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Your Body Is a Battleground: Pregnancy Discrimination and College Sports After 50 Years of Title IX

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This article offers a new perspective on academic institutions' engagement with Title IX, notably its provisions on pregnant and parenting students, as laid down in Regulation 34 CFR 106.41 as amended (the Pregnancy Regulation), and the concomitant NCAA model policy on pregnant and parenting student-athletes. That new perspective is achieved through a systematic content analysis of institutional pregnancy statements in schools' online student-athlete handbooks (OSAHs). There are few, if any, other examples of OSAHs being subjected to this degree of scrutiny, so the authors introduce readers to the rich source of data that OSAHs offer, and provide guidance on their analysis and interpretation.

In considering why so few institutions have a pregnancy statement in their OSAHs, and why hardly any of them reflect the NCAA's model to any meaningful extent, the authors contend that institutions made a deliberate policy choice that was in part facilitated by the Supreme Court's decision in *Gebser v Lago Vista Independent School District* 524 US 274 (1998). The issue of pregnancy discrimination thus reflects a recurring feature within college sports: a three-way struggle between legal norms, a regulator with extensive but still limited powers, and member institutions that possess varying degrees of influence. On this occasion, the struggle has resulted in a comparative handful of colleges exercising disproportionate power not only over those other stakeholders, but also over the student-athletes whose wellbeing should lie at the heart of the relationship between them.

Keywords: discrimination. pregnancy, Title IX, college sports, content analysis

Introduction

College sport's relationship with federal law is fractious, and no more so than in its conflicted relationship with Title IX of the Education Amendments of 1972 20 USC

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§§1681-1689 (Title IX). For 50 years that relationship has reflected both the rapidly changing social and legal landscape of women's sport and the cultural and financial realities of academic institutions, in an era where the academic mission sometimes seems subservient to sporting success.

This article offers a new perspective on one of those areas of conflict, namely, the institutions' engagement with the NCAA's provisions on pregnant and parenting student-athletes and the concomitant provisions of Title IX as laid down in Regulation 34 CFR 106.41 as amended (the Pregnancy Regulation). This article acknowledges and celebrates the work of others in the field, but it adds to that body of literature through a systematic content analysis of pregnancy guidance offered by Football Bowl Subdivision (FBS) schools in their online student-athlete handbooks (OSAH). This article appears to the first example of OSAHs being subjected to systematic content analysis, which involves a reading and coding of texts to analyze and compare specific features of each document. As a research method, it facilitates the discovery of patterns in text that would otherwise be unnoticed. It can be replicated by other researchers if they follow the same methodology (Hall & Wright, 2008) and if the initial researchers openly share their methods. We have sought to do that here, partly to address the issue at hand but also to alert others to the rich source of data that the OSAHs offer.

Having surveyed institutions' public statements on pregnancy protections in comparison to the NCAA's guidance, this article reflects on why so few institutions have a policy in their OSAH as the NCAA requests, and why a mere handful of those that do exist reflect the NCAA's model. The authors contend that neither the absence nor the wording can be explained as mere oversight on the part of the institutions. To the contrary, they have made a deliberate policy choice that was in part facilitated by the Supreme Court's decision in *Gebser v Lago Vista Independent School District* 524 US 274 (1998). This article thus illustrates a tension between legal norms, a regulator with extensive but still limited powers, and member institutions that possess varying degrees of influence. This results in a comparative handful of colleges exercising disproportionate power over the other stakeholders, and especially over the female student-athletes who lie at the heart of the relationship. Title IX clearly lays down the universities' obligations to them, but they are vulnerable to the power struggles among those key actors—and also to decisions taken by influential individuals within their own institutions.

We do not argue that the contents of an OSAH are evidence of a failure to comply with the Pregnancy Regulation. They are not evidence on that point, and one could only ever seek to establish non-compliance in retrospect, having regard to the circumstances of a particular student-athlete and having considered policies and practices. *Brady v Sacred Heart University* No 3:03 Civ 514 (2003) discussed below is an example of this *a posteriori* knowledge. Rather, the purpose of the research is to highlight that, as a members' institution, the NCAA's powers are dictated by

its members—and its members have not given it the power to develop a mandatory pregnancy bylaw. As Potuto and Parkinson (2011, p. 441) noted in the context of the NCAA's Infractions Committee, "through adoption of bylaws, NCAA member institutions set the boundaries and the rules," and that has not happened here. The NCAA has no mandate for a detailed pregnancy bylaw akin to its provisions in respect of doping, for instance. But it has produced a guide and it has asked its member institutions to incorporate its contents into their OSAH (Sorensen et al., 2009). Deciding not to do so raises important points about the relationships between the stakeholders and, relatedly, the ability of student-athletes to ascertain what their Title IX rights are. That is an important issue worthy of scrutiny, and a systematic content analysis of institutions' pregnancy statements promotes a subtle, nuanced appreciation of how those struggles between the parties are articulated in public, but the results are no indicator that institutions that chose not to comply are breaking the law.

This article provides a brief overview of Title IX's consequences for college sports and introduces the specific rights held by pregnant student-athletes under the Pregnancy Regulation. Following this introduction to the rules and rights at play, the article builds on earlier work by Sorensen et al. (2009) and others by critiquing the continuing patterns of non-compliance in FBS schools with the NCAA model policies. It does this in two ways. First, the systematic content analysis looks at the language of the policies that exist and shows that, in 2019 and again in 2022, one-third of the institutions had a statement but very few of those reflected the NCAA models. Second, it seeks to explain why two-thirds of institutions surveyed have no pregnancy statement at all in their OSAH. Joining those two elements together, the article argues that in *Gebser* the Supreme Court actually incentivized continued non-compliance among the institutions. It is not credible to argue that either the complete absence of an OSAH policy or significant deviation from the language of the NCAA model was simply a longstanding, collective, amnesiac oversight within the most influential athletics departments in the country. A policy choice was made, and in the wake of *Gebser*, opting not to make an easily accessible pregnancy statement available to student-athletes was actually a legally robust position for those institutions to take.

If that argument is considered alongside Sorensen et al.'s (2009) observation that interest in compliance with the NCAA model policy, even if no more than on-paper compliance, was always low, and if one acknowledges that female student-athletes' leverage is limited, then it seems the only meaningful remedy lies with influential individuals who can at least cajole their institutions toward doing what the NCAA has asked. The systematic content analysis provides no evidence of this happening, so the article concludes that the role of individuals as institutional gatekeepers seems to be as barriers to change rather than advocates for it. In most FBS schools the interests of the student-athletes are ill-served by those individuals, and by the institutions that employ them.

College Sports, Pregnancy, and Title IX

Title IX provides that "no person … 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." It applies to all educational institutions that receive federal funding and on an 'institution-wide' basis, so if one department or program receives, directly or indirectly, any level of federal financial support (including means-tested student aid) the entire institution is required to comply.

Its impact on all aspects of university life obliges colleges to employ dedicated Title IX experts to ensure institutional compliance. Academic courses on Title IX variously draw on experts from law, economics, kinesiology, sport management, gender studies, African-American studies, and several other fields. Athletics departments at even the smallest institutions have a compliance office whose remit, as the name suggests, covers compliance with NCAA rules (and, perhaps, the effective accommodation aspect of Title IX) and additionally a Title IX office whose remit covers the remaining elements. This wealth of expertise and information means that while there may be occasions when institutions genuinely do not know what Title IX requires of them, those occasions will be vanishingly rare.

Compliance failures do not always arise from deliberate policy choices or a lack of institutional or individual understanding. Rather, "a convincing body of research demonstrates that organizations responded to civil rights law by adopting practices such as equal opportunity offices, affirmative action plans and due process procedures to demonstrate their commitment to the law and the normative ideals it embodies… organizational practices and routines geared towards managing diversity become tantamount to legal compliance" (Hirsch, 2008, p. 241). This helps explain why the history of Title IX's application to college sports (Belanger, 2017) includes examples of substantive compliance being less important than having the right paper-trails. Here, however, we find the opposite: the path of least resistance would be for institutions to create that paper trail by simply incorporating the NCAA model policy and model statement into their OSAH *verbatim*, which is all the NCAA requests, as discussed below. Not doing so is not a consequence of organizational practices or routines obscuring legal obligations and neither is it a consequence of widespread ignorance; we argue that it is an institutional policy choice, resulting not from a misunderstanding but from a conscious decision to avoid a public declaration of support for the NCAA's efforts. By implication, it also carries a reluctance to publicly acknowledge institutional obligations under Title IX and specifically its Pregnancy Regulation.

In the sports context, that Regulation has been argued before the courts on only two occasions, and neither it nor the NCAA model policies have been the subject of significant academic or media attention in comparison to other aspects of Title IX. But Williams' (2017) research on the mental health challenges facing student-athletes

who became pregnant while attending Division I or Division II institutions indicated that the breaches of obligations to pregnant or parenting student-athletes that had been identified by others are still a concern:

> Approximately 460,000 student-athletes compete in intercollegiate sanctioned sports at an educational institution approved by the National Collegiate Athletic Association (NCAA; NCAA, 2015). As the athletic participation rates among women competing at the NCAA level continue to rise (more than 200,000 in 2014-2015) the probability of a female student-athlete dealing with a pregnancy is likely. The NCAA reported that approximately 10-15% of female student-athletes and partners of male student-athletes will be faced with pregnancy each year (Hogshead-Makar & Sorensen, 2008; McGannon, Curtin, Schinke, & Schweinbenz, 2012). Evidence supports that student-athletes who experience a pregnancy are at risk of feeling like they must conceal the pregnancy, feeling forced into abortion, or fearing the loss of their athletic scholarship (Brown & Nichols, 2013; Sorensen et al., 2009). (Williams, 2017, p. 1)

The sources Williams (2017) cites had long confirmed the existence of unlawful discriminatory practices such as 'no pregnancy' clauses in scholarship offers, ostracization by coaches and peers, inappropriate advice from athletics departments or faculty members, and the unilateral withdrawal of scholarships by athletics department staff. Pregnancy discrimination is particularly invidious if student-athletes have no other means of meeting the costs of a college education, so that opportunities for both athletic and academic success are lost. In most disciplines a successful college sports career provides the only route into women's professional or elite amateur participation, while academic success brings employment and other opportunities beyond the game.

