

AN ANALYSIS OF BOARD COMPOSITION IN NATIONAL SPORT FEDERATIONS IN THE USA

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1. INTRODUCTION

Sports governance refers to the mechanism through which sporting activities are governed. It can be understood as the interplay between policy makers and policy implementers for achievement of excellence in sports at the national and international level.⁴ Good governance in sports has gained significant attention in the US as a response to both off-field and on-field management failures, crises and scandals.⁵ Examples include the Salt Lake City Olympics, 2002 and the BALCO scandal.⁶ The governance of National Sporting Federations (NSFs) referred to as National Governing Bodies (NGBs) in the USA have also come under scrutiny in light of the sexual abuse scandal in USA Gymnastics, USA Swimming and other sports over the years.⁷ This has led to an increased need for achieving integrity, professionalism, accountability and transparency regarding the manner in which sporting activities are administered – and good sports governance serves as a ‘pre-condition and pre-requisite’ for national sports to achieve

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⁴ Dennis V. Blanco, *Sports Governance: Issues, Challenges and Perspectives*, 17 ASIA- PACIFIC SOCIAL SCIENCE REVIEW 105 (2017).

⁵ Jonathan Grix & Spencer Harris, *Governance and Governmentality of Sport*, in ROUTLEDGE HANDBOOK OF SPORT AND POLITICS (2016).

⁶ Roger Pielke et al., *An evaluation of good governance in US Olympic sport national governing bodies*, 20 EUROPEAN SPORT MANAGEMENT QUARTERLY 480 (2019).

⁷ Mark Conrad, *The COVID-19 pandemic, the empowering Olympic, Paralympic, and Amateur Athletes Act, and the dawn of a new age of U.S. Olympic Reform*, 31 JOURNAL OF LEGAL ASPECTS OF SPORT 1 (2021).

these expectations.⁸ To establish good governance requirements, there is no perfect organizational structure,⁹ as sports organizations often require a tailored, individualized application.¹⁰ Good governance needs to begin with NGBs as they play an important strategic and regulatory role in the sports ecosystem.¹¹ Good governance includes important parameters such as board size¹² and inclusivity or diversity among others.¹³ The USA Olympic and Paralympic sporting sectors follow a system of governance that is centrally coordinated by the United States Olympic and Paralympic Committee (USOPC), and developed by the efforts of NGBs and their affiliates (state associations, local level clubs and associations).¹⁴ The USOPC and all NGBs are a 501(c)(3) non-profit organizations, who do not receive direct financial support from the US government, except for some funding received for specific military programs in the Paralympic games.¹⁵ The board size of such NGBs play an integral part in board (and therefore organizational) effectiveness,¹⁶ but there have been few studies in this area, especially in

⁸ Blanco, *supra* note 4.

⁹ Thomas H. Sawyer, Lawrence W. Judge & Tonya L. Sawyer, *Sport Governance in North America*, SAGAMORE, <https://www.sagamorepub.com/sites/default/files/2018-07/Sportgov-look-inside-OPT.pdf> (last visited Feb. 09, 2022).

¹⁰ Arnout Geeraert, *National Sports Governance Observer. Indicators and instructions for assessing good governance in national sports federations*, PLAY THE GAME & DANISH INSTITUTE FOR SPORTS STUDIES (Nov, 2018), <https://playthegame.org/knowledge-bank/downloads/national-sports-governance-observer-indicators-and-instructions/11dd1828-1461-4a09-9a12-a996016fcd90>.

¹¹ Siegfried Nagel et al., *Professionalisation of Sport Federations – a multi-level framework for analysing forms, causes and consequences*, 15 EUROPEAN SPORT MANAGEMENT QUARTERLY 407, (2015).

¹² Eddie T. C. Lam, *The Roles of Governance in Sport Organizations*, 2 JOURNAL OF POWER, POLITICS & GOVERNANCE 19 (2014).

¹³ Thomas H. Sawyer, Kimberly J. Bodey & Lawrence W. Judge, *Sport Governance and Policy Development- An Ethical Approach to Managing Sport in the 21st Century*, SAGAMORE PUBLISHING, L.L.C., <https://www.sagamorepub.com/sites/default/files/2018-07/pages-sportgovernance.pdf> (last visited Dec 17, 2021).

