



THE PURSUIT OF TRUE LEGITIMACY—DIVISION I-A TITLE IX COMPLIANCE AFTER THE ADDITIONAL CLARIFICATION OF PRONG THREE

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INTRODUCTION

As sport enthusiasts, participants, and administrators know, Title IX is the legislation, which, through its 37 words has “changed the face of American sport forever” (Carpenter & Acosta, 2005, p. 3): *“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance”* (U.S.C. §§ 1681-1987). The purpose of this study is to explore the reactions of Division I-A athletic directors to the new additional clarification, gauge its current impact within Division I-A institutions, and address issues and misconceptions surrounding this addition to the Title IX regulation literature. The following pertinent landmarks in the history and evolution of Title IX law are critical to the understanding of the role that Title IX has played and continues to play in the actions of athletic directors, and the debate within the literature regarding the effect of this new guidance. The following discussion is succinct and non-inclusive and covers only those landmarks that directly impact the issues researched.

RECENT TITLE IX DEVELOPMENTS

In June of 2002, the U.S. Secretary of Education, Roderick Paige, formed a Commission on Opportunity in Athletics—the first federal advisory panel to study Title IX. The commission was established in response to mounting debate surrounding several issues including (but not limited to) the lack of enforcement by the Office of Civil Rights, herein after O.C.R., throughout the life of Title IX, the decisions made by athletic administrators to terminate men’s teams in the name of Title IX, and the sky-rocketing expenses within football and the other major sports which make it difficult for administrators to expand opportunities due to financial constraints (Carpenter & Acosta, 2005).

Such was addressed by As stated by Carpenter & Acosta (2005) when they stated:

The 12-month period covering the life span of the commission was one of tumult and turmoil for anyone who was watching...Commissioners displayed their ignorance of the law and their failure to do their homework, biases surfaced, and votes occurred with illogical lack of consistency. Tempers flared, and emotions ran high (p. 191).

The final report, “Open to All: Title IX at Thirty,” was issued on February 26, 2003 and was greeted an unanticipated great amount of criticism (Suggs, 2003). It included 23 recommendations, with 15 approved unanimously by the commission. In an apparent attempt to assuage fears, Paige stated that the Department of Education would only move forward on the unanimous recommendations (Suggs, 2003).

Many stakeholders hoped that the commission and its further clarification report would end the Title IX debate. Thirty years after inception, the law hadn't changed significantly, and proponents were hoping that it would stay this way. The NCAA ran its story on the issuance of the 2003 letter under the headline "Department of Education Closes the Book on Title IX" (Hawes, 2003). But, as it appears, the NCAA assessment was overly optimistic.

To the shock of many and to the horror of others, one of the recommendations within the commission's report that did not receive unanimous approval was advanced on March 17, 2005 (Suggs, 2005a). James Manning, a representative for the O.C.R. and U.S. Department of Education issued a "dear colleague" letter, with an accompanying user's guide and technical manual that additionally clarified part three of the three-prong test. In order for the third prong to be satisfied, an institution must demonstrate that the underrepresented sex's sports programs fully and effectively accommodate the interests of female students and potential students (U.S. Department of Education, 2005). Under this avenue of title IX compliance, "an institution may provide proportionally fewer athletic participation opportunities to one sex, as compared to its enrollment rate," and even continue to add more athletic opportunities for the overrepresented sex without any imposed limitations, "if the interests and abilities of the enrolled and admitted students of the underrepresented sex are being fully and effectively accommodated by the institution's current varsity athletics program" (U.S. Department of Education, 2005, p.3).

A major reason cited by O.C.R. for issuing the report is the belief that institutional decision makers may be unclear regarding the methods of compliance under the third prong, and may erroneously believe that this prong does not offer a "safe harbor" (U.S. Department of Education, 2005). The additional clarification, users' guide, and related technical report are designed to provide direction to schools that choose to comply with part three (U.S. Department of Education, 2005).

