

## INTRODUCTION

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**E**arly mornings are a teenager's definition of hell. At 8:30 on a chilly November Saturday in 2003, the seventeen- and eighteen-year-old soccer players on the Potomac Mischief were having a hard time getting excited about their first game, against the McLean Mystics in the Bethesda Thanksgiving Showcase. Sleepy and cold, they made simple mistakes and let the ball spin crazily off their feet. (Luckily, the Mystics were just as sleepy.)

The summer and fall had been a long haul for the Mischief, a club consisting of young women who for the most part lived in the affluent Maryland suburbs of Washington, D.C. Most of the team had gone to summer soccer camps at colleges up and down the East Coast. Many of them got together in July and August to play in seven-on-seven leagues. A few worked with Terri Beach, their coach and a former University of Maryland star, in one-on-one sessions. When school started, so did their high schools' soccer teams, which meant practice every day and games twice a week.

The Mischief's own schedule in the Washington Area Girls Soccer league did not allow them to let up. Instead, the team fit league games, practices, and tournaments in as best it could, on early weekend mornings and whenever it could find time.

For good soccer players—and the Mischief were very good—the sport is a full-time job after school. When they kicked off for this game against the Mystics, Susan Kamenar and her teammates had played roughly twenty-three games apiece since August. And the year was far from over, with tournaments remaining in Delaware, North Carolina, and Florida before New Year's.

Why? Why devote this much time to soccer? Their parents were not forcing them; only a handful showed up to shiver on the sidelines at this game. Peer pressure was not forcing them; they played high school soccer with their friends, but the Mischief was just a group of acquaintances who happened to spend a lot of time together.

Susan hints at an answer in one of her college essays:

Playing soccer is the one thing in my life that has remained constant and stable throughout my life since I was four years old. Soccer has kept

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me from losing my sense of self and has prevented me from falling into the troubled world that many teenagers do. Soccer has kept my body, mind, heart, and soul alive and healthy. I am the only “original” player on my club team, the Potomac Mischief, because I have been on the team since it was formed in fourth grade. I have grown up with this team and it has shaped me into who I am today. Through my dedication to soccer and my team, I have acquired skills that help me excel in other parts of my life: time management, teamwork, decision-making, leadership, commitment, communication, social skills, determination, and other skills.

Soccer has also helped me with my faith. I use soccer to free my mind. When I play soccer I forget about everything and get into a mental spiritual zone. Before every game when we are lined up on the field waiting for the kickoff, I make the sign of the cross in the dirt and offer the game up to God. It helps to remind me why I am here, and by doing my best with the skills that God has given me, I will step off the field satisfied, win or lose.

This is why people play sports. To have fun, to excel, to push themselves and their bodies to their limits. This is why Americans have sports in schools, because of the lessons that Susan and her peers have learned from the countless hours they willingly devote to their sport.

Susan is in the first generation of women who are expected to learn those lessons on the playing field, just as men have done for centuries. Three decades after its passage, the promise of Title IX of the Education Amendments of 1972 is finally being realized.

Title IX forbids sex discrimination at colleges and schools that receive federal funds (i.e., virtually all of them). It applies to athletic programs just as it does to the rest of a school’s programs.

Because of the mania that scholastic and collegiate sports inspire, Title IX’s application to sports has been the most visible gender controversy of the past thirty years. Millions flock to high school stadiums on Fridays and to college venues on Saturdays throughout the fall for football games, spending hundreds of dollars per family on tickets, T-shirts, and other paraphernalia, showing team pride as a proxy for school spirit.

While fans of lower-profile men’s sports like gymnastics, track, and wrestling fulminate that Title IX is killing their sports, thousands of images and trophies pay tribute to the law’s triumphs. At American colleges, more than two hundred thousand women are on varsity sports teams, up from a handful in 1971.<sup>1</sup> More than 2.8 million girls were on high school teams in 2002.<sup>2</sup> There were roughly 490,000 college athletes and 6.7 million high school athletes, so women comprise about

40 percent of the total on both levels. Americans have realized that women can and ought to be competitive athletes, just like men.

No image of the law's victory is more gripping and representative than Brandi Chastain's shirtless celebration following her winning goal in the 1999 Women's World Cup. But equally important is an invisible monument—a controversy—that if made solid would take the form of several reams of densely written pages—congressional debate, federal regulations, and judges' rulings that have withstood the onslaught of scores of challenges. Taken together, these pages send American schools and colleges a simple message: If boys get to play sports, then girls do, too.