¹⁴ Spencer Harris & Scott Jedlicka, *The Governance of Sport in the USA*, in *SPORT BUSINESS IN THE U.S.: CONTEMPORARY PERSPECTIVES* (2020).

¹⁵ Jinhee Yoo & Seok-Pyo Hong, *Policy analysis: Performance-based funding policy of the U.S. Olympic Committee*, 11 INTERNATIONAL JOURNAL OF HUMAN MOVEMENT SCIENCE 27 (2017); Lindsey Gaston, Milly Blundell & Tom Fletcher, *Gender diversity in sport leadership: an investigation of United States of America National Governing Bodies of Sport*, 25 MANAGING SPORT AND LEISURE 402 (2020). However, several NGBs applied for government aid and loans due to the impact of the COVID-19 pandemic on sport, which had a significant impact on the revenue sources of NGBs in the USA. See, Rachel Bachman, *U.S. Olympic Sports Groups Seek Government Aid*, THE WALL STREET JOURNAL (Apr. 12, 2020, 7:00 AM), <https://www.wsj.com/articles/u-s-olympic-sports-groups-seek-government-aid-11586689219>.

¹⁶ Ian O' Boyle and Trish Bradbury, *Current issues in modern sports governance*, in *SPORT GOVERNANCE INTERNATIONAL CASE STUDIES 7–19* (Ian O' Boyle and Trish Bradbury eds., 1 ed. 2015).

the context of USA. There are several propositions with respect to effective board size and therefore, the paper provides an in-depth analysis for the board size of NGBs in USA. The other parameter for analyzing board composition is diversity. Diversity has become a desired value in sports organization as a diverse board is theorized to lead to greater organizational efficiency.¹⁷ Diversity can be measured in terms of various parameters, but this paper focuses on diversity with respect to skill i.e., occupational background and gender. NGBs play a vital role in the regulation of sports, and since the board of directors serve as the principal decision-making forum in NGBs, it becomes imperative that the composition of boards is such that it promotes the values of skill, expertise, and diversity.¹⁸ A gender diverse board brings about efficient organizational outcomes, however, there is still under-representation of women on sport boards globally.¹⁹ The aim of the paper is to address the gap dealing with issues of board size and board diversity in sport. In doing so, the paper first examines the comprehensive structure of sports governance in the USA and the codification of various sports legislations. The paper elucidates the four sub-sectors of USA sport which will significantly contribute towards the understanding of sports governance in the country. The paper then focuses on the analysis of board composition of NGBs in the USA. Lastly, the paper presents recent developments in the context of Esports governance in the USA.

2. SPORT GOVERNANCE STRUCTURE AND LEGISLATIONS IN USA

In a country as renowned for sports as the USA, there is a strong rationale for conducting an analysis of its sports governance system. The USA has an exceptional sporting landscape, having produced many illustrious athletes, and continues to function on a unique and distinctive sport governance system. USA sport is clearly demarcated into four sub-sectors i.e., community, Olympic and Paralympic, collegiate and interscholastic

¹⁷ Ramón Spaaij, Annelies Knoppers & Ruth Jeanes, “*we want more diversity but...*”: *Resisting diversity in Recreational Sports Clubs*, 23 *SPORT MANAGEMENT REVIEW* 363 (2020).

¹⁸ Joshua McLeod, Shaun Star & David Shilbury, *Board composition in national sport federations: a cross-country comparative analysis of diversity and board size*, *MANAGING SPORT AND LEISURE* (2021). DOI: 10.1080/23750472.2021.1970614

¹⁹ Marjukka Mikkonen, Jari Stenvall & Kati Lehtonen, *The paradox of gender diversity, organizational outcomes, and recruitment in the boards of National Governing Bodies of Sport*, 11 *ADMINISTRATIVE SCIENCES* 141 (2021).

and lastly, professional. The sports governance system differs from sector to sector and becomes more professionalized at the higher levels.²⁰

