

AN ABSTRACT OF THE THESIS OF

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Title IX has increased opportunities for women academically and athletically. This research assessed the impact that Title IX has had in the Pac-12 Conference in the development of women's intercollegiate athletics within the male-dominated world of sports and how female and male athletes have been impacted by Title IX implementation. Telephone surveys were conducted with 11 out of 12 Senior Women's Administrators of universities in the Pac-12 conference. The survey examined how Title IX is currently administered and implemented at the intercollegiate level and collected more information as to how Title IX is used and interpreted across universities within the Pac-12.

The research showed that Title IX increased opportunities at the Division I intercollegiate sports level in the Pac-12 conference. All universities reported that Title IX has successfully developed women's intercollegiate sports. Women's sports programs have flourished over the last 40 years, yet this research revealed that Title IX has also had an impact on men's Division I intercollegiate sports in the Pac-12 conference. Three of the 11 universities cut men's programs recently due to economics and the attempt to meet proportionality for Title IX compliance. Universities use proportionality as the primary way to meet compliance with Title IX. However, because of football programs, trying to obtain proportionality can lead to the use of roster management by some universities within the Pac-12. Furthermore, findings revealed that the implementation of Title IX and the current economic climate influence how universities interpret and apply the guidelines set forth in this legislation.

Key Words: Male-dominated, Opportunity, Roster Management, Proportionality

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**The Current Impact of Title IX in the Pac-12 Conference:**

**Who Really Benefits?**

by

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Lauren S. Morgenthaler

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## **The Current Impact of Title IX in the Pac-12 Conference:**

### **Who Really Benefits?**

#### **Introduction**

Since it was passed forty years ago, Title IX helped to establish equality between men and women in the institutions of education and sport. Academically, Title IX has had the most success, yet it is most known for its impact on athletics. This research assessed the impact that Title IX has had in the Pac-12 Conference in terms of the development of women's intercollegiate athletics in the male-dominated world of sports and how female and male athletes have been impacted by Title IX implementation. In the Pac-12 conference, women's intercollegiate athletics have developed and expanded, but many women still face inequality in the field of athletics. In order to understand the importance of Title IX, it is necessary to first look at the social environment in which women were placed and where Title IX grew from.

#### **Theoretical Foundation**

Historically, women have been subordinated and denied in patriarchal societies. Feminist theories have provided much needed insight into gender inequality. For example, socialist feminism can trace its roots back to Enlightened liberal feminism and cultural feminism, and it focuses on the force of oppression and subordination of women and sees it as a necessity to change within a capitalistic society. Socialist feminism takes elements from Enlightened liberal feminism and cultural feminism to explain how women have been oppressed. It draws from the work of early Enlightened liberal feminists who established that women are equal to men and deserve the same rights and opportunities (Donovan 1996:2-5). On the other hand, elements of cultural feminism are also reflected in socialist feminism. For example, pioneers of cultural feminism argued that women's economic dependence on men reduced women to a level of

prostitution and objectification that women needed for their own survival (Donovan 1996:45). For women to be truly liberated, however, they needed to be emancipated from the negative stereotype that viewed women as objects (Donovan 1996:53). It is from the combination of these two feminisms that socialist feminism has emerged.

Socialist feminism addresses capitalism in our culture, examines how women have been oppressed, and identifies how women are affected by subordination. In our capitalistic and patriarchal society, the organization of the dominant class has traditionally favored men and it has served in the best interest of men. Consequently, this is where men's power has prevailed over women (Smith 1987:5). Because women lack power and are often relegated to the domestic sphere, they have been socialized into serving and providing comfort for men (Smith 1987:5-6). Socialist feminists share and apply Marx's idea of praxis in their focus on oppression and subordination of women and the necessity for much needed reform (Donovan 1996:66-67). Through awareness of gendered inequality, women have challenged the laws and norms of a male-dominated society.

Awareness of gendered inequality initiated the fight for equal rights. Women finally won the right to vote with the nineteenth amendment in 1920, after over a century of fighting (Hanson, Guilfooy, and Pillai 2009:278). Despite their socially assigned position to the home, women gained increasing access to paying jobs outside their domestic sphere, especially during World War II with over seven million women in the workforce (Hanson, Guilfooy, and Pillai 2009:283). After the war, the myth that women were weak and incompetent had been disproved at a national level. The Women's Rights Movement began to gain more ground when Betty Friedan published her landmark book *The Feminine Mystique* in 1963, which documented the dissatisfaction of the American housewife and later established the National Organization for

Women that seek to end discrimination (Hanson, Guilfooy, and Pillai 2009:289). In 1964, Title VII of the Civil Rights Act eliminated discrimination in employment on the basis of race and sex, thus limiting and threatening the power that men had created in the workplace. After the workplace was addressed, Title IX was passed in 1972 and challenged the prevailing masculine institutions of education and sport (Hanson, Guilfooy, and Pillai 2009:294).

Title IX is a reflection of socialist feminism. Feminists recognize that traditionalism favors men. As a result, men are not comfortable when the status quo is threatened and they try to resist change. Title IX was and continues to be a threat to the status quo because it challenges the male-dominated social institutions of education and sport. Education and sport are the two most dominant institutions through which men can obtain and maintain access to power. Before its passage, women were constantly denied access to higher education because it was the standard route of success for men (Hanson, Guilfooy, and Pillai 2009:4). Socialist feminists saw education as the door to more equality, which they achieved through Title IX (Hanson, Guilfooy, and Pillai 2009:124). Through access to education, women would have access to the same power and knowledge that men had access to. As a result of Title IX, no quotas limit women's enrollment in college, with women making up 56 percent of undergraduates and 58 percent of graduate students in 2006 (Hanson, Guilfooy, and Pillai 2009:83). Women are now majoring in the sciences, which was once primarily a male dominated field.

Despite the success that Title IX has had with education, it is most known for its impact on the social institution of sports. Sports are a multi-billion dollar industry in our male-dominated society. The playing field provides an extremely popular venue for men to display their masculinity. Before Title IX, when girls were allowed to participate in sports they were limited to archery, tennis, cheerleading, and swimming (Hanson, Guilfooy, and Pillai 2009:162).

