference USA. The members of these conferences have modest budgets compared to their BCS counterparts. While, the two conferences with the highest level of Title IX compliance were the BCS conferences of the PAC 12 and Big 10.

The second research question compared the current average proportionality gap for NCAA Division I schools to the average in 2005. Data revealed that there was a significant change from 2005 to 2011 in terms of proportionality in Division I schools, but only for the data where some athletes were counted twice as participants (padding rosters). During this time, the proportionality gap decreased by 4.61 percentage points. Upon further investigation, when examining the actual number of athletes, and not the total number of athletes, the gap only decreased 1.97 percent, which is not a significant difference from 2005. These results cannot be generalized to all Division I universities because only data from the FBS schools were used. These results verify that within a six-year period, changes have been made within Division I universities in order to move towards compliance. Despite effective change, the data indicates that there continues to be opportunity for improvement. Over the past five years, schools in the NCAA's top six sport conferences raised more than \$3.9 billion for new sport facilities, according to the Chronicle of Higher Education (Wolverton, 2007), and are using the money to build or upgrade stadiums, training facilities, offices, and meeting rooms. The reported spending reflects an understanding that these facilities are a powerful recruiting tool because it demonstrates that the university cares enough about the athletes to put money into facilities that are not even visible to spectators (Suggs, 2003). The data presented in this study provides the current status of Title IX

compliance of NCAA FBS institutions and demonstrates the designation of resource allocation.

The third research question investigated the relationship between Title IX compliance and undergraduate enrollment rates. Using results from this study, it was determined that enrollment does have some impact on the compliance of Title IX. When examining the correlation between the female undergraduate percentage and the proportionality gap, it was discovered that there was a positive correlation between female undergraduate percentage and the proportionality gap with total athletes ($r= 0.760$, $p=0.007$, $\alpha\leq.05$) and an even stronger positive correlation between female undergraduate percentage and the proportionality gap with unduplicated athletes ($r=.0858$, $p=.001$, $\alpha\leq.05$). As a school's female enrollment rate increases, it becomes even more difficult for the school to achieve compliance through the proportionality prong.

Limitations. The first limitation is that only FBS schools were used in the sample population. If all Division I universities were included in the study, results may have been different due to potential variations in budget size if additional universities were included. Another limitation is that researchers made an assumption that all universities reported their enrollment rate correctly to the U.S. Department of Education. If the enrollment data was incorrectly reported then, the proportionality data could be misrepresented. Additionally, the potential for inaccuracy of data reporting, through roster padding, may also serve as a limitation. The final limitation is the possibility of human error as the researcher imputed data into excel and SPSS and calculated the results.

Conclusion

The full assimilation of women in the sports industry has not yet been realized, which mirrors the current societal norms. The importance of Title IX compliance for colleges and universities in the United States is well established and a renewed focus regarding gender equity is both justified and necessary. A university's status determines its success in attracting the top recruits and quality student-athletes. FBS universities are generally the most popular, well known, and have the largest athletic budgets.

As the financial stakes of intercollegiate athletics continue to increase, university athletic programs continue to seek opportunities to attract higher caliber athletes and develop these athletes to reach their peak potential within the span of their eligibility. The competition to attract high caliber student-athletes has many similarities to an arms race where high quality facilities and programs for both competition and training can become weapons in the recruiting battle. But the arms race in collegiate athletics may have impacted progress towards Title IX compliance. In 2010, only 20% of FBS athletic departments created positive revenue without help from the university or state funds (Brady, Upton, & Berkowitz, 2011). One can only speculate on how the arms race in collegiate athletics has impacted. However, Title IX compliance policy regulations continue to be a necessary benchmark to achieve institutional goals. A coordinated approach to include additional opportunities for women in collegiate sport will be a significant step toward reaching Title IX compliance. The addition of women's sports would provide women with new opportunities to participate. The reduction of men's sports in order to become more compliant does not further the initiative. Rather, the reduction of men's sports simply reduces opportunities for men without increasing opportunities for women. Although the reduction may result in data which looks better on paper, the situation has not changed.

The results of this study reflect a need for future investigations to identify effective solutions to disproportionality. One possible solution may include the reallocation of resources in an effort to add women's teams in order to become Title IX compliant. The biggest drastic change that would really impact the issue of disproportionality would be offering high school girls and collegiate women the opportunity to play football. But, this concept may take years to come to fruition. It may also be important to compare data across divisions to determine whether similar issues of non-compliance exist in all divisions. Although Title IX has played an important role in strengthening the opportunities for female athletes, there continues to be a need for deep rooted change; change which not only brings about compliance with Title IX, but also becomes a

catalyst for societal change which facilitates full assimilation of female athletes into collegiate sports.

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