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# Title IX and College Athletics: A Case Study of Wesleyan University and Equality

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The Past In the Middletown Term Paper 2012

### Title IX and College Athletics: A Case Study of Wesleyan University and Equality

Educational institutions such as Wesleyan have the ability to discourage or encourage the participation of women in sport in a plethora of ways. From the treatment of women coaches, to the amount of resources and equipment made available to teams, to the male dominated composition of the athletic administration and the overall treatment of female athletics, all play a role in both the ability of Wes women to participate in athletics and how we choose to participate. Wesleyan, like many other schools, is caught in the middle of the nation's discussion regarding Title IX and its implications, its future and its meaning. For all of the positive influences, Title IX is a law that is little understood. It is a law that means many things to many people, but it is rarely fully understood by the society it is supposed to be serving, mainly women and college students.

Where Title IX has been both successful and troublesome considering high school and college athletics, it has been huge in opening the doors to women academically. For example, at Wesleyan, like most other colleges and universities across the country, women make up more than half of the student body. More than half of all law students are women, and there are more women in medicine and the sciences than ever before.<sup>1</sup> There are no gendered clubs (except fraternities and sororities), and no school has special requirements for one gender. For all of its

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<sup>1</sup> Suggs Welch, *A Place on the Team The Triumph and Tragedy of Title IX*. New Jersey: Princeton University Press, 2005.

issues, no one can deny that Title IX has literally changed the face of academia since it became a law. However, no one can deny that in the area of athletics, the effect of title IX has been huge. For instance, in 1971, 294,015 high school girls participated in sports; in 2002 that number rose to 2.8 million, representing an 847 percent growth.<sup>2</sup> As Deborah Brake writes in Getting in The Game: Title IX and the Women's Sport Revolution, "it is difficult to believe that our nation's high school and colleges have not always provided athletic opportunities to their female students."<sup>3</sup>

There are many challenges and imperfections that come hand in hand with democracy and extend to equality. Debates about the meaning of equality flow throughout the debates surrounding Title IX. The core of Title IX is that it is a vehicle for social change. In this essay, I look at how Wesleyan University is a microcosm for both the positive and negative aspects of Title IX. Tracing this history, I hope to prove how Wesleyan can act as an archetype for both the failures and success of this law.

Throughout the research, I have wondered how a document such as Title IX that is supposed to be granting freedom and equality—two principles on which America prides itself—has caused so much confusion and unclear interpretation. This ambiguity of Title IX trickles down to the laps of athletic directors who are unsure of how to best apply Title IX, and from there trickles down into the playing fields and locker rooms of sport teams everywhere. As John Biddlecomb

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<sup>2</sup> Brake, Deborah "Revisiting Title IX's Feminist Legacy: Moving Beyond the Three-Part Test," *University of Pittsburg School of Law* (2004): 455 accessed April 10, 2012  
<http://law.bepress.com/cgi/viewcontent.cgi?article=1007&context=pittlwps> .

<sup>3</sup> Brake, Deborah *Getting in The Game: Title IX and the Women's Sport Revolution*. New York: New York University Press, 2010 p 5

expressed, Title IX has become like health care in that no one really understands how it works, but somehow knows it applies to them.<sup>4</sup>

### Title IX:

Title IX is a federal legislation<sup>i</sup> that prohibits discrimination based on sex in education programs that receive federal aid. It is important to remember that athletics is only a portion of Title IX's role although arguably the most talked about.

### History of Title Nine

During the 1960 and 1970, American culture was undergoing rapid changes. This was an era marked by extreme social transformations from the effects of the peace movement, the civil rights movement and, most importantly, the women's rights movement. The new wave of feminism within the larger social reforms movement in the 1970s pushed women into to action to demand equal treatment.<sup>5</sup> The mid-1970s offered the best time for new opportunities in women's athletics. The ground was set and the country was ready.

The origins of Title IX lie in the 1965 presidential Executive orders 11246 prohibiting federal contractors from discrimination in employment on the basis of race, color, religion, or national origin.<sup>6</sup> Originally, gender/sex was not included, but it was amended by President Johnson in 1968 to include discrimination based on sex.<sup>7</sup> The original intent of the legislation, as expressed by one of the principle sponsors in the U.S. senate Birch Bayd, was to be a "strong and

<sup>4</sup> John. Driscoll, Interview by author. Tape Recording. Middletown, CT. April 22, 2012.

<sup>5</sup> Festle, Mary Jo. *Playing Nice: Politics and Apologies in Women's Sports*. New York Columbia University Press, 1996.

<sup>6</sup> Iram Valentine, WEEA Digest 25 Years of Title IX, "Title IX A Brief History." accessed April 23, 2012. <http://www2.edc.org/WomensEquity/pubs/digests/digest-title9.html>.

<sup>7</sup> Anderson, Deborah , Cheslock, John ., and Ehrenberg , Ronald, "Gender Equality in Intercollegiate Athletics: Determinants of Title IX Compliance," *The Journal of Higher Education* (77)

comprehensive measure [that would] provide women with solid legal protection from the persistent, pernicious discrimination that rendered women second-class citizens.”<sup>8</sup> As I will discuss later in this essay, the issue of discrimination within athletics was not originally mentioned in the congressional hearings.

### The Legislative Progress of Title IX History:

Title IX was originally drafted in order to address significant sex discrimination occurring in educational institutions in the 1970s. Republican Edith Green, a democrat from Ohio, who chaired the higher education sub-committee, drafted a legislative bill prohibiting sex discrimination in education.<sup>9</sup> In the hearings, Green expressed that “our educational institutions have proven to be no bastions of democracy.”<sup>10</sup> For example, before Title IX, it was not unheard of for school administrators to designate classes and academic majors specifically for females or males.<sup>11</sup> In addition, some colleges required females to only live off-campus, and men were often awarded more financial aid. Although these are just a few examples of discrimination, females routinely faced institutionalized discrimination in academia.

The bill was originally intended to amend Title VI of the Civil Rights Act to cover employees who worked in educational institutions.<sup>12</sup> During this era, there had been a pattern of discrimination against women in higher education involving hiring practice. For example, many women professors received lower pay and no benefits, and many qualified women were replaced

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<sup>8</sup> Staurowsky Ellen J., “Title IX and College Sports: The Long Painful Path To Compliance and Reform,” *Marquette Sports Law Review* 14, no. 1 (2003): 97 accessed April 20, 2012

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1408&context=sportslaw>

<sup>9</sup> Iram Valentine, WEEA Digest 25 Years of Title IX, "Title IX A Brief History." Accessed April 23, 2012, available at <http://www2.edc.org/WomensEquity/pubs/digests/digest-title9.html>.