Girls were banned from Little League, which led to the dismantlement of women's baseball leagues and even less opportunities for women in professional sports (Hanson, Guilfooy, and Pillai 2009:163). However, as women began to question and alter their roles in society in the 1940s and 1950s, restrictions against women's athletics began to change. The year 1956 marked the beginning of organizations for women's sport with the Division for Girls' and Women's Sports and the Commission on Intercollegiate Athletics for Women (Hanson, Guilfooy, and Pillai 2009:164).

### **Impact of Title IX on Intercollegiate Female Athletes**

By definition Title IX states:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

As women stepped forward, advocating for their right to play, sports became part of the battle for equality, thus challenging this male-dominated institution. A few of the strongest female advocates were Hawaii's first woman representative, Rep. Patsy Takemoto Mink, Bernice Sandler, Caspar Weinberger, and Margaret Dunkle (Hanson, Guilfooy, and Pillai 2009:168). However, they faced major opposition from the National Collegiate Athletic Association (NCAA), athletic directors, and universities. Those in power, men, were fearful of losing power and funds. In 1974, the courts ruled that Little League must allow girls to play (Hanson, Guilfooy, and Pillai 2009:167). Caspar Weinberger, at the time was the Health Education and Welfare Secretary, decided to include sports teams as school activities covered by Title IX. This was later signed and improved in 1975 by President Gerald Ford and Congress after much debate (Hanson, Guilfooy, and Pillai 2009:167). Title IX finally went into effect in 1976. By 1978, the number of women participating in interscholastic sports had significantly increased from 300,000

to more than two million, and for women participating in intercollegiate sports participation the number doubled to more than 64,000 in 1977 (Judge and O'Brien 2010:7).

The final regulations for Title IX were published in 1979. The basics of governing scholarships, uniforms, equipment, and practice times for men and women were outlined for athletic programs in this document (Suggs, *Title IX at 30* 2002:39). This document, however, would prove to be quite controversial in the future because it included the three parts test for regulating women in college sports. The three parts test gives colleges three options for showing that they are in compliance with Title IX (Suggs, *Title IX at 30*, 2002:39). Universities must comply with **one** of the following: (1) having the same proportion of women on sports teams as there are female undergraduates; (2) having a “history and continuing practice of expanding opportunities for women”; or (3) proving that they are “fully and effectively accommodating the interests and abilities” of women on the campus and among the institution’s potential students (Suggs, *Title IX at 30*, 2002:39).

Compliance with the three-part test became a non-issue during the 1980s. For example, in 1984, the Supreme Court ruled in *Grover City College v. Bell* that Title IX applied only to those programs receiving direct financial aid (Hanson, Guilfooy, and Pillai 2009:299). As a result, pending lawsuits were dismissed and the growth of female athletics programs at the collegiate level was stalled because most collegiate athletic programs did not directly receive federal money (Judge and O'Brien 2010:7). Despite this setback, the number of female athletes and women’s teams continued to increase (Suggs, *Title IX at 30*, 2002:39). It was not until the Democrat-controlled Congress passed the Civil Rights Restoration Act in 1988, that Title IX’s protections were extended to indirect recipients of federal funding, including collegiate athletic departments (Judge and O'Brien 2010:7).

Because men covet the institution of sport, it was sometime until Title IX was able to get back on its feet and be enforced for athletic programs. It was not until the Supreme Court stepped in and intercollegiate sports became a big business that Title IX finally began to move forward. In 1992, the Supreme Court decided in *Franklin v Gwinnett County Public Schools* that successful Title IX plaintiffs could recover monetary damages and attorney fees for intentional discrimination (Judge and O'Brien 2010:7). *Cohen v. Brown University* followed this case, suing the school and claiming that it had violated Title IX by cutting support for women's teams (Judge and O'Brien 2010:7). This case prompted universities to evaluate their athletic programs and increase female sports programs. The fact that intercollegiate sports became big business in the early 1990s was also a significant factor in the enforcement of Title IX. Television networks began paying for rights to prominent intercollegiate football and basketball games. As a result, some universities realized that women's intercollegiate programs could produce revenue in sports programs such as basketball and gymnastics (Suggs, *Title IX at 30*, 2002:41).

As the participation of women in sport's programs and higher education has increased, women have become more successful within the world. Sports, in particular, have provided an environment for team members to increase their physical stamina and self-confidence along with teamwork skills and problem solving (Hanson, Guilfooy, and Pillai 2009:168). Consequently, female athletes have become more successful in the classroom and have a higher graduation rate than the overall rates for male student athletes. Today, more than four out of five executive women have played sports growing up and attribute sports participation to their career success (Hanson, Guilfooy, and Pillai 2009:168-169). The success that women have experienced as a result of Title IX threatens the traditional male dominance in the world of sports and society in

general. As women increase their knowledge, athletic abilities, and self-confidence, they are no longer passive bystanders and seek to be of equal status of men.

Because Title IX has promoted the advancement of female sports programs, the three-part test has come to the forefront. Currently, most universities seek to comply with the first part of the test by having the same proportion of females on sports teams as there are female undergraduates. However, because of Title IX, the number of female undergrads has surpassed male undergrads and women have become the majority at most higher education institutions. Due to the appeal of intercollegiate football programs as major revenue producers, most universities are struggling to reach an equal proportion of male and female athletes since football teams are now fielding between 95 and 120 athletes with an average of 85 scholarships (Suggs, *Title IX at 30*, 2002:42). According to data published under federal gender-equity laws, 91 of the 115 college Division I football programs spend a larger percentage of their budget on their football team than women's sports programs put together (Suggs, *Title IX at 30*, 2002:42). In order to support football programs and try to comply with Title IX, many universities resort to cutting other men's programs. This has resulted in the loss of opportunities for men's sports programs to maintain the status quo and generate additional revenues to reaffirm male dominance.

### **Current State of Title IX in Intercollegiate Sports**

In light of the economic decline within the past decade, college athletics programs have also been impacted with decreasing budgets and opportunities with increased interest. College programs at the Division I-A level allocated a median of \$10.2 million to their athletic departments in the 2009 fiscal year, which was an increase from the median of \$8 million that universities provided to their sports programs in 2008 (Sander 2010:1). At the Division I-A level

universities took in revenue totaling \$8.7 billion through the 2009-10 school year. Men's athletic programs generated 55 percent of the revenue while women's athletic programs contributed 15 percent, with an additional 30 percent of revenue not allocated by gender or sport (Thomas, *Gender Games*, 2011:1). Despite the money generated by Division I athletic departments, in 2009 all but 14 of the 120 programs in I-A ran deficits in their athletic programs (Sander 2010:1). For the individual sports programs, such as football, that produce the most revenue, they also are the programs that take up a majority of the budget.

