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Secondary Athletic Administrators' Perceptions Of Title Ix Policy Changes

Gabriel Grawe Dahl

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SECONDARY ATHLETIC ADMINISTRATORS' PERCEPTIONS
OF TITLE IX POLICY CHANGES

by

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Bachelor of Science, University of North Dakota, 2001
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A Dissertation

Submitted to the Graduate Faculty

of the

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In partial fulfillment of the requirements

For the degree of

Doctor of Education

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2012

This dissertation, submitted by Gabriel Grawe Dahl in partial fulfillment of the requirements for the Degree of Doctor of Education from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done, and is hereby approved.

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Date

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Title Secondary Athletic Administrators' Perceptions of Title IX Policy
Changes

Department Educational Leadership

Degree Doctor of Education

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Gabriel G. Dahl
November 19, 2012

TABLE OF CONTENTS

LIST OF FIGURES ix

LIST OF TABLES x

ACKNOWLEDGMENTS xii

ABSTRACT xv

CHAPTER

 I. INTRODUCTION 1

 Background Information 2

 Purpose of the Study 7

 Significance of the Study 7

 Researcher’s Background 8

 Research Questions 9

 Description of the Population 9

 Definition of Terms 10

 List of Acronyms 12

 Assumptions 12

 Organization of the Study 12

 II. LITERATURE REVIEW 14

 Introduction 14

 Title IX History, Legislation, and Policy 14

1979 Title IX Policy Interpretation.....	16
The Civil Rights Restoration Act (CRRA).....	16
1996 Dear Colleague Letter	17
2000 Presidential Campaign	19
The Commission	20
“Open to All”: Title IX at Thirty	27
The Title IX Minority Report	31
Proponents of Substantial Proportionality	35
Opponents to Substantial Proportionality	36
Proportionality in Context.....	37
Further Clarification of Intercollegiate Athletic Policy Regarding Title IX Compliance.....	39
2005 Title IX Additional Clarification	40
2008 Challenge by Pacific Legal Foundation to the OCR.....	43
2010 Title IX OCR Changes.....	44
The Office for Civil Rights (OCR).....	46
OCR Enforcement.....	47
Criticisms of OCR.....	49
Judicial Interpretation/Case Law	50
Title IX Cases	51
Brenden v. Independent School District 742	52
Ridgeway v. Montana High School Association	53
Grove City College v. Bell.....	55

	Franklin v. Gwinnett County Public Schools	57
	Favia v. Indiana University of Pennsylvania	58
	Roberts v. Colorado State Board of Agriculture.....	59
	Cohen v. Brown University	60
	Daniels v. School Board of Brevard County	62
	Jackson v. Birmingham Board of Education	62
	Biediger v. Quinnipiac University	64
	Communities for Equity v. Michigan High School Athletic Association.....	65
	Future of Title IX Cases.....	66
	Summary.....	67
III.	METHODS	68
	Research Questions.....	68
	Population	69
	Participant Selection	69
	Survey Development.....	72
	Survey Pilot.....	73
	Survey Instrument.....	73
	Data Collection	75
	Data Analysis	76
	Conceptual Framework Map.....	78
	Summary	78

IV.	RESULTS	79
	Description of the Population	80
	Conceptual Framework Map.....	82
	Research Question 1	84
	Research Question 2	88
	Research Question 3	91
	Research Question 4	102
	Research Question 5	110
	Summary.....	114
V.	SUMMARY, CONCLUSIONS, DISCUSSIONS, AND RECOMMENDATIONS	115
	Summary.....	115
	Conclusions With Discussions.....	116
	Research Question 1	116
	Research Question 2	118
	Research Question 3	122
	Research Question 4	125
	Research Question 5	128
	Limitations	130
	Recommendations.....	131
	Recommendations for State High School Activities Associations	132
	Recommendations for High Schools	132

Recommendations for the OCR	133
Recommendations for Further Study	133
Reflection	134
APPENDICES	136
Appendix A. Informed Consent.....	137
Appendix B. Survey.....	138
Appendix C. High School Athletic Administrator Responses to Survey Question 23	145
Appendix D. Conceptual Framework Map	149
REFERENCES	150

LIST OF FIGURES

Figure	Page
1. Qualitative Data Obtained From an Open-Ended Question on the Survey	78
2. Number of Job Titles for Athletic Administrators in NDNCR (Athletic Director, Activities Director, Principal, Associate Principal, Superintendent, and Classroom Teacher)	84
3. Summary of Qualitative Analysis	85
4. Percentage of NDNCR High Schools Adding Male and Female Sports in the Past Five Years	91
5. Group Rankings on Information/Education Provided to High School Athletic Administrators in NDNCR on Title IX.....	107
6. Group Rankings on Most Commonly Used and Least Commonly Used Resources When High School Athletic Administrators Have Title IX Questions.....	108

LIST OF TABLES

Table	Page
1. Number of High Schools Located in NDNCR	70
2. NDNCR High Schools to Be Surveyed in Proportion to the Total.....	71
3. NDNCR High School Athletic Administrator Response Rate	81
4. Demographic Information of Sample, n=103	83
5. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 1	86
6. A More Detailed Reporting of Responses for Research Question 1	86
7. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 2.....	88
8. A More Detailed Reporting of Responses for Research Question 2	89
9. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 3.....	92
10. A More Detailed Reporting of Responses for Research Question 3.....	92
11. Sports Offered in High Schools by State	94
12. Sports Offered in High Schools by Enrollment Size	96
13. Male/Female Sports Added by High Schools in NDNCR in the Last Five Years by State	98
14. Male/Female Sports Added by High Schools in NDNCR in the Last Five Years by Enrollment Size	99
15. Club Sports/Intramural Sports Offered by High Schools in NDNCR by State.....	101

16. Club Sports/Intramural Sports Offered by High Schools in NDNCR by Enrollment Size.....	102
17. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 4.....	104
18. A More Detailed Reporting of Responses for Research Question 4.....	105
19. Group Rankings on Information/Education Provided to High School Athletic Administrators in NDNCR on Title IX.....	106
20. Group Rankings on Most Commonly Used and Least Commonly Used Resources When High School Athletic Administrators Have Title IX Questions.....	108
21. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 5.....	111
22. A More Detailed Reporting of Responses for Research Question 5.....	112

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ABSTRACT

The purpose of this study was to investigate North Dakota's Normal Competitive Region (NDNCR) high school athletic administrators' perceptions of 2010 Title IX policy changes respective to their athletic programs. Quantitative and qualitative data were collected to investigate the perceptions. Quantitatively, perception data were gathered from a survey (agreement and disagreement to statements on a six-point Likert scale, ranking, and choosing from a list of sports added) and analyzed in order to understand the perceived impact of the 2010 Title IX changes as well as the overall understanding of Title IX. Qualitatively, data from an open-ended survey question were interpreted and arranged according to the research question that it answered or provided insight. A stratified sample of high school athletic administrators was selected to be surveyed online (enrollment categories of 25 to 150, 151 to 350, and 351+ students) in order to reflect the populations of schools as a whole.

Collectively, high school athletic administrators agreed there was a lack of Office for Civil Rights contact/education and sample policies, research, alternate procedures, and that checklists from the Office for Civil Rights would create a better understanding for Title IX compliance. There was a lack of high school representation when Title IX policy issues were discussed/implemented, and the high school athletic administrators would like to have a voice. In NDNCR, with larger school enrollment, more sports were

added and available for female participants. Finally, high school athletic administrators believed there should be more local control and input with Title IX compliance.

Keywords: Title IX, Athletics, High School, Participation

CHAPTER I

INTRODUCTION

Centerville High School's athletic program consisted of 18 sports, 12 offered for males and 6 offered for females. In the winter, the high school offered basketball for both males and females. Besides both being basketball programs, the males' program was significantly different from the females' program. The males' program had new Nike Dri Fit uniforms and a coach who played basketball in college, was experienced, and had a working knowledge of the game. The male basketball players practiced right after school every day with games scheduled for the larger of the two school gyms. At the end of the basketball season, their team banquet was held at an upscale restaurant and the coach took time to prepare a speech and order awards.

On the other hand, the females' program had the same uniforms for the past 15 years and a coach who did not even play basketball in high school, was inexperienced, and did not have a working knowledge of the game. The female basketball players were forced to practice after the boys' practices and their games were scheduled for the smaller of the two school gyms. Finally, the females' team banquet was held in the school's cafeteria and the coach did nothing more than read the players' names and had no participant awards (Davies & Bohon, 2007).

According to *Title IX of Education Amendments of 1972*, "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” (Sec.1681.Sex, para. 1). Not all inequities are as glaringly apparent at the high school level as the preceding example because “high schools . . . are not required to disclose any data on gender equity in sports, making it difficult for schools, students, and parents to ensure fairness in their schools’ athletic programs” (Burton, 2009, p. 4). In 2010, the White House issued a policy change for Title IX changing the criteria in which institutions could demonstrate compliance with the federal regulation (U.S. Department of Education [USDOE], 2010).

Background Information

Initially, the U.S. Department of Health, Education, and Welfare (USDHEW, 1979) was given authority to oversee the implementation of Title IX policies and to make sure institutions were compliant with those policies. The Title IX guidelines were written specifically for colleges; however, the interpretation specifically noted the guidelines also applied to club, intramural, and interscholastic athletic programs or “any [other] public or private institution, person, or other entity that operates an educational program or activity which receives or benefits from financial assistance authorized or extended under a law administered by the Department” (USDHEW, “Scope of Application,” 1979, para. 2).

According to the 1979 Title IX Policy Interpretation, an institution was considered in compliance so long as it could demonstrate one part of the three-part test:

- (1) [If] participation opportunities for male and female students . . . are substantially proportionate to their respective enrollments; or
- (2) Where the members of one sex have been and are underrepresented among intercollegiate athletics, whether the institution can show a history and continuing

practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex; or

(3) Members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as cited above [(2)], whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program. (USDHEW, "Compliance Will Be Assessed," 1979, paras. 1-3)

Furthermore, three was centered on an institution's ability to:

- (a) sustain a varsity team in the sport(s)[/activity];
- (b) sufficient ability to sustain . . . [a] . . . team in the sport(s); and
- (c) reasonable expectation of . . . competition for a team in the sport(s) within the school's normal competitive region. (U.S. Department of Education [USDOE], 2005, p. 4)

To determine compliance, either a court or the Office for Civil Rights (OCR) would apply the first test to an institution's athletic department. If the courts or the OCR determined the athletic department did not meet the criteria for the first test, the second test would be applied. An institution's athletic department would be subjected to each successive test until it passed one of the three tests or failed all three. If the athletic department passed one of the three tests, the institution would be considered in compliance with Title IX; if the athletic department failed all three of the tests, the institution would be considered not in compliance with Title IX.

In 2002, President Bush created a 15-member Commission that met twice a month from August 2002 until January 2003 to gather facts, listen to Americans, and

discover how Title IX sports programs were doing (U.S. Department of Education [USDOE], 2002a). The Commission was comprised of Cynthia Cooper-Dyke (CEO of sports marketing firm ProHaven), Ted Leland (Stanford University Athletic Director), Percy Bates (University of Michigan Professor), Bob Bowsby (University of Iowa Athletic Director), Eugene B. DeFilippo Jr. (Boston College Athletic Director), Donna de Varona (first President of Women’s Sports Foundation), Julie Foudy (President of Women’s Sports Foundation), Thomas B. Griffith (General Council at Brigham Young University), Cary Groth (Northern Illinois Athletic Director), Lisa Graham Keegan (CEO of Education Leaders Council), Muffet McGraw (Head Women’s Basketball Coach at University of Notre Dame), Rita J. Simon (President of Women’s Freedom Network), Mike Slive (Commissioner of the Southeastern Conference), Graham Spanier (Penn State President), and Debrah Yow (University of Maryland Athletic Director) (U.S. Department of Education [USDOE], 2003).

The Commission, whose purpose was to gather information on Title IX, did not have one member representing a high school; yet, high schools are subject to the same Title IX compliance as colleges. Ten of the members, two thirds of the Commission, represented colleges while high schools had no representation on the Commission. To make it clear, “Title IX applies to [any] educational institutions that receive any federal funds—whether public or private” (Women’s Sports Foundation, 2007, p. 327).

After the Commission convened, the OCR studied the information from the Commission and established a new process for institutions to demonstrate compliance with part three of the three-part test. Prior to 2005, institutions received limited instructions on how to successfully comply with part three of the three-part test.

Institutions did not always know how to identify the interests and abilities of the underrepresented sex and ensure that the interests and abilities had been fully and effectively accommodated. In 2005, the Office for Civil Rights determined institutions may choose to conduct a web-based survey through a census (all students) or to all members of the underrepresented sex.

Schools may assume that nonresponse . . . indicates an actual lack of interest if all students have been given an easy opportunity to respond to the census, the purpose . . . has been made clear, and . . . [made aware] . . . the school will take nonresponse as . . . a lack of interest. (USDOE, 2005, p. 6).

The survey would be an accurate measurement of students' interests and abilities if the survey was administered periodically to identify developing interests, conducted as a census instead of a sample survey, and administered in a manner that is designed for a high response rate, where students can easily respond (USDOE, 2005). To clarify, an institution would be in compliance with part three of the three-part test as long as a survey was administered to the members who have been underrepresented in athletic opportunities (in most cases females).

In 2010, the OCR made another policy clarification and, again, high schools were not consulted; however, OCR clarified the changes to the three-part test that pertained to high schools. Once again, the changes to the three-part test focused on the third part (identifying and accommodating the interests and abilities of the underrepresented sex).

After careful review, OCR has determined that the 2005 Additional Clarification and the User's Guide are inconsistent with the nondiscriminatory methods of assessment set forth in the 1979 Policy Interpretation and the 1996 Clarification

and do not provide the appropriate and necessary clarity regarding nondiscriminatory assessment methods, including surveys, under Part Three.

Accordingly, the Department is withdrawing the 2005 Additional Clarification and User's Guide, including the model survey. (USDOE, 2010, p. 2)

To clarify, an institution is no longer considered compliant just by conducting a survey to the underrepresented sex; rather, multiple indicators will and must be used to assess interest of the underrepresented sex. An institution is advised to consider requests for a sport to be added, requests for a sport to be upgraded from club sport to varsity status, participation in intramural or club sports, interviews, results of surveys, and participation rates in community sports leagues operating in the area of the high school as other means to demonstrate that the interests of the underrepresented sex are being met (USDOE, 2010).

Secondly, the "OCR . . . recommends that institutions develop procedures for, and maintain documentation from, routine monitoring of participation of the underrepresented sex in club and intramural sports as part of their assessment of student interests and abilities" (USDOE, 2010, p. 8). Taking it a step further, the "OCR . . . recommends that institutions develop procedures for, and maintain documentation from, evaluations of the participation of the underrepresented sex in high school athletic programs" (USDOE, 2010, p. 8). Based on the premise that any program receiving federal financial assistance shall prohibit discrimination, it seems that it would be clear, however, "the reams of policies and regulations issued under Title IX are written to apply to college sports. More specifically they [the policies] apply to the big-time college sports of Division I" (Suggs, 2005, p. 142).

Purpose of the Study

The purpose of this study was to investigate North Dakota's Normal Competitive Region (NDNCR) high school athletic administrators' perceptions of 2010 Title IX policy changes respective to their athletic programs. High schools are subject to Title IX compliance; yet, high school athletic administrators have not had the opportunity to be involved in influencing Title IX policy and so there is a need for the study. Sherm Sylling, Executive Secretary of the North Dakota High School Activities Association, since 1999, had never been contacted pertaining to Title IX policy changes. In fact, he had never even received a form letter from OCR (personal communication, February 24, 2012). Title IX policy changes impact high schools; yet, neither high school athletic administrators nor state high school association athletic administrators were involved in the process. The perceptions of high school athletic administrators will put the OCR on notice to include high school athletic administrators on Title IX policy committees, which leads to the question, if high schools are subject to Title IX compliance, shouldn't high school athletic administrators have a voice in Title IX policy?

Significance of the Study

Title IX of the 1972 Education Amendments sought to end discrimination amongst institutions receiving federal funding and, through time, a three-part test has emerged to demonstrate compliance. In 2010, the USDOE overturned a Title IX policy implemented in 2005 allowing institutions receiving "federal funding to use a survey to gauge women's interest in sports and attribute low response rates to lack of interest" (Jones, 2010, para. 1). Under the 2010 policy change, institutions receiving federal funding can no longer rely solely on surveys to "assess female students' interest or ability

or characterize nonresponses as lack of interest” (Jones, 2010, para. 4). Vice-President Biden believes the policy change is the right thing to do as ““making Title IX as strong as possible . . . will allow women to realize their potential—so this nation can realize its potential”” (Jones, 2010, para. 2). Instead, schools will have to consider additional factors such as student requests for additional sports or participation rates at feeder schools (Jones, 2010).

High schools are subject to comply with both the 2005 and 2010 policy changes; however, high school athletic administrators were not involved in the policy review and change process. The 2005 commission was comprised mostly of “institutions with the greatest financial investment in the National Collegiate Athletic Association, the Division I institutions that have been most visible and vocal with regard to the difficulties they face in complying with Title IX” (Staurowsky, 2003, p. 5).

Researcher’s Background

The researcher played baseball in college at the University of North Dakota from 1996-2001 and, during that time, wrestling was dropped as a sport due to budgetary constraints. However, baseball was one of the sports in discussion as a possibility of being discontinued. Furthermore, the researcher has served as an activities director at a public high school in North Dakota with an enrollment of over 351 students for four years and is currently an associate principal at a public high school in North Dakota with an enrollment of over 351 students. The researcher has been and continues to be a proponent of equal opportunities for participation for all student-athletes regardless of gender.

Research Questions

1. How are high school athletic administrators represented in Title IX policies affecting and being imposed on high school sports?
2. How did 2010 Title IX policy change impact high schools and their compliance with Title IX?
3. What are the emerging sports of North Dakota's Normal Competitive Region?
4. What are high school athletic administrators' perceptions of OCR's Title IX education?
5. What are high school athletic administrators' perceptions of Title IX's three-part test for compliance?

Description of the Population

Part three of the three-part test “centers on whether there are concrete and viable interests among the underrepresented sex that should be accommodated by the institution’s athletic program” (USDOE, 2005, p. 4). To add a sport/activity, there must be unmet interest sufficient to sustain a varsity team, ability to sustain a team, and reasonable expectation for a team within the school’s normal competitive region. A normal competitive region is defined as “available competitive opportunities in the geographic area in which the institution’s athletes primarily compete” (USDOE, 2005, p. 11). The states represented in NDNCR include Minnesota, Montana, South Dakota, and Wyoming. The population for this study was stratified two ways: (a) by the high school’s enrollment size and (b) the state where the high school was located. After stratifying the high schools, they were systematically selected as “one way to be sure that a sample is like the population from which it was drawn” (Slavin, 2007, p. 114).

Definition of Terms

The following words are defined to provide significance and comprehension in relation to this study:

Census survey: “survey . . . [administered] to all . . . students, or to all such students of the underrepresented sex” (USDOE, 2005, p. 5).

Compliance with Title IX: an institution must pass one of the three tests according to Title IX policy (U.S. Department of Education [USDOE], 1997).

Continuing expansion: “a record of adding or upgrading teams for the underrepresented sex, increasing participation of the underrepresented sex, and affirmative responses to requests by students for the addition or elevation of sports” (Brown, 2009, p. 517).

Effectively accommodating interests and abilities: an institution is meeting the interests and abilities of its female students even where there are disproportionately fewer females than males participating in sports (USDOE, 1997).

Emerging sport: activities that are increasingly being pursued by girls in high schools. By adding these activities, institutions would actually be fulfilling the interests and the abilities of the underrepresented sex (Gavora, 2002).

Gender: In their documents, the OCR uses the term sex; thus, sex and gender may be used interchangeably.

High school: school housing students grades 7-12, 9-12, or 10-12. Some high schools are 9-12, some are 7-12, and some are 10-12. Each state has different characteristics of what is considered to be a high school. Each high school selected was a member in its respective activity/athletic association.

History and continuing practice: an institution has a history and continuing practice of program expansion that is responsive to the developing interests and abilities of the underrepresented sex (USDOE, 1997).

Normal competitive region: “available competitive opportunities in the geographic area in which the institution’s athletes primarily compete” (USDOE, 2005, p. 11).

Office for Civil Rights (OCR): “This office within the Department of Education is responsible for the enforcement of Title IX as it applies to educational institutions that are recipients of federal funds. [The] OCR maintains 12 enforcement offices throughout the nation and a headquarters in Washington, DC” (USDOE, 2003, p. 41).

Participation: current practice of the DOE to use duplicated figures (an athlete who plays multiple sports is counted once for each sport) to calculate substantial proportionality (Anderson, Cheslock, & Ehrenberg, 2006).

Policy clarification: “issued in 1979, . . . designed to provide guidance on the application of Title IX requirements in athletics . . . setting forth . . . the ‘three-part test’ . . . to determine . . . non-discriminatory participation opportunities” (USDOE, 2003, p. 41).

Sample survey: survey administered to only a subset of students from the target population (USDOE, 2005).

Substantial proportionality: demonstration of compliance by showing an institution provides participation opportunities for male and female students in numbers that are substantially proportionate to their enrollment (USDOE, 2003).

List of Acronyms

The following acronyms are used to assist in guiding the reader through this study:

CRRA—Civil Rights Restoration Act

MHSA—Montana High School Association

MSHSL—Minnesota State High School League

NCAA—National Collegiate Athletic Association

NDHSAA—North Dakota High School Activities Association

NDNCR—North Dakota’s Normal Competitive Region

OCR—Office for Civil Rights

SDHSAA—South Dakota High School Activities Association

USDHEW—United States Department of Health, Education, and Welfare

USDHHS—United States Department of Health and Human Services

USDOE—United States Department of Education

WHSAA—Wyoming High School Activities Association

Assumptions

The researcher assumes each high school athletic administrator in charge of athletics is aware of the Title IX policy changes implemented by the Obama administration in April 2010. The second assumption is high school athletic administrators will respond honestly.

Organization of the Study

The study is organized in five chapters. Chapter II provides a development of Title IX through legislation and policy, the OCR, and judicial interpretation and case law.

Chapter III presents the methods and design of the study. Chapter IV presents the findings of the study in quantitative means. Finally, Chapter V presents a summary, conclusions, discussion of the findings, recommendations of the study, and recommendations for future studies.

CHAPTER II

LITERATURE REVIEW

Introduction

According to *Title IX of Education Amendments of 1972*, "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" (Sec.1681.Sex, para. 1). Throughout its 39-year history, Title IX was shaped through "[political] policy, legislation, and judicial interpretation" (Brown, 2009, p. 507). More specifically, Title IX has been shaped by regulations (force of law), policy interpretations (deference), letters of clarification, court decisions, letters of findings, and letters of resolution (Carpenter & Acosta, 2005).

Title IX History, Legislation, and Policy

Title IX went into effect in 1972; however, it wasn't until 1978 that it was enforced. According to Stevens (2004), "Title IX was passed with two key objectives: 'to avoid the use of federal resources to support discriminatory practices'; and 'to provide individual citizens effective protection against those practices'" (p. 158). Institutions were granted a six-year (1972 until 1978) grace period to "move toward compliance and in which the regulations could be written to determine whether schools indeed met compliance" (Carpenter & Acosta, 2005, p. 3). During that six years, "much debate, comment, interchange of ideas, and numerous hearings . . . [went] into the formulation of

the regulations” (Carpenter & Acosta, 2005, p. 5). The USDHEW faced persistent criticism in the 1970s for its lack of action enforcing Title IX. More specifically, civil rights groups were perturbed with the length of time it took to formulate the regulations, as the “typical time period for issuing [and] implementing regulations is closer to eighteen months” (Suggs, 2005, p. 82).

By July 1978, the USDOE had received nearly 100 complaints of discrimination against nearly 50 institutions of higher education; however, not one of the complaints was against a high school (USDHEW, 1979). From the complaints, the USDHEW created a policy interpretation letter to educate institutions on ways to demonstrate compliance with Title IX. The policy interpretation was sent to universities on December 11, 1978, with the goal of receiving feedback from universities on the policies established (USDHEW, 1979). Next, the USDHEW visited eight university campuses to gauge the policy’s impact on the athletic departments. After visiting the universities and receiving over 700 comments, the USDHEW published *A Policy Interpretation: Title IX and Intercollegiate Athletics* in 1979. Policy interpretations serve as “force[s] of law . . . [and] the courts are required to give its language weight as though its words were actually part of the law that the legislative branch enacted” (Carpenter & Acosta, 2005, p. 14).

The Title IX guidelines were written specifically for universities; however, the interpretation specifically noted the guidelines also applied to club, intramural, and interscholastic athletic programs or “any [other] public or private institution, person or other entity that operates an educational program or activity which receives or benefits from financial assistance authorized or extended under a law administered by the Department” (USDHEW, “Scope of Application,” 1979, para. 2). Without a single

complaint against a high school, it was interpreted that the law also applied to high schools.

1979 Title IX Policy Interpretation

According to the 1979 Title IX Policy Interpretation, an institution was in compliance with Title IX by demonstrating:

- (1) [If] participation opportunities for male and female students . . . are substantially proportionate to their respective enrollments; or
- (2) Where the members of one sex have been and are underrepresented among intercollegiate athletics, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex; or
- (3) Members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as cited above [(2)], whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program. (USDHEW, “Compliance Will Be Assessed, 1979, paras. 1-3)

After the 1979 policy interpretation, the OCR was quiet as Title IX policy development played out in the courts as well as in the legislature with the 1987 Civil Rights Restoration Act (USDOE, 1997).

The Civil Rights Restoration Act (CRRA)

When the United States Supreme Court handed down the *Grove City* decision in 1984, it forced the OCR and the legislature to look at Title IX in a different light. According to the *Grove City* decision, educational programs were looked at on an

individual basis to determine whether the specific program received federal funding or not. If the specific program received federal funding, only that particular program is subject to Title IX compliance (Carpenter & Acosta, 2005). The United States Congress enacted the Civil Rights Restoration Act (CRRA) to “remedy what it perceived to be a serious narrowing by the Supreme Court of a longstanding administrative interpretation of the coverage of the regulations” (“Amending the Regulations,” 2000, p. 64194). According to Title IX regulations used by the USDHEW in 1975, a recipient was defined as an entity “to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance” (“Amending the Regulations,” 2000, p. 64195). Therefore, this did not cover all programs, rather just the programs receiving federal funding. In 1988, Congress enacted the CRRA to specifically define program or activity and program to ensure that Title IX covered all programs of an institution receiving federal funds (“Amending the Regulations,” 2000).