The new policy places the burden of proof on students and government investigators to make a case that a college is not doing enough to accommodate the underrepresented sexes' athletic interests and abilities. An institution that chooses to utilize this method of compliance will use surveys to discover interest levels and will be found in compliance with this prong unless there exists a sport for which *all* three of the following conditions are evident:

1. unmet interest sufficient to sustain a varsity team in the sport(s);
2. sufficient ability to sustain an intercollegiate team in the sport(s); and
3. reasonable expectation of intercollegiate competition for a team in the sport(s) within the school's normal competitive region." (U.S. Department of Education, 2005, p. i.v.).

According to the additional clarification, universities can determine demand, and thereby satisfy the requirements of the third prong, by sending out a survey via e-mail. The O.C.R. provided a sample survey developed by federal government statisticians, a compilation of distribution tips aimed at achieving the highest response rate, and a plethora of technical advice designed to help guide athletic department survey

administration (U.S. Department of Education N.C.E.S., 2005). Institutions that choose to use the model survey, according to this document, have a solid basis of compliance. If the model survey demonstrates insufficient varsity team interest, O.C.R. will not conduct a compliance review of the institution's three-part test implementation. The athletic department will be presumed compliant unless the OCR finds "direct and very persuasive evidence of unmet interest sufficient to sustain a varsity team, such as the recent elimination of a viable team for the underrepresented sex or a recent, broad-based petition from an existing club team for elevation to varsity status" (U.S. Department of Education N.C.E.S., 2005 p. i.v.).

This clarification is being met with significant opposition, and cautious optimism. The intercollegiate athletics community has been very much split in response (Suggs, 2005a). Some denounce the "Dear Colleague" clarification letter and its accompanying model survey as a "legal loophole that would allow institutions to duck their Title IX responsibilities" (Hosick, 2005b), but others commend the OCR for aiding institutions in finding and presenting another, potentially better, way to comply with the anti-discrimination legislation (Hosick, 2005b).

The Senate Appropriations Committee said the U.S. Department of Education should rescind the guideline calling the survey results an insufficient measurement (U.S. Senate Committee on Appropriations, 2005). Representatives from the National Women's Law Center are hoping that grass-roots campaigns succeed in undoing the clarification, but if that is not effective, other strategies may be pursued (Hosick, 2005c). The NCAA's Division I Board of Directors and NCAA President Myles Brand urged NCAA members to ignore the additional clarification because the survey is an insufficient measure to adequately indicate young woman interest in collegiate athletics. Brand also predicted that this type of legislation could stunt the growth of women's athletics and reverse the progress made in the last 30 years (Hosick, 2005b).

Other parties applaud the guidance for collegiate athletic administrators. Within this camp are those who view the clarification as just that...a clarification—guidance to those schools that choose to comply with part three (U.S. Department of Education, 2005). Eric Pearson, Executive Director of the College Sports Counsel views the clarification as a help in their battle against proportionality—the prong which has been a factor contributing to the discontinuation of many men's non-revenue sports (Hosick, 2005a). Similarly Mike Moyer, executive director of the National Wrestling Coaches Association, voiced his support:

The current interpretation [of Title IX], particularly the proportionality part, also discriminates against women. When schools do add a new women's sport, they typically pick a sport simply because of the size of its roster rather than a sport that actually has interest on its campus (Hosick, 2005b, ¶35).

Many of the clarification supporters are not anti-women's rights, but rather are anti-sport cuts, and hope that with this clarification more opportunities will become available to both sexes and that the logic that sports do not have to be cut to comply will prevail. Thirty-three years after the enactment of Title IX, the debate about interest and accommodation is still raging. Central issues within the additional clarification debate

involve the method and timing used by OCR to distribute the clarification, the scope of true measurement a survey can capture, and the fear that the survey will be an easy way out.