For the fiscal year 2009, the Pac-10 conference brought in an estimated \$1.2 million for its sports programs. Of the expenses, women's teams made up 30% of total athletic program expenses while men made up 70%. Football took up 40% of the total expenses of Pac-10 universities, while men's basketball took up 13% of the total expenses (U.S. Department of Education 2011). Although football and basketball are arguably the biggest money generators on campus' with football bringing in 63% and men's basketball bringing in 21% of the total revenue for Pac-10 universities, these two sports also require the most spending.

Although intercollegiate athletics is a business, it is becoming a rather expensive one for colleges and universities to uphold. Within the last five years, college programs have increased their operating budgets by nearly 11% annually (Wieberg and Berkowitz 2009:1). Much of this money is funneled into football programs in the hopes that the investment will yield a high return. For example, the spending on sports at the average NCAA Division I-A football schools went up from \$31 million in 2004 to \$42.2 million in 2007 (Wieberg and Berkowitz 2009:1). In a spending study released in 2005, it was found that for every additional dollar spent by universities, programs only earned an additional dollar in athletics revenue (Wieberg and Berkowitz 2009:1). Furthermore, success on the field does not always indicate an increased

return. For example, an extra \$1 million spent on football programs only increases winning percentage by roughly 2 percent (Wieberg and Berkowitz 2009:2). Many universities invest in prestigious coaches, which leads to coaches' salaries taking up nearly a third of most athletics budgets in Division I and does not necessarily result in a more successful program (Sander 2010:1).

In the past five years, many Division I universities with football programs have experienced difficulties balancing the books. Despite the success that many programs experience, the economic climate has often directly impacted the athletic budgets. For example, although Stanford has won at least one national championship for 33 consecutive years, in February of 2009 it had to eliminate 21 staff positions in the athletic department and begin the process of cutting out \$7 million of their athletic budget over the next two and a half years (Schlabach 2009:1). Furthermore, Stanford's economic problems are tied to the loss in value of its endowments because in 2008 the Cardinal's athletic endowment that was worth \$520 million lost about 20 to 30 percent of its value when the financial markets went south. Before 2009, the athletic endowment value had sunk to about \$410 million resulting in the loss of scholarship funding and other operating costs (Schlabach 2009:1). Another example is the University of Washington. In the effort to save \$1.2 million, the men's and women's swimming teams were cut, which was only half of what the athletic department needed to cut from its budget (Schlabach 2009:1). Athletic departments are looking to cut money from the budget through trimming marketing and facilities costs, eliminating insurance for walk-on players, asking coaches to conduct more daytime practices to save on lighting costs, and having a few coaches taking unpaid furloughs (Schlabach 2009:2). In many ways, college athletics reflects the economic decline that the United States has faced. For example, many assumed that housing

prices would keep increasing and intercollegiate athletics assumed that corporate sponsorships and television contracts would keep increasing, so when the bubble burst both faced economic hardships (Schlabach 2009:2).

There are some intercollegiate athletic programs that are still buoyed during this time of economic trouble. These universities have successful football programs, which inspire other schools to invest more money into their football programs. But of the 120 Division-I football programs, only a few have success. For example, for 2010, Florida was able to increase its athletic budget by \$5.9 million because it was buoyed by its second football Bowl Championship Series (BCS) national championship in three seasons (Schlabach 2009:2). The other program that turned a profit was the University of Texas. Because of the history of success and the dedication of alumni, the Texas football program generated \$73 million in 2008 (Schlabach 2009:2-3). At the conclusion of the 2009 season, the two leagues, Big Ten and the South East Conference (SEC) that had re-negotiated television contracts were able to their members weather the downturn of the economy (Schlabach 2009:3). Consequently, many leagues have sought to increase media contracts. For example, the Pac-10 conference has transitioned to the Pac-12 conference in the academic year of 2011-2012. On May 4, 2011, the Pac-12 conference announced that they had teamed up with ESPN and FOX Sports Media Group to extend and expand broadcast and national cable television (“Pac-10 Announces Landmark Media Deal” 2011:1). Furthermore, the new media company Pac-12 Media Enterprises was created to establish its own Pac-12 Network and hold other media and event rights exclusive to the Pac-12 conference (“Pac-10 Announces Landmark Media Deal” 2011:1).

Many universities, however, do not have the ability to change or re-negotiate television packages to help ease financial problems. As a result of the economic decline, many universities

have had to cut athletic programs to help stabilize the budget. For example, University of California, Davis, cut three men's programs and one women's program to help the campus save \$2.9 million over three years ("Davis Cuts 3 Men's Sports, 1 Women's" 2010:1). Although colleges and universities are struggling in the current economic climate, cutting based on "lack of funds" is not always a valid reason. For example, in the fall of 2010, the University of California, Berkeley, announced that they would be cutting men's rugby, men's baseball, men's and women's gymnastics, and women's lacrosse. However, in the spring of 2011 U. C. Berkeley fundraised over \$21 million to keep all but men's gymnastics (*Sports Illustrated* 2010; Nelson 2011). Similarly, Delaware State University reinstated its women's equestrian team and raised enough money to fund the team after the federal court claimed that DSU violated Title IX federal guidelines for athletic gender equity provisions. With both men and women's programs being cut, colleges and universities are being examined to see if they are in compliance with Title IX ordinances of the NCAA, but the issue of compliance is a very broad one.