1996 Dear Colleague Letter

In 1996, the Department of Education issued an updated statement in the form of a “Dear Colleague” letter to institutions receiving federal funding that clarified and explained the three-part test originally created in the 1979 policy interpretation (U.S. Department of Education [USDOE], 1996). The OCR’s aim was to clarify common misconceptions institutions had with the interpretation and enforcement of the three-part test.

First of all, an institution has demonstrated compliance as long as “any one part of the three-part test in order to provide nondiscriminatory participation opportunities for

individuals of both sexes” (USDOE, 1996, para. 8) has been met. Secondly, it was emphasized that each individual test was viewed in equal light according to the USDOE in order to allow local institutions the flexibility to determine local needs, interests, and abilities (USDOE, 1996).

The three-part test for compliance was not changed; however, some wording was changed. According to the first test, substantial proportionality “focuses on the participation rates of men and women at an institution and affords an institution a ‘safe harbor’ for establishing that it provides nondiscriminatory participation opportunities” (USDOE, 1996, para. 8). In 1979, the substantial proportionality test mentioned nothing about a safe harbor; rather, it specifically stated that “participation opportunities . . . [must be] substantially proportionate to . . . [the] enrollments” (USDHEW, “Compliance Will Be Assessed,” 1979, para. 2). The confusion was with the phrase “safe harbor,” which led institutions to believe the first test is more important than the other two tests.

According to the second test, history and continuing practices examined “an institution’s good faith expansion of athletic opportunities through its response to developing interests of the underrepresented sex at that institution” (USDOE, 1996, para. 8). In 1979, the history and continuing practices test focused on program expansion as the way of demonstrating an institution’s way of meeting the interests and abilities of the underrepresented sex (USDHEW, 1979).

Finally, according to the third test, the underrepresented sex’s interests and abilities were accommodated based on the “inquiry of whether there are concrete and viable interests among the underrepresented sex that should be accommodated by an institution” (USDOE, 1996, para. 8). In 1979, the accommodations test focused on

“whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program” (USDHEW, “Compliance Will Be Assessed, 1979, para. 3).

2000 Presidential Campaign

Four years later, Title IX took the stage during the 2000 presidential campaign. Two democrats, Senator Bill Bradley and Vice-President Al Gore, as well as three republicans, Governor George W. Bush, Alan Keyes, and Senator John McCain, replied to queries of the *Chronicle of Higher Education* for their respective stances on Title IX. The *Chronicle of Higher Education* posed the question, “Has the federal government gone too far in enforcing Title IX, the federal gender-bias law, in college sports? Should federal law assume that colleges must have an equal proportion of male and female students playing on sports teams?” (“The Candidates,” 2000, para. 71). Each candidate issued a response.

Senator Bill Bradley stated that he was a long-time supporter of Title IX and was disturbed that colleges were cutting opportunities for males rather than increasing opportunities for females and thought there must be a better way (than cutting opportunities) to demonstrate compliance with Title IX (“The Candidates,” 2000). Al Gore reiterated the importance for schools to provide females with the same opportunities as males. Also, Gore believed the intent of Title IX was to expand opportunities for females, not to limit or eliminate opportunities for males (“The Candidates,” 2000). George W. Bush supported Title IX because it opened opportunities for women, but did not believe that Title IX was established to create a quota for males (“The Candidates,” 2000). Alan Keyes believed the government was doing the institutions more harm than

good by being involved with its rigid actions (“The Candidates,” 2000). Finally, John McCain believed that Title IX was not created to penalize or limit opportunities of one group in order to create opportunities for a separate group; rather, it was created to provide “equal opportunities to women in . . . athletics through a balanced combination of access and funding” (“The Candidates,” 2000, para. 75).

During the campaign, two groups, the Iowans against Quotas and Americans against Quotas, tried to get the presidential candidates to sign a pledge that if elected the three-part test to demonstrate compliance with Title IX would be eliminated. Of the five candidates, Alan Keyes was the only one to sign the pledge. George W. Bush was elected president and did not sign the pledge (Suggs, 2005). Once elected, George W. Bush went a different route.

The Commission

“Old Washington hands say that . . . a common strategy for administrations that want to change a particular policy . . . [is to] appoint a blue-ribbon panel, get a report that points to the direction that the party in power wants to pursue, and move on” (Suggs, 2005, p. 170). In 2002, President Bush convened a 15-member Title IX Commission with the purpose of “collect[ing] information, analyz[ing] issues, and obtain[ing] broad public input directed at improving the application of current Federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX” (USDOE, 2003, p. 46). The goal of the Commission was to determine whether “the available guidelines interpreting Title IX adequately enabled colleges and school districts to comply with Title IX’s requirements” (Eckes, 2007, p. 180).

The 15 members of the Commission were appointed by Secretary of Education Rod Paige and had a variety of athletic backgrounds. The co-chairs of the 2002 Title IX Commission were Cynthia Cooper-Dyke (Chief Executive Officer to a sports marketing company named ProHaven) and Ted Leland (director of athletics at Stanford University in Palo Alto, California (USDOE, 2003)). The 13 other members of the Commission included Percy Bates (Professor in the School of Education at the University of Michigan), Bob Bowsby (director of athletics at the University of Iowa), Eugene B. DeFilippo Jr. (director of athletics at Boston College), Donna de Varona (original member and first president of the Women's Sports Foundation), Julie Foudy (president of the Women's Sports Foundation and former captain of U.S. Women's National Soccer Team), Thomas B. Griffith (general counsel and assistant to the president at Brigham Young University), Cary Groth (director of athletics at Northern Illinois), Lisa Graham Keegan (Chief Executive Officer of the Education Leaders Council), Muffet McGraw (head coach of the University of Notre Dame women's basketball team), Rita J. Simon (President of the Women's Freedom Network), Mike Slive (commissioner of the Southeastern Conference), Graham Spanier (president of Pennsylvania State University), and Deborah Yow (director of athletics at the University of Maryland) (USDOE, 2003).

From July 2002 until January 2003, the 15-member Commission conducted a series of town hall meetings in Atlanta, Chicago, Colorado Springs, and San Diego. The town hall meetings included testimonials from experts, parents, administrators (both interscholastic and intercollegiate), coaches, athletes, advocacy groups, and athletic directors aimed at answering the seven research questions identified and created by the committee (USDOE, 2003). The seven questions guiding the Commission were:

1. Are Title IX standards for assessing equal opportunity in athletics working to promote opportunities for male and female athletes?
2. Is there adequate Title IX guidance that enables colleges and school districts to know what is expected of them and to plan for an athletic program that effectively meets the needs and interests of their students?
3. Is further guidance or other steps needed at the junior and senior high school levels, where the availability or absence of opportunities will critically affect the prospective interests and abilities of student athletes when they reach college age?
4. How should activities such as cheerleading or bowling factor into the analysis of equitable opportunities?
5. How do revenue producing and large-roster teams affect the provision of equal athletic opportunities? . . . What are its implications [of walk-on athletes] for Title IX analysis?
6. In what ways do opportunities in other sports venues, such as the Olympics, professional leagues, and community recreation programs, interact with the obligations of colleges and school districts to provide equal athletic opportunity? What are the implications for Title IX?
7. Apart from Title IX enforcement, are there other efforts to promote athletic opportunities for male and female students that the Department might support, such as public-private partnerships to support the efforts of schools and colleges in this area? (USDOE, 2003, p. 3)

Each town hall meeting consisted of the same format: testimony from “athletes, students, coaches, administrators, educators, parents, and others who have information and perspectives about Title IX” (USDOE, 2002a, August 27, p. 17). The first town hall meeting was held in Atlanta, Georgia, on August 27-28 at the Wyndham Atlanta Hotel. One of the testimonies heard by the Commission focused on Title IX’s impact on high schools. David Wagner, Director of Athletics at Georgia Southern University, explained that Title IX was originally designed for colleges and universities and later applied to high schools, stating it was very difficult to apply national standards to local school districts (USDOE, 2002b, August 28). He stated, “Title IX’s application to the secondary schools is unique, and this must be recognized; . . . [furthermore] an in-service program [must be developed] for the Office of Civil Rights staff and the secondary school administrators and . . . [athletic directors]” (USDOE, 2002b, August 28, pp. 405-406). There was an array of arguments for and against changing Title IX. The advocates of wrestling argued that Title IX hurt the popularity of their sport and one advocate stated that wrestling was continuing to increase in popularity in the south; however, it was being dropped by most universities (USDOE, 2002a, August 27).

Women advocacy groups spoke out against proposed changes to Title IX arguing “legislative action is necessary to restore the prior consistent and long-standing Executive Branch interpretation and broad institution-wide application of those laws as previously administered” (USDOE, 2002b, August 28, p. 311). The women’s rights advocates argued that Title IX was not the issue at hand; rather, it was the interpretation of OCR that needed to be consistent (USDOE, 2002b, August 28).

The second town hall meeting was held in Chicago, Illinois, on September 17-18, at the Drake Hotel. Originally, there were only three town hall meetings going to be held; however, a fourth town hall meeting was added to focus on high schools and two-year colleges (U.S. Department of Education [USDOE], 2002c, September 17). Some of the highlights of the testimony included a 1996 study in Illinois that discovered 75% of districts were not in compliance with Title IX based on written policies, designating a Title IX coordinator, and informing students/parents about their grievance procedures and rights (USDOE, 2002c, September 17). Another argument was less than 2% of all high school athletes would have the opportunity to play college sports and the goal of high school athletic programs was to maximize participation. The problem was that both high schools and colleges were judged on the same standards (USDOE, 2002c, September 17).

A second theme of the town hall meeting was quotas. College wrestlers and gymnasts, whose programs were dropped, testified that Title IX has denied them the opportunity to participate at the collegiate level in the sport they loved (USDOE, 2002c, September 17). After the Chicago town hall meeting was complete, the commissioners focused on issues that had not been discussed and areas where more information was needed. On two different occasions, commissioners noted that there was not enough testimony on cheerleading, bowling, or other emerging sports (U.S. Department of Education [USDOE], 2002d, September 18).

The third town hall meeting was held in Colorado Springs, Colorado, on October 22-23 at the Cheyenne Mountain Resort. The location of the event played a role in the focus of the testimony as Colorado Springs is the site of the United States Olympic

Training Center. A majority of the testimonies were on behalf of Title IX and the impact on the Olympic sports of gymnastics, wrestling, swimming, and diving. Other testimony focused on a lack of understanding and the confusion of how Title IX was implemented (U.S. Department of Education [USDOE], 2002e, October 22). Testimony argued for more education at all levels, consistent interpretation, stronger enforcement, and more flexibility in regards to the three-part test (USDOE, 2002e, October 22).

We ought . . . to figure out . . . whether we're talking about high schools or colleges or what . . . is the status of the guidance, so we can get a sense as to whether or not it's a question of a lack of guidance or whether it's interpretation that seems to be creating a problem. (U.S. Department of Education [USDOE], 2002f, October 23, p. 108)

The final town hall meeting was held in San Diego, California, on November 20-21 at Emerald Park. The majority of the testimonies heard were from wrestling, gymnastics, and swimming/diving advocates arguing Title IX was a quota system hurting small sports. On the contrary, women sports advocates argued for equity and Title IX's importance in providing equitable opportunities for all, developing participation opportunities for women, and the lessons/obstacles that women have overcome to achieve the opportunities (U.S. Department of Education [USDOE], 2002g, November 20).

One of the testimonies that left a lasting impression on the Commission was from an athletic administrator from Louisiana State University responsible for monitoring LSU's progress towards achieving Title IX compliance on a daily basis (U.S. Department of Education [USDOE], 2002h, November 21). She regularly met with a judge to demonstrate LSU's ongoing actions to comply with Title IX, yet continued to be

confused by the 1996 clarification. “I am hopeful that this Commission will be able to put, in a language that athletic administrators such as myself can understand, what OCR policies are” (USDOE, 2002h, November 21, p. 6).

After hearing testimony, gathering data, and debating amongst each other, the Commission believed the overriding themes were, first of all, there was a misunderstanding of the exact nature of requirements for compliance with Title IX. Secondly, there was a lack of education by the OCR in reference to demonstrating compliance with the three-part test. Thirdly, there was even less clarity in regards to complying with the second and third parts of the three-part test. With regards to the lack of clarity of the second part of the test, the Commission believed that some institutions were penalized by the second test. Regarding the phrase “continuing expansion,” institutions that created teams early and quickly to comply with Title IX, but have not made recent changes, were penalized for not making “continuous expansions” (USDOE, 2003). With regards to the third part of the three-part test, administrators were increasingly confused about the use of an interest survey to determine interest in athletics and then using the information to make decisions of matching athletic opportunity. If an institution conducted a survey, was that enough to demonstrate compliance? High schools expressed concern about whether all requests for addition of sports must be approved to accommodate students’ interest (USDOE, 2003). Fourthly, there was a need for specific clarifications, examples, or comparisons for institutions to demonstrate compliance with Title IX (USDOE, 2003). Finally, it was established that “those involved with high school sports told the commission that they have been more

successful in enforcing Title IX than their counterparts in higher education” (Davis, “K-12 Successes,” 2002, para. 1).

“Open to All”: Title IX at Thirty

From the themes and town hall meetings, the Commission created a report, titled “*Open to All: Title IX at Thirty*,” focusing on commitment, clarity, fairness, and enforcement of Title IX (USDOE, 2003). The report identified the initial research questions, presented Commission findings, and finally made Commission recommendations for improving Title IX policy, implementation, and enforcement. The Commission broke down the research questions and reported the findings associated with each question.

For the first research question, the Commission sought to answer, “Are Title IX standards for assessing equal opportunity in athletics working to promote opportunities for male and female athletes?” The Commission reported four findings. There has been great progress to create opportunities for women; however, more needs to be done to continue expansion of opportunities, while not limiting the opportunities for males (USDOE, 2003). Throughout the town hall meetings, many testimonials were presented that substantiated an unintended consequence of Title IX was the cutting of gymnastics, swimming/diving, and wrestling due to budgetary restraints and participation numbers (USDOE, 2003). The second finding was there were “three separate ways for institutions to demonstrate that they are in compliance with Title IX’s participation requirement” (USDOE, 2003, p. 22). The third finding was the administrators’ perception that the only way to demonstrate compliance with Title IX was to meet the substantial proportionality test to provide the safe harbor. Witnesses and commissioners stated throughout the

testimonies that they have been told on numerous occasions by attorneys and consultants that the only way to show compliance was to meet the first part of the test (USDOE, 2003). The last finding was that the proportionality test does not require opportunities for males to be limited or factor in the decision to cut or cap teams (USDOE, 2003, p. 24). Rick Bay, athletic director at San Diego State University, was quoted, “It is ironic that while the motivation for the genesis of Title IX was to eliminate discrimination against women, Title IX must now depend on a discriminatory benchmark of its own to validate its desired results . . . whether we’d like to admit it or not, proportionality is a quota system” (Messner & Solomon, 2007, p. 168).

For the second research question, the Commission sought to answer, “Is there adequate Title IX guidance that enables colleges and school districts to know what is expected of them and to plan for an athletic program that effectively meets the needs and interests of their students?” From the information, the Commission had two specific findings. The Commission found that there was great confusion due to the lack of clarity put forth by the OCR. More specifically, there was a lack of education by the OCR on the requirements of the three-part test, lack of clarity in the second and third parts of the test, and a need of specific examples of how institutions could demonstrate compliance (USDOE, 2003). Institutions have questioned, “Is the first test the only safe harbor?” Are institutions penalized for adding sports early and quickly, but not on a continual basis?” (USDOE, 2003, p. 26).

The second major finding was that the OCR enforcement of Title IX could be strengthened. The Commission stated that the process needed to be more transparent to allow for institutions to have a better understanding of compliance. It was suggested that

settlement letters could be shared to add transparency to the process. Also, enforcement was considered to be lax since federal funding has never been withheld from an institution not considered to be in compliance (USDOE, 2003).

Next, the Commission sought to answer, “Is further guidance or other steps needed at the junior and senior high school levels, where the availability or absence of opportunities will critically affect the prospective interests and abilities of student athletes when they reach college age?” The major finding was that colleges were not appropriately responsive to athletic participation at the high school level (USDOE, 2003, p. 27). More specifically, there was a disconnect between high schools and colleges. High school athletic participation rates were increasing, while the nature of college athletics only allows for a relatively small number of athletes to participate at the college level. When a college cuts a specific sport, it impacts participation rates at the high school level. The Commission specified colleges were not always aware or sensitive to national and regional trends in athletic interests at the high school level (USDOE, 2003).

At the Atlanta town hall meeting, it was stated that wrestling was number six overall in terms of high school participation; however, for every one college wrestling program, there were 35 high school wrestling programs. As college wrestling programs continued to decline, high school programs continued to increase (USDOE, 2002a, August 27).

Finally, the Commission sought to answer, “How should activities such as cheerleading or bowling factor into the analysis of equitable opportunities?” The Commission believed the OCR utilized flexible guidelines in helping to determine whether an activity was considered to be a sport according to Title IX compliance

(USDOE, 2003). An activity was considered to be a sport if participation was based on athletic ability, it has a defined season, teams/participants practice/compete in a similar fashion to other teams/participants, it was administered by the athletic department, and if the primary purpose of the activity was competition and not supporting other athletes/athletic programs or competitions (USDOE, 2003).

The Commission discovered, “with regard to high schools specifically, . . . there was a general awareness of Title IX, but it was unclear whether high schools were in compliance with Title IX” (Eckes, 2007, p. 182). As a result, the Commission had a plethora of recommendations to improve Title IX. “Any clarification or policy interpretation should consider the recommendations that are approved by this Commission, and substantive adjustments to current enforcement of Title IX should be developed through the normal federal rulemaking process” (USDOE, 2003, p. 33).

The second set of recommendations aimed at improving the OCR and its enforcement of Title IX. First of all, the OCR should provide clear, consistent, and understandable guidelines necessary for the efficient and effective implementation of Title IX. Second of all, through a national education effort, the OCR should streamline clarifications, ensure that enforcement was consistent by all regional offices, and clarify that cutting teams in order to demonstrate compliance was not a favored practice (USDOE, 2003). “The role of a federal enforcement agency . . . should be to make enforcement easy: providing sample policies, checklists or guidelines, research on [the] issues, or alternate procedures, all disseminated widely” (Davies & Bohon, 2007, p. 68). Thirdly, the threat of sanctions was not enough; rather, the OCR should encourage compliance and actually implement sanctions against those institutions not in compliance

with Title IX (USDOE, 2003). Finally, the Commission believed that the OCR should “disseminate information on the criteria it uses to help schools determine whether activities they offer qualify as athletic opportunities” (USDOE, 2003, p. 36).

The next set of recommendations by the Commission aimed at improving the three-part test to demonstrate compliance. The Commission recommended that the OCR should clarify the meaning of substantial proportionality “to allow for a reasonable variance in the relative ratio of athletic participation of men and women while adhering to the nondiscriminatory tenets of Title IX” (USDOE, 2003, p. 37). Secondly, the OCR should come up with a different way of measuring substantial proportionality, like, showing the number of predetermined athletic participation slots available to males and females was proportional to the enrollment (USDOE, 2003). The next recommendation called for the OCR to allow institutions to conduct interest surveys on a regular basis as a way of demonstrating compliance with the three-part test (USDOE, 2003). The final recommendation of the Commission was that the OCR should treat each of the three parts of the test as equally important when determining compliance (USDOE, 2003).

The Title IX Minority Report

Not all members of the Commission supported the final recommendations. There was considerable backlash and complaints made about the Commission from members amongst the Commission, as well as both the media and activists. Two members of the Commission refused to sign the final report; both Donna de Varona and Julie Foudy did not agree with all of the final recommendations and were frustrated with the output (Conniff, 2003). As a result, in 2002, de Varona and Foudy authored *Minority Views on the Report of the Commission on Opportunity in Athletics: Executive Summary*, voicing

their disagreement with the Commission's report. Through the minority report, the authors argued that many of the recommendations would weaken Title IX and reduce the number of opportunities for women both at the high school and collegiate levels. The report consisted of findings, recommendations, and problems with the Commission's process. The findings shed a different light on the Title IX debate. The dissenting opinion stated, "The fact that women and girls have fewer opportunities in athletics than men reflects the persistent discrimination against them, not lack of interest" (de Varona & Foudy, 2002, p. 37). Courts have heard the lack of interest argument over and over again and have ruled that the argument was both unfounded and unlawful (de Varona & Foudy, 2002).

Secondly, they believed the three-part test was both flexible and fair. Each of the three tests can be used to show compliance with Title IX and as a whole provide substantial flexibility (de Varona & Foudy, 2002). Furthermore, eight out of a possible eight appellate courts have ruled that the three-part test was an appropriate measurement of compliance with Title IX (de Varona & Foudy, 2002).

A third major dissention in the findings was the lack of a mechanism to monitor either participation in athletics or program expenditures at the high school level. At the collegiate level, there was the Equity in Athletics Disclosure Act; however, it does not cover high schools (de Varona & Foudy, 2002). "High schools . . . are not required to disclose any data on gender equity in sports, making it difficult for schools, students, and parents to ensure fairness in their schools' athletic programs" (Burton, 2009, p. 4).

As a result, de Varona and Foudy (2002) recommended the USDOE require high schools to complete and publish information similar to that required of colleges under the

Equity in Athletics Disclosure Act. Such information would allow the public and USDOE to gauge any high school's effort to comply with Title IX. The current policies have withstood both Republican and Democratic administrations, have been upheld by appellate courts, and have created opportunities for many females and, therefore, should not be weakened (de Varona & Foudy, 2002). If there were changes to be made, de Varona and Foudy argued sanctions needed to be implemented for institutions not in compliance with Title IX since no institution has ever lost federal funding as a result of lack of compliance. In the dissention, both de Varona and Foudy agreed that USDOE needed to undertake an educational campaign to explain the three-part test and ways to comply with the law and advise institutions that the abolition or reduction of men's athletic programs was not encouraged. There were ways to be in compliance (increase opportunities for the disadvantaged) other than reducing opportunities of the advantaged sex.

Both de Varona and Foudy (2002) not only disagreed with the findings and the recommendations, but they also found specific faults with the Commission's process. First of all, "the Commission's charge failed to ask the critical question: whether discrimination against girls and women persists, and how it can be remedied" (p. 53). More specifically, they believed the Commission was too focused on the loss of male athletic programs and did not inquire into whether or not the original goals of Title IX were met. Secondly, de Varona and Foudy believed certain key stakeholders were not represented in the process. In looking at the make-up of all of the commissioners, there was not one member from a high school, Division III, or Division II. Rather, the Commission was comprised mostly of "institutions with the greatest financial investment

in the National Collegiate Athletic Association, the Division I institutions that have been most visible and vocal with regard to difficulties they face in complying with Title IX” (Staurowsky, 2003, p. 5). It was glaringly apparent not one member from the Division III level was represented on the Commission, as the Division III is characterized as the model division for balancing athletic and academic priorities (Staurowsky, 2003). The Commission even acknowledged that it couldn’t reach any conclusions about application to the high school level and that was troubling because any of the recommendations adopted by Secretary Paige would have an impact upon all of the athletes participating in sports at the high school level (de Varona & Foudy, 2002).

Finally, de Varona and Foudy (2002) believed the witnesses selected to testify were overwhelmingly opposed to Title IX and some of the expert testimony requested was not provided. They believed the witnesses who opposed Title IX were significantly higher in number compared to the witnesses in support of Title IX and could have been in the ballpark of two to one opposed to Title IX. Women’s sports advocates believed that too much weight was placed on the testimony of the elimination of minor men’s sports, especially wrestling, as a result of Title IX.

The greatest drop in the number of men’s wrestling teams occurred between 1982 and 1992, when it fell from 363 to 275. . . . Over these years there was little enforcement of Title IX. From 1981 to 1984 the Reagan administration dragged its feet on gender equity, then Title IX was eviscerated by the 1984 Grove City Supreme Court decision. (Zimbalist, 2003, p. 55)

Furthermore, “improvements in gender equity were driven by increases in female participation rather than decreases in men’s participation levels. . . . For the 10-year/738

. . . institutions sample [1995-2006], male participation levels grew an average of almost 10 athletes per institution” (Cheslock, 2007, p. 18).

Some members of the media were quick to agree with de Varona and Foudy. The members of the media were quoted as saying, “The aggrieved jocks have found an ally in President Bush, who formed the Commission on Opportunity in Athletics last June to re-examine the law” (Conniff, 2003, p. 19). It was further stated that high school athletes and coaches actually in favor of Title IX never got to testify, whereas opponents like wrestlers had disproportionate representation and input (Conniff, 2003). Furthermore, the town hall format was seen as one-sided; there were many more spokespeople for men’s minor sports who have declined in numbers as opposed to women’s sports advocates. “Women’s sports advocates viewed the commission as the first step in a Bush administration attempt to weaken or dismantle Title IX’s regulations” (Messner & Solomon, 2007, p. 166).

When it comes to Title IX, most people point to the three-part test and there have been criticisms of the three-part test, but the test under the most scrutiny was part one, substantial proportionality. The purpose of part one of the three-part test is to assess “how much remains to be done before schools are in compliance with . . . Title IX’s key provision, that there be ‘substantial proportionality’ between the gender composition of a school’s . . . [enrollment] and women’s share of athletic ‘participation opportunities’” (Sigelman & Wahlbeck, 1999, p. 520).

Proponents of Substantial Proportionality

Proponents of substantial proportionality believed that an institution should prove its compliance with Title IX through the first part of the three-part test. These proponents

argued that the “premise of Title IX proportionality is that girls and women, given the opportunity, will participate in athletics at the same rate as men” (Gavora, 2002, p. 67). Thus, girls and women should be provided similar opportunities to compete.

Secondly, proportionality supports social change. “Proportionality may play a role in a larger process of cultural transformation. . . . [It] may be one part of a social reconstruction project aimed at changing the cultural meanings, or ‘tags,’ associated not only with competitive athletics” (Yuracko, 2002, pp. 74-75). Billie Jean King took on Bobby Riggs in a tennis match which turned out to be more than just a tennis match. In fact, King was quoted as saying, “I don’t think they realized that this little tennis match was going to do this to them. It wasn’t about tennis, it was about social change” (Edwards, 2010, p. 305).

Opponents to Substantial Proportionality

Opponents believe substantial proportionality is unfair because it begins with the initial conclusion “if participation is unequal when there is discrimination, . . . *then whenever there is unequal participation there must be discrimination*” (Gavora, 2002, p. 36).

More specifically, proportionality “suggests that the number of spots available to elite female and male athletes should be determined by the levels of athletic interest expressed by the rest of the female and male student body” (Yuracko, 2002, p. 70). Opponents point to the general student body and don’t understand why the “interest levels of women and men in the student body at large should determine the relative number of spots that the elite athletes of each sex should then be able to compete for” (p. 70).