Early in the twentieth century, female coaches expressed an ideal: "A girl for every sport, and a sport for every girl." The triumph of Title IX shows how close we have come.

But "close" is not all the way. Women are a clear majority of students in higher education—7.5 million of the 13.2 million undergrads at American colleges. Women are underrepresented on sports teams, and most of their teams receive lower budgets, poorer facilities, and less attention than their male counterparts. Some argue that women are not as interested in sports as men and that the differences in participation population reflect that. Regardless, women are still getting the short end of the stick when schools and colleges allocate resources.

Title IX has a yet darker side. In mandating that women athletes be treated the same as men, the law encouraged women's sports to develop in the hypercompetitive, highly commercialized model that evolved in men's sports over the past century and a half. Teams like the Mischief play scores of games every year, cutting into schoolwork and other activities. In sports like cross-country and gymnastics, girls develop eating disorders after being encouraged to lose weight. Athletes specialize as early as their preteen years, so that only girls who have been competing in a sport since elementary school have a shot at making their high school and college teams. At the youth and secondary level, parents and schools are devoting resources to elite-style sports, not to broader participation opportunities. Susan and her teammates have learned the lessons sport has to teach because they are very good, and many of her classmates at Bethesda–Chevy Chase High School may never get the chance to learn those lessons.

The Mischief has a particular reason for being on the soccer field at this hour, and the reason is sitting on a hillock trying to wake up and keep an eye on one of Susan's teammates. Bundled in a red-and-green sideline jacket and carrying a nylon briefcase with the Mid-American Conference logo, Hugh Seyfarth is one of a hundred college coaches who

have stopped here in Maryland during the national circuit of tournaments, which is designed to herd top high school soccer players together to show off their skills in the hopes of winning a scholarship or just a spot on a team so that they can dedicate themselves to soccer for another four or five years.

Seyfarth, an assistant coach at Miami University in Ohio, does not particularly enjoy the process. This year, he does not even have scholarships to offer aspirants. “We were allowed to start talking to kids on July 1, and by July 3 we’d given out all our scholarships” for players entering college in fall 2004, he said. Now, he is looking for second-tier players who might be willing to “walk on,” or try out for the Miami team with no guarantee of playing time or financial aid. He is also getting an early look at next year’s crop of high school talent, perpetuating the process for next year.

Miami is one of 199 universities sponsoring Division I women’s soccer, each of which needs roughly twenty players to compete. That makes Seyfarth a player in a game that forces high-schoolers to make one of the most important decisions of their lives, where they go to college, based on how well they can kick a soccer ball. The better ones have to make that decision even before beginning their senior year of high school. Seyfarth worries about the process, but he points out that it’s the same in most sports—basketball, field hockey, swimming, tennis, and so forth. Plus, he said, “The kids who are getting scholarships, everybody’s known who they were since they were twelve or thirteen.” Soccer has defined their lives for at least that long, and in many cases much longer.

That fact is thanks to Title IX, which has brought the joy and trouble of high-stakes sports to the other half of the population, radically transforming the lives of millions of girls and women.

Entering middle age, Title IX is still a mystery to most parents, coaches, and even the people charged with enforcing it. Is it a law? Is it a set of rules? Who enforces it? Who has to follow it? What does it really say? As with most laws, very few laypeople know the answers to these questions. This book is an attempt to give a full historical answer to these questions, but here is a quick primer.

In 1972, Congress passed Title IX as one of several amendments to the Higher Education Act. Its basic premise is simple: “No person in the United States shall, on the basis of sex, be excluded from participation in, or denied the benefits of, or subjected to discrimination under any educational program or activity receiving federal aid.”<sup>3</sup> That includes every facet of education, including undergraduate admissions, laboratory space, hiring, and sports. The Civil Rights Restoration Act of 1987 made clear that if any program at an educational institution or school

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district received federal grants, then the entire entity is covered by Title IX and other civil rights laws. Virtually all school districts and colleges receive some form of federal money (the exceptions are private secondary schools and colleges that do not participate in federal student loan programs, such as Hillsdale College in Michigan). Thus, practically all scholastic and college sports are governed by Title IX.

