

Sports Talk: How Gender Shapes Discursive Framing of Title IX

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Existing scholarship has shown that the media and interest groups play an important role in the shaping of the public's perception of reality and in establishing the quality of democratic discourse on public policy questions. In turn, interest group actors employ different media and grassroots strategies in hopes of exploiting discursive opportunities that advance their cause. This study explores recent public policy debates over Title IX to illustrate how gender undergirds the discursive framing choices made by interest groups and presented in the media coverage. I find that framing, especially in the media, reinforces enduring cultural aspects of masculinity in sports.

Analyzing deliberative discourse offers an opportunity for integrating gender into an understanding of how policy choices are shaped. Deliberative discourse provides insight into the political opportunity structure in which interest groups, policy recipients, public actors, and the media compete to facilitate or frustrate certain policy outcomes. According to Myra Marx Ferree and her colleagues, success in the discursive arena can be determined by whether participants achieve *standing* or voice in the media and *framing*, defined as the acceptance of preferred ways of organizing meaning (Ferree et al. 2002, 13–14). In this study, I assess who got standing and what frames dominated the gendered debate around Title IX in 2002 and 2003. Title IX of the Education Amendments of 1972 (Patsy T. Mink Equal Opportunity in Education Act) prohibits sex discrimination by recipients of federal funds in elementary, secondary, and postsecondary education.

Clear causal connections between interest group issue framing, media content, and policy decisions have been hard to establish (Terkildsen,

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Schnell, and Ling 1998) but in general, interest groups and advocates compete to frame public policy debates expansively or narrowly in order to affect media coverage, mobilize or contain public opinion, and ultimately influence decision makers (Arnold 1990; Baumgartner and Jones 1993; Schattschneider 1960). According to Ferree and her colleagues, the discursive arena is dynamic:

Unlike the flat, orderly, and well-marked field in a soccer stadium, the field in which framing contests occur is full of hills and valleys, barriers, traps, and impenetrable jungles. To make matters even more complicated, the contours of the playing field can change suddenly in the middle of the contest because of events that lie beyond the control of the players. (Ferree et al. 2002, 62)

The athletic metaphor is particularly apt in this article as I explore discursive frames by which the Department of Education Office for Civil Rights enforces Title IX.

In March 2005, the Department of Education Office for Civil Rights adopted the most significant shift in Title IX compliance policy in years. The “clarification” of its enforcement policy with respect to intercollegiate sports was perceived as a blow to gender equality by many women’s groups and a victory for conservative activists. Just two years earlier after an extended public input process and considerable debate, the interest group battle ended with a very different outcome. In 2002, then-U.S. Secretary of Education Rod Paige had appointed the Commission on Opportunity in Athletics, comprising sports professionals and educators. After four town hall hearings and sometimes contentious policy deliberations, the commission had recommended some policy changes, but Secretary Paige issued only minor rules clarifications in July 2003. The Save Title IX coalition of feminist groups and women’s organizations declared victory, and conservative critics of the law accused the Bush Administration of betrayal.

In this paper, I explore the discursive framing of the interest groups vying to control the debate before the secretary’s commission in 2002 and early 2003. Scholars have acknowledged the importance of symbols (Edelman 1964), the power of causal stories (Stone 1997), and the use of framing by both advocates and reporters (Norris 1997). Nancy Naples argues that “discursive frames” limit what can be discussed or heard in a political context (1997, 908). The process can be generally understood in two steps: Interest groups compete to advance frames that represent “alternative realities,” and then the media communicates one or more

alternatives to mold the public's perception of reality (Gamson et al. 1992; Terkildsen, Schnell, and Ling 1998). In this case, I examine both steps and their gendered content. In part, my goal is to understand the context in which the reversal of fortunes between 2003 and 2005 took place.

First, I recount the milestones in the enforcement of Title IX in college sports. Second, I argue that sports must be examined through a gender lens. The gendered policy significance of Title IX may seem obvious, but the cultural importance of sports to masculinity bears reviewing. Third, I analyze the overall ebb and flow of deliberative discourse surrounding the secretary's commission and set the context for the most recent policy clarification. I focus on the testimony before the commission, media coverage of Title IX during the same period, the commission's own discussions and reports, positions of competing interest groups, and interviews with key commission members. Finally, I consider the implications of discursive strategies for gender and public policymaking.

THE COMMISSION: REFEREEING GENDER AND SPORTS

Since the law's beginning, college sports have engendered controversy. The Office for Civil Rights, originally in the Department of Health, Education, and Welfare (HEW) and now in the Department of Education, enforces Title IX. HEW adopted its first federal regulations in 1975 after various attempts by the male sports establishment and its defenders in Congress to exempt college sports from the purview of Title IX (Gelb and Palley 1987, 95).

Vigorous enforcement materialized slowly. Boosters of men's athletics mobilized and offered more than 9,000 public comments (compared to the usual handful) to HEW while it was in the process of developing regulations in 1979. According to Joyce Gelb and Marian Palley, HEW received 871 complaints about athletic opportunity in the first four years after enactment but resolved only 179 of them. In late 1979, HEW issued a final "policy interpretation," directing colleges and universities to provide "proportionately equal" scholarships and participation opportunities (1987, 111, 117). In 1982, Title IX enforcement was effectively halted with the 6-to-3 U.S. Supreme Court decision in *Grove City College v. Bell*, limiting the scope of Title IX's sanctions to programs directly receiving federal money. In 1988, Congress overrode

President Ronald Reagan's veto to pass the Civil Rights Restoration Act and overturn *Grove City*, and only then did vigorous enforcement of Title IX ensue (Boutillier and San Giovanni 1994, 102–3).

Enforcement of Title IX revolves around a three-part test formulated in the department's 1979 "policy interpretation." An institution can demonstrate compliance with Title IX if 1) the male/female ratio of athletes at an institution is "substantially proportionate" to the male/female ratio of undergraduate enrollment, 2) it has a "history of continuing practice of program expansion" for women, or 3) it is "fully and effectively" accommodating the interests and abilities of women (Department of Education 2003, 15).

In 1996, after a series of appellate court rulings, the Department of Education issued a "Dear Colleague" letter to collegiate athletic programs. The letter affirmed the three-part test but referred to the proportionality test (the first prong) as a "safe harbor" for Title IX compliance, in effect distinguishing proportionality from the other two prongs in terms of importance.