Finally, opponents believed the three-part test literally “stands the American legal tradition on its head. . . . The first test establishes the guilt or innocence. . . . The second test is really just a way station to [achieving] the first . . . [test], and the third [part of the test] is . . . unreliable” (Gavora, 2002, p. 37). There is never an endpoint of the second test, as an institution never knows how much continuous expansion is enough and the “logical answer . . . is when women are no longer ‘underrepresented’ [and at that time] . . . the school has reached proportionality as defined by . . . [test number] one” (p. 36).

Proportionality in Context

To get a better understanding of how proportionality works, envision an institution, comprised of 600 students. The institution has an enrollment with 52% females and 48% males; meanwhile, 47% of the athletes were females and 53% were males. Therefore, the institution has failed the first test of substantial proportionality according to Title IX (Sigelman & Wahlbeck, 1999). Assuming the institution has also failed tests two and three, it has some options to be in compliance with Title IX.

The first option for the institution would be to increase opportunities for females. Since the institution had 318 male athletes (53% of 600), the institution would need 344 female athletes to achieve proportionality given the 52% (female) and 48% (male) enrollment figures. Adding 62 new female athletic spots, while holding male spots constant (318), would bring the institution in compliance with Title IX according to the first part of the three-part test to demonstrate compliance with Title IX (Sigelman & Wahlbeck, 1999). This option would increase the number of opportunities; however, it would also increase the athletic budget of the institution. When an institution adds an

activity, the “OCR takes into account: “ (1) unmet interest in a sport, (2) . . . ability to . . . sustain a team in a particular sport, and (3) a reasonable expectation of available competition for the team” (Brown , 2009, p. 517). In a perfect world, a trickle up effect or dynamic occurred, meaning when “all else [is] equal, an institution of higher education is more likely to add a sport when that sport is growing in popularity at the high school level” (Cheslock, 2008, p. 18).

The second option for the institution would be to eliminate opportunities for males. The institution had 282 female athletes (47% of 600) and 318 male athletes (53% of 600); the institution therefore could choose to reduce the number of opportunities for male athletes and that would result in the reduction of 58 male opportunities to attain the total of 260 male athletic opportunities. This involved eliminating a program in which males competed and allowed the institution to be in compliance with Title IX according to the first test of substantial proportionality (Sigelman & Wahlbeck, 1999). The institution had 542 total athletes with 282 of them being female and 260 of them being male. This option eliminated opportunities for males and reduced the athletic budget of the institution. Throughout all of the town hall meetings, this was the story told over and over again by collegiate wrestlers, gymnasts, and swimmers. For example, in 2002, for every NCAA wrestling program there were 32 high schools that wrestled; conversely, with women’s soccer (a sport that is being added), for every NCAA soccer program, there were 10 high school programs (Gavora, 2002).

Participation rates were not as significant at the high school level for three reasons. The first reason is high schools don’t generally drop sports for males. Secondly, the OCR has not pressed the three-part test on high schools as hard as it has been pressed

on colleges. Finally, parents do not realize the law requires high schools to provide equal participation opportunities for male and female athletes that are proportional to the enrollments (Suggs, 2005, p. 143).

In a 2007 study of college institutions, 86% of institutions would not meet the substantial proportionality standard and 75% of the institutions did not increase their number of women's teams in the early 2000s either (Cheslock, 2007). It seems that "the larger the institution and the lower its percentage of female . . . [enrollments], the more likely the institution is to be in compliance or making progress toward compliance [with Title IX]" (Stafford, 2004, p. 1484).

"Because many schools do not comply with Title IX based on proportionality, women's interest . . . [is] an issue. If an institution can demonstrate that the interests of the women on campus are being met, . . . the institution is in compliance" (Miller, Heinrich, & Baker, 2000, Abstract section, para. 3).

Further Clarification of Intercollegiate Athletic Policy Regarding Title IX Compliance

After both the Commission's report and the minority report were published, it was the OCR's turn. On July 11, 2003, the OCR released a Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance that focused on the three-part test, the cutting or reduction of teams, and the enforcement and implementation of Title IX (Reynolds, 2003). According to the clarification, the three-part test worked well, and the OCR encouraged institutions to take advantage of the flexibility using any one of the three tests, as all three equally measured an institution's ability to provide equal opportunities to its male and female athletes (Reynolds, 2003).

Furthermore, the OCR would help to educate institutions appreciate the flexibility of the law, explain that each test was a viable and separate means of compliance, and to provide practical examples of the ways in which schools can comply (Reynolds, 2003).

Secondly, the OCR clarified that nowhere in the law was it stated an institution must cut and/or reduce teams in order to be in compliance with Title IX. The elimination of teams takes away opportunities from interested parties and is not the favored practice established by Title IX (Reynolds, 2003). Finally, the OCR understood that schools would benefit from clear and consistent standards of Title IX and the OCR would aggressively enforce Title IX, and would mean the imposition of sanctions against institutions that were not in compliance with the law (Reynolds, 2003).

2005 Title IX Additional Clarification

After the 2002 Commission, the minority report, and the 2003 “*Open to All*”: *Title IX at Thirty*, the OCR administered the 2005 “Dear Colleague” letter as a clarification to the Title IX changes. From 1992 to 2002, the OCR received 132 collegiate cases alleging discrimination under Title IX. After analyzing the complaints, data, and evidence from each complaint, the OCR concluded that it was essential to create a User’s Guide including a “web-based prototype survey . . . that, if administered consistent with the recommendations in the User’s Guide, institutions can rely on as an acceptable method to measure students’ interest in participating in sports” (USDOE, 2005, p. iv).

When the Model Survey is properly administered to all . . . students, or to all . . . students of the underrepresented sex, results show that insufficient interest to support an additional varsity team for the underrepresented sex will create a

presumption of compliance with part three of the three-part test and the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities. (USDOE, 2005, p. iv)

Although the entire focus of the 2005 Additional Clarification was based on part three of the three-part test, OCR strongly reiterated that an institution was in compliance with Title IX as long as one of the three parts was met (substantial proportionality, history and continuing practices, and fully and effectively accommodating interests and abilities of the underrepresented sex). Each part of the three-part test provided a safe harbor of compliance with Title IX for an institution (USDOE, 2005, p. v). Based on the clarification of the survey, more than two thirds of the institutions involved in the 132 cases analyzed complied with Title IX according to part three; however, OCR believed that institutions were still uncertain about what was required to be in compliance.

According to the OCR, an institution would not be in compliance with the third test if there were evidence of unmet interest to field and sustain a varsity level team, recent elimination of a team of the underrepresented sex, or a petition of a club team to be elevated to a varsity level sport (USDOE, 2005). Furthermore, prong three was centered on an institution's ability to:

- (a) sustain a varsity team in the sport(s)[/activity];
- (b) sufficient ability to sustain . . . [a] . . . team in the sport(s); and
- (c) reasonable expectation of . . . competition for a team in the sport(s) within the school's normal competitive region. (USDOE, 2005, p. 4)

An institution was not required to fulfill every request by a student-athlete to elevate a club level sport to varsity status as long as one of the preceding conditions was

considered to be absent (USDOE, 2005). However, where all of the conditions are present, an institution has the obligation to accommodate the interests and abilities of the underrepresented sex (USDOE, 2005).

To assess the interest sufficient to sustain a varsity team, institutions may choose to use a web-based survey through a census (all students) or to all members of the underrepresented sex.

Schools may assume that nonresponse . . . indicates an actual lack of interest if . . . students have been given an easy opportunity to respond to the census, the purpose . . . has been made clear, and . . . [made aware] the school will take nonresponse as . . . [a] lack of interest. (USDOE, 2005, p. 6)

It is an accurate measure of student interest and ability if the survey is administered periodically to identify developing interests, conducted as a census instead of a sample survey, and administered in a manner that is designed for a high response rate, where students can easily respond (USDOE, 2005).

After the 2005 “Dear Colleague” clarification letter, both proponents and opponents of the changes shared their opinions. Proponents for the change suggested that the survey was a new way for institutions to be in compliance with Title IX while opponents of the changes were concerned with the limitations of the survey, feeling that it undermined the power of Title IX (Waldron, 2006). It undermines the power of Title IX, as “just because all . . . students must have the opportunity to take the Web-based survey does not mean that institutions must achieve a selected response rate to be in compliance” (Waldron, 2006, p. 4). Furthermore, lower socioeconomic status and rural areas have less access to the Internet. There is “a systematic difference between those

[students] who complete the survey and those who do not” (Waldron, 2006, p. 5) and this is not an accurate representation of a student body.

Furthermore, opponents of the change argued interest and opportunity must go hand in hand in the context of athletics. Since interest and opportunity go hand in hand, “surveys cannot measure the extent to which women would show interest and ability if non-discriminatory opportunities were made available to them” (Sabo & Grant, 2005, p. 3). The survey would be treated as a census and a nonresponse would be characterized as a lack of interest and ultimately a nonrespondent would be characterized as someone who has no interest in athletics (Sabo & Grant, 2005). Furthermore, a low response rate runs the risk of “drawing conclusions based on inadequate sample sizes . . . [or] variation in student access to or use of e-mail” (Sabo & Grant, 2005, p. 4). For example, a study of the interest of men and women was conducted in 2000 and a “majority of the women (74%) reported that they were . . . extremely (24%) or somewhat interested (50%) in sport. . . . Opportunity may drive interest and in the past many institutions have failed to offer an adequate number of sports for women” (Miller et al., Discussion section, para. 1). Therefore, a survey should not be the only step in being compliant with Title IX. Offering the sport is more important than just determining interest.

2008 Challenge by Pacific Legal Foundation to the OCR

In 2008, Steven Geoffrey Gieseler and the Pacific Legal Foundation received a letter from the OCR for a clarification ruling for the high school level. It was finally questioned as to whether or not the three-part test applied to high schools, as the reams and reams of policies and regulations issued as a result of Title IX were written to apply to Division I college sports. It was very “difficult to apply large sections of the law to

high school sports, even though the law applies to high schools just as it does to colleges” (Suggs, 2005, p. 142). Gieseler petitioned the U.S. Department of Education to “(a) clarify that the Three-Part Test does not apply to high school athletics”; and (b) the Department’s guidance to high schools with regard to measuring athletic interests and abilities (U.S. Department of Education [USDOE], 2008, p. 1).

The Department of Education denied each of Gieseler’s petitions. The three-part test did apply to high schools as the ruling stated, “It’s general principles will often apply to club, intramural, and interscholastic athletic programs, which are also covered by regulation” (USDOE, 2008, p. 2). With regards to the Department’s guidance to high schools measuring athletic interests and abilities, an institution was compliant when the focus of the survey was towards the underrepresented sex only. The focus on the underrepresented sex was considered to be appropriate because “Title IX, by definition, addresses discrimination. . . . The fact that the overrepresented gender is less than fully accommodated will not, in and of itself, excuse a shortfall in the provision of opportunities for the underrepresented gender” (USDOE, 2008, p. 3) .

2010 Title IX OCR Changes

Finally, in 2010, the USDOE overturned a Title IX policy implemented in 2005 allowing institutions “that receive federal funding to use a survey to gauge women’s interest in sports and attribute low response rates to lack of interest” (Jones, 2010, para. 1). Under the 2010 policy, schools may show compliance with Title IX using any of the three-part test, however, cannot solely “rely on surveys to assess female students’ interest or ability or characterize nonresponses as lack of interest” (Jones, 2010, para. 4). Vice-President Biden believes the policy change is the right thing to do, as it strengthens

Title IX (Jones, 2010). Furthermore, “this reversal of Title IX policy, while narrow, is an important sign of the Obama Administration’s support for civil rights. . . . [It] is a hopeful sign that we can expect further progress—instead of entrenchment—in the crucial area of ensuring that female and male athletes are given equal opportunity” (Grossman, “The Bottom Line,” 2010, paras. 1-2).

After careful review, [the] OCR . . . determined that the 2005 Additional Clarification and the User’s Guide are inconsistent with the nondiscriminatory methods of assessment set forth in the 1979 Policy Interpretation and the 1996 Clarification and do not provide the appropriate and necessary clarity regarding nondiscriminatory assessment methods, including surveys, under Part Three.

Accordingly, the Department is withdrawing the 2005 Additional Clarification and User’s Guide, including the model survey. (USDOE, 2010, p. 2)

An institution is no longer considered in compliance with Title IX as a result of just conducting a survey. Instead, multiple indicators must be used. An institution must take into consideration requests for a sport to be added, requests for a sport to be upgraded from club sport to varsity status, participation in intramural or club sports, interviews, results of surveys, and participation rates in community sports leagues operating in the area of the high school (USDOE, 2010). According to Neena Chaudhry, senior counsel for the National Women’s Law Center, “getting rid of the 2005 rule was an important step”; however, now it is time for the USDOE to “step up [the] enforcement [of the policy]—which officials [have] promised to do” (Paulson, 2010, p. 1).

Secondly, the OCR recommended “that institutions develop procedures for, and maintain documentation from, routine monitoring of participation of the underrepresented

sex in club and intramural sports as part of their assessment of student interests and abilities” (USDOE, 2010, p. 8). Taking it a step further, the OCR “recommends that institutions develop procedures for, and maintain documentation from, evaluations of the participation of the underrepresented sex in high school athletic programs” (USDOE, 2010, p. 8).

The Office for Civil Rights (OCR)

As legislation and policy have played a major role in the development of Title IX, so has the institution charged with enforcing it, the Office for Civil Rights (Carpenter & Acosta, 2005). In 1980, the USDHEW split into the Department of Education (USDOE) and the Department of Health and Human Services (USDHHS). At this time, Title IX enforcement was transferred to Department of Education’s Office for Civil Rights (OCR) (Suggs, 2005).

The headquarters for the Office of Civil Rights is located in Washington, DC, and the United States is divided into twelve regions. The Boston Office region is comprised of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The New York Office region is comprised of New Jersey, New York, Puerto Rico, and the Virgin Islands. The Philadelphia Office region is comprised of Delaware, Maryland, Kentucky, Pennsylvania, and West Virginia. The Atlanta Office region is comprised of Alabama, Florida, Georgia, and Tennessee. The Chicago Office region is comprised of Illinois, Indiana, Iowa, Minnesota, North Dakota, and Wisconsin. The Cleveland Office region is comprised of Michigan and Ohio. The Kansas City Office region is comprised of Kansas, Missouri, Nebraska, Oklahoma, and South Dakota. The Denver Office region is comprised of Arizona, Colorado, New Mexico, Utah, and Wyoming. The Dallas

Office region is comprised of Arkansas, Louisiana, Mississippi, and Texas. The District of Columbia Office region is comprised of North Carolina, South Carolina, Virginia, and Washington, DC. The San Francisco Office region is comprised of California. Finally, the Seattle Office region is comprised of Alaska, American Somoa, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, and the Mariana Islands (U.S. Department of Education [USDOE], 2011).

OCR Enforcement

“OCR’s enforcement strategy has long involved the development of regulations, policy documents, and guidance materials to educate federal funds recipients in topics including Title IX compliance, . . . compliance reviews, and monitoring” (Davies & Bohon, 2007, p. 41). Institutions were made aware of the nondiscrimination obligation and are required to post notices and disseminate informational policies to the administration (Davies & Bohon, 2007). After educating institutions about nondiscriminatory obligations, the OCR has two ways of policing institutions to ensure compliance: investigating a complaint and random compliance reviews (Eckes, 2007).

The first example, investigating a complaint, starts when an allegation of discrimination is filed against an institution. A complaint is sent to the OCR regional office where the complaint originated. “After receiving a complaint, OCR conducts an investigation to determine if the alleged discrimination took place. If . . . valid, it can be resolved through a variety of means, ranging from a settlement agreement to a referral to the Department of Justice for enforcement” (Stafford, 2004, p. 1471).

The filing of a complaint triggers an investigation to determine whether there was any substance to the allegation. . . . If there is a plausible violation, then OCR

works to obtain compliance with Title IX through a conciliation process with the goal of obtaining an agreement between the agency and the funding recipient.

(Davies & Bohon, 2007, p. 51)

Sports programs were frequently the targets of complaints filed with OCR. The OCR wants to see a gender balance within the entire athletic program as well as offering opportunities to men and women in proportion to their respective school enrollment percentages (Tungate & Orié, 1998). The conciliation process usually ends with a compliance action plan or a “voluntary agreement between the OCR and the educational institution initiating or discontinuing certain actions within specified time frames” (Heckman, 1992, p. 19). “Most complaints are filed initially with designated local officials or state agencies, so looking at cases that come to OCR is a bit like seeing the tip of an iceberg” (Davies & Bohon, 2007, p. 51).

The second way OCR polices compliance of Title IX is through random compliance reviews. The OCR conducts “periodic investigations of . . . public schools to verify compliance with Title IX” (Eckes, 2007, p. 183). If the investigation uncovers a plausible violation, the OCR works with the institution to develop a compliance action plan. The OCR might be more effective in educating the individuals who enforce Title IX at local levels.

School administrators, compliance officers or legal counsel already handle the bulk of Title IX enforcement; they are more numerous than federal employees, . . . keenly [more] aware of the problems facing their communities and institutions than are federal enforcement personnel and can respond quickly to these problems. (Davies & Bohon, 2007, p. 28)

Accountability was more evident at the local level and may be more effective.

Accountability at the local level may also take the form of a self-audit. A Title IX compliance self-audit was a way for an institution to comply with Title IX and avoid a potential lawsuit by looking at the entire athletic program to check for compliance (Tungate & Orie, 1998). The administration of the institution identifies all of the activities offered, the interests levels of the students, the participation percentages, the history, and continuing practices (Tungate & Orie, 1998). After gathering the information, the administration would create a timetable for program expansion if the audit deems it necessary. Such a demonstration shows the OCR as well as the courts that the institution is trying to take the necessary steps to be in compliance with Title IX (Tungate & Orie, 1998). The plan should include an interests inventory of the student body as well as facility requirements, travel requirements, funding, and staffing needs (Sawyer, 1999). “Every athletic governance organization should have a certification program or self-evaluation requirement that accesses gender equity and diversity within the athletic programs of its members” (Cheslock, 2008, p. 39).

Criticisms of OCR

In 2007, educational law conference attendees were invited to participate in a survey on how attorneys, administrators and compliance personnel perceive the effectiveness of Title IX enforcement (Davies & Bohon, 2007). From the study, there were certain criticisms voiced with how the OCR conducted its investigations as well as its overall effectiveness.

First of all, the sanction of cutting off funding from an organization that was not in compliance with Title IX has never been imposed (Davies & Bohon, 2007). Secondly,

it has been said that it “depends largely on the administrative climate of a particular regional OCR office or the commitment of the specific OCR employees assigned” (Carpenter & Acosta, 2005, p. 22). The OCR should identify and recommend uniform standards to allow for consistency across each of the regions. It is essential that each compliance officer understands and interprets Title IX to identify discrimination and how to remedy the situation as consistently as possible (Setty, 1999).

Thirdly, OCR complaints should be resolved more quickly because it is such a time-consuming process based on all of the data needed to be collected and processed (Setty, 1999). As of 2007, it was reported that the OCR resolves most cases in roughly six months (Davies & Bohon, 2007). Furthermore, athletic directors have said that it was a time-consuming process that was extremely frustrating, as OCR investigators have been characterized as inflexible, bureaucratic, but, most importantly, ignorant of how athletic programs operate at the local level (Suggs, 2005).

Judicial Interpretation/Case Law

“Although universities, rather than high schools, are typically in the spotlight for Title IX violations, Title IX compliance is equally important at the high school level” (Eckes, 2007, p. 193). Case law developed by virtue of decisions in a long line of Title IX lawsuits provided another source of information about Title IX. The court’s “decisions in lawsuits provide insight into how the courts view issues of contention concerning specific legal issues” (Carpenter & Acosta, 2005, p. 116). Furthermore, the court’s decisions add to a body of literature influencing Title IX known as case law.

Title IX Cases

Case law differs from an OCR complaint in several ways based on its characteristics. For a lawsuit to be held, the plaintiff must have legal standing, meaning that he/she was harmed by the actions of the defendant. This differs from an OCR complaint where a plaintiff does not have to have legal standing (Carpenter & Acosta, 2005). Secondly, the plaintiff must incur the entire cost of the lawsuit including the transcripts, filing fees, lawyer fees, etc. In an OCR complaint, the plaintiff may not incur any costs (Carpenter & Acosta, 2005). “Lawsuits generally involve the plaintiff more actively in the process; an OCR complaint often proceeds with little concern for the desire of the complainant to be involved” (Carpenter & Acosta, 2005, p. 25). Finally, after a lawsuit has concluded, the court system oversees the enforcement of the decision. However, an OCR complaint relies on the OCR. This is problematic due to “an environment of fluctuating vigor depending on who occupies the White House, to monitor and enforce the letter of findings or resolution” (Carpenter & Acosta, 2005, p. 25). Generally, lawsuits may be more appealing due to the fact that a lawsuit could result in a decision where a plaintiff received monetary damages. “Schools are more likely to comply with Title IX if non-compliance is punished with money damages” (Eckes, 2007, p. 183) as opposed to a letter of reprimand and an action plan.

A majority of high school Title IX cases fall in the categories of facilities and equipment, scheduling, retaliation, outside groups, and special support (Darden, 2007). In the category of facilities and equipment, one of the court cases is *Landow v. Brevard County*. Both *Communities for Equity v. Michigan High School Athletic Association* and *Ridgeway v. Montana High School Association* represent the category for scheduling

issues. For the category of retaliation, the landmark case is *Jackson v. Birmingham Board of Education*. In the category of special support, the Office for Civil Rights “concluded in November 2006 that several school districts in New York state’s Southern Tier Athletic Conference violated Title IX in sponsoring cheerleaders at boys’ basketball, baseball, and softball games but not at girls’” (Darden, 2007, p. 42). As far as outside groups are concerned, the Office for Civil Rights also concluded in November 2006 that New York state’s Southern Tier Athletic Conference must also be equal in promotion and publicity surrounding the sports (Darden, 2007).

Brenden v. Independent School District 742

One of the first cases the courts received concerning equity in athletics was *Brenden v. Independent School District 742* (1973) heard by the Eighth Circuit Court of Appeals. This case reflects both “congressional and executive activity in the development of judicial precedent concerning sex discrimination in athletics and education, thereby underscoring once again the cross-institutional dialogue during this period of Title IX’s development” (Edwards, 2010, p. 322).

The facts of the case included the plaintiffs’ desired interest to compete in non-contact interscholastic sports: Brenden in tennis and St. Pierre in both cross-country skiing and cross-country running. The problem was neither Brenden’s nor St. Pierre’s high schools offered the teams for females in the sports they wanted to participate; however, their schools did offer teams for males. Both Brenden and St. Pierre wanted to try out for the male teams, but were denied the opportunity. “The trial court found that both were excellent athletes, and that neither would be damaged by competition with males” (*Brenden v. Independent Sch. Dist. 742*, 1973, p. 1294). “The [Minnesota State]

High School League [MSHSL] failed to show that it had established an objective nondiscriminatory minimum standards for evaluating . . . noncontact interscholastic athletics” (p. 1300).

Ultimately, the overriding factor was both “schools had no cut policies allowing male students, no matter *how untalented* [the opportunity], to participate in the non-contact interscholastic sports involved . . . [in the case]” (Brenden v. Independent Sch. Dist. 742, 1973, p. 1300). Moreover, the MSHSL failed to demonstrate a “rational basis for their conclusion that women are incapable of competing with men in non-contact sports” (p. 1300).

The court stated that it was “reluctant to invalidate state and local action as unconstitutional. We have, however, no choice where a group of citizens has been deprived of equal protection of the law” (Brenden v. Independent Sch. Dist. 742, 1973, p. 1303). Furthermore, the case revealed “sex-segregated construct and thus discrimination is readily apparent. Historically male-centered domain and opening the door to new participants means having to share resources previously thought to be for males alone” (Carpenter & Acosta, 2005, p. 65).

Ridgeway v. Montana High School Association

Nine years later, *Ridgeway v. Montana High School Association* (1982) set precedence for NDNCR. Similar to the *Brenden* case, it focused on the historically male-centered domain of athletics and opening that door to female participants. The plaintiffs for the case were girls attending public high schools in the state of Montana. The complaints against the state of Montana in the case were:

- (1) 88 percent of Montana High Schools provided sports for boys fall, winter and spring, but only 16 percent provided them for girls during all three seasons;
- (2) fewer girls participated in interscholastic high school sports;
- (3) every high school in the state spent more money on boys' sports than on girls' sports;
- (4) Montana was one of two states which had failed to approve power volleyball as an interscholastic sport despite three requests in three years;
- (5) only seven interscholastic sports were available to girls, while eleven interscholastic sports were available to boys;
- (6) girls basketball and volleyball in Montana were played in out-of-norm seasons;
- (7) practice schedules for girls' sports teams were scheduled at undesirable times so as not to interfere with the practice schedules of boys' teams;
- (8) MHSA publicized boys' tournaments more than girls' tournaments.

(Ridgeway v. Montana High Sch. Ass'n, 1982, p. 582)

The Montana High School Association and the plaintiffs turned to a constructive settlement negotiation to increase opportunities for females throughout the state facilitated by Barry Gomberg of the Mountain West Sex Desegregation Assistance Center of Weber State College (Ridgeway v. Montana High Sch. Ass'n, 1982). The settlement created statewide requirements in school athletic programs, forced the parties to agree to disagree on the basketball and volleyball seasons for females, and finally, forced the MHSA to submit a compliance report to the court within three months of the settlement agreement (Ridgeway v. Montana High Sch. Ass'n, 1982).

Grove City College v. Bell

While both the *Brenden* and the *Ridgeway* cases focused on student-athletes, *Grove City College v. Bell* (1984) focused on the programs covered by Title IX and proved to be a landmark decision in shaping Title IX policy. In *Grove City College v. Bell*, the court focused upon:

(1) whether Title IX applied to Grove City College through indirect federal grants used by students to finance their education and, if so, (2) whether the federal assistance to that program could be terminated because the college refused to comply with Title IX. (Stevens, 2004, p. 161)

The facts of the case listed Grove City College as “a private, coeducational, liberal arts college that has sought to preserve its institutional autonomy by consistently refusing state and federal financial assistance” (*Grove City Coll. v. Bell*, 1984, p. 559). Grove City College’s desire to avoid federal oversight led to the college declining direct institutional aid, as well as federal student assistance programs; however, Grove City College did enroll a large number of students who received Basic Educational Opportunity Grants. Since Grove City College did not accept state and federal assistance, the institution believed it was not subject to compliance with Title IX of the 1972 Education Amendments.