Despite their sporting abilities and their contributions to colleges' sporting reputations, the position of female student-athletes is inherently precarious because most athletic departments lose money. While some softball and women's basketball programs are revenue generators (Meyer, 2022), the whole edifice is bankrolled by football and men's basketball to a degree that is both unsustainable and, to some, unethical (Gurney et al., 2017). In principle, Title IX obliges institutions to spend equitably on women's sports, while the NCAA accordingly requires women's scholarships to be provided in equal number and of equal value, but only 20% of the most high-profile sports programs make a profit (Mangrum, 2014) and that comes from the two revenue-raising sports. To adopt the language of legal consciousness, there is a permanent risk of conflict between 'law in the books' in terms of what Title IX requires and 'law in action' in terms of how the institutions comply with it (Ewick & Silbey, 2003); a pregnant student-athlete is too easily viewed as 'a scholarship wasted,' an embarrassment to the institution and an unreliable teammate; the embodiment of "irresponsible reproduction" (Cardarello, 2012, p. 225) in an era when the athletics arms race presents significant challenges as well as opportunities.

Northwestern University and College Athletes Players Association Case 13-RC-121359 encapsulates the difficulty. Here, a National Labor Relations Board regional director was tasked with determining whether college football players could unionize. He noted that in the 10 years from 2003, the Northwestern University football team had generated total revenues of $235 million and would usually return a profit in the region of $7 million annually. He also noted how "the profit realized from the football team's annual revenue is utilized to subsidize the employer's non-revenue generating sports (i.e., all the other varsity sports with the exception of men's basketball). This, in turn, assists the employer in ensuring that it offers a proportionate number of men's and women's varsity sports in compliance with Title IX of the Education Amendments of 1972" (p. 13). Although some women's programs now make money, as noted above, it remains the case that women's sports are the site of struggles between federal law, the NCAA, and its member institutions over what Title IX requires; there are also struggles within institutions over what Title IX requires them to do, what the NCAA would like them to do, and what they can avoid doing while still being in compliance.

Sometimes, theses struggles are played out through what Bourdieu (1987, p. 814) termed "formalist jurisprudence," including litigation where Title IX is at issue. In *Biediger v Quinnipiac University* 728 F Supp 2d 62 (2012), for example, the university tried but failed to force the NCAA to recognize cheerleading as a 'sport' so that it could remove women's volleyball (and two men's sports) and still be compliant. In *Equity in Athletics v Department of Education* 291 Fed Appx 517 (2011), the Fourth Circuit allowed institutions to reduce the number of men's sports rather than increase the number of women's, while in *Neal v Board of Trustees of California State University* 198 F. 3d 763 (1999) the District Court said that "if a university wishes to comply with Title IX by levelling down programs instead of ratcheting them up…Title IX is not offended" (p. 770). It thus allowed the institution to reduce the number of places on several men's teams rather than remove some of those teams altogether.

But most Title IX disputes are resolved after lower-profile struggles within the institutions, if they are resolved at all. They are examples not of formalist jurisprudence but of what Bourdieu called "the contrary, instrumentalist point of view (which) tends to conceive law and jurisprudence as *direct reflections* of existing social power relations, in which economic determinations and, in particular, the interests of dominant groups are expressed: that is, as an instrument of domination" (1987, p. 814). Struggles that take place in private are, by definition, less amenable to scrutiny, and the dominant groups' interests are more likely to prevail because there is less opportunity to challenge them.

In college sports, the FBS conference schools and the elite basketball schools constitute the dominant groups, and the extent of their economic influence verges on

the dysfunctional. College sport relies on the money raised by FBS football, which stays within the Power Five, and men's basketball, which funds virtually everything else. For example, there are more than 20 other multisport conferences in Division I alone, and the funds they receive from the NCAA for men's basketball might provide 70% of their income (Dosh, 2021; Hobson, 2014). The services those conferences can offer, the amounts they can distribute to their members, and the facilities those colleges can provide to their student-athletes are largely met through income generated by the NCAA men's basketball tournament. In turn, the NCAA's voting structures ensure that power lies within the biggest schools: Bylaw 21.2.4 spells out the weighted voting for the Division I Council, where the Power Five get four votes each (20 votes), the other FBS conferences get two votes each (10), and the remaining conferences get one vote each (22). If the Power Five and the majority of other FBS conferences want mandatory rules on doping (for instance) but a policy on pregnancy that their members are not obliged to follow, they have the voting power to achieve that.

In 1844, Marx and Engels famously explored power's relationship with money (Milligan 2007), and it is perhaps ironic that college sports lends itself so easily to Marxist critique. The dominant groups do not only bankroll participation, they pay for coaches' bloated salaries, vanity construction projects that involve world-class stadia being knocked down and replaced by even bigger ones, and virtually every other aspect of the college sporting firmament as institutions seek to cash in on sport's perceived ability to foster campus spirit, attract students, and improve alumni relations (Seifreid et al, 2021). At the same time, universities have compromised all those perceived benefits by cutting classes, reducing student welfare services, replacing full-time faculty with adjuncts, and imposing mandatory fees on students not involved in sports to help fund the athletics programs of those who are (Hobson, 2014).

This commodification of college sports and its domination by a relative handful of institutions where sport is professional in all but name has been extensively critiqued by scholars who note that it celebrates models of participation historically constructed by and for men. It excludes those who are unable or unwilling to embrace that approach (Koller, 2010, 2012; Suggs, 2005); it privileges athletic success over academic integrity (Walker, 2004); it remains a bastion of racial marginalization (Keaton & Cooper, 2022); and it fosters a culture of athlete entitlement that contributes to hazing and to sexual and interpersonal violence on campus (Reid et al., 2022). That is not to deny college sport's role in securing academic and athletic opportunities for people of color (Davis, 2012) and those from low-income backgrounds (Gunn-Wright & Gault, 2012), but student-athletes are often ill-served by it, and female student-athletes especially so. The institutions' approach to the Title IX Pregnancy Regulation and the NCAA's pregnancy policy illustrates these contradictions.

The Pregnancy Regulation and the *Brady* Case

The Pregnancy Regulation imposes both accommodation rights that apply regardless of how other students were treated, and rights to equal treatment (Brake, 2008, 2010; McNeeley, 2007). In respect of both public and (by virtue of CFR 106.2(h)(3)) private educational establishments:

> 1 (A) recipient (of federal funding) shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth … termination … or recovery therefrom unless the student requests voluntarily to participate in a separate portion of the program or activity."
>
> …
>
> 4 A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical … policy which such recipient administers, operates, offers, or participate in with respect to students admitted to the recipient's educational program or activity.

The Regulation further states at CFR 106.40(b)(4) that pregnancy, childbirth and recovery therefrom are akin to "any other temporary disability" for the purpose of any medical services and benefits the educational institution might offer. In the sports context, this obliges colleges to treat pregnant and parenting student-athletes in the same way as they would treat those who are unable to participate because of injury.

The case law on the Regulation's application to universities is sparse, being limited to a very small number in which students have challenged discrimination in academic provision (*Ivan v Kent State University* 863 F Supp 581 [1994], *Darian v University of Massachusetts* 980 F Supp 77 [1997], *Hogan v Ogden* WL 2954245 [2008]) and, in the context of athletics, *Brady v Sacred Heart University* No 3:03 Civ 514 (2003) and *Butler v National Collegiate Athletic Association* WL 2398683 (2006). *Butler* concerned a male student-athlete who had forfeited a year of his playing eligibility in order to work and support his young family. Because the Pregnancy Regulation covered pregnancy rather than parenting status, it provided Butler with no assistance. The court rejected Butler's application for an injunction that would have allowed his university to grant a one-year extension to his playing eligibility in the face of NCAA opposition (Larche, 2008; McCarthy, 2007).

Brady is of more direct relevance. It revealed a troubling combination of institutional ignorance, paper trails that took precedence over substantive compliance and, perhaps, a deliberate attempt to sidestep a university's legal obligations. Brady, a student-athlete on a basketball scholarship, informed the university that she was pregnant

and asked that she be treated in a manner comparable to an injured athlete. She was not aware of the Pregnancy Regulation's existence but said the athletic department's rules on injured players should apply to her. The basketball coach told Brady that she would be a 'distraction' and an insurance risk. He persuaded her to 'sit out' the forthcoming academic year and attend a local community college. Brady complained to those in a supervisory capacity over the coach, specifically, the university's director of athletics and the Title IX compliance office. They failed to take remedial action once the coach's violations of Title IX were drawn to their attention. Brady sought damages for breach of Title IX and breach of contract. She also sought an order obliging the school to institute and enforce a pregnancy policy that complied with Title IX.

The court record revealed that Sacred Heart ostensibly had a policy that complied with the Regulation. It had been in place for several years "but previously was to be found in other sources" and it was not disseminated to student-athletes or those working in the athletics department. The case settled on confidential terms, and while perhaps it encouraged some institutions, mindful of the threat of litigation, to provide clear guidance that was easily accessible in a place where student-athletes and other interested parties would expect to find it, most institutions ignored *Brady* just as Sacred Heart had ignored its own policy.

Developments After *Brady*

A television program on pregnancy discrimination at Clemson University and elsewhere, first broadcast in May 2007, was a more significant catalyst than *Brady* (Rovegno, 2007). It asserted that many pregnant athletes were still having their scholarships withdrawn and female athletes were routinely required to sign no-pregnancy contracts. The program focused on the health risks, on terminations, and the reality of mothers losing their scholarships when fathers kept theirs. It offered a different perspective to that of feckless students having unprotected sex and it and finally moved the NCAA to action (Ertelt, 2008). The NCAA asked colleges to clearly outline what accommodations pregnant students could expect and what impact their pregnancy would have on grants and scholarships. The NCAA drew attention to the policy that Sorensen had written for Wright State University (Sorensen, 2004) and amended its existing guidance to better emphasize that pregnancy should be regarded as a temporary health condition for the purposes of scholarships and related matters, as per the Pregnancy Regulation. NCAA Bylaw 15.3.4.4 already stipulated that "institutional financial aid based in any degree on athletics ability may not be reduced or cancelled during the period of its award because of an injury, illness or physical or mental condition" and athletes "should not be forced to terminate a pregnancy because of financial or psychological pressure or fear of losing their (scholarship)" but the amended guidance clarified the link between it and the language of the Pregnancy Regulation.