How schools and colleges choose to abide by the law is spelled out in a set of regulations issued by the government in 1975 and in specific policy interpretations published in 1979 and 1986. The Department of Health, Education, and Welfare regulated educational institutions before 1980, and was split into the Department of Education and the Department of Health and Human Services. Under both HEW and the Department of Education, Title IX enforcement has fallen to the department's Office for Civil Rights.

Unlike other educational activities (or any other realm of civil rights, for that matter), nearly everyone agrees that male and female athletes ought to play in separate realms. People have fought and died to eliminate "separate but equal" schools for children of different races, but with a handful of exceptions, everyone agrees that under current conditions, men and women ought to have comparable, single-sex teams and activities. Schools and colleges do not need to offer sports programs, but if they do, Title IX makes it clear that they must provide equitable opportunities for male and female students.

Here, "equitable" covers all areas of a sports program's operations—athletic scholarships (if offered); participation opportunities; scheduling of games and practice times; travel costs and per diems; coaching and tutoring (including numbers of coaches, their salaries, and their professional backgrounds); locker rooms, practice and competition facilities; medical facilities, housing and dining services; and publicity and media services.<sup>4</sup> At the collegiate level, the most controversial and most litigated portion governs the number of male and female athletes institutions must have on their rosters.

The 1979 interpretation and a host of subsequent court rulings provide schools with three options. Institutions must have (1) similar participation and enrollment rates for men and women; (2) a history and strategy of expanding opportunities for women; or (3) proof that women are completely satisfied with the sports programs being offered. The 1996 clarification said that option 1 is a "safe harbor": If a college has the same percentage of women in sports programs as there are women in the undergraduate student body, it is home free.

Colleges and their lawyers now have to figure out what to do with these guidelines, on penalty of facing lawsuits and complaints filed with

the federal government. The fastest and cheapest route to the safe harbor is to force the gender ratio of athletes to equal that of students. Because most institutions have more men than women on varsity teams, many have cut male athletes and even entire teams to comply with the rule.

But fastest and cheapest is not the only way. Institutions can add women's teams, complying with option 2 immediately and, over time, with option 1. Or they can attempt to demonstrate compliance with option 3, using surveys and other documents.

Cutting men's teams and telling male athletes they cannot play anymore because of a law is, on its face, heartless. To many, it is a simple matter of discriminating against real people to satisfy an abstract principle. The arguments against option 1 mirror those against affirmative action: Requiring companies or colleges to accept a certain number of people from one group, even if people from a second group are arguably more qualified or (in the case of sports) demonstrate more interest, is discrimination against individuals in the second group.

*Quota* has become a dirty word in discussions of Title IX, just as it has in affirmative action. Conservatives get particularly heated about this argument, particularly libertarians and most free-market advocates. A fairer law, they believe, would allow schools to make their own choices about which sports teams to offer, based on the interest shown by students.

Representatives of women's groups and advocates for women's sports offer two arguments in response. The first is the *Field of Dreams* argument, after the 1989 movie: "If you build it, they will come." How can you properly gauge interest in a particular activity if the group you are asking has never been given the opportunity or encouragement to participate? How are women going to demonstrate their interest in sports if they have not gotten the same chances to play as men have?

The second argument is subtler. Title IX requires that educational activities to be provided equitably to male and female students. Sport is an educational activity, certainly as athletes like Susan Kamenar have experienced it. Therefore, sports must be provided equitably. Schools are not required to change their course offerings or even extracurricular programs based on student interest, which of course changes every year. Instead, colleges offer the programs they do because school officials believe those programs have merit. So why should sports be offered solely on the basis of student interest?

A rich and convoluted mythology has grown up around college sports in this country. Most people, even coaches and athletic administrators, believe that men's sports were started in the mid-nineteenth century and evolved steadily to their present state. Women's sports, on the other

hand, trace their history only back to 1972 and the passage of Title IX. Old football coaches look at the inequities that still remain between men's and women's athletics and say that women's sports just have not had the time to develop that men's sports have had.

But as football, baseball, and basketball were becoming national obsessions at the end of the nineteenth century, Constance Applebee, Senda Berenson, and other women in the academy had already concluded that sports offered as much to female students as to males. They developed curricula and games and teams for women at high schools and colleges, but they warned in very strict terms against following the emerging pattern of men's sports at Harvard, Yale, Princeton, and the country's large land-grant universities, the sports factories of the age. Some of their concerns were wrapped up in what we would consider antiquated notions of what women were physically capable of doing, but they had broader concerns about sports as all-consuming activities for participants.