The question the court had to answer was:

(1) whether Title IX applied to Grove City College through indirect federal grants used by students to finance their education and, if so, (2) whether the federal assistance to that program could be terminated because the college refused to comply with Title IX. (Stevens, 2004, p. 161)

The Supreme Court ruled because some Grove City College students received Basic Educational Opportunity Grants, it “does not trigger institution wide coverage under Title IX” (p. 573). More specifically, the Supreme Court stated, “In purpose and effect, . . . [Basic Educational Opportunity Grants] represent federal financial assistance to the College’s own financial aid program, and it is that program that may properly be regulated under Title IX” (pp. 573-574).

The *Grove City* decision dealt a major blow to Title IX, as “there was little direct federal funding of athletic programs and departments; [therefore], most athletic programs were eliminated from Title IX coverage” (Heckman, 1992, p. 32). The *Grove City* decision forced Title IX to look at programs on an individual basis to determine if the individual program received federal funding or not. If the specific program received federal funding, it was subject to Title IX compliance and, if it did not, then it was not subject to Title IX compliance. If the biology professor’s research grant was the only program on campus receiving federal funding, it was the only department that needed to be in compliance with Title IX (Carpenter & Acosta, 2005).

The *Grove City* decision impacted colleges and high schools differently. At the collegiate level, Title IX was virtually nonexistent as most athletic programs did not receive federal funds, therefore were not subject to comply with Title IX (The National Coalition for Women and Girls in Education, 2007). However, it had a much different impact upon interscholastic athletic programs. The *Grove City* decision strengthened Title IX at the high school level:

Federal financial assistance to school districts generally comes to the school district rather than to a specific subunit [or program]. Once in the school district,

federal dollars are mixed with other funding dollars . . . thus conferring Title IX jurisdiction on all corners of the school district, including its athletic programs.

(Carpenter & Acosta, 2005, p. 121)

Franklin v. Gwinnett County Public Schools

The courts were relatively quiet as a result of the *Grove City* decision; however, the Civil Rights Restoration Act of 1987 defined programs and restored the power of Title IX (Carpenter & Acosta, 2005). The case that had a major impact on Title IX policy was *Franklin v. Gwinnett County Public Schools* (1992). The courts were forced to answer the question of whether or not “monetary damages [were] available to the successful Title IX plaintiff” (Carpenter & Acosta, 2005, p. 124).

Christine Franklin was a student at North Gwinnett High School in Gwinnett County, Georgia, from 1985 to 1989 and, during that time, was subjected to continual sexual harassment from Andrew Hill, both a coach and teacher employed by the district. During Franklin’s sophomore year, “Hill forcibly kissed her on the mouth in the school parking lot . . . and took her to a private office where he subjected her to coercive intercourse” (Franklin v. Gwinnett County Pub. Schs., 1992, p. 63). Administration learned of the harassment and conducted an investigation into Hill’s actions, but did nothing to halt them and in fact discouraged Franklin from pressing charges against Hill. Hill agreed to resign and in turn all matters against him would be dropped. It was dismissed by the district court because Title IX does not offer award of damages (Franklin v. Gwinnett County Pub. Schs., 1992).

The Supreme Court concluded that “a damages remedy is available for an action brought to enforce Title IX. The judgment of the Court of Appeals . . . was reversed, and

the case . . . [was] remanded for further proceedings consistent with this opinion” (Franklin v. Gwinnett County Pub. Schs., 1992, p. 76). With the *Franklin v. Gwinnett* decision, “the enforcement power of Title IX had been dramatically changed. The decision put every institution on notice that it now faced a realistic threat of losing substantial and unpredictable amounts of money for noncompliance” (Carpenter & Acosta, 2005, p. 124). Title IX had always threatened the discontinuation of funds but had never imposed the sanction, “because it would deprive the primary beneficiaries of Title IX—the students—of resources on which their schools have come to depend” (Davies & Bohon, 2007, p. 41). However, now there was a possibility of an actual punishment if a school willfully ignored compliance with Title IX.

Favia v. Indiana University of Pennsylvania

Favia v. Indiana University of Pennsylvania (1993) was an extremely important case in Title IX policy formation setting the standard that there could “never be an economic justification for discrimination” (Carpenter & Acosta, 2005, p. 137). Indiana University of Pennsylvania (IUP) eliminated two women’s varsity athletic programs, field hockey and gymnastics, but was in the process of adding a female varsity soccer program. The proposed plan would have increased the percentage of female athletes competing at IUP from 38.97% to 43.02%, while lowering the overall athletic budget. A 15-member gymnastics team costs the University \$150,000, while a 50-member soccer team would only cost the university \$50,000 (*Favia v. Indiana Univ. of Pa.*, 1993).

The court’s decision rested on the intent of the actions. Although more slots for participation to compete would have been created with the addition of a female soccer program, the funding gap between male athletic programs and female athletic programs

would have increased, thus moving the school further away from the goals of Title IX. Furthermore, the court stated that Indiana University of Pennsylvania would still not meet the proportionality test as its student body was comprised of 6,003 females (56%) and 4,790 males (44%), giving them a difference of -13% (43.2%- 56%) with females and 13% (57%- 44%) with males. However, the most important issue was that money, or lack thereof, cannot be a justification for discrimination under Title IX (*Favia v. Indiana Univ. of Pa.*, 1993).

Roberts v. Colorado State Board of Agriculture

Roberts v. Colorado State Board of Agriculture (1993) was an important case in identifying OCR's role with substantial proportionality and accepted differences between athletic participation percentages compared to enrollment percentages. Moreover, it further helped to define the significance of regions within the OCR.

Current and former members of the Colorado State University (CSU) varsity softball team filed suit after the University announced that it was going to drop the softball program. The disparity between enrollment and participation in athletics at CSU during and prior to the case was 7.5%, 12.5%, and 12.7% and that did not meet the first test (Substantial Proportionality) for Title IX compliance (*Roberts v. Colorado State Bd. of Agric.*, 1993). The district court sided with the plaintiffs declaring CSU was in violation of Title IX and issued an injunction to reinstate the program immediately. However, there was a key difference with the decision, in that it was not considered a class action suit, meaning the decision only applied to these plaintiffs in this decision. The decision did not extend to other colleges, universities, or even high schools in Colorado. The softball players named in the suit were the only athletes not being

accommodated. Once the specific group of softball players graduated, CSU has the opportunity to have the injunction (to reinstate the softball team) lifted (Roberts v. Colorado State Bd. of Agric., 1993). “Case law serves as a rough guideline for what may numerically constitute substantial proportionality; however, case law also demonstrates that the standard is flexible and that courts do allow for some variance” (Stevens, 2004, p. 174). Furthermore, it cannot be expected the institution meet exact proportionality as participation and enrollment rates fluctuate over time and especially year to year (Stevens, 2004).

Cohen v. Brown University

Cohen v. Brown University (1997) was a landmark case that taught a major lesson to both high schools and colleges. “It’s best to try to settle when sued under Title IX” (Tungate & Orié, 1998, para. 2).

In 1991, Brown University decided to demote two women’s varsity programs and two varsity men’s teams from university funded to donor funded in a cost-cutting move for the athletic department. In all, the demotion would have saved the athletic department roughly \$62,028 (Cohen v. Brown Univ., 1997). When applying the three-part test, Brown University did not meet any of the tests to be in compliance with Title IX. Brown University had a 13% disparity in relation to female participation in athletics compared to female enrollment, thus not meeting compliance according to the first test (Cohen v. Brown Univ., 1997). While Brown University had an impressive history of athletic expansion for females in the past, it did not have a continuing practice of program expansion for the underrepresented females, thus not being in compliance with the

second test (Cohen v. Brown Univ., 1997). Finally, Brown University was not considered in compliance with the third test:

This “relative interests” approach posits that an institution satisfies prong three of the three-part test by meeting the interests and abilities of the underrepresented gender only to the extent that it meets the interests and abilities of the over-represented gender. (Cohen v. Brown Univ., 1997, p. 174)

Brown University argued that women were “less interested than men in participating in intercollegiate athletics, as well as . . . institutions should be required to accommodate the interests and abilities of its female students only to the extent that it accommodates the interests and abilities of its male students” (Cohen v. Brown Univ., 1997, p. 176).

The First Circuit Court of Appeals in Boston decided even if it could be “empirically demonstrated that, at a particular time, women have less interest in sports than do men, such evidence, standing alone, cannot justify providing fewer athletics opportunities for women than for men” (Cohen v. Brown Univ., 1997, p. 180). The court determined it was actual participants needed to be counted, rather than potential athletes, meaning if a female basketball team has 13 slots, yet only 10 participants, the number counted for identifying athletic participation was 10, not 13 (Carpenter & Acosta, 2005). Furthermore, a university may not use just a survey to determine interest of the underrepresented sex to be in compliance with Title IX (Carpenter & Acosta, 2005). According to the Trial Lawyers for Public Justice (2007), “Brown University had agreed to guarantee intercollegiate athletic participation rates for women athletes and funding for four contested women’s teams to resolve . . . [the] landmark Title IX class action [suit] against the school” (p. 335).

Daniels v. School Board of Brevard County

Moving away from the athletes, the courts also were forced to focus on the facilities provided for the athletes. In *Daniels v. School Board of Brevard County* (1997), the courts ruled on the disparity of athletics within the same season when facilities were compared. Daniels, the plaintiff, alleged the “School Board of Brevard County [Florida], was violating Title IX and the Florida Educational Equity Act based on disparities between the girls’ softball [team] and boys’ baseball programs at Merritt Island High School” (*Daniels v. School Bd. of Brevard County*, 1997, p. 995). “The girls alleged that the boys were unfairly given a lighted playing field, a scoreboard, a batting cage, bathroom facilities, superior bleachers, a concession stand, and a press box, while the girls’ team did not have such amenities” (Eckes, 2007, p. 189). The court issued an injunction for the School Board to remove a fence to allow access to the bathrooms for the softball fields and the baseball fields, to allow both programs to share the batting cages, to construct a sign describing the complex as both baseball and softball, and to install lights upon the girls’ softball field (*Daniels v. School Bd. of Brevard County*, 1997).

Jackson v. Birmingham Board of Education

In the 2000s, courts were forced to rule on the protection of the whistleblowers. The landmark Title IX case of *Jackson v. Birmingham Board of Education* (2005) was extremely important as it “allowed coaches to report inequities between female and male sports teams without fear of being fired or demoted” (Eckes, 2007, p. 176). Essentially, it allowed whistleblowers the freedom from retaliation or retribution.

Jackson, a girls' basketball coach at a public high school in Alabama, noted there was disparity between the treatment of the girls' basketball team and the boys' basketball team. There was a difference in funding, access to equipment, and access to facilities and, because of this inequity, Jackson found it difficult to perform his job as the head coach. Jackson complained to his superiors, but his complaints fell on deaf ears and the school failed to remedy the situation. After the complaints, Jackson began to receive negative work evaluations and was subsequently removed as the girls' basketball coach (Jackson v. Birmingham Bd. of Educ., 2005).

Jackson alleged that the Board violated Title IX for retaliating against him after reporting inequities between the girls' and boys' basketball programs (Jackson v. Birmingham Bd. of Educ., 2005). The court ruled "retaliation against a person because that person has complained of sex discrimination is another form of intentional sex discrimination encompassed by Title IX's private cause of action" (Jackson v. Birmingham Bd. of Educ., 2005, p. 173). Retaliation was considered to be an intentional act and this was an intentional act.

Furthermore, the court agreed retaliation could not be allowed to occur because Title IX enforcement depended on whistleblowers coming forward. First of all, "reporting incidents of discrimination is integral to Title IX enforcement and would be discouraged if retaliation against those who report went unpunished" (Jackson v. Birmingham Bd. of Educ., 2005, p. 180). Secondly, Title IX's enforcement scheme also depended on individual reporting because individuals and agencies may not bring suit under the statute unless the recipient has received actual notice of the discrimination (Jackson v. Birmingham Bd. of Educ., 2005). The case advised administrators,

supervisors, and employers who are subject to Title IX compliance it “would be wise to avoid retaliation, demotion, or discharge of an employee simply because of a claim or allegation of discrimination under Title IX” (Epstein, 2005, p. 7). It was a major step in protecting the targets of discrimination.

Biediger v. Quinnipiac University

In July 2010, Stefan R. Underhill, a district court judge, ruled on an important case dealing with emerging sports and Title IX. In 2009, Quinnipiac University wanted to cut three sports teams (women’s volleyball, men’s golf, and men’s outdoor track), while it vowed to add another female sport to make up for the one lost, competitive cheerleading (Biediger v. Quinnipiac Univ., 2010). Members of the volleyball team sought injunctive relief alleging Quinnipiac University discriminated on the basis of sex its allocation of athletic participation opportunities.

In an important ruling, Stefan R. Underhill ruled competitive cheerleading does not qualify as a varsity sport and therefore its athletes could not be counted for Title IX participation purposes. He went even further stating that it may qualify sometime in the future; however, today (2010) it didn’t qualify because it was too underdeveloped and disorganized to be used to count as varsity athletes for participation counts in determining proportionality (Biediger v. Quinnipiac Univ., 2010).

Quinnipiac University was required to submit a compliance plan and was given the flexibility to bring itself into compliance with Title IX for the 2010-11 athletic season. One condition for the 2010-11 season was Quinnipiac must offer a women’s volleyball team, however, after the season, was not required to do so as long as it was in compliance with Title IX (Biediger v. Quinnipiac Univ., 2010).

In a recent decision, the United States Second Circuit Court of Appeals affirmed the district court's decision that competitive cheerleading did not qualify as a varsity sport, and therefore its athletes could not be counted for Title IX participation purposes used to determine proportionality (*Biediger v. Quinnipiac Univ.*, 2012).

Communities for Equity v. Michigan High School Athletic Association

The final court case impacting Title IX focuses on the scheduling of athletic season, *Communities for Equity v. Michigan High School Athletic Association* (2006). It was a court case similar to that of *Ridgeway v. Montana High School Association* ruling on the appropriate season in which female/male sports are scheduled for competition. Communities for Equity filed a complaint against the MHSAA claiming that its scheduling practices (of placing certain sports in disadvantageous/nontraditional seasons) discriminated against female interscholastic athletes (*Communities for Equity v. Michigan High School Athletic Ass'n*, 2006). "Seasonal schedules . . . have been a major issue. . . . High school girls played volleyball in the winter and basketball in the fall, even though in the rest of the country, volleyball is a fall sport and girls' basketball, like boys', is played in the winter" (Suggs, 2005, p. 149).

The Michigan High School Athletic Association proposed remedies that were not accepted by the court and the court provided an action plan that would be acceptable to bring the MHSAA in compliance with Title IX (*Communities for Equity v. Michigan High School Athletic Ass'n*, 2006). The MHSAA decided to:

reverse girls' basketball and volleyball; and in the Lower Peninsula, reverse two girls' seasons with two boys' seasons from among golf, tennis, swimming, and

soccer; and in the Upper Peninsula, keep combined seasons in golf and swimming and reverse seasons in either tennis or soccer; or otherwise treat the Upper Peninsula the same as the Lower Peninsula. (Communities for Equity v. Michigan High School Athletic Ass'n, 2006, p. 698)

During the lawsuit, a women's high school basketball coach from Michigan testified in front of the 2002 Title IX Commission arguing that the sports seasons should not be changed. Kathleen McGee argued that a vast majority of coaches, athletes, and administrators wanted to continue to schedule women's basketball in the fall, and she believes courts are using too narrow of an interpretation of the disadvantageous season (USDOE, 2002c, September 17). Her argument was based on the premise that girls' high school sports participation percentages (at the time) ranked third in the nation for basketball and volleyball and fourth in the nation for golf and swimming. Furthermore, she argued that, in terms of college recruitment, Michigan ranked fifth in the United States for Division I basketball recruits and sixth in the nation for Division I volleyball recruits (USDOE, 2002c, September 17). These numbers would not be so if the athletes were playing in disadvantageous seasons.

Future of Title IX Cases

The United States has become a litigious society, but "discrimination claims are more complex for faculty, staff, and students to prove and for institutions to defend against" (Luna, 2008, p. 5). Because the U.S. is such a litigious society, the composition of the Supreme Court will always play a vital role in shaping Title IX policy.

"Composition of the Supreme Court may have [an] . . . impact on future Title IX decisions. During Justice O'Connor's tenure on the Court, the Supreme Court decided

cases affecting women's legal rights by only slight margins. . . . [Justice O'Connor's] retirement leaves many wondering how future Title IX cases will be decided" (Eckes, 2007, p. 192). More specifically, "if Justice Samuel Alito . . . and Chief Justice John Roberts . . . do not share Justice O'Connor's independent and balanced perspective, gender equity cases, particularly Title IX cases, could be in danger" (Eckes, 2007, p. 176).

Summary

Chapter II provided a literature review of Title IX. Chapter III will describe the methods used to conduct the study. Chapter IV will present the findings in quantitative means. Finally, Chapter V presents a summary, conclusions, discussion of the findings, recommendations of the study, and recommendations for future studies.

CHAPTER III

METHODS

The purpose of this study was to investigate NDNCR high school athletic administrators' perceptions of 2010 Title IX policy changes respective to their athletic programs. The scope of the study included the states of NDNCR: Minnesota, Montana, North Dakota, South Dakota, and Wyoming. Chapter III presents the procedures used in this study, participant selection, design of the research plan, data collection instruments, collection of data, data analysis, reliability and verification of qualitative data, and summary.

Research Questions

Since there is limited knowledge regarding Title IX at the high school level, the study was guided by the following research questions:

1. How are high school athletic administrators represented in Title IX policies affecting and being imposed on high school sports?
2. How did 2010 Title IX policy change impact high schools and their compliance with Title IX?
3. What are the emerging sports of North Dakota's Normal Competitive Region?
4. What are high school athletic administrators' perceptions of OCR's Title IX education?

5. What are high school athletic administrators' perceptions of Title IX's three-part test for compliance?

Population

Part three of the three-part test centers on whether there are concrete and viable interests among the underrepresented sex that should be accommodated by the institution's athletic program (USDOE, 2005, p. 4). To add a sport/activity, there must be an unmet interest sufficient to sustain a varsity team, ability to sustain a team, and reasonable expectation for a team within the school's normal competitive region. A normal competitive region is defined as "available competitive opportunities in the geographic area in which the institution's athletes primarily compete" (USDOE, 2005, p. 11). The states located in NDNCR include Minnesota, Montana, South Dakota, and Wyoming.

In NDNCR, there are 1,014 high schools that have at least 25 students and belong to their state's respective high school athletic association. Some high schools are grades 9-12, some are grades 7-12, and some are grades 10-12, as each state has different characteristics of what is considered to be a high school.

Participant Selection

A list of high schools from NDNCR was gathered from the Minnesota State High School League (MSHSL), Montana High School Association (MHSA), North Dakota High School Activities Association (NDHSAA), South Dakota High School Activities Association (SDHSAA), and Wyoming High School Activities Association (WHSAA). From the lists compiled, the high schools were stratified according to enrollment sizes,

starting with the high schools with the largest enrollments and ending with the high schools with the smallest enrollments (Table 1). The researcher used the websites

Table 1. Number of High Schools Located in NDNCR.

State	Student Enrollment 25 to 150	Student Enrollment 151 to 350	Student Enrollment 351+	Total
Minnesota	147	133	173	453
Montana	96	31	33	160
North Dakota	110	30	17	157
South Dakota	124	32	18	174
Wyoming	35	14	21	70
Total	512	240	262	1,014

for the following states to identify the enrollments: Minnesota (<http://www.mshsl.org/mshsl/index.asp>), North Dakota (<http://www.ndhsaa.org/>), South Dakota (<http://www.sdhsaa.com/Home.aspx>), and Wyoming (<http://www.whsaa.org/map/map.asp>). Montana’s website does not provide the information, so the researcher contacted the Montana High School Association and was provided with the information.

Of the 1,014 high schools in NDNCR, 282 of the high schools’ athletic administrators were selected to be surveyed. The 282 high school athletic administrators were selected according to the proportion of the high school population pools in order to reflect the population of schools as a whole. For example, 147 out of the 1,014 total schools were found in the population pool of 25 to 150 students in the state of Minnesota. Therefore, of the 282 high school athletic administrators surveyed, 40 were from

Minnesota high schools with the population in the range of 25 to 150 students (Table 2) to ensure the sample was similar to population from which it was drawn. The school sample selected to be surveyed reflected these proportions by stratifying on high school enrollment size and the state the high school was located (Slavin, 2007).

Table 2. NDNCR High Schools to Be Surveyed in Proportion to the Total.

State	Student Enrollment 25 to 150	Student Enrollment 151 to 350	Student Enrollment 351+	Total
Minnesota	40	36	48	124
Montana	26	9	9	44
North Dakota	30	9	6	45
South Dakota	34	9	6	49
Wyoming	10	4	6	20
Total	140	67	75	282

With the sample size of 282, the researcher determined the skip interval by dividing the number of schools in each population category by the total number of schools to be surveyed in the corresponding category (Banach, Banach, & Cassidy, 2004). For example, there were a total of 147 high schools in Minnesota with an enrollment of 25 to 150 students (Table 1) and of those 147, 40 were sent surveys. Dividing 99 by 27 provided the researcher with a skip interval of roughly three (this was done with each category of each state, providing the researcher with each category's skip interval). All of the categories (25 to 150, 151 to 350, and 351+) for Minnesota, Montana, and Wyoming used skip intervals of three. For North Dakota and South

Dakota, the categories of 25 to 150 students and 151 to 350 used skip intervals of three, while the category of 351+ used a skip interval of two.

The researcher arranged all the high schools from each state in order from highest enrollment to lowest enrollment, and used the skip interval to determine which high school athletic administrators would be sent e-mails to participate in the study. The researcher started with the first state and enrollment category, used the skip intervals determined (two or three), and highlighted each second or third high school (based on the skip interval). Once the schools were selected, the researcher identified the person responsible for overseeing the school's athletics program by school websites. The researcher used the websites for the following states to identify the athletic administrator in charge of overseeing the school's athletic programs: Minnesota (<http://www.mshsl.org/mshsl/index.asp>), North Dakota (<http://www.ndhsaa.org/>), South Dakota (<http://www.sdhsaa.com/Home.aspx>), and Wyoming (<http://www.whsaa.org/map/map.asp>). Montana's website does not provide the information, so the researcher contacted the Montana High School Association and ordered a handbook providing the necessary information. The high school athletic administrators selected to participate in the survey do not represent all NDNCR high school athletic administrators; rather, they were systematically selected from a stratified (by state and school size) listing to select administrators of represented schools.

Survey Development

The researcher designed the survey instrument (Appendix B) based on criteria outlined in the University of North Dakota's Institutional Review Board. The survey questions were constructed through an extensive review of Title IX literature,

researcher's experience acquired as a result of being an activities director for four years, modifying some questions from pre-existing Title IX surveys, discussions with the researcher's advisor, and the doctoral committee's input.

Survey Pilot

The survey instrument was field tested with high school athletic administrators from North Dakota and Minnesota. The pilot test served "as a trial run of the . . . [survey instrument] . . . and identifying any issues that need to be addressed before the actual study is conducted" (Slavin, 2007, p. 107). Six high school athletic administrators (from North Dakota and Minnesota) were asked to participate in the trial survey. An e-mail was sent to the high school athletic administrators asking for their permission/willingness to participate in a survey pilot test to perform reliability measure on the survey instrument.

Survey Instrument

The online survey was constructed and administered through SurveyMonkey (Appendix B), and consisted of four parts designed to gather quantitative and qualitative data to answer the five research questions. Part 1 of the survey instrument, Demographic Information, consisted of 10 statements and 4 open-ended questions designed to gather demographic information concerning the high schools, high school athletic administrators, and athletic programs in NDNCR. The "demographic questions [pertaining to state and enrollment size] are . . . used to classify responses to a survey" (Banach, Banach, & Cassidy, 2004, p. 14).

Part 2 of the survey instrument, Title IX Policies, gathered high school athletic administrators' perceptions on Title IX policies. It consisted of nine statements with

responses falling on a Likert scale. Responders agreed/disagreed on a six-point Likert scale (strongly disagree, disagree, somewhat disagree, somewhat agree, agree, or strongly agree) to each of the nine statements (Cohen, Manion, & Morrison, 2007). Secondly, responders were asked to rank the effectiveness of four groups' (Courts/Lawyers, OCR, Other High School Athletic Directors, and State High School Activities Association) abilities to provide information/education to their respective athletic department on Title IX. The scale ranged from 4 being the most informative to 1 being the least informative.

Part 3 of the survey instrument, Title IX and School District Issues, was used to gather information pertaining to Title IX and the impact on each school district's athletic program. Responders agreed/disagreed on a six-point Likert scale (strongly disagree, disagree, somewhat disagree, somewhat agree, agree, or strongly agree) to each of the three statements (Cohen et al., 2007). Secondly, responders were asked to identify sports offered for both males and females from a list. Next, responders were asked to rank the frequency of contact of four groups (Courts/Lawyers, OCR, Other High School Athletic Directors, and State High School Activities Association) with regards to Title IX questions. The scale ranged from 4 being the most commonly used to 1 being the least commonly used. Finally, responders were asked to identify club/intramural sports in the area through an open-ended statement.

Part 4 of the survey instrument, Professional Beliefs, was centered at gathering the beliefs of high school athletic administrators. Responders agreed/disagreed on a six-point Likert scale (strongly disagree, disagree, somewhat disagree, somewhat agree, agree, or strongly agree) to each of the five statements (Cohen et al., 2007). Finally, responders were given the opportunity to answer an open-ended question providing

information pertaining to Title IX not addressed in the survey, which allowed for qualitative data to be collected.

Data Collection

After receiving permission from the University of North Dakota Institutional Review Board (IRB) to conduct the study, the researcher complied with all policies and procedures required by the Educational Leadership Department. The researcher took special care to ensure all participants remained confidential and participation in the survey was voluntary.

After the high schools from NDNCR were stratified by enrollment size and state high school was located, then systematically selected, a detailed e-mail (Appendix A) was sent to the 282 high school athletic administrators selected to participate in the survey. The e-mail consisted of consent for participation in the study, an explanation of the study, assurance the responders' responses would remain anonymous, a link to the online survey, directions asking for the survey to be completed in two weeks, and an opportunity to opt out of the survey.

After a week had passed, the researcher sent the same e-mail as a reminder to the participants who had not yet responded to the survey. The e-mail consisted of consent for participation in the study, an explanation of the study, assurance the responders' responses would remain anonymous, a link to the online survey, directions asking for the survey to be completed in one week, and an opportunity to opt out of the survey.

After the second week had passed, the researcher had received 93 responses and followed up with an e-mail reminder to the participants who had not yet responded, keeping the survey open for 10 more days. The e-mail consisted of consent for

participation in the study, an explanation of the study, assurance the responders' responses would remain anonymous, a link to the online survey, directions asking for the survey to be completed in 10 days, and an opportunity to opt out of the survey. After the 10 days had passed, 103 of the 282 high school athletic administrators or 36.5% contacted had returned the survey and the researcher closed access to the survey on SurveyMonkey.

