

Book Review: Sporting Equality: Title IX Thirty Years Later

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BOOK REVIEW

SPORTING EQUALITY: TITLE IX THIRTY YEARS LATER

Rita J. Simon, editor

[New Brunswick, New Jersey: Transaction Publishers, 2005]

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U.S. \$24.95

9.1 x 6.3 Paperback, 182 pages

Rita J. Simon, as the editor for this easy-to-read collection of reports and opinions on Title IX, presents both sides of the never ending debate involving gender-equity issues in intercollegiate athletics and provides an excellent product that students and academics should appreciate in *Sporting Equality (Title IX Thirty Years Later)*. Fair and balanced in its presentation, Simon offers 12 sections which include divergent views and perspectives on Title IX.

Simon (Professor of Public Affairs, American University) offers virtually no opinion on Title IX in her own *Introduction*, and she offers no opinion at all in the subsequent chapters found in this book. This collection, then, only amounts to an amalgamation of others writings. Still, Simon strategically alternates other authors' differing views among these chapters. This keeps her readers interested in the debate over the part of the Education Amendments of 1972 that has caused so much discourse in academe and intercollegiate athletics.

Simon's opening act begins with Chapter 1, *Executive Summary*, the June 27, 2002 findings of the Secretary of Education's Commission on Opportunities in Athletics ("Commission"), which leads right into Chapter 2, *Commission Findings*. Chapter 2 presents the findings and recommendations of the Commission to Dr. Rod Paige, the Secretary of Education. These findings are rebutted, of course, by Chapter 3's *Minority Views on the Report of the Commission on Opportunity in Athletics*, authored by Donna de Varona and Julie Foudy, two members of the Commission who refused to sign on to the original report and instead offered their own perspectives. These foundational first three chapters set the tone for the rest of the book.

Beginning in Chapter 4, Simon interweaves others opinions on the Title IX matter. Katherine Kersten (senior fellow for cultural studies at the Center of the American Experiment) offers her take in *Testimony at the Chicago Town Hall Meeting*. Kersten maintains that Title IX is a gender quota (the only

“safe harbor”) and that the proportionality test will remain the only fair way to carry out a rigorous statistical Title IX analysis. To her, this reveals, ultimately, the dark side of Title IX.

Andrew Zimbalist (Professor of Economics, Smith College), in Chapter 5's *What To Do About Title IX*, claims that anyone (such as the National Wrestling Coaches Association) who claims that Title IX is a quota system is misguided, and that compliance with Title IX can be met in one of three ways. More specifically, Zimbalist opines that Division I-A football does not need 85 scholarships and that 60 would do just fine instead. Further, Zimbalist claims that most of intercollegiate sport financial issues stem from waste.

Chapter 6, *Equal Opportunity in Education and Sport*, is authored by Lisa Keegan (CEO of the Education Leaders Council). Her approach moves from neutral to passionate as she compares Title IX to desegregation laws and ultimately claims that it is a “battle” to enforce Title IX. Kersten claims that the ones who have been truly compromised in this war are the women “who’ve worked hard to compete, both in the classroom and on the field.”

Kimberly A. Yuracko (Professor of Law, Northwestern University) authors Chapter 7, *Title IX and the Problem of Gender Equity in Athletics*. Her approach begins with an historical insight into where Title IX is today. She then notes that on July 11, 2003, the Department of Education issued a public letter that maintained support to Title IX’s three-prong test for compliance. The letter also emphasized that “proportionality” was not the only acceptable means of compliance. Yuracko then presents a thought-provoking discussion on sports generally. To her, the inherent and segregated nature of sports in society does not allow us to compare models of nondiscrimination in the Title IX context to others, including Title VII of the Civil Rights Act of 1964, for example. She believes strongly in proportionality, noting that it may encourage girls to think of themselves and their bodies differently by supplanting physical activity as exclusively male. Further, by starting female athlete role-modeling at an early age, the result would change the meaning of femaleness “from passive beauty or sex object to strong physical agent.” She cautions, however, that under the current scheme that there is no clear answer to avoid some discrimination on the basis of sex.

Earl C. Dudley, Jr. and George Rutherglen (both Professors of Law at the University of Virginia Law School) author Chapter 8, *A Comment on the Report of the Commission to Review Title IX Enforcement in Athletics*. They take a pessimistic approach to the emphasis on statistical measures used in Title IX analysis and profoundly note, “There are only so many dollars to go around.” Resource allocations to these authors are quite problematic in the “arms race” of today and in today’s “politicized and polarized environment,” which screams for compromise rather than rigid formulas.