According to the NCAA, which serves as the intercollegiate governing institution, each institution has to designate at least one Title IX coordinator to oversee compliance. Gender equity for Title IX is evaluated in three areas: (1) participation, (2) scholarships, and (3) other benefits such as provision of equipment and supplies, scheduling, travel, facilities, coaches, etc. (Judge and O'Brien 2010:19). Title IX requires that equitable opportunities to participate in intercollegiate sport must be offered to members of each gender. But this does not mean that universities must offer the same athletic teams for males and females or the identical numbers of participation opportunities in participation (Judge and O'Brien 2010:19). The NCAA has created guidelines to determine what teams count as areas of athletic participation. After determining which teams are included as athletic programs in a university, a university must determine the

number of female and male participants, through who receives institutionally sponsored support, who participates regularly in practices and team meetings, who is listed on the eligibility list for each sport, and who because of injury cannot meet the above but continues to receive financial aid for athletic ability (Judge and O'Brien 2010:20-21). When participants are counted for a Title IX participation analysis, every time a student-athlete occupies a spot on a varsity team, he or she is counted as a participant and thus can be counted more than once. For example, many student-athletes who participate in cross-country and indoor and outdoor track are often counted three separate times (Judge and O'Brien 2010:21).

The NCAA uses the three-part test in evaluating an institution's athletic program. For universities that agree to comply with participation opportunities to be proportionate to enrollment, the Office of Civil Rights (OCR) takes into account (1) exact proportionality, (2) a disparity of 1 percent caused by an increase in the current year's enrollment after a year of exact proportionality, or (3) an institution's pursuit of proportionality over a five-year period (Judge and O'Brien 2010:22-23). The second part of the test looks at if an institution has a history and continuing practice of program expansion that is "demonstrably responsive" to the interests and abilities of females on campus. The universities must show an athletic history that details when teams were added or discontinued, the institutional reasons for doing so, and the effect respective additions or deletions had on the overall number of athletics participants for both men and women (Judge and O'Brien 2010:23). However, most universities do not have this information readily available so they cannot know if they comply with this test. The other part of the test that universities can seek compliance under is the effective accommodation of athletics interests and abilities. According to this test, universities have to demonstrate that they are fully and effectively accommodating the athletics interests and abilities of females on campus (Judge and

O'Brien 2010:25). This, however, can be challenging to prove. For a majority of universities, the first part of the test is the easiest to comply with because the information is more readily available. However, rather than spend more money to expand female athletic programs, many universities cut men's programs in order to comply with the proportionality test (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity* 2011).

Despite the fact that many men's programs are being cut because universities claim they need to be in compliance with Title IX and do not have the budget to increase women's programs, women's programs are still being eliminated. In the past five years, the University of California, Davis, the University of Cincinnati, Delaware State University, the University of Washington, Indiana State University, the University of Vermont, and the University of Maine are programs that have cut men's and women's programs based on lack of funding. The economic downturn has had an extreme impact on intercollegiate athletics, but women's intercollegiate athletic programs are already challenged with survival since they exist in the male-dominated world of sports.

Lack of compliance with Title IX regulations can result in an investigation, which universities have tried their hardest to avoid. One of the primary ways that universities use to look like they're meeting proportionality compliance is through roster management. Many universities try to avoid formal investigations by reporting more female participants than the university may actually have (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). Last year roster management came under investigation when a federal judge ruled that Quinnipiac University had violated Title IX by engaging in several questionable practices, including padding women's rosters by counting players, then cutting them a few weeks later (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). Many

universities use roster management with their women's running teams by requiring women cross-country runners to join the indoor and outdoor track and field teams, thus counting the athletes three times (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). For example after adding a football team in 1997, the University of Southern Florida opted to try to meet the proportionality test of Title IX because it failed the other two. The university's primary strategy was to expand its women's running team and by 2008, it was reporting 75 female runners, which is more than quadruple the size of an average Division I cross-country team (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). The university even went as far as listing three long jumpers on the cross-country roster, despite the fact that they were not on the team. Furthermore, South Florida continued to list a runner who quit in her sophomore year so that they could keep more positions on the guys' teams (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011).

There are many unfair loopholes that universities can use to be seen as compliant with Title IX by the NCAA and the Department of Education. For example, the Office of Civil Rights (OCR) does not require athletes to compete to be counted (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). Furthermore, Division I athletic programs can count male players who practice with women's teams as male participants. For example, the defending national basketball champions, Texas A & M, reported 32 women's basketball players in the 2009-10 academic year, even though 14 were men (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). Similarly, Cornell included 19 men among the women's fencing, volleyball, and basketball teams in its 2009-10 numbers (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). Through the process of double and triple-counting women and counting men as women, four-dozen Division I universities have

been able to hide the fact that they have fewer female athletes. When the duplications are not counted, the records show that the percentage of female athletes who played for the universities actually fell over the last five years (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). For example, at Oklahoma State they reported 35 more female participants in 2009-10 than in 2003-04, when the number actually decreased by 12 and the number of male athletes increased by 22 during that period (Thomas, *College Teams, Relying on Deception, Undermine Gender Equity*, 2011). By reporting more female athletes, the university was able to create more sports for its male participants and avoid a Title IX investigation into this sexist process.

### **Recent Changes in Title IX Policy**

The most recent changes in policy toward Title IX have focused on the third part of the three-part test. It is under this part that colleges and universities may show compliance if they can demonstrate that they are “fully and effectively accommodating the athletic interests and abilities of the under-represented sex,” (Judge and O’Brien 2011:27). Therefore, if women want to participate in sports where men already occupy most of the existing participation opportunities, a university can increase participation opportunities for the under-represented sex and show that it has fully accommodated the interests and abilities, while also increasing opportunities for the over-represented sex (Judge and O’Brien 2011:27-28). However, this part of the test is not often used by universities because of the time commitment it takes to survey the student population and comply with the NCAA guidelines for this part of the test.

Many male athletes, however, are opposed to the proportionality test. In 2002, the Department of Education formed a commission to re-evaluate Title IX, which was the first nationwide conversation since the law was passed (Suggs “Federal Commission Considers

Reinterpreting Title IX” 2002:54). At the forefront of this conversation was the three-part test, with the focus on de-emphasizing substantial proportionality. Although the commission heard from many male athletes and coaches who argued that Title IX regulations needed to be revised, female coaches and athletes argued that the law should be more vigorously enforced (Suggs “Federal Commission Considers Reinterpreting Title IX” 2002:54).