Data Analysis

Utilizing a mixed-methods approach, the researcher analyzed the data in both a quantitative and qualitative conduct. After the 24 days had passed, the researcher closed access to the survey on SurveyMonkey and downloaded the data results to a Microsoft Excel spreadsheet. The researcher entered the data from the spreadsheet into Statistical Package for the Social Sciences (SPSS, Version 19, Chicago, IL). The researcher conducted a statistical analysis of the quantitative data investigating the high school athletic administrators' perceptions. The data from statements 1, 2, 3, 4, 5, 6, 7, 9, 11, and 13 were demographic information. Statements 1 and 2 served specifically as categorical variables to classify the subjects by state and enrollment size (Mertler & Vannatta, 2010).

Statements 15a, 15b, 15c, 15d, 15e, 15f, 15g, 15h, 15i, 17a, 17b, 17c, 22a, 22b, 22c, 22d, and 22e asked high school athletic administrators to agree/disagree on a six-point Likert scale (from strongly disagree to strongly agree). The researcher conducted a Pearson Chi-square test of independence analyses identifying response rates and frequencies (3 categories of school size by 6 categories of agreement/disagreement)

and calculated contingency coefficients indexing the associations' strength assessed by Chi-square analyses because the matrices were greater than two by two.

Questions 12, 14, 18, 19, and 21 gathered data pertaining to male/female sports added, male/female sports offered, and intramural sports/club sports offered in NDNCR. The data pertaining to male and female sports added, male and female sports offered, and intramural sports/club sports offered in NDNCR were quantified and disaggregated by both enrollment size and state. The information was compiled into tables and sorted highest to lowest.

Questions 16 and 20 asked high school athletic administrators for ranking data and were statistically analyzed to calculate mean, standard deviation, and Pearson's correlation.

Question 23 was an open-ended question used to gather high school athletic administrators' insights not already covered within the survey. The researcher used Lichtman's (2010) terminology of codes, categories, and concepts to organize and analyze the high school athletic administrators' responses regarding Title IX. The researcher's first step was to code the responses, by reading each response to identify a central idea and organize the data (Lichtman, 2010). The codes were typed next to the responses in an Excel spreadsheet and sorted to match similar codes and placed in the constructs/categories based on the five research questions: representation, change and impact, emerging sports, education perception, and compliance (Appendix C). Finally, the researcher identified key concepts that make meaning of the data collected. To sum up the qualitative analysis, the researcher coded the responses, placed them in

categories/constructs based on the five research questions, identified concepts, and placed it on a concept map (Appendix D).

Conceptual Framework Map

There were 30 high school athletic administrators (29.1%) who responded to the open-ended question at the end of the survey, supplying the researcher with qualitative data. From the responses, codes emerged within the constructs/categories of the literature review and five research questions: representation, change and impact, emerging sports, education perception, and compliance (Figure 1). For the full conceptual framework map, see Appendix D.

RQ#1 Representation	RQ#2 Change and Impact	RQ#3 Emerging Sports	RQ#4 Education Perception	RQ#5 Compliance
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Figure 1. Qualitative Data Obtained From an Open-Ended Question on the Survey.

Summary

Chapter III described the methodology used to conduct the study. Chapter IV will present the findings of the study in quantitative means. Finally, Chapter V presents a summary, conclusions, discussion of the findings, recommendations of the study, and recommendations for future studies.

CHAPTER IV

RESULTS

The study comprised of quantitative and qualitative approaches gained insight of NDNCR high school athletic administrators' perceptions of the 2010 Title IX policy changes respective to their athletic programs. Chapter IV was arranged according to the five research questions designed to guide the study:

1. How are high school athletic administrators represented in Title IX policies affecting and being imposed on high school sports?
2. How did 2010 Title IX policy change impact high schools and their compliance with Title IX?
3. What are the emerging sports of North Dakota's Normal Competitive Region?
4. What are high school athletic administrators' perceptions of OCR's Title IX education?
5. What are high school athletic administrators' perceptions of Title IX's three-part test for compliance?

The purpose of this study was to investigate NDNCR high school athletic administrators' perceptions of 2010 Title IX policy changes respective to their athletic programs. Both qualitative and quantitative data were gathered and analyzed to determine the overall impact.

Description of the Population

Part three of the three-part test centers on whether there are concrete and viable interests among the underrepresented sex that should be accommodated by the institution's athletic program (USDOE, 2005, p. 4). To add a sport/activity, there must be unmet interest sufficient to sustain a varsity team, ability to sustain a team, and reasonable expectation for a team within the school's normal competitive region. A normal competitive region is defined as "available competitive opportunities in the geographic area in which the institution's athletes primarily compete" (USDOE, 2005, p. 11). The states located in NDNCR include Minnesota, Montana, South Dakota, and Wyoming. The population was stratified two ways, by the high school's enrollment size and the state where the high school was located. After stratifying the high schools, they were systematically selected as "one way to be sure that a sample is like the population from which it was drawn" (Slavin, 2007, p. 114).

Of the 1,014 high schools in NDNCR, 282 (Table 2) of the high schools' athletic administrators were selected to be surveyed. The 282 high school athletic administrators were selected according to the proportion of the high school population pools in order to reflect the population of schools as a whole. Each high school athletic administrator was sent an e-mail generated by SurveyMonkey. The e-mail consisted of consent for participation in the study, an explanation of the study, assurance the responders' responses would remain anonymous, a link to the online survey, directions asking for the survey to be completed in two weeks, and an opportunity to opt out of the survey (Appendix A).

Again, the 282 high school athletic administrators were selected according to the proportion of the high school population pools in order to reflect the population of schools as a whole. The high school athletic administrators who responded did not mirror the population pools that existed (Table 3). In NDNCR, 49.65% (512) of schools

Table 3. NDNCR High School Athletic Administrator Response Rate.

State	Student Enrollment 25 to 150	Student Enrollment 151 to 350	Student Enrollment 351+	Total
Minnesota	5/40 (13%)	16/36 (44%)	22/48 (46%)	43/124 (35%)
Montana	11/26 (42%)	2/9 (22%)	5/9 (56%)	18/44 (41%)
North Dakota	8/30 (27%)	4/9 (44%)	8/6 (133%)*	20/45 (44%)
South Dakota	2/34 (6%)	10/9 (111%)**	5/6 (83%)	17/49 (35%)
Wyoming	0/10 (0%)	3/4 (75%)	2/6 (33%)	5/20 (25%)
Total	26/140 (19%)	35/67 (52%)	42/75 (56%)	103/282 (37%)

*Two high schools were under originally 350 students whose ADs selected 351+.

**One high school was originally located in 25 to 150 students whose AD selected 151 to 350.

were in the 25 to 150 student population category, 23.76% (240) of schools were in the 151 to 350 student population category, and 26.60% (262) were in the 351+ student population category. Of the high school athletic administrators who responded, 25.24% (26) of schools were in the 25 to 150 student population category, 33.98% (35) of schools were in the 151 to 350 student population category, and 40.78% (42) were in the 351+ student population category. Of the 282 high school athletic administrators asked to

participate, 103 of the 282 high school athletic administrators in NDNCR completed some portion of the online survey for a response rate of 36.5%.

Of the 103 high school athletic administrators who responded to the survey, 92 high school athletic administrators (89.3%) completed the entire survey, 93 high school athletic administrators (90.3%) completed 21 of the 23 questions, 94 high school athletic administrators (90.4%) completed 16 of the 23 questions, and 103 high school athletic administrators (100%) completed 14 of the 23 questions. Demographic information on high school athletic administrators in NDNCR is provided in Table 4.

Further breaking down the demographics of the groups reveals the job titles and expectations of each high school athletic administrator (Figure 2). Each high school athletic administrator was given a list of six titles, including athletic director, activities director, principal, associate principal, superintendent, and classroom teacher, and directed to mark all that applied to them. In schools with an enrollment of 25 to 150 students, 42% of the high school athletic administrators had one job title. In schools with an enrollment of 151 to 350 students, 43% of high school athletic administrators had one job title. Finally, in schools with an enrollment of 351+, 71% of high school athletic administrators had one job title. The smaller the school, the more job titles and expectations were placed upon the high school athletic administrator.

Conceptual Framework Map

This section utilized qualitative data from the open-ended question at the end of the survey and applied to all research questions. Each high school athletic administrator was asked to offer insights not already addressed in the survey. Of the 103 high school

Table 4. Demographic Information of Sample, n=103.

	Count	% of Mean
Location of High School		
Minnesota	43	41.7
Montana	18	17.5
North Dakota	20	19.4
South Dakota	17	16.5
Wyoming	5	4.9
High School Enrollment Size		
25 to 150 Students	26	25.2
151 to 350 Students	35	34
350+ Students	42	40.8
Public or Private School		
Public School	98	95.1
Private School	5	4.9
High School Athletic Administrator Gender		
Female	14	13.6
Male	89	86.4
High School Athletic Administrator Years Experience		
0-5 years	40	38.8
6-10 years	29	28.2
11+ years	34	33
OCR Athletic Program Violations*		
Yes	2	1.9
No	101	98.1
Athletic Programs Involved in Title IX Suit*		
Yes	2	1.9
No	101	98.1

*An OCR violation differs from a Title IX suit.

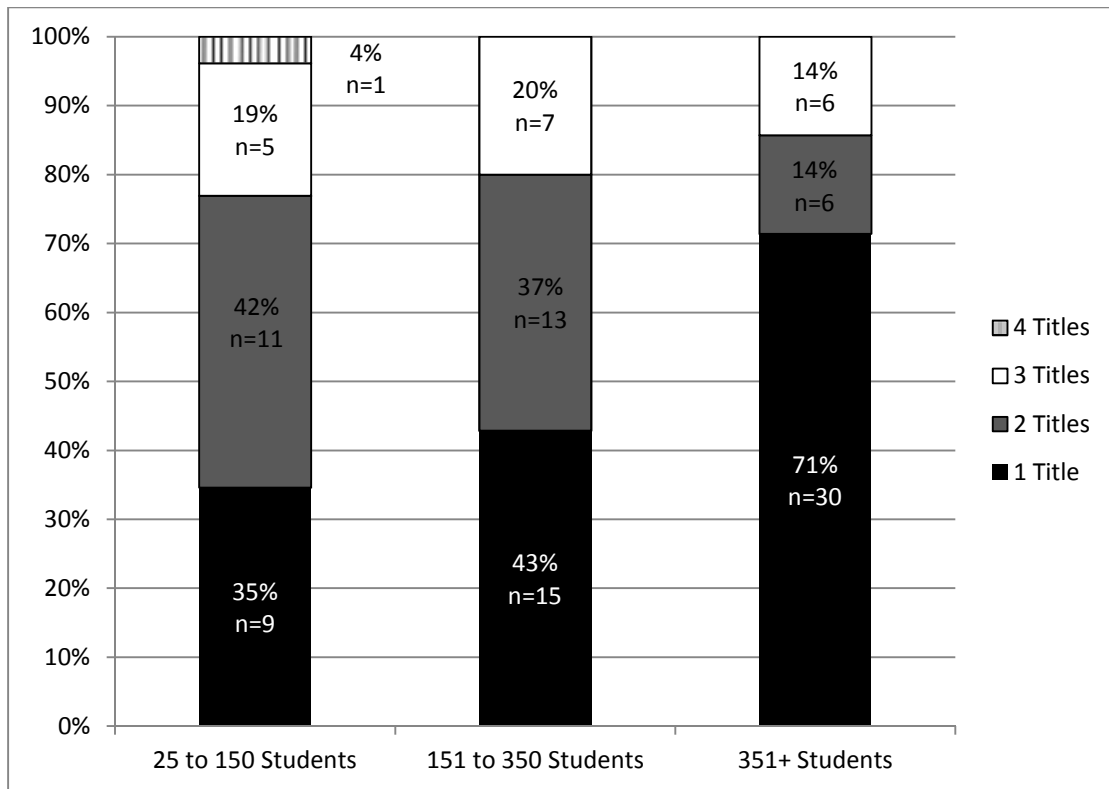


Figure 2. Number of Job Titles for Athletic Administrators in NDNCr (Athletic Director, Activities Director, Principal, Associate Principal, Superintendent, and Classroom Teacher).

athletic administrators to respond, 30 (29.1%) of them added some insight, while 73 (70.9%) left it blank. From the responses, codes emerged within the constructs/categories of the literature review and five research questions: representation, change and impact, emerging sports, education perception, and compliance (Figure 3).

Research Question 1

This section utilized both quantitative and qualitative data from the survey to answer the first research question: How are high school athletic administrators represented in Title IX policies affecting and being imposed on high school sports? The survey consisted of four statements (22a, 22c, 22d, and 22e) which aimed to gather information to answer the first research question. Each high school athletic administrator

RQ#1 Representation	RQ#2 Change and Impact	RQ#3 Emerging Sports	RQ#4 Education Perception	RQ#5 Compliance
Need for Involvement	School Policy	Sanctioned Sports	Lack of Info	Expansion
Lack of Info	Overall Policy	Club Sports	Beneficial	Punitive Punishments
	Philosophy	Expansion	Increased Training	Local Control
			Don't Understand	Skill and Commitment
			Confidence	Enrollment
			District Education	Variety
			Punitive Punishments	Religion
				More Ways to Comply
				Equity
<ol style="list-style-type: none"> 1. High School Athletic Administrators feel a need to have more local control and influence with Title IX policy in the future. 2. High School Athletic Administrators feel a need for increased education on ways to comply with Title IX. 3. High School Athletic Administrators feel that there should be more ways to demonstrate compliance with Title IX. 				

Figure 3. Summary of Qualitative Analysis.

was asked to indicate how much he/she agreed or disagreed with each statement on a six-part Likert scale (Table 5).

Survey statement (22a), I have had contact on a regular basis with OCR regarding policy changes pertaining to Title IX, extracted some form of agreement (Table 6) amongst 1.1% of responders. Essentially, 98.9% of high school athletic administrators who responded have not had contact on a regular basis with the OCR. The result of a Pearson's Chi-square test of independence analysis (3 categories of school size by 6 categories of agreement/disagreement), $\chi^2(6) = 7.050, p = .316$, designated the association

Table 5. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 1.

		Some Form of Agreement	M	SD	n	Contingency Coefficient
S22a	I have had contact on a regular basis with OCR regarding policy changes pertaining to Title IX.	1.1%	5.48	.69	92	.267
S22c	I believe greater contact with the OCR regarding Title IX compliance and Title IX policies would be beneficial.	67.4%	3.28	1.16	92	.375
S22d	I believe high school athletic administrators should be represented when Title IX policy changes are discussed.	98.9%	1.98	.76	92	.299
S22e	I believe high school athletic administrators should have influence on Title IX policy.	96.7%	2.20	.80	92	.122

Table 6. A More Detailed Reporting of Responses for Research Question 1.

	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree	Rating Average	n
22a	0	0	1	7	31	53	5.48	92
22c	4	16	42	14	12	4	4.1	92
22d	26	43	22	1	0	0	1.98	92
22e	19	39	31	3	0	0	2.2	92

of school size to level of agreement/disagreement was not statistically significant. Also, contingency coefficients were calculated to index the strength of associations assessed by Chi-square analyses because the matrices were greater than two by two and the results are shown in Table 5.

Survey statement (22c), I believe greater contact with the OCR regarding Title IX compliance and Title IX policies would be beneficial, drew out some form of agreement amongst 67.4% of the responders (Table 6). A little over two thirds believe greater contact with OCR would be beneficial. The relationship of size of the school to the level of the high school athletic administrators' responses was not significant, $X^2 (10) = 15.097, p=.129$.

Survey statement (22d), I believe high school athletic administrators should be represented when Title IX policy changes are discussed, elicited some form of an agreement amongst 98.9% of the responders. The result of a Pearson's Chi-square analysis, $X^2 (6) = 9.052, p= .171$, designated correlation between school size and the level of agreement/disagreement; it was not statistically significant.

A majority of high school athletic administrators (96.7%) had some form of agreement with survey statement (22e), I believe high school athletic administrators should have influence on Title IX policy (Table 6). The result of a Pearson's Chi-square analysis, $X^2 (6) = 1.382, p=.967$, indicated there was a small, non-significant, linear relation to the size of the school and the high school athletic administrator's level of agreement/disagreement.

The final question of the survey was an open-ended question which provided high school athletic administrators the option of offering some insights to Title IX that weren't addressed in the survey. From the open-ended question, two replies pertained to research question number one centered on the theme of representation. A North Dakota high school athletic administrator (351+ students) mentioned that he/she seldom received any information regarding requirements, changes, or policies. A second from Minnesota (151

to 350 students) thought it would be beneficial for athletic directors to be involved in Title IX decision making.

Research Question 2

This section utilized both quantitative and qualitative data from the survey to answer the second research question: How did the 2010 Title IX policy change impact high schools and their compliance with Title IX? The survey consisted of two statements (15a and 17a) which aimed to gather information to answer the second research question. Each high school athletic administrator was asked to indicate how much he/she agreed or disagreed with each statement on a six-part Likert scale. Besides the statements, high school athletic administrators were asked if their school had added a female sport (question 11) or a male sport (question 13) in the past five years (Table 7).

Table 7. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 2.

		Some Form of Agreement	M	SD	n	Contingency Coefficient
S15a	The 2010 Title IX Policy change (eliminating the interest survey as a way to demonstrate compliance) will impact the way our school complies with Title IX.	17.2%	4.5	1.08	94	.341
S17a	Our school relied on the interest survey solely to comply with Title IX prior to the Title IX policy change.	28.0%	4.37	1.06	93	.169

A small percentage (17.2%), 16 high school athletic administrators (Table 8), believe the Title IX policy change of eliminating the interest survey as a way of demonstrating compliance will have an impact on the way their particular school

Table 8. A More Detailed Reporting of Responses for Research Question 2.

	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree	Rating Average	n
15a	1	5	10	20	47	11	4.48	94
17a	0	2	24	16	40	11	4.37	93

complies with Title IX. The result of a Pearson’s Chi-square test of independence analysis (3 categories of school size by 6 categories of agreement/disagreement), $X^2(10) = 11.802, p=.299$, indicated there was a correlation between school size and the level of agreement/disagreement; however, it was not statistically significant. Also, contingency coefficients were calculated to index the strength of associations assessed by Chi-square analyses because the matrices were greater than two by two and the results are shown in Table 7.

Furthermore, only 28% of high school athletic administrators believed their athletic programs relied solely on the interest survey alone to comply with Title IX prior to 2010. The relationship of size of the school to the level of high school athletic administrators’ responses of agreement/disagreement was not significant, $X^2(8) = 2.731, p=.95$.

Along with the statements, high school athletic administrators were asked if their respective high school had added a female sport (question 11) or a male sport (question

13) in the past five years. If so, high school athletic administrators were asked to name the female sport (question 12) and male sport (question 14). If not, the survey skipped questions 12 and 14. According to part two of the three-part test for Title IX compliance, if an institution could demonstrate a history of continuing practice of program expansion responsive to the developing interest and abilities of the members of the underrepresented sex, then that institution was in compliance with Title IX (USHDEW, 1979). Of the high school athletic administrators who responded, 35 of the 103 high schools (33.9%) have added a female sport within the past five years, while only 17 of the 103 high schools (16.5%) have added a male sport within the past five years for a difference of +18 in favor of female sports offered (Table 13).

In breaking down the information, for schools with enrollments of 25 to 150 students, 8 out of 26 schools added a female sport (30.8%) with the same amount and percentage adding a male sport for a difference of zero. For schools with an enrollment of 151 to 350 students, 11 out of 35 schools added a female sport (31.4%), while only 6 out of 35 added a male sport (17.1%) in the past five years for a difference of 14.3%. Finally, for schools with an enrollment of 351+ students, 16 of 42 schools added a female sport (38.1%), while only 3 of 42 high schools added a male sport (7.1%) in the past five years for a difference of 31% (Figure 4).

The final question of the survey was an open-ended question which provided high school athletic administrators the option of offering some insights to Title IX that weren't addressed in the survey. From the open-ended question, three replies pertained to

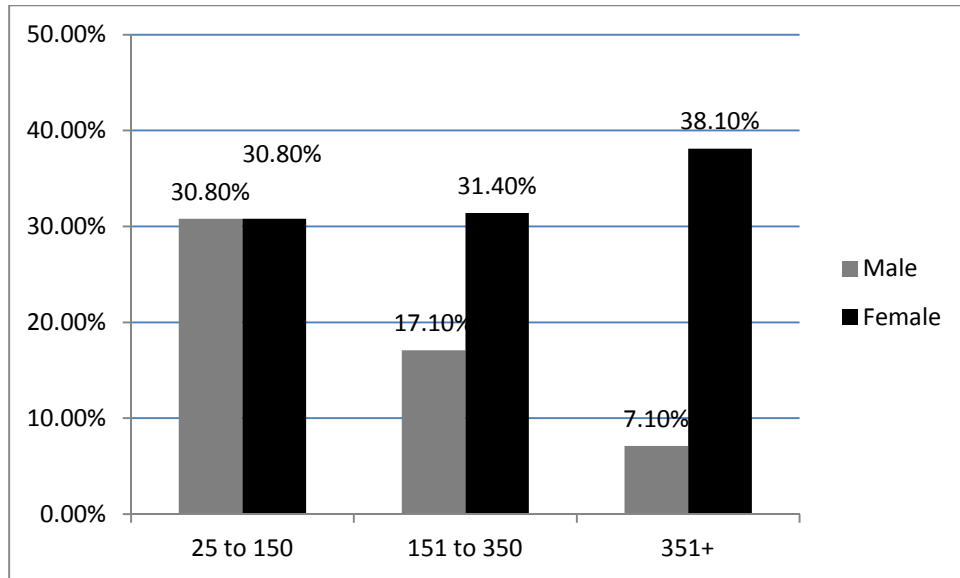


Figure 4. Percentage of NDNCR High Schools Adding Male and Female Sports in the Past Five Years.

research question number two centered around the theme of a school’s current overall philosophy. A Minnesota high school athletic administrator (151 to 350 students) believed complying with Title IX in this day and age should not be an issue anymore, as schools should have this as part of their policy. Another Minnesota high school athletic administrator (151 to 350 students) shared that all high schools in Minnesota were in compliance with federal Title IX laws. Finally, a Minnesota high school athletic administrator (351+ students) said he/she believed in Title IX, while another Minnesota high school athletic administrator (351+ students) shared he/she worked very hard for equal opportunities for both genders; it was a very important aspect of their school’s overall athletic philosophy.

Research Question 3

This section utilized both quantitative and qualitative data from the survey to answer the third research question: What are the emerging sports of North Dakota’s

Normal Competitive Region? The survey consisted of two statements (17b and 17c) which aimed to gather information to answer the third research question (Table 9). Each high school athletic administrator was asked to indicate how much he/she agreed or disagreed with each statement on a six-part Likert scale (Table 10).

Table 9. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 3.

		Some Form of Agreement	M	SD	n	Contingency Coefficient
S17b	Our school offers intramural sports that aren't offered for interscholastic competition at our school.	17.2%	4.96	1.44	93	.387
S17c	Our school offers club sports that aren't offered for interscholastic competition at our school.	30.1%	4.45	1.84	93	.429

Table 10. A More Detailed Reporting of Responses for Research Question 3.

	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree	Rating Average	n
17b	0	0	1	7	31	53	4.96	93
17c	4	16	42	14	12	4	4.45	93

A small percentage of schools offer intramural sports (17.2%) or club sports (30.1%) that aren't offered for interscholastic competition. For the first statement (17b), the Pearson's Chi-square test of independence analysis resulted in $X^2(10) = 16.362$, $p=.090$ and the second statement (17c) resulted in $X^2(10) = 20.969$, $p=.021$. According

to the results, there was a linear relation to the size of the school and the way the high school athletic administrator believed the school provided opportunities for intramural sports or club sports not offered for interscholastic competition at the given school; however, it was not statistically significant.

Also, contingency coefficients were calculated to index the strength of associations assessed by Chi-square analyses because the matrices were greater than two by two and the results are shown in Table 9. Besides the agree/disagree statements, high school athletic administrators were asked the female sports added (question #12), male sports added (question #14), sports offered for males (question #18), sports offered for females (question #19), and to identify the club sports/intramural sports (question #21) most popular in terms of participation.

In order to identify the emerging sports, it is essential to recognize the sports that are already established within NDNCR and there are a variety of sports offered for males and females for interscholastic competition. The top five sports offered for males are basketball, football, track and field, golf, and cross country. The top five sports offered for females are basketball, volleyball, track and field, golf, and cross country (Table 11).

When breaking down the sports offered by states, there was only one state whose male sports offered was larger than female sports offered. Minnesota was (+23 females), North Dakota (+9 females), South Dakota (+12 females), Wyoming (even), and Montana (-1 females). Regarding the high school athletic administrators who replied, there were 43 more female sports programs offered than male sports. Minnesota's top sports for males were basketball and football, while its top sports for females were basketball and

Table 11. Sports Offered in High Schools by State.