The first sub-sector is community sport. It includes recreational and grassroots sport (both youth and adult programs)²¹ which is concerned with improving sports outcomes through athlete and infrastructure development. The second sub-sector of USA sport is intercollegiate,²² which comprises of National Collegiate Athletic Association (NCAA), which is the most powerful inter-collegiate non-profit sport governing body in the USA, the National Association of Intercollegiate Athletics (NAIA) and the National Junior College Athletics Association (NJCAA).²³ The members of NCAA include universities and other inter-collegiate linked organizations that need to comply with state and federal laws, along with education policies such as Title IX. The third sub-sector of USA sport is the Olympic system, which is internationally led by the International Olympic Committee (IOC).²⁴ USOPC works independently of the federal government as the USA has no ministry of sports. USOPC plays a key role in governing Olympic and Paralympic sport as it oversees its participation provided by the Ted Stevens Olympic and Amateur Sports Act, 1978.²⁵ Professional Sports in America is the fourth sub-sector, which comprises of private leagues, dominated by Major League Baseball (MLB), National Hockey League (NHL), National Football League (NFL), and National Basketball Association (NBA) as well as the Women's National Basketball Association (WNBA).²⁶ The USA has for long abstained from formal system of sports governance at the national level, as it has a sport governance system that avoids policy-driven solutions when forced to develop policy as there is more emphasis on governance through market forces and non-governmental institutions.²⁷ There are only three policies which directly address

²⁰ Harris, *supra* note 14.

²¹ *Id.*

²² *Id.*

²³ *College Divisions*, SMARTHLETE, <https://www.smarthlete.com/intercollegiate/divisions> (last visited Feb. 15, 2022)

²⁴ Harris, *supra* note 14.

²⁵ Blanco, *supra* note 4.

²⁶ Dusan Randjelovic, *11 Most Profitable Sports Leagues – Their value will surprise you* ATHLETIC PANDA (Jun. 3, 2020), <https://apsportseditors.org/others/most-profitable-sports-leagues/>

²⁷ Paul T. Jonson & David Thorpe, *Legal and regulatory aspects of sport governance*, in ROUTLEDGE HANDBOOK OF SPORT GOVERNANCE 35–52 (David Shilbury & Lesley Ferkins eds., 2019).

sports governance in USA, namely – Title IX of the Education Amendments, 1972 (provisions prohibiting gender discrimination), the Americans with Disabilities Act, 1990 (provisions prohibit discrimination on the basis of disability in sports), and the Amateur Sports Act, 1978. The Amateur Sports Act 1978 vests the power to coordinate and develop amateur sports in the USA to the USOC and its NGBs (now the USOPC) and specifies requirements for the NGBs. Under the Amateur Sports Act of 1978, the USOC is able to grant recognition of each NGB.²⁸ Private organizations develops its own rules and systems of governance as government does not play a major role and entrepreneurs run their teams and leagues in accordance with business laws in USA.²⁹

3. METHODOLOGY

Secondary online resources were used to gather data for 46 NGBs in the USA. This approach was adopted in order to describe, analyze, and interpret the board size and board diversity of NGBs in the USA. By using descriptive statistics based on secondary online resources, the study presents novel insights regarding sports governance in the USA. The methodological approach adopted corresponds to the method adopted by McLeod, Star and Shilbury (2021).³⁰ The advantage of such approach lies in the fact that data regarding board composition was easily accessible.³¹ However, such study lacks a degree of internal validity because of the usage of secondary online sources. Additionally, the results lack generalization because the researchers adopted a convenience sampling approach wherein the sampling units which are easily available were selected.³² The variables of the study are board size, occupational background, and gender diversity. The researchers have also relied on scholarly articles to substantiate their findings.

²⁸ USOPC, 36 U.S. Code Chapter 2205 – United States Olympic Committee, <https://www.teamusa.org/-/media/Legal/TSOASA-7-8-19.pdf?la=en&hash=4B64A86056466CE49D0C81071608D640DA6A9F6C> (last visited Feb. 15, 2022).

²⁹ Jonson, *supra* note 27.

³⁰ McLeod, *supra* note 18.

³¹ Hilton Heydenrych & Jennifer M. Case, *Researching graduate destinations using LinkedIn: an exploratory analysis of South African chemical engineering graduates*, 43 EUROPEAN JOURNAL OF ENGINEERING EDUCATION 693 (2017).

³² Ilker Etikan, *Comparison of Convenience Sampling and Purposive Sampling*, 5 AMERICAN JOURNAL OF THEORY AND APPLIED STATISTICS 1 (2016).