As a result of this commission, on the 33<sup>rd</sup> anniversary of Title IX the Department of Education implemented a new policy in March of 2005. According to the National Women’s Law Center, this was “a giant loophole through which schools can evade their obligation to provide equal opportunity in sports,” (“Title IX Supporters Say New Policy Guidance Weakens Law” 2010). Under this new policy universities would be able to claim compliance with Title IX based on the results of an online survey of female students’ interest in sports. A “non-response” to the questionnaire or part of the questionnaire meant that schools could consider this a qualification for disinterest under the third part of the three-part test and stop providing more opportunities for female athletics. With this new policy it made it easier for institutions to be compliant with the third part of the three-part test.

When the Office of Civil Rights decides that an institution is in compliance with the third part, it looks at three questions. They first evaluate if there is unmet interest, which this survey was designed to evaluate. Athletic interest surveys need to be distributed to all current and admitted females on campus and make sure that students can request to add or elevate sports (Judge and O’Brien 2011:28). Theoretically, all students should have access to this survey because it is distributed online. However, many students are unaware of the surveys or do not have access to them because they don’t own a computer. As a result, this survey was biased because not everyone had access to the survey. Therefore, the distribution of this survey should

also be taken into consideration and specified, which the policy failed to do. Furthermore, universities differently interpret the rates of response. For example, some universities, such as the West Chester University of Pennsylvania, were saying that a 39 percent survey response rate was too low to validate the creation of new female teams (Judge and O'Brien 2011:29). Due to the lack of specificity in the policy about what constitutes "lack of response," female athletes stand to lose what Title IX has worked so hard to accomplish.

Finally, the third part also looks at the institution's ability to sustain a team. Although the OCR has held that the focus on the ability of athletes to play the sport and not whether they will be successful, the current economic climate makes universities reluctant to add new teams if they won't bring in money despite the talents they may have (Judge and O'Brien 2011:28). As a result of the downturn in the economy and the implementation of this new survey policy, this policy threatens the already unequal distribution in intercollegiate athletics. Although female sports do not bring in as much revenue as male sports, this is a policy helps enforce sexism because universities can claim that they cannot afford to add a new female sports because they don't have the funds to support the team.

The new policy created a loophole that helps to maintain the status quo of men through Title IX. Although women make up half of college students, they have only about 41 percent of sports participation opportunities. Furthermore, men still dominate athletics and the other most prestigious and higher paying fields within the United States (Walton and Helstein 2008:376). Sport maintains the status quo of men and is seen as one of men's "last" cultural and educational spaces. This policy further perpetuates the gender myths that women are less skilled, less entertaining, and less interested than men and therefore, should not be given the same opportunities.

After much discourse and debate over the fairness of the policy, the U.S. Department of Education overturned the Title IX policy implemented by President George Bush. Schools will still use the three-part test, but can no longer rely on surveys to gauge interest or characterize nonresponses as lack of interest (Jones 2010:8). Although the surveys have been useful to reveal interest by women on campus in sports, it does not capture the whole picture. The change in policy takes a step in the right direction, but it still does not eliminate or completely address the issues that women in sport deal with.

Despite the progress that this policy has made, discrimination is still occurring. Many opponents of Title IX argue that male sports are suffering as a result of female sports. There is a false belief that women's gains automatically mean men's losses (Walton and Helstein 2008:377). Take for example, the sport of wrestling. In a time span of 21 years the number of Division I wrestling programs dropped from 117 to 86 (Walton and Helstein 2008:376). However, during this time many women's gymnastics programs have been eliminated. Overall, these cuts have been made to protect the major money making sport of football. By portraying men as the victims of Title IX, the focus is shifted away from the fact that the most prestigious sporting spaces remain closed to women (Walton and Helstein 2008:377). Despite putting Title IX back on track, women are still faced with fewer opportunities to compete.

### **Research Methods and Ethics**

The collection of data consisted of telephone interviews using an interview instrument that has been prepared by the researcher and reviewed and approved by the Institutional Review Board (IRB) and will be explained.

**Data**

This research focused on interviewing Senior Women's Administrators (SWAs) within the Pac-12 schools. The SWAs were selected because they are responsible for monitoring Title IX regulations within the athletic department at each university. Although this is an exclusive group, their work with Title IX and intercollegiate athletics was specific to this research and provided insight into the state of Title IX within intercollegiate athletics in the Pac-12 conference.

**Measures**

The survey crafted for this research identified at five main areas. The first area of interest examined the personal backgrounds of the Senior Women's Administrators (SWA). SWAs are very successful women in each athletic department who are responsible for maintaining equality for both men and women's intercollegiate athletics. Since women have been traditionally underrepresented in sports, the position of female administrators in each athletic department indicates a significant change towards gender equality that has occurred since the passing of Title IX and the growth of women's athletics. On the other hand, the necessity for an SWA also indicates that there is a need for improvement because each SWA serves as a monitor for the athletic department. Since the role of the Senior Women's Administrator has become universal throughout athletic departments, this research examined how each woman began her career, performed her role, and carried out her duties in the athletic department.

The second area of interest examined the economic impact of Title IX. In light of the recent economic downturn, this research examined how women's and men's intercollegiate athletics have been impacted. Because women's intercollegiate sports programs do not produce

as much revenue as men's programs, it seemed more likely that universities cut women's programs because of lack of funds despite Title IX regulations.

The third area of interest focused on how Title IX is implemented in each athletic department. The three-part test allows universities to have different interpretations of how to implement Title IX. This survey asked SWAs how they look at Title IX and try to maintain equality between men's and women's programs.

The fourth area of interest concentrated on the impact Title IX has had on women's intercollegiate athletics. The survey asked SWAs how Title IX has impacted women's athletics and what its biggest impact has been at each institution.

The fifth and final area of interest evaluated if and how universities within the Pac-12 conference used the old survey policy. This survey asked SWAs if they knew what the survey was, if they had used the survey, and why they chose to either use it or not use it.

### **Ethical Issues**

Because telephone interviews were used to collect data, this survey was submitted to the Institutional Review Board to ensure that it was ethical. The IRB deemed that this research was exempt and approved the use of the survey as an instrument to interview the SWAs in the Pac-12. To ensure anonymity, the SWAs were not identified by name or institution. All data has been obtained voluntarily and does not pose any harm or violate any of the tenants of ethical research.