Said Mabel Lee, one of the most important governors of women's sports in the 1920s, "The field of men's athletes is full of sorry instances of this mad worship at the shrine of technique. Now that women's athletics are developing so rapidly all over our land, let us caution our leaders to hold fast to the ideals of worthy citizenship even at the expense of fine technique."<sup>5</sup>

Women's sports existed at colleges all over the country long before Title IX. Women's basketball, for example, developed at precisely the same time as the men's game. But women were confined to intramural contests, under the careful control of generations of physical-education teachers. Thus exiled to second-class gyms, only a few women found it acceptable to participate, although sports became more acceptable for women in the mid-twentieth century.

Until 1981, women's sports were governed almost exclusively by physical-education teachers. They taught a particularly values-laden approach to sports, taking care to restrict recruiting, the numbers of games and practices, and other elements of team play to fit into an athlete's overall college experience.

In 1981, though, women's sports were taken over by the organizations, primarily the National Collegiate Athletic Association, that ran male sports. Creating and promoting competition has always been the NCAA's basic function, and over the past two decades especially, the intensity and pressure of that competition has turned college sports into massive, year-round enterprises for all athletes, male and female.

The most visible of these enterprises are big-time football and men's basketball programs, but athletes in other sports, male and female alike,

also have been sucked into the vortex of year-round, intensely competitive college sports. Even small colleges can spend in excess of a million dollars on their sports programs, and those that compete at the highest level cannot spend less than twenty times that.

The irony is that the NCAA fought Title IX every step of the way. When the Department of Health, Education, and Welfare ruled in the mid-1970s that the law would apply to high school and collegiate sports, athletics officials fulminated that they would be forced to cannibalize football and basketball teams to pay for new women's teams. The NCAA tried to sue to prevent the law from being implemented, and called on its allies in Congress to block it. But every attempt failed, and the NCAA proceeded to take over women's sports programs in the early 1980s. Since then, the organization and its members have been struggling to figure out how to deal with Title IX, which many athletics directors see as a nuisance.

A college athletics director is a businessperson foremost. In the NCAA's Division I, athletics programs are supposed to generate enough revenue to cover the cost not only of big-time football and men's basketball, but also soccer, tennis, track, and a host of other teams. (They rarely do so, but colleges must still fund those sports at the highest possible level to have a shot at earning money from television appearances and bowl games.) Even smaller colleges use football and basketball teams to attract new students and to generate goodwill among alumni and the local community.

So the athletics director's job is to manage a small to midsized corporation whose products are winning teams in the big-money sports. The corporation pays ever-increasing salaries to coaches, buys or barter for as much new equipment as it can, and invests in new venues to attract fans and separate them from their money in new and creative ways.

The athletics director also must find the money to keep the baseball, lacrosse, and swimming teams in business, even though they do not generate any revenue. Colleges have always had these teams, and today they retain the patina of amateurism. Athletes in those sports generally graduate at much higher rates than those in the revenue sports, and they usually exemplify the NCAA's notion of the student who plays sports out of a love for the game. Many athletics directors generally care about these sports—I have met more former track coaches and former wrestlers in executive positions than I have basketball and football people—but they must treat them as sunk costs on their list of priorities.

Title IX has had a terrible time fitting into this equation. It is a law that regulates an educational program. It makes perfectly good sense in an educational context, and in most such contexts it has been wildly successful.

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Women are now in the majority at most colleges, as well as law schools, and are making steady gains in engineering and medicine. But it adds a new category of sunk costs to the athletics director's budget—women's sports. Because the law requires it and NCAA rules encourage it, colleges place a higher priority on women's basketball, volleyball, and other sports than men's nonrevenue sports.

Many colleges have adopted "tiered" sports structures, in which a small number of sports (usually football, men's and women's basketball, and one or two women's sports) receive a full complement of athletics scholarships, highly paid coaches, and other resources. A second tier consisting of other women's sports and a few men's sports like baseball get limited scholarships and equipment budgets. A third tier, usually composed of men's teams in track and wrestling, gets no scholarships and is at the back of the line for equipment, gym time, and other resources.

When budgets are tight, third-tier programs are first cut. Because of an array of court decisions (discussed later in this book), most colleges cannot cut women's sports. In an era when successful football teams cost \$10 million a year or more, cuts in men's gymnastics, swimming, track, and wrestling are inevitable.

