TITLE IX PROPORTIONALITY PRONG: COMPLIANCE OF DIVISION I UNIVERSITIES

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Introduction

As the popularity of collegiate sports increases, students, faculty, and alumni are united by the success of their athletic teams. Despite this impact, collegiate athletics still reflect the inconsistency in treatment of males and females in American society despite the introduction of Title IX by Congress in 1972 which was originally created to deal with sex discrimination within the educational system. 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 there were 91,013 men and 78,024 females competing (Irick, 2011). Similar results were seen in female high school athletics as participation numbers increased to over 2.8 million by 2002 (Carpenter & Acosta, 2005). Title IX has been a large factor in this increase in female athletes throughout the past four decades, and has impacted intercollegiate sports in a massive way (Cheslock, 2007). There was a jump from 1982 to 2011 of more than 50,000 female athletes playing Division I sports (Irick, 2011). Despite these positive increases, general equality between males and females is hard to find in sports and, similarly, the workforce. Sports help prepare an athlete for the workforce (Boxill, 1993). If gender equality is not shown in sports, it will be difficult for younger generations to accept and perceive females as equal to males according to the social learning theory (Bandura, 1977). The proportionality test that schools try to achieve to be in compliance with Title IX, has increased participation for women and, some say, decreased opportunities for men due to cutting men’s sports teams to accommodate for Title IX female initiatives (Ridpath, Yiamouyiannis, Lawrence, & Galles, 2009). But there are a number of ways schools can achieve proportionality, but the courts almost always look at proportionality in a singular way.
(Sigelman & Wahlbeck, 1999). Courts look at the proportion of athletes to the undergraduate enrollment rate and use a leeway of 5% to determine proportionality. Due to subjective opinions on the subject, issues still exist with enforcement and compliance of Title IX. Despite these issues, the overall consensus is that Title IX has allowed women more opportunities in sport.

**What is Title IX?**

Congress passed Title IX in 1972 in response to women wanting equality with men in 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).

This passage does not mention anything about athletics. Schools were unaware, at the time, how to proceed because they did not fully understand the meaning of Title IX. Many do believe, however, that Title IX was originally passed to help with equality in sport and not just education even though there was no specific wording in the law (Rishe, 1999).

**Policy Interpretation**

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 to explain Title IX thoroughly so that universities would be able to comply with the law. The regulations explained that college athletics would be subject to Title IX. The National Collegiate Athletics Association (NCAA) and the College Football
Coaches Association (CFCA) opposed the application to athletics (Ridpath et al., 2009). They argued that athletics should not be included in the regulations. HEW secretary at the time, Caspar Weinberger, noted that Title IX says it covers all educational programs that receive federal funding therefore it would include all public school athletics programs, including football (Ridpath et al., 2009).

From 1975 to 1979, there were numerous complaints to HEW about noncompliance in universities. There were still so many questions regarding Title IX and how athletics could be in compliance. In 1978, HEW proposed an interpretation of the policy for guidance in compliance in regards to Title IX (U.S. Department of Education, 1979). In 1979, HEW’s now famous, policy interpretation, was put into effect. Compliance could be found through a three-pronged test:

1. Provide opportunities for participation in intercollegiate sports by gender in approximate proportion to undergraduate enrollment (substantial proportionality).
2. Demonstrate a history of a continuing practice of expanding opportunities for the underrepresented gender (continued expansion).
3. Present proof that the university is fully and effectively accommodating the athletic interests of the underrepresented gender (full accommodation) (U.S. Department of Education, 1979).

Schools would be in compliance if they could achieve any one of the prongs. This interpretation allowed schools to develop a concrete way of determining compliance. During the late 1980’s, it was easier for schools to be in compliance because they could
show they were expanding sports for women. As time moved on, this would become more difficult to prove.

