



**Good Sports? Historical Perspective on the Political Economy of  
Intercollegiate Athletics in the Era of Title IX, 1972-1997**

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## Good Sports?

### Historical Perspective on the Political Economy of Intercollegiate Athletics in the Era of Title IX, 1972–1997

On April 21, 1997 the United States Supreme Court refused to hear the case of Brown University versus Cohen, thus upholding a lower court decision to require the university to adhere to strict criteria for demonstrating gender equity in intercollegiate athletics. Media coverage described this as a “landmark victory” for women’s athletic programs that would fulfill compliance with 1972 Title IX legislation (Brady, 1997; Farrell, 1997; Mauro, 1997; Naughton 1997a, 1997b). In contrast, many higher education associations objected that the court’s interpretation of Title IX was unreasonable to colleges and universities in two respects: first, requisite new funding for women’s varsity sports would strain athletics department budgets; second, the court’s ruling relied on compliance with statistical tests that imposed “insurmountable burdens on colleges and universities” and might “lead to the very discrimination that Title IX prohibits” (*Brief of Amici Curiae*, 1996). Such complaints raised a troubling question: in matters of athletics and public policy, were colleges behaving like “poor losers” rather than “good sports”?

That the higher education community of One DuPont Circle was worried by the Supreme Court’s ruling came as little surprise. Brown University’s intercollegiate athletic program represented a “best case” scenario to demonstrate commitment to women’s athletics (Boucher, 1997; Szanton, 1993). If Brown were found to be out of compliance with Title IX tests, then most institutions in the National Collegiate Athletics Association’s Division I probably would be vulnerable to sanctions. In-

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deed, a study released by the NCAA shortly after the *Brown v. Cohen* ruling concluded that it would be “at least a decade” before most colleges would achieve equity in funding for women’s sports (Associated Press, 1997b).

Despite such grim data and projections, a key point in the higher education association’s *amicus curiae* brief was their claim that they supported Title IX in principle and merely disagreed with the specific tests and criteria. To examine their intriguing assertion, this study uses a historical lens, whereas most of the commentary on this case predictably has dealt with the *legal* specifics of the Brown situation. Adding this historical perspective to the legal debate is essential because over the long run, one must look beyond Brown to take into account trends and developments across the national college and university landscape. Here, the focus shifts to a related but distinct and understudied aspect: namely, the *economics* and *politics* of college sports in the quarter century since Congress passed Title IX. As such, it tests out some theoretical bases for understanding the general organizational behavior of higher education institutions. First, it allows one to revisit the traditional adage that universities tend to be liberal in matters of policy advocacy for society at large, yet conservative in their own practices and behaviors (Kerr, 1963, pp. 34, 94–95, 105). And second, it provides a good case study to examine the contention from college and university presidents that their institutions since 1980 have been subjected to excessive, unreasonable federal regulation (Bok, 1980).

### *Research Questions*

This study responds directly to two objections raised by numerous higher education associations in the aftermath of the Supreme Court ruling. First, “Since passage of Title IX in 1972 have varsity sports programs for women been a primary cause of financial strains and deficits in the operation of intercollegiate athletics programs at NCAA Division I institutions?” Second, “Have colleges and universities over the past twenty-five years demonstrated voluntary compliance in data collection and self-regulation dealing with gender equity and sports to show that strict federal guidelines are an unreasonable and unnecessary intrusion on the tradition of college and university self-determination?”

There are historical data that cast reasonable doubt on the policy claims of the higher education associations. First, the financial problems allegedly facing NCAA Division I intercollegiate athletics programs in the 1990s were the logical product of conscious decisions made by athletic directors, coaches, university presidents, and trustees starting in the

early 1970s. Therefore, it is plausible to consider that the projections about the inability of intercollegiate athletic programs to be financially self-supporting were due not primarily to the added expenses of women's varsity teams required for compliance with Title IX. One might also consider that the financial strains may have been fostered first and in large part to predictably risky and expensive programs, which since 1970 or thereabouts have edged Division I athletic programs toward annual operating deficits. Second, although college and university officials invoke a tradition of voluntary association and self-regulation, their historical record of providing data and resources essential to cultivating a gender equitable intercollegiate athletics programs has been erratic and reluctant for many years, so as to diminish confidence in that effort.

Important to note is that a number of universities offering NCAA Division I athletics programs have demonstrated through their own initiative and efforts a commendable record in accommodating and supporting women's sports programs. Most conspicuous, for example, are the University of Kansas, University of Massachusetts at Amherst, and the Ivy Group members, especially Dartmouth. The dilemma, then, is, "Do the exceptions make the rule?" The fact that it is "news" when a relatively small number of major universities attain equity in women's sports programs tends to reinforce the hypothesis that it is still a rare phenomenon. So, the exceptional few warrant applause—but they should hardly be mistaken as the norm.