CLARIFICATION POINTS OF CONTENTION

The clarification was released in the wake of March Madness, when the sport enthusiasts throughout the nation were very much focused on the NCAA Division I men's basketball championships. This, coupled with the fact that it was not released for public input and debate before publication, has been a contentious issue (Hosick, 2005b; Suggs, 2005a). Current O.C.R. officials and previous representatives who worked within the Clinton administration have explained that because the clarification was only a further explanation of previous regulations, they believed it was unnecessary to warrant sending it out for comment. This approach, they contend, is very much in line with previous policies because it is simply additional guidance to help schools better provide equal opportunity (Suggs, 2005a).

A primary concern of many protestors to the "dear colleague letter" is the clarification's declaration that an unanswered survey can be calculated as a lack of interest (Hosick, 2005b). The clarification committee members addressed justification for this odd calculation procedure within the users guide. They explained that procedures for conducting statistically valid adjustments based on an analysis of nonresponse bias are complex and beyond the capacity of many schools. They thus concluded that the best method for dealing with nonresponse is to elicit high enough response rates that the nonresponse can safely be disregarded for the purposes of compliance (U.S. Department of Education, N.C.E.S., 2005). The assumption that nonresponse indicates no interest in future sports participation, the clarification explains, "is defensible if all students have been given an easy opportunity to respond to the survey, the purpose of the survey has been made clear, and students have been informed that the institution will take nonresponse as an indication of lack of interest" (U.S. Department of Education, N.C.E.S., 2005, p. 12). In order for the survey to be accepted as commensurate with the model, the school must conduct a census survey using a method likely to elicit a high response rate such as requiring students to fill out the survey as they register for courses.

Another pervasive argument is that the survey is inherently flawed because its use as an avenue of compliance presumes that a survey alone can accurately measure student interests. An NCAA News report begins with the statement, "the U.S. Dept of Education has made it easier for institutions to prove they are complying" with Title IX" (Hosick, 2005a, ¶1). The NCAA Division I board of directors urged member institutions to ignore the new guidelines because the rules pave a way for colleges to "to evade the legal obligation to provide equal opportunity" (Suggs, 2005b, p.A35).

The clarification committee is very clear, however, that survey results are not alone adequate to demonstrate compliance if other evidence exists that contradicts the survey results, such as a request for athletic teams. "If OCR finds direct and very persuasive evidence of unmet interest sufficient to sustain a varsity team, such as the recent elimination of a viable team for the underrepresented sex or a recent, broad-based petition from an existing club team for elevation to varsity status," (U.S. Department of

Education, 2005, p. iv-v), the presumption of compliance established by the surveys can be overcome.

THEORETICAL FOUNDATION

The purpose of this study was to explore the reactions of Division I-A athletic directors to the new additional clarification, gauge its current impact within Division I-A institutions, and address the concern for misuse among this population. The contentions addressed toward this new addition to the Title IX literature are generally based on the supposition that athletic directors will utilize the surveys to simply satisfy the legal demands of Title IX—to achieve legitimacy, and not necessarily strive for equality of opportunity. Responding to this widespread criticism levied at potential misuse of the clarification, legitimacy theory has been juxtaposed with athletic director survey responses.

Recent organizational theory has provided a potential explanation of organizational decision-making that seems to be consistent with many of the vocalized qualms set forth by those who oppose the recent additional clarification of prong III (Scott, 1998).

A definition of legitimacy theory states: “organizations continually seek to ensure that they operate within the bounds and norms of their respective societies, that is, they attempt to ensure that their activities are perceived by outside parties as being ‘legitimate’” (Deegan, 2000). An athletic department may thus choose to use this new method simply for the purposes of legitimacy, which could be accomplished by showing external (and potentially superficial) compliance through the use of the surveys. To conform to the demands inherent in Title IX law, an institution may select a compliance method with little concern about what the result might be simply because the act of selecting that avenue in and of itself provides justification and validation for their actions. The athletic department does not necessarily need to have chosen the method that would truly achieve equality of opportunity best as long as its compliance method achieves legitimacy in the eyes of the governing bodies (Datnow, 1999).