Due to political pressure and multiple investigations brought against universities regarding Title IX, more clarification was required to properly enforce the law. The Office for Civil Rights (OCR), which was in charge of handling complaints about Title IX, issued another clarification in 1996. The clarification dealt with all three prongs of the test. The first prong stated, according to their interpretation, 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). OCR stated for the second prong that there were no fixed intervals of time or number of teams that needed to be added to determine compliance. The clarification gave general descriptions of evidence that could be used to demonstrate compliance (OCR, 1996). For the third prong, OCR stated that there cannot be compliance when there is sufficient interest in a team, ability to sustain the team, and expectation of competition for the team (OCR, 1996). OCR also stated which type of data they would use to determine compliance for this prong. Schools are allowed to assess interests of the underrepresented sex (OCR, 1996). In 2005, OCR released more clarification for the third prong. It specified that schools were allowed to use a web-based prototype survey to assess athletic interests on campus (OCR, 2005). This policy was later overturned in 2010 by the Obama administration (Barnett & Hardin, 2010). It was criticized because some athletic programs were using the survey to explain cuts to men’s nonrevenue sports because there might not have been much interest indicated in the survey (Barnett & Hardin, 2010).

Court cases that helped shape Title IX
One of the first major cases dealing with Title IX was Grove City College v. Bell (1984). Grove City College did not receive direct Federal funding. But its students did receive financial assistance from the government. The U.S. Department of Education (DEd) determined that because of this financial assistance, the college should be in compliance with Title IX. DEd wanted the college to sign an assurance of compliance. The college refused and so the case was taken to court. The court decided that only the programs that received Federal assistance would need to be in compliance and not the entire institution (Grove City College v. Bell, 1984). Congress was not pleased with the Supreme Court’s findings. In 1987, they issued the Civil Rights Restoration Act of 1987. This act stated that any institution that received Federal financial assistance would be subject to compliance of Title IX. The compliance referred to the entire institution and not just the program that received the aid (U.S. Department of Education, 1988). This meant that basically all universities and colleges were subject to be in compliance with Title IX in all aspects including athletics.

Another court case that helped to define Title IX was Roberts v. Colorado State University (1993). In the summer of 1992, Colorado State University decided to cut their softball and baseball teams from athletics. Softball players took action by going to the courts declaring that the University had violated Title IX by cutting the team. The courts ruled in favor of the players saying that the university was not in compliance with the first prong of the test, the second prong was not fulfilled because they had not added a women’s team in years, and by cutting the softball team, the third prong was not fulfilled. The university was ordered to reinstate the softball team. Colorado State said that they only cut the teams due to budget restraints. The courts did state that financially strapped
institutions may still cut sport programs to be in compliance with the first prong of proportionality of Title IX (Roberts v. Colorado State Bd. Of Agriculture, 1993). By the courts saying that schools can be in compliance with Title IX by cutting teams, they were basically stating that schools are able to cut men’s teams in order to gain compliance with proportionality (Shaw, 1995). Since most schools are not in compliance on the side of women, the result was that only men’s teams would typically be cut from athletics.

One of the most influential Title IX court cases was Cohen v. Brown University (1993). Again, due to budget cuts, Brown University decided to demote four varsity sports to club sports. The four sports were men’s water polo and golf and women’s volleyball and gymnastics (Cohen v. Brown University, 1993). Brown University thought that by demoting two sports of each gender that it would be considered to be in compliance with Title IX. Members of the women’s teams brought suit under Title IX saying the university failed to provide women with equitable opportunities in athletics. The courts used the three part test in the 1979 Policy Interpretation and found that Brown University was not in compliance with Title IX.

There were several key issues that were explained through the case. Brown University fought the courts saying that they were only using the proportionality test. The courts stated that if a school cannot satisfy prong one, then the other two prongs could demonstrate compliance. The First Circuit court clarified prong three again, clarifying what full and effective accommodation meant. Clearly if a school has to cut a team from the underrepresented sex, then there was enough existing interest and ability to have the team in the first place. But if there was no demotion or elimination, the courts stated that the mere existence of interest does not warrant the schools use of the third test. If there is
sufficient interest and ability, then the school must comply with the test (Cohen v. Brown University, 1996). Brown University proposed that the third prong should be interpreted differently. Meaning that if a survey was given and findings indicated that 80 percent of males would participate in athletics if given the opportunity and only 40 percent of females would participate if given the opportunity, then twice as many opportunities should be given to males because they are more interested. Based on this interpretation, Brown University declared that females are less interested in sports so males should be given more opportunities. The courts rejected this interpretation (Cohen v. Brown University, 1996).

Because of these court cases, several issues have been brought to light regarding compliance of Title IX. First, the courts mainly assume women and men have equal interests in sports (Shaw, 1995). It is very hard to prove that schools have been in compliance with the second prong of the three part test. The main issue, and the reason that Title IX was created, is proportionality, not program expansion or accommodation (Sigelman & Wahlbeck, 1999). Compliance of the second and third prong in the courts is widely dismissed because most courts use the proportionality test to determine compliance. The only absolute way for schools to be in compliance of Title IX is substantial proportionality (Sigelman & Wahlbeck, 1999).