*The Historical Record: Intercollegiate Athletics  
Budget Trends Since 1970*

Reasonable doubts about the policy claims of dissatisfied higher education officials gain credence after finding examples of widespread, wasteful practices unrelated to women's varsity sports that over time consistently increased the costs of running intercollegiate athletics programs. Practices included the following: insistence on large numbers of athletic grants-in-aid for "major" sports and for newly added sports; rejection of athletic aid based on financial need in the NCAA Division IA group; construction and expansion of elaborate athletic facilities; and expansion of highly paid administration and coaching staff for selected sports. These examples were indicative of a syndrome among NCAA Division I athletic programs: expenses had been outpacing revenues for years—often in such alleged "revenue producing sports" as football and men's basketball. As early as the 1970s, when athletic directors in the Southeast Conference were asked to consider projections about budget

problems, the overwhelming resolution was not to scrutinize and reduce budgets, but rather to increase fund raising efforts. By 1979 the SEC officials had acknowledged that "inflation and the cost of adding sports to the program were major concerns among Southeastern Conference Athletic Directors. Athletic administrators endorsed more plans to increase revenues than reduce expenditures. The majority of the directors favored abolishing scholarships in nonrevenue sports, while the majority thrust for increased revenues was in the area of contributions and donations" (Nader, 1988, pp. xi–xiii). The dates are important because in 1979 women's sports were not yet a required part of NCAA Division I programs. Enforcement of Title IX guidelines was modest, and when intercollegiate athletic programs were scrutinized, they were seldom subjected to sophisticated financial analyses based on such criteria as parity funding or proportionality.

The situation between 1972 and 1979, then, was characterized in large part by the lack of enforcement for or concern about Title IX. The kinds of tests and criteria that emerged in the late 1970s tended to look at such indices as "number of sports teams for women" and "number of coaches." For many athletic directors the main question was, "Would institutions be required to provide 'football teams for women' if they offered 'football teams for men?'" As for those who sought reform in big-time athletics programs, their discussions, disputes, and demands for redress were fairly silent on "parity funding" and dealt with the most basic gains, i.e., prompting a university simply to offer selected sports teams for women. There were cases where the institution did, indeed, add a varsity team for women to parallel an exclusively male provision (e.g., hockey) and received congratulations and commendation for that. However, as the women student-athletes noted repeatedly, the two teams faced markedly different funding—the women's team wore motley rag-tag uniforms, did not have the same number or dollar amount of scholarships, and had inferior access to facilities, lockers, and travel.

The articles by sportswriters about unexpected financial strains in college sports in the late 1970s gave little mention of women's sports as a burden. In other words, journalists were attributing the problems to cost overruns and revenue shortfalls *within* the men's sports, including football and basketball. Newspaper coverage was supplemented by the careful, systematic analysis sponsored by the American Council on Education. In that 1980 study, coauthors Robert Atwell, Bruce Grimes, and Donna Lopiano found that the revenue shortfalls and the inability to curb expenses in spectator sports of football and men's basketball were the major problems in intercollegiate athletics. Their conclusion included the warning that these existing systemic problems needed prompt

attention because athletic directors ought to be prepared for the predictable increasing expenses associated with the foreseeable demand for enhanced women's varsity sports programs (Atwell, Grimes, & Lopiano, 1980).

Hence, nonrevenue men's sports were already subject to departmental budget cuts long before women's programs were incorporated into the new, merged intercollegiate athletic department structure. By 1980 numerous Division I universities had dropped established varsity sports—a full year before the NCAA added women's sports to its jurisdiction. For example, the University of Colorado had eliminated men's varsity baseball, swimming, wrestling, and tennis. The University of Washington likewise ended men's programs in gymnastics and wrestling—even though both were consistently ranked among the best teams in the nation (Thelin, 1996, p. 185). In the SEC and other major conferences, by 1980 “tiering” among men's varsity sports had become a familiar practice. One fundamental problem that athletic directors and presidents were reluctant to acknowledge was that sports geared toward spectators had been having an increasingly difficult time being self-supporting (Thelin & Wiseman, 1989).