Around the same time, the Office of Civil Rights released a Dear Colleague letter that similarly emphasized to educational institutions that "terminating or reducing financial assistance on the basis of pregnancy or a related condition is prohibited under Title IX. Subjecting only students of one sex to additional or different requirements, such as requiring female athletes to sign athletic contracts listing pregnancy as an infraction, or excluding students from participating in a recipient's program or activity, including extracurricular activities and athletics, on the basis of the student's pregnancy or a related condition is also prohibited under Title IX" (Office of the Assistant Secretary, 2007).

These institutional, policy, and legal developments allowed the NCAA to clearly articulate how colleges should support pregnant and parenting students (Hogshead-Makar & Sorensen, 2008). Its guide consisted of three elements: an overview of federal law and of NCAA bylaws affecting pregnant and parenting student-athletes; a model administrative policy ('model policy'); and a model handbook statement ('model statement'). Together, the three documents sought to "improve compliance with federal law and NCAA bylaws" by providing "clear guidance" for athletics department personnel and university staff as well as for student-athletes (Hogshead-Makar & Sorensen, 2008, p. 5). They also sought to eradicate the sex discrimination that would inevitably occur if a male student-athlete's scholarship and other benefits were retained if he became a father while those of the mother were lost. Title IX would also be breached if an injured male student-athlete retained his scholarship and other benefits of team membership despite being unable to play, while a pregnant or parenting female student-athlete was deprived of hers. The model policy further emphasized that retaliation against student-athletes who complain about pregnancy discrimination or who take action in support of them is unlawful (p. 59), and it discouraged policies that required the compulsory disclosure of pregnancy status unless the disclosure of other medical conditions would also be required by the institution (p. 60). It advised that team physicians should defer to the student-athlete and her medical advisors on issues of fitness to play or practice (p. 60). It finally noted that harassment and other forms of discrimination, contracts stipulating that scholarships or other financial assistance are dependent on not being pregnant, and schools' failing to reinstate a student who returns to participation after pregnancy are all unlawful (pp. 59-61).

The immediate impact of the guide was not overwhelming. An early investigation found only 68 pregnancy policies in the 1,066 schools that competed across the three Divisions of college sports. That represented 6.4% of all institutions (Sorensen et al., 2009, p. 27). The investigation further observed that "the existence of a student-athlete pregnancy policy does not guarantee its appropriateness … many policies seemed to be written to benefit the institution rather than the athlete," and references to student-athlete rights were the exception rather than the rule in the

small number of policies that existed (p. 37). Against that background, the empirical element of this project considers whether the passage of time, and the opportunity it presented for a further 'embedding' of the NCAA guide, has produced a greater degree of engagement approximately a decade after Sorensen and colleagues' initial study. The over-arching research questions were to ask, first, whether the number of student-athlete pregnancy policies was increasing and, second, to what extent they were compliant with the guide.

The research was approached in two steps: first, a pilot study was conducted in 2018 to consider the desirability and feasibility of a larger investigation and to make changes to the applied methodology where appropriate. Thereafter, the OSAHs of all FBS conference schools were included in the systematic content analysis. The decision to focus on FBS conferences reflected their economic power and concomitant levels of influence across college sport, as described above, and it was an appropriate way of critiquing how legal and policy obligations toward female student-athletes operated in an environment where the revenue generated by male student-athletes gave those institutions significant economic influence across the wider firmament of college sports. Alternatives would have been to analyze the top 100 women's soccer schools or maybe the colleges that reached March Madness, but this approach allowed longitudinal comparison of a cohort that remained largely static—the FBS schools in 2019 were the same as the ones in 2022, with one addition—and it allowed the handbooks of the Power Five institutions to be compared with each other and with the members of the other revenue-raising conferences. The 2022 survey included James Madison University after the confirmation in November 2021 that it would join the Sun Belt Conference in July 2023 (ESPN, 2021). Accordingly, a total of 123 (2019) and 124 (2022) institutions were considered.

The Impact of the NCAA Guide: Data Collection and Analysis

Pilot studies help researchers identify and avoid potential problems that might arise in the larger project. It requires a small sample of data or interviewees that are "as similar as possible to the target population" (Van Tiejlingen & Hundley, 2001, p. 2). Researchers can thus reflect on what is feasible and what needs to be changed before embarking on the bigger journey, but they must be particularly mindful of the risk that "the emphasis is wrongly placed on statistical significance" (p. 4) rather than on the feasibility of a follow-up project. The primary risk is of undue attention being paid to the data and too little thought being given to how the results of the pilot can inform that larger study. "The main goal is to assess feasibility so as to avoid potentially disastrous consequences … which could potentially 'drown' the whole research effort" (Thabane et al., 2010, p. 1). Failing to properly assess the relevance of the proposed research questions, making unrealistic presumptions about

time and budget requirements, or not properly considering the implications of any unanticipated results yielded by the pilot project are particular risks. Even when pilot projects do not result in significant changes to what is proposed, "researchers have an ethical obligation to make the best use of their research experience by reporting issues arising from all parts of a study, including its pilot phase" (Van Tiejlingen & Huntley, 2001, p. 4). The pilot study data is reported separately with that ethical obligation in mind.

Pilot Study: 2018

The 2018 pilot study involved one conference, selected at random, and commenced with a basic quantitative analysis that could be used to update Sorensen et al.'s (2009) observations about the prevalence of pregnancy policies in OSAHs: did the FBS schools in this conference have an OSAH, and if so did it have a pregnancy policy? For those FBS institutions with pregnancy policy and OSAHs, the "primary feasibility objectives" of the pilot study (Van Tiejlingen & Huntley, 2001, p. 5) were, first, to ascertain how best to explore the content of FBS institutions' pregnancy statements in their OSAH, and second, to consider how closely those statement reflected the language of the NCAA guide. They became the first two research questions for the larger study, while a third was concerned with how a small number of key issues identified in the NCAA guide were approached by the different institutions. Those 'key issues' concerned three specific student-athlete 'rights' that are set out clearly in the NCAA documents that constitute the guide and which any institutional policy that purports to be reflective of the guide must contain. First, financial assistance to student-athletes cannot be terminated or reduced on the basis of pregnancy, as set out in the model policy (Hogshead-Makar & Sorensen, 2008, p. 61); second, because pregnancy discrimination is sex discrimination, comments or behaviors creating a hostile environment are prohibited under Title IX, as set out in the model policy (pp. 59-61); and, third, a pregnant student-athlete who competes during, but does not complete, the season may be granted a hardship waiver and awarded an additional season. This is stressed in the model statement (p. 68). All three of these 'rights' are elaborated upon in a section of the guide that reviews federal law and NCAA rules affecting pregnant and parenting student-athletes (pp. 29-45). The prevalence and content of these three specific issues, the 'core criteria,' became the third research question.

Significantly, the guidance that accompanied the model policy asked university athletics departments to replicate it "in a publicly available student-athlete handbook (and) make it available online" (p. 41). The authors were aware that institutions would normally have an OSAH but were surprised, perhaps naively, to discover that none of the seven independent institutions did. The decision to exclude them was taken before the pilot study was conducted.

The literature on content analysis of online institutional policies (see, for example, Rodrigez-Dominguez et al., 2009; Wike et al., 2013) outlined the particular challenges in basing a research project around OSAHs. First, because content can be changed far more easily and frequently than with printed media, the data should be revisited as a project approaches completion. Second, this means that the data are necessarily 'up to date' *only* at that point. Third, institutions may use a different medium to provide that information or expand upon it. A decision not to include certain information in an OSAH might be taken if the institution decides it does not want to share potentially sensitive policies or acknowledge the existence of discrediting information (Vela-McConnell, 2017) such as gender-based violence or hazing. As such, the mere fact that information is not in the OSAH does not mean it does not exist and, as per *Brady*, it might be available elsewhere; but, as noted above, this *is* how the NCAA asked pregnancy-related information to be conveyed to student-athletes, and OSAHs routinely include information on concussion, sickle-cell trait, anti-doping, trans athletes, and other medical issues that are directly relevant to its student-athlete body and of interest to the media and the wider community.

The pilot study produced a tentative a priori set of codes to be applied, guided by the key elements of the guide (Hall & Wright, 2008). This pilot codebook was then applied to each of the OSAHs found among the 12 members of that particular conference. Three institutions did not have an OSAH at all; four of the nine existing OSAHs contained a pregnancy statement, and two of those addressed all of the three 'core criteria' identified (protected funding, protection from discrimination, and eligibility extension).

Pregnancy statements ranged in length from two sentences to three pages. Shorter ones tended to state (for example) "for further information on this topic please contact the Head Athletic Trainer or Senior Woman Administrator" rather than providing substantive information, and two pointed out that institutional insurance policies did not cover pregnancy rather than saying what support was available. In contrast, the longer statements discussed the risks and benefits of exercise while pregnant, covered some or all of the three key issues, provided contact information, and made supportive comments ("… other student-athletes have taken this journey. We supported them and we are here to support you."). One mentioned the rights of male student-athletes who were parenting. Two institutions explicitly said they followed NCAA rules; one said they were bound by Title IX, where the other did not explicitly state either Title IX or federal law generally as a source of its obligations.

The pilot study suggested that pregnancy 'policy' was the wrong phrase to use because some of them were too vague or short to amount to a policy in any meaningful sense of the word. Pregnancy 'statements' would vary significantly in content and in length, and while there was no evidence to suggest that their use had become ubiquitous in the 10 years since Sorensen et al. (2009) published their findings, four

out of 12 was a significant departure from the 66 out of 1,600 that they had uncovered. Of those that did exist, the fact that some places made specific reference to Title IX and/or to NCAA rules and the mere mention of male student-athletes provided grounds for inquiry that had not been considered when the pilot study was drafted. It was also apparent that not all OSAHs were updated annually; some of them were dated 2017-18, but others were several years older.