	Minnesota 37		Montana 17		North Dakota 20		South Dakota 16		Wyoming 5		Total 95	
	M	F	M	F	M	F	M	F	M	F	M	F
Basketball	<u>36</u>	<u>36</u>	<u>17</u>	<u>17</u>	<u>19</u>	<u>19</u>	15	15	<u>5</u>	<u>5</u>	<u>92</u>	<u>92</u>
Track and Field	34	34	<u>17</u>	15	<u>19</u>	<u>19</u>	<u>16</u>	<u>16</u>	<u>5</u>	<u>5</u>	91	89
Golf	32	30	11	11	<u>19</u>	18	14	14	4	4	80	77
Cross Country	27	22	10	11	14	11	15	15	<u>5</u>	4	71	63
Football	<u>36</u>	3	16	3	<u>19</u>	3	<u>16</u>	1	5	1	<u>92</u>	11
Volleyball	2	<u>36</u>	3	16	0	<u>19</u>	0	<u>16</u>	0	<u>5</u>	5	<u>92</u>
Wrestling	27	4	14	2	16	2	11	1	<u>5</u>	2	73	11
Cheer	6	21	7	8	2	14	1	11	1	3	17	57
Soccer	19	19	5	5	5	6	0	0	4	4	33	34
Tennis	12	16	4	5	6	7	3	3	3	2	28	33
Baseball	33	4	0	0	15	3	1	0	0	0	49	7
Softball-Fast-pitch	2	31	0	10	0	9	0	1	0	0	2	51
Ice-Hockey	19	18	0	0	7	6	0	0	0	0	26	24
Swimming/Diving	11	13	2	2	5	5	0	0	3	3	21	23
Dance/Pom	2	15	1	1	0	8	0	6	1	2	4	32
Gymnastics	1	14	0	0	0	6	0	6	0	0	1	26
Alpine Skiing	10	10	0	0	0	0	0	0	2	2	12	12
Nordic Skiing	7	7	0	0	0	0	0	0	2	2	9	9
Weightlifting	5	5	0	0	0	0	2	1	0	0	7	6
Adapted Soccer	6	5	0	0	0	0	0	0	0	0	6	5
Adapted Bowling	5	5	0	0	0	0	0	0	0	0	5	5
Adapted Softball	4	5	0	0	0	0	0	0	0	0	4	5
Adapted Floor	4	4	0	0	0	0	0	0	0	0	4	4
Hockey												
Lacrosse	3	5	0	0	0	0	0	0	0	0	3	5
Rodeo	0	0	0	0	2	2	0	0	1	1	3	3
Skiing-Cross	3	3	0	0	0	0	0	0	0	0	3	3
Country												
Skiing-Downhill	3	3	0	0	0	0	0	0	0	0	3	3
Synchronized	0	4	0	0	0	0	0	0	0	0	0	4
Swimming												
Bowling	1	1	0	0	0	0	0	0	0	0	1	1
Softball-Slow-pitch	0	0	0	0	0	0	0	0	0	1	0	1
Totals	350	373	107	106	148	157	94	106	46	46	745	788

Note. Bold typed and underlined numbers represent the highest number in each category.

volleyball. Montana's top sports for males were basketball and track/field, while its top sports for females were basketball and volleyball. North Dakota's top sports for males were basketball, track/field, golf, and football, while its top sports for females were basketball, track/field, and volleyball. South Dakota's top sports for males were basketball, track/field, and wrestling, while its top sports for females were track/field and volleyball. Finally, Wyoming's top sports for males were basketball, track/field, and wrestling, while its top sports for females were basketball, track/field, and volleyball (Table 11).

When comparing enrollment and sports offered for both males and females, a trend emerges: the larger the school enrollment size, the more opportunities available for females. For schools with enrollments between 25 to 150 students, there were 4 more sports offered for males (132) as compared to females (128). In schools with enrollments between 151 and 350 students, there were 11 more female sports (233) offered than male sports (222). Finally, in terms of the largest population category for schools, there were 36 more female sports (427) offered for participation as compared to male sports (391). The larger the school, the more sports offered for females (Table 12).

Emerging sports are activities that are increasingly being pursued by girls in high schools. By adding these activities, institutions would actually be fulfilling the interests and the abilities of the underrepresented sex (Gavora, 2002). Out of the 103 high school athletic administrators who responded to the survey, 35 of the schools (34%) have added a female sport in the past five years. Of the 35 schools adding female sports, 17 were from Minnesota, 3 were from Montana, 10 were from North Dakota, 4 were from

Table 12. Sports Offered in High Schools by Enrollment Size.

Sport	Student Enrollment 25 to 150 (25 High Schools)		Student Enrollment 151 to 350 (34 High Schools)		Student Enrollment 351+ (36 High Schools)		Total (95 High Schools)	
	M	F	M	F	M	F	M	F
Basketball	<u>24</u>	<u>24</u>	<u>33</u>	<u>33</u>	35	35	<u>92</u>	<u>92</u>
Track and Field	23	23	32	32	<u>36</u>	34	91	89
Golf	16	15	29	28	35	34	80	77
Cross Country	11	9	25	24	35	30	71	63
Football	23	3	<u>33</u>	4	<u>36</u>	4	<u>92</u>	11
Volleyball	2	23	1	<u>33</u>	2	<u>36</u>	5	<u>92</u>
Wrestling	13	1	25	3	35	7	73	11
Cheer	5	12	2	18	10	27	17	57
Soccer	1	2	6	6	26	26	33	34
Tennis	1	3	2	4	25	26	28	33
Baseball	7	0	18	3	24	4	49	7
Softball-Fast-pitch	0	7	1	16	1	28	2	51
Ice-Hockey	0	0	8	7	18	16	26	23
Swimming/Diving	1	1	1	4	19	19	21	24
Dance/Pom	0	1	0	7	4	24	4	32
Gymnastics	0	0	0	4	1	22	1	26
Alpine Skiing	1	1	1	1	10	10	12	12
Nordic Skiing	1	1	0	0	8	8	9	9
Weightlifting	1	0	3	3	3	3	7	6
Adapted Soccer	0	0	0	0	6	5	6	5
Adapted Bowling	0	0	1	1	4	4	5	5
Adapted Softball	0	0	0	0	4	5	4	5
Lacrosse	0	0	0	0	3	5	3	5
Adapted Floor Hockey	0	0	0	0	4	4	4	4
Rodeo	2	2	1	1	0	0	3	3
Skiing-Cross Country	0	0	0	0	3	3	3	3
Skiing-Downhill	0	0	0	0	3	3	3	3
Synchronized Swimming	0	0	0	0	0	4	0	4
Bowling	0	0	0	0	1	1	1	1
Softball-Slow-pitch	0	0	0	1	0	0	0	1
Totals	132	128	222	233	391	427	745	788

Note. Bold typed and underlined numbers represent the highest number in each category.

South Dakota, and 1 was from Wyoming. Of the sports added, fast-pitch softball was the number one sport added after all states have been combined, with it being the top sport added in both North Dakota and Montana according to the sample who responded. The top sport amongst the sample schools responding in Minnesota was a three-way tie

between competitive dance, cross country, and golf all with three. The top sport amongst the sample schools responding in South Dakota was a two-way tie between competitive dance and competitive cheer. The top sport amongst the sample schools responding in Wyoming was soccer (Table 13).

In comparison, of the 103 high school athletic administrators who responded to the survey, 17 of the schools (16.5%) have added a male sport in the past five years. Of the 17 schools adding male sports, 10 were from Minnesota, 3 were from Montana, 3 were from North Dakota, none were from South Dakota, and 1 was from Wyoming. According to the sample, golf and wrestling were the number one sports added after all states had been combined, with golf being the top sport added in Minnesota. The top male sport added in Montana was wrestling with three high schools adding the sport, and the top sport added for males in North Dakota was baseball with three high schools adding the sport. The top sport added in Wyoming was soccer. No schools responding from South Dakota have added a male sport in the past five years. In an overall comparison, there were almost twice as many (48) sports added for females in the past five years as were added for males (25) in the past five years amongst those who replied to the survey (Table 13).

When comparing female sports to male sports program additions amongst the five states, there wasn't one state that added more male sports than female sports. North Dakota and South Dakota led the way with +8 sports added for females, Minnesota was just behind with +7, and Montana and Wyoming added the same amount of female sports as male sports (Table 13).

Table 13. Male/Female Sports Added by High Schools in NDNCR in the Last Five Years by State.

	Minnesota		Montana		North Dakota		South Dakota		Wyoming		Total	
M=Male, F= Female (number of High Schools)	M (10)	F (17)	M (3)	F (3)	M (3)	F (10)	M (0)	F (4)	M (1)	F (1)	M (17)	F (35)
Fast-pitch Softball	0	1	0	<u>3</u>	0	<u>2</u>	0	0	0	0	0	<u>13</u>
Golf	<u>4</u>	<u>3</u>	0	0	1	1	0	0	0	0	<u>5</u>	4
Cross Country	3	<u>3</u>	0	0	1	1	0	0	0	0	4	4
Competitive Dance	0	<u>3</u>	0	0	0	0	0	<u>4</u>	0	0	0	7
Soccer	1	2	0	0	0	1	0	0	<u>1</u>	<u>1</u>	2	4
Wrestling	1	0	<u>3</u>	0	1	0	0	0	0	0	<u>5</u>	0
Baseball	1	0	0	0	<u>3</u>	0	0	0	0	0	4	0
Competitive Cheer	0	0	0	0	0	0	0	<u>4</u>	0	0	0	4
Alpine Skiing	1	2	0	0	0	0	0	0	0	0	1	2
Lacrosse	1	2	0	0	0	0	0	0	0	0	1	2
Adaptive Bowling	1	1	0	0	0	0	0	0	0	0	1	1
Gymnastics	0	1	0	0	0	1	0	0	0	0	0	2
Nordic Skiing	1	1	0	0	0	0	0	0	0	0	1	1
Football	1	0	0	0	0	0	0	0	0	0	1	0
Hockey	0	1	0	0	0	0	0	0	0	0	0	1
Swimming	0	1	0	0	0	0	0	0	0	0	0	1
Tennis	0	0	0	0	0	1	0	0	0	0	0	1
Volleyball	0	1	0	0	0	0	0	0	0	0	0	1
Totals	15	22	3	3	6	14	0	8	1	1	25	48

Note. Bold typed and underlined numbers represent the highest number in each category.

When comparing sports added with enrollment size amongst those who responded, fast-pitch softball was the number one female sport added by schools with enrollments ranging from 25 to 150 students, competitive dance was the number one sport added by schools with enrollments ranging from 151 to 350 students, and fast-pitch softball was the number one sport added by schools with enrollments greater than 351 (Table 14).

Table 14. Male/Female Sports Added by High Schools in NDNCR in the Last Five Years by Enrollment Size.

	Student Enrollment 25 to 150		Student Enrollment 151 to 350		Student Enrollment 351+		Total	
	M (8)	F (8)	M (6)	F (11)	M (3)	F (16)	M (17)	F (35)
Fast-pitch Softball	0	<u>4</u>	0	2	0	<u>7</u>	0	<u>13</u>
Golf	3	3	<u>2</u>	1	0	0	<u>5</u>	4
Cross Country	1	1	<u>2</u>	2	<u>1</u>	1	4	4
Competitive Dance	0	0	0	<u>3</u>	0	4	0	7
Soccer	1	2	1	2	0	0	2	4
Wrestling	<u>4</u>	0	1	0	0	0	<u>5</u>	0
Competitive Cheer	0	0	0	2	0	2	0	4
Baseball	3	0	0	0	<u>1</u>	0	4	0
Alpine Skiing	1	1	0	0	0	1	1	2
Lacrosse	0	0	0	0	<u>1</u>	2	1	2
Gymnastics	0	0	0	1	0	1	0	2
Adaptive Bowling	0	0	1	1	0	0	1	1
Nordic Skiing	1	1	0	0	0	0	1	1
Hockey	0	0	0	0	0	1	0	1
Swimming	0	0	0	0	0	1	0	1
Tennis	0	1	0	0	0	0	0	1
Volleyball	0	1	0	0	0	0	0	1
Football	1	0	0	0	0	0	1	0
<u>Totals</u>	15	14	7	14	3	20	25	48

Note. Bold typed and underlined numbers represent the highest number in each category.

In terms of enrollment size, wrestling was the number one male sport added by schools with enrollments ranging from 25 to 150 students, golf and cross country were the number one male sports added by schools with enrollments ranging from 151 to 350 students, and cross country, baseball, and lacrosse were the number one sports added by schools with enrollments greater than 351 (Table 14).

It is a small sample size, however, when the number of female sports added is compared to the number of male sports added; in terms of enrollment size, there is a trend that appears, similar to that of sports offered. The larger the school category size, the more sports opportunities added for females. For schools with enrollments between 25 to 150 students, there was one more male sport (15) added in comparison to female sports (14). In schools with enrollments between 151 and 350 students, there were twice as many female sports (14) added in comparison to male sports (7). Finally, in terms of the largest population category for schools, there were almost seven times as many female sports (20) added in comparison to male sports (3) (Table 14).

In NDNCR, there are many sports offered for competition as intramural and club sports that could be offered as interscholastic sports as long as there is an ability to sustain a team, and reasonable expectation for a team within the school's normal competitive region. Soccer, baseball, fast-pitch softball, and lacrosse are sports offered by schools as a club sport that could be offered for interscholastic competition when there are enough competitors in the area to allow for the sport to succeed (Table 15 and Table 16).

The final question of the survey was an open-ended question which provided high school athletic administrators the option of offering some insights to Title IX that weren't addressed in the survey. From the open-ended question, two replies pertained to research question number three centered around the theme of sanctioned sports. A North Dakota high school athletic administrator (351+ students) wondered if there was a relationship between state association sanctioned sports and club activities for compliance purposes.

Table 15. Club Sports/Intramural Sports Offered by High Schools in NDNCR by State.

	Minnesota 43	Montana 18	North Dakota 20	South Dakota 17	Wyoming 5	Total 103
Soccer	7	1	1	5	0	<u>14</u>
Baseball	1	2	0	<u>8</u>	<u>2</u>	13
Fast Pitch Softball	1	1	<u>2</u>	5	<u>2</u>	11
Lacrosse	<u>8</u>	1	0	0	1	10
Rodeo	0	<u>4</u>	0	3	<u>2</u>	9
Bowling	6	1	0	1	0	8
Hockey	1	1	1	1	1	5
Rugby	3	2	0	0	0	5
Skeet/Trap Shooting	5	0	0	0	0	5
Swimming	1	<u>4</u>	0	0	0	5
Dance	4	0	0	0	0	4
Tennis	2	2	0	0	0	4
Archery	2	0	1	0	0	3
Basketball	3	0	0	0	0	3
Badminton	2	0	0	0	0	2
Dodgeball	0	1	0	1	0	2
Figure Skating	0	0	<u>2</u>	0	0	2
Golf	0	1	1	0	0	2
Ultimate Frisbee	2	0	0	0	0	2
Volleyball	2	0	0	0	0	2
Cross Country	0	0	1	0	0	1
Cross Country Skiing	1	0	0	0	0	1
Equestrian	1	0	0	0	0	1
Frisbee Golf	1	0	0	0	0	1
Gymnastics	0	1	0	0	0	1
Indoor Soccer	1	0	0	0	0	1
Skiing	0	1	0	0	0	1
Ultimate Warrior	0	1	0	0	0	1
Weight Lifting	1	0	0	0	0	1
None	10	3	10	4	1	28
Didn't Answer	7	1	1	1	0	10
Didn't Know	0	1	1	0	0	2
Totals	72	29	21	29	9	160

Note. Bold typed and underlined numbers represent the highest number in each category.

A second North Dakota high school athletic administrator (351+ students) mentioned he/she would strongly support being able to count cheerleading and dance/drill for Title IX.

Table 16. Club Sports/Intramural Sports Offered by High Schools in NDNCR by Enrollment Size.

Sport	Student Enrollment 25 to 150 (26 High Schools)	Student Enrollment 151 to 350 (35 High Schools)	Student Enrollment 351+ (42 High Schools)	Total
Soccer	1	<u>6</u>	<u>7</u>	<u>14</u>
Baseball	1	<u>5</u>	<u>7</u>	<u>13</u>
Fast Pitch Softball	<u>3</u>	3	<u>5</u>	11
Lacrosse	1	4	5	10
Rodeo	<u>3</u>	4	2	9
Bowling	1	0	<u>7</u>	8
Hockey	<u>3</u>	1	1	5
Rugby	1	0	4	5
Skeet/Trap Shooting	0	1	4	5
Swimming	1	1	3	5
Dance	1	2	1	4
Tennis	1	2	1	4
Archery	0	2	1	3
Basketball	1	0	2	3
Badminton	0	0	2	2
Dodgeball	0	1	1	2
Figure Skating	0	0	2	2
Golf	1	0	1	2
Ultimate Frisbee	0	0	2	2
Volleyball	1	0	1	2
Cross Country	1	0	0	1
Cross Country Skiing	0	1	0	1
Equestrian	0	0	1	1
Frisbee Golf	0	0	1	1
Gymnastics	1	0	0	1
Indoor Soccer	0	0	1	1
Skiing	1	0	0	1
Ultimate Warrior	1	0	0	1
Weight Lifting	0	0	1	1
None	9	12	7	28
Didn't Answer	2	2	6	10
Didn't Know	2	0	0	2
<u>Totals</u>	37	47	76	160

Note. Bold typed and underlined numbers represent the highest number in each category.

Research Question 4

This section utilized both quantitative and qualitative data from the survey to answer the fourth research question: What are high school athletic administrators’

perceptions of OCR's Title IX education? The survey consisted of five statements (15f, 15g, 15h, 15i, and 22b) which aimed to gather information to answer the fourth research question. Each high school athletic administrator was asked to indicate how much he/she agreed or disagreed with each statement on a six-part Likert scale.

Survey statement (15f), the role of the OCR should be to provide sample policies to high schools to promote understanding of Title IX, produced some form of agreement amongst 92.6% of responders. The result of a Pearson's Chi-square test of independence analysis (3 categories of school size by 6 categories of agreement/disagreement), $X^2(8) = 10.050, p = .262$, designated the association of school size to level of agreement/disagreement was not statistically significant. Also, contingency coefficients were calculated to index the strength of associations assessed by Chi-square analyses because the matrices were greater than two by two and the results are shown in Table 17.

Amongst responders, 92.6% had some form of agreement (Table 18) with survey statement (15g), the role of the OCR should be to provide research on issues to promote understanding of Title IX. There was a high percentage of agreement amongst high school athletic administrators from all school sizes; however, the relationship of size of the school to the level of high school athletic administrators' agreement/disagreement was not significant, $X^2(8) = 9.334, p = .315$.

Survey statement (15h), the role of the OCR should be to provide alternate procedures of ways to comply with Title IX, elicited some form of an agreement (Table 18) amongst 83% of the responders. The result of a Pearson's Chi-square analysis, $X^2(8) = 6.730, p = .566$, designated there was a correlation between school size and the

Table 17. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 4.

		Some Form of Agreement	M	SD	n	Contingency Coefficient
S15f	The role of the OCR should be to provide sample policies to high schools to promote understanding of Title IX.	92.6%	2.39	.83	94	.311
S15g	The role of the OCR should be to provide research on issues to promote understanding of Title IX.	92.6%	2.39	.78	94	.301
S15h	The role of the OCR should be to provide alternate procedures of ways to comply with Title IX.	83.0%	2.51	.99	94	.258
S15i	The role of the OCR should be to provide checklists or guidelines to promote understanding of ways to comply with Title IX.	93.6%	2.27	.78	94	.259
S22b	I believe I have been adequately educated on how to comply with Title IX by the OCR.	48.9%	3.64	1.43	92	.358

Table 18. A More Detailed Reporting of Responses for Research Question 4.

	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree	Rating Average	n
15f	10	46	31	5	2	0	4.61	94
15g	8	49	30	6	1	0	4.61	94
15h	10	46	22	12	4	0	4.49	94
15i	11	54	23	5	1	0	4.73	94
22b	5	18	22	16	22	9	3.36	92

Note. Two athletic administrators did not answer statement 22b.

level of agreement/disagreement. High school athletic administrators employed by smaller schools tended to disagree with the statement more than high school athletic administrators employed by larger schools.

Survey statement (15i), the role of the OCR should be to provide checklists or guidelines to promote understanding of ways to comply with Title IX, produced some form of agreement amongst 93.6% of high school athletic administrators. With the high percentage of agreement, there was a small linear relation to the size of the school and the high school athletic administrator's level of agreement; however, the relation was not statistically significant, $X^2(8) = 6.753, p = .563$.

Survey statement (22b), I believe I have been adequately educated on how to comply with Title IX by the OCR, generated some form of agreement amongst 48.9% of all high school athletic administrators who responded, or 51.1% believed they have not been adequately educated on how to comply with Title IX by the OCR. The result of a Pearson's Chi-square analysis, $X^2(10) = 13.509, p = .197$, indicated the association of school size to level of agreement/disagreement was not statistically significant.

Besides the agree/disagree statements, high school athletic administrators were asked within the survey to rank (question 16) information/education provided by (State Activities Association, Other Athletic Directors, OCR, and Courts/Lawyers) on Title IX. Finally, high school athletic administrators were asked to rank (question 20) the contact with (State Activities Association, Other Athletic Directors, OCR, and Courts/Lawyers) on Title IX.

In the ranking portion (question 16), high school athletic administrators were asked to rank the following groups (Courts/Lawyers, OCR, Other Athletic Directors, and State Activities Association) according to the information/education provided to high school athletic administrators on Title IX, with 4 being the most informative and 1 being the least informative (Table 19). According to high school athletic administrators as a whole, the rankings were as follows: State Activities Association was seen as the most informative (3.43), followed by Other Athletic Directors (2.90), then the OCR (1.96), and

Table 19. Group Rankings on Information/Education Provided to High School Athletic Administrators in NDNCR on Title IX.

Ranking	Ranking Information Category	Mean	Pearson's Correlation			
			SD	R	n	p
#4	Courts	1.71	1.0	-.051	94	.622
#3	OCR	1.96	.80	.175	94	.091
#2	Other ADs	2.90	.69	-.135	94	.193
#1	State Activities Association	3.43	.99	.004	94	.967

ending with Courts/Lawyers (1.71) as providing them with the least amount of information on Title IX. Separately, all enrollment sizes had the State Activities

Association ranked first and Other Athletic Directors ranked second. However, high school athletic administrators employed at schools with enrollment of 25 to 150 students had a different perspective than the other two enrollment sizes as they ranked Courts/Lawyers third and the OCR fourth, while the other two enrollment sizes both ranked the OCR third and Courts/Lawyers fourth (Figure 5).

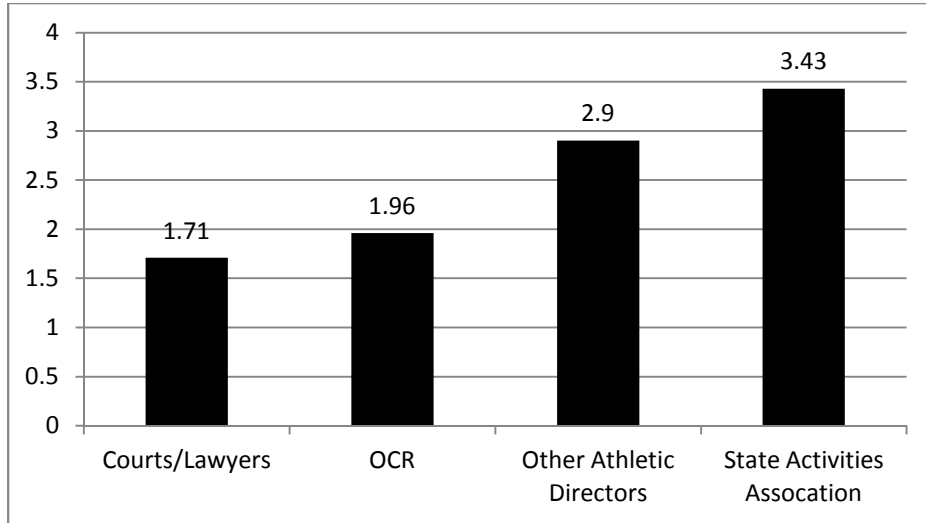


Figure 5. Group Rankings on Information/Education Provided to High School Athletic Administrators in NDNCr on Title IX.

In the ranking portion (question 20), high school athletic administrators were asked to rank the following groups (Courts/Lawyers, OCR, Other Athletic Directors, and State Activities Association) according to whom they would contact if they had a question pertaining to Title IX. The rankings were as follows: State Activities Association was contacted the most (3.42), followed by Other Athletic Directors (2.98), then the OCR (1.88), and, finally, the Courts/Lawyers were contacted the least (1.72) (Table 20).

Separately, all enrollment sizes had the State Activities Association ranked first and Other Athletic Directors ranked second. However, high school athletic

Table 20. Group Rankings on Most Commonly Used and Least Commonly Used Resources When High School Athletic Administrators Have Title IX Questions.

Ranking	Ranking Information Category	Pearson's Correlation				
		Mean	SD	R	n	p
#4	Courts	1.72	.98	.005	93	.963
#3	OCR	1.88	.83	.220	93	.034
#2	Other ADs	2.98	.77	-.049	93	.642
#1	State Activities Association	3.42	.85	-.177	93	.090

administrators employed at schools with enrollment of 25 to 150 students had a different perspective than the other two enrollment sizes as they ranked Courts/Lawyers third and the OCR fourth, while the other two enrollment sizes both ranked the OCR third and Courts/Lawyers fourth (Figure 6).

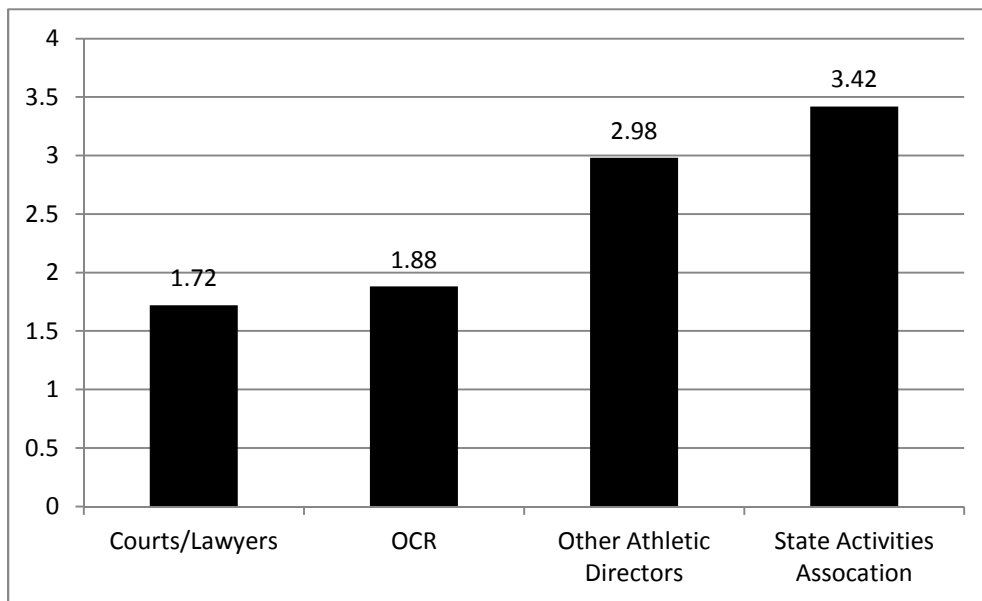


Figure 6. Group Rankings on Most Commonly Used and Least Commonly Used Resources When High School Athletic Administrators Have Title IX Questions.

The final question of the survey was an open-ended question which provided high school athletic administrators the option of offering some insights to Title IX that weren't addressed in the survey. From the open-ended question, 10 replies pertained to research question number four centered around professional development and punishments.

The first theme centered around professional development included two high school athletic administrators' insights. A Wyoming high school athletic administrator (351+ students) stated he/she had not had many dealings with Title IX as the school district's lawyer or superintendent deals with the Title IX issues. A Montana high school athletic administrator (351+ students) stated his/her district offered comprehensive professional development on Title IX.