### *The Historical Record: The Expenses of Women's Sports Programs*

How expensive were women's sports programs in the past—and what has been their relative expense within athletic budgets in recent years? Drawing from a 1978 NCAA survey of college sports revenues and finances, the best estimate is that by 1977 women's varsity sports were about 14% of the total varsity athletics budgets as reported by NCAA “Group A” member institutions (a designation that later would approximate the official “Division I-A” category.) (Atwell, Grimes, & Lopiano, 1980, p. 49; Raiborn, 1978). And contrary to the image of women's sports as a leech on “real” athletics programs, the NCAA survey indicated that women's programs at the big-time athletic programs in 1977 received about 55% of their funding from sources outside the men's athletic department budget. At first glance, the 55% appears to be generous support flowing from the men's programs to women's sports, but it warrants close inspection. It is “high” because the dollar total for women's sports was “low”—the average annual budget for a Division I-A women's athletics program in 1977 was \$97,000 out of a total athletics budget of \$3,003,000. Another important corollary is that men's teams had long benefitted from receiving the proceeds of mandatory student fees (paid by both men and women students) as regular parts of their exclusively men's athletics operating budget. When one looks at the rev-

enue sources in NCAA Divisions I-AA, II, and III in 1977, one finds that the established men's programs contributed less than 20% of the monies to operate women's programs.

Another explanation for the relatively high percentage of funds from Division I-A men's programs that was used to support women's varsity programs in 1977 was that these same institutions had been laggard in their support of women's sports earlier in the decade. For example, in 1973 the NCAA survey data showed that the revenue-producing men's sports program contributed about \$9,000 per year to women's varsity sports out of total annual operating budgets of about \$2,000,000. To illustrate the relatively small budgets for women's varsity sports in the mid-1970s it is useful to recall an episode from basketball, the premier women's sport. In 1976 the University of Kentucky offered the University of Tennessee's coach, Pat Head (later famous by her married name and as coach of several NCAA championship teams, Pat Summit) an annual salary of \$9,000 were she to accept the head coaching position for women's basketball at Kentucky. This was a "bidding war" of sorts, as Kentucky's offer exceeded her Tennessee salary of \$8,900—an increase of \$100. Meanwhile, coaches of men's basketball teams at Division I institutions in 1976 were receiving base salaries of about \$60,000 to \$70,000, not counting income from product endorsements, television shows, and other nonsalary perks.

How has this configuration changed over the past twenty years? In 1996, according to *The Chronicle of Higher Education* and an NCAA study, the proportion spent on women's sports in Division I-A was 16% in 1995 and 18% in 1997 (Rolnick, 1998). In sum, the essence of recent NCAA and federal data is that intercollegiate athletics programs are devoting more dollars to women's athletics than in the past. Women's sports show a persistent but slow increase as a percentage of the total varsity athletic budget. The most glaring disparities persist in the inordinate monies allocated to recruiting, travel, and coaching salaries for men's major sports.

### *Campus Compliance with Title IX: A Calendar*

Although reforming women's college sports programs may have started in the early 1970s, this was largely an initiative external from and ignored by university officials. From the point of view of university athletic departments and the NCAA, *their* efforts for equity for women's sports did *not* begin in 1972, when Title IX was passed into law. First, they opposed Title IX and testified to Congress against it. Second, even when Title IX was passed in 1972 it carried with it two phases that gave

colleges and universities a buffer from regulation. From 1972 to 1975 there was no Congressional enforcement or scrutiny, because those three years were devoted to federal agencies drafting guidelines, holding discussions and meetings, and trying to agree on and then publish criteria. When guidelines were published in 1975, the federal government gave colleges and universities a *three-year* period in suspense, with institutional reviews being delayed until 1978 at the earliest. Women's sports were not incorporated into the NCAA constitution and structure until 1981. Furthermore, at most universities until that NCAA change, women's sports often were a totally separate entity apart from "intercollegiate athletics." Funding sources outside the established men's athletic department often spared the men's teams from the new expenses of women's programs. In some instances (the state of Florida, for example) the state legislature at one time dedicated a special appropriation as "seed money" for the intercollegiate athletics department to integrate women's teams into their program and budget (Palmer, 1981). Furthermore, by the early 1980s, the expenses of salaries and services for women's coaches and teams were relatively small (Lopiano & Zotos, 1991). Even if NCAA had not incorporated women's teams into the NCAA jurisdiction, by the early 1980s "all men" athletic programs still would have faced deficits—and would have considered "tiering" as a reductionist response to existing financial shortfalls.