<sup>10</sup> Valentine, “WEEA Digest 25 Years of Title IX, "Title IX A Brief History," 6

<sup>11</sup> Staurowsky, “Title IX and College Sports: The Long Painful Path To Compliance and Reform,” 432

<sup>12</sup> Valentine, “WEEA Digest 25 Years of Title IX, "Title IX A Brief History," 6

by men.<sup>13</sup> At Wesleyan, for example, only 11.9% of the faculty members were women.<sup>14</sup> Dr. Bernice Sandler, who faced discrimination as an assistant professor at the University of Maryland, spearheaded this effort, and was important in bringing these unjust practices into the media spotlight.<sup>15</sup> Ms. Sandler and others working on the legislation saw the bill as addressing employment and unequal educational opportunities. Sandler saw other issues as secondary: “Awareness of sex discrimination was so limited that nobody expected the impact,” Sandler recalled. “In my 1970 testimony, I didn’t even mention athletics. A year later, I mentioned athletics in just one sentence. After it passed in June 1972, five or six of us realized that Title IX would cover athletics as well, but we never considered its effect. I thought that maybe on Field Day, there would be more activities for girls.”<sup>16</sup> The bill was passed and signed into law by President Nixon June, 23, 1972.<sup>17</sup>

### Wesleyan and Co-Education

During the 1970s, Wesleyan women were facing discrimination and the realities of co-education in a university that may not have been ready for them. In 1968, Wesleyan enrolled twenty three as full-time students.<sup>18</sup> Previously, Wesleyan had tried to go “Co-Ed” in between 1872-1912 without much success. Women who attended during this era were kept on the periphery of the student body and were not allowed to join any clubs or newspapers . After many

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<sup>13</sup> “The Real Story Behind the Passing of Title IX 35 Years Ago,” *Women in Higher Education*, Accessed April 10, 2012. <http://www.wihe.com/displayNews.jsp?id=14169>

<sup>14</sup> Deborah Young, “Am I a Woman or a Colleague,” *Wesleyan University Alumnus*, Spring 1973. p. 11 Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.

<sup>15</sup> Festle, 33

<sup>16</sup> “The Real Story Behind the Passing of Title IX 35 Years Ago,” 2

<sup>17</sup> Festle, 5

<sup>18</sup> Potts, David, *Wesleyan University, 1831-1910: Collegiate Enterprise in New England*, Hanover: Wesleyan University Press, 1992.

years of absence, Wesleyan voted to open its doors to women in 1968. However, not all of Wesleyan community had been convinced that co-education was the right step for the university to take. Richard L. Greene, who was a professor of English, felt that co-education would not work at Wesleyan. He expressed that due to sexual impulses coeducation would fail. He wrote in *Wesleyan University Alumnus* (1967) that “I should hardly expect Wesleyan’s prized honor code to survive the introduction of women into its classes. The prescription that gentleman do not report the indiscretions of ladies is one part of the centuries old code of the gentleman that still survives” He continued that “No aid, no violation” can hardly be expected to win out over “I’d do anything for you honey.”<sup>19</sup> The issue of co-education reached the desk of then President Edwin D. Etherington by alumnus John A Wells. In a letter to the President, John A. Wells, wrote that “the average female graduate, no matter how brilliant her scholastic record, can hardly wait for a husband and a home of her own—and children,” and “Co-education is not necessary or desirable for Wesleyan development as an elite educational university.”<sup>20</sup> However, President Etherington, believed that co-education was the right step for Wesleyan. During his time as Wesleyan’s twelfth President, succeeding President Butterfield, Etherington helped Wesleyan become more diverse by admitting women and increasing the acceptance of minority students.<sup>21</sup>

Not only did the first female students at Wesleyan experience the harsh realities of entering into a man’s world, but woman faculty members faced many of the same challenges. In 1956, Wesleyan appointed its first female faculty member.<sup>22</sup> Over a seventeen year period, Wesleyan

<sup>19</sup> “A Backward Step,” *Wesleyan University Alumnus*. February, 1967. in History of Women at Wesleyan folder, Special Collections & Archives, Olin Library, Wesleyan University, Middletown CT.

<sup>20</sup> Wells A John, “Memorandum to Edwin D. Etherington, President.” May 8, 1968 in History of Women at Wesleyan folder, Special Collections & Archives, Olin Library, Wesleyan University, Middletown CT.

<sup>21</sup> Deutsch, Claudia H. “Edwin Etherington, 76, Ex-Amex President” *New York Times*, January 15, 2001 accessed May 1, 2012, <http://www.nytimes.com/2001/01/15/business/edwin-etherington-76-ex-amex-president.html>.

<sup>22</sup> Young, “Am I a Woman or a Colleague,” 16.

only increased its female faculty members to 33 to make them 11.9% of the total faculty. In her editorial in the 1974 Wesleyan University Alumnus, faculty member Deborah Young writes how a woman will “only be aware of her *minority* status only at faculty meetings and in the Faculty Club dining club.”<sup>23</sup> It seems that women were thought of as a “minority,” and possibly felt threatened when surrounded by their male colleagues. Young goes on to quote a senior faculty member in the Psychology department who expressed that, “It can’t be denied that there are senior faculty members who were never so hot on women coming here. People from the social schools look on women as primarily wives and mothers and have to struggle to see women as anything else.”<sup>24</sup> Being thought of as “wives” and “mothers,” women faculty members were excluded from the ivory towers. However, what stood out the most in this editorial is when Young wrote how “Perhaps the women in the worst situation are those faculty wives as academically qualified as their husbands who cannot find teaching jobs in the area. Many institutions have a deep-seated prejudice against hiring married women.”<sup>25</sup> Is it appropriate to assume that Young is referring to Wesleyan as one of those schools? It would make sense, considering the sexist academia climate in the 1970s. It is hard to tell; however, she goes on to talk about Ms. Carol Obmann, who will assume chair of Wesleyan English department, and who “spent years searching for satisfactory work near Wesleyan.”<sup>26</sup> I would like to showcase Ms. Obmann story as an example of why Title IX was needed in the early 1970s and especially in academia. Often, society forgets that Title IX was passed with the intention of providing equal employment for both genders. Today, since we believe, or choose not to see, that equality had been found in colleges and universities faculty departments, it is hard to grasp that this was not

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<sup>23</sup> Young, “Am I a Woman or a Colleague,” 16

<sup>24</sup> Young, “Am I a Woman or a Colleague,” 16

<sup>25</sup> Young, “Am I a Woman or a Colleague,” 16

<sup>26</sup> Young, “Am I a Woman or a Colleague,” 16



always the case. For example, Ms. Obmann and her husband both went to Harvard graduate and applied for teaching jobs in English:

“We sent away piles of letters...Dick got many enthusiastic returns—I got few. Our single women friends were all employed quickly, though later their careers were to show down. I thought it must be something in my dossier. A woman at the placement bureau went through my file while I sat across the desk in anxiety. Finally she said, ‘No, you have no terrible letter. It’s probably just because you’re married’<sup>27</sup>

However, as sexist as these remarks may seem to our 21<sup>st</sup> century values, neither Ms. Obmann story nor the hesitation towards co-education is unique. Many others in the academic towers expressed similar beliefs and had deep seeded hesitation in accepting women into the inner working of academics. Wesleyan women, like many other women of this era, had a large hurdle to jump when entering into a co-ed college environment.

#### Women Athletics at Wesleyan Prior to Title IX:

Before Title IX, Wesleyan sponsored three varsity teams for women: field hockey, tennis and basketball.<sup>28</sup> With a growing number of women coming to Wesleyan for the first time, and women’s voices being heard on campus, there came an increased demand for more athletic opportunities. For example, in 1970, the first coed freshmen class entered and 109 of its 385 members were women. The following year the number of women continued to increase with 180 women and 260 men in the freshmen class.<sup>29</sup> Typical of many schools during this era, the women’s athletic division was headed by one female director. At Wesleyan, this role fell to Barbara Bascom, who was hired to become the coordinator of women’s athletics.<sup>30</sup>

<sup>27</sup> Young, “Am I a Woman or a Colleague,” 16

<sup>28</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, in Wesleyan Athletics folder, Special Collections & Archives, Olin Library, Wesleyan University, Middletown CT.