**Reasons for Enacting Title IX**

During World War II, while their husbands were away at war, many women stepped into some line of work. Many took to factories to make war related materials. This created a sense of power for women who realized they could work just like their husbands. After the war ended, many did not want to leave their jobs to become
housewives again. Women wanted to be treated equal to men. They wanted to work alongside them. This forwarded the cause of feminism as women saw themselves as equal to men. The activity of working in the business world or in a factory, previously viewed as more masculine tasks, now changed in the eyes of women to be gender neutral. This is a theory of social learning. All of these ideas helped to bring about the inception of Title IX.

**Feminism**

The term feminist is defined as an advocate for social, political, legal, and economic rights for women equal to those of men (Barnett & Hardin, 2010). Feminists had a major impact on getting Title IX passed and subsequent enforcement. The second wave of feminism in the 1960’s called for greater participation in sports by women (Barnett & Hardin, 2010). However, feminism arose long before Title IX with a goal to empower women to improve their lives and perceived status. But their problem of changing things went against practices that were set and judged by males (Brake, 2001; Burke, 2010). Feminists were trying to change things, but they had to convince the men to change their perceptions as well. Steeves (1987) suggested that women working within the liberal feminist theoretical structure had the most profound effect on the gender landscape because they created awareness and then worked together to change laws that were oppressive to women. This is true with sports as well.

Sports were created for men by men. Men considered females incapable of competing in sports or contributing to the knowledge of sport at one time in society (Burke, 2010). This public opinion has changed substantially since more evidence has been brought to light that sports can have a powerful impact on the lives of women.
Participation in sports has been associated with lower teenage pregnancy, better grades, lower dropout rates, higher self-esteem, and better career success for women (Barnett & Hardin, 2010; Parker-Pope, 2010). Legislation, like Title IX, may open up space for females to move into higher positions through sports participation (Barnett & Hardin, 2010; Burke, 2010).

**Gender Equity**

Bernice Sandler was the women who started the ball rolling for Title IX. When she was looking for a job, she was told five words that would change her life “You come on too strong for a woman” (Sandler, 2000, 2). She perceived this statement to be sex discrimination, but at the time, there was no law against sex discrimination in education. She went through a long and arduous process of going to the courts, getting petitions signed, and having women come forward with their stories to eventually get to the point of Title IX being proposed and then subsequently passed (Sandler, 2000). “Too strong for a woman,” is not what women are taught today. Ideally, women are taught to be strong and think for themselves. Before Title IX was enacted, women and men were not equal in terms of work, pay, sports, etc. in the educational world. Despite improvements, these inequities often still exist today (Sandler, 2000).

Young women today are aware of and usually expect disparities in the workforce (Fetterolf & Eagly, 2011). This is an “old way” of thinking as women and men should be treated equally with the advancements of the rules and laws promoting equality. The role of Title IX was not enacted for just sports, but to help women in all aspects of education to achieve equality and receive the same benefits as men. Sports are often viewed as preparation for the business world and, thus, excluding women from sport excludes them...
from favorable positions in the workforce (Boxill, 1993). Even in athletic departments, women want more equality. Senior women administrators in athletic departments feel that they should have more power and input in their workplace (Hoffman, 2010). If women cannot find equality in sports at the collegiate level, how will they ever find equality in the “real world” (Boxill, 1993)? In 2010, women on average earned 20% less than men (U.S. Bureau of Labor Statistics, 2011). The number one perceived factor of discrimination in an athletic department from women advancing was the domination of the ‘old boys’ club (Schneider, Stier, Henry, & Wilding, 2010). When Title IX was passed, Congress expected equality in sports to be achieved within a few years. While the numbers have improved, most colleges still lack proportionality. This translates into the workplace after college as well. Fetterolf and Eagly (2011) conducted a study to examine young women’s expectations about gender equality in their future careers. They found that even highly qualified women said that they still expect inequality in their future lives and don’t see a strong societal movement toward gender equity (Fetterolf & Eagly, 2011).