### *Where Did the Money Go?*

An important historical implication is that higher education officials have had a short memory about policies and practices that created some of their financial problems. Instead of focusing on Title IX, they would do well to go back to the period preceding the 1972 Title IX legislation. Such a review would indicate some policy changes that surfaced in the late 1960s and peaked in the mid-1970s: namely, rising expectations (and budgets) for athletic grants-in-aid for all men's varsity sports. For example, prior to 1967, even at a major flagship Division I institution such as the University of Kentucky, athletic scholarships were restricted to a few sports—namely, to men's basketball, football, baseball, and track. Not only did the University of Kentucky and fellow university athletic programs elsewhere add many new men's sports over the next decade, it increasingly committed to full scholarship funding. By the mid-1970s the nonscholarship athlete in Division I programs was either obsolete or a curious exception—hence the rise of the term a "walk on." The change in university athletics was not lost on high-school students and their parents. For a younger generation of high-school student-ath-



letes in such sports as lacrosse, wrestling, soccer, tennis, swimming, water polo, and golf, the stakes had changed. These were no longer regional sports or casual activities. Predictably, their new formal status prompted their coaches and advocates to pursue substantial funding and provisions for aggressive recruitment. Why should student-athletes in these sports compete at the highly demanding NCAA Division I level without grants-in-aid at one university if non-need-based aid for their sport was available at another university? The unacknowledged revolution was that student-athletes in a growing number of sports sought to emulate their counterparts in football and basketball. Ambitious and optimistic coaches in a host of nonrevenue sports had helped to escalate men's athletic budgets into a new, expensive orbit whose underlying characteristic was an "arms race" for talent, resources, and facilities. Whereas a major university might have had a single coach to handle both varsity swimming and water polo, for example, in the 1980s any institution seeking national recognition in either sport would consider specialization—hiring a full-time coach for each sport. Comparable growth and specialization spread over an entire athletics department drove up annual operating expenses. The price for such extended aspirations would become evident when the bills for operating a comprehensive, nationally competitive program came due by the late 1970s and early 1980s.

If athletic directors were concerned about unbalanced budgets, they might have considered the following patterns and practices to supplement their concern about the unreasonable costs of compliance with Title IX for women's sports. The single most important historical finding is that relatively few football programs have generated a surplus of revenues over expenses. Even within NCAA Division I-A football programs, numerous football programs lose money. There are no data to show that football programs in Division I-AA, II, and III have ever been truly "self-supporting."

In 1995 less than half (46%) of the NCAA Division I-A intercollegiate athletics programs reported revenues that exceeded expenses. (Naughton, 1996). In 1997, 29% of the Division I-A *football* programs showed a *deficit*. When one looks at Division I-A institutions' total intercollegiate athletics budgets, one finds an average deficit per institution of \$437,000 per year. If one excludes subsidies from the institution's general funds, this average deficit increases to \$823,000. In Division I-AA the average deficit grew to \$743,000 with institutional support, and to almost \$2-million without it in 1997 (Rolnick, 1998). Cost overruns also have been promoted and legitimized by the culture of coaches, including the following patterns of departmental behavior.

Athletic directors have allowed the practice of “buying out” coaches who do not win championships. For example, one university in 1996 paid over \$600,000 to “buy out” the salary of a football coach. Elsewhere, in the Southeastern Conference, Louisiana State University was expected to pay Vanderbilt University \$250,000 for having hired away the Vanderbilt football coach. Most recently, in December 1997 the University of Louisville bought up the contract of its football coach for \$1 million after taxes, i.e., about \$1.6 million.

Within the campus community, athletics staff salaries are relatively high. In Division I-A football programs, the average salary for an assistant coach in 1996 was over \$90,000—and ranged as high as \$150,000. Division IA football coaches have repeatedly lobbied against efforts to reform criteria for athletic grants-in-aid at the NCAA conventions. This has included opposition to making athletic grants based on financial need, and it has included resistance to reducing the number of football scholarships—proposals denounced by one coach as a “threat to the integrity of the game.”

Most Division I football teams continue the practice of having players, coaches, and staff spend the night before a game at a hotel for *home* games. Many universities have year-round training tables for football and men’s basketball. Illustrative of the conspicuous consumption which has characterized Division I spectator sports is the comment by the University of Pittsburgh football coach. He told reporters as he guided them on a tour of refurbished locker rooms, “Carpeting floors doesn’t win ball games for you, but it sure makes things more comfortable” (*Time*, 1974).

Bowl games, coveted as a way of enhancing athletic department revenues via winning teams, often contribute illusory resources. One analysis of the University of Colorado’s bowl team showed that its extra revenues of over \$3 million were consumed by expenses associated with bowl game preparation and participation. In December 1997 athletic department officials at UCLA reported that their football team’s participation in the 1998 New Year’s Day televised Cotton Bowl would be a “costly trip.” This was so because it would require UCLA to spend approximately \$150,000 to \$200,00 from its general budget after payouts from the Conference and Bowl Game committee (Hodges, 1997b). Ironically, this bad financial news came two days after the UCLA athletic department had been praised in a Los Angeles *Times* article for having parlayed football revenues as a means to balance the entire intercollegiate athletic budget (Hodges, 1997a).