In 2002, Secretary Paige's Commission on Opportunity in Athletics, a blue-ribbon panel of sports professionals and educators, spent nine months examining ways to strengthen enforcement and expand opportunities for all college athletes under the antidiscrimination law, which transformed opportunities for women in higher education. Secretary Paige directed the panel to gather data aimed at "improving the application of current Federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX" (Department of Education 2003, 46). Adding impetus to the commission's work, the National Wrestling Coaches Association filed a lawsuit in January 2002 alleging that cuts in wrestling programs to comply with Title IX constituted reverse discrimination.

The commission clearly had partisan political origins. In 2000, the Republican National Committee's platform and candidate George W. Bush signaled their intention to weaken Title IX's enforcement. Secretary Paige, a former college football coach, and Assistant Secretary of Education for Civil Rights Gerald A. Reynolds publicly advocated for changes in the law. With Dennis Hastert, a former high school wrestling coach, as Speaker of the House, the party actors were poised to change the law if a policy window opened (Kingdon 1994).

While the commission's charge was extraordinarily broad, its membership was not. The commission was asked to study everything from junior and senior high school sports programs, Olympic sports

development programs, community recreation, and professional leagues to activities such as cheerleading and bowling (Department of Education 2003, 48). The 15 members of the commission, however, comprised nine athletic directors, coaches, or administrators from Division I or I-A collegiate programs; three well-known female athletes; one former state superintendent of public schools; and two scholars. This commission makeup led some supporters of Title IX to suspect that the commission would provide political cover for the Department of Education to adopt policies favorable to big-time men's sports.

SPORTS AND GENDER

Why has the pursuit of gender equity in intercollegiate sports been so contested? This question sits at the heart of this research, and three reasons figure prominently in the explanation of the gendered meaning of sports.

First, sports invoke important cultural symbols. Sports heroes — historically all men — represent icons of American cultural individualism. In the midst of athletic team competition, individual athletes and their extraordinary achievements dominate the spotlight. The image of the thwarted heroic athlete represents a powerful cultural symbol that resonates with large numbers of people, and Roger Cobb and Mark Howard Ross (1997, 15) note that many citizens are uncomfortable with political and governmental intervention that challenges cultural symbols.

Second, Title IX's goals of equity in the sports arena are seen by some as fundamental challenges to traditional gender roles and thus fraught with greater controversy (Gelb and Palley 1987). Gelb and Palley note that women's public policy initiatives have been most successful when the policies involve narrow *role equity* issues (e.g., guaranteeing equal access to credit or pay enjoyed by others). Issues involving *role change* (e.g., transforming women's roles in the military) create controversy and conflict because they challenge traditional values and "hold . . . out the potential of greater sexual freedom and independence in a variety of contexts" (1987, 6). Title IX has elements of role equity, but female athletes also challenge traditional understandings of gender roles.

Third, sports play a fundamental role in defining masculinity (Kimmel 1996; Messner 1992; Sabo and Runfola 1980). Gender scholars argue that

men resist women's intrusion into sport for three reasons: 1) to protect sports as a socializing agency that prepares men for adult roles in the workplace and political life, 2) to maintain the hierarchical ranking of sex roles and the valuation of masculine over feminine roles, and 3) to preserve an exclusively male realm where expressiveness and intimacy can be viewed as appropriate for men (Boutilier and San Giovanni 1983, 100–101). According to Don Sabo and Ross Runfola, "Through sports, boys are trained to be men, to reflect all the societal expectations and attitudes surrounding such a rigid [male sex] role definition" (1980, xi).

Given that masculinity is defined principally through "homosocial activities" and often depends on repudiating femininity (Kimmel 1996, 7–8), then sports play a critically important role for masculine identity in boys and men. Advocates for gender equity in sports, thus, must navigate difficult terrain to frame sports opportunities in ways that may be both salient for young women but also not threatening to young men.

For these reasons, the choice of discursive frames is very relevant to the Title IX debates analyzed in this article. In part, I argue, women's sports advocates adopted explicitly liberal feminist arguments in the 2002 commission deliberations, while the opponents articulated personal stories that tapped the broader cultural significance of masculinity and sports. The choice of discursive frames also revisited the policy dynamics of *role equity* versus *role change*.

THEORETICAL FRAMEWORK, METHODOLOGY, AND DATA

Public debate takes place in a variety of forums, including public events, governmental settings, and, most significantly the mass media. Actors can and do influence the more volatile aspects of the political opportunity structure through their attempts to shape and control the discourse. My purpose is to identify the actors and their discursive frames and to explore how gender may have been a factor in the achievement of standing and the choice of frames the media presented to the public. The 2002 commission provides an opportunity to analyze the most sustained and robust public debate of Title IX since its adoption.¹

1. Certainly, the 2002 commission deliberations stand in stark contrast with the 2005 "policy clarification," authorizing Internet-based interest surveys, which was adopted with no expert input or public comment. Just two years earlier, the secretary's commission had declined to endorse such surveys. Ted Leland, Stanford University's athletic director and commission cochair, called the 2005

DISCOURSE DATA AND ANALYSIS

I examined multiple sources of discourse surrounding the Secretary's commission and Title IX. In the interest group arena, the Save Title IX Coalition and the College Sports Council with its allies constituted the main actors. I analyzed the websites of all coalition partners linked directly to either of the two umbrella organizations. In all, 81 groups, 67 aligned with the "Save Title IX" position and 14 with positions supportive of the College Sports Council were studied. Each coalition included both active and name-only allies. "Active" organizations present some kind of Title IX information on their own websites, while "name only" allies are listed by or linked to the coalitions but present no independent information on their websites. The College Sports Council has a higher percentage of active allies compared to name-only allies (8 of 14 member groups), but the Save Title IX coalition contained many more groups, with 28 of 67 defined as active. Finally, 17 in-depth interviews with activists and commission members provided further insight.²

To understand discourse in public forums and in media coverage, I analyzed the framing in both major newspaper stories and the testimony presented to the commission. In total, 296 stories about Title IX were selected from the Associated Press and 12 major newspapers chosen because of their proximity to the commission's town hall meetings, their significant regional circulation, or national visibility and prestige across the country. I make no claim that each of these news outlets has equivalent discursive impact on federal decision making; however, the regional spread provides a picture of how gender and sports were being interpreted to the general public. One advantage of analyzing the larger circulation papers is the reduced likelihood of reproducing gender stereotypes (Kahn 1994). The distribution of stories included: Associated Press (81), *USA Today* (48), *Washington Post* (24), *Chicago Sun-Times* (21), *Los Angeles Times* (12), *Atlanta Journal Constitution* (19), *Houston Chronicle* (18), *Seattle Times* (16), *Denver*

policy on surveys a "huge mistake" and criticized the department's lack of public discussion. ("Too Lax on Title IX," *Washington Post*, 3 April 2005, B06.)