According to this theory, an athletic department may choose to utilize the model survey because it is the most similar to the current method of compliance the school is using; thus requiring little change. The compliance choice is not chosen because of an informed calculation of the ability to achieve true equality of opportunity through a particular choice, but rather is based on a concern for preserving the status quo (Suchman & Edelman, 1997). According to this theory, a school would choose the method of compliance that would be the simplest to perform in terms of ceremony, without following through in actual practice. Thus they can present “structural elements that conform to institutionalized conventions, and at the same time, preserve some autonomy of action” (Scott, 1998, p. 212).

Most of the criticisms levied against the clarification are tied to the belief that the surveys will not be a true indicator of equality of opportunity, and athletic administrators will utilize them as an “easy way out” of Title IX compliance—a route toward legitimacy. The empirical inquiry that follows was designed to explore these issues through specific research questions:

1. What is the reaction by Division I-A athletic directors to the new additional clarification?
2. What actions are Division I-A athletic departments taking in response to the clarification?
3. Why have the Division I-A athletic departments chosen their course of action related to compliance?

METHODOLOGY

This research was conducted through the use of surveys. This method was chosen because the survey is “advantageous when the research goal is to describe the incidence or prevalence of a phenomenon or when it is to be predictive about certain outcomes” (Yin, 2003, p. 6). Widespread quantitative data was secured via two online surveys from Division I-A athletic directors (See Appendix A for a complete list of questions utilized within this study). Data collected via the surveys included information regarding whether or not the athletic departments would adopt the clarification guidelines as a primary method of Title IX compliance, views regarding reactions to the clarification, and reasons why or why not the individual athletic departments have chosen to adopt the use of student interest surveys.

The first athletic director survey which is being used as part of a larger study (Weight, 2006), was sent via email to the 41 athletic directors of Division I-A schools that currently have a wrestling program, and the 8 Division I-A athletic directors who have dropped their university’s wrestling program within the last 10 years. The initial response rate was 14 (34%) responses from wrestling-sponsoring schools, and 2 (25%) from wrestling-dropped schools. Follow-up emails were sent to the athletic directors who did not respond to the email, and an additional four surveys were completed to make a final response rate of 20 athletic directors, 41%. Although the window of possible response was left open for a three-month period, all of the athletic director survey responses were collected between July 26 and August 17 of 2005.

The second survey was generated specifically for this study to gain a more widespread response to the new additional clarification. This survey consisted of a condensed version of the first and contained just six questions (see Appendix A). It was sent via email to athletic directors and associate athletic directors from the remaining 69 schools within Division I-A. Associate athletic director responses were accepted when the athletic director of the institution was unable to complete the survey. Only one survey per institution, however, was accepted. In one instance, a newly retired athletic director of the institution familiar with the issues discussed completed the survey. The initial response rate was 23 (33.3%). Follow-up emails were sent to the athletic directors who did not respond to the email, and an additional seven surveys were completed to make a final response rate of 30 (43%). As with the previous survey, the window of possible response was open for a three-month period, however all of the athletic director survey data collection was completed between August 30 and September 13 of 2005. The total response rate was 50 out of 110 distributed making a total response rate of 45.45%.

The sample of Division I-A athletic directors was specifically chosen because Division I-A includes the institutions that compete in collegiate football at the highest level, it is the most visible and widely publicized NCAA category, and within the last decade the bulk of

men's sport cuts have occurred within this category. Data from the NCAA Sports Sponsorship and Participation Report reported a net loss of 239 men's teams within the Division I category (the only division to report a net loss); with 137 of those terminated teams falling from the Division I-A category (2003). Despite the news of an overall gain within the NCAA men's participation numbers, a net loss of 239 teams within this division represents a significant amount of loss and is undoubtedly a large source of program termination upheaval. These figures and the associated protest is perhaps one reason the clarification was issued.