The pilot study thus confirmed that a detailed investigation of OSAH pregnancy statements would be worthwhile. However, bearing in mind the guidance of Rodrigez-Dominguez et al. (2009) and Wike et al. (2013), the authors decided not to rush to separate publication of the pilot survey results. Instead, a full survey of FBS conference schools, informed by the pilot study data, was carried out in late 2019 with the intention of doing a second survey in late 2020. Work and family commitments during the pandemic delayed that until early 2022—coincidentally, the 50th anniversary of Title IX.

Using Hwalbin Kim et al. (2017) as a template, the authors opted to present the findings in simple tables and graphs. Hall and Wright (2008), Cornwell (2021), Holliday (2020), and Odera (2021) served as guides on conducting systematic content analysis and the presentation of the data. Where appropriate, notable aspects of individual institutional statements are highlighted—but generally observed trends are reported without specifying in which schools they occurred. All the data is publicly available but there is no desire to embarrass or to criticize those at the sharp end of college sports administration who reconcile the tensions between law, regulator, and institution. The aim is to analyze, record, and, where possible, explain.

Methodology of the Main Study: 2019 and 2022

The pilot study resulted in amendments and additions to the original research questions, resulting in a more nuanced analysis than would have been possible under the ‘three key themes’ approach alone. We once again commenced our examinations with a straightforward quantitative assessment of whether FBS schools had OSAHs with pregnancy statements or not. After further discussion, the following 12 questions that the authors would seek to answer via systematic content analysis of the OSAHs with pregnancy statements were agreed:

1. Does the pregnancy statement mention protected student-athlete funding? (NCAA Guide Core Criterion 1)
2. Does it mention protection against discrimination based on pregnancy? (NCAA Guide Core Criterion 2)
3. Does it mention that pregnant student-athletes can have one additional season of eligibility? (NCAA Guide Core Criterion 3)

4. Does it address male partners of pregnant student-athletes, as the NCAA Guide does?
5. Does it address pregnancy *and* parenting, as the NCAA Guide does?
6. Does it make explicit that contract terms forbidding pregnancy/parenting are illegal? (as per the Office of Civil Rights 'Dear Colleague' letter's interpretation of Title IX rights)
7. Does it prohibit a hostile environment towards pregnant/parenting student-athletes, as the NCAA Guide does?
8. Does the statement make clear that pregnancy will not affect students' participation in an athletics program in any way? (as per the Office of Civil Rights 'Dear Colleague' letter's interpretation of Title IX rights)
9. Is the student-athlete required or encouraged to disclose their condition?
10. Are there references to specific sources of obligations/rights in the OSAH?
11. Does it make explicit that pregnancy is to be treated as any other temporary health condition? (a framing of the Title IX regulation found in the pilot study)
12. Is there any information about enforcement of the statement, for example, what happens to a member of staff who violates it, or who retaliates against pregnant student-athletes? (a framing of the 'legal' nature of the rights in the policy discovered in the pilot study)

The pilot study codebook was adapted via an analytic and iterative approach, with approximately five rounds of coding preceding the final version of the codebook. Several codes were drilled down into sub-codes, where more specific findings proved to be interesting; others were condensed into a single parent code, as the 'big picture' proved more worthy of analysis. Intercoder reliability was considered on several occasions, with the code being adjusted once any disagreements were reconciled. The final codebook, with full agreement between the authors, was tested on a random sample of OSAHs by a third coder, resulting in unanimous agreement between the three.

The final codebook, in its fifth iteration, contained 12 parent codes, with a further 27 child codes for specific variations on the parent codes (see Appendix A), and was applied to the available OSAHs of the FBS schools (see Appendix B). Table 1 serves as an example of the coding process, using Southern Methodist University's (SMU) 2022 publicly available OSAH's findings. Note that not all of the 12 parent codes were addressed by the SMU OSAH.

Table 1. Example of the Coding Process Using SMU OSAH Data

Name of Code	Code Description	SMU OSAH
Core 1 – Scholarship Retention	The OSAH pregnancy statement makes clear that pregnant student-athletes will not have their athletic aid terminated or reduced or withdrawn.	The Student-Athlete will not forfeit team membership status, benefits, or responsibilities, nor be excluded from team activities due to pregnancy; therefore, at any time the Student-Athlete may choose not to continue participating on the team without jeopardizing her athletic scholarship for the length of the award period (p. 79).
Core 3 - Eligibility	The OSAH pregnancy statement makes clear that pregnant student-athletes are eligible for a one-year extension to their five year eligibility status.	Bylaw 14.2.1.3 in the NCAA Division I Manual states that a member institution may approve a one-year extension of the five-year period of eligibility for a female Student-Athlete for reasons of pregnancy (p. 79).
Disclosure Required	The OSAH pregnancy statement requires pregnant student-athletes to disclose their condition.	If you are pregnant, you must inform the Team Physician or Athletic Trainer of your condition as soon as it is confirmed (p. 79).
Male Partner	The OSAH pregnancy statement makes reference to male partners of pregnant student-athletes.	Male Student-Athletes who are expecting fathers should also be afforded the same or similar counselling services (p. 79).
Participation Unaffected	The OSAH pregnancy statement indicates that participation in athletics will not be affected (in any way, or in listed ways) by the student-athlete's pregnancy.	The Student-Athlete will not forfeit team membership status, benefits, or responsibilities, nor be excluded from team activities due to pregnancy... (p. 79).
Pregnancy as Temp Health Condition	The OSAH pregnancy statement states that pregnancy will be treated as any other temporary health condition.	Pregnancy is considered a temporary medical condition (p. 79).
Prohibition of Hostile Environment	The OSAH pregnancy statement prohibits a hostile environment and behavior that would result in a hostile environment, such as inappropriate pressure from staff.	Student-Athletes shall not be forced to terminate a pregnancy for any reason and no one shall use financial or psychological pressure to encourage a Student-Athlete to terminate a pregnancy (p. 79).
Bylaw 14.2.1.3	The OSAH pregnancy statement references bylaw 14.2.1.3.	Bylaw 14.2.1.3 in the NCAA Division I Manual states that a member institution may approve a one-year extension of the five-year period of eligibility for a female Student-Athlete for reasons of pregnancy (p. 79).
Bylaw 15.3.4	The OSAH pregnancy statement references bylaw 15.3.4 and/or its sub-clauses.	NCAA Bylaw 15.3.4.1 states "institutional financial aid based in any degree on athletics ability may be reduced or canceled during the period of the award if the recipient. . .voluntarily withdraws from a sport at any time for personal reasons. . ." (p 79).
Guidelines	The OSAH pregnancy statement references 'NCAA guidelines' as a source of rights/obligations.	The Department of Athletics, in compliance with NCAA guidelines, has instituted a policy for the protection of the Student-Athlete and her developing child (p. 79).

SMU's one-page statement contained errors that other institutions also made. First, Bylaw 15.3.4.1 has not been the authority on voluntary withdrawal since 1994; the relevant Bylaw is 15.3.4.2. Second, Bylaw 14.2.1.3 is not concerned with pregnancy at all but defines 'full time enrollment' in the final semester/quarter. The relevant NCAA provision is Bylaw 12.8.1, with the pregnancy exemption in Bylaw 12.8.1.5 (NCAA, 2021). The research team resolved this by recording all refences to Bylaw 15.3.4 under one code but separately coding references to Bylaw 14.2.1.3 and 12.8.1.5 because misidentifying the source of the obligation to that extent was worthy of note.

General Observations: 2019 and 2022 Compared

In January 2022, 44 of the 125 FBS schools (excluding the seven independents) had pregnancy statements (broadly defined) in an OSAH. Overall, that was four more than in 2019 and there was one new member institution to consider, but the bare figures hide some significant removals and additions. In the intervening three years, three institutions had removed their pregnancy policies, one no longer had an OSAH, and four had introduced a statement.

The language in most of the statements that had been present in both 2019 and 2022 was unchanged, but there were changes of language in seven of them (approx. 17.5%). Some were subtle and stylistic, but others made the institutional statement less consistent with the NCAA guide. For example, one now 'required' student-athletes to notify the institution in the event of pregnancy rather than 'encouraging' it and said that "failure to notify appropriate institutional personnel may result in the immediate suspension from athletics participation." Another said that under the NCAA sports medicine handbook "student-athletes are required to inform an athletic trainer at the earliest known date of pregnancy." This is patently not true (NCAA, 2007, p. 71) and the statement failed to mention the potential health benefits of participation, which the NCAA handbook does discuss. Finally, in 2019 and again in 2022, one institution had repeated another's statement verbatim, but in 2022 it left out the previously incorporated important bit called 'what happens to your scholarship.' While the language of most statements had not materially changed, the emergence of new statements and the removal of others, together with the changes in language that had arisen, confirmed the importance of revisiting pilot studies and carrying out the survey more than once as Rodrigez-Dominguez et al. (2009) had advised. That said, the consistency of both number and language was so great that there was no merit in comparing the two iterations beyond what is set out here. With those exceptions, the key features arising in 2022 and discussed in the following section also arose in 2019.

2022 Findings

Pregnancy Statements and the Three Core Criteria

As noted, 44 of the 125 FBS conference members' OSAHs (approximately 35.5%) had pregnancy statements in January 2022 (see Figure 1). In terms of where OSAHs with pregnancy statements were found, no obvious patterns were visible: policies were present in a mixture of private and state institutions and a mixture of Power Five and other FBS conferences, with no one conference having policies in more than 50% of its member institutions.

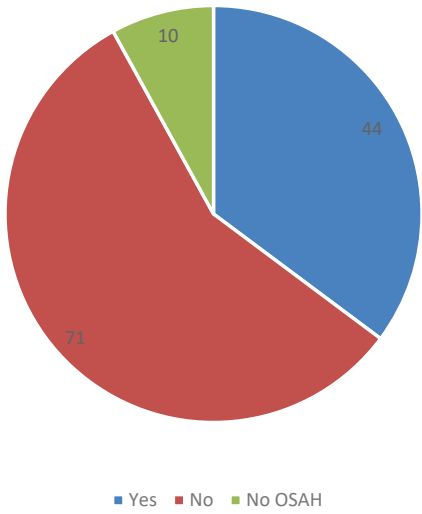

Figure 1. Pregnancy statements in FBS OSAHs.