Athletic departments receive numerous benefits from university affiliation, which tend to lower their costs. For example, use of state constructed stadiums and facilities at below-market rental rates, convenient

use of university parking lots to generate game day revenue, and use of university legal counsel in litigation are kinds of services often understated or excluded from the athletic department's budget. Intercollegiate athletic department budgets often mask the disproportionate expenses directed toward the "major" sports of football and men's basketball. For example, such staff positions as director of sports information or "strength coach" may be published as a departmentwide expense; in fact, the professional services of such positions need not be distributed evenly or proportionally to all sports.

Furthermore, investments in new facilities intended to generate revenues often fail to meet promises or expectations. Most conspicuous is the University of North Carolina's "Dean Dome" basketball arena, which was described as a priority of the athletic association, not of the university, during the construction fund raising campaign in the late 1980. Ironically, a decade later this facility has yet to operate in the black and has received added subsidies from the state government.

The crucial historical precedent undergirding this review is that one original rationale for construction of large stadiums was that football and basketball were expected to provide funding for *all* varsity sports (Thelin, 1996). Athletic directors in contemporary discussions, however, often have conveniently forgotten this compact. According to annual reports from the College Football Association and the National Collegiate Athletic Association, by the early 1990s there was a relatively small (and shrinking) number of big-time football programs that were genuinely "self-supporting." Most incredible in this amnesia about the promised benefits of big-time "revenue sports" is that according to NCAA data, numerous Division I-A football programs rely on institutional subsidies to operate their programs.

This finding, along with examination of sample athletic program budgets, shows that expanded athletic department expenses cannot be explained wholly or even primarily by the increased expenses of women's athletics programs. Important for contemporary discussions is *historical* context: long before women's athletics became part of the NCAA, men's sports programs were showing signs of financial strain. And between 1980 and 1985, when women's sports finances were subject to few demands for parity, sports programs at major universities already were having difficulty producing adequate revenues (Associated Press, 1991; Raiborn, 1986; Sanoff, 1990). At the University of Maryland, for example, during the years 1979 to 1981 the *football* program lost \$300,000 to \$400,000 per year (Jenkins, 1985), and the athletic department was running an annual deficit of \$1 million, in part due to a deficit of \$150,000 in men's basketball. The reason for such problems was that football gate

receipts fell below projections and, in one year, sponsors for a bowl game could not pay Maryland its “guarantee.”

Two developments in the early 1980s gave many NCAA Division I athletics programs a temporary reprieve on confronting their mounting budget problems. First, the Supreme Court decision allowing individual universities and their conferences to negotiate television contracts independent of the NCAA opened new commercial markets and revenue sources—at least for the most popular, powerful football and basketball programs. Second, athletic departments utilized a 1984 Supreme Court decision that limited Title IX’s application to specific programs within schools that directly received federal funds (as distinguished from entire institutions receiving federal funds) as a rationale to claim exemption for their programs. Neither incident proved to be an enduring solution. By 1990 the bonanza of new television revenues had been absorbed—and at about the same time, court rulings had reversed the program-specific interpretation that had spared intercollegiate athletics programs from Title IX compliance.

These kinds of shortfalls in the revenue-producing sports have continued to occur. In October 1997, the athletic director of the University of Illinois requested an increase of \$68.00 per student to cover an athletic department deficit. Primary source of the shortfall was that attendance at varsity football games was down, reducing income by \$2 million for that sport—and leaving a \$1.2 million shortfall for the entire intercollegiate athletics department.

### *Information, Please!*

#### *The Historical Record on Voluntary Data About Intercollegiate Athletics*

A truism of modern organizational life is that informed policy analysis gains significance when grounded in sound, comprehensive data. An unsavory corollary is that the absence of data may allow an organization to evade systematic review. The first indication that colleges and universities have been reluctant participants in substantial athletics reform is their recurrent, prolonged complaints about mandates that they report data about the character and composition of their varsity sports programs and athletics departments. On the one hand, they protest proposed federal requirements to provide data; on the other hand, they are often casual or secretive in voluntarily releasing information. Public access to athletic department budgets and records has been limited. Indeed, in the state of Florida, not until 1981 were intercollegiate athletic department’s financial records legally required to be available to the public. In NCAA

Division I institutions, athletics programs often obscure information by claiming that it is not part of the official institutional record because it is in the province of the separately chartered "athletic association." Furthermore, auxiliary athletic fund raising operations and booster clubs (usually with euphemistic names such as the "University Student Educational Fund") are often inaccessible not only from the general public but sometimes even from university presidents.