## **Results**

### **Personal Background**

The results of Table 1 identify the backgrounds of the Senior Women's Administrators interviewed. Of those interviewed, only one of the Senior Women's Administrators was an

athlete while in college. The other SWAs within the Pac-12 were split into two categories. The majority of SWAs worked within the athletic department after graduation in either counseling, business, or with media/marketing. The other predominant group of SWAs indicated that they were coaches before they began their work in administration. Only one SWA did not discuss her background.

**Table 1. Backgrounds of Senior Women’s Administrators**

<b>Background</b>	<b>Frequency</b>	<b>Percent</b>
Counseling	5	45.5
Coaching	4	36.4
Athlete	1	9.1
NA	1	9.1
Total	11	100

*Table 1. indicates what path each SWA took to become the SWA in each respective athletic program.*

### **Economic Impact**

Given the current economy, this research presumed that many universities would have to analyze their budgets and discuss the state of each respective athletic program. However, as Table 2 demonstrates, 36.4 percent of universities in the Pac-12 conference did not discuss or cut any programs. Two institutions discussed cutting programs but were able to find the funds to maintain all current varsity athletic programs. More than half, or 54.6 percent, of the universities did not cut programs during the economic recession. One did cut a men’s program and another cut both a men and women’s program. In the past two years because of budget cuts one university eliminated five programs, but was able to reinstate all of the programs due to extensive fundraising by the alumni association. Conversely, one private university is in the current process of inflating a new women’s athletic program. All of the institutions that did cut programs were public universities.

**Table 2. Economic Impact of Title IX on Intercollegiate Athletics**

<b>Economic Impact</b>	<b>Frequency</b>	<b>Percent</b>
Discussed cutting programs but did not	2	18.2
Cut men's programs	2	18.2
Added women's programs	1	9.1
Did not discuss cutting programs	4	36.4
Cut both men's and women's programs	1	9.1
Cut programs but then reinstated them	1	9.1
Total	11	100

*Table 2. indicates how universities handled the number of athletic teams in the economic climate of the last five years.*

### **Compliance**

The results of Table 3 show that maintaining and ensuring sports equality is a significant factor of being a Senior Women's Administrator. All of the SWAs stated that Title IX is maintained through the submission and review of the Equity in Athletics Disclosure Act (EADA) report. All declared that they implement Title IX policy by emphasizing equality, reviewing the EADA reports, and ensuring that women have equal opportunities within the athletic department. Only one SWA stated that they have implemented a new women's athletic program recently. Three SWAs admitted to using roster management to meet the proportionality part of Title IX.

**Table 3. Implementation and Compliance of Title IX**

<b>Implementation</b>	<b>Frequency</b>	<b>Percent</b>
Promoting Equality and EADA Report	7	63.6
Promote Equality, EADA, Adding New Programs	1	9.1
Promote Equality, EADA, Admits to Roster Management	3	27.3
Total	11	100

*Table 3. indicates how SWAs implement and comply with Title IX regulations*

### **Old Survey Policy**

Table 4 indicates that it was unanimous amongst all universities that they did not use the old survey policy to look at obtaining compliance with Title IX. Although some described it as

an extra tool to evaluate student interest, the general consensus was that the survey policy was discriminatory and did not present a fair representation of the general student population. When determining which sports to offer or add, SWAs stated that they looked at the sports offered in high schools and feedback from the general student population. Although this feedback can be obtained through surveys, it is not the only factor that athletic programs take into account.

**Table 4. Use of the Old Survey Policy within the Pac-12**

<b>Old Survey Policy</b>	<b>Frequency</b>	<b>Percent</b>
Did not use survey to meet compliance	11	100
Total	11	100

*Table 4. indicates that none of the universities interviewed used the old survey policy to meet compliance with Title IX*

### **Impact of Title IX**

This research found that it was unanimous amongst Senior Women's Administrators that Title IX had the biggest impact on creating and increasing opportunities in women's intercollegiate athletics. In 10 out of 11 universities surveyed, Title IX was the reason for the installation of women's varsity athletic programs. Given the view that Title IX is responsible for the demise of some men's intercollegiate athletic programs, two universities expressed that they have tried to limit the impact of Title IX on their respective men's programs. Moreover, with the implementation of Title IX within the Pac-12 conference, three universities stated that their women's intercollegiate athletic programs are more successful, having won more conference and national titles compared to the men's intercollegiate athletic programs. Unexpectedly, one university expressed that Title IX has increased opportunities for women in intercollegiate athletics, but it has had some unintended consequences on men's programs.

**Table 5. Impact of Title IX within Pac-12 Intercollegiate Athletics**

<b>Impact</b>	<b>Frequency</b>	<b>Percent</b>
Increased opportunities for women	7	63.6
Increased Opportunities, but not harming men's programs	1	9.1
More successful women's programs	2	18.2
Increased opportunities, but unintended consequences	1	9.1
Total	11	100

*Table 5. indicates the impact that Title IX has had on each university in the Pac-12*

### **Discussion**

This research was designed to assess and evaluate Title IX in the Pac-12 conference in the context of women's intercollegiate athletics. Perhaps the most surprising result of the personal backgrounds was that only one of the 11 SWAs was an intercollegiate athlete. Based on the literature and the position of affluence that SWAs maintain, this research believed that more of the SWAs would have participated in intercollegiate athletics themselves. Although only one of the SWAs was an athlete at the Division I intercollegiate level, Title IX was the causal force behind the personal success of the SWAs. Without Title IX, females would not have had access to coaching opportunities at the Division I level, nor would there have been a need to have a woman in a highly influential position within the athletic department to ensure equality. Only one out of eleven of the SWAs participated in intercollegiate athletics. This low participation rate can possibly be explained by the age of the demographic interviewed. Many SWAs in the Pac-12 conference were in high school or college when Title IX was in its infancy and participation in sports was limited. However, these women are an affirmation of the success of Title IX because without it, their jobs and positions of authority would not exist in the male dominated arena of sports.