Football and basketball, on the other hand, have never been in danger. A handful of colleges have dropped football teams because they could not afford them, but many more have started teams as a way of attracting more male students—as participants, spectators, and friends of the team.

Nobody can say for sure which colleges actually make money on sports, but most NCAA officials put the number at a dozen or fewer. Contracts with bowl games and television networks bring in millions for about sixty universities belonging to the six richest leagues—the Atlantic Coast, Big East, Big Ten, Big 12, Pacific-10, and Southeastern Conferences, but it is all most of these institutions can do to cover their costs. The pressure to keep up with one's rivals for coaches' salaries, facility renovations, and other improvements forces athletics directors to be ever more creative in the pursuit of new sources of revenue.

Most of these universities and the rest of the roughly two thousand colleges that sponsor sports teams for students finance them in the way they do any other extracurricular activity. They allocate general funds to pay most if not all of the costs their teams incur—travel, uniforms, coaches' salaries, athletic scholarships, facilities, and so on. The return on colleges' investment is the attention that teams get. One athletics director estimates sports teams account for 80 to 85 percent of the times any college gets mentioned in newspapers and on television; in the

idiom of the football-crazed South, sports are “the front porch of the university.”

All these factors are in the background when colleges decide to cut teams. Many athletics directors will say they have had to limit the number of male athletes to comply with Title IX regulations, either by dropping men’s teams or limiting the number of athletes on any given team. Doing so infuriates not just those athletes and their coaches but also a wide range of political allies who say that civil rights laws like Title IX infringe on the autonomy of colleges and athletics directors to make their own decisions about how to operate. This is why the George W. Bush administration waded into the Title IX controversy when it formed the Secretary’s Commission on Opportunity in Athletics in 2003. The commission was a thinly veiled attempt to rewrite Title IX regulations to protect male athletes, but it collapsed amid a steady drumbeat of negative publicity from women’s groups.

The common argument by supporters of Title IX is that when athletics directors drop men’s teams, they do not do so because of Title IX. Consciously or not, they decide to preserve resources for men’s basketball and football instead of protecting minor sports or expanding sports offerings for women. “I used to think Title IX was responsible” for colleges dropping men’s teams, a longtime college sports official told me recently. “But too often, I heard people say that and then turn around and build a new facility or hire a new coach.”

The truth is that the tragedy of Title IX has nothing to do with the painful and unfortunate decisions athletics directors have made regarding men’s sports. Instead, it is that female athletes and their coaches have gotten wrapped up in the high-stakes, highly commercialized model of men’s sports that has developed over the past century, and the ideals held by Mabel Lee and others have been distorted or lost altogether. Athletic skill is becoming an important factor in college admissions, not just at sports powerhouses but also at small colleges. Americans see sports prowess as a proxy for other talents—sportsmanship, fair play, leadership, teamwork, perseverance—but the men’s model of college sports does not always nurture those talents. The singular pursuit of winning rewards strength, speed, and skill, and not necessarily the more abstract goals of athletic participation.

Understanding the triumph and tragedy requires an understanding of the history of the men’s and women’s models of sports, both of which originated in the late nineteenth century at the elite colleges of the Northeast. The civil rights movement of the mid-twentieth century forced college and high school sports programs to integrate themselves along racial lines, setting the state for the integration of the sexes. The money

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flowing into college sports, the premium placed on competitiveness, and the political and legal climates for the late twentieth century combined to bring women into athletics departments in record numbers, fundamentally altering the American institution of college sports and forcing society to forever alter its understanding of women and athletes.

Women have not been fully integrated into scholastic sports in this country. For that reason, it may be easier to save women's sports than men's from the dangers lurking just over the horizon. The vision of a girl for every sport and sport for every girl requires a reshaping of the sports enterprise as it is practiced at American high schools and colleges. Potential reformers are starting to talk about this, but to date have had little success in turning a massive enterprise around.

Back at the Bethesda tournament, the Mischief end up losing to the McLean team 2-1. By the afternoon, though, they have woken up and roar past the Philadelphia Rage 4-0. On Sunday they defeat a team from suburban Atlanta and draw with another Maryland team. They finish the tournament in third place among the five in their division.

More importantly, though, four college coaches call Beach, the Mischief coach, in the next week. Beyond the balls they put in the back of the net, the Potomac players have scored with the people they need to impress. The factory has turned out a successful product.

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