Lack of athletic department data historically has knowingly impeded both institutional control and public knowledge of sports programs. Nonetheless, colleges and university presidents, along with their higher education associations, lobbied to oppose congressional bills that proposed federal requirements for filing data on the finances and conduct of college sports programs. In 1989 U.S. Congressional Representative Thomas McMillen (R-Maryland) and U.S. Senator William Bradley (D-New Jersey) proposed legislation that would have required NCAA Division I institutions to disclose the graduation rates of athletes in comparison with the total student body. The President of the American Council on Education, Robert Atwell, showed how academic leaders attempted to support reform initiatives without federal intrusion. Atwell's perspective was significant because he was no stranger to the problems of obtaining sound data. He had led the ACE's inquiries into college sports reform and as coauthor of their 1980 report, *The Money Game*, knew the importance of the data—and the problems analysts faced in acquiring it. In his testimony of May 18, 1989, to a subcommittee of the House of Representatives he said:

It may even be desirable to pass legislation along the lines proposed by representatives McMillen and Towns and Senator Bradley. . . . I would hope that individual institutions and the NCAA, the latter at its next convention, would, as an act of voluntary self-regulation, carry out the intent of this proposed legislation and thus make its enactment unnecessary. The intent of the legislation is commendable, and I would recommend to the ACE Board that it be supported if the NCAA does not enact a similar requirement in January. But the fundamental systemic problems with big-time intercollegiate athletics are not susceptible to federal legislation or regulation. (Committee on Education and Labor of the House of Representatives, 1989)

Atwell's testimony essentially argued for an injunction that gave colleges another opportunity to exercise voluntary action rather than be subjected to mandate regulation. Meanwhile, during this period of "watchful waiting," some federal agencies as well as such groups as the National Association of College and University Business Officers (NACUBO) drew upon existing research and literature reviews to analyze the condition of college sports. Their mutual finding was not good

news (NACUBO, 1993). Noteworthy in this genre was the U.S. Department of Education's 1993 report to Congress, *Revenues and Expenditures in Intercollegiate Athletics: The Feasibility of Collecting National Data by Sport* (Alexander, 1993). The department's research staff documented the confused finances and deficits of college sports programs and concluded, "The implications are troublesome. That is, if the educational budgets of colleges and universities are covering intercollegiate athletic program deficits, then the academic program suffers—and the academic program is the principal function of colleges and universities." Unfortunately, the research findings were blocked from any possibility of being enacted as policy. Secretary of Education Lamar Alexander, in his 1991 Letter of Transmittal to Congress, seemed to defuse the report, writing, "I believe it is *not advisable* for Congress to require institutions to report information on revenues and expenditures for intercollegiate athletics and athletic departments." Alexander, the former president of the University of Tennessee and a member of the Knight Foundation's Commission on Intercollegiate Athletics, acknowledged that financial integrity in intercollegiate athletics was a serious concern at many institutions. Nonetheless, he concluded that the federal data collection effort did not "serve an obvious purpose and would be inappropriate . . . mainly because college sports have little involvement with federal student aid dollars. Furthermore, collecting data on revenues and expenditures for intercollegiate athletics which were accurate and comparable would be difficult to achieve, probably requiring the addition of new data elements to the existing Integrated Postsecondary Education Data System (IPEDS)" (Alexander, 1993, pp. x–xi).

Atwell and Alexander, respectively, relied on two very different premises to try to keep the federal government out of this activity. And by 1995 both arguments collapsed. Systematic data collection by athletic directors could hardly be rejected as a new, unfamiliar burden, because intercollegiate athletic departments had a long tradition of compiling and analyzing statistics. Standard practice was to have a full-time "SID" (Sports Information Director), whose staff provided news reporters with voluminous sports statistics. The typical Division I football press guide was well over 100 pages long and went on at length about the details of on-the-field performance. However, as one review of sports information concluded, "One can readily look up detailed information about college players' career scoring records from 1920 or even find the distance of the longest punt or a team's margin of victory in a single game. Meanwhile, one searches in vain for substantive data about student-athletes' grade point averages or an athletics program's revenue and expenditures" (Thelin & Wiseman, 1992, p. 6).

Even though athletics departments had long been “drowning in data,” it had been confined to data they chose to emphasize. So, despite Atwell’s plea for voluntarism and Lamar Alexander’s concerns about the high expense and limited utility of compulsory information, higher education lobbyists were neither wholly convincing nor successful in keeping the federal government out of intercollegiate athletic data collection. An interesting potential source of statistics has been the reports generated by the Equity in Athletics Disclosure Act of 1995—legislation that went into effect in October 1996. An early analysis of such data by the *Chronicle of Higher Education* observed that collecting compatible, clear information remained problematic (Naughton & Srisavasdi, 1996). Nonetheless, the collection and publication of these data have transformed the policy analysis arena for college sports.