Of the 44 institutions with pregnancy statements, the prevalence of each of the three core criteria, both individually and in combination with the others, is among the data contained in Appendix A. Core criterion 1 concerned protection of funding, core criterion 2 concerned protection from discrimination, and core criterion 3 concerned extension of eligibility. Figure 2 provides a visual representation of the key findings.

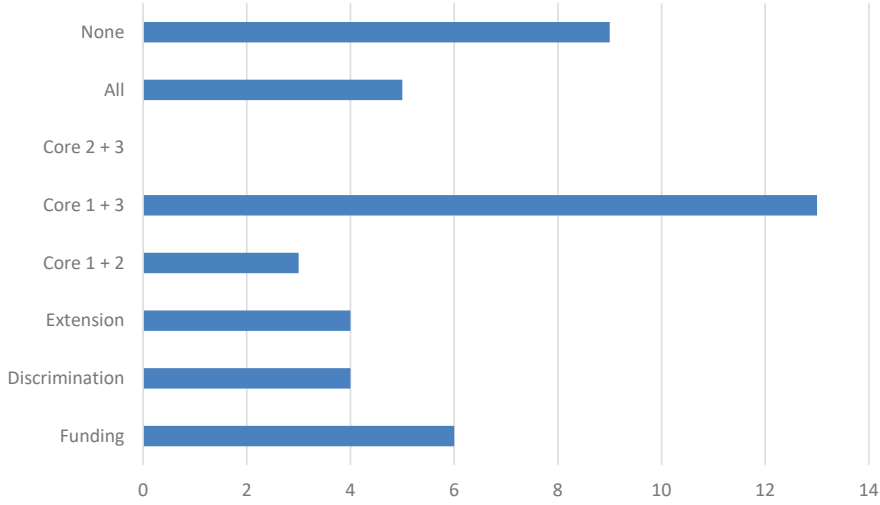

Figure 2. Prevalence of core criteria in pregnancy statements.

The pilot study institutions that mentioned none or only one of the key areas tended to have very short statements, and the two full studies confirmed that. Length was not always indicative of content, however. Some of the shorter policy statements focused exclusively on two or all of the three key concepts, while several longer statements eschewed the model policy and focused wholly or mainly on the medical aspects of pregnancy, usually as a justification for totally prohibiting any athletics participation during pregnancy or after the first trimester. Even the longest policies largely ignored the rights of male partners, with only seven institutions out of the 44 mentioning 'male partners' or 'fathers' with 'partners' always being prefaced by the word 'male.' Of the 44, five mentioned all three of the key elements plus fathers or male partners explicitly while two discussed all three and also discussed the rights of 'parenting' student-athletes. None of the OSAHs mentioned same-sex partners (which are not covered by the Pregnancy Regulation or the NCAA guide). As with other medically related information such as concussion and sickle cell trait, pregnancy statements were usually inserted toward the end of the OSAH, and while a handful of

institutions separately mentioned their counselling services within the OSAH, none of those explicitly identified pregnancy counselling as an available service.

Sources of Rights/Obligations. Significant dimensions of the analysis focused on sources of rights and obligations. First, bearing in mind the tension between law, regulator, and institutions outlined above, ascertaining how many institutions explicitly stated they were bound by NCAA rules rather than Title IX was an important indicator of where the institutions perceived the primary source of the obligation to lie. Second, there are also consequences for pregnant student-athletes to how their rights are framed. If a pregnancy statement only refers to NCAA materials, for example, it is less obvious to students that they have legally binding Title IX rights that supersede NCAA rules. Even references to 'NCAA' materials can come in various guises: *formal* rules, binding on its members, are adopted as bylaws (Potuto, 2010; Montalbano, 2019, p. 147)—and where bylaws are violated, the NCAA's infractions process will apply in some way (Division 1 Manual, Article 19). Bylaws thus imply consequences, and, by proxy, the existence of a 'right' for the student-athlete. Other NCAA output, however, whether called policies or guidelines or perhaps even 'rules,' comes with less clear consequences. Insofar as it can be expected that student-athletes understand that NCAA bylaws can have concrete consequences for individuals at their institution and their institution at large, it is not obvious that a general reference to 'NCAA policy,' for example, implies to students that they have rights stemming from these policies, let alone how they could enforce those.

To investigate all three points above, the authors looked at what sources of rights or obligations the OSAH pregnancy statements referenced, if any. These sources could be anything from an allusion to a university following 'NCAA guidelines' to an explicit statement that Title IX prohibits discrimination on the basis of pregnancy.

In terms of a general determination of the 'source' of rights for pregnant student-athletes, the authors found that 11 policies did not reference any particular source of rights or obligations—they included all nine OSAHs that did not address any of the three core criteria, and again they tended to focus on the medical aspects of pregnancy or advised student-athletes to approach medical personnel or a named third party such as the senior woman administrator (or the 'women's athletics administrator,' to quote one institution that at least had a policy even if the words were wrong). There was evidence here that 'having something in the handbook,' perhaps to show on-paper compliance with the NCAA's request, had been more important than producing a statement that actually reflected the NCAA guide's contents. Statements that effectively compelled disclosure or which misrepresented the acknowledged medical risks of participation were so unhelpful that it might have been better to have nothing at all.

Eight statements referred to both Title IX or federal law *and* to NCAA materials, and they included all five OSAHs that covered all three core criteria. On the other

hand, 17 *only* referred to NCAA materials as a source for their content, and seven referred very generally to 'federal law', with only five there specifically referencing Title IX. The overall picture is one of Title IX as an explicit source of rights for pregnant student-athletes being downplayed, which is a point later explored.

In terms of the nature of NCAA sources being raised in these OSAHs, only 11 OSAHs explicitly referenced specific NCAA bylaws as being the source of pregnant student-athlete rights. Worth highlighting here is that these were not the statements that made a visible effort to copy over the NCAA guide's model policy or model statement, which appear to have been written in student-friendly rather than legal language. A total of 15 alluded to NCAA rules, regulations, or bylaws more obliquely; this includes the ones that copied the NCAA guide's model policy and model statement most closely. As previously noted, while this may suggest to the students that they have rights, it is not clear how and where those rights can be enforced by them, or on their behalf. Still, even mentioning NCAA rules at the very least implies that the institution is following authority—which is more than can be said for the 11 statements that only mentioned the NCAA generally, or talked about NCAA guidelines, policies, principles, or standards, which will be of little to no help to a pregnant student-athlete wondering if they can challenge how their athletics department is treating them, as Brady did.

Disclosure of Pregnancy. It became apparent in the pilot study that the disclosure of pregnancies was an issue that demanded further study. The NCAA guide, as well as both the model policy and the model statement, are very clear on the fact that pregnant or parenting student-athletes should not be *required* to disclose their status, but that schools should create an environment that encourages the student to reveal it.

Analysis of the 44 OSAHs with pregnancy statements revealed that a slim majority of policies, with 23 in total, only 'encouraged' the student-athlete to inform the head team physician, head coach, athletic trainer, and/or the senior associate director of athletics "so that we may protect the student athlete's health and scholarship, if applicable." The word 'encourage' recurs in similar contexts in the NCAA guide's model policy and the model statement, where it is accompanied by an explicit statement that disclosure of pregnancy is not required; 11 of the 23 institutions that encourage it have copied this material over directly.

However, 10 statements expressly required students to disclose their pregnancy status, with a further three indicating that students 'should inform' members of staff as soon as possible. Three of these 13 did not reference any of the three core criteria, thus effectively requiring students to institutionally disclose their pregnancy status without any acknowledgment of the protections they were due. Furthermore, five of the other 10 statements made it clear that access to rights is in effect conditional on disclosure, which is an unfortunate but inevitable consequence of the nature of how the NCAA bylaws regulate in particular the additional year of eligibility; pregnant

student-athletes have to apply for this additional year via their institutions, which obviously means they have to disclose. Nonetheless, the fact that these five policies make it so explicit that the pregnant student-athlete will not get anything from the institution without that disclosure is at best intimidating, and at worst, may prove counter-productive, with detrimental effects for both the pregnant student-athlete and their pregnancy.

These contrasting approaches echo the earlier comments made by Sorensen et al. (2009): many of the statements that departed from the model seemed written so as to protect the institutions from pregnant student-athletes, rather than to set out the rights that pregnant student-athletes have. To answer the research questions initially posed, one can say that the number of student-athlete pregnancy statements in FBS handbooks was roughly 33% and this had not increased between 2019 and 2022. Second, compliance with the NCAA guide was not consistent; some institutions had followed it very closely, but at least as many seemed to have made a conscious decision to avoid adherence to it. Third and relatedly, no more than five institutions' OSAH statements meaningfully addressed all three of the key criteria.

Other Research Questions and the Data. Findings from the pilot study resulted in a number of secondary research questions being posed, and the analysis also provided useful results.

First, and separate from the tracking of 'sources' of rights and obligations, the analysis also considered whether the institutional statements made it clear that their contents could be enforced—either through disciplinary action against staff violating the policy, or by prohibiting retaliation against pregnant student-athletes availing themselves of their rights. Eleven of the 44 OSAHs expressly prohibited retaliation, and of these 11, a further seven made clear that a violation of the statements would result in disciplinary action, with the possibility of termination being raised explicitly in two of them. This, again, appears to give the process some 'teeth'—and could compensate for the absence of explicit mentions of Title IX or NCAA-based rights in theory; though in practice, the statements that mentioned enforcement were also the ones that expressly acknowledged sources of rights.

Second, in terms of the aspects of Title IX highlighted by the Office for Civil Rights' Dear Colleague letter of 2007, five statements expressly prohibited illegal contract terms and 12 made it clear that participation in athletics programs cannot be ended by the institution as a matter of course. The Title IX regulations' emphasis on pregnancy being treated as any other temporary health condition was repeated in 18 of the statements.

A third observation worth making at this stage is that statements that best addressed the three core criteria, sources of rights and obligations and these added points on enforcement and specific Title IX rights *all* substantially copied over the NCAA guide's model policy. They used the model administrative policy as their

student-facing pregnancy statement, rather than it being an internal departmental document for staff to follow. Given the clarity that this offers students on the legal nature of their particular rights, this seems like a welcome approach to developing an OSAH pregnancy statement, even if not the one intended by Hogshead-Makar and Sorensen (2008).