4. RESULTS AND DISCUSSIONS

4.1. BOARD SIZE

According to some researchers, a board size between 5 to 12 directors will provide an optimal balance³³ as such will bring about greater coherence and organizational performance.³⁴ Further, researchers suggest that board with more than 10 members will have elements of inefficiency as there might be inhibition of strategic action and lack of proper communication which can result in decreased board members' contribution.³⁵ Moreover, a large board is considered to be unmanageable at times which results in slow decision making.³⁶ However, data suggests that USA NGBs on average adopt a larger board size. According to the data, the NGBs in USA have an average board size of 14.4 which indicates that the average number of directors on the organizations' boards is between 14 to 15 members. The rationale for a large board size is supported by resource dependency theory. According to the theory, a large number of board members would be better able to connect the organization with external environment in order to secure critical resources and also provide the knowledge and skill needed.³⁷ This theory is useful for non-profit boards as they are dependent on external resources³⁸ like NGBs in the USA, which are provided with no federal support and funding.

The board of directors act as a mechanism to bring resources by linking the organization with its external environment and directors' networks.³⁹ The greater the need for external linkage in the form of attracting donations, funding, experience and knowledge,⁴⁰ the

³³ Marc Taylor & Noel O' Sullivan, *How Should National Governing Bodies of Sport Be Governed in the UK? An Exploratory Study of Board Structure*, 17 CORPORATE GOVERNANCE: AN INTERNATIONAL REVIEW 681 (2009).

³⁴ J Linck, J Netter & T Yang, *The determinants of board structure*, 87 JOURNAL OF FINANCIAL ECONOMICS 308 (2008).

³⁵ Jerry Goodstein, Kanak Gautam & Warren Boeker, *The effects of board size and diversity on strategic change*, 15 STRATEGIC MANAGEMENT JOURNAL 241 (1994).

³⁶ Kat Ingram & Ian O'Boyle, *Sport governance in Australia: questions of board structure and performance*, 60 WORLD LEISURE JOURNAL 156 (2017).

³⁷ Goodstein, *supra* note 35.

³⁸ Judith L. Miller-Millesen, *Understanding the behavior of nonprofit boards of directors: A theory-based approach*, 32 NONPROFIT AND VOLUNTARY SECTOR QUARTERLY 521 (2003).

³⁹ *Id.*

⁴⁰ Chien Mu Yeh & Tracy Taylor, *Issues of governance in sport organisations: a question of board size, structure and roles*, 50 WORLD LEISURE JOURNAL 33 (2008).

larger the board size should arguably be in non-profit organizations.⁴¹ A number of NGBs in US depend upon external sources for their survival, such as donations and funding⁴² and private donations are crucial for NGBs in the USA.⁴³ A large board, therefore, can benefit such organizations from the directors' networks⁴⁴ as they would attract more resources. Researchers suggest a positive relation between large board size and donations to non-profit organizations.⁴⁵ Moreover, large board are expected to meet good governance standards as they have the capacity to respond to the work and challenges of good governance.⁴⁶

Name of the Federation	Number of Board Members
Wrestling Federation of the United States	35
Ski and Snowboard Federation of the United States	29
Water Ski Federation of the United States	25
Squash Federation of the United States	22
Track and Field Federation of the United States	22
Softball Federation of the United States	20
Equestrian Federation of the United States	19
Biathlon Federation of the United States	7
Deaf Sports Federation of the United States	7
Table Tennis Federation of the United States	5
Roller Sports Federation of the United States	4

Table 1: Board Size of specific NGBs in the USA

⁴¹ Boyle, *supra* note 16.

⁴² Lindsey Gaston, Milly Blundell & Tom Fletcher, *Gender diversity in sport leadership: an investigation of United States of America National Governing Bodies of Sport*, 25 *MANAGING SPORT AND LEISURE* 402 (2020).

⁴³ Devon Pendleton, *For Olympic Glory, Athletes need a billionaire backer* MINT (Feb. 23, 2018, 04:13 PM), <https://www.livemint.com/Sports/blgGb2yMDxLUk1sxWSeOyJ/For-Olympic-glory-athletes-need-a-billionaire-backer.html>

⁴⁴ Shaker A. Zahra & John A. Pearce, *Boards of directors and Corporate Financial Performance: A review and integrative model*, 15 *JOURNAL OF MANAGEMENT* 291 (1989).

⁴⁵ Boyle, *supra* note 16.

⁴⁶ Pielke, *supra* note 6.

