A Review of the Literature on Title IX

The emphasis on and application of Title IX over time will be the focus of this literature review, as it specifically addresses how different groups or formal organizations have written about or framed Title IX and its surrounding controversies since its adoption in 1972. Moreover, the intent of this review is meant to shed some light on whether a shift in the framing and legal use of Title IX is has been occurring, and, if so, how and why it has been taking place. The scope of this review is limited to institutions of higher education and will focus on representative pieces of literature. Finally, the discussion of Title IX and the literature included on the topic will focus primarily on its attempt to promote equality between the genders and will not explicitly emphasize issues of race or class.[1]

As many scholars would agree, historical attention has been largely paid to Title IX's application to intercollegiate athletics. Much of the existing literature on Title IX frames the issue as one of equity or balance between male athletic programs and female athletic programs and evaluates Title IX as a policy according to that criterion. In a 2004 studyentitled "Institutional Strategies to Achieve Gender Equity in Intercollegiate Athletics: Does Title IX Harm Male Athletes?" authors Deborah J. Anderson

---

[1] Although not the focus of this review, it is important to note that a 2012 study by Moneque Walker Pickett, Marvin P. Dawkins, and Jomills Henry Braddock (Complete information on this study may be found in the Bibliography) found that Title IX has not benefited White and Black athletes equally. Using data from four independent longitudinal studies and facts from legal cases involving challenges to Title IX, their study documented how high schools largely attended by African American females don't offer the "same range of sports as those available in schools attended by White females," particularly the new, so-called 'growth sports' that have been added to meet Title IX compliance. They further note: "In continuing to provide a narrow range of sports available at the high school level for Black women, this process may also adversely affect the accessibility of college athletics for non-white females who may be seeking athletic scholarships." The authors also conclude that although 'growth sports' may be "far-reaching" in the effort to close the gender gap in athletics, it might be adding "unintended barriers to access and participation" for non-White females in both high school and collegiate athletics.

and John J. Cheslock examine equity between males and females in college sports. The study found that at the 703 institutions analyzed, female sports teams were added on average, and also that the number of female athletes increased, while male teams experienced no change and the number of male athletes increased slightly. While the analysis concluded that institutions were more likely to add female teams than to cut male teams in order to come closer to compliance, they note that "in an era of rising higher- education costs and unstable revenue sources, it is unrealistic to expect institutions to make all adjustments toward greater gender equity by adding female athletes; the cost of such leveling up would be prohibitive. However, some losses for male athletes may be unintended."[2] Overall, the message seems to be that equality in numbers represents compliance.

In a 2006 study, Deborah J. Anderson and John J. Cheslock join with Ronald G. Ehrenberg as they attempted to identify the level of noncompliance with regards to Title IX at the nearly 700 colleges and universities by examining those institutions' proportionality gaps over time. This data point is calculated using the total percentage of females enrolled at an institution, and the percentage of athletes who are female. In instances in which this data point is a large, positive number, an institution can be judged to be noncompliant with Title IX on the first prong of the so-called three-prong test that is most often linked with intercollegiate athletics and Title IX.[3] According to Anderson, Cheslock, and Ehrenberg, the three prongs are: "Substantial Proportionality" between the participation opportunities

---

2 Deborah J. Anderson and John J. Cheslock, "Institutional Strategies to Achieve Gender Equity in Intercollegiate Athletics: Does Title IX Harm Male Athletes?" *The American Economic Review* Vol. 94, No. 2, (May 2004), 310.

3 Deborah J. Anderson, et al., "Gender Equity in Intercollegiate Athletics: Determinants of Title IX Compliance," *The Journal of Higher Education* Vol. 77, No. 2 (March-April 2006), 228.

for each gender and undergraduate enrollment figures; "History and Continuing Practice" of program expansion for the underrepresented sex at that institution; and "Effectively Accommodating Interests and Abilities" of female students even when there are disproportionately fewer females than males participating in athletics. The authors then utilize regression models to analyze the differences in institutions' compliance and examine contributing factors, such as the preferences of an institution and its student body, the institution's finances, and other structural constraints. This study concludes that the speed with which compliance is occurring is actually much slower than has been previously indicated. In addition, they suggest that the "vast majority of institutions" will be susceptible to lawsuits pursuant of greater gender equity unless increases in women's athletics occur. The authors state that this is especially true given that the improvements in gender equity over the course of their study are smaller than had been previously thought after the adjustments they had made to ensure a consistent reporting methodology "for a more complete sample derived from institutions in all NCAA divisions (rather than just Division I)."[4] According to their findings, Division I institutions demonstrate more progress in achieving gender equality than their Division II and III counterparts. The findings also indicate that the largest amount of gender inequity in terms of participation presently is found within smaller National Collegiate Athletic Association (NCAA) divisions, which the authors claim have received far less media coverage than their larger, often Division I, counterparts.[5] Another interesting finding is the unexplained fact that the study's regression results found that, all else being equal, institutions in the South and the Midwest show lower levels of compliance in terms of substantial proportionality than the