Barbara Murray (Ed. D. University of Pennsylvania) in Chapter 9's *How to Evaluate the Implementation of Title IX at Colleges and Universities and Attitudes and Interest of Students Regarding Athletics*, provides a wonderful timeline of Title IX and an unbiased, scientific approach to explore the attitudes and interests of the student body, supporting Recommendation 18 of the Commission on Athletic Opportunity submitted to Dr. Paige: namely, that institutions should be allowed to conduct continuous interest surveys. Her pilot study displays keen foresight, ". . .the Commission may decide to use the information to recommend, or perhaps mandate, that other schools follow a similar plan of action, such as surveying the student body." [*To Title IX aficionados, that is precisely what happened in 2005 when the U.S. Department of Education's Office for Civil Rights offered an alternative to determine whether or not a school met the interest and abilities of their students: model e-mail surveys (The NCAA Executive Committee urged rescinding this policy in late April, 2005)*].

John J. Cheslock and Deborah J. Anderson (both Professors at the University of Arizona) collaborate on Chapter 10, *Lessons from Research on Title IX and Intercollegiate Athletics*. The authors demonstrate how misleading critical and statistical analysis can be in the Title IX arena. They do discuss the impact of the Equity in Athletics Disclosure Act (EADA), and its pluses and minuses.

Leo Kocher's, 1972: "*You Can't Play Because You're a Girl*"; 2004: "*You Can't Play Because You're a Boy*," offers that Title IX guarantees sex discrimination against males. Kocher (Head Wrestling Coach, University of Chicago), maintains that Title IX is nothing more than a quota in sports. He also queries why Title IX's quota is enforced only in sports since other areas of campus life dominated by women (music, dance, elementary school teaching, etc.) are not addressed the same. To Kocher, this is grossly imbalanced and supports his proposition that "quota advocates" are not interested in surveying at all or accepting that student interests and preferences might actually exist between male and female students. Finally, Kocher offers that one of the most pernicious examples of implanting the Title IX quota system is the recent trend to support "roster management" or "squad caps" which simply tell walk-on student-athletes (male) not to apply since their numbers will count against Title IX numbers. He affirms that such conduct is an injustice and "Alice in Wonderland logic," reflecting the approach to mandate equal outcomes at any cost.

Sport Management and Media Professor Ellen J. Staurowsky (Ithaca College) is given the final word in Simon's production. In *Title IX Manifesta: Reflections on the Commission on Opportunity in Athletics*, Staurowsky offers that even though the Commission collected information and analyzed

information to “improve the current Federal standards for measuring equal opportunity for men and women and boys and girls to participate under Title IX,” that such pursuit was only gender-neutral on its face. Staurowsky reminds us that the Commission’s “set agenda” was to invite observers to watch (but not participate in) hearings and working meetings in Atlanta, Chicago, Colorado Springs, San Diego, Philadelphia, and Washington, D.C. Staurowsky discusses her journey to Philadelphia’s public hearing and the uneasiness that eventually overtook her. To Staurowsky, the Commissioners were biased, lacked fundamental knowledge of Title IX, and served only a political agenda from, as she says, “a president who arrived in the White House without the support of the popular vote. . .” citing (Frum, 2003). She also attacks Kocher (the previous chapter’s author) and later asserts that the Commission’s 2003 report, “Open to All: Title IX at Thirty,” reflects a deeply flawed process.

Simon’s piece allows educated readers to think freely and for themselves as to who is “right,” what is really important and at issue in the context of Title IX. This book is highly recommended for any class that explores Title IX and gender issues in sport including, but not limited to, sport management, legal studies, women’s studies, and any other socio-political or law course that demonstrates, *per se*, how sad things become when a law developed with truly good intentions devolves legal opinions reflecting anger, hate, mistrust, name-calling and disharmony because administrators, courts, lobbyists, public interest groups and trial lawyers use Title IX for self-serving purposes.

In the end, Simon’s simple yet effective collection of other authors’ commentaries orchestrates rhythm in simplicity and in tempo. Simon’s careful editing is quite fair, and this book could be utilized in all levels of academia. For the price, this collection of opinions offers students and others one of the finest starting points to pursue further research and analysis of Title IX issues. It provides just enough historical perspective to give the Title IX novice an idea of how quickly things have changed in intercollegiate athletics since its inception in 1972. Short, concise and valuable, the book is efficient and a fine investment for this particular area of sports law.

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