Because of the rigorous schedule of this hard-to-reach population, the survey questions were kept to a minimum in hopes of getting a large response. For this reason, fundamental reliability tests were not included within the survey. The survey's validity was a concern, thus before piloting the instrument; its content was reviewed by a panel of experts including three athletic directors, four coaches, two survey specialists, and three sport management professors. In designing the study, rigor was sought by adhering to strict survey methodology.

RESULTS

CLARIFICATION REACTIONS

In question two, the athletic directors were asked to explain their reaction to the new additional clarification regarding the use of student interest surveys. The reactions were split. After coding responses 37.8% (n=17) responded positively with gratitude and support for the clarification. These positive responses included phrases such as: "A helpful tool, a good idea, very positive, makes sense, a valid method." Forty percent (18) responded negatively delineating opposition to the clarification and responded with phrases such as: "Ridiculous, a way out, flawed method, unfair, terrible, dismay, not an accurate test, not a valid tool." The remaining 22.2% (10) expressed uncertainty, no reaction, or stated that it would not affect the school because they were already in compliance or chose to use one of the other two prongs as their method of compliance.

Gratitude & Support for the Clarification (37.8%)

Of those who expressed gratitude and support for the clarification, three main categories emerged: 1) those who believed the clarification is a valid method and helpful tool to aide athletic administrators to better assess and provide equal opportunities for both sexes, 2) those who believed it is a helpful clarification of previous methods—that it is not a significant change from previous guidelines, and 3) those who reported that they appreciated the guidance from OCR, but thought the surveys would be best utilized as part of a multiple method approach.

Opposition to the Clarification (40%)

The athletic directors who opposed the guidance issued in the clarification explained their opposition in two main categories: 1) disagreement with the methods outlined, believing it is not a valid way to measure interest, and 2) conviction that it will be a way for athletic departments to ignore inequities that exist in intercollegiate athletics.

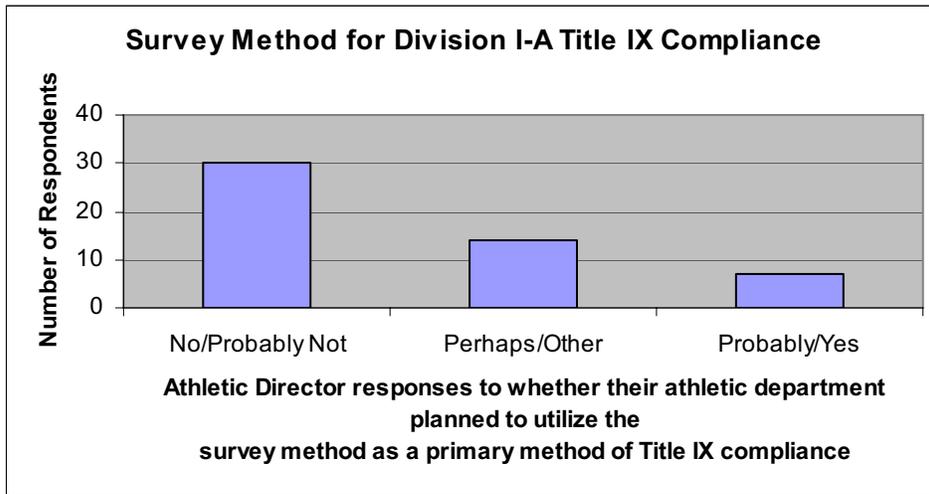
Uncertainty/ No Reaction to Clarification (22.2%)

Of those who reported uncertainty, many expressed their interest in the survey results, and interest in the clarification's affect to the Title IX compliance landscape. They

however did not know enough about the clarification to verbalize a reaction, did not feel strongly for or against the clarification, or already had a method of compliance and did not intend to change.