---

4 Ibid, 245.
5 Deborah J. Anderson, et al., op. cit., 245.

Northeast and West. They conclude by stating that more research is needed to determine how gender equity can be better reached and how regional differences contribute to compliance or noncompliance in terms of Substantial Proportionality.[6]

What is important to note is that, overall, both of these articles frame the issue of Title IX in terms of an equity that can be achieved through a balance of male and female sports teams, or at least with regard to the area of athletics, which has arguably been Title IX's main area of application since its passage in 1972. Both articles imply that the law fails to allow for some technicalities, such as student body preferences and enrollment differences that make compliance challenging for some institutions. Moreover, the articles are also suggestive of weaknesses in the three-prong test that is the most popular means by which compliance is measured for colleges and universities. There is a great deal of additional literature on Title IX and athletics that looks at the idea of equality between the genders as a measure of numerical balance. For example, authors Nancy Hogshead-Makar and Andrew Zimbalist devote an entire section of their book *Equal Play: Title IX and Social Change* to a discussion of backlash against Title IX's application of "equal" and claims from some parties that it had resulted in reverse discrimination.[7]

Even the federal government has, on occasion, framed Title IX as an issue of equality between male and female athletic teams. In a press release from 2010, then Secretary of Education Arne Duncan stated, "Contrary to myth, Title IX has not starved men's athletic programs. Since Title IX was enacted, the number of men's and women's teams has grown and the number of men and women playing sports has risen. We have

---

6 Ibid, 245-46.

7 April Dawn Henning, Review of *Equal Play: Title IX and Social Change* by Nancy Hogshead-Makar and Andrew Zimbalist, eds., in *Gender and Society* Vol. 23, No. 3 (June 2009), 423.

absolutely come a long way. But we still have a distance to travel."[8] Duncan also postulated that intercollegiate athletics is the most important institution apart from the military in the shaping of future leaders. Duncan's comments add a new dimension to the discussion of Title IX as it relates to athletics, in that they move the discourse beyond one that simply revolves around the issue of numerical balance, which is what most of the literature and policy analysts tend to focus upon.[9] For instance, in this press release and other statements made available on the Department of Education's website, Duncan brings up the idea of opportunity: "But it is precisely because college athletics play such a critical role, that we must be vigilant about ensuring equal opportunity for men and women in college sports. We cannot take steps that unnecessarily dissuade women or limit their opportunity to pursue sports."[10] Essentially, Duncan is arguing that Title IX was designed to not only bring more women onto the playing field but that in opening up that door, women have gained critical skills in leadership that has expanded their horizons in other areas as well. And, he also makes mention of the reinvigoration of Title IX as a tool to fight against sex crimes, stating "…Our Office for Civil Rights is going to redouble our enforcement of Title IX with respect to sexual harassment and sexual violence on college

---

8 Arne Duncan, (2010), "The Importance of Title IX", [online] available at: http://www.ed.gov/news/press-releases/statement-us-secretary-education-arne-duncan-recognizing-anniversary-title-ix [Accessed 1 Nov. 2014].

9 See, for example, the previously cited sources by Deborah J. Anderson et al., the book *Equal Play: Title IX and Social Change* by editors Nancy Hogshead-Makar and Andrew Zimbalist, *Title IX Still Applies: Gender Equity in Athletics During Difficult Economic Times* published by the National Women's Law Center, and the American Association of University Women's fact sheet entitled "Title IX: Equity in School Athletics."