<sup>29</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 13

<sup>30</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 13

The first female athletes at Wesleyan entered college in the mist of the women's feminist movement, the Civil Rights movement, and the new liberated culture of the 1970s. Billie Jean King had just beaten Bobby Riggs in the "Battle of the Sexes," the magazine Women's Sports was just published, and the Association for Intercollegiate Athletics for Women (AIAW) was formed in order to promote college tournaments for women.<sup>31</sup> Yet, when Wesleyan women entered into Fayerweather Gymnasium, they were greeted by less than up to date equipment and facilities.

Where do we put all the Women? 1968-1973 at Wesleyan:

When a young Wesleyan woman walked into Fayerweather gymnasium, she would have been ushered into a makeshift "locker room" with 12 lockers, a small gym that could only be used for three hours a day, an equipment room that was only accessible through the men's locker room, and an athletic trainer office that was non-existent.<sup>32</sup> In the 1970s, as Wesleyan enlarged its student , the athletic faculties proved to be too small and outdated for both male and female's students.

In the alumni magazine article entitled, "The Sound of Sweat, The Smell of Complaint," athletic director Don Russell expressed how Wesleyan was at a "crisis point" and that he was "actually embarrassed when visiting teams come to use [Wesleyan facilities]."<sup>33</sup> Fayerweather, was built to accommodate 287 male undergrads.<sup>34</sup> John Driscoll, who attended Wesleyan in 1962 and came back to work as Wesleyan's alumni director in 1983, expressed a similar attitude about

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<sup>31</sup> Valentine, WEEA Digest 25 Years of Title IX, "Title IX A Brief History." p 5

<sup>32</sup> Alphonsus Mitchell J., "Running out of Space," *Wesleyan University Alumnus*, Winter/ Spring 1987. Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.

<sup>33</sup> Kruzan, Michael "The Sound of Sweat, The Smell of Complaint," *Wesleyan University Alumnus*, Spring 1973. p. 11 Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.

<sup>34</sup> *Wesleyan University Alumnus* 14.

the facilities, saying that “When I came back, I was surprised that Fayerweather was still in use.”<sup>35</sup> Fayerweather, he said, was not built for men and women, and was too small even during his time at Wesleyan. When it was built, Fayerweather was adequate for a male student body of 600 men. When women came to Wesleyan, the whole student body enrollment was nearly 1,800.<sup>36</sup> In addition to the overcrowding, Wesleyan women faced an even worse situation. In 1973, Wesleyan would have 750 women, while the gym could only offer 120 lockers. Ms. Barbara Bascom told the alumni magazine that she was “extremely frightened” about the prospects for women in the physical education program.<sup>37</sup> Equipment, training facilities and coaches were all in short supply. One volleyball player told the magazine that “It’s usually impossible to get on the courts, and hard to get equipment from the trainers. I came from a community college, but I was able to get better equipment and facilities there than at Wesleyan.”<sup>38</sup> Not only were facilities inadequate for Wes women, but many felt the athletic culture was still male dominated. The alumni article goes on to express how “Even after three years here they [women] don’t feel entirely welcome in Fayerweather. Old patterns of thought and behavior die hard.”<sup>39</sup> One woman basketball player expressed how “The gym is an all-male bastion. Not everyone over here has heard that Wesleyan’s gone co-ed.”<sup>40</sup> In addition, one woman basketball player wrote to the *Argus* stating that “the idea at Wesleyan seemed to be: if we can discourage women athletes enough with lack of funds, equipment, coaches and other staff, special privileges, practice time, practice facilities, recognition, medical care, and uniforms, then maybe just maybe, those women will go away and leave the Gym and its facilities to us

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<sup>35</sup> Driscoll, John. Interview by author.

<sup>36</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 12.

<sup>37</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 12.

<sup>38</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 14.

<sup>39</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 14.

<sup>40</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 13.

men, just like it was in the good days, before women’s liberation and Billie Jean beat Bobby R.”<sup>41</sup> From this basketball player’s aggressive tone, one can see how dismal and unappreciated women sports were at Wesleyan. Although I could not find any direct evidence that the early Wesleyan women were interested in sports, it is clear that many of them demanded equal respect and equal equipment. Title IX was needed. If women were to be entering into previously men’s colleges and old stereotypes and Boy Clubs were going to exist, something had to change.

### Intercollegiate Athletics and Title IX

The application of Title IX within intercollegiate sports did not come to the forefront until three years after it was first passed. Previously, during the public comments that were held following the proposed Title IX, the Department of Health, Education and Welfare received 10,000 reactions, and 90% concerned athletics.<sup>42</sup> It seemed that the arena of athletics was a place that highly discriminated against women, but had not been acknowledged. This is reflected in the then- secretary of Department of Health, Education and Welfare (HEW) Caspar Weinberger’s comments that he had “not realized athletics was the most important sex discrimination issue in the country, while issues such as employment at educational institutions were under consideration.”<sup>43</sup> Although mentioned only briefly during the initial Title IX hearing, in 1975 Congress approved the Javits amendment, which the HEW to be responsible for carrying out Title IX and rules regarding intercollegiate athletics.<sup>44</sup> The Javits amendment, named after Jacob Javits (R-NY), stated that Title IX “shall include with respect to intercollegiate athletics...reasonable

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<sup>41</sup> Tibbetts, Mary. “Letters to the Editor: Why so Long?,” *Argus*, May, 10 1974. Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.

<sup>42</sup> Staurowsky, “Title IX and College Sports: The Long Painful Path To Compliance and Reform.” 98

<sup>43</sup> Suggs, 131

<sup>44</sup> U.S. Department of Education, Office of Civil Rights, *A Policy Interpretation: Title IX and Intercollegiate Athletics*, Tuesday, Dec. 11, 1979. <http://www2.ed.gov/about/offices/list/ocr/docs/t9interp.html>

provisions considering the nature of the particular sport.”<sup>45</sup> However, there were no guidelines on what constitutes sex-based discrimination. Therefore, in recognition of the massive inequalities that existed within athletics programs, the government issued a three year transition period for schools to come into compliance. However, at the end of the three year transition period in 1978, over one hundred athletic complaints had been filed, but there still existed no guidelines on how to investigate programs.<sup>46</sup>

### The Policy of Interpretation

This section explains OCR's approach to determining compliance in inter-collegiate athletics and was enacted in December 1979. This section was added because, since the end of July 1978, there had been nearly 100 complaints about discrimination in athletics against more than fifty institutions of higher education. According to the federal register, this section's goal was to “provide a framework within which complaints can be resolved, and to provide intuitions of higher education with additional guidance on the requirements for compliance” within intercollegiate athletics.<sup>47</sup> It is divided into three sections:

- a. Compliance in Financial Assistance (Scholarships) based on Athletic Ability: All such assistance should be available on a substantially proportional basis to the number of male and female participants in the intuitions athletic program
- b. Compliance in Other Program Area (Equipment and supplies; games and practice times; travel and per diem, coaching and academic tutoring; assignment and compensation of coaches and tutors; locker rooms and practice and competitive facilities; medical and training facilities; housing and dining facilities; publicity; recruitment; and supportive service. In other words, this section is suppose to ensure that male and female athletics should all have the same treatment, benefit, and opportunities.
- c. Compliance in Meeting the Interests and Abilities of Male and Female Students: Pursuant to the regulation, the governing principle in this area is that the athletic

<sup>45</sup>Staurowsky, “Title IX and College Sports: The Long Painful Path To Compliance and Reform.” 101

<sup>46</sup> Staurowsky, “Title IX and College Sports: The Long Painful Path To Compliance and Reform.” 103

<sup>47</sup> U.S. Department of Education, Office of Civil Rights, *A Policy Interpretation: Title IX and Intercollegiate Athletics*.

interests and abilities of male and female students must be equally and effectively accommodated.