2. I appreciate the time and insights of commission members and activists on both sides of the issue, including Eric Pearson, Michael Moyer, Jim McCarthy, April Osajima, Athena Yiamouyiannis, Nancy Hogshead-Makar, Donna Lopiano, Joe Kelly, Leslie Annexstein, Jamie Pueschel Fasteau, Jocelyn Samuels, Danica Petroschius, Bethany Little, Denise Forte, Terri McCullough, Ted Leland, and Julie Foudy.

Post (12), *Boston Globe* (25), *St. Louis Post Dispatch* (14), *San Francisco Chronicle* (17), and *New York Times* (25). The articles were selected using the Lexis-Nexis major newspaper database for the period from June 1, 2002, until March 1, 2003, when the commission filed its final report. The search terms “Title IX” and “sports” identified a universe of articles, which was narrowed to news stories or editorials only, of which all 296 were analyzed.

Using grounded theory generating the theoretical concepts from careful reading of the transcripts and articles (Strauss and Corbin 1990), I developed six frames for the articles, which were read by multiple readers. I was guided in my identification of frames by Frank Fischer (1995) and Nayda Terkildsen, Frauke Schnell, and Cristina Ling (1998). Fischer posits that policy deliberation takes place on different levels, ranging from a technical-analytical level focused on empirical program or policy attributes to an ideological level. Alternatively, Terkildsen, Schnell, and Ling suggest that journalistic norms of perceived objectivity, human interest, and conflict may shape media coverage.

The coders made three key subjective judgments about each news article. First, they identified the overall slant of the achievements of Title IX using a five-point scale (1 “mostly negative” to 5 “mostly positive”).

Second, the coders identified a dominant and secondary frame with the option of coding no dominant frame. The frames included:

1. Personal opportunity frame, which focuses on the opportunities and rewards that Title IX affords individuals. The frame is characterized by references to lost chances, dashed dreams, opened doors, and personal successes of individual athletes or coaches;
2. Zero-sum frame, which focuses on the balance of good and bad achieved by the law. This frame suggests that the gains of some have come only at the expense of the lost opportunities for others;
3. Conservative right frame, which depicts Title IX as a quota law, fostering reverse discrimination and encouraging too much government interference in social life and roles. The frame is often recognized by its blame of out-of-control bureaucrats or “radical” feminist groups for distorting the law;
4. Feminist frame, which focuses on the continuing necessity to promote equality of rights, to overcome historic sex discrimination, and to eliminate societal inequality. This frame sometimes attacks “radical” conservative groups for undermining the law;
5. Impersonal policy frame, which focuses on policy details; discusses the consequences of regulations, rules, and court decisions in realizing the policy goals; and emphasizes statistical evidence; and

6. Debate frame, which focuses on points and counterpoints raised by the advocates, recounts pros and cons, and counters quotes as “he said” versus “she said.” This frame appears most often in articles about the commission’s discussion of policy alternatives.

These same frames were used to assess the content of testimony given to the commission. In four public hearings (Atlanta, Chicago, Colorado Springs, and San Diego), 52 invited expert witnesses gave testimony and another 173 individuals, many mobilized by interest groups, brought their unsolicited public comments to the 15-member commission. The testimony and commission discussion comprised 3,098 pages.

Third, in addition to the frames, coders identified symbolic language that 1) conveyed a status of “victimhood” (e.g., references to the pain or disappointment suffered by individual athletes, whether male or female), 2) invoked the language of “sex discrimination” against women or “reverse discrimination” and “quotas” against men, and 3) portrayed the opposing side as “radical feminist” or “radical right.” Terkildsen, Schnell, and Ling (1998) argue that interest groups create “metasymbols” to gain “long-ranging persuasive advantage” in an issue debate that “metasymbols can become powerful global metaphors that stand as surrogates for an interest group’s goals or ideology and become almost impossible to repudiate or modify. Group emblems . . . capture the media’s attention, empower supporters of a cause by evoking a broad set of values, and elevate the debate to a more emotive plane” (p. 48).

The coders were trained in the coding scheme to achieve as much consistency as possible. Intercoder reliability was calculated on a subset of articles coded independently by two coders; the reliability coefficients for the objective assessments (e.g., counts of quotes, words, key “hot button” phrases, and authorship) were very high (Alpha ranged from .771 to .999 on individual variables). On the more subjective variables (e.g., article slant and story frames), the reliability coefficients were also well within acceptable ranges (Alpha = .798 to .917) (Krippendorff 1980).

Testimony at the hearings included three categories of individuals: 1) those who were directly affected by Title IX (e.g., athletes, parents, and coaches), 2) advocates outside of governmental institutions (e.g., advocacy groups, professional associations, and celebrities), and 3) groups with official inside policy status (e.g., government officials, college administrators and sports governing bodies such as the National Collegiate Athletic Association [NCAA]). The slant was judged on a five-point scale assessing Title IX’s accomplishments as “very negative”

(1) to “very positive” (5). Table 1 summarizes the data on websites, commission witnesses, and media coverage.

Four general observations about the data are evident in Table 1. First, website content tended to be more polarized than either commission testimony or news coverage because the content was designed to mobilize advocates and members. Second, women in all discursive forums tended to view Title IX more positively than men. Third, the media coverage was more neutral than the commission testimony itself. Finally, the invited expert witnesses before the commission were considerably more negative in their assessments of Title IX than those who participated in the public comment, and direct beneficiaries (e.g., athletes, coaches, and parents) were more negative than advocates and policymakers. Other nuances in the discourse are discussed in the following sections.

Discursive Framing and the Commission

Save Title IX Coalition

More than 50 groups comprise the National Coalition for Women and Girls in Education (NCWGE), which was established more than 30 years ago to advocate for vigorous Title IX enforcement, serving as the umbrella group for the Save Title IX forces. NCWGE has long argued that sports remains an arena of gender inequality, as evidenced by rates of participation, male dominance in administration and control of financial resources, and continuing imbalance in the allocation of collegiate opportunities, scholarships, and operating budgets (National Coalition for Women and Girls in Education 2002.)