Prior to this Act, reliance on the NCAA members surveys for financial and performance data on intercollegiate athletics was risky. NCAA surveys typically showed an institutional response rate of about 46% to 60%. That is both low and inadequate when contrasted with, e.g., the response rate on federal data collection, such as IPEDS or HEGIS. The NCAA data were also inadequate because their publication included no sophisticated provisions for scaling, for projections, or for extrapolations. How could they be analyzed as either a comprehensive census or even as indicative of a trend? In their published form they did not allow for institution-by-institution disaggregation. And there was no detailed key to tell readers which NCAA member institutions did fill out survey forms data and which did not. An independent analyst had no way to track “outliers” within the NCAA population. To make an extreme case about the confusion and problems this caused, consider the following research problem: Did, for example, Notre Dame provide data on revenues? Lack of such an important institution would skew one way or the other the profile of financial data for the whole of higher education athletics.

A good illustration of the difference between voluntary data reporting and federal required collection is the contrast between the NCAA response rate and the 1996 federal “Equity in Athletics Disclosure Act.” The response rate for the latter among Division I institutions was 98% (306 of 310) (Suggs, 1999, p. A44).

### *Rethinking Higher Education’s Tradition of Autonomy*

Requiring colleges to provide statistical information was, of course, only part of the package. Compliance ultimately meant that institutions had to amend programs, facilities, staffing patterns, coaching salaries,

and athletics grants-in-aid. As such, interpretations of Title IX that emerged put the specific issue of gender equity in intercollegiate athletics into the middle of the academic procession of college leaders who marched to the public podium to warn about the need to protect higher education autonomy. For example, in 1982 a study group commissioned by the Carnegie Foundation for the Advancement of Teaching (CFAT) prefaced its report on campus governance with the observation, "There remains in the control of higher education an inherent tension. Colleges and universities are expected to respond to the needs of society of which they are a part—while being free to carry on, without undue interference, their essential work" (CFAT, 1982). Illustrative of the concerned higher education perspective was Harvard President Derek Bok's influential 1980 article in *The Public Interest*, in which he called for restraint in federal regulation of universities:

Government intervention may not only narrow diversity, inhibit innovation, and result in costly errors; it can also force universities to spend substantial sums complying with federal regulations. At times, these expenditures result from costly renovations to help the handicapped, or to equalize athletic opportunities among men and women, or to alter laboratories to conform to changing safety requirements. More often, the burdens take the form of added staff and effort required to fill out forms, compile data, cope with on-site investigations, and meeting the many procedural requirements that follow in the wake of federal laws and regulations. (Bok, 1980, p. 85)

Federal regulation had veered from being a nuisance to a serious threat to higher education. According to Bok, "The cumulative costs of compliance are already running into millions of dollars each year for large universities, and the relative burdens are undoubtedly greater for smaller institutions. In contrast to corporations, universities cannot readily pass along these costs by raising prices to consumers. . . . As a result, we can be reasonably sure that many academic institutions will have to defray the cost of complying with federal regulations by reducing their budgets for teaching and research" (Bok, 1980, p. 85). In sum, such measures as Title IX were expensive and excessive—and, were one to believe the higher education establishment, unnecessary.

A problem with Bok's argument was that intercollegiate athletics was a weak link in his general chain of reasoning. If compliance costs for big-time athletics programs were, indeed, infringing on teaching and research budgets, how is it that Athletic Directors at NCAA Division I programs were repeatedly able to absorb expenses of buying out coaching contracts and other costly traditions noted earlier? The inconsistency of Bok's argument when applied to many NCAA Division I-A athletics programs was that there seemed to be no shortage of "private funds"



from boosters and donors for some program expenses, but evidently none available for compliance with the law.

On balance, the record since the early 1970s suggests that most colleges affiliated with "big time" (NCAA Division I) had shown marginal credibility in their claims that they can be trusted to undertake voluntary self-regulation so as to approach gender equity and equal opportunity in college sports. In the 1972 congressional hearings on Title IX, the NCAA lobbied against the legislation, and numerous well-known football coaches and athletics directors testified in opposition to having the legislation be applicable to college sports. Opposition to federal involvement continued during the next decade, as shown in the case of the Knight Foundation Commission report on the future of intercollegiate athletics. In this 1991 report, Congressman Thomas McMillen (R-Maryland) was the sole commission member to make explicit recommendation that there be a role for the federal government in monitoring intercollegiate athletics. He noted, "This report does not address an area of intercollegiate athletics in dire need of investigation: the enforcement process. It behooves forces outside of athletics circles, including government entities, to ensure that the NCAA and other intercollegiate athletics associations do not haphazardly enforce their own concept of justice without appropriate consideration of the due process or rights of individuals and institutions" (Knight Foundation, 1991, p. 30).