The USA Ski and Snowboard having the second largest board and USA Equestrian having seventh largest board can be used as case study to further the above arguments. (See Table 1). According to a study conducted by Pielke et al (2019)⁴⁷ on good governance in US Olympic NGBs USA Ski & Snowboard federation (29) was ranked the highest for good governance practice. Track and Field Federation (22) followed by Equestrian Federation (19) were ranked second and third respectively. Therefore, boards of these federations are able to meet good governance standards and performs well in terms of revenue reported. One reason for it might be the large board size. Further, the USA Ski & Snowboard federation attracts donations from individuals and corporate sponsors⁴⁸ and such is likely influenced by its large board size. Similarly, the Equestrian Federation, which is dependent upon external resource support because of the high cost involved in the sport, can attract individual sponsors⁴⁹ and a large board size might be a contributing factor. The federations with least members on the board i.e., Roller Sports Federation (4 members) and Biathlon Federation (7 members), were at the bottom in the study conducted, indicating poor governance standards (however this may be the result of unavailable data on these NGBs).⁵⁰ Therefore, a large board size can also be effective, and NGBs might be adopting the same for reasons explained above. The need to accommodate representation from all sections of society combined with its high population and prevalence of athlete representation, may be other reasons for a relatively large average board size in the USA.⁵¹

⁴⁷ *Id.*

⁴⁸ Pendleton, *supra* note 43.

⁴⁹ *Id.*

⁵⁰ Pielke, *supra* note 6.

⁵¹ McLeod, *supra* note 18.

4.2. BOARD DIVERSITY

4.2.1. OCCUPATIONAL BACKGROUND

Board skill diversity is one of the key indicators for board sustainability and performance in sport.⁵² Table 2 illustrates the percentage of board members belonging to a particular occupational background. However, it should be noted that the above data is not indicative of all directors as occupational background information was not available for all the members.⁵³ Consequently, a total of 477 (71%) of all NGB board members were coded for occupational background in USA. The results showcase that the skill that dominates the NGBs in USA is people with a sporting background (50.31%) i.e., a person with an elite level athletic or coaching background. Athletes are key stakeholders that are most affected by board decisions.⁵⁴ However, traditionally, athletes have very little direct representation in this system of sports governance internationally.⁵⁵ The element of athlete representation is considered essential for critical decision-making process as it provides for checks and balances so that the board does not become alienated from those they are seeking to serve.⁵⁶ There has been an institutionalization of athlete representation in USA, likely because of the above factors. Athletes' right to representation is provided by §220522(a)(10) of the Ted Stevens Act Olympic and Amateur Sports Act, 1987. According to the said provision, for an amateur sports organization to be eligible to be recognized or continued to be recognized as a NGB, the Board of Directors should contain 20% athlete representation. Such has resulted in all 46 NGBs studied having at least one director with a sporting background. The reason for sporting backgrounds being dominant on NGBs in the USA is likely in part due to the mandated athlete representation. However, over involvement of a particular occupation is typically not considered to be a

⁵² Ross Booth et al., *Generic Models of Sports Governance and Their Potential for Sustainability*, 10 *IN THE SPORTS BUSINESS IN THE PACIFIC RIM. SPORTS ECONOMICS, MANAGEMENT AND POLICY* 233–250.

⁵³ McLeod, *supra* note 18.

⁵⁴ Lucie Thibault, Lisa Kihl & Kathy Babiak, *Democratization and governance in international sport: addressing issues with athlete involvement in organizational policy*, 2 *INTERNATIONAL JOURNAL OF SPORT POLICY AND POLITICS* 275 (2010).

⁵⁵ Jean-Loup Chappelet, *The unstoppable rise of athlete power in the Olympic System*, 23 *SPORT IN SOCIETY* 795 (2020).

⁵⁶ Taylor, *supra* note 33.

good governance strategy as a board with varied expertise will be able to accomplish complex and multi-dimensional tasks.⁵⁷ Therefore NGBs should strike a right balance between different occupational backgrounds.