The Policy of Interpretation also addressed the “non-discriminatory factors” that had to be considered when Title IX was put into action. These non-discriminatory factors “include differences that may result from the unique nature of particular sports, special circumstances of a temporary nature, the need for greater funding for crowd control at more popular athletic events, and differences that have not been remedied but which an institution is voluntarily working to correct.”<sup>48</sup> The policy had to be changed, however because athletic programs needed a more definitive understanding of what constituted compliance.<sup>49</sup> Consequently the final Policy of Interpretation explains the meaning of “equal athletic opportunity” in such a way as to facilitate a “clearer” understanding for college athletic directors.<sup>50</sup>

#### Title IX and Wesleyan:

Like most colleges, high schools, and universities across the country, the passing of Title IX and its implications on intercollegiate athletics went fairly unnoticed and un-enforced. This may be due to many reasons; however, the most obvious was the fact that academic institutions were unclear on how to interpret Title IX. Thus, as mentioned previously, the government had to issue the policy of interpretations to help colleges understand Title IX. In the following section, I examine how Wesleyan women were either unaware or did not fully comprehend Title IX and its effects it on the sports program here at Wesleyan. I believe that the latter is true, and that Wesleyan women, like most women, did not know about the existence of Title IX or how it worked. Using archival research from *Wesleyan Argus*, *Hermes* and other student publications, it

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<sup>48</sup> Villalobus, Michael “The Civil Rights Restoration Act of 1987: Revitalization of Title IX,” *Marquette Sports Law Review*, 149 (1990) <http://scholarship.law.marquette.edu/sportslaw/vol1/iss1/6>

<sup>49</sup> Villalobus, “The Civil Rights Restoration Act of 1987: Revitalization of Title IX,” 156

<sup>50</sup> Villalobus, “The Civil Rights Restoration Act of 1987: Revitalization of Title IX,” 156

seems that there were complaints about the unequal treatment of male/female athletics at Wesleyan. Had the female student body known about Title IX, would they have filed law suits against the administration? Take Mary W. Tibbetts, 1973 Co-Captain of Wesleyan Ms. Women's Basketball teams angry letter to the *Argus*. In this aggressive "Letter to the Editor," Tibbetts writes of the extreme inequalities and discrimination she faced as a female athlete at Wesleyan.<sup>ii</sup> Tibbetts editorial sheds a bright light on the unjust treatment that was common practice for most female athletics. Tibbetts writes about the lack of resources, medical staff and respect the women's teams received.<sup>51</sup> For example, the woman's basketball team was only allowed to practice two times a week in the small gym, which acts as the practice gym for the men's team, and when they had games, no bleachers or seats were set up for fans.<sup>52</sup> The administration apparently did not believe that women's teams would attract an audience. In addition, when Ms. Tibbet tried to receive whirlpool treatment, she was only allowed to go during mid-day because the afternoons were reserved for the men's teams only.<sup>53</sup> What is most troublesome about this encounter is that the trainer had told Tibbett that she "should not be there [the whirlpool] without a friend because [she] might run screaming out of the whirlpool clad only in a one piece bathing suit yelling 'rape, rape!,' and initiate a lawsuit just for the fun of it."<sup>54</sup> Not only are the comments that Tibbetts received extremely disrespectful, but they trivialize rape, a very serious topic. Wesleyan women did not sit in silence over this type of treatment, for that same year, 1974, the *Argus* reported in "Ms. Jocks Rap Athletic Program" that Wes women had established a Women Athletes Associations.<sup>55</sup> The first meeting addressed "the distribution of varsity letters, the

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<sup>51</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>52</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>53</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>54</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>55</sup> Eisner, Jane, "Ms. Jocks Rap Athletic Programs," *Wesleyan Argus*, March 1, 1974. Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.

acquisition of better equipment, and the general status of women's sports at Wesleyan."<sup>56</sup>

Wesleyan women asserted that they had not been getting what they deserve, and that they were not just "female tokens," for the athletic program.<sup>57</sup> In addition, Wes women felt that they needed more than one athletic director/coach in Barbara Bascom.<sup>iii</sup> Ms. Bascom was in charge of basketball, field hockey, tennis and squash, as well as being head female athletic director. In comparison, Wes men had ten different coaches for their sports teams.<sup>58</sup> As Mary W. Tibbetts noted in her letter, "the comparison is almost ludicrous."<sup>59</sup> Did these women know that the treatment they were receiving was illegal according to Title IX? By not receiving the same amount of basketball jerseys or gym time, Wesleyan was favoring men's teams over women. It may be easy to put blame on Wesleyan administration, but it is not accurate to blame Wesleyan for their treatment of women's athletics. These types of gender discriminations do not exist in a vacuum. The cultural values and hegemonic order of the 1970s did not respect or appreciate female athletics, and Wesleyan was just caught in this mindset. In addition, Title IX had only been passed two years prior, so Wesleyan was not technically in violation because of the three year grace period, but the new women's association's complaints did not fall on deaf ears. The *Argus* reported in May 1974, just two months after the Association was formed, that the SAC (Student Activities Committee) sent a request to President Campbell and the Athletic Department to hire another woman coach.<sup>60</sup> In addition, the *Argus* reported that Russell, the athletic director, was trying to "change the equipment room so that [women] will have better access to

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<sup>56</sup> Eisner, "Ms. Jocks Rap Athletic Programs."

<sup>57</sup> Eisner, "Ms. Jocks Rap Athletic Programs."

<sup>58</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>59</sup> Tibbetts, "Letters to the Editor: Why so Long?," 3

<sup>60</sup> Chris Mahoney, "New Coach for Ms. Jocks; Russell Affirms Need," *Argus*, March 5, 1974. . Special Collections & Archives, Olin Library, Wesleyan University, Middletown, CT.



equipment.”<sup>61</sup> The new locker rooms for women would take until 1980, when a \$1.2 million addition to Fayerweather Gym was completed.<sup>62</sup>

### Title IX Comes to Wesleyan:

The first official mention of Title IX in a Wesleyan student newspaper came in 1978 in the *Hermes*. The article was entitled “New Direction for Women’s Athletics” by Paul Roland and was on the front page.<sup>63</sup> The *Hermes* functions as an alternative to the *Argus* and has always acted as an outlet for more diverse campus opinions. The article takes on a more theoretical approach to Title IX, while also speaking about the minor role that sports play at Wesleyan. The author refers to Title IX as “that sports rule” and writes that “it would seem unfair for a founding women’s program to immediately demand complete equality with a men’s program that has been developing for over 100 years. Whether eight years is enough time is something of an open ended question.”<sup>64</sup> The author goes on to say that there are two opposing approaches being taken towards Title IX. One approach is that women’s sports should immediately receive “comparable funding etc with men, partly to reverse past discrimination and partly to help to raise the general standard of women’s athletics’. The second opposing approach is that “women’s athletics should achieve equality with men only when they have reached a comparable skill level and interest throughout society.”<sup>65</sup> Is the *Hermes* trying to say that women should not have equal resources just because men have had official sport programs longer? Equality is often in the eye of the beholder, and I can predict that most women at Wesleyan woman would disagree with the *Hermes*. Needless to say, even the liberal *Hermes*, it seemed, had a hard time accepting/

<sup>61</sup> Mahoney, “New Coach for Ms. Jocks; Russell Affirms Need.”