Conclusions. Of the 44 statements, five would be regarded as excellent in terms of them being a useful source of information which addressed the three core criteria, and three of those clearly outlined other important student-athlete rights and institutional obligations such as specifically addressing the prohibition of a hostile environment, explicitly prohibiting 'no pregnancy' contracts, or presaging disciplinary action for breaching the policy. They were excellent in large part because although they copied out significant portions of the NCAA guide's model policy, drafters had supplemented it with institution-specific information as appropriate. This suggested that the drafters had a sophisticated understanding of the issues and had considered the implications for their institution rather than simply copying and pasting from the model. Perhaps that helped secure the support of colleagues for the changes they proposed, culminating in the policy being incorporated into the OSAH.

However, many of the statements that were deficient on some of the three core criteria still seemed to have been inspired by the NCAA materials—or at least by other schools that had relied upon them. It was notable that in terms of the included coverage, the same or highly similar phrases were generally used across the different institutions and had either been taken directly from the model policy or the separate (and less specific) model statement. For example, several statements repeated the model policy by saying that athletic department personnel may not suggest participation "will be affected in any way by pregnancy, parental or marital status, or by terminating a pregnancy." Statements on hostile environment also tended to closely reflect the language of the NCAA model policy:

> (The Athletics Department) will not allow a hostile or intimidating environment on the basis of pregnancy or parental status to exist. Acts or statements that are hostile toward pregnancy or parenting, or that shun or shame the student athlete because she is pregnant or parenting, will not be tolerated. Such conduct prevents an individual from effectively participating in, or denies a person the benefits of, the educational opportunities provided by (this institution).

Some institutions likewise emphasized an institutional commitment to protecting scholarships and stressed in broadly similar terms that student-athletes "should not assume that they must withdraw from their sport; doing so may cause the student-athlete to lose their scholarship." This is not the direct wording of the model policy, but the model statement does stress the importance of students not voluntarily withdrawing from the sport (Hogshead-Makar & Sorensen, 2008, p. 67).

The influence of the NCAA guide thus seems very much present in these OSAHs, but not to a point where the vast majority of institutions have simply copied it over to the extent of reflecting the core criteria. And, importantly, the observed differences between institutional pregnancy statements should not cloud the fact that 66% of the 125 FBS schools did not have one at all. Five of the 44 failed to address any of the three core criteria, and the overwhelming majority did not address all of them. Again, we make the point that both the complete absence of a statement or the presence of a statement that does not wholly reflect the language of the NCAA guide is a deliberate policy decision taken within the institutions.

The fact that so many FBS schools did not have a fully functional pregnancy statement despite the need to comply with Title IX and notwithstanding the model policy and model statement provided by the NCAA demands further investigation. Ideally, this would take the form of interviews with those who might be able to explain why institutions decided not to do what the NCAA asked, and how certain individuals at some institutions had been able to achieve what they did. Sorensen et al. asserted in 2009 that low levels of compliance were likely due to institutional indifference, and that undoubtedly remains a part of the explanation in 2022; but we contend that this indifference is supported by a legal structure that actually, if inadvertently, rewards institutions for non-compliance, as we will explain next.

Drivers of Institutional Non-Compliance

To summarize, the NCAA guide was, as previously shown, a consequence of pressure on the NCAA arising from an isolated court case and a TV program, and the activities of "gatekeepers" and "influential individuals" (Black, 2003, p. 71) whose achievements in their own institutions eventually gained wider recognition, while the contributions from the Office of Civil Rights (2003, 2013) were limited but still significant. College sport media had highlighted cases of student-athletes either being denied, or failing to seek, support from their colleges and hiding pregnancies up to the point of going into labor, of babies dying as a result of the mother giving birth on her own, and of women choosing to terminate the pregnancy rather than lose their scholarships and their sporting and academic careers (Rovegno, 2007). Even before *Brady*, Sorensen (2004) had found that no more than 70 universities across the US had policies that complied with the Pregnancy Regulation—fewer than 5% of all higher education institutions—and *Brady* showed that failures could still arise at institutions that were ostensibly in compliance because policies were either hidden or ignored.

Sorensen (2004) and other writers have suggested that the historic failures in compliance were a consequence of collective indifference within at least some of the institutions that did not have polices. Doubtless this was the case and doubtless it remains part of the explanation now, but our hypothesis is that longstanding indifference that might have been caused by simply not caring about women's sports, a

fear of negative media coverage (Cooky & Messner, 2021), or of donor dissatisfaction (Bass et al., 2015) if an institution is perceived to be 'wasting a scholarship' on a pregnant player have been indirectly reinforced by the way in which Title IX rights have been treated by the Supreme Court. Its ruling in *Gebser,* which predates the model policy by 10 years, can help explain the extensive institutional failings that were subsequently identified in *Brady*. It also shows that organizational practices and routines ostensibly geared toward managing diversity (Hirsch, 2008) can equally be geared toward thwarting awareness of rights.

Gebser concerned a teacher who had a sexual relationship with a 15-year-old pupil. The school dismissed the teacher and the state education agency revoked his teaching license once the relationship was uncovered by the police—the pupil had not brought it to the attention of anyone at the school or elsewhere. The teacher subsequently sought (*inter alia*) compensation and punitive damages against the school district under Title IX. Summary judgment was entered on behalf of the school and this was affirmed by both the Fifth Circuit (*Doe v Lago Vista Independent Schools District* 106 F 3d 1223 [1997]) and the Supreme Court (524 US 274). It said that differences between the language of Title IX and that of Title VII of the Civil Rights Act 1964 USC 2000e-2, which deals with discrimination in the employment context, meant the case law arising from the latter was not determinative of claims related to the former.

Section 703 of Title VII of the 1964 Civil Rights Act provides that "it is an unlawful employment practice for an employer … to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of such individual's … sex." Prior to *Gebser*, state and circuit courts had applied the Title VII case law on sex discrimination in employment to Title IX cases on sex discrimination in education—and the Supreme Court had done so in *Franklin v Gwinnett County Public Schools* 503 US 60 (1991) and *Meritor Savings Bank v Vinson* 447 US 57 (1986). However, in *Gebser* the Supreme Court majority distinguished *Franklin* on the grounds that the school officials in that case had actual knowledge of the sexual harassment and took no action to stop it, and it held that the references in *Franklin* to *Meritor* only applied to the self-evident proposition that sexual harassment is a form of sex discrimination under Title IX. It further noted that Title IX does not include an express private right of action for victims of sex discrimination as Title VII does; the private right of action had been judicially implied, most notably in *Cannon v University of Chicago* 441 US 677 (1979). There was thus no authority for the wholesale adoption of Title VII sex discrimination principles to Title IX cases, said the Court, and it was able to consider the relationship between the two afresh. In doing so, it held that "it would frustrate the purposes of the statute to permit damages recovery against a school district for a teacher's sexual harassment … without actual notice to a school district official" (pp. 283-284) who had been deliberately indifferent to the misconduct.

For a Title IX claim against the institution to succeed, there must therefore be "an official who at a minimum has authority to address the alleged discrimination and to institute corrective measures, has actual knowledge of the discrimination and fails adequately to respond," or who displays "deliberate indifference" to that information (p. 290). Institutional liability under Title IX would only attach if the complainant brought the discriminatory behavior to the attention of someone in a supervisory capacity who, having thus been placed on notice, failed to take remedial action.

In her dissent, Justice Ginsberg proposed an affirmative defense to Title IX whereby the burden would be on the educational institution "to show that its internal remedies were adequately publicized and likely would have provided redress without exposing the complainant to undue risk, effort or expense. Under such a regime, to the extent that a plaintiff unreasonably failed to avail herself of the … preventative and remedial measures, and consequently suffered avoidable harm, she would not qualify for Title IX relief" (p. 307). Had that approach been adopted, it would have removed the potential attraction for educational institutions to either have no policies at all, or to make them hard to access. In its absence, if students simply do not disclose their status, the institution cannot be liable for failure to protect them because it does not have actual knowledge of the discriminatory conduct, and so cannot be "deliberately indifferent" to it. If that logic is translated to the issue at hand, then not having an easily accessible pregnancy statement that sets out their rights and encourages them to disclose their pregnancy seems an attractive proposition if stakeholders feel their institutions would only be liable for their "deliberate indifference" toward the discriminatory acts of their employees, and that they can only fail to respond to or be indifferent toward the acts they are aware of. Indeed, the Department of Justice's (2015) Title IX compliance manual confirms that the actual knowledge standard means an institution can avoid liability if it does not know about the discriminatory behavior.

This is especially problematic in environments that particularly lend themselves to sex discrimination, whether because women are still under-represented in decision-making positions (Burton, 2015; Ohlson et al., 2022) or their work is more likely to be precarious especially in times of economic crisis (Pape & McLachlan, 2020). That is certainly the case in college sports for myriad reasons previously outlined. Despite Title IX, "women are allocated a disproportionately smaller share of wealth, power and advantages (and) the majority of athletes, coaches, and administrators currently and historically are male. Since athletic departments generally have more male employees than female, men are more likely to have access to organizational and social power" (Moorman & Masteralexis, 2008, p. 6). Female student-athletes "frequently surrender control and decision-making authority to their coaches over medical treatment, nutrition, social activities, sexual behavior, alcohol use and academic decisions" (Moorman & Masteralexis, 2008, p. 7) in accordance with "an authoritarian model

of coaching that requires unquestioning adherence to whatever the coach says and invests the coach with sweeping control over athletes' lives" (Brake, 2012, p. 424). Given the huge power imbalance between the pregnant student-athlete and the (often male) administrators (Marra and Cromartie, 2017) or coaches (Stokowski et al., 2018) that oversee lives, these athletes may simply find that there are no people in power to whom they feel comfortable disclosing their condition. Those are the very points on which OSAHs should be explicit about female student-athlete rights, the limits of coach power and the extent of institutional obligations, with their public availability being an important way of holding institutions to account and ensuring transparency and compliance. But as noted, the number of pregnancy policies contained in them has not increased and many of those that do exist bear few similarities to either federal law or the NCAA guide. We found 81 FBS conference schools that simply did not have an OSAH pregnancy statement at all, and pregnant student-athletes there may fall into the trap set by the two-level *Gebser* test; without clear information on what their Title IX rights are, they have far less incentive to disclose their condition—and in the absence of disclosure, their institutions cannot be found to have been "deliberately indifferent," even though the absence of a clear pregnancy statement is itself a tangible form of neglect of pregnant student-athletes.