Three schools from South Dakota (151 to 350 students) believed more professional development was needed. One high school athletic administrator said more training was needed. Another stated, "I had not always understood Title IX, I thought it meant equal money, equal equipment, and teams." The sentiment was echoed by others as the third stated, "There was just a lack of understanding for Title IX, especially with administrators that have not had to deal with Title IX or any of its issues." A Minnesota high school athletic administrator (351+ students) wished there was more information shared with ADs to make sure schools were in compliance.

There were two high school athletic administrators who commented on the OCR with very different opinions. A Montana high school athletic administrator (351+ students) stated the OCR was a very beneficial organization and high schools should use the organization more, while another Montana high school athletic administrator (25 to 150 students) believed Title IX was way overrated.

The final theme brought out by the open-ended question centered around punitive punishments brought forth by the OCR. Two Montana high school athletic administrators weighed in on Title IX's use of punitive punishments. The first Montana high school athletic administrator (351+ students) stated Title IX was important, but it went too far to slight the advantage towards the females and too harshly penalized the schools who were not in compliance. The second Montana high school athletic administrator (25 to 150 students) believed less punitive punishments and more education regarding Title IX was necessary.

Research Question 5

This section utilized both quantitative and qualitative data from the survey to answer the final research question: What are high school athletic administrators' perceptions of Title IX's three-part test for compliance? The survey consisted of four statements (15b, 15c, 15d, and 15e) which aimed to gather information to answer the first research question (Table 21). Each high school athletic administrator was asked to indicate how much he/she agreed or disagreed with each statement on a six-part Likert scale (Table 22).

Survey statement (15b), high school athletic departments should be able to predetermine the number of participants' slots on each team and if team slots are not filled by athletes, they would still count as opportunities, produced some form of agreement (Table 22) amongst 64.9% of responders. The result of a Pearson's Chi-square test of independence analysis (3 categories of school size by 6 categories of agreement/disagreement), $X^2(10) = 10.347, p = .411$, designated the association of school size to level of agreement/disagreement was not statistically significant. Also,

contingency coefficients were calculated to index the strength of associations assessed by Chi-square analyses because the matrices were greater than two by two and the results are shown in Table 21.

Table 21. Percentage of Some Form of Agreement for NDNCR High School Athletic Administrators for Research Question 5.

		Some Form of Agreement	M	SD	n	Contingency Coefficient
S15b	High School Athletic Departments should be able to predetermine the number of participants slots on each team and if team slots are not filled by athletes, they would still count as opportunities.	64.9%	3.12	1.44	94	.411
S15c	Non athletes should be excluded when compliance ratio with Title IX is identified for female and male students attending a high school.	62.8%	3.27	1.31	94	.195
S15d	Compliance with Title IX should be determined on an individual high school basis done locally.	70.2%	3.04	1.34	94	.974
S15e	High Schools and colleges should have the same rules and expectations for Title IX.	27.7%	4.19	1.34	94	.407

Survey statement (15c), non athletes should be excluded when compliance ratio with Title IX is identified for female and male students attending a high school, drew out some form of agreement (Table 22) amongst 62.8% of the responders. The relationship

of school size to the level of high school athletic administrators' agreement/disagreement was not statistically significant, $X^2(10) = 13.549, p=.195$.

Table 22. A More Detailed Reporting of Responses for Research Question 5.

	Strongly Agree	Agree	Somewhat Agree	Somewhat Disagree	Disagree	Strongly Disagree	Rating Average	n
15b	6	38	17	12	14	7	3.88	94
15c	4	29	26	11	21	3	3.73	94
15d	7	33	26	10	13	5	3.96	94
15e	2	13	11	21	33	14	2.81	94

Survey statement (15d), compliance with Title IX should be determined on an individual high school basis done locally, elicited some form of an agreement amongst 70.2% of the responders. The result of a Pearson's Chi-square analysis, $X^2(10) = 3.291, p=.974$, designated there was a correlation between school size and the level of agreement/disagreement; however, it was not statistically significant.

Survey statement (15e), high schools and colleges should have the same rules and expectations for Title IX, extracted 27.7% agreement. Almost one out of every four responders believe high schools and colleges should have the same rules and expectations for Title IX compliance. The relationship of size of the school to the level of high school athletic administrators' responses was not statistically significant, $X^2(10) = 10.392, p=.407$.

The final question of the survey was an open-ended question which provided high school athletic administrators the option of offering some insights to Title IX that weren't

addressed in the survey. From the open-ended question, 10 replies pertained to research question number five centered around the expansion of compliance measures.

Four high school athletic administrators offered comments on the compliance portion of Title IX. A Minnesota high school athletic administrator (25 to 150 students) believed opportunities to compete (gender not withstanding) should be based on the number of athletes available with the skill and commitment also being taken into account. A second Minnesota high school athletic administrator (151 to 350 students) offered enrollment and funding needed to be considered in evaluating the numbers/participation expectations for Title IX. A Montana high school athletic administrator (351+ students) added there should be more ways to comply with OCR other than just proportionality. Finally, a Minnesota high school athletic administrator (151 to 350 students) believed his/her school had too many girls who participated solely in the fine arts (band, choir, and our musical) and some consideration should be made so we would not lose a boys sport because our girls chose not to participate in sports.

Three more responses centered around the idea that care and judgments should not be made in haste. The three comments all came from schools in excess of 351 students. The first response from a Minnesota high school athletic administrator (351+ students) stated care should be taken to create expectations that are truly attainable in a particular community. For instance, if a community had a large Muslim population, the number of girls that would be allowed to compete athletically would be reduced, no matter what a particular school district did to promote female participation in athletics. A second Minnesota high school athletic administrator (351+ students) warned that Title IX policies should look at a school's programs over a several year period and not just for one

year, as a one year glimpse at participation percentages could be unfair and unfortunate. Finally, a Montana high school athletic administrator (351+ students) offered it was hard to deal with the concept of Title IX. While it should be about equal opportunities for all, it was focused primarily on equal opportunities for females.

The final replies were centered upon local control with specific recommendations for consideration. A North Dakota high school athletic administrator (151 to 350 students) and Minnesota high school athletic administrator (25 to 150 students) both stated there needed to be more state and local input. Furthermore, a Minnesota high school athletic administrator (151 to 350 students) stated it's important for Title IX compliance at the high school level and believed it would be beneficial for high school athletic administrators to be involved in the decision making.

Summary

Chapter IV presented quantitative and qualitative data to answer the five research questions presented by the study. Quantitatively, frequencies and percentages of demographics for the high school athletic administrators, percentages of some form of agreement, Chi-square tests, and contingency coefficients were used to analyze the data. Qualitatively, open-ended replies were mixed amongst the quantitative data to answer the research questions. Chapter V presents a summary of the study, conclusions drawn from the results, and recommendations.

CHAPTER V
SUMMARY, CONCLUSIONS, DISCUSSIONS,
AND RECOMMENDATIONS

This chapter presents the findings from this study derived from quantitative and qualitative data analysis, an extensive literature review, and from the background knowledge the researcher attained through experience as collegiate athlete, coach, activities director, and associate principal. The chapter is organized according to the research questions and presents a short summary, conclusions with discussions, recommendations, and a reflection.

Summary

Since there was limited research on Title IX at the high school level and high school athletic administrators have had limited or no opportunities to be involved in Title IX policy changes, the researcher sought to investigate perceptions of high school athletic administrators in NDNCR on Title IX policy changes. Although not all of the quantitative data revealed statistically significant differences amongst the high school athletic administrators of the three enrollment levels (25 to 150 students, 151 to 350 students, and 351+ students), the collective perceptions of the entire group provided key insights to Title IX education, policy, and participation at the high school level in NDNCR. The qualitative data provided mixed emotions, a variety of opinions, both positive and negative, and information on Title IX education, policy, and participation.

The purpose of this study was to investigate NDNCR high school athletic administrators' perceptions of 2010 Title IX policy changes respective to their athletic programs. Quantitative and qualitative data were collected to investigate the perceptions. Quantitatively, perception data were gathered from the survey (agreement and disagreement to statements on a six-point Likert scale, ranking, and choosing from a list of sports added) and analyzed in order to understand the perceived impact of the 2010 Title IX changes as well as the overall understanding of Title IX. Qualitatively, responses from an open-ended survey question were coded, categorized, and conceptualized to identify high school athletic administrators' perceptions. Also, the responses were interpreted and arranged according to the research question provided insight to or best helped to answer.

Conclusions With Discussions

Research Question 1

Research question 1: How are high school athletic administrators represented in Title IX policies affecting and being imposed on high school sports? Specific questions in the survey were developed in order to analyze the perception data. According to the quantitative data, there was no significant difference amongst the enrollment categories and degree to which high school athletic administrators agreed or disagreed to a statement pertaining to the first research question.

The fact that high school athletic administrators agreed with statements and school enrollment size did not play a factor shows consistency amongst high school athletic administrators' perceptions on how high school athletic administrators were represented in Title IX policies affecting and being imposed on high school sports. It is a

telling sign when 98.9% of high school athletic administrators have not had contact (1.1% admitted some form of agreement with the survey statement 22a, I have had contact on a regular basis with OCR regarding policy changes pertaining to Title IX) with OCR regarding policy changes pertaining to Title IX, especially when there was a policy change two years earlier. It shows a major disconnect between OCR and high school athletic administrators. Also, the states involved in the study (Minnesota, Montana, North Dakota, South Dakota, and Wyoming) did not belong to the same OCR regional headquarters; rather, there were four separate OCR regional headquarters involved. Minnesota's and North Dakota's OCR regional headquarters was stationed in Chicago, IL, South Dakota's was located in Kansas City, MO, Wyoming's was situated in Denver, CO, and, finally, Montana's was positioned in Seattle, WA (USDOE, 2011). Four different OCR headquarters had not had contact with the sample who responded to the survey to assist in Title IX education and information.

Besides not having contact with the OCR, 98.9% of high school athletic administrators in NDNCR believed they should be represented while Title IX policy changes were discussed and 96.7% believed high school athletic administrators should have influence on Title IX policy. In 2002, when President Bush created the Commission to look at Title IX, only (Collegiate) Division I schools were represented; key stakeholders such as Division II, Division III, and high schools were not represented on the Commission. Additionally, the Commission even acknowledged that it couldn't reach any conclusions about application to the high school level which was troubling because any of the recommendations adopted by Secretary Paige would have an impact

upon all of the athletes participating in sports at the high school level (de Varona & Foudy, 2002, p. 53).

Once again, in 2010, there was a policy change and high schools were not represented, even though clearly defined by the 2008 Challenge by Pacific Legal Foundation to the OCR, questioning whether or not the three-part test applied to high schools as the reams and reams of policies and regulations issued as a result of Title IX were written to apply to Division I college sports. The “general principles will often apply to club, intramural, and interscholastic athletic programs, which are also covered by regulation” (USDOE, 2008, p. 2).

High school athletic administrators also voiced their opinions through qualitative data which added additional perspectives to answer the first research question. Sherm Sylling, Executive Secretary of the North Dakota High School Activities Association since 1999, said he had never been contacted pertaining to Title IX policy changes. In fact, he has never even received a form letter from the Office for Civil Rights stating the changes or asking for his perspective (personal Communication, February 24, 2012). Secondly, a North Dakota high school athletic administrator (351+ students) mentioned that he/she seldom received any information regarding requirements, changes, or policies. If Title IX is consistently applied to both high schools and colleges, why are Division I colleges the only organizations represented? High schools need to be represented.

Research Question 2

Research question 2: How did 2010 Title IX policy change impact high schools and their compliance with Title IX? Specific questions in the survey were developed in order to analyze the perception data. According to the quantitative data, there was no

significant difference amongst the enrollment categories and degree to which high school athletic administrators agreed or disagreed to a statement pertaining to the second research question.

Once again, the collective answers provided insight as 28% of the high school athletic administrators (26/93) agreed their school relied solely on the interest survey to be in compliance with Title IX and, as a result of the 2010 policy change, an institution was no longer considered in compliance with Title IX as a result of just conducting a survey. Instead, multiple indicators must be used to demonstrate compliance. An institution should request a sport to be added, request a sport to be upgraded from club sport to varsity status, participation in intramural or club sports, interviews, results of surveys, and participation rates in community sports leagues operating in the area of the high school (USDOE, 2010). After cross referencing the high school athletic administrators who indicated (survey statement 17a) their school relied solely on the interest survey to be in compliance with Title IX with (survey question 11), I have added a female sport in the past five years, there were a total of 26 schools that fit both criteria. Of those 26 schools, 11 (42%) of the schools added a sport for females in the past five years and therefore had demonstrated a “good faith expansion of athletic opportunities through its response to developing interests of the underrepresented sex at that institution” (USDOE, 1996, para. 8). Only 58% of the schools (15/26) may have relied solely on the survey to be in compliance, but the proportion of male/female athletes to male/female students was not known as well as the results of the two other tests. The schools may already have been in compliance.

There was an interesting trend that emerged when the sports offered for both males and females were analyzed: the larger the school enrollment size, the more opportunities available for females. Collectively, schools with enrollments between 25 to 150 students offered 4 more sports for males (132) as compared to females (128). Schools with enrollments between 151 and 350 students offered 11 more female sports (233) than male sports (222). Finally, in terms of the largest population category for schools, there were 36 more female sports (427) offered for participation as compared to male sports (391). The larger the school, the more sports offered for females. De Varona and Foudy authored *Minority Views on the Report of the Commission on Opportunity in Athletics: Executive Summary* voicing their disagreement with “*Open to All*”: *Title IX at Thirty*. One of the dissenting opinions was “the fact that women and girls have fewer opportunities in athletics than men” (de Varona & Foudy, 2002, p. 37). It appeared to be true within smaller schools in NDNCR.

A similar trend appears when the number of sports added for males and females in the past five years was analyzed. The larger the school category size, the more sports opportunities were added for females. As a group, schools with enrollments between 25 to 150 students added one more male sport (15) in comparison to female sports (14). In schools with enrollments between 151 and 350 students, there were twice as many female sports (14) added in comparison to male sports (7). Finally, in the largest population category for schools, there were almost seven times as many female sports (20) added in comparison to male sports (3).

Further breaking down the data demonstrated that in the category of schools with enrollments of 25 to 150 students, 8 of 26 schools added a female sport (30.8%) with the

same amount and percentage adding a male sport for a difference of zero. In the enrollment category of 151 to 350 students, 11 of 35 schools added a female sport (31.4%), while only 6 out of 35 added a male sport (17.1%) in the past five years for a difference of 14.3%. Finally, in the enrollment category of 351+ students, 16 of 42 schools added a female sport (38.1%), while only 3 of 42 high schools added a male sport in the past five years (7.1%) for a difference of 31%. As Gavora (2002) argued the fallacy of the statement “if participation is unequal when there is discrimination, . . . *then whenever there is unequal participation there must be discrimination*” (p. 36). Females may have fewer opportunities in numbers in smaller schools, but it doesn’t mean they were discriminated against. Females may have had all of the the opportunities they desire; however, that was unknown.

Along with the quantitative information, qualitative data added additional perspectives to answer the second research question. A Minnesota high school athletic administrator (151 to 350 students) believed complying with Title IX in this day and age should not be an issue anymore, as schools should have this as part of their policy. A Minnesota high school athletic administrator (351+ students) said they believed in Title IX, while another high school athletic administrator of the same state and school enrollment shared they worked very hard for equal opportunities for both genders; it was a very important aspect of their overall philosophy. One of the first Title IX cases was *Brenden v. Independent School District 742* (1973) and it originated in Minnesota, and schools may be more aware of things that happened in their own backyard.

Research Question 3

Research question 3: What are the emerging sports of North Dakota's Normal Competitive Region? Specific questions in the survey were developed in order to analyze the perception data. According to the quantitative data, there was no significant difference amongst the enrollment categories and degree to which high school athletic administrators agreed or disagreed to a statement pertaining to the third research question. Emerging sports were activities increasingly being pursued by males/females, and, with time and growth, could become interscholastic sports offered by schools for competition (Gavora, 2002). An activity was considered to be a sport if participation was based on athletic ability, it had a defined season, teams/participants practiced/competed in a similar fashion to other teams/participants, it was administered by the athletic department, and if the primary purpose of the activity was competition and not supporting other athletes/athletic programs or competitions (USDOE, 2003). According to the data, the top four sports added in NDNCR for males were wrestling (5 schools added), golf (5 schools added), cross country (4 schools added), and baseball (4 schools added).

There was a major disconnect with the addition of wrestling as a sport compared to the literature. According to the literature, wrestling was not a sport being added or even maintained by colleges; rather, it was a sport being dropped from university funded status. In 1998, while the researcher attended the University of North Dakota, its wrestling program was eliminated to alleviate budgetary constraints and, as wrestlers argued, to attain gender equity. When a college cuts a specific sport, it impacts participation rates at the high school level and this has gone in the opposite direction, with more high schools adding wrestling. The 2002 Commission specified colleges were

not always aware or sensitive to national and regional trends in athletic interests at the high school level (USDOE, 2003) and that was the case in NDNCR also.

The top sports added for females were fast-pitch softball (13 schools added), competitive dance (7 schools added), competitive cheer (4 schools added), cross country (4 schools added), golf (4 schools added), and soccer (4 schools added). A North Dakota high school athletic administrator (351+ students) agreed that he/she would strongly support cheerleading and dance/drill to count as sports according to Title IX. It appears as though he/she would have some support as seven schools in the region have added competitive dance (32 total schools in the region offer the activity also) as well as four schools have added competitive cheerleading (57 total schools in the region offer the activity also). The 2002 Commission sought to answer “How should activities such as cheerleading or bowling factor into the analysis of equitable opportunities?” (USDOE, 2003, p. 28) and did not come up with a conclusion. However, according to the ruling in *Biediger v. Quinnipiac University* (2010), competitive cheerleading did not qualify as a varsity sport and its athletes could not be counted for Title IX participation purposes because it was too underdeveloped and disorganized. There were 32 schools in the region that offered competitive dance and 57 schools in the region that offered competitive cheer; yet, because it was underdeveloped at the collegiate level in the Northeast Region of the United States, it was not considered to be a sport throughout the United States at all levels, including high schools. Fewer schools in the region offered soccer (34), tennis (33), gymnastics (26), ice-hockey (24), and swimming/diving (23) and they were all considered to be sports under Title IX participation purposes (Table 11). Once again, as been a common theme throughout Title IX history, a ruling has been made

that pertained to a college/university and high schools were forced to adhere to the same expectations without being represented.

On a separate note, a North Dakota high school athletic administrator (351+ students) wondered if there was a relationship between state association sanctioned sports and club/intramural activities for compliance purposes. According to the information provided, there were three sports offered at club status that could be elevated to interscholastic status: soccer, baseball, and softball. Amongst the sample, 33 schools offered soccer for females and 34 for males for interscholastic competition, while there were 14 that offered soccer as a club sport/intramural sport. There were 49 schools that offered baseball for interscholastic competition and 13 that offered it as a club sport. There were 51 schools that offered softball for interscholastic competition and 11 that offered the sport as a club/intramural sport. In these three circumstances, there seemed to be enough competition available for the schools to elevate the status from club/intramural status to interscholastic status and to count towards Title IX participation numbers.

There are also two sports which could be developed in the region that were offered for competition both interscholastically and as a club sport. Lacrosse was available to compete interscholastically at 5 schools and available through club/intramural status at 10 schools. Also, rodeo was available to compete interscholastically at three schools and available through club/intramural status at nine schools. Both sports would need to be developed, but there was opportunity for growth in NDNCR. However, the sports would need to be added regionally as lacrosse was gaining popularity in Minnesota and rodeo was more popular in Wyoming and Montana.

Research Question 4

Research question 4: What are high school athletic administrators' perceptions of OCR's Title IX education? Specific questions in the survey were developed in order to analyze the perception data. According to the quantitative data, there was no significant difference amongst the enrollment categories and degree to which high school athletic administrators agreed or disagreed to a statement pertaining to the fourth research question. The fact that high school athletic administrators agreed with statements and school enrollment size did not play a factor shows consistency amongst high school athletic administrators' perceptions on the role of the OCR.

It was almost unanimous amongst high school athletic administrators having some form of agreement on the role of the OCR in promoting understanding of Title IX; 92.6% had some form of agreement that the OCR should provide sample policies, 92.6% had some form of agreement that the OCR should provide research on issues, and 93.6% had some form of agreement that the OCR should provide checklists and guidelines. According the recommendations set forth by the 2002 Title IX Commission in "*Open to All*": *Title IX at Thirty*, the goals were to improve OCR's enforcement and education of Title IX. The recommendations included the OCR should provide clear, consistent, and understandable guidelines necessary for the efficient and effective implementation of Title IX and, through a national education effort, the OCR should streamline clarifications and ensure that enforcement was consistent by all regional offices (USDOE, 2003).

Under half of high school athletic administrators (48.9%) believed they had been adequately educated on how to comply with Title IX by the OCR, so it appeared the

recommendations of the 2002 Commission had not been followed or initially had been followed, then more recently been disregarded. It should be noted that 48.9% of high school athletic administrators believed they were adequately educated, yet only 1.1% believed as though they had regular contact with the OCR regarding policy changes pertaining to Title IX. The two should go hand in hand. How else were the high school athletic administrators educated by the OCR?

Furthermore, how the high school athletic administrators ranked the groups (courts/lawyers, OCR, other High School athletic directors, and state activities association) also demonstrated a disconnect with the 48.9% who believed they had been adequately educated by the OCR on Title IX. According to the rankings (1 being the lowest and 4 being the highest), the state activities association was seen as the most informative group (3.43), followed by other athletic directors (2.9), the OCR (1.96), and ending with courts/lawyers (1.71) being ranked as the least informative.

Separately, all enrollment sizes had the state activities association ranked first and other athletic directors ranked second. However, high school athletic administrators employed at schools with enrollment of 25 to 150 students had a different perspective than the other two enrollment sizes as they ranked courts/lawyers third and the OCR fourth, while the other two enrollment sizes both ranked the OCR third and courts/lawyers fourth.

Similarly, when asked which group was contacted if there was a question (1 being the lowest and 4 being the highest), the high school athletic administrators contacted the state activities association the most often (3.42), followed by other athletic directors (2.98), then the OCR (1.88), and, finally, courts/lawyers were contacted the least (1.72).

Separately, all enrollment sizes had the state activities association ranked first and other athletic directors ranked second. However, high school athletic administrators employed at schools with enrollment of 25 to 150 students had a different perspective than the other two enrollment sizes as they ranked courts/lawyers third and the OCR fourth, while the other two enrollment categories ranked the OCR third and courts/lawyers fourth. Smaller schools ranked the OCR as less helpful in providing information/education on Title IX compared to larger schools.

Schools with enrollments of 25 to 150 students perceived the OCR to be the least helpful in educating about Title IX and considered the OCR as the last resort to ask for Title IX guidance. This tells a lot about the perception of the OCR, as high school athletic administrators from this enrollment size probably needed their help and guidance the most as they are spread extremely thin when it comes to their job. According to the sample, 65% of high school athletic administrators had at least two job titles (athletic director, activities director, associate principal, principal, superintendent, and teacher). Further breaking it down, 42% had two job titles, 19% had three job titles, and 4% had four job titles. This presented an underlying theme: Why would a high school athletic administrator ask a question of an organization they believed was not helpful in providing information or education?

The qualitative data seemed to match quantitative data as there were many recommendations from high school athletic administrators for improving Title IX education. A South Dakota high school athletic administrator (151 to 350 students) believed more professional development was needed, one from Minnesota (351+ students) wished there was more information shared with high school athletic

administrators to make sure schools were in compliance, and one from South Dakota (151 to 350 students) stated there was a lack of understanding for Title IX, especially with high school athletic administrators who have not had to deal with Title IX or any of its issues. Another South Dakota high school athletic administrator (151 to 350 students) stated, “I have not always understood Title IX; I thought it meant equal money, equipment, and teams.” I believe high school athletic administrators from the area want to provide opportunities for all athletes, but need the education and guidance from the OCR to be able to do so effectively.

Research Question 5

Research question 5: What are high school athletic administrators’ perceptions of Title IX’s three-part test for compliance? Specific questions in the survey were developed in order to analyze the perception data. According to the quantitative data, there was no significant difference among the enrollment categories and degree to which high school athletic administrators agreed or disagreed to a statement pertaining to the fifth research question.

It was significant that 70.2% of all high school athletic administrators had some sort of agreement that compliance with Title IX should be determined on an individual high school basis done locally. For example, one Minnesota high school athletic administrator (25 to 150 students) commented, “Opportunities should be based on the number of athletes available with skill and commitment,” which is a common argument found in the literature. A second Minnesota high school administrator (151 to 350 students) offered enrollment and funding needed to be considered in evaluating the numbers/participation expectations for Title IX. Opponents of the proportionality test

point to the general student body and don't understand why the "interest levels of women and men in the student body at large should determine the relative number of spots that the elite athletes of each sex should then be able to compete for" (Yuracko, 2002, p. 70).

Proportionality was not the only way to comply with Title IX; there were two other tests for an institution to demonstrate compliance and the OCR stated an institution has demonstrated compliance as long as "any one part of the three-part test in order to provide nondiscriminatory participation opportunities for individuals of both sexes" (USDOE, 1996, para. 8) has been met. Secondly, it was emphasized that each individual test was viewed in equal light according to the USDOE in order to allow local institutions the flexibility to determine local needs, interests, and abilities (USDOE, 1996).

However, the common perception amongst high school athletic administrators was that proportionality was the only way to comply with Title IX and was voiced by many different high school athletic administrators (both intercollegiate and interscholastic) throughout the town hall meetings held in Atlanta, Chicago, Colorado Springs, and San Diego by the Title IX Commission in July 2002 until November 2002 (USDOE, 2002a, 2002b, 2002c, 2002d, 2002e, 2002f, 2002g, and 2002h) and in the qualitative portion of the research. A Montana high school athletic administrator (351+ students) stated there should be more ways to comply with Title IX other than just proportionality. The literature states the three-part test literally stands the American legal tradition on its head. The first part establishes guilt or innocence, the second test is really just a way station to achieving the first test, and the third part of the test is unreliable (Gavora, 2002). There was never an endpoint of the second test, as an institution never knows how much continuous expansion is enough and the logical answer was when

women are no longer underrepresented and at that time the school has reached proportionality as defined by test number one (Gavora, 2002). The OCR needed to help high school athletic administrators understand the other means for complying with Title, as it continues to be unclear.