<sup>62</sup> Alphonsus, “Running out of Space,” 4.

<sup>63</sup> Paul Ronald, “New Direction for Women Athletics,” *Hermes*, October 1978. Special Collections & Archives, Olin Library, Wesleyan University, Middletown CT.

<sup>64</sup> Ronald, “New Direction for Women Athletics,” 7.

<sup>65</sup> Ronald, “New Direction for Women Athletics,” 7.

understanding Title IX. Many athletic directors also had a difficult time understanding Title IX as John Biddlescombe articulated<sup>66</sup>. Even though Title IX had been passed six years ago, Mr. Biddlescombe and other administrators did not fully comprehend Title IX.<sup>iv</sup> As the *Hermes* article helps to demonstrate, there was a wide misconception about Title IX and how to make sense of it.

An additional mention of Title IX came from Gale Lackey in 1987. She told the “Wesleyan University Alumnus” why she believed Wesleyan women in the late 70s were coming to campus expecting to continue their training from high school. Lackey wrote that “I think it was probably the impact of Title IX midway in the 70s. Now there are many more dedicated women’s athletics coming into colleges, and the stereotypes don’t work against them. We have role models.”<sup>67</sup> Female athletics had come to Wesleyan and they were here to stay. On a national level, women’s athletics grew in the late 1970s and early 1980s. For example, in 1972, the first year of Title IX, there were only 2.5 women’s teams per school. In 1977/1978, the academic years preceding the mandatory compliance date for Title IX, the number of varsity sports for women had reached 5.61 per school.<sup>68</sup> Despite the small gym space and locker rooms, the often disrespectful practices, and the lack of female coaches and equipment during the late 1970s, women’s sports at Wesleyan continued to grow. In a four year period from 1975- 1979, Wesleyan added eight more female varsity sports.<sup>69</sup> By adding more female sports teams, the athletic department was accommodating the rising number of female students who were entering Wesleyan. As noted by

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<sup>66</sup> Biddlescombe, John. Interview by author. Tape Recording. Middletown, CT. April 11, 2012.

<sup>67</sup> Alphonsus, “Running out of Space,” 14.

<sup>68</sup> Vivian Acosta and Linda Carpenter, “Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update. 1977-2012.” Unpublished Manuscript. [www.acostacarpenter.org](http://www.acostacarpenter.org).

<sup>69</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 3

the Longitudinal. National Study conducted by Carpenter and Acosta, the four years after Title IX was when most colleges and universities added more female sport teams.<sup>70</sup>

### Title IX and Intercollegiate Athletics Today

With respect to intercollegiate Athletics, Title IX applies to three areas: financial assistance to athletes; “other program areas” such as “treatment, benefits, and opportunity,” and “equal opportunity (equally effective accommodation of the interests and abilities of male and female athletes).”<sup>71</sup> To determine if a school is complying with Title IX, three areas are examined; this is called the “three part test.” A school only has to comply with one of these recommendations for a school to be considered in-compliance.

- i. Athletic participation opportunities must be substantially proportionate to the male and female undergraduate enrollment. If the athletic program does not pass the test of proportionality, then one of the two criteria must be met.
- ii. A history and continuing practice of program expansion that is responsive to the developing interests and abilities of the underrepresented sex is required;
- iii. The interest and abilities of the underrepresented sex must be fully and effectively accommodated by the existing programs

To comply with part one, a school must provide women with sport opportunities roughly proportionate to their enrollment. If a school’s enrollment is 50% female, women theoretically should make up half of the varsity athletes at school.<sup>72</sup> However, most colleges and universities cannot comply with this prong. Wesleyan, for example, has never successfully met this criteria.<sup>73</sup>

Most academic institutions fall into compliance under the second prong, “A history and

<sup>70</sup> Acosta and Carpenter, “Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update,” 23

<sup>71</sup> Suggs, 145

<sup>72</sup> Brake, *Getting in The Game: Title IX and the Women’s Sport Revolution*, 69.

<sup>73</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*,

continued practice of program expansion.”<sup>74</sup> A school must have a strong record of adding sports for women over the years. Wesleyan, by giving out surveys believes that it has proven compliance by accommodating student interests. Most recently, they sent out a survey asking if women at Wesleyan wanted a golf team. However, if a school has cut women’s teams in the past or has gone a long period without adding a women’s sport (the last sport added at Wesleyan was women’s volleyball in 1987), it becomes more likely they are not in compliance.<sup>75</sup> The last part of the test requires schools to make sure that the athletic program meets the needs and abilities of women. If a school is not in compliance, theoretically the federal government can terminate or reduce federal funding if a school fails to comply with these laws, it has never been done before.<sup>76</sup>

#### Wesleyan and Title IX Today

Since 1995, Wesleyan has been in compliance with title IX under the second prong of the three part test. Specifically, that Wesleyan has a history of athletic opportunities for women that match interests and abilities.<sup>77</sup> In 1995, Wesleyan conducted a gender equity assessment to review its athletic program. In this report, entitled “Report on Gender Equity For Athletics,” the committee found that in comparing rates of enrollment for males and females, Wesleyan failed to comply with prong one. The report found that when compared with the general enrollment, 58% of Wesleyan athletes were male and 42% were women.<sup>78</sup> The report went on to state that “although these percentages suggest that the Wesleyan athletic program is not in compliance

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<sup>74</sup> Brake, *Getting in The Game: Title IX and the Women’s Sport Revolution*, 70.

<sup>75</sup> Brake, *Getting in The Game: Title IX and the Women’s Sport Revolution*, 70.

<sup>76</sup> Brake, *Getting in The Game: Title IX and the Women’s Sport Revolution*, 70.

<sup>77</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 8

<sup>78</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 11

with Title IX, the committee, after studying the overall data, believes that the program has a history and continuing practice of program expansion and is meeting the needs and interests of the underrepresented sex.”<sup>79</sup> There are many reasons why Wesleyan chose to conduct this survey during the 1990s. Since the *Grove City College v. Bell* case of 1985, which became the first successful challenge to Title IX, the courts had become more active in ordering colleges to reinstate women’s sports teams and complying with Title IX. For example, just two years earlier, in 1993, there had been three separate court cases where courts had ordered higher education institutions to reinstate women’s sports that had been dropped. Arguably, one of the most important and significant Title IX cases occurred at our “big rival,” Brown University. In this case, the U.S. court of appeals stated that Brown could not downgrade two women’s teams from varsity status because it went against the interests and abilities of its women’s athletes.<sup>80</sup> These cases not only showed Wesleyan that a national debate was going on surrounding Title IX, but also demonstrated the seriousness of gender equality. Secondly, Wesleyan was facing budgetary cuts. The University Plan had called for a decrease in spending for the entire university.<sup>81</sup> Economic influences always affect how schools budget for athletics and this can have a great impact on gender equity. Wesleyan is trying but is just another example of how Title IX is failing because it is unclear and not realistic.