10 Arne Duncan, op. cit.

campuses," thereby moving beyond the popular perception that Title IX is solely about women's athletics.[11]

Other commentators, such as Gwendolyn Mink, have asserted that the effect of Title IX has been to place this nation's schools into a contractual relationship with the federal government, or "to receive federal funds they must not discriminate."[12] To those who share this outlook, Title IX becomes a tool to be used to fight discrimination. Another such proponent is Nora Caplan-Bricker, now a staff correspondent at the *National Journal*, who penned an article in June of 2012 entitled "How Title IX Became Our Best Tool Against Sexual Harassment." In her piece, she traces the legal history of sexual harassment cases in which Title IX has been invoked, a history that began at Caplan-Bricker's alma mater, Yale University, in 1977. The 1977 case entitled *Alexander v. Yale* argued that overlooking and tacitly accepting sexual harassment and violence had created an environment that "interfered with female student's success" and therefore put the university out of compliance with Title IX.[13] Although the legal suit was rejected, the philosophical argument that harassment constituted discrimination was upheld, a ruling that has enabled women to fight against harassment and violence on college campuses in multiple cases since then. Caplan-Bricker terms Title IX a "call for action" and a "crucial tool" for those who believe that colleges and universities need to assume a stronger stance against sexual harassment and violence.[14] For those who share her views, Title IX is

---

11 Arne Duncan, op. cit.
12 Gwendolyn Mink, op. cit.
13 Nora Caplan-Bricker, "How Title IX Became Our Best Tool Against Sexual Harassment," www.thenationaljournal.com, June 22, 2012, http://www.newrepublic.com/article/104237/how-title-ix-became-our-best-tool-against-sexual-harassment (accessed October 30, 2014).
14 Nora Caplan-Bricker, op. cit.

framed as the tangible means by which women can fight against sexual discrimination at institutions of higher education.

Similarly, Title IX is portrayed as a powerful legal tool in the new film *The Hunting Ground*, which largely documents the story of campus sexual assault crusaders Andrea Pino and Annie Clark.[15] Pino and Clark have been described as "two survivors who are taking matters into their own hands" through their use and promotion of Title IX as a legal strategy to "fight back and…[share] their knowledge among a growing, unstoppable network of young women who will no longer be silent."[16] According to the film, Pino and Clark bonded over their shared experience of sexual assault at the University of North Carolina – Chapel Hill, and who discovered Title IX through internet searches and decided to file a complaint with the Department of Education's Office of Civil Rights when their school failed to adequately respond to their separate assaults.[17] Since the film's release, Pino and Clark have become notable figures in the public outcry over the campus sexual assault epidemic. "'We do know it's [i.e. Title IX] a civil rights law, but it's in this framework that you're not having an equal college experience and education because of what's happened to you and how you're treated after," Clark has said of Title IX.[18] Since filing their own Title IX complaint in 2013, Pino and Clark have toured college campuses nationwide and campaigned to teach other young men and women

---

15 *The Hunting Ground*, directed by Kirby Dick (2015: Sundance Film Festival, Utah), film.
16 "The Story," *The Hunting Ground homepage*, 2015, (Online) available at: http://www.thehuntinggroundfilm.com/story/ (accessed December 1, 2015).
17 *The Hunting Ground*, op. cit.
18 Tierney Sneed, "'The Hunting Ground' Subjects Defend Title IX Campaign: A new documentary looks at a controversial campaign to fight campus sexual assault,'" *The U.S. News and World Report* online, February 17, 2015, (Online) available at: http://www.usnews.com/news/articles/2015/02/27/the-hunting-ground-subjects-defend-title-ix-campaign (accessed April 20, 2016).

how to "use the Title IX system" against university administrations that have allegedly mishandled campus sexual assault cases.[19]

Several powerful interest groups frame Title IX in the same manner as Caplan-Bricker and the minds behind *The Hunting Ground*, such as the American Civil Liberties Union (ACLU) and the American Association of University Women (AAUW). Many of the resources on the ACLU's website frame Title IX itself as a tool for women. For instance, in 2008, the ACLU issued a fact sheet entitled "Title IX and Sexual Assault — Know Your Rights and Your College's Responsibilities," which explained what Title IX is and how it has previously been applied in cases of sexual assault on campuses. A further section details how campus activists against sexual assault can use Title IX to aid their cause.[20] Similarly, the AAUW's website contains many pieces of literature on the topic of sexual harassment and discrimination that reference Title IX and which also frame this legislation as a tool for campus activists to use. One particular April 2014 blog post on their website, for instance, portrays the fight to end sexual violence on campuses as needing to be a college-wide responsibility, and it additionally alludes to what the author sees as the importance of such a task being shared by faculty and staff alike, and not just students who are discriminated against.[21] In the blog post's five-point list, Title IX is referenced multiple times as a tool that can be utilized to enforce nondiscrimination. It contains advice for colleges and universities to combat sexual harassment, discrimination, and assault based upon past Title IX violations, including: the use of educational and