The second dominant skill is that of business operation and administration (32.70%) which may be due to the fact that NGBs depend upon individual and corporate sponsors for their funding,⁵⁸ therefore board members are required to have such skills. Another finding is that elected politicians comprise of 0% board members on USA NGBs, which shows the lack of federal/central government involvement in sport governance in the country. It is important to note that while many argue that sports and politics should not mix owing to the divisiveness created by political intervention, the reality remains that sport is always influenced by politics to a certain degree. The same holds true for the USA governing system, also reflected by the legislation providing 20% representation to athletes on NGB boards. Even though the occupational background of the NGB board members does not reflect any political affiliations and there is a lack of government funding for grassroots sport; the fact remains that the local government supports local-level community sport, state and city government financially supports collegiate and professional sport, and the federal government utilizes the legislative framework to alleviate the mishaps caused by governance failures in sport.⁵⁹ It may be inferred from the same that allowing for a certain level of politics in sports is inevitable and even acceptable to a certain extent.

⁵⁷ McLeod, *supra* note 18.

⁵⁸ Gaston, *supra* note 42.

⁵⁹ Harris, *supra* note 14.

Occupational Background	Representation on NGB Boards
Academic	2.31%
Accountant	1.47%
Bureaucrat/Public Administration	0.42%
Business Operations and Administration	32.7%
Elected Politician	0%
Engineer	0.84%
Journalist	0.00%
Lawyer	6.71%
Marketing	0.84%
Medical Professional	2.1%
Military	2.31%
Sport/Athlete/Coach	50.31%

Table 2: Percentage of each occupation on NGB boards in the USA

4.2.2. GENDER DIVERSITY

Previous research shows positive relation between gender diversity on boards and positive organizational outcomes.⁶⁰ Women representation on NGBs globally, particularly in leadership positions, remains low despite growing evidence that gender diversity brings about better board performance and success.⁶¹ Studies suggest that boards with strong gender diversity outperform organizations that do not.⁶² Joecks et al. (2018)⁶³ noted that for the minority group (women) to influence the direction of an organization at least 20% to 40% representation is required. According to the data, the USA has 35.26% of women representation on its Board, whereas the representation of

⁶⁰ Spaaij, *supra* note 17.

⁶¹ *Research report: Beyond 30% - female leadership in Sport*, WOMEN IN SPORT (2017), <https://www.womeninsport.org/research-and-advice/our-publications/beyond-30-report/> (last visited Dec 17, 2021).

⁶² Jasmin Joecks, Kerstin Pull & Karin Vetter, *Gender diversity in the boardroom and firm performance: What exactly constitutes a “Critical mass?”* 118 JOURNAL OF BUSINESS ETHICS 61(2012).

⁶³ *Id.*

men is 64.74%. Therefore, based on study's recommendation, the USA overall performs relatively well with respect to gender diversity. However, balanced groups comprising of 40% to 60% representation is considered to make the gender-based discrimination on boards become less important and the actual skills of men and women the key focus.⁶⁴ Thus, this should be the benchmark for NGBs to achieve i.e., 40% to 60% balanced gender-representation.

The 2012 Los Angeles Declaration stated the need for increasing women representation in management and leadership roles.⁶⁵ The Olympic Charter in Rule 2, Paragraph 8 recognizes gender equality as being crucial, and the IOC for organizations part of the Olympic movement requested that there must be a minimum of 20% of decision making positions designated for women, however, such has not yet been achieved.⁶⁶ As per the provisions of the Ted Stevens Olympic and Amateur Sports Act, 1987, the USOPC submits a report every four years to USA Congress, which details information on involvement of women in each NGB, amongst other information relating to ethnic diversity and disability. NGBs in line with the Performance Partnership Agreement are mandated to submit inclusivity and diversity data annually to the USOPC Diversity and Inclusion Department.⁶⁷ Each NGB has to comply with its own unique inclusion benchmarks depending upon various factors such as financial and human resources, popularity of the sport, and data from the US Census and NCAA.⁶⁸ A Scorecard is published by the USOPC that details data regarding percentage of female representation on the board of NGBs amongst other factors.⁶⁹

⁶⁴ *Id*; ROSABETH MOSS KANTER, MEN AND WOMEN OF THE CORPORATION (1977).

⁶⁵ Gaston, *supra* note 42.

⁶⁶ *Id*.

⁶⁷ *Id*.

⁶⁸ *Id*

⁶⁹ United States Olympic and Paralympic Committee, *Diversity Equity & Inclusion scorecards* TEAM USA, <https://www.teamusa.org/diversityscorecards> (last visited Dec 17, 2021).