In the absence of clear, objective, and easily accessible policies outlining pregnancy rights and obligations, student-athletes are more likely to relinquish their scholarships, drop out of college, seek terminations, or face discrimination and hostile environments from staff members and teammates, which truncate their careers. Against that background, the burden of cajoling institutions toward compliance lies primarily with the gatekeepers and influential individuals within institutions. If they lack individual influence, or if they collectively decide that the issue is not one it wants to pursue, then there will not be a policy along the lines that the NCAA requests. As at Sacred Heart, perhaps the policy resides elsewhere and is only waiting to be uncovered; but it would be less of a surprise if institutions still "practice informal push-out policies … treat pregnant and parenting students with hostility … and in general continue to treat (those students) differently than students with other health challenges and conditions" (Gough, 2011, p. 217).

Conclusions

Pregnancy discrimination in college sports engages a host of powerful actors and creates some incredibly vulnerable ones. Those who possess the least power and influence within any field are the ones most exposed to adverse outcomes, and that is certainly the case here. Fifty years after Title IX came into force, and at a time when women's college sport attracts more worldwide attention than ever, the need for immanent critique (Stahl, 2021) of colleges' relationship with sex discrimination is pressing. The NCAA has incredibly wide-ranging powers, but on this occasion

its most powerful members have chosen a different path. Definitive answers as to why that is the case involves posing questions that cannot be answered by content analysis, but this research reveals that the overwhelming majority of FBS conference members have failed to provide a simple, legally compliant policy in the manner requested by its governing body. That is troubling in and of itself. It is fanciful to envisage the medical issues that arise in men's revenue-raising sports—sickle cell trait or concussion for instance—receiving such scant attention. Likewise, it is a trite maxim of sports that one controls those things one can, and most institutions have controlled this to the detriment of their student-athletes.

Others will be better placed to explore how influential individuals can cajole their institutions toward embedding measures into institutional policies (Prugl, 2011, p. 82), bearing in mind that "somewhere in the process a group or an individual must ask what a particular initiative is trying to achieve" and be able to persuade the institution. Influential individuals can be the key agents of change but they can also prevent it, and their efforts can be similarly undone by a lack of political or managerial will and a concomitant "evaporation as the strategy moves further away from administrative centres" (Carle, 2007, p. 74). As Hirsh (2008) said, "legal experience, resources and know-how enable employers to strategically manage their engagement with the change resolution process" (p. 241) even to the extent of preventing it, while Otto (2010) and Holtmatt (2014) similarly discuss how a lack of commitment from senior managers, poor resourcing, an absence of expertise, and marginalization within institutions means ideas often fail to translate into concrete action. When one considers the extent of NCCA compliance and Title IX expertise within these institutions as previously noted, it is impossible to believe that there is a knowledge vacuum about institutional obligations to pregnant or parenting student-athletes. This research says as much about how the entire cultural field of college sport resists change, especially regarding gender equity (Soler et al., 2017), than it does about the individuals who either make policy or block it. And at this stage one can only speculate about the impact on institutions and individuals of *Dobbs v Jackson Women's Health Organization* 597 US ___ (2022), assuming it has any impact at all.

Not caring about women's sport, not having thought about pregnancy rights, or, worse, actively concealing institutional obligations brings to mind Butler's (2009) consideration of precarity as a concept that focuses on "conditions that threaten in ways that appear to be outside one's control" (p. xi). It characterizes the lives of "those deemed by the powerful to not matter … precarity as a social condition derives from the imposition of vulnerability by social norms, arising from political decisions and social practices that protect some and not others" (Joy et al., 2015, p. 1743). One may not immediately think that scholarship student-athletes in some of America's most prestigious institutions lead precarious lives, but there is much that is indeed outside their control. Recent enforced changes to the NCAA rules on athletes'

exploitation of their name, image, and likeness (Kadlec, 2021) will hasten change, but an unsustainable reliance on the endeavors of male athletes in two revenue-raising sports, compounded by the athletics arms race, the struggles for power among people who already have too much of it, and the unintended consequences of *Gebser* merely exacerbate a situation that could not have been envisaged when Title IX was passed, and which the NCAA seems ill-equipped to remedy. On a slight positive note, however, institutions and individuals who want to pursue change can take heart from the handful of excellent pregnancy statements that could be easily adopted.

Finally, this research shows how publicly available sources such as OSAHs provide a rich and under-exploited seam of data that is relevant to a host of college sports' legal and policy issues (Paule-Koba & Rohr-Cordes, 2019). Globally, it is a useful strategy for comparative legal research across the sports law world.

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Appendix A.

Codebook Analysis of the OSAHs (2022)

Institution	Core 1	Core 2	Core 3	Disclosure?	Enforcement	Male Partner?	Pregnancy AND Parenting?	Pregnancy = Temp Health Condition	Participation Unaffected	Prohibition of Hostile Environment	Prohibition of Illegal Contract Terms	Source of Rights
Appalachian State	x	x	x	Encouraged				x				Federal Law (general); NCAA (guidelines, rules, standard)
Arizona	x		x	Encouraged Support Conditional On								NCAA (regulations)
Arizona State	x		x	Encouraged Support Conditional On	Disciplinary Action Prohibits Retaliation	x		x	x			NCAA (Bylaw 14.2.1.3, guidelines)
Arkansas	x	x		Encouraged	Prohibits Retaliation		x					Federal Law (NCAA/ federal conflict, Title IX)
Arkansas State												School Policy
Auburn	x	x		Encouraged Not Required	Prohibits Retaliation		x	x	x	x	x	Federal Law (general, Title IX, NCAA/ federal conflict)

Ball State	x		x	Required				x				NCAA (general)
Boise State	x	x										Federal Law (Title IX), NCAA (general)
Buffalo	x		x	Should Inform				x		x		NCAA (Bylaw 15.3.4, rules), School Policy
Central Florida		x					x					Federal Law (NCAA/ federal conflict, Title IX)
Colorado Boulder	x	x	x	Encouraged Not Required	Prohibits Retaliation			x	x	x		Federal Law (general), NCAA (general, guidelines, rules)
East Carolina		x		Encouraged	Disciplinary Action Prohibits Retaliation				x	x	x	Federal Law (general, Title IX)
East Michigan				Required								
Florida Atlantic	x		x	Encouraged Not Required						x		NCAA (rules)
Florida International			x	Required				x				NCAA (Bylaw 15.3.4, guidelines, rules)

Appendix A.

Codebook Analysis of the OSAHs (2022) *(continued from page 37)*

Illinois	x	x	x									
Indiana									x			NCAA (guidelines)
Iowa State												
James Madison	x		x	Encouraged Not Required	Prohibits Retaliation	x		x	x			Federal (Title IX Regs), NCAA (Bylaw 14.2.1.3, 15.3.4, bylaws general)
Kansas State			x	Not Required Should Inform								NCAA (guidelines, rules)
Kentucky	x		x	Required				x				NCAA (policies)
Lafayette	x			Required								NCAA (rules)
Louisiana State			x	Required								NCAA (Bylaw 14.2.1.3)
Louisville	x		x	Encouraged				x				NCAA Bylaw 12.8.1.5, rules)
Miami				Encouraged								
Missouri		x										School Policy

Monroe					Required								NCAA (Bylaw 14.2.1.3)
Nevada Las Vegas	x	x	x		Encouraged Not Required	Disciplinary Action Prohibits Retaliation			x	x	x	x	Federal (NCAA/ federal conflict, Title IX), NCAA (rules)
Nevada Reno		X			Encouraged Not Required		x		x				Federal (Title IX)
New Mexico	x		x		Encouraged Not Required	Disciplinary Action Prohibits Retaliation	x		x	x			NCAA (Bylaw 12.8.1.5)
North Carolina	x												Federal (general)
Northern Illinois	x				Required								
Oklahoma State	x		x				x	x					Federal (general, Title IX), NCAA (bylaws general)
Oregon State	x				Encouraged Not Required				x				School Policy
Rice	x	x	x		Encouraged Not Required	Disciplinary Action Prohibits Retaliation		x	x	x	x	x	Federal (general, NCAA/fed- eral conflict, Title IX), NCAA (rules)

Appendix A.

Codebook Analysis of the OSAHs (2022) *(continued from page 39)*

San Jose	x		x	Encouraged Support Conditional On								Federal (Title IX), NCAA (regulations)
SMU	x		x	Required		x		x	x	x		NCAA (Bylaw 14.2.1.3, Bylaw 15.3.4, guidelines)
Toledo				Required								
Utah	x			Encouraged Not Required	Disciplinary Action Prohibits Retaliation		x	x	x	x	x	
Utah State	x			Encouraged								
Washington State								x				
West Virginia				Encouraged				X				Federal (general)
Wisconsin	x		x	Encouraged								NCAA (Bylaw 14.2.1.3)
Wyoming			x	Encouraged Not Required	Disciplinary Action Prohibits Retaliation	x			x			NCAA (Bylaw 14.2.1.3, principles)

Appendix B.