---

19 Ibid.
20 The American Civil Liberties Union, "Title IX and Sexual Assault — Know Your Rights and Your College's Responsibilities" (New York, NY: ACLU Foundation, 2008).
21 Mollie Lam, "5 Ways Faculty and Staff Can Fight Sexual Violence on Campus," The AAUW blog, entry posted April 14, 2014, http://www.aauw.org/2014/04/14/fight-campus-sexual-violence/ (accessed September 2, 2014).

prevention-based programming on campuses; the use of outside experts as guest speakers; Title IX training for faculty and staff; the creation of resource centers for survivors of sexual violence; and the organization of public awareness initiatives such as Take Back the Night Marches.[22] As a whole, what literature like Caplan-Bricker's article, the ACLU's fact sheet, and the AAUW's blog post seem to suggest is that Title IX has increasingly come to represent a means by which activists can demand redress for gender-based discrimination on college campuses.

There are some, however, who question whether college and university campuses are even the proper location upon which formal sexual assault investigations should take place. In the "Campus Sexual Assault" edition of the *Congressional Quarterly Researcher*, Professor David Johnson of Brooklyn College and Nancy Chi Cantalupo, Esq. wrote opposing op-eds on the issue of whether colleges should hand off sexual assault cases to the police. Writing for the pro-side, Professor Johnson argues on behalf of accused students' rights: "Few universities employ forensic or medical analysts, prosecutors who can sift through complex evidence or defense attorneys who can safe-guard accused students' rights."[23] He further cites the Obama Administration's policy that colleges utilize the 'preponderance-of-evidence' standard as opposed to the 'beyond-a-reasonable-doubt' standard, which he claims increases the likelihood of guilty findings. To support his claims, he points to several campus sexual assault policies at various colleges with which he takes issue. For example, he writes that "Stanford no longer requires unanimous findings of guilt" while "Swarthmore forbids an accused student to tell anyone outside of the disciplinary process, including his parents, of the specific evidence

---

[22] Ibid.
[23] Barbara Mantel, "Campus Sexual Assault," *CQ Researcher*, October 31, 2014, 929.

compiled against him."[24] To conclude, Johnson asserts that, "Under universities' parallel judicial systems – which have lower burdens of proof, minimal due-process protections, and wildly incomplete evidentiary bases – surely more undergrads will be branded as rapists. As to how many will actually be innocent? Due-process opponents seem unconcerned with that question."[25]

In contrast is Nancy Chi Cantalupo's op-ed, which argues that forcing colleges and universities to hand-off cases of gender-based violence to the criminal justice system "undermines" popular commitment to gender equality and our collective effectiveness in ending such violence; she states that "…noncriminal laws that apply to campus gender-based violence – including Title IX, the Clery Act and constitutional law on administrative due process – help both victims and schools while protecting the rights of students accused of perpetrating violence. Criminal law has failed to deter gender-based violence. Today less than 3 percent of rapists are incarcerated."[26] Cantalupo further expounds upon the importance of Title IX in the adjudication of campus sexual assaults, arguing that criminal law's goal is not to protect a student's equal access to an education. But Title IX's purpose, she points out, is just that. For this reason, campuses should not necessarily hand off all sexual assault cases to the police, but utilize Title IX and related policies to protect students, as these policies give schools multiple routes to aid students in "succeeding in their education after the trauma of violence."[27] She cites her own research on the subject as well, stating that the Clery Act and the recent amendments made to this law further support Title IX and its use in combatting and bringing an end to, gender-based violence

---

[24] Barbara Mantel, op. cit., 929.
[25] Ibid.
[26] Ibid.
[27] Barbara Mantel, op. cit., 929.

and assault. Cantalupo concludes that it is Title IX and related legislations' abilities to prevent campus sexual assault that makes it more desirable than criminal law in terms of conflict resolution.[28]

Professor Johnson and Ms. Cantalupo are not the only two who debate the role of Title IX and sexual assault cases within a campus community. In "'Just Do It!': Title IX as a Threat to University Autonomy," author Richard A. Epstein explores Title IX's effect on an institution's ability to run its athletic programs while maintaining its federal funding. Written during the George W. Bush Administration with a perspective critical of Title IX's role in higher education, Epstein summarizes the situation as follows:

> …the public controversy concerns whether the Office of Civil Rights in the Department of Education has gone too far in proposing a proportionality requirement on intercollegiate athletics, such that schools will have a safe harbor (so to speak) under Title IX only if the number of women on intercollegiate teams is proportionate to the number of women enrolled in undergraduate programs.[29]

He goes on to mainly criticize Title IX's role in athletics, namely the 3-prong test previously described in this review, stating that it is "painfully evident" that some other type of accommodation is needed to bring about gender equity in athletics, as Title IX requires.[30] And though written over a decade ago, when Title IX's focus was arguably shifting over to the area of gender-based discrimination, harassment, and assault, Epstein appears to view the current situation with Title IX and athletics as near-critical, calling for a new source of accommodation and posing the question that his article does not really

---

[28] Barbara Mantel, op. cit., 929.
[29] Richard A. Epstein, "'Just Do It': Title IX as a Threat to University Autonomy," Michigan Law Review Vol. 101, No. 6, May 2003, 1371.
[30] Ibid, 1375.

seem to answer with any realistic solution. Stating "But what? At this point the text of Title IX offers no real guidance," he goes on with the questionable conclusion that, "By the same token, the moral consensus that fueled Title IX has run out of steam. It is no longer possible to "just do it," if we have no idea what it is that should be done."[31] After likening Title IX to Affirmative Action in terms of what he believes to be troublesome politics, Epstein then concludes only several pages later by taking a somewhat radical swing and calling for the abolition of Title IX altogether, suggesting that "Tinkering with Title IX regulations will merely invite yet another round of evasive responses. We should stop thinking of this as one giant public problem instead of many small institutional problems. When it comes to the abolition of Title IX, by all means just do it."[32]

It is also worth noting that some existing literature frames Title IX as an important and ongoing legal issue in the federalist structure of the American government. In 1998, the case *Davis v. Monroe County Board of Education* precipitated a great deal of legal debate when the U.S. Supreme Court ruled 5-4 that students can sue an institution for student-on-student sexual harassment, a type of harassment which had not previously stood up in court. It also decided that schools are liable for monetary damages if the harassment was "so severe, pervasive, and objectively offensive that it effectively bars the victims access to an educational opportunity or benefit" and if the school knew of the harassment but was "deliberately indifferent."[33] One virulent critic of the Supreme Court's decision was *Newsweek* columnist George F. Will, who stated that the ruling "'illustrates how law

---

[31] Ibid.
[32] Ibid, 1375-1376.
[33] *Davis vs. Monroe County Board of Education*: Opinions of the Supreme Court on student sexual harassment, Justices S.D. O'Connor, A.M. Kennedy, (2000), Historic documents of 1999, Washington, DC: CQ Press, retrieved from http://library.cqpress.com/cqpac/hsdc99-0000038566.

metastasizes from words by Congress, to rules from bureaucrats, to fiats from judges, to a torrent of litigation that will divert school districts' financial resources from educational functions and force schools into defensive silliness.'"[34] An excerpt of the dissent put forth by Justices Kennedy, Scalia, and Thomas, all of whom have been generally regarded as conservative (although Kennedy is often thought to be a "swing vote"), stated that "The Nation's schoolchildren will learn their first lessons about federalism in classrooms where the federal government is the ever-present regulator…Because Title IX did not give States unambiguous notice that accepting federal funds meant ceding to the federal government power over the day-to-day disciplinary decisions of schools, I dissent."[35] To these critics, the actual issue of sexual harassment and discrimination seems to come second to the role of the federal government in enforcing a nondiscriminatory environment; they do not give an alternative option to which victims of discrimination can appeal. For the authors of this dissent, Title IX is simply regarded as an example of 'big government.'

Interestingly, the opinion of the dissenters stands in direct opposition to this (i.e. the 'big government' view) type of analysis, as an article penned by Daniel G. McBride, JD and published by the Stanford Law Review just one year previous to the final ruling in the *Davis* case suggests. This piece examined the legal philosophy of Title IX through an interpretation of the language used during its legislation in 1972, stating, "…Congress was seeking a broad remedy for sex discrimination in education. This generalized concern, coupled with the statute's indefinite language, allows for a liberal interpretation of Title

---

[34] Ibid.
[35] Ibid.