With regards to intercollegiate athletics and gender equity, the research indicates the gap is lessening (Compton & Compton, 2010; Irick, 2011; Leung, 2009; Women’s Sports Foundation, 2009). The main reason more women are playing sports in college is because there are more opportunities (Compton & Compton, 2010). Title IX was supposed to promote gender equity, but it has been heavily debated as a source for gender inequity (Suggs, 2005). The NCAA opposed the inception of Title IX at the beginning. OCR oversees complaints dealing with Title IX and athletics. Some might wonder why the NCAA does not oversee this, but because they are a private entity, they cannot.
However, during the past 15 years the NCAA has decided to take a more active role in enforcing Title IX. They created the Gender Equity Task Force (Stafford, 2004). This task force helps colleges and universities to understand Title IX and how to enforce it. They present common issues and ideas of how to gain gender equity within the athletics department (Judge & O'Brien, 2011). The NCAA is able to encourage universities to work toward gender equity through its certification program. Schools must be certified and a basic requirement of the certification is for the university to make a plan to move toward gender equity (Stafford, 2004). Despite these efforts, the gap of gender equity needs to close for sports and the workforce.

**Social Learning Theory**

Perceptions of sports being masculine have existed since the beginning of sport. Bandura’s (1977) social learning theory, however, allows us to see that perceptions and behaviors can change overtime. Bandura’s (1977) theory states that behavior, environmental events, and cognitive factors can shape a person’s attitude and action and that we learn through others by observation and imitation. Certain sports are stereotyped as masculine, feminine, or gender-neutral. Several studies have been performed to see which sports are considered masculine, feminine, or gender-neutral (Hardin & Greer, 2009; Koivula, 2011). In the study performed by Koivula (2001), team sports were found to be more masculine than individual sports. Sports that were recognized as masculine involved contact and the use of force or a heavy object (Koivula, 2001). Sports that were historically perceived as feminine, exhibited attributes of grace and beauty (Koivula, 2001). A more recent study performed by Hardin and Greer (2009), found that in general, more masculine stereotypes of sport exist like in past studies. They did find, however,
that if women perceive themselves as being able to participate in a sport, then they tend to see the sport as more of a gender neutral sport (Hardin & Greer, 2009). Women have observed men and women playing sports and their attitudes have changed toward how they categorize sports.

Sport is a representation of the social culture (Koivula, 2001), and if the culture is portraying sport as masculine, then we still see society as masculine. This goes back to the fact that women do not see gender equity in the future (Fetterolf & Eagly, 2011). Results of the survey performed by Hardin and Greer (2009) indicate that youths who have grown up with Title IX are almost as likely to use traditional gender roles to type sports as previous generations. Since the youth of America learns through observation and media, sport is now classified as masculine but things can change. Bandura (1986) suggests that with enough repetition of an activity, the “gendering” of that activity can change. Without more exposure and opportunities for women to participate in sports, the social learning theory cannot be applied adequately for attitudes to change regarding sport and society. If equality is reached in sports, then it might make it easier for society to become more equal because gendering could change.

**Progress of Title IX**

Since the inception of Title IX, universities and colleges have added women’s sports to their athletic departments. They have not, however, met the substantial proportionality prong of the three part test. Some departments are cutting men’s sports in order to meet proportionality, or at least become closer to it (Cheslock, 2007). Some say that athletic directors are only cutting some less popular men’s sports to pay for football. There are still issues with Title IX, but the biggest one right now is proportionality.
It’s a Numbers Game

Proportionality, according to the three-part test, is providing opportunities in intercollegiate sport by gender in approximate proportion to undergraduate enrollment (U.S. Department of Education, 1979). There are now five times as many female athletes as there were in 1972 (Leung, 2009). From 1996 to 2005, female participation increased by nearly 25,000 athletes for all divisions, male participation has also increased (Cheslock, 2007). In 2005, there was an average proportionality gap of 14.1% (Cheslock, 2007). One of the main issues for colleges was defining what “approximate proportion” meant. The courts ruled that proportion could be within five percentage points of undergraduate enrollment (Rishe, 1999). For a number of different factors, compliance is different across Division I-A, I-AA, and I-AAA (Rishe, 1999; Sigelman & Wahlbeck, 1999; Stafford, 2004). Regions were also compared and it was found that schools in the South were worse in terms of compliance than other regions (Anderson, Cheslock, & Ehrenberg, 2006; Rishe, 1999). In a study by Staurowsky and Weight (2011), 70% of college coaches surveyed believed that their athletic department was in compliance with Title IX.