The coalition partners initially embraced a discursive frame of impersonal policy details and believed that their data would clearly demonstrate that Title IX does not impose a quota, does not harm men’s sports, and thus does not need to be changed. They emphasized statistics from the General Accounting Office (2000, 2001), the NCAA (2001), and academic studies to show persistent inequality. The coalition’s data found prominence in the commission’s minority report authored by Donna de Varona and Julie Foudy (2003). For example, at the high school level, girls have access to 1.1 million fewer opportunities to play competitive sports than do boys. They also indicate that NCAA gender equity data show women’s sports receiving only 43% of the athletic

Table 1. The slant and position of interest group coalition websites, testimony before the commission, and media coverage

	N (% Women)	Position on Title IX % of Each Category (% of Women within Category)			Position Slant (Scale: 1–5)	
		Negative	Neutral	Positive		
Active interest groups					Mostly male group	Mostly female group
Save Title IX	28	0	0	100.0	5.0	4.86
College Sports Council	8	87.5	12.5	0	1.40	1.00
Commission testimony					Male	Female
Invited experts	52 (40.4)*	51.9 (33.3)	15.4 (9.5)	32.7 (57.1)	2.29	3.50**
Public comment	173 (54.9)*	37.0 (8.4)	13.8 (16.0)	49.2 (74.7)	2.19	4.24***
All speakers	225 (51.6)	40.4 (12.9)	14.3 (15.5)	45.3 (71.6)	2.22	4.11***
Speaker role					Male	Female
Athletes, parents, coaches	94 (39.4)**	53.2 (13.5)	13.8 (16.2)	33.0 (70.3)	1.91	4.14***
Outside advocates	53 (66)**	26.4 (11.4)	9.4 (8.6)	64.2 (80.0)	2.72	4.37***
Inside policymakers	78 (56.4)**	34.6 (13.6)	17.9 (20.5)	47.5 (65.9)	2.47	3.88***
Media coverage					Male author	Female author
Sports	219	16.9	35.6	47.5	3.25	3.71**
News	37	16.2	45.9	37.8	3.44	2.88
Editorials	22	22.7	18.2	59.1	1.33	3.86**
Other	18	5.6	22.2	72.2	3.83	4.00

Note: “Active” refers to all groups that had independent Title IX information on their Website. “Outside advocates” includes celebrities, official representatives of advocacy organizations, or think tanks. “Inside policymakers” includes elected officeholders, nonelected public officials, and representatives of sports governing bodies.

*** $p < .001$, ** $p < .01$, * $p < .05$; calculation of statistical significance between men and women speakers using Pearson’s Chi-square or t-tests for independent samples.

scholarships and 32% of operating budgets, while spending on men's collegiate sports outstrips women's sports by more than \$133 million.

The Save Title IX coalition marshaled evidence on other issues (Save Title IX 2003.) It attempted to refute allegations that girls' sports drained funds from boys' sports and to direct attention to lavish spending on football and men's basketball. The coalition hosted a national media teleconference in December 2002 to detail how women's athletics and men's minor sports (e.g., wrestling and golf) both fell victim to the "bloated" budget excesses of football and men's basketball.

The data-driven impersonal policy frame — a classic liberal feminist argument for role equity — eventually ran headlong into the opponents' strategy that emphasized the personal opportunity frame and featured male athletes telling personal sagas of lost scholarships, cut teams, and dropping out of school. The emotional power of the men's narratives forced the coalition to rethink its strategy. "We [the coalition] felt handicapped in matching the raw emotional power about losing opportunity," one interviewee said, "that led us to organize the press conference in January [2002] at the [National] Press Club with four high school girls to talk about the discrimination they had endured."

The coalition also tried to shift its discursive strategy to characterize its opponents as a small, narrowly defined interest group in contrast to a broader-based coalition defending opportunity and equality. The Save Title IX coalition explicitly highlighted "little girls in soccer uniforms" to dramatize its broad base of support. Teams of young female athletes showed up in their uniforms at almost every commission meeting. Girls Incorporated sent about 10,000 postcards to Congress from little girls all over America. Joe Kelly, leader of Dads and Daughters, testified at the final town hall meeting in San Diego with an "Every Father" appeal:

The field of sports has long been fertile ground for strengthening fathers connected with sons ... and Title IX now welcomes daughters onto that field, helping father and child share the fun and physicality and the joy of watching scholastic and pro teams play. Don't let future fathers and daughters and sons lose this precious field of play. (Department of Education 2002, 236)

The Save Title IX coalition explicitly attempted to deemphasize feminist rhetoric in its appearances before the commission. Actress Geena Davis made light of the feminist themes in her starring role in the movie *Thelma and Louise* but emphasized her own personal growth through

the sport of archery. In moderate terms, she told the commission in San Diego:

We want our daughters to be treated with the same fairness, concern, respect and encouragement as our sons, whether it's in the classroom or on the playing field. The benefits to society of girls saying yes to sports are too great to take a step backwards now. (Department of Education 2002, 188)

Finally, the Save Title IX advocates had difficulty blunting the zero-sum frame of the opposition. Various polls showed strong support in principle for Title IX. However, when pollsters posed questions suggesting that Title IX might be a zero-sum antidiscrimination law that sometimes "hurts" other groups, then public support softened (Greenberg 2003). Thus, claims like those of Tom Dodd, high school wrestling coach, were hard to neutralize and deftly circumvented the efforts to implicate big-roster football's impact:

I'm for Title IX. . . . The reality is, for lack of a better way in saying it, you're robbing Peter to pay Paul, or maybe I should say you're robbing from Peter to pay Paula. (Department of Education, Colorado Springs Testimony, 2002, 310)

College Sports Council and Its Allies

Two distinct types of organizations advocated for changes in Title IX: sports associations and conservative political groups. The College Sports Council started in 2000 as an informal working group to coordinate the Olympic sports associations; it officially incorporated in 2002, adopting for its Website the name "www.savingsports.org." In addition to representing the Olympic sports (e.g., gymnastics, swimming, wrestling, and track), the council comprised minor men's sports (e.g., golf or tennis). A few women's sports groups are associated in "name only" with the council. The College Sports Council's strategy tried to frame the debate in terms of cuts in men's teams and player opportunities by colleges and institutions trying to comply with Title IX's proportionality test. Testimony from the sports council typically acknowledged the value of sports opportunities for women but argued that Title IX had the unintended consequences of inviting discrimination against men.

Conservative advocacy groups make up one-third of the sport council's network. Analysis of the websites suggests the dominance of the conservative ideological frame. The Independent Women's Forum (IWF) portrayed male athletes as hapless victims of "radical feminists" and federal bureaucrats who imposed gender quotas to replace "one

form of discrimination (against women) for another (against men)” (IWF 2003, 21). IWF characterized commissioners Julie Foudy and Donna de Varona as “radical feminists” and described its own members as “women who support fairness and reform. We appreciate the athletic achievements of women. Radical feminists have been unwilling to consider compromise, using incendiary tactics to distort the issue of equality” (2003, 4).