MODEL SURVEY UTILIZATION AS PRIMARY COMPLIANCE METHOD

Respondents were asked whether their athletic department planned to use the survey as a primary method of Title IX compliance. The vast majority of respondents (48%, 24) responded “no”. Twelve percent (6) answered “probably not,” 12% (6) entered “perhaps,” 4% (2) answered “probably,” and 10% (5) reported “yes, they planned on utilizing the government-issued survey as their primary method of compliance.” Sixteen percent (8) of the respondents entered “other.” Of those who entered “other,” the majority wrote that the primary method had yet to be determined, and they did not know if the survey method would be utilized. Others reported that it would be used, but not as the primary method—the survey would be one part in a multiple-method approach to compliance.



ACTION DETERMINANTS

When asked *why* they have or have not chosen to utilize the surveys outlined in the new guideline as their university’s primary method of Title IX compliance, the respondent’s answers varied substantially. Of those that responded “yes,” and “probably” to the question whether they would use the surveys as a primary method of Title IX compliance (13.5%, 7) reported very situation-specific answers.

One athletic director answered:

We have football on a predominately female campus. Our institution is known for nursing and pharmacy programs, which attracts more [female] than [male] students. I feel we meet the current needs/interests of our student’s; however... continued awareness of the interests of our ever-changing enrollment target and recruitment areas will help us be successful. Some sort of survey will be planned however, perhaps not the means by which the government has permitted (Respondent 16).

This was a common theme. Many of the schools had already used prong three and the use of surveys prior to the release of the clarification.

Many of these Division I-A schools had previously developed a system that they believe to be superior to the model survey developed by the government. The following is one athletic director's response:

We will continue to use surveys in assessing effective accommodation, however, we will not solely rely on e-mail surveys. We will provide hard copies of surveys through our incoming freshman orientation process, and we will continue to evaluate the sports offerings of the [area] High School Athletic Association. We will also evaluate the sports offerings of Division I institutions regionally and in our conference as well as Olympic Development Programs and AAU programs. A final piece of our assessment is to provide an open forum for members of our student body to address their interests in the sports offerings at our university (Respondent 42).

Other athletic directors applauded the clarification for its intuitiveness and ability to communicate with the students. "It allows students a direct line of communication to the athletic department administration" (Respondent 18). "It's an easy interpretation to implement and say we comply" (Respondent 27). "It makes more sense than any other method out there and is the greatest avenue available to reach ALL students" (Respondent 41). Another responded that his institution intended to use it "because it's the only thing left that might work" (Respondent 51). These athletic directors generally expressed frustration directed toward past and current accepted compliance options, coupled with hope toward the new avenue of compliance.

Those that answered "perhaps" (12%, 6) or "other" (16%, 8) to whether their department planned to use the surveys as a primary method of compliance, generally expressed an interest in and gratitude for the additional option, but either had not yet decided whether to utilize the option, were using it as a part of a multi-method approach, or were hesitant to comply due to the opposition expressed within the media and parts of the athletic community. The majority (8) had yet to decide. One athletic director expressed that "I would prefer to see other options" (Respondent 17). Three answered it was "one tool, but not the sole tool" (Respondent 13), that "[the surveys] will be one step in a multiple step approach to ensure we have established the right answers" (Respondent 19). Two athletic directors expressed skepticism that even if they complied with the outline prescribed; it may not stand in court. "We will attempt to comply under the three prong test as outlined by the courts" (Respondent 39), one athletic director expressed.

The majority of respondents responded "no" (n=24, 48%), or "probably not" (n=6, 12%) to whether their department planned to use the survey as a primary method of Title IX compliance. Reasons for this response were split into two groups. Many answered that the reason they would not utilize the guidance issued in the clarification was because it was not a true indicator of Title IX compliance, based on the nonresponse issue or survey method issue that has been a source of contention with the clarification. The majority of respondents who answered within this category, however, indicated they would not be using the surveys because they already had a method of compliance that was working for

them. “We prefer the law the way it is without the recent clarification. We have managed very well with the current law with a broad-based program” (Respondent 33).