#### Enforcement of Title IX:

There are three avenues of enforcement of Title IX: in house complaints, office for civil rights complaints and lawsuits. In house complaints are filed with each school’s Title IX designated employee. Although most students are unaware, each school has a Title IX officer

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<sup>79</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 11

<sup>80</sup> Sugg, 101

<sup>81</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 12.

who is responsible to the student's needs. At Wesleyan, we currently have one officer. However, when I contacted this individual who also works as a professor, three weeks later, I had still received no response. The second avenue of compliance is through the office of civil rights.<sup>82</sup> Both of these forms of enforcement only carry the potential of a school promising to try and fix the issue, and can be made by anyone. For example, if an athlete's father feels that his daughter's school was going against Title IX, he could either file an in-house complaint to the school or the office for civil rights. The last avenue is a lawsuit and can only be filed by a plaintiff who has legal standing, meaning a coach or an athlete. A lawsuit carries the potential for media spotlight, publicity and the potential for money damages.<sup>83</sup>

#### Leadership Position in Wesleyan's Athletic program

Leadership positions within athletic department shine light on how unbalanced power is. Wesleyan has had a male athletic director since we opened our door in. This is not unique to Wesleyan, the lack of female leadership in athletic programs across the country is common. Title IX has had a negative effect on women's opportunities in athletics administration.<sup>84</sup> Before Title IX, women held nearly all of the women's coaching positions in a colleges athletic programs.<sup>85</sup> Over 90% of women intercollegiate athletics programs were headed by a woman.<sup>86</sup> Even at Wesleyan, during the 1970s we had a female head athletic director Ms. B. In the latter part of the 1970s and early 1980s, leadership opportunities for women had diminished and women's participation in intercollegiate athletics had come to a standstill. This is because, after Title IX,

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<sup>82</sup> *Wesleyan University 1995 Report on Gender Equity for Athletics*, 6.

<sup>83</sup> Acosta and Carpenter, "Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update," IX.

<sup>84</sup> Brake, "Revisiting Title IX's Feminist Legacy: Moving Beyond the Three-Part Test," *University of Pittsburg School of Law* 256.

<sup>85</sup> Suggs, 101

<sup>86</sup> Acosta and Carpenter, "Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update," 32.

many departments merged into a combined athletic department where men took over the head top position.<sup>87</sup> According to the longitudinal study of almost forty years of women in intercollegiate athletics; the number of programs in 2012 without a female voice has dropped to an all time low of 9.2% (32). This has decreased since 2008 when the percentage was at 11.6%.<sup>88</sup>

One overlooked and undocumented aspect involving Title IX and athletics is women of color in coaching positions.<sup>89</sup> According to the National Collegiate Athletic Association's race report, the latest report suggests that, although the proportion of Black senior women administrators has gone up, from 2.3 % to 4.5 % percent in Division III that number is very low compared with the number of black athletics in schools.<sup>90</sup> In addition, there exists almost no data on Asian American women, Latinas and other women of color in sport leadership and coaching positions. At Wesleyan, it was hard to find if we had ever had a head woman of color coach, let alone an Asian American or Latin American head coach.

The lack of female leadership and role models influences a program's direction. The absence of women in sport leadership positions reinforces gender stereotypes and can keep women's athletics at a standstill. As sociologist Ellen Staurowsky explains, "The underrepresentation of women in coaching and leadership positions speaks to the strength of the connection between sport and gender. There is an underlying assumption that links sport expertise with masculinity and leadership with male superiority. . . . For those participants who are gendered female, there

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<sup>87</sup> Acosta and Carpenter, "Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update," 32.

<sup>88</sup> Acosta and Carpenter, "Women In Intercollegiate Sport. A Longitudinal. National Study, Thirty Five Year Update," 32.

<sup>89</sup> Brake, "Revisiting Title IX's Feminist Legacy: Moving Beyond the Three-Part Test," *University of Pittsburg School of Law* 251

<sup>90</sup> Green Craig, "NCAA Report Finds Little Diversity in Sports Administration" *Black Issues in Higher Education*, June 22, 2000. Accessed May 1, 2012 [http://findarticles.com/p/articles/mi\\_m0DXK/is\\_9\\_17/ai\\_63500223/](http://findarticles.com/p/articles/mi_m0DXK/is_9_17/ai_63500223/)

is an automatic devaluation of experience, of achievement, and of self.”<sup>91</sup> Does this affect Wesleyan women and the direction of female sports at Wesleyan? Although I do not want to chasten Wesleyan, many of our peer institutions have had a female athletic director and fare better in sports. Interestingly, out of the Little Three’s, Wesleyan is the only school that has not had a women athletic director. Today, Amherst College head of athletic is Suzanne Coffey since 2006, and most recently in 2011 Williams College named Lisa Melendy as their head athletic director. In addition to William and Amherst, Marcella Zalot, Colby female athletic director has been on the staff since 2002.

### History of Club Sports at Wesleyan

One of the most tangible and unexamined patterns at Wesleyan today, is the absence of club and intermural sports for women. Title IX mandates that athletic departments recognize the interests of both women and men athletes. If more woman are participating in sports in the high school level, then why do they stop when they arrive at Wesleyan? Currently, Wesleyan women rarely if ever participate in club or intramural teams. There are only two women club team sports, soccer and ultimate Frisbee, and no female intramural teams. This was not always the case, however; during the 1970s, clubs and intramurals sports made up a large part of athletics’ at Wesleyan. The intermural program attracted more students than the varsity teams during the 1970s.<sup>92</sup> In the *Alumnus Magazine* article, “The Sound of Sweat, The Smell of Complaint” coach Don Long reported that “the number of students intramurals has increased three-fold.” This trend was reflected nationally. During this same period, the number of women participating

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<sup>91</sup> . Staurowsky, “Title IX and College Sports: The Long Painful Path To Compliance and Reform,” *Marquette Sports Law Review* 354.

<sup>92</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 6



in intramural sports increased 108 percent from 276,167 to 576,167. In club sports, the number of women participants increased from 16,386 to 25,541 or 55 percent.<sup>93</sup>

Nationally and here at Wesleyan, club and intermural sports offer students the chance to be a part of a competitive team without the time commitment and intense atmosphere of varsity sports. One intermural hockey player is quoted as saying “ I just don’t like tightly organized sports teams. Practice every day, bus rides, away games--- that all becomes too much. With intramurals you can skip most of that, yet still compete against other teams.”<sup>94</sup> In addition to offering students a relaxed but competitive atmosphere, club and intermural sports can also reflect national trends about physical fitness and health. For example, in 1973, Barbara Bascom, Wesleyan’s sole woman coach, told the *Alumnus* magazine, that “the pendulum is beginning to swing back. At one point it seemed that students were shying away from sports, but now people are growing much more concerned about their physical fitness.”<sup>95</sup>

Could the decline in women’s club and intermural sports at Wesleyan just be a trend? Or is it possible that women at Wesleyan do not feel encouraged and supported in asking for club and intramurals sports? The men at Wesleyan have soccer and basketball intermural teams. Why is there a lack of women’s presence on these teams (side note: My best friend and I play on a male intermural team and we have been told we are the only two girls in the league...)