For the most part, the men’s sports advocates adopted one frame speaking to the commission (personal opportunity) and a different frame (conservative) for their websites, but at times, the ideological tone infused the testimony. For example, Pat Zilverberg, of Minnesota USA Wrestling, stated in the Chicago hearings that “on one side, mothers, fathers, coaches, educators and others believe that both women and men deserve athletic opportunities versus intransigent quota advocates who, regardless of the human cost, use proportionality to further their cause” (Department of Education 2002, 194).

The College Sports Council’s media strategy was led by a professional Washington, DC, public relations agency, McCarthy Communications. The council’s media consultant assumed that the media would be predisposed to support Title IX and crafted a media strategy to counteract this bias and to shape the deliberative discourse. The strategy was tactically designed to erode the claims of the Save Title IX coalition. First, the consultant pursued an aggressive public relations campaign to challenge stories, alleging a violation of journalistic norms of balance and fairness. When objectionable stories appeared in print, the consultant confronted reporters to get quotes from sports council supporters, complained to editors about unfair treatment, and lodged formal challenges of violations of professional norms. Second, the men’s sports advocates demurred on criticizing college football, because of its popularity, and instead embraced the zero-sum argument that when men’s sports lose, women’s sports are the culprit. This strategy thwarted the Save Title IX efforts to strike an alliance between women’s and men’s sports. Third, the consultant worked to obtain favorable news stories on technical issues, such as roster management and the impact of Title IX on minority male athletes. The consultant provided journalists with the names of potential news sources from every perspective — male and female coaches, parents and athletes — to demonstrate broad-based support.

Finally, to neutralize the data on persistent inequalities bolstering the Save Title IX side, the sports council mobilized male athletes to appear

before the commission and tell their stories. The National Wrestling Coaches Association (NWCA), for example, called upon its supporters to “pack the house” at the town hall meetings, tell the story of lost men’s sports opportunities, and send the message that “young wrestlers . . . are forced to leave their states to compete in college, or, if they stay near home, must go to college without the chance to wrestle on the varsity level.”³ Such claims confused public perceptions about victims and beneficiaries of the law and paradoxically cast the male sports establishment as reformers and women’s groups as defenders of a status quo, which had failed to fully achieve its goals of gender equality.

Framing Testimony before the Commission

The commission heard from 52 invited experts organized into different panels addressing specific questions, such as the impact of Title IX on high school and Olympic sports, implementation from the perspective of athletic directors, legal analysis of litigation, and college sports budgets. In addition, the commission reserved a portion of each town hall meeting to hear from athletes, coaches, parents, experts, administrators, and advocates who wanted to testify.

Commission deliberations took place in a gendered context (Kenney 2003). The commission included eight men and seven women, was chaired by male and female cochairs, and heard from nearly equal numbers of men and women. Men’s voices were privileged, in the sense that men comprised 59.6% of the invited expert panelists while women comprised 54.9% of the speakers who offered unsolicited public comments. The difference in “expert” status of male and female voices who testified is statistically significant ($\chi^2 = 3.379$, $df 1$, $p = .046$). At the same time, the men who appeared as invited experts were much more likely to provide a negative assessment of the law (64.5% of the invited male experts) compared with the female invited experts (60% of whom provided a positive assessment). An even greater gender imbalance in negative and positive assessment was evident in the public comment testimony, where 71.8% of the men spoke negatively of Title IX and 74.7% of the women spoke positively.

Table 2 reports the dominant frames used in the websites, employed by those who testified before the commission, and reported in news coverage.

3. National Wrestling Coaches Association, “Pack the House,” <http://www.nwcaonline.com/title9/packthehouse.cfm> (October 29, 2003).

Table 2. Dominant framing in Title IX public comment, interest group websites, commission testimony, and news coverage

	<i>Frequency of Frames</i>				N
	<i>Personal Opportunity</i>	<i>Impersonal Policy</i>	<i>Feminist</i>	<i>Conservative Right</i>	
Interest group Websites					
Save Title IX	3.6%	39.3%	57.1%	0	28
College Sports Council	25.0%	0	0	75.0%	8
Commission testimony					
Public comment	43.4%***	30.6%***	12.1%	6.4%	173
Invited experts	5.8%	73.1%	9.6%	9.6%	52
All speakers	34.7%	40.4%	11.6%	7.1%	225
Media coverage	20.6%	39.5%	5.4%	2.7%	296

Note: The percentages do not total 100% because some speakers or stories were coded as having “no dominant” frame or the “debate” frame.

*** $p < .001$, ** $p < .01$, * $p < .05$; calculation of statistical significance using Pearson’s Chi-square relates to the different frequency of the frame used by invited experts compared to unsolicited public comments by other witnesses. All tests represent 2 degrees of freedom.

Table 2 suggests that the websites were a good reflection of the two coalitions’ strategies, both in ideological positioning and in framing their arguments. Not surprisingly, the table also illustrates that the general public tended to provide testimony that emphasized the personal opportunity frame, whereas the invited experts employed the impersonal policy frame. Media coverage tended to underreport the personal opportunity frame but to utilize the impersonal policy frame with a frequency that matched the totality of the testimony before the commission.

The testimony surrounding the three-prong test for judging compliance with the mandates of Title IX shows how the discourse before the commission reflected multiple frames. Judith Sweet of the NCAA established the lack of proportionality in collegiate athletic opportunities in the first hearing. Her remarks framed the policy in impersonal terms:

Although women comprise 54% of the undergraduate student population at NCAA member schools on average ... they account for only 40% of the athletics participants. They receive only 40% of the scholarships [and] they receive only 35% of the operating budgets (137)... While we like to think that this progress would have taken place without Title IX because it

was the right thing to do, the fact is that opportunities and support for girls and women in athletics are still not equitable with those provided for men, even though it was 30 years since the law was passed. (Department of Education, Atlanta Testimony, 2002, 140)

While some testimony before the commission questioned the quality of the empirical evidence, more of the discourse focused on the consequences of Title IX. Save Title IX proponents argued their case with impersonal policy data, while the College Sports Council focused on male athletes as victims and emphasized the personal opportunity frame. For example, contrast these typical statements:

Between [1972] and 1993 for every dollar spent on the women's program, three additional dollars were spent on the men's program. That is a very, very telling statistic. . . . In 1985 men's football and men's basketball together consumed 49% of the men's budget and today it's 72% of the men's budget [Christine Grant, former athletic director for the University of Iowa]. (Department of Education 2002, Atlanta Testimony, 91)

Despite success within the ranks of women, Title IX should be labeled as both a blessing and a curse. . . . While thousands of young women around the U.S. are benefiting from Title IX, thousands of young men are suffering. Men who are in the prime of their college careers have literally had programs ripped away from them while they are competing. In other words, the same policy that's providing hope for one group has been devastating for another [Matthew Case, wrestling coach]. (Department of Education, Atlanta Testimony, 2002, 228)

Both sides offered competing causal claims. At issue was whether requiring gender equity causes the cuts in minor men's sports (the College Sports Council claim) or whether budget excesses in football and basketball drain funds from minor men's sports (the Save Title IX claim). The Title IX proponents expressed frustration about their lack of success in penetrating the public's perception about what caused cuts in men's sports. For example, Commissioners de Varona, a former Olympic swimmer, and Cary Groth, athletic director at Northern Illinois University (NIU), complained that Title IX is unfairly blamed for the elimination of men's teams. Groth, noting that NIU had dropped some men's sports, stated:

[I]t was strictly a financial decision, yet the publicity really was around Title IX. And unfortunately every time that happens, it's another black mark against Title IX. And a very uneducated society about Title IX then puts

the blame on women's sports. (Department of Education, Atlanta Testimony, 2002, 157)

While both sides provided statistical evidence about the impact of Title IX, the basic justification for the law — achieving gender equity in athletic opportunity — was never disputed. The two sides disagreed about how to assess equity and what led to the decline in opportunities for certain male athletes. Unable to refute the proportionality data emphasized in the impersonal policy frame, critics of Title IX responded with multiple frames, including the zero-sum and the impersonal policy frame. For example:

If we are told that we have to offer another women's sport, we will cut a man's sport. That's an absolute. . . . [Y]ou cannot say that, well, because it works at Michigan, it works at Northwestern, or it works at Penn State, or it works at Air Force, or it works at BYU [Brigham Young University]. . . . There are different problems at different schools, and I think we need to recognize that, and as I stated earlier, I think let's tie proportionality to the feeder system [high school athletics]. As the feeder system grows, let's let proportionality at our institutions grow [Charles "Rick" Taylor, Northwestern University]. (Department of Education, Colorado Springs Testimony, 2002, 137)

It's truly discrimination when you cut these men's opportunities without even creating a new opportunity for women athletes just to meet the mathematical quota. . . . If you take away the quota, we will not return to the Stone Age. Nobody will permit that. It just won't happen. American society has truly changed [Gary Abbott, director of special projects for U.S.A. Wrestling]. (Ibid., 32)

The interpretation by the Office for Civil Rights and the evolved enforcement has turned into a quota system. Title IX is a good law with a bad interpretation. Equal opportunity doesn't necessarily mean equal numbers, proportionality or quota. Equal opportunity does not mean equal programs. Equal opportunity should mean the ability to participate based on criteria that can be fairly measured and judged [Carol Zaleski, former president of the United States Olympic swimming program]. (Department of Education, Colorado Springs testimony, 2003, 43).

On the controversial proposal to use interest surveys to determine women's sports interests and establish the third prong for proportionality, the discourse also proceeded on multiple levels. Advocates of modifying Title IX saw interest surveys as an empirical way to provide a more realistic (and lower) standard for measuring proportionality. The Save Title IX advocates, however, objected to interest surveys, arguing that they would effectively "freeze discrimination in place" and would ignore

the reality that social progress often follows policy change — “interest does indeed follow opportunity” (Department of Education, Colorado Springs Testimony, 2002, 208).

With each succeeding town hall meeting, exchanges and differences of opinion increased in intensity, as did the prevalence of the debate frame. For example, commissioner Rita Simon, an American University professor, sharply disagreed with testimony on the validity of surveys to determine women’s sports interests: “What I’m troubled about, Donna [Lopiano], is you say, well, these interest surveys, that’s soft mushy data. I think you could get good interest surveys. I think social scientists now know how to get good surveys on a great many topics” (Department of Education, San Diego Testimony, 2002, 165). While disagreement was expected by the commission’s leadership from the initial hearings, the sparring between commission members and between witnesses reached a crescendo at the last town hall meeting in San Diego and foreshadowed sharp divisions of opinion in the commission’s final deliberations.

Translating Advocates’ Discourse into Media Coverage

Tables 1 and 2 show that the work of the commission and its recommendations were reported primarily on the sports pages, framed most frequently as an impersonal policy article and generally with a neutral story slant. In all, 68.9% of the 296 stories appeared on the sports pages, 17.6% appeared on the news pages, 7.4% as editorials, and 6.1% in other sections, including entertainment, “living,” or women’s sections. Among stories with bylines, men authored almost 60% of the total coverage and 66.7% of the sports stories. The slant of the articles was generally neutral (Mean = 3.45, SD = 1.01) and varied hardly at all by news section. Slant was coded on a five-point scale with “1” representing Title IX’s achievements as “mostly negative” and “5” representing “mostly positive.” The mean slant was 3.40 (N = 52, SD = 0.98) for news stories, 3.42 (N = 204, SD = 1.00) for sports articles, and 3.45 (N = 22, SD = 1.22) for editorials.

The Save Title IX coalition had limited success in getting the media to focus on football budgets even though the issue was raised at every town hall meeting. College football, with the largest budgets, resources, scholarships, and fan appeal, was mentioned in only 26% of the articles, particularly in news and sports coverage. Advocates succeeded in implicating football in 54.5% of the editorials. The difference in football

references by type of news story was statistically significant ($\chi^2 = 13.452$, $df\ 3$, $p = .004$).

Testimony before the commission pitted men's voices against women's voices, but in the media coverage a different picture emerged. The news coverage featured a fight among women. Women were quoted in a greater share of the stories (65.4%) than were men (54.3%) and were quoted more often — on average, one male voice was quoted in each article, while 1.4 women's voices were quoted. The media coverage also did not reflect the sharp gender divide in position taking that is evident in Table 1. While most women were proponents of Title IX, many of the articles quoted the same women — Marcia Greenberger, copresident of the National Women's Law Center, and Jessica Gavora, a researcher promoted by the Independent Women's Forum. The media conveyed an evenly divided fight among women's group advocates, when in reality the testimony more consistently came from men raising criticisms and women praising the law.