IX's scope."[36] McBride goes on to discuss how, although the courts had not yet defined sexual harassment as discrimination when Title IX was created in 1972, "the legislative history suggests that Congress intended the statute to cover all sources of sex discrimination in education."[37] It also observed that yet another previous Title IX lawsuit had already determined the "twin goals of Title IX" to be the avoidance of "the use of federal resources to support discriminatory practices" and "to provide individual citizens effective protection against those practices."[38] This implies that student-student discrimination was intended to be covered under Title IX at the time of its legislation. Overall it can be said that an extraordinary amount of literature exists on the legal philosophies behind Title IX, and although forty years have passed since its passage, the issue is framed in many contradictory ways – a fact which no doubt adds controversy to cases invoking Title IX in the present day.

Recently, we see that even television programming has addressed Title IX and its related issues. On March 8, 2015, for instance, the USA Network ran a *Law and Order Special Victims Unit* marathon, which portrayed fictionalized incidents that focused on the specific issues of consent, date rape, gender equity, domestic violence, and other abuses specifically directed towards women. During commercial breaks, television spots were aired featuring numerous political figures and celebrities, including President Barack Obama, Vice President Joseph Biden, *Law and Order SVU's* leading actress Mariska Hargitay, comedian Seth Myers, actor Steve Carell, among others, who all called for an end to violence against women in its many forms. Before the episode specifically dealing

---

36 Daniel G. McBride, "Guidance for Peer Sexual Harassment? Not!" *Stanford Law Review* Vol. 50, No. 2 (January 1998), 535.
37 Ibid, 535-36.
38 Ibid.

with the issue of consent and the difficulties associated with prosecuting a college student(s) with rape, Vice President Biden and Mariska Hargitay were featured in a television spot recommending viewers visit www.whitehouse.gov/1is2many, a webpage which features statistics on campus sexual assault, resources for victims, and how one might become involved in the effort to end such violence.[39] The episode itself, entitled "Consent," originally aired in 2001 and depicts the fictionalized drugging and rape of a female college student at a fraternity party and the subsequent difficulty in obtaining a conviction against those responsible due to interference from campus officials, among other legal issues.[40] While Title IX is not specifically made the overall focus of the episode, the parallel between the issues depicted in the episode, the television spot that aired immediately prior to the episode featuring the Vice President and Mariska Hargitay, and the law itself are unmistakable.

It is difficult to state with any certainty based solely upon a literature review of the topic that a shift in the focus of Title IX has been occurring because it is not as if there has been a lag in the publication of literature that focuses on a variety of interpretations and applications of Title IX. This is not, however, surprising because colleges and universities must continually evaluate their athletic policies, as well as many other policies, to ensure their compliance, or else stand to lose their federal funding. Nevertheless, what existing literature does seem to suggest is that the view that Title IX provides the means through which activists can fight against sexual harassment, violence, and discrimination is on the rise. And, as the 24/7 news media throws instances of sexual violence against women

---

[39] "1 is 2 Many," The Obama Administration, https://www.whitehouse.gov/1is2many.
[40] NBC Universal, "Consent," Season 2, Episode 1419 Law and Order: Special Victims Unit, http://www.nbc.com/law-and-order-special-victims-unit/episode-guide/season-2/consent/1419.

across the world into the limelight, any case of sexual harassment or discrimination has the potential of garnering global attention.

What also seems to be of note is that literature which focuses on Title IX in relation to athletics tends to frame the issue as one of equality achieved by numerical balance and which can be verified according to a three-prong test, while on the other hand, literature that specifically focuses on sexual harassment and discrimination frame the issue as one of justice, with Title IX being the legislative tool through which an end to discrimination can be achieved. Perhaps it is the absence of a three-prong test or some other form of meaningful assessment for sexual discrimination on campuses that is partially responsible for the seeming shift in focus of Title IX's application; at present, lengthy and often high-profile coverage of philosophical legal debates in courts of law is how a campus climate is judged to be Title IX compliant or not. This is opposed to Title IX's application to intercollegiate athletics, in which a numerical measurement of a proportionality gap, among others, determines compliance. Thus, the nature of how compliance is determined differs from one area to another. This is, of course, just one thought and there are certainly many other issues at play, such as a simultaneous growing awareness of rape culture and culturally entrenched discrimination on the basis of gender.