#### What is A Coaches Fund? The Impact of Alumni on Wesleyan Women Sports

*The GEAC noted an inequality in the use of “Miscellaneous Funds” for scouting, recruiting mailing, and video tapes. Although funding for these items is equally available to both men’s and women’s teams, the Committee concluded that women, in some instances, were unaware that the*

<sup>93</sup> U.S. Department of Education, Office of Civil Rights, *A Policy Interpretation: Title IX and Intercollegiate Athletics*.

<sup>94</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 12

<sup>95</sup> Kruzan, “The Sound of Sweat, The Smell of Complaint,” 11

*funding was available for such things. Since the department is in the process of developing a comprehensive policies and procedures manual, the committee proposed that the Miscellaneous portion of the budget be clearly defined and instructions provided for requesting funding in this category.* Report on Gender Equality Wesleyan University 1995

In their expansive study on the impact of athletic performance on alumni giving, John Meer from the Department of Economics at Stanford University, and Harvey S. Rosen, from Princeton University, found that the impact of athletic success on donations differs for men and women. This difference can be attributed to a variety of reasons that I will discuss in detail. The current trend that the authors found was that male athletic alumni donate a larger amount back to their colleges and universities than their non-athletic peers.<sup>96</sup> In addition, the study found that male and female alumni seem to donate evenly when it comes to giving for general purposes. The study found that on average 54.9% of donations given by male alumni went toward the general university fund, and for women the figure is 57.9%.<sup>97</sup> However, when it comes to donating back to a school's athletic program, men give back more than females. Meer and Rosen pointed out that for female alumni "Neither the contemporaneous performance of their former team nor its performance when they were undergraduates affects giving for either general purposes or for the athletic program."<sup>98</sup> Although this is a new field of research, John Biddlescomb, the current athletic director, felt that these differences between male and female athletic giving results from the intense bond that male teams share.<sup>99</sup> Male athletes, it seems, develop more community and more attachment than women college athletes. Why is it that women do not feel as strong a bond with their teammates? Is this due to gender differences? On most campuses, the primary problem confronting women athletes is the absence of a fair and

<sup>96</sup> Meer, Jonathan and Rosen, Harvey "The Impact of Athletic Performance on Alumni Giving An Analysis of Mico Data" *National Bureau of Economic Research*, Working Paper Series 2008 accessed April 20, 2012. <http://www.nber.org/papers/w13937.pdf>

<sup>97</sup> Meer and Rosen, "The Impact of Athletic Performance on Alumni Giving An Analysis of Mico Data" 4.

<sup>98</sup> Meer and Harvey S. Rosen, "The Impact of Athletic Performance on Alumni Giving An Analysis of Mico Data"

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<sup>99</sup> John Biddlescombe Interview.

adequate level of resources, services, and benefits. For example, disproportionately more financial aid has been made available for male athletes than for female athletes. How can we fix this problem? Mr. Joe Giaimo<sup>100</sup> who works in the university relations office and who was also an athlete at Wesleyan University thought men were “groomed” to give back to their sports programs. As a football player, he was aware that Wesleyan alumni gave back to his team.<sup>100</sup> In addition, the football team had annual alumni events for foot players during homecoming and Little Three’s. Recently, female coaches at Wesleyan have been asked to tap into their alumni networks to try and raise money for their teams. However, if female athletes do not donate to their alma mater as frequently as men, how can Wesleyan ask female coaches to try and raise money from their alumni network. Because Wesleyan has a “coaches fund,” a male alumnus can directly give to the team of his choosing. As the study concludes, if a male alumnus teams wins a conference championship his giving will go up 7%.<sup>101</sup> This means that when the men’s soccer team made the NCAA’s tournament, according to this study, these men are more likely to give back to Wesleyan. Although Wesleyan could not provide any data on male and female alumni giving, it seems only natural that a male soccer player would want to donate to his soccer team’s “coaches fund.” Where does this leave Wesleyan women? As someone in the athletic department told me, these coaches’ funds are undocumented, and thus some teams are benefitting more than others. In terms of women’s athletics at Wesleyan, we are clearly at a disadvantage when it comes to alumni giving. Firstly, women have only been at Wesleyan for forty-four years. Therefore, female coaches have a smaller donation pool to pull from. Secondly, if athletic success merits more donations, Wesleyan women have not won an NESCAC

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<sup>100</sup>Joe Giaimo. Interview by author May 3, 2012. Middletown CT

<sup>101</sup> Meer and Harvey S. Rosen, “ The Impact of Athletic Performance on Alumni Giving An Analysis of Mico Data”

championship in almost twenty years. Lastly, if men do give back more than women, then men's team will receive more in their coach's funds.

After speaking with several different employees who are involved with athletics, I learned that Wesleyan is actively trying to work on its system of alumni donations. A suggestion that has been made is to have a general athletic fund that alumni can donate to instead of an individual team's coach's fund. This would ensure that all the donations are spread equally to each team. Our rival Little Three school, Williams College, has been successful in spreading out its funds to both men's and women's sports. They have won the Directors Cup for the last ten years and won in 2011.<sup>102</sup> The Directors Cup is the annual measuring stick of athletic achievement established by the National Association of Collegiate Directors of Athletics prior to the 1993-94 academic year and is awarded to Division I, II and III. It honors schools who spread their resources evenly to both male and females and demonstrate a commitment to "doing the right thing" while being successful in sports.<sup>103</sup> The Directors Cup is a large honor for any college to have and widely published. Williams retired athletic director, Harry Sheehy, (he has been replaced by female Lisa Melendy) wrote that ""The way our resources are set up here, we are a line item in the education of each and every student. We try to take the resources we have and allocate a fair amount to each program in order for that program to provide an opportunity for our student-athletes to achieve excellence."<sup>104</sup> It seems that Williams College differs from Wesleyan in that it does not allow for coaches funds, but instead tries to spread its resources evenly for all sports. This has clearly not affected the schools athletic performance. Williams

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<sup>102</sup> Steinback, Paul, "College-Directors' Cup Leaders Are Colleges that Commit Resources Broadly" *Athletic Business* July 1, 2006. accessed May 10, 2012.

<http://www.athleticbusiness.com/articles/article.aspx?articleid=1227&zoneid=8>

<sup>103</sup> Steinback, "College-Directors' Cup Leaders Are Colleges that Commit Resources Broadly"

<sup>104</sup> Steinback, "College-Directors' Cup Leaders Are Colleges that Commit Resources Broadly"

sports teams such as track and field, cross country, soccer, lacrosse and football all ranked in the top twenty nationally. "Great kids are attracted to this place [Williams}, as are very good coaches. "The chemistry of this place seems to work in conjunction with the resources we have to enable us to be successful,"<sup>105</sup> says Mr. Sheehy. Wesleyan attracts great kids as well, however we continually lose to Williams, Bowdoin, and Amherst. Sports build school spirit. Winning teams build school pride. Winning teams often encourage more alumni donations. Williams has clearly found a solution to remaining a highly selective school, having school spirit, having winning teams, and having a larger endowment than Wesleyan. It is fair to say that when a school such as Williams wins the Directors Cup or one of its teams wins a national championship, alumni and students are proud to an Ephs ( the mascot of Williams). This translates into more alumni giving, more applications and more revenue. As Joe said during his interview, "it is all connected. Athletics, alumni giving, financial aid, endowment...If you donate to one it can help increase the other."<sup>106</sup> Thus, for there to be equality within Wesleyan Sports alumni should not be able to give to one specific team, but rather to the athletic program.