“We believe that our current survey tool is a more accurate depiction of the interest of our students and will be more beneficial to us in determining the needs of our students and compliance with Title IX” (Respondent 37). “We’re in compliance because equestrian balances football and the NCAA allows more scholarships in all other similar women’s sports like Track & Field, women’s basketball, softball, etc.” (Respondent 48).

DISCUSSION & IMPLICATIONS

Based on the data collected, the theory of legitimacy is in some ways sustained, but for the most part not in the manner that critics fear. Only in a few instances did athletic directors report a plan to switch to the method outlined by the clarification with a fundamental belief that it may simplify their compliance with Title IX.

As mentioned in the opening section, much of the recent debate surrounding Title IX has been spawned by non-revenue sport cuts. Athletic directors often have found themselves pinned between the escalating financial demands of big-time college football and basketball, and the need to increase opportunities for women to comply with the first or “proportionality” prong of the three-part test released in the 1979 Title IX policy interpretations. The proportionality prong provides the option to comply with the participation requirements of Title IX by providing participation opportunities substantially proportionate to the ratio of males to females in the student body.

Many administrators have viewed this prong as their only compliance option because they have found it difficult to meet the terms of the other two prongs (Carpenter & Acosta, 2005). The U.S. Department of Education’s guidelines have designated a numerical balance to be a “safe harbor” regarding gender equity concerns (U.S. Department of Education, 1996). When faced with the choice of reducing funding to the potentially profit-making sports to fund a female unprofitable sport, athletic directors often choose the road of profit-maximizers and cut a men’s unprofitable sport to even out the numerical balance between male and female athletes. Thus, many have expressed hope that the clarification will decrease the tendency for athletic departments to make these opportunity-decreasing decisions.

The data revealing that many athletic directors reported that they already have a method of compliance that is working well for them, and do not intend to explore the option because it would be unnecessary further supports the legitimacy theory related to this phenomena. Most who reported they planned to utilize the method as outlined by the clarification did so because they were already utilizing prong three and would continue to do so. A few took their stance a bit further and explained they would not utilize the method because it required additional work for the department. One athletic director explained they did not intend to utilize the survey method because of “time and resources questions, and we are doing a fairly good job without needing to do the survey” (Respondent 49). While both of these justifications are certainly logical from an administrative point of view, they follow very closely with the theory that an institution may “choose a model with little concern about what the outcome might be, but simply because the act of choosing a reform in itself provides rationale and justification for

their actions. The [athletic department] does not necessarily need to have chosen well as long as its choice achieves legitimacy in the eyes of [the governing bodies]" (Datnow, 1999, p.5).

In response to the idea that the new additional clarification model survey method is, as many of its critics have vocalized, an easy way out, the findings within this study indicate that the theory of legitimacy does not appear to be an accurate representation of reality. The most compelling evidence to support this conclusion comes from the fact that the strong majority of athletic directors voiced their intent not to utilize the survey method as outlined by the clarification, with the largest segment of the population opposing the clarification because they did not believe it was a valid measure of interest.

Data gathered from this study contradict the notion that athletic directors are simply attempting to achieve legitimacy by conforming to the demands imposed by the letter of Title IX legislation. Those who supported and intended to utilize the survey did so generally on the premise that it was a good way to communicate with the student body and truly provide the type of athletic opportunities that were desired on their campus, not because it was the easiest route to compliance. The opposition to the legislation based on invalidity concerns also supports this notion. However, an alternative way to view the theory is from the eyes of society. As mentioned earlier, a definition of legitimacy theory states: "organizations continually seek to ensure that they operate within the bounds and norms of their respective societies, that is, they attempt to ensure that their activities are perceived by outside parties as being 'legitimate'" (Deegan, 2000).

Perhaps because of Title IX history, court rulings, and the significant public outcry associated with issues surrounding the legislation, athletic directors are becoming more aware and concerned with achieving legitimacy in the eyes of the public at large. Among the athletic directors who did support the clarification, there was an expressed hope that it will be a better measure of actual interest and will provide equal opportunity to both sexes as is desired by the student body. Another strong segment that expressed interest in the method reported that their institution planned on utilizing it as part of a multi-method approach—with an expressed desire to comply with the spirit of Title IX legislation.