FBS Pregnancy Policies Codebook

Codes

Name	Description	Examples
Core 1 - Scholarship Retention	The OSAH pregnancy statement makes clear that pregnant student-athletes will not have their athletic aid terminated or reduced or withdrawn.	'Pregnancy will not affect your athletic eligibility or aid as long as you are in good academic standing with the University and you do not voluntarily withdraw from your team.' (Appalachian State) 'Our athletics department will not terminate or reduce a student-athlete's athletics aid because of the student-athlete's pregnancy, marital or parental status during the term of the award.' (Auburn)
Core 2 - Prohibition of Discrimination	The OSAH pregnancy statement makes clear that pregnant student-athletes cannot be discriminated against in any way because of their pregnancy.	'Title IX of the Education Amendments of 1972 bars discrimination on the basis of sex, which includes the guarantee of equal educational opportunity to pregnant and parenting students. This means that our student-athletes cannot be discriminated against because of their parental or marital status, pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.' (U of Arkansas) 'As provided by federal law, CU student-athletes will not be discriminated against because of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery there from.' (U of Colorado, Boulder)
General Discrimination	The OSAH pregnancy statement says that there will be no discrimination, but does not expressly mention that this cannot be on the basis of sex, gender or pregnancy.	'This Guidance demonstrates ECU's commitment to providing a non-discriminatory environment for student-athletes. . .'(East Carolina U)
Core 3 - Eligibility	The OSAH pregnancy statement makes clear that pregnant student-athletes are eligible for a one-year extension to their five year eligibility status.	'Based on NCAA regulations the student-athlete will be granted a one-year pregnancy leave for a possible six-year period of eligibility.' (U of Arizona) 'Finally, you should also know that NCAA bylaws allow a female student-athlete to apply for an additional year of eligibility if her athletic career is interrupted by pregnancy.' (Oklahoma State)
Disclosure		

Appendix B.

FBS Pregnancy Policies Codebook *(continued from page 41)*

Codes

Encouraged	The OSAH pregnancy statement encourages (but does not require) disclosure of pregnancy.	'If a female student-athlete becomes pregnant, she is encouraged to notify a ULAA staff member (e.g., coach, athletic trainer, Associate Athletic Director for Student-Athlete Health and Performance) as soon as possible to ensure she receives appropriate medical care.' (University of Louisville)
Not Required	The OSAH pregnancy statement is explicit about disclosure not being required.	'Our athletics department will not require any student-athlete to reveal pregnancy or parenting status.' (Florida Atlantic)
Required	The OSAH pregnancy statement requires pregnant student-athletes to disclose their condition.	'The student-athlete must notify their Head Coach and Athletic Trainer of their pregnancy.' (U of Kentucky)
Should Inform	The OSAH pregnancy statement states that pregnant student-athletes 'should inform' relevant athletics staff of their pregnancy.	'As soon as you learn that you are pregnant, you should inform your coach and athletic trainer, as well as, your personal physician/OBGYN, family or others who are important to you.' (SUNY Buffalo)
Support Conditional On	The OSAH pregnancy statement makes clear that scholarship retention or extension of eligibility is conditional on disclosure and/or athletic staff awareness.	'When a student-athlete is pregnant and informs the ICA of this fact through notification of the appropriate sports medicine physician and does not voluntarily withdraw from her sport, her scholarship will remain in place for the remainder of the granting year, July 1–June 30.' (U of New Mexico)
Enforcement of the Policy		
Disciplinary Action	The OSAH pregnancy statement makes clear that breaches of the pregnancy statement will result in disciplinary action.	'Any member of the athletics department found to have violated this policy may be subject to disciplinary action, up to and including discharge or expulsion from the university.' (Rice)
Prohibits Retaliation	The OSAH pregnancy statement explicitly prohibits retaliation.	'Retaliation is specifically prohibited against anyone who complains about pregnancy or parental status discrimination, even if the person was in error about the lawfulness of the conduct complained about. This athletics department will take steps to prevent any retaliation against the individual who made the complaint.' (U of Nevada, Las Vegas)

Male Partner	The OSAH pregnancy statement makes reference to male partners of pregnant student-athletes.	'Male student-athletes dealing with a partner's pregnancy will also be referred to counseling and health care providers at the Student Health Center. A support team may be formed to help the male student-athlete with pregnancy and related issues of participation and academic progress.' (U of Nevada, Reno)
Participation Unaffected	The OSAH pregnancy statement indicates that participation in athletics will not be affected (in any way, or in listed ways) by the student-athlete's pregnancy.	'You will not forfeit your team membership status, benefits, or responsibilities, nor be excluded from team activities due to pregnancy.' (Iowa State) 'The University of Utah Intercollegiate Athletics Department, staff, coaches, Athletic Trainers, and any other athletics department personnel shall not suggest to any student-athlete that his or her continued participation on a team will be affected in any way by pregnancy, parental or marital status, or by terminating a pregnancy.' (Utah)
Pregnancy as Temp Health Condition	The OSAH pregnancy statement states that pregnancy will be treated as any other temporary health condition.	'Pregnancy is treated no differently than any other type of temporary medical condition.' (James Madison)
Pregnant AND Parenting Mentions	The OSAH pregnancy statement makes clear that the policy applies to both pregnant and parenting student-athletes, in either the text of the policy or in its title.	'This policy sets forth the protections that should be provided for pregnant and parenting students, including those with pregnancy related conditions.' (Auburn) 'PREGNANCY AND PARENTING STUDENT-ATHLETES' (title of Oklahoma State policy)
Prohibition of Hostile Environment	The OSAH pregnancy statement prohibits a hostile environment and behaviour that would result in a hostile environment, such as inappropriate pressure from staff.	'Student-athletes should not be forced to terminate a pregnancy because of financial or psychological pressure or fear of losing their institutional grants-in-aid.' (SUNY Buffalo) 'Our athletics department will not allow a hostile or intimidating environment based on pregnancy or parental status to exist.' (Florida Atlantic)
Prohibition of Illegal Contract Terms	The OSAH pregnancy statement prohibits contract terms that prohibit athletes from getting pregnant as a condition of receiving athletics awards.	'Our athletics department will not permit the use of any written or verbal contract that requires a student-athlete to not get pregnant or become a parent as a condition of receiving an athletics award.' (Rice)
Sources of Rights		

Appendix B.

FBS Pregnancy Policies Codebook *(continued from page 43)*

Codes

General References to Unspecified Law	The OSAH pregnancy statement states that it is complying with 'law' but does not specify the source beyond that.	'Boise State athletics follows pregnancy legislation as directed by the NCAA.' (Boise State)
References to Federal Law		
General Reference to Federal Law	The OSAH pregnancy statement refers to compliance with or rights/obligations stemming from 'federal law', without specifying a particular federal law.	'Please note that the University complies with all federal and North Carolina laws.' (Appalachian State) 'In situations involving pregnancy, federal law provides many legal protections for continued involvement with the Department.' (U of North Carolina)
NCAA and Federal Law Conflict	The OSAH pregnancy statement states that NCAA rules and federal law may conflict with each other, and the institution follows federal law.	'Some actions that may be permissible under NCAA rules are impermissible under federal law, and our institution adheres to federal law.' (U of Arkansas)
Title IX (General)	The OSAH pregnancy statement references Title IX as a source of rights/obligations.	'Title IX of the Education Amendments of 1972 bars discrimination on the basis of sex, which includes the guarantee of equal educational opportunity to pregnant and parenting students.' (Central Florida) 'You should also know that Title IX also protects you from being discriminated against because of your partner's pregnancy or your status as a parent.' (Oklahoma State)
Title IX Regulations	The OSAH pregnancy statement references the Title IX pregnancy regulations as a source of rights/obligations.	'The Title IX regulations require the JMU Athletics Department to reinstate you to the status which you held when the leave began.' (James Madison)
References to NCAA Materials		
Bylaw 12.8.1.5	The OSAH pregnancy statement references bylaw 12.8.1 and/or its sub-sections.	'NCAA Bylaw 12.8.1.5 provides that "[a] member institution may approve a one year extension of the five year period of eligibility for a female student-athlete for reasons of pregnancy."' (U of New Mexico)
Bylaw 14.2.1.3	The OSAH pregnancy statement references bylaw 14.2.1.3.	'NCAA Bylaw 14.2.1.3 provides that "[a] member institution may approve a one year extension of the five year period of eligibility for a female student-athlete for reasons of pregnancy."' (Arizona State)

Bylaw 15.3.4	The OSAH pregnancy statement references bylaw 15.3.4 and/or its sub-clauses.	'See Bylaw 15.3.4.3, which specifies that institutional financial aid based in any degree on athletics ability may not be reduced or canceled during the period of its award because of an injury, illness or physical or mental medical condition.' (SUNY Buffalo)
Bylaws generally	The OSAH pregnancy statement references NCAA bylaws as a source of rights/obligations but not a specific bylaw.	'Finally, you should also know that NCAA bylaws allow a female student-athlete to apply for an additional year of eligibility if her athletic career is interrupted by pregnancy.' (Oklahoma State)
General Reference to NCAA	The OSAH pregnancy statement references the NCAA generally (not a specific source from the NCAA) as a source of rights/obligations.	'The NCAA permits a one-year extension of the five-year period of eligibility for a female student-athlete due to pregnancy.' (Ball State)
Guidelines	The OSAH pregnancy statement references 'NCAA guidelines' as a source of rights/obligations.	'CU athletic training staff, in compliance with the NCAA guidelines, has developed a policy clearly outlining the rights and responsibilities of the pregnant student-athlete.' (U of Colorado, Boulder)
Policies	The OSAH pregnancy statement references 'NCAA policy' or 'NCAA policies' as a source of rights/obligations.	'The University of Kentucky abides by the athletic polices set by the NCAA, the Southeastern Conference, the University's Athletics Department and the insurance carrier.' (U of Kentucky)
Principles	The OSAH pregnancy statement references 'NCAA principles' as a source of rights/obligations.	'Furthermore, and consistent with NCAA principles, the institution considers pregnancy an important issue to address within the context of student-athlete well-being.' (U of Wyoming)
Regulations	The OSAH pregnancy statement references 'NCAA regulations' as a source of rights/obligations.	'NCAA regulations provide that female student-athletes who become pregnant during their collegiate career may be granted six calendar years in which to engage in four seasons of intercollegiate competition.' (San Jose State)
Rules	The OSAH pregnancy statement references 'NCAA rules' as a source of rights/obligations.	'NCAA rules permit a one-year extension of the five-year period of eligibility for female student-athletes for reasons of pregnancy.' (U of Illinois)
Standards	The OSAH pregnancy statement references 'NCAA standards' as a source of rights/obligations.	'These policies and procedures have been developed consistent with the standards and guidelines outlined in the NCAA Sports Medicine Handbook.' (Appalachian State)
References to School Policy	The OSAH pregnancy statement references university, school or athletics department policy as a source of rights/obligations, separately from Title IX or NCAA materials.	'University rules prohibit discrimination on the basis of pregnancy.' (U of Missouri)