The sport of football might make it harder for schools to comply in terms of numbers with athletics. There is no single women’s sport that has a roster size even close to football and that accounts for the major differences in proportionality rates (Rishe, 1999). The closest roster size to football would be rowing, which can have about 60 females on the roster, but there is still about a 40% participant gap from rowing to football. Furthermore, schools with a larger number of female undergraduates make it harder for compliance to be met (Anderson et al., 2006). In 2005, the Division I FCS
schools with football programs had 61% of overall expenses allotted to men’s athletics, while Division I schools without football programs had 52% of overall expenses allotted for men’s athletics (Women’s Sports Foundation, 2009). Football seems to make things harder for compliance in terms of money and number of athletes.

**Cutting Sport Programs**

From 1996 to 2005, men’s participation increased by 7,000 athletes for all divisions within the NCAA, but during that time, for all Division I schools, there was a 46.1% increase for female athletes and a 6.6% decrease for males athletes (Cheslock, 2007). The two sports that declined the most were men’s tennis and wrestling (Cheslock, 2007; Leung, 2009). These are the two sports that people are most concerned because they are the ones cut most frequently. Athletes of these teams are saying that Title IX is causing reverse discrimination. In 2011, 26% of coaches surveyed expressed a concern that Title IX was being used to cut sports or hurt men’s sports (Staurowsky and Weight, 2011). Whether they are being cut to be in proportion with Title IX is up for debate like in the case of the University of Oregon. They cut their wrestling team in 2007, but added the sport of baseball, both of which are men’s sports (Ridpath et al., 2009). At another school, one athletic director cut the men’s volleyball team, but left his $5 million football program untouched (Barnett & Hardin, 2010). Male athletes are allowed to bring lawsuits under Title IX for these cases, but they will most likely be dismissed unless they can prove that they are the underrepresented sex (Harris, 1994). In 2011, 23 men’s sports were dropped from Division I athletics versus only 15 for women. But only ten sports were added for women compared to 11 for men (Irick, 2011).
Advocates of Title IX claim that if athletic departments spent just a little bit less on football, they could have all the wrestlers they want (Leung, 2009; Ridpath et al., 2009). Division II and III schools are not dropping men’s sports and they are the poorest colleges (Women’s Sports Foundation, n.d.). During the 2005-2006 school year, over $4.2 billion was spent on operations of FBS athletic departments. The Knight Commission has been working on this issue for many years now. They say that universities will not be able to sustain this growth in expenses (The Knight Commission, 2011). There are, however, some who support the increased spending for football and men’s basketball. Over the past five years, every three dollars that is going to college athletics, two of those dollars are going to men’s sports and only one to women’s sports (Women’s Sports Foundation, n.d.) The majority of the money going to the men’s sports is going to inflate the already bloated budgets of men’s football and basketball (Women’s Sports Foundation, n.d.). It is commonly believed that this will bring the university greater exposure, more donations, increased quality of applicants to the school, and greater marketing and recruiting potential (Suggs, 2003). Suggs (2003) calls this the “Front Porch Theory,” meaning that athletics can and possibly will increase how the general public views the institution. This is another theory explaining why wrestling and tennis teams are being cut as they are not as popular in the eyes of college sports consumers.

There are a few ways schools can go in order to meet the proportionality test. Sigelman and Wahlbeck (1999) conducted a study of alternative compliance strategies. Their three ideas involved the following options: a) expand women’s sports, b) cut back on men’s sports, or c) do a combination of the previously mentioned and reallocate
resources (Sigelman & Wahlbeck, 1999). The cost savings from eliminating extra participants on football teams can be redirected to adding women’s sports (Ridpath et al., 2009).

**Roster Management**

An issue that has been known for years, but not talked about much is padding rosters. Some schools count female athletes twice to increase their numbers. This usually happens in track and field, indoor track and field, and cross country. Many female athletes will compete in both sports so the school counts them as two different people. There are some rosters that are filled with students who do not even know they are on the team (Thomas, 2011). Another way for schools to increase their female participation rate is to add unqualified players or men to the rosters (The Associated Press, 2011). Some teams have male practice players on female teams; some schools include these men in the number of female athletes.