Professor Linda Carpenter, who has been tracking Title IX progress for 35 years, said that "One of the signs [that gender equality has been achieved] would be people talking about support for athletic teams rather than for a particular team, so that the boosters' loyalty is program wide and they see the benefit of athletics in the lives of people — not just in the lives of boys and men, but in the lives of girls and women."<sup>107</sup> Wesleyan coaches, administrators, alumni, and employees need to start talking about "Wesleyan Athletics," not just specific teams, but as a whole group.

<sup>105</sup> Steinback, "College-Directors' Cup Leaders Are Colleges that Commit Resources Broadly" 3

<sup>106</sup> Joe Giaimo. Interview by author May 3, 2012. Middletown CT

<sup>107</sup> Paul Steinbach, "College Coaches Still Lack Title IX Knowledge," *Athletic Business*, July 2012, accessed May 5, 2012. <http://www.athleticbusiness.com/articles/article.aspx?articleid=3583&zoneid=8>

Many in both the alumni office and the athletic department feel that Wesleyan should hire someone who can overlook athletic fundraising. Many coaches acknowledge that they do not have the training or experience to successfully fundraise. Wesleyan needs to take athletic inequalities seriously. This will only ensure that both male and female athletes have the same experiences and enjoy being a Cardinal!

### How Can We Change Title IX?

No law has had a greater impact on sports than Title IX. Without Title IX, myself or my female peers may not have had the chance to participate in the sports we love. Without Title IX, would the Women's Soccer World Cup and WNBA exist? Would Danica Sue Patrick have been able to compete in the all-male NASCAR series?<sup>vi</sup> Today more than 9,274 women play in intercollegiate teams, which is the highest ever.<sup>108</sup> There are 8.73 women's teams per school, which is also the highest ever, and there are 3,974 female head coaches today.<sup>109</sup> No one can deny that women's sports have come a long way and achieved many milestones. In addition, academic equality is of minor concern on most college campuses, since more females are in college than males. However, almost forty years after its passage, Title IX remains a mystery to both the general non-athletic public and to the many people entrusted with its application at both the high school and college level. A study conducted by Professor Ellen Staurowsky, whose studies include athletes' rights, college sport reform and gender equity and Title IX, found that among nearly 1,100 male and female coaches surveyed in Divisions I and III, 82% indicated that they had never been expressly taught about Title IX, and more than 65 % said the mainstream

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<sup>108</sup> Acosta and Carpenter, 6

<sup>109</sup> Acosta and Carpenter, 6

media as their primary source of Title IX information.<sup>110</sup> If coaches do not understand Title IX, how can it be properly enforced? In addition, if female coaches are aware of their rights, how can they teach their players about Title IX? As Staurowsky notes, coaches need to be Title IX “literate” because they are advocates for their programs and for their athletes. She writes that if coaches “don’t have a strong understanding about Title IX, then they don’t have the traction to be able to effect change within their administration or to even call their administration out when it is lethargic on Title IX issues.”<sup>111</sup> If coaches across the board are unaware of Title IX, how can it be effective?

It is easy to point fingers and blame others for a situation. Wesleyan has done amazing things for women in sports and academics and continues to do so. The history of Title IX is a story of the conflict that can occur when America tries to commit itself to the ideals of equality, but comes against the all too human resistance of internalized prejudices and confusion. Equality is measured as broadly as it is defined. For some, such as myself, Wesleyan women and millions of other girls equality has been achieved in athletics. However, equality is an ambiguous term and is always viewed by the eye of the beholder. Although we may feel we have achieved equality at Wesleyan and in sports, have we?

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<sup>i</sup> A copy of the Bill is provided in the Appendix.

<sup>ii</sup> A copy of the article can be found in the appendix.

<sup>iii</sup> Having only one athletic director/ coach for female athletics was a common practice in the first years of Title IX. Many schools and universities did not hire additional female coaches until much later.

<sup>iv</sup> Mr. Biddlescombe informed the author that each year new cases, new documents and new compliances were added to Title IX. Most athletic directors in the NESCAC along with other universities could not keep up with the ever changing law.

<sup>v</sup> Please see Appendix for List of the dates each sports was added.

<sup>vi</sup> Danica Sue Patrick is the most successful women in the history of NASCAR. She is the only women to win the Indy Car Series. For more information on her remarkable career visit <http://bleacherreport.com/articles/642092-nascar-girl-power-female-drivers-on-the-rise-its-more-than-just-danica>

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<sup>110</sup> Steinbach, “College Coaches Still Lack Title IX Knowledge” 5

<sup>111</sup> Staurowsky quoted in “College Coaches Still Lack Title IX Knowledge,” 2

## Appendix

Part one: Title IX Section

**0. Athletics** (§ \_\_.450)

Title IX regulations provide that:

No person shall on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide such athletics separately on such basis.

65 Fed. Reg. 52872 at § \_\_.450(a).

The regulations also provide that:

a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of these Title IX regulations, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

65 Fed. Reg. 52872 at § \_\_.450(b)

The regulations go on to provide that a recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal opportunity for members of both sexes. A number of factors are set forth to determine equality of opportunity including but not limited to the provision of equipment, scheduling of games and practice time, travel and per diem allowances, assignment and compensation of coaches, provision of locker rooms, provision of medical and training facilities, provision of housing and dining facilities and publicity. See 65 Fed. Reg. 52873 - 52874 at § \_\_.450(c).



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The regulations give a recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the elementary, secondary, and postsecondary school levels an adjustment period to come into compliance with these requirements. No such adjustment period is set forth for other recipients. See 65 Fed. Reg. 52873 at § \_\_\_\_.450(d).

For additional guidance on how the Department of Education has interpreted these provisions as they apply to traditional educational institutions see *Policy Interpretation-Title IX and Intercollegiate Athletics*, 45 C.F.R. Part 26 (1979); OCR's *Title IX Athletics Investigators Manual* (1990); and *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (1996); *Guidance on the Awarding of Athletic Financial Assistance (OCR letter to Bowling Green, July 23, 1998)*.

### **11. Textbooks and Curricular Material (§ \_\_\_\_.455)**

The Title IX regulations provide that the content of textbooks or the use of other curricular materials in any education program or activity are not actionable under Title IX. 65 Fed. Reg. 52873.

#### Appendix Two: History of Wesleyan's Women's Intercollegiate Athletic Program

Field Hockey	1971
Basketball	1973
Tennis	1973
Squash	1974
Crew	1975
Cross Country	1975
Track and Field	1975
Ice Hockey	1976
Lacrosse	1976
Swimming	1976
Soccer	1978
Track-Indoor	1979
Volleyball	1984
Softball	1987

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