Interestingly, this research discovered that the basic integrity of each athletic program has remained intact despite the economic climate. Although the athletic programs are operational, much of this can be attributed to the Pac-12 conference multi-million dollar contract negotiated in 2011. Because of Title IX, many women's programs were preserved in the declining economy. Each university relies on the proportionality prong, which means that each university strives to maintain the same proportion of female athlete to male athletes and female students to male students. As a result, most women's programs across the Pac-12 conference were not threatened of being cut. Unlike much speculation and research suggests, however, men's programs were not significantly affected. Despite claims that Title IX is responsible for the demise of some men's intercollegiate athletic programs, this was not the case in the Pac-12 conference. One university cut a men's program completely, while another university eliminated both their men and women's swimming program. Only two universities, however, are in the process of adding new women's programs. Though the current economic climate does not provide the best atmosphere to install new programs, some student interest is not fulfilled on the premise that there is not money. Many SWAs discussed having the desire to add more women's programs, but claimed they did not have the budget to do so. Despite the new Pac-12 media deal, many universities in the Pac-12 conference are using the incoming money to help buoy their football programs. Although it is true that men's intercollegiate Division I football is the big money maker in intercollegiate athletics, without media deals it does not make enough to sustain itself. Of the universities that did discuss cutting sports programs, football and basketball were two sports that were never in jeopardy. Title IX has allowed for the development of women's intercollegiate athletics, but it is the only reason that more women's programs were not cut in the declining economic climate.

It is the job of the Senior Women's Administrator to ensure that money is being spent equally and that each team is receiving a fair share. The definition of "fair" is a very broad term among the universities. Clearly, the male-dominated sports of football and basketball receive the most money from the budget, but they also produce the most revenue. Despite the submission of the EADA report, the affirmations that each SWA does her best to uphold equality within her respective university, and the claim that the Office of Civil Rights helps to ensure Title IX, there is no official governing institution that oversees the enforcement of Title IX in women's intercollegiate athletics. The judicial system is the only social institution that seems to hold any power in the enforcement of violations. The data reveals that each SWA is working to promote gender equality in the Pac-12 conference. Yet, it also reveals that the effort at enforcing Title IX is spread amongst various organizations and institutions, leaving room for subjective interpretation and potentially allowing things to slip through the cracks. It took courts ruling in favor of female athletes to get women's intercollegiate sport to where it is today; however, there is very little besides the threat of a lawsuit to enforce Title IX. Women's sports have become much more popular, but it is still a male-dominated sector and subject to discrimination. For example, no men's programs have to participate in roster management to meet proportionality. Of the universities who participated, only three brought up and admitted to using roster management to fulfill the proportionality prong of the three-part test of Title IX. These three universities discussed having women's cross country and track teams with athletes that they can count up to three times; once for cross country, once for indoor track, and once for outdoor track within the course of the academic year. Roster management is viewed at as a tool useful in compliance with Title IX and "balancing out" the number of male athletes that football provides. Although football teams are traditionally large, between 95-120 players, roster management

seems to justify the fact that there are fewer athletic opportunities for women. Title IX has allowed for an increase in women's athletics, but it still shows that women are still subjected to discrimination in the form of roster management.

Overall, Title IX has accomplished the original goal in the area of sports: creating and encouraging the growth of women's athletics, especially at the intercollegiate level. Although there is some disagreement over the impact of Title IX on men's intercollegiate athletics, in the Pac-12, universities are making a conscious effort to ensure that men's sports are not cut on the premise of maintaining proportionality. Given that sport is a male-dominated institution, it was surprising to find that Title IX has promoted such growth at the Division I intercollegiate level that some Pac-12 universities have more successful women's intercollegiate athletic programs overall compared to men's intercollegiate athletic programs. This reveals that Title IX has increased access, opportunity, and equipment in many women's intercollegiate sports. With women's intercollegiate athletic programs established, women's athletics have become much stronger within the Pac-12 conference and many female athletes are experiencing success regionally and nationally. Obtaining proportionality, however, can be challenging and often results in roster management, as previously mentioned. Many universities struggle with obtaining exact proportionality and many SWAs lamented the fact that they wish proportionality could be measured within .03-.05 of the student population. Although not directly stated by any SWAs, the challenges with proportionality come from the maintenance of the football programs. In the patriarchal world of sports, football appears to determine how Title IX is implemented.

### **Policy Recommendations**

Title IX has gained momentum and success within the last 40 years, but there is no governing institution to enforce Title IX. The Senior Women's Administrators within the Pac-12

have worked hard to create equality within each respective athletic department through the use of EADA reports and working with coaching staffs and athletes. Title IX is implemented and encouraged by the overhanging threat of the judicial system. Since there is no governing body that specifically enforces and monitors Title IX within intercollegiate athletics, it allows for universities to adopt different interpretations as to how they are in compliance of one of the three prongs. For Title IX to be more successful and allow for equality for both men and women intercollegiate athletes, it would be beneficial to create a governing branch within the NCAA to monitor universities nationwide. An established and specialized branch that focuses on Title IX specifically would be able to define how Title IX should be interpreted and implemented and determine its viability in compliance. In addition, it would work to reduce current practices such as roster management and provide resources that enable universities to comply with Title IX. Instead of the three-part test that each university can interpret differently, this branch could establish guidelines and regulations that are easier to understand and work with universities to meet compliance. Through a governing branch within the NCAA, Title IX would be more effective and promote greater equality in women's intercollegiate athletics.

For Title IX to gain more momentum and truly establish equality, future research must examine and evaluate how universities use roster management in complying with Title IX. Many universities use the proportionality prong to meet Title IX compliance and lamented the fact that proportionality is difficult to achieve with football programs. Future research must examine the three-part test to determine the effectiveness in assessing and implementing Title IX.

## Conclusion

After the implementation of Title IX in 1972, it has started to establish equality between men and women in the institutions of education and sport. Although both institutions are revered to uphold man's place in society, progress has been made in both. However, within the world of sports, Title IX has become controversial because it threatens the last strong institution of men.

This research discovered that Title IX has had success over the last forty years, but it still has room to grow and improve. Although Senior Women's Administrators within the Pac-12 conference work to ensure equality within athletic departments, there is no strong governing institution that they report to or that enforces equality. In the Pac-12 conference, women's intercollegiate athletics have developed and expanded and, in some cases, they have become more successful than some of the men's programs.

Economically, female athletics do not produce as much revenue as male athletics do in the world of college business. However, economics should not be a limiting factor for female athletes. Compliance with the three-part test can put pressure on universities to have more female athletes, which many universities find hard to do, especially in the current economic climate. Title IX is meant to create equality among men and women in all areas. The implementation of President George Bush's policy had a negative impact, but the new policy seeks to support women's sports and increase opportunities for women to participate in sport.