Name of Federation	Total Board Members	No. of Male Members	No. of Female Members	Female Representation (in %)
Baseball Federation of the USA	12	11	1	8.33
Karate Federation of the USA	9	8	1	11.11
Wrestling Federation of the USA	35	30	5	14.29
Judo Federation of the USA	7	6	1	14.29
Water-ski Federation of the USA	25	20	5	20
Ice Speedskating Federation of the USA	10	8	2	20

Table 3: NGB boards with low female representation

Table 3 reflects the NGBs that have 20% or less female representation on Board (although results should be interpreted with caution given that secondary sources were relied upon). This level of female representation has been described as ‘token’ representation. This means when the minority group (female) is controlled by the dominant group (male), as the minority groups representation is only up to 20%.⁷⁰ According to Kanter (1997), “women can realistically only affect policy and create change once they become fully engaged participants and not just token representatives of diversity”.⁷¹ Therefore, for the NGBs provided in Table 3, the board appears to be gender diverse but there might be a lack of opportunity for women to equally participate. Further, a failure in achieving female membership benchmarks can be indicative that the NGBs do not have enough financial resources, as all do not receive financial support from the USA government.⁷² Therefore, in order to increase female representation on board, structural changes are required as there are only 4 NGBs which have more female representation than male (see Table 4). A similar enactment as that of 20% athlete representation can and should be

⁷⁰ KANTER, *supra* note 64.

⁷¹ *Id.*

⁷² Gaston, *supra* note 42.

made for women to increase their representation on NGB boards. However, an unlikely case is reflected by USA Artistic Swimming, previously known as USA Synchronized Swimming Federation. The said federation is dominated by women board members as male representation is only 6% approx. Such could be due to the fact that Synchronized Swimming is predominantly considered to be a women's sport and in fact at the London Summer Olympics, 2012 men were disallowed to participate in the sport.⁷³

Name of Federation	No of Board Members	No of Male Members	No of Female Members	Male Representation (in %)
USA Artistic Swimming	16	1	15	6.25
USA Gymnastics	14	5	9	35.71
USA Equestrian	19	7	12	36.84
USA Ice Figure Skating	18	7	11	38.89

Table 4: NGB boards with low male representation

5. ESPORTS GOVERNANCE IN USA

The Esports sector has gained 320 million viewers worldwide, is growing at a rapid pace, and is set to potentially become an Olympic sport.⁷⁴ However, Esports is criticized for perpetuating misogyny and violence by the IOC and NCAA President.⁷⁵ Organized gaming and Esports in USA takes places under the aegis of National Association of Collegiate Esports (NACE), which is a governing body for the association of varsity Esports programs at the collegiate and university level in USA. Other governance organizations for collegiate Esports include Collegiate Starleague and Tespa.⁷⁶ A major outlet of legislative sports governance in the USA is Title IX of the Education

⁷³ Francesca Ingleto, *The case-study of Synchronized Swimming: Is it really sport for all?* LINKEDIN (Nov. 23, 2020), <https://www.linkedin.com/pulse/case-study-synchronized-swimming-really-sport-all-francesca-ingleto/>

⁷⁴ Jane K Stoeber, *Title IX, Esports, and #EToo*, 89 THE GEORGE WASHINGTON LAW REVIEW 42 (2021).

⁷⁵ *Id.*

⁷⁶ *Id.*

Amendments Act 1972. Title IX has a broad purview that prohibits gender discrimination at all federally funded educational institutions, provides for financial aid, and prohibits sexual harassment in schools, Esports and gaming.⁷⁷ With regard to Esports, Title IX should uphold the objective of increasing participation of female players, and eliminating gender-based harassment in gaming. As argued by scholars, schools implementing Title IX should have a Campus Coordinator along with the Diversity, Equity, and Inclusion Officers to utilize Title IX for monitoring gaming content and gaming behavior.⁷⁸ Of course, calls for better governance in Esports are not unique to the USA, with commentators and policymakers calling for reform internationally in line with parallel good governance principles in traditional sports.⁷⁹