In the March 1992 follow-up report of the Knight Foundation, *A Solid Start: A Report on Reform of Intercollegiate Athletics*, the commission members once again emphasized their aversion to federal involvement. In the section on "Potential Detours" to reform, they noted:

The second [difficulty] lies in legislative efforts at the federal level to impose reform from on high. While these efforts maintain pressure for internal reform, they threaten more harm than good. One proposal, for example, would impose a federally mandated administrative structure on the NCAA.

The NCAA is a private, voluntary association. Only the political appeal of intercollegiate athletics makes this voluntary association vulnerable to such a threat. We believe this legislation promises bad law. More than that, it creates poor precedent for dealing with the private-sector, profit or non-profit. (Knight Foundation, 1992, p. 8)

Once again, Congressman McMillen asserted his minority opinion on the Knight Foundation Commission, writing, "I cannot agree that the federal government does not have a positive role to play in the reform process. . . . As the 1992 Harris survey demonstrates, a sizable percentage of Americans believe that the federal legislation is necessary to control college sports" (Knight Foundation, 1992, p. 8). Although McMillen was at odds with higher education leaders, his perspective did from time

to time persist in legislation and litigation, as suggested by the increasing attention given to complaints and lawsuits filed by women as student-athletes in the 1990s. And this brings us full circle to the *Brown versus Cohen* case, filed in 1991 and whose deliberations extended for about seven years.

### *Conclusion*

The *Brown v. Cohen* case was timely not only because it attracted front page headlines in every major newspaper and coverage on national television news broadcasts, but also because it was closely linked to subsequent landmark events. Five weeks after the Supreme Court's announcement, the National Women's Law Center filed a complaint with the U.S. Department of Education alleging that twenty-five colleges had violated federal law by awarding female athletes less sports-related aid than their male counterparts (Arace, 1997). Such episodes provided an ironic context for the news coverage of June 17, in which the president of the United States hailed the 25th anniversary of Title IX legislation (Associated Press, 1997a; Chambers, 1997). The Title IX anniversary suggested that its significance for higher education carried beyond the specifics of college sports because it drew into question a fundamental tenet of public policy and institutional practices in American higher education: namely, the commitment of colleges and universities to undertake self-regulation via voluntary association, leading to exemption from strict federal regulation. Its implications extended beyond athletic departments to include academic leaders. Even though intercollegiate athletics is an extracurricular activity, seemingly far from the essential academic missions of colleges and universities, the topic is both conspicuous and useful for understanding colleges and universities. In sum, this study makes two contributions: it shows how a college's athletics policy can tell much about its educational philosophy, and it shows how historical analysis might contribute to public policy deliberations. The legal and financial accountability now asked of intercollegiate athletics departments is indicative of a larger phenomenon: government agencies increasingly view higher education as a "mature industry," whose enterprise is sufficiently large and established so as to expect compliance with data reporting and with laws and regulations (Levine 1997).

Furthermore, this case reinforces the theoretical argument that higher education institutions demonstrate a conspicuous split in their policy advocacy for society at large as distinguished from their own organizational behavior. It illuminates the recent finding by sociologist Nathan Glazer that since the early 1900s, the federal government's relations

with higher education have switched substantially. At the start of the century the government viewed colleges and universities as fragile institutions worthy of federal protection and special exemptions. By 1980 colleges and universities were increasingly treated as an enterprise that warranted monitoring and regulation (Glazer, 1979).

A recent incident provides an interesting, bittersweet postscript to the higher education associations' legal brief to illustrate the resistance to government oversight and lack of cooperation that has characterized the higher education establishment. In March 1998, about a year after the *Brown vs. Cohen* announcement, the National Collegiate Athletic Association argued (unsuccessfully) in Federal Appeals court that it ought not be subject to Title IX laws because it did not receive federal funds directly (Haworth, 1998). The irony is that the umbrella organization relied on by most major colleges and universities to review and certify campus athletic programs according to standards of proper conduct has resisted for itself compliance with Title IX. Such is the spirit of voluntary compliance and good faith that has characterized sportsmanship in the higher education establishment in the quarter century history of Title IX. Given this climate and organizational behavior, the upshot is that although in the future intercollegiate basketball contests will be decided on the court, the really interesting contests on equity and opportunity will be decided in court.

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