Although female athletic programs do not bring in as much revenue compared to men's programs, universities are still benefitting from having women's athletic intercollegiate programs. Similar to sports, universities are an institution that are male-dominated and male run. Universities in the Pac-12 conference are able to comply with Title IX based on the subjective interpretation of equality. Women benefit from Title IX because they have gained more

opportunities in women's intercollegiate athletics, but they are still restricted by the male-dominated institutions of sports and universities. Both of these institutions are the primary beneficiaries of Title IX because they work to reinforce the subordination of women and produce revenue for each institution.

Despite the progress that Title IX has made, it can still be improved upon and made even more effective. Padding rosters with athletes who may not be capable at competing at the Division I level, or counting men practice participants as women is not a fair solution. If the interest is not there, like many opponents claim it is not, then universities should not have to provide support to unwilling participants. However, the explosive growth in women's athletics within the past three decades indicates that there is, in fact, a great deal of interest. Although many male coaches argue that women lack the ability to compete at the intercollegiate level, the increase of women's participating in intercollegiate sports is and continues to be phenomenal.

Intercollegiate sports provide equality for females. Since the institution of Title IX there has been a shift in the American culture that has begun to treat women as equals. Sports are said to take place in a man's world because they traditionally teach and emphasize aggression, intimidations, strength, and violence. If these same characteristics are applied to females, then the unequal structure of power that men benefit from will be destroyed. As a result, many men are fighting Title IX, which means women need to fight even harder for their rights, especially the right to participate in sports. Although many would argue that sport is just a game, it is an institution that represents the struggle of oppressed women to gain equality in a patriarchal society. Title IX can no longer be restricted with semi-enforced rules in which male athletes still receive more money and support and female programs are cut based on "lack of funds." The inequality and sexism is masked in the struggling economy, but it is still inequality and sexism at

the very root. Title IX is the legislation that has been fighting this inequality from the beginning. Within a patriarchal society, Title IX has helped to create slow progress for women. Yet, for it to truly be successful, it needs to be enforced nationwide in every institution of higher learning.

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**APPENDICES**

## APPENDIX A

## Telephone Survey Questionnaire

- 1) What is your gender?
- 2) What is your background as an administrator?
- 3) What is your role in Title IX implementation at \_\_\_\_\_(school)?
- 4) How recently has (school) gone through the Title IX review?
- 5) What tools did you use under the Title IX assessment?
- 6) What is the biggest impact of Title IX on your school?
- 7) Is Title IX strictly enforced by any institutions at your school?
  - a. If so how?
  - b. If not, why do you think that is?
- 8) How does your institution meet Title IX compliance with the NCAA standards?
- 9) Has the economic climate affected the number of sports programs your institution has?
  - a. If so, how?
  - b. If not, why?
- 10) What do you know about the old survey policy?
- 11) Did you utilize the old survey policy?
  - a. If so, why?
  - b. If not, why not?
- 12) How many times could a person respond to a survey?
- 13) What are your feelings about the new policy?
- 14) Has the new policy changed Title IX implementation at all?
- 15) Have there been any changes in Title IX policy that have affected your school?
- 16) How do you think this will impact your school?

## APPENDIX B

## Telephone Script

Hi, my name is Lauren Morgenthaler. As an honors student at Oregon State University, I am researching the impact of the new Title IX policy for my thesis with my mentor Donna Champeau, Associate Professor in Public Health here at OSU. I am calling because you have been invited to participate in the research project to examine issues involved with the new Title IX policy that has been implemented by the Department of Education. You have been asked to participate in this survey based on your involvement with Title IX implementation and women's athletics at \_\_\_\_\_(name of the institution). The focus of this project is to gather more information about the Title IX policy instituted under the Bush Administration and the new Title IX policy to determine how this will affect women's collegiate athletics.

The purpose of the research is to determine if and how the new Title IX policy is being implemented in the PAC-10 schools. This research also aims to determine how this new policy will affect women's collegiate athletics at the PAC-10 universities.

For this research project, we have targeted the participants in this interview based on their jobs as Senior Women's Administrators or Title IX representatives at each PAC-10 institution. This research will be conducted over the phone and you will be asked a number of questions about Title IX. The interviews will be conducted by me and, if you choose to respond to the questions, your responses will be recorded in a Microsoft Word Document. These interviews will be saved in a password-protected file on my computer that only myself and my mentor will have access to. There will be no audio recording or identifiers taken down to individually identify you. If you would like, we will send you a copy of the research report and a summary of the results.

What's great about this research is that doesn't pose risk to you or your job and offers some great potential benefits. A potential benefit to participating in this study is that you might learn more information about what may impact your athletic program at \_\_\_\_\_. In addition, as a participant you might gain more knowledge about changes in Title IX.

This study is completely voluntary. If you feel uncomfortable or do not want to answer a question, you may skip it or discontinue at any time.

Since this is part of my Honors thesis, the research is not funded.

So, would you be interested in participating in this interview?

(IF not – thank you for your time and have a great day).

If Yes,

Awesome, thank you!

Alright, my first question is:

- What is your background as an administrator?

Great (or that's really interesting), my next question is:

## APPENDIX B (cont.)

- What is your role in Title IX implementation at \_\_\_\_\_(school)?
- How recently has (school) gone through the Title IX review?

So,

- What tools did you use under the Title IX assessment?

Since the Department of Education has adjusted the Title IX policy,

- What do you know about the old survey policy?
- (Do you know) Who responded to these surveys?
- How many times could a person respond to a survey?
- Was your school impacted by the old survey policy?
- What are your feelings about the new policy?
- Has the new policy changed Title IX implementation at all?
- How do you think this will impact your school?

Thank you so much for your time. You have been very helpful in this research. Would you like us to send you a copy of the results?

(If yes, Where can I send these results?)

If you have any questions or concerns about the research please contact my mentor Donna Champeau at [donna.champeau@oregonstate.edu](mailto:donna.champeau@oregonstate.edu) or 541-737-3835 or contact me at [morgentl@onid.orst.edu](mailto:morgentl@onid.orst.edu) or 208-721-1464.

Again, thank you for your help. Have a great day!

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