6. LEGAL DEVELOPMENTS RELATED TO GENDER INCLUSIVITY

An important discourse on Title IX involves reference to the “Dear Colleague” letter on sexual violence dated 4 April 2011 released by the U.S. Department of Education’s Office for Civil Rights (OCR), detailing specifications on how to respond to reports of sexual harassment in school in accordance with Title IX framework. This signified that sexual assault cases were to be handled on a serious level by the federal government.⁸⁰ However, such was withdrawn during the Trump presidency in September 2017.⁸¹ On similar lines ‘Questions and Answers on Title IX Sexual Violence’ document dated 29 April 2014 was replaced with the September 2017 ‘Q&A on Campus Sexual Misconduct’.⁸² This has resulted in withdrawal of a mandatory ‘preponderance of evidence’ standard, removal of fixed time-frame for completion of Title IX investigations, and enabled cross-

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See, Sarah Kelly, Stephanie Derrington & Shaun Star, *Governance challenges in esports: A best practice framework for addressing integrity and wellbeing issues*, INTERNATIONAL JOURNAL OF SPORT POLICY AND POLITICS (2021); Subhrajit Chanda, Tarun & Shaun Star, *Contouring E-doping: A Menace to Sportsmanship in Esports*, 12 TURKISH ONLINE JOURNAL OF QUALITATIVE INQUIRY 966 (2021).

⁸⁰ Apalla U. Chopra, *Biden Executive Order on Title IX: Where We’ve Been and Where We’re Going*, O’MELVENY (Mar. 9, 2021), <https://www.omm.com/resources/alerts-and-publications/alerts/biden-executive-order-on-title-ix/>.

⁸¹ Letter from Candice Jackson, *Acting Assistant Secretary for Civil Rights*, U.S. DEPARTMENT FOR EDUCATION (Sept. 22, 2017), <https://www.cmu.edu/title-ix/colleague-title-ix-201709.pdf>.

⁸² Bond Schoeneck, *U.S. Department of Education Withdraws 2011 “Dear Colleague Letter” and 2014 Q&A on Sexual Misconduct; New Guidance Document Issued*, JDSUPRA (Sept. 25, 2017), <https://www.jdsupra.com/legalnews/u-s-department-of-education-withdraws-62440/>.

examination at disciplinary hearings.⁸³ Moreover, the Joe Biden Government allowed for transgender participation in women sports keeping in mind Title IX and the judgement of *Bostock v. Clayton County* – that reflected Title VII application, which prohibits gender identity/sexual orientation-based discrimination in the workplace.⁸⁴ Such was previously barred by the Trump Administration.⁸⁵ The stark contrast between the Biden and Trump governance policy related to gender inclusivity and how politics interferes with sports is visible through these instances.

7. CONCLUSION

The aim of the study was to analyze the board composition of NGBs in the USA in terms of their size and diversity. Through the usage of data retrieved from secondary sources, this paper provides a valuable contribution to the literature on sports governance in the USA. The paper contributes deeper insights into the board composition of NGBs in the USA by building on previous studies. It showcases the potential reasons for the USA adopting a larger board size. It further elucidates the importance of athlete representation on NGBs, while also highlighting the need to reduce the skill gaps in order to enhance organizational performance and efficiency. It also provides insights with respect to gender balance in NGBs in the USA. Besides the mainstream sports, Esports as a rapidly growing area wherein good governance norms are the need of the hour has been highlighted. The evidence provided by the study is helpful for the key stakeholders involved in policy decision making in NGBs in the USA. Future researchers can use primary methods as opposed to the secondary method used in this study to collect data and provide new insights into board composition of NGBs.

⁸³ Patrick Saccocio, *The Impact of the September 22, 2017 “Dear Colleague Letter”*, PARISI, COAN & SACCOCIO PLLC (Jan. 15, 2018), <https://www.pandslawtitleix.com/blog/2018/january/the-impact-of-the-september-22-2017-dear-colleag/>.

⁸⁴ McKenzie Sadeghi, *Fact check: Posts criticizing Biden order on gender discrimination lack context*, USA TODAY (Feb. 2, 2021, 4:39 PM), <https://www.usatoday.com/story/news/factcheck/2021/02/02/fact-check-biden-executive-order-discrimination-transgender-women-sports/6686171002/>.

⁸⁵ Mark Walsh, *Biden Legal Team Steps Back From Trump Stance on Transgender Female Sports Participation*, EDUCATION WEEK (Feb. 24, 2021), <https://www.edweek.org/policy-politics/biden-legal-team-steps-back-from-trump-stance-on-transgender-female-sports-participation/2021/02/>.