The testimony reported in Table 2 suggests some strategic successes of both coalitions to influence the discourse. The impersonal policy frame was used by a larger number of "experts," but public comments also demonstrated the success of the Save Title IX coalition to mobilize data-driven policy arguments. The impersonal policy frame dominated news coverage in 39.5% of the articles. The personal opportunity frame, the preferred frame of the men's sports advocates, was dominant in 20.6% of the stories. None of the other frames was present in more than 8% of the cases. The conservative right frame was dominant in only 2.7% of the stories, and the feminist frame was dominant in only 5.4% of the stories. Both of the ideological frames appeared more frequently on editorial pages, often in guest columns authored by key actors in the debate.

Certain frames used in the public hearings did not get emphasis in the media coverage. The witnesses invoked the two ideological frames far more often than appeared in the media. The absence of ideological frames presumably reflects journalistic norms of perceived objectivity. Of the total number of speakers, 91 of the 225 witnesses (40.4%) used the impersonal policy frame, which matches the overall media coverage. On the other hand 78 of the 225 witnesses (34.7%) used the personal opportunity frame, which is underrepresented in the media content. Other frames, for example, the debate frame, were prominent in the stories covering the commission's deliberations, which followed the town hall meetings and engaged the commissioners in disagreements over recommendations.

While the overall media coverage is fairly sanitized of ideological frames, important metasympols do appear (Terkildsen, Schnell, and Ling 1998). The symbolic language reflects the competition of the advocates to convey “victimhood” status on male or female athletes, claim “sex discrimination” against women or “reverse discrimination” against men, and allege that the opposing side is not in the mainstream — “radical feminist” or “radical right.” Table 3 reports the frequency with which these metasympols appear in the articles.

Characterizations of the opponents as radical appear on websites, but such characterizations seldom appear in the media coverage. The language of victimhood and discrimination is prevalent, however. Male and female “victim” references appear in more than two-fifths of all stories, but references to male athletes as victims appear in a greater proportion of sports stories than in other sections. Except on editorial pages, references to “discrimination” occur with greater frequency in relation to female athletes than to male athletes. The language of “quotas” appears in more than half of the editorials, suggesting some success by the men’s sports advocates to have its preferred language adopted by editorial writers.

From Discourse to Decision

The commission submitted a final report February 28, 2003, emphasizing its consensus on many issues. The majority in its very first recommendation stated a “commitment to equal opportunity and the elimination of discrimination for girls and boys, women and men” (Department of Education 2003, 4). The minority report (not accepted by Secretary Paige) took issue with the commission’s failure to make “a clear statement of the discrimination women and girls still face in obtaining equal opportunity in athletics” (de Varona and Foudy 2003, 1).

The commission seemed more responsive to the College Sports Council’s arguments. In its first finding, the commission noted, “Enforcement of Title IX needs to be strengthened toward the goal of ending discrimination against girls and women in athletics, and *updated so that athletic opportunities for boys and men are preserved*” [emphasis added] (Department of Education 2003, 22). None of the recommendations explicitly referenced enforcement against persistent sex discrimination against women and girls in sports. The commission issued eight recommendations for new ways to enforce compliance and seven recommendations to change the

Table 3. Percentage of articles employing metasympols by section

<i>Metasympols</i>	<i>Overall (%)</i>	<i>News (%)</i>	<i>Sports (%)</i>	<i>Editorial (%)</i>	<i>Other (%)</i>
Male athletes as “victims”	41.6	37.8	43.4	40.9	28.8
Female athletes as “victims”	43.9	48.6	44.3	40.9	33.3
Reverse discrim./quota law	26.4	37.8	23.3	54.5	5.6
Sex discrimination of women	47.2	48.6	47.0	50.0	39.9
Radical feminist agenda	1.7	2.7	.9	9.1	—
Radical right agenda	2.7	5.4	2.7	—	—

interpretation of proportionality and provide alternative ways to meet the three-part test. Recommendation 18, which received the weakest support from the commission (8–5) and garnered the most controversy, called on the Office for Civil Rights to allow colleges and universities to conduct continuous interest surveys as a way of demonstrating compliance with the three-part test.

On accepting the report, Secretary Paige announced that he would consider only those recommendations with unanimous commission support. Then in July 2003, Assistant Secretary Gerald A. Reynolds issued a clarification of policy and essentially reaffirmed the Department of Education’s Office for Civil Rights’ commitment to the three-prong test of compliance used to enforce Title IX. Advocates for men’s sports called the Administration’s letter a “cave-in . . . to the gender quota advocates,”⁴ while supporters of preserving Title IX welcomed the letter and called for “aggressive enforcement” to eliminate discrimination against female athletes.⁵

Although the issue appeared to be settled, to the surprise of many, the March 2005 “clarification” suddenly resurrected the controversial and weakly supported e-mail–based surveys as a way to assess women’s sports interests and meet the third prong of the proportionality test.

4. Eric Pearson. “College Sports Council Issues Action Advisory,” College Sports Council, July 17, 2003.

5. Marcia Greenberger, “A Huge Win for American Girls and Women,” National Women’s Law Center, July 11, 2003.

ANALYSIS

This case study demonstrates a mismatch in discourse among the Web forum, the public forum, and the media forum, and reveals gendered dynamics in all three. First, the Web forum featured an ideological debate with strong feminist and antifeminist overtones, but the media forum was fairly sanitized and neutral. This difference may reflect the less constrained and unmediated nature of the Internet. Second, while the commission itself reported “unanimous support throughout the country for the spirit of Title IX” (Department of Education 2003, 1), the testimony was more divided and the media tended to portray the achievements of Title IX as mixed — neither positive nor negative.

Third, discourse in all three forums highlighted a paradox. Title IX clearly has helped to rectify a system of sports opportunities, which historically was unfair to women. The commission in its final report agreed, acknowledging its 30-year contribution to opening “the doors of opportunity for generations of women and girls to compete, to achieve, and to pursue their American Dreams” (Department of Education 2003, 2). At the same time, the goal of true gender equity has not been reached. But in the discourse, Title IX bore the blame for losses in men’s “minor” sports, and systemic problems of persistent inequity in opportunity and spending for the benefit of women athletes largely escaped criticism.