Secondly, just over one quarter of all high school athletic administrators (27.7%) had some form of agreement that high schools and colleges should have the same rules and expectations for Title IX. Looking from a different perspective, 72.3% believed they should not have the same rules and expectations as colleges. The researcher believed there were several reasons they should have different expectations. First, when a college cuts a specific sport it impacts participation rates at the high school and colleges were not always aware or sensitive to emerging sports at the high school level based on regional trends (USDOE, 2003). Second, there was not a specific mechanism to monitor either participation in athletics or program expenditures at the high school level like there is at the college level with the Equity in Athletics Disclosure Act (de Varona & Foudy, 2002). Third, *Biediger v. Quinnipiac University* (2010) was a perfect example as cheerleading was not considered to be a sport for Title IX proportionality counts at the collegiate level because it was considered to be too underdeveloped and disorganized, which leads to the final reason. The reams and reams of policies and regulations issued as a result of Title IX were written to apply to Division I college sports and then later applied to high schools which are fundamentally different (USDOE, 2008).

Limitations

Although this study utilized a variety of research methods to investigate North Dakota's Normal Competitive Region (NDNCR) high school athletic administrators'

perceptions of 2010 Title IX policy changes respective to their athletic programs, limitations to the study were present. The chief limitation to the study was the make-up of the sample who responded to the survey. The high school athletic administrators who responded did not mirror the population pools that currently exist. In NDNCR, 49.65% of schools fell in the category of 25 to 150 students, while the percentage of schools replied to the survey made up 25.24% of the sample for a difference of -24.41%. In NDNCR, 23.76% fell in the 151 to 350 students population pool, while the percentage of high school athletic administrators who responded to the survey made up 33.98% of the sample for a difference of +10.22%. Finally, in NDNCR, 26.60% of schools had an enrollment of 351+ students, while the high school athletic administrators who responded to the survey made up 40.78% of the sample for a difference of +14.18%. High school athletic administrators employed by larger schools replied at a higher percentage than the make-up of the population.

A second limitation to the study was club sports/intramural sports were not separated into club sports/intramural sports offered for females and club sports/intramural sports offered for males; as a result, the two were consolidated. Asking for two separate lists could have provided the researcher a better indication of what was offered to each sex and an opportunity to create a chart for comparison similar to the charts created for sports provided to males/females and sports added in the past five years for males/females.

Recommendations

The following recommendations emerged from the analysis of the data and review of the literature for this study.

Recommendations for State High School Activities Associations

1. State High School Activities Associations should advocate for high schools to have an involvement in Title IX policy changes and implementations. The following are avenues for State High School Activities Associations to pursue:
 - a. State High School Activities Associations and high schools need to contact the headquarters of the OCR and advocate for high school involvement in Title IX policy changes and implementations.
 - b. State High School Activities Associations and high schools need to contact local representatives and/or senators to advocate for high school involvement in Title IX policy changes and implementations.
 - c. State High School Activities Associations and high schools need to pressure local representatives and/or senators to create legislation for more local control in Title IX.
 - d. The OCR, State High School Activities Associations, and high schools need to work hand in hand with Title IX policy changes, adoptions, education, and enforcement.
 - e. State High School Activities Associations need to pressure the National Federation of High Schools to become involved in Title IX legislation and representation.

Recommendations for High Schools

1. High Schools in NDNCR should challenge the ruling of *Biediger v. Quinnipiac University* to allow competitive cheerleading to count as a sport for Title IX participation purposes.

2. Smaller schools should work together to provide more opportunities for females through cooperatives, club sports, or intramural sports.
3. High schools should work together to develop the regional sports of rodeo (in Western North Dakota, Montana, and Wyoming) and lacrosse (in Eastern North Dakota and Minnesota).

Recommendations for the OCR

1. The OCR should provide sample policies to high schools in a timely manner to promote understanding of Title IX.
2. The OCR should provide research on issues to promote understanding of Title IX.
3. The OCR should provide checklists or guidelines to promote understanding of ways to be in compliance with Title IX.
4. The OCR should make contact with State High School Athletic Associations about Title IX information, education, policy adoptions, and policy changes.
5. The OCR, State High School Activities Associations, and high schools should work hand in hand with Title IX policy changes, adoptions, education, and enforcement.

Recommendations for Further Study

1. More studies should be developed to identify the relationship between state association sanctioned sports and club activities for compliance purposes.
2. How are schools measuring the interest and ability levels of students in order to add new sports?

3. What are the processes schools use to adopt new sports or to retire/cut an existing sport while maintaining compliance with Title IX?
4. Should high schools and colleges have the same rules and expectations for Title IX?

Reflection

Although not all of the quantitative data revealed statistically significant differences amongst the high school athletic administrators at the three enrollment levels (25 to 150 students, 151 to 350 students, and 351+ students), the collective perceptions of the entire group provided insights to Title IX education, policy, and participation at the high school level since there is limited research regarding the high school level. At the end of the survey, high school athletic administrators reflected on the current Title IX process. One Minnesota high school athletic administrator (351+ students) stated he/she believed in Title IX, while another from Montana (351+ students) stated the OCR is a very beneficial organization and high schools should use the organization more.

Through my experiences as a high school athlete, college athlete, coach, activities director, and associate principal, I have come to the conclusion that providing equal opportunities to all student-athletes is an essential practice and should be the philosophy of all athletic organizations; however, there needs to be more support and communication between OCR and high school athletic administrators. Envision a system where the OCR, State High School Athletic Associations, and high school athletic administrators work collaboratively to develop and implement Title IX policy. Through this collaboration, it may delete punitive punishments, increase buy-in, and alleviate the need for the OCR to be the main source of education as all parties would be involved in the

entire process. The relationship should not be an “I got you!” Rather, it should be a “Let’s work together” to provide equal opportunities for all athletes regardless of gender.

APPENDICES

Appendix A Informed Consent

SurveyMonkey - MyCollector: Message Preview

Page 1 of 2

Gabe_Dahl Sign Out Help

Home My Surveys Resources Plans & Pricing

+ Create Survey

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes Edit

Design Survey **Collect Responses** Analyze Results Analyze BETA

View Summary

First Round of Title IX Surveys Edit

Email Invitation **CLOSED**

Edit Recipients

Message Summary

[← Back to Messages List](#)

Edit Messages

Change Settings

Message Delivery Schedule

Rewards

Delivery completed on April 15, 2012 12:44 PM.

Change Restrictions

Message Recipients

Open Collector Now

The message mailed to 284 recipient(s). [View](#)

Message Preview

Below is a preview of your message based on the first recipient in your list ([Email]).

To: [Email]
From: "gdahl@gfschools.org via surveymonkey.com" <member@surveymonkey.com>
Subject: Title IX Study
Body: <https://www.surveymonkey.com/s.aspx>

INFORMED CONSENT

TITLE: A Study of Secondary Athletic Administrators' Perceptions of Title IX Policy Changes.

PROJECT DIRECTOR: Gabe Dahl

PHONE NUMBER: 701-741-9966

DEPARTMENT: Department of Educational Leadership, University of North Dakota

Dear Secondary School Athletic Administrator:

I would like to invite you to participate in my research, A Study of Secondary Athletic Administrators' Perceptions of Title IX Policy Changes. In order to participate in this research study, your informed consent is required. Your participation is voluntary. You may choose not to participate or you may discontinue your participation at any time without penalty. Your completion of the survey indicates your informed consent. If you choose not to participate, do not give your consent or complete the survey.

The purpose of this study will be to identify North Dakota's normal competitive region high school administrator's perceptions of the 2010 Title IX policy change respective to their athletic programs. The survey will take approximately ten minutes in one sitting and you will be given two weeks to return the survey.

There are no foreseeable risks to participate in this study. You may not benefit personally from being in this study. However, I hope that, in the future, other people might benefit from this study since there may be a greater understanding and education process with Title IX.

There are no costs other than the ten minutes to complete the survey associated with participating in this research study and you will not be paid for your participation. The University of North Dakota and the research team are receiving no payments from other agencies, organizations, or companies to conduct this research study.

The researcher conducting this study is Gabe Dahl under the supervision of Dr. Sherryl Houdek in the Department of Educational Leadership at the University of North Dakota. If you have questions or concerns about the research, please contact Gabe Dahl at 701-741-9966. You may also contact Dr. Sherryl Houdek at 701-777-2394. The records of this study will be kept private to the extent permitted by law. In any report about this study that might be published, no athletic program, high school, school district, principal, athletic director, or superintendent will be identified. Your study record may be reviewed by Government agencies and the University of North Dakota Institutional Review Board.

If you have questions regarding your rights as a research subject, or if you have any concerns or complaints about the research, you may contact the University of North Dakota Institutional Review Board at (701) 777-4279. Please call this number if you cannot reach research staff, or you wish to talk with someone else.

Your completion of the study indicates this research study has been explained to you, your questions have been answered, and you agree to take part in this study. I have attached the link to the online survey.

<https://www.surveymonkey.com/s.aspx>
Thank you for your time and your consideration.

Sincerely,

Gabriel Dahl

<https://www.surveymonkey.com/optout.aspx>

[← Back to Messages List](#)

http://www.surveymonkey.com/MyCollector_Message_Summary.aspx?sm=d3wAJ1eKT... 7/25/2012

Appendix B
Survey

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

Part 1: Demographic Information

***1. State**

- Minnesota
- Montana
- North Dakota
- South Dakota
- Wyoming

***2. Enrollment size of the school:**

- 25 to 150 students
- 151 to 350 students
- 351+ students

***3. The school is best described as:**

- Public School
- Private School

***4. Your Position (Check all that apply):**

- Athletic Director
- Activities Director
- Principal
- Associate Principal
- Superintendent
- Teacher

***5. Gender:**

- Female
- Male

***6. Years in current position:**

- 0-5 years
- 6-10 years
- 11+ years

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

***7. The school's athletic program has had an OCR violation:**

- Yes
- No

***8. What was the result of the OCR Violation?**

***9. The school's athletic program has faced a Title IX suit:**

- Yes
- No

***10. What was the outcome of the suit?**

***11. The school has added a sport for females in the past five years:**

- Yes
- No

***12. What female sport was added?**

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

***13. The school has added a sport for males in the past five years:**

- Yes
- No

***14. What male sport was added?**

Part 2: Title IX Policies

Empty text area for responses to Part 2: Title IX Policies.

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

***15. Agree/Disagree: Indicate how much you agree or disagree with each of the following statements about Title IX respective to your athletic program.**

	Strongly Disagree	Disagree	Somewhat Disagree	Somewhat Agree	Agree	Strongly Agree
15a. The 2010 Title IX Policy change (eliminating the interest survey as a way to demonstrate compliance) will impact the way our school complies with Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15b. High School Athletic Departments should be able to predetermine the number of participants slots on each team and if team slots are not filled by athletes, they would still count as opportunities.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15c. Non athletes should be excluded when compliance ratio with Title IX is identified for female and male students attending a high school.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15d. Compliance with Title IX should be determined on an individual high school/basis done locally.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15e. High Schools and colleges should have the same rules and expectations for Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15f. The role of the OCR should be to provide sample policies to high schools to promote understanding of Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15g. The role of the OCR should be to provide research on issues to promote understanding of Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15h. The role of the OCR should be to provide alternate procedures of ways to comply with Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15i. The role of the OCR should be to provide checklists or guidelines to promote understanding of ways to comply with Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

***16. Rank the following according to the information/education provided to you on Title IX. (4 being the most informative and 1 being the least informative)**

	1	2	3	4
Courts/Lawyers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
OCR (Office For Civil Rights)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other Athletic Directors in the State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Activities/Athletic Association/High School League	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

Part 3: Title IX and School District Issues

***17. Agree/Disagree: Indicate how much you agree or disagree with each of the following statements about Title IX and school district issues.**

	Strongly Disagree	Disagree	Somewhat Disagree	Somewhat Agree	Agree	Strongly Agree
17a. Our school relied on the interest survey solely to comply with Title IX prior to the 2010 Title IX policy change.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
17b. Our school offers intramural sports that aren't offered for interscholastic competition at our school.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
17c. Our school offers club sports that aren't offered for interscholastic competition at our school.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

***18. Sports offered at your school for males:**

- | | | |
|---|---|--|
| <input type="checkbox"/> Adapted Bowling | <input type="checkbox"/> Fencing | <input type="checkbox"/> Skiing—Downhill |
| <input type="checkbox"/> Adapted Floor Hockey | <input type="checkbox"/> Field Hockey | <input type="checkbox"/> Soccer |
| <input type="checkbox"/> Adapted Soccer | <input type="checkbox"/> Football | <input type="checkbox"/> Softball—Fast-pitch |
| <input type="checkbox"/> Adapted Softball | <input type="checkbox"/> Golf | <input type="checkbox"/> Softball—Slow-pitch |
| <input type="checkbox"/> Alpine Skiing | <input type="checkbox"/> Gymnastics | <input type="checkbox"/> Swimming/Diving |
| <input type="checkbox"/> Badminton | <input type="checkbox"/> Ice-Hockey | <input type="checkbox"/> Synchronized Swimming |
| <input type="checkbox"/> Baseball | <input type="checkbox"/> In-Line Hockey | <input type="checkbox"/> Tennis |
| <input type="checkbox"/> Basketball | <input type="checkbox"/> Equestrian | <input type="checkbox"/> Track and Field |
| <input type="checkbox"/> Bowling | <input type="checkbox"/> Lacrosse | <input type="checkbox"/> Volleyball |
| <input type="checkbox"/> Cheer | <input type="checkbox"/> Nordic Ski Racing | <input type="checkbox"/> Weightlifting |
| <input type="checkbox"/> Crew | <input type="checkbox"/> Rodeo | <input type="checkbox"/> Wrestling |
| <input type="checkbox"/> Cross Country | <input type="checkbox"/> Self Defense | |
| <input type="checkbox"/> Dance/Pom | <input type="checkbox"/> Skiing—Cross Country | |

Other (please specify)

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

*19. Sports offered at your school for females:

- | | | |
|---|---|--|
| <input type="checkbox"/> Adapted Bowling | <input type="checkbox"/> Fencing | <input type="checkbox"/> Skiing—Downhill |
| <input type="checkbox"/> Adapted Floor Hockey | <input type="checkbox"/> Field Hockey | <input type="checkbox"/> Soccer |
| <input type="checkbox"/> Adapted Soccer | <input type="checkbox"/> Football | <input type="checkbox"/> Softball—Fast-pitch |
| <input type="checkbox"/> Adapted Softball | <input type="checkbox"/> Golf | <input type="checkbox"/> Softball—Slow-pitch |
| <input type="checkbox"/> Alpine Skiing | <input type="checkbox"/> Gymnastics | <input type="checkbox"/> Swimming/Diving |
| <input type="checkbox"/> Badminton | <input type="checkbox"/> Ice-Hockey | <input type="checkbox"/> Synchronized Swimming |
| <input type="checkbox"/> Baseball | <input type="checkbox"/> In-Line Hockey | <input type="checkbox"/> Tennis |
| <input type="checkbox"/> Basketball | <input type="checkbox"/> Equestrian | <input type="checkbox"/> Track and Field |
| <input type="checkbox"/> Bowling | <input type="checkbox"/> Lacrosse | <input type="checkbox"/> Volleyball |
| <input type="checkbox"/> Cheer | <input type="checkbox"/> Nordic Ski Racing | <input type="checkbox"/> Weightlifting |
| <input type="checkbox"/> Crew | <input type="checkbox"/> Rodeo | <input type="checkbox"/> Wrestling |
| <input type="checkbox"/> Cross Country | <input type="checkbox"/> Self Defense | |
| <input type="checkbox"/> Dance/Pom | <input type="checkbox"/> Skiing—Cross Country | |

Other (please specify)

*20. If you have a Title IX question, whom do you contact? (4 being the most commonly used and 1 being the least commonly used)

	1	2	3	4
Courts/Lawyers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
OCR (Office For Civil Rights)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other Athletic Directors in the State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Activities/Athletic Association/High School League	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*21. Identify the club sports or intramural sports most popular (in terms of participation) in your area (Sports you do not currently offer for interscholastic competition).

Part 4: Professional Beliefs

Secondary Athletic Administrators' Perceptions of Title IX Policy Changes

***22. Agree/Disagree: Indicate how much you agree or disagree with each of the following statements about Title IX and professional beliefs.**

	Strongly Disagree	Disagree	Somewhat Disagree	Somewhat Agree	Agree	Strongly Agree
22a. I have had contact on a regular basis with OCR regarding policy changes pertaining to Title IX.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
22b. I believe I have been adequately educated on how to comply with Title IX by the OCR.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
22c. I believe greater contact with the OCR regarding Title IX compliance and Title IX policies would be beneficial.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
22d. I believe high school athletic administrators should be represented when Title IX policy changes are discussed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
22e. I believe high school athletic administrators should have influence on Title IX policy.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

***23. Would you please offer some insights to Title IX that haven't already been addressed?**

Appendix C
High School Athletic Administrator Responses
to Survey Question 23

<u>Enrollment</u>	<u>State</u>	<u>Athletic Administrator Response</u>	<u>Code</u>	<u>Construct Category</u>
Students 151 to 350	MN	I think it's important for Title IX compliance at the high school level and believe it would be beneficial for athletic directors to be involved in Title IX decision making.	Involved, Local Control	Representation
Students 351+	ND	Seldom receive any information regarding requirements, changes or policies.	PD is needed, Lack of Info	Representation
Students 151 to 350	MN	Complying with Title IX in this day and age should not be an issue anymore. Schools should have this as part of their policy.	philosophy of equal opportunity, School Policy	Change and Impact
Students 351+	MN	We work very hard for equal opportunities for both genders. It is an very important aspect of our overall philosophy.	philosophy of equal opportunity, Overall Policy	Change and Impact
Students 351+	MN	I believe in Title IX	philosophy of equal opportunity, Beliefs	Change and Impact
Students 351+	ND	The relationship between state association sanctioned sports and club activities for compliance purposes.	Sanctioned vs. Club Sports	Emerging Sports
Students 351+	ND	I would strongly support being able to count Cheerleading and Dance/Drill for Title IX.	Sanctioned vs. Club Sports, Expansion	Emerging Sports
Students 351+	MT	OCR is a very beneficial organization and high schools should use the organization more.	Beneficial	Education Perception
Students 151 to 350	SD	More training needed at all schools.	PD is Needed, Increased Training	Education Perception
Students 151 to 350	SD	I haven't always understood Title IX. I thought it meant equal \$. equal equipment and teams.	PD is Needed, Don't understand	Education Perception
Students 151 to 350	SD	There is just a lack of understanding for Title IX, especially with administrators that have not had to deal with Title IX or any of its issues.	PD is Needed, Don't understand	Education Perception
Students 351+	MN	I wish there was more information was shared with us as ADs to make sure we are in compliance.	Lack of Information	Education Perception
Students 351+	WY	I haven't had many dealings with Title IX as our school districts lawyer or superintendent deal with those issues in our district.	Lack of Information	Education Perception
Students 151 to 350	MN	High Schools in MN are in compliance with Federal Title IX laws.	PD on Title IX is offered, Confidence	Education Perception
Students 351+	MT	Our district offers comprehensive professional development on title 9	PD on Title IX is offered, District Education	Education Perception
Students 25 to 150	MT	We need less punitive punishments and more education regarding Title IX.	Punishments	Education Perception
Students 351+	MT	Although I believe Title IX is important I believe it goes to far to slight the advantage towards the females and to harshly penalizes schools who are not in compliance.	Punishments	Education Perception
Students 25 to 150	MN	Local control.	Local Control	Compliance
Students 151 to 350	ND	More State and local input	Local Control	Compliance
Students 25 to 150	MN	Opportunities to compete (gender not withstanding) should be based on the number of athletes available with skill and commitment also being taken into account.	More Compliance, Skill and Commitment	Compliance
Students 151 to 350	MN	Enrollment and fundin needs to be considered in evaluating the numbers/participation expectations for Title IX.	More Compliance, Enrollment	Compliance

<u>Enrollment</u>	<u>State</u>	<u>Athletic Administrator Response</u>	<u>Code</u>	<u>Construct Category</u>
Students 151 to 350	MN	Our school has many girls that participate solely in fine arts like band, choir and our musical. Some consideration should be made so we don't lose a boys sport because our girls choose not to play a sport but do another activity.	More Compliance, Other Activities	Compliance
Students 351+	MN	It is an important piece of legislation that does need to continue to be enforced. Care must be taken to create expectations that are truly attainable in a particular community. For instance, if a community has a large Muslim population, the number of girls that will be allowed to compete athletically will be reduced, no matter what a particular school district might do to promote female participation.	More Compliance, Religion	Compliance
Students 351+	MN	One of the challenges is to keep interest high among athletes for a sport. While there may be some fluctuation in participation numbers for boys, that change in numbers is minor compared to that for girls. We may have enough female basketball players to fill four teams from 9th through twelfth grade one year and barely have enough to offer three levels the next year. Given that, a one year glimpse at participation could be unfair and unfortunate. It must be insured that Title IX policies look at a school's programs over a several year period and not just for one year.	More Compliance	Compliance
Students 351+	MT	It is hard to deal with the concept that while it should be about equal opportunities for all, it is focused primarily on equal opportunities for females. Sometimes, it doesn't seem to take into consideration the unique interests and characteristics at each school. Just because a school offers one or two more sports for boys than girls doesn't mean that the school is not trying to offer girls opportunities. It might mean that there is not as much interest by the girls to add another sport. I hate having to quell the interest that some boys may have for adding a sport because there aren't enough girls interested in adding another sport.	More Compliance	Compliance
Students 351+	MT	There should be more ways to comply with OCR than just proportionality.	More Compliance, Proportionality	Compliance
Students 25 to 150	MT	way over rated...	Overrated	Compliance
Students 151 to 350	ND	Title IX Compliance: How it relates to small schools as compared to larger schools.	Small vs. Larger	Compliance
Students 351+	MN	I struggle when it comes to equity of facilities and fields, especially because we lease many outdoor facilities and they have different streams of money depending on who uses them: For example, our baseball associatin in town is very active and does a lot of improvement projects, where our softball fields do not get the same attention.	Facilities, Equity	Compliance
Students 151 to 350	SD	nice survey well done	Survey well done	N/A
Students 25 to 150	MT	none	none	N/A
Students 25 to 150	MT	I do not have anything to offer.	none	N/A
Students 25 to 150	MT	no	none	N/A
Students 25 to 150	SD	N/A	none	N/A
Students 25 to 150	ND	don't know	none	N/A

Enrollment	State	Athletic Administrator Response	Code	Construct Category
Students 25 to 150	ND	Have done	none	N/A
Students 25 to 150	MT	none I can recall	none	N/A
Students 25 to 150	MT	unknown	none	N/A
Students 25 to 150	ND	none	none	N/A
Students 25 to 150	MN	none.	none	N/A
Students 25 to 150	MT	OK	none	N/A
Students 25 to 150	MN	none	none	N/A
Students 25 to 150	ND	none	none	N/A
Students 25 to 150	MT		none	N/A
Students 25 to 150	ND	I am too new to the profession to offer insight.	none	N/A
Students 25 to 150	MT	none	none	N/A
Students 25 to 150	ND		none	N/A
Students 25 to 150	ND	none	none	N/A
Students 25 to 150	ND	No	none	N/A
Students 25 to 150	MT	NA	none	N/A
Students 25 to 150	MN	NO	none	N/A
Students 25 to 150	SD	no	none	N/A
Students 151 to 350	MN	survey covered all my questions	none	N/A
Students 151 to 350	WY	none	none	N/A
Students 151 to 350	MN	none	none	N/A
Students 151 to 350	MT	NA	none	N/A
Students 151 to 350	WY	NA	none	N/A
Students 151 to 350	SD	none at this time	none	N/A
Students 151 to 350	MN	none	none	N/A
Students 151 to 350	MN	na	none	N/A
Students 151 to 350	SD	none	none	N/A
Students 151 to 350	MN	no	none	N/A
Students 151 to 350	SD	No	none	N/A
Students 151 to 350	MN	N/A	none	N/A
Students 151 to 350	MN	n/a	none	N/A
Students 151 to 350	MT	none	none	N/A
Students 151 to 350	ND	none at this time	none	N/A
Students 151 to 350	MN		none	N/A
Students 151 to 350	MN		none	N/A
Students 151 to 350	MN	nothing	none	N/A
Students 151 to 350	ND	none	none	N/A
Students 151 to 350	MN	none	none	N/A
Students 151 to 350	WY	I don't have any at this time.	none	N/A
Students 151 to 350	SD	I think most everything hasbeen addressed.	none	N/A
Students 151 to 350	SD	none	none	N/A
Students 151 to 350	SD	I have none	none	N/A
Students 351+	ND	none	none	N/A
Students 351+	MN		none	N/A
Students 351+	WY	none	none	N/A
Students 351+	MN	Nothing	none	N/A
Students 351+	MN	no insights	none	N/A
Students 351+	MN	I have no input at this time	none	N/A
Students 351+	MN	none	none	N/A
Students 351+	MN		none	N/A
Students 351+	ND	at this time, because of being new - I don't have any more input.	none	N/A
Students 351+	MN	none	none	N/A
Students 351+	MN		none	N/A

<u>Enrollment</u>	<u>State</u>	<u>Athletic Administrator Response</u>	<u>Code</u>	<u>Construct Category</u>
Students 351+	ND	none	none	N/A
Students 351+	MN	none	none	N/A
Students 351+	SD	There could be better educational information available for school districts.	none	N/A
Students 351+	ND	Unsure at this time.	none	N/A
Students 351+	SD	No comment	none	N/A
Students 351+	MN		none	N/A
Students 351+	MN	Being relatively new to this position, I don't have any additional insights at this time.	none	N/A
Students 351+	ND	na	none	N/A
Students 351+	MN	no	none	N/A
Students 351+	SD	All have been addressed	none	N/A
Students 351+	MN		none	N/A
Students 351+	SD	No	none	N/A
Students 351+	MN	Do not have a concern	none	N/A
Students 351+	SD		none	N/A
Students 351+	MN		none	N/A
Students 351+	MN	none	none	N/A

Appendix D
Conceptual Framework Map

<p>Qualitative data was obtained from an open-ended question on the survey. Codes emerged within the constructs and categories of the five research questions: Representation, Change and Impact, Emerging Sports, Education Perception, and Compliance.</p> <p style="text-align: center;">N=29.</p>				
RQ#1 Representation	RQ#2 Change and Impact	RQ#3 Emerging Sports	RQ#4 Education Perception	RQ#5 Compliance
Need for Involvement	School Policy	Sanctioned Sports	Lack of Info	Expansion
Lack of Info	Overall Policy	Club Sports	Beneficial	Punitive Punishments
	Philosophy	Expansion	Increased Training	Local Control
			Don't Understand	Skill and Commitment
			Confidence	Enrollment
			District Education	Variety
			Punitive Punishments	Religion
				More ways to comply
				equity
<ol style="list-style-type: none"> 1. High School Athletic Administrators feel a need to have more local control and influence with Title IX policy in the future. 2. High School Athletic Administrators feel a need for increased education on ways to comply with Title IX. 3. High School Athletic Administrators feel that there should be more ways to demonstrate compliance with Title IX. 				

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