OCR takes care of complaints about Title IX dealing with athletics (people with complaints can also go straight to the court system). In theory, their response to discrimination is ideal, but in reality they are not performing adequately (Setty, 1999). OCR was very passive until the Clinton administration helped give them more power to enforce the law (Suggs, 2005). Still more needs to be done. In 2009, officials from the OCR were on the campus of Ball State University investigating complaints. They only investigated two of the ten components of Title IX (Sipocz, 2011). Complaints should be dealt with in a timely manner and if a complaint is made, all aspects of the university should be checked, not just athletics since Title IX deals with more than athletics (Setty, 1999).
After the 1990s, gains in female participation leveled off (Cheslock, 2007). Most schools must rely on compliance through the second and third prongs of the test at the current time (Cheslock & Eckes, 2008). But most schools cannot demonstrate continuing expansion and they are not anywhere close to accommodating the interests of women playing sports on college campuses (Sigelman & Wahlbeck, 1999). The second and third prongs are left up to judgment through OCR and the courts. “Realistically, the compliance issue boils down to whether a school can pass the proportionality test” (Sigelman & Wahlbeck, 1999, 521).

Title IX has helped increase female athlete participation since its inception. Past studies have shown that proportionality has increased throughout the years, but most universities still are not close, even with the 5% leeway given. Proportionality is the only true way to show compliance, since the second and third prongs are subjective, so most schools need to move in that direction. The NCAA and the universities need to constantly check to see if we are moving in the right direction toward 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. How do NCAA Division I conferences compare with regard to Title IX proportionality?

2. How does the current average proportionality gap for NCAA Division I universities compare to 2005?
3. Is there a correlation between compliance to Title IX and undergraduate enrollment rates?

**Methodology**

**Experimental Design**

The researcher was trained to independently assess 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 enough time to obtain a snapshot of website content. This is consistent with the exploratory nature of the study. This was a descriptive study using secondary data therefore it was not necessary to obtain informed consent.

**Participants**

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. This was a purposeful sample since most schools in these conferences are well known and are the most watched when dealing with Title IX in athletics. All schools that were a member of one of these conferences in the year of 2011-12 were used in the study. The schools consist of a combination of public and private universities that are spread throughout the United States.

**Procedures**
To begin data collection, an initial excel file was created. A separate sheet was 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).

After this information was inputted for each conference, the schools’ enrollment rates were averaged to get the average enrollment rates of each conference. 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**

SPSS was used to calculate all statistics. Descriptive statistics were generated for the variables included in this study to determine if universities were in compliance with the proportionality prong of Title IX by being at or below the 5% acceptable gap. An independent t-test was used to compare data from this study to a study done in 2005 by Cheslock (2007) to see if data has changed over time. SPSS was used to see if there was a correlation between proportionality gaps and undergraduate enrollment rates.

**Results**

Seven of the eleven 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.
When looking at the unduplicated number of athletes for each conference, only three of the eleven conferences were in compliance with Title IX. Each conference’s mean for total athletes and unduplicated athletes as well as undergraduate enrollment rates can be found in Table 1. The entire sample was purposefully selected, but the universities conference affiliation was as of 2011. The three conferences with the lowest 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).

In 2005, the average proportionality gap of all Division I universities was 9.2% (Cheslock, 2007). A t-test ($\alpha \leq 0.05$) 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 ($\alpha \leq 0.05$) 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, $t=-1.416$, $p=0.187$.

Looking at the correlation between the female undergraduate percentage and the proportionality gap, it was found that there was a positive correlation between female undergraduate percentage and the proportionality gap with total athletes ($r=0.760$, $p=0.007$, $\alpha \leq 0.05$) and there was also a stronger positive correlation between female undergraduate percentage and the proportionality gap with unduplicated athletes ($r=0.858$, $p=.001$, $\alpha \leq 0.05$).

**Discussion**
The following results warrant more attention from professionals in collegiate athletics. According to the present study, only three of Division I FBS conferences were in Title IX compliance in 2011 when looking at the unduplicated number of athletes participating. It was hypothesized that the ACC and SEC would be in lower compliance than other schools since their schools are mostly located in the southern United States. The results of the analysis of Title IX compliance in the present study were more closely related to athletic department budgets and not specific region. The two 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. The two conferences with the highest level of Title IX compliance were the BCS conferences of the PAC 12 and Big 10.