Gender played out uniquely in each forum. The commission privileged men’s voices by scheduling more men than women (31 to 21) as invited experts, most of whom represented government or policymakers on sports governing bodies. Thus, male voices were granted the status of authority and special expertise before the commission. The three athletes or coaches invited to testify were also male. However, the public-comment opportunity leveled the playing field to an extent, with the interest groups mobilizing a wide range of individuals to offer input into the commission deliberations. It is important to recall that on balance, the invited experts were more critical of Title IX than were those offering public comment, and men were more critical of Title IX than women. Male athletes and coaches were the most critical of the law. Thus, taken as a whole, the balance of invited experts and the mobilization of a large number of male athletes, coaches, and fathers tended to offset the women’s voices in public comment, which overwhelmingly supported the law.

In the media coverage, another gender dynamic was evident as the media failed to reflect fully the testimony before the commission and to

accurately represent the voices heard there. The journalistic norm of objectivity may have been at work to balance the numbers of men and women quoted in the coverage. The most obvious deviation from that norm seems to have been in the quoting of external advocacy groups, where women's voices were most prominent in the coverage. That coverage, as noted earlier, often presented a debate between the voices of sharply opposing women's groups, such as National Women's Law Center and the Independent Women's Forum. Although that balance of perspectives might be justified as journalistic "fairness" to opposing views, the coverage leaves the impression of a stereotypical "cat fight," when the reality of women's voices in the commission testimony was by and large favorable to the contributions of Title IX. (See Table 1.) In sum, the impression left by the media coverage is of women arguing among themselves, while football is sidelined as part of the overall discourse. The reality would more appropriately be described as a debate that often counterposed men's voices against women's.

Finally, the media coverage underreported the ideological debate behind Title IX. The Internet forum presented the most ideological fervor of the debate, and some carried over into testimony, but by and large the media coverage was sanitized. Reported mostly as a sports story, the Title IX commission's work was not conveyed as a serious public policy debate about equality of opportunity and structural discrimination. Reducing the struggle over Title IX to the template of a sports story — featuring clear winners and losers — may have journalistic appeal but problematic consequences for clarity in public policymaking. A classic heroic sports drama also may have advantaged the personal narratives of male athletes and undermined the impersonal statistical data of the Save Title IX coalition.

Clearly, the strategic choices of the interest groups had real consequences and did not advance full and robust consideration of all aspects of the policy. Some of the discursive strategies had an impact on the media coverage, but others did not. Nowhere are the consequences more clear than on proportionality and the role of large-roster sports, especially football. The so-called arms race in collegiate sports budgets was mentioned in every town hall meeting but got little discussion in the media. The commission also deliberated at length about proportionality and alternatives to basing the male–female ratio of athletes on the sex ratio of undergraduate enrollment. With the largest-roster sport conspicuously on the media sidelines, proportionality pits all other men's sports in a zero-sum calculus against women's sports. Readers were invited to conclude that when men's

gymnastics, golf, and swimming programs are cut, they are victims of women's sports. The media coverage reflected the strategy of the College Sports Council to ignore the budgetary "elephant in the room."

Our analysis suggests that media framing of the commission's work tended to emphasize the impersonal policy frame and the personal opportunity frame. To an extent, these frames also represented the discursive choices of the advocates. As a result, the discourse seemingly took place in parallel but detached arenas, with the advocates arguing Title IX as both role equity and role change. The Save Title IX's initial preference for data-driven, technical expertise was met by the College Sports Council's personal narratives. The impersonal policy frame suits an emphasis on gender equity, while the personal opportunity frame appeals to traditional gender role beliefs. When the Save Title IX coalition shifted focus to personal testimonials of sports for "every" daughter, it was engaged in the more difficult and controversial task of arguing for gender role change in the still-masculine domain of sports.

CONCLUSIONS

Although it has been the nation's law for more than 35 years, Title IX remains captive to traditional gendered understandings of sports. First, in their arguments before the 2003 commission, advocates for gender equity in sports were unable to frame sports opportunities positively for young women while avoiding threats to young men. As this case illustrates, the prominence of the personal opportunity frame exploited the cultural symbolism of the heroic athlete. To the extent that the media coverage depicts aspiring male sports heroes as falling victim to Title IX, then the goals of gender equity will be difficult to realize. By adopting liberal feminist arguments about gender equity, Title IX supporters were unable to counter the men's narratives, which reinforced notions of masculinity. Not surprisingly, the athletic heroines and commission members Donna de Varona and Julie Foudy were not accorded similar hero status but, rather, were demonized as the voice of radical feminists and out of step with the mainstream.

Second, the low profile of the premier collegiate male sports — football — in the media coverage also suggests the continuing reality that at least some aspects of sports remain a masculine preserve, with special status "as a socializing agency that prepares men for adult roles in the workplace and

political life” (Boutilier and San Giovanni 1983, 100–101). The critics of Title IX were complicit in protecting the masculine preserve by their conscious decision to avoid criticism of football. While men participating in the “minor” sports should have been natural allies with advocates for women’s sports, their discursive strategies prevented an alliance.

Third, the enduring insight of Gelb and Palley’s (1987) distinction between public policies involving *role equity* and *role change* is evident in this case study. The discourse shifted away from the underlying data, which shows that gender equity has yet to be realized in intercollegiate sports, and was refocused on the level of women’s interest in athletics to determine proportionality in athletic opportunity. Interest, however measured, suggests that something natural or innate undergirds participation in sports. Thus, the proposal to use surveys to assess the “true” or “real” nature of women’s affinity for sports implies elemental gender-role change, where support for women in sport has always been tenuous. As Deborah Brake (2001) demonstrates through careful legal analysis of key court cases, women’s interest in sports has been socially constructed and cannot be accurately measured, thus allowing colleges and universities to perpetuate discriminatory practices.

Ironically, by their reliance on impersonal policy data, the pro-Title IX forces may have left themselves vulnerable to criticism for opposing the adoption of interest surveys – a seemingly impersonal policy tool. The use of Internet surveys to determine women’s sports interests and to meet the third prong of the proportionality test – though not successful in 2003 – was the focus of the 2005 “policy clarification.” In its 140+ pages of instructions accompanying the 2005 clarification, the Office for Civil Rights directed schools to consider nonresponses to e-mail as lack of interest. To no avail, women’s groups and their experts decried the surveys as “unlikely to capture the full range of athletic interests” and “methodologically misguided” (Sabo and Grant 2005, 6).

Finally, the case also shows how “discursive frames” have limited and constrained the discussion of public policy options (Naples 1997, 908). This case demonstrates, as William Haltom and Michael McCann (2004) did with the issue of tort reform, how discourse is being strategically employed to distort the public’s understanding of policy with ideologically driven arguments rooted in the larger cultural war. When frames trump facts, then ideology gains traction. For supporters of Title IX, that was the ultimate challenge during the debates before the secretary’s commission.

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