Apparently, if this new clarification is truly an "easy way out" of Title IX compliance, the majority of Division I-A athletic directors do not want to take this route of legitimacy in the eyes of legislators, because perhaps this route will not achieve legitimacy in their eyes of the public.

LIMITATIONS & IDEAS FOR FUTURE RESEARCH

A key limitation of this study was the newness of the legislation. The study was conducted just six months after the release of the "dear colleague letter," and as such, there were many athletic directors that had not yet determined their schools actions relative to the clarification, or did not know enough about the legislation to voice an opinion. Future research would be helpful to portray changes in the surveyed sample's

opinion in addition to capturing the position of those who were unsure or unaware when the survey data was collected.

Another potential limitation is related to common survey methodology limitation. Perhaps due to the heightened opposition to the release of the clarification, answers expressed within the survey may embody a bit of caution due to the need for athletic directors to be politically correct. In order to protect survey answers from this, athletic directors were assured anonymity.

A final limitation was that this study examined only the opinions of Division I-A athletic directors. Positions of other divisions relative to this clarification would be another possible avenue of research in the future to gage whether there are significant differences between populations, and explore reasons for similarities and differences.

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TABLE 1
SUMMARY OF FINDINGS

<p>Athletic directors within this sample were split as to whether they supported or opposed the new additional clarification.</p> <p style="text-align: center;">Gratitude and support for clarification (37.8%, 17)</p> <p style="text-align: center;">Opposition to the clarification (40%, 18)</p> <p style="text-align: center;">Uncertainty / No reaction (22.2%, 10)</p>
<p>The vast majority of athletic directors within this sample do not plan to utilize the surveys as a primary method of compliance.</p> <p style="text-align: center;">No, will not use (48%, 24)</p> <p style="text-align: center;">Probably will not use (12%, 6)</p> <p style="text-align: center;">Perhaps will use (12%, 6)</p> <p style="text-align: center;">Probably will use (4%, 2)</p> <p style="text-align: center;">Yes, will use (10%, 5)</p>
<p>Athletic directors that reported they planned to use the survey method as outlined by the clarification did so because it worked well for the institution, they were already utilizing prong three and would continue to do so, or they believed it was an excellent way to communicate with the student body and truly provide the type of athletic opportunities that were desired on their campus.</p>
<p>Those who do not intend to utilize the survey method did so because they were opposed to the method as outlined by the new clarification, or they are already in compliance or have a method of compliance that is already working for the institution.</p>
<p>Athletic directors in the perhaps or other categories as to whether they would utilize the survey did so for three reasons: they had not yet decided whether or not the method would be used, they planned on using it as one method in a multi-method approach, or they were skeptical whether it would stand in court.</p>

APPENDIX A
New Additional Title IX Clarification Reactions

1. The information you give within this survey is confidential. Please provide the following demographic information for the researcher to keep track of respondents.

Years as Athletic Director at this University:
University:

2. Please explain your reaction to the new additional clarification regarding the use of student interest surveys to aide athletic department compliance with the third part of the “three part test” (effective accommodation of the interests and abilities of male and female student athletes)?
3. Do you believe that the new additional clarification regarding the use of student interest surveys will decrease the amount of men’s non-revenue sports being cut?

- 1 Yes
- 2 Probably
- 3 Perhaps
- 4 Probably Not
- 5 No
- Other (Please Specify)

4. Does your athletic department plan to use these surveys as a primary method of Title IX compliance?
 - 1 Yes
 - 2 Probably
 - 3 Perhaps
 - 4 Probably Not
 - 5 No
 - Other (Please Specify)

5. Why has your athletic department chosen this course of action referred to in question 4 regarding the usage of the new additional clarification?