Institutional athletic accomplishment has a positive influence on the two major components of university exposure; image and media coverage (Toma, 2003). As the financial stakes of intercollegiate athletics continue to increase, university athletic programs continue to seek opportunities to attract better athletes and to physically develop athletes within their span of 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. A university’s status – relative to other universities – determines its success in attracting the top recruits and student-athlete quality. But the arms race may have impacted progress towards Title IX compliance. In 2010, only 20% of FBS athletic departments operated in the black without help from the university or state funds (Brady, Upton, & Berkowitz, 2011). One can only speculate about the impact of the arms race in collegiate
athletics has had on Title IX compliance. FBS universities are generally the most popular, well known, and have the largest athletic budgets. This is problematic if they are farther from Title IX compliance than FCS schools with smaller athletic department budgets. From a theoretical perspective, social learning theory can help explain the stalled progress in Title IX compliance (Bandura, 1977). Bandura (1986) suggests that with enough repetition of an activity, the “gendering” of that activity can change. By adding more women’s sports, we would give women athletes more opportunities to participate. When athletic departments cut men’s sports in order to become more compliant, they are not furthering the initiative. The proportionality might look better on paper, but in reality, the situation has not changed. Women don’t have more opportunities to participate and, similarly, men are losing opportunities to participate. Without sufficient exposure, the social learning theory cannot be applied for attitudes regarding sport and society to become more equitable.

There was a significant change from 2005 to 2011 in terms of proportionality compliance in Division I schools, but only for the data where some athletes were counted twice as participants. This proportionality gap decreased by 4.61 percentage points. Then when looking at the actual number of athletes and not the total number of athletes the gap only decreased 1.97 percentage points. This was not a significant difference from 2005. This is not a generalizing factor due to the fact that only data from the FBS schools was used and not all Division I universities were included in this study. This shows that within a six year period changes are being made within Division I universities to move more towards compliance, but more can be done. 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. This 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 spectators don’t even see (Suggs, 2003). The data presented in this study provides the current status of Title IX compliance of NCAA FBS institutions and demonstrates where the money is being spent. If athletic departments spent just a little bit less on football and new facilities, they could add new women’s sports to the athletic department and not have to cut men’s sports (Leung, 2009; Ridpath et al., 2009).

There is no one answer as to why athletic departments have a hard time complying with the proportionality prong. But when looking at the correlation between the female undergraduate percentage and the proportionality gap, it was 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 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 harder and harder for them to achieve compliance through the proportionality prong. The proportionality prong was created 33 years ago during a time that fewer females were attending college. An explanation for this lack of compliance might just be because the rules are out of date.

There are a few limitations within the study. The first would be that only FBS schools were used. If all Division I universities were included in the study, results might have been different. It was assumed that all schools reported their enrollment rate
correctly to the U.S. Department of Education. The last limitation is that the researcher imputed data to excel and SPSS correctly and the calculations were correct.

**Conclusion**

The full assimilation of women in the sports industry has not been realized. The importance of Title IX compliance for colleges and universities in the United States is well established and a renewed focus among sport administrators is not only justified but necessary. Strategic choice implies that an institution can meet institutional goals through the creation of a unique structure without falling into the trap of the collegiate arms race. Title IX compliance continues to be a necessary benchmark to achieve institutional goals. A coordinated approach to include more opportunities for women in collegiate sport will be a significant step toward reaching Title IX compliance.

There are a few areas for future investigation. The first would be to determine the budgetary adjustments needed to add women’s teams to become Title IX compliant. Another study would be to compare across divisions and see if similar issues of non-compliance exist. Title IX has helped women to further themselves in athletics. Despite these advancements, after policy interpretations and a significant amount of work, universities are still not in compliance in regards to proportionality and this needs to change in order to help move the cause forward and help society change.
References


Brake, D. (2001). The struggle for sex equality in sport and the theory behind Title IX. University of Pittsburgh School of Law, 73, 1-130.


Cohen v. Brown University, 991 F.2d 888, 892-93 (1st Cir. 1993).


### Table 1
Average Proportionality Gap of conferences in the FBS

<table>
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<tr>
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<th></th>
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<th></th>
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<tbody>
<tr>
<td>Big Ten</td>
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<td>51.4</td>
<td>48.6</td>
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<tr>
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<td>50.7</td>
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<td>12.21</td>
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</tr>
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<td>8.67</td>
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</tr>
<tr>
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<td>8.10</td>
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<tr>
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<td>5.28</td>
<td>46.3</td>
<td>53.7</td>
</tr>
</tbody>
</table>

| 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.