

Schmid compliance

Law



Compliance Does the court's opinion in Schmid unduly interfere with the autonomy of private colleges and universities Should the court have recognized some type of "institutional academic freedom" that would protect private institutions against such exercises of state power See generally the Student Edition Section 6. 1. 6; and see also Finkin, "On 'Institutional' Academic Freedom," 61 Tex. L. Rev. 817 (1983).

The court's opinion in Schmid does not unduly interfere with the autonomy of private colleges and universities. The court should perhaps have recognized some "institutional academic freedom," however, that would protect private institutions against exercises of state power that violate the bylaws of colleges and/or universities.

1. Is the college subject to the requirements of Title IX (does it receive federal financial assistance) If so, is its athletic program subject to the requirements of Title IX

Since only students receive financial aid, and even though the university itself does not receive financial aid from the government, Title IX is still federal law. Thusly, the college is subject to the requirements set forth in Title IX.

As such, its athletic program is subject to the requirements of Title IX as well. This means that, even though the school per se receives no financial aid and it is technically a private institution, that the university is still beholden to Title IX statutes.

This means that the law must be followed irregardless of the fact that it does not receive federal monies itself. The university is still obliged to uphold the law set forth in Title IX.

2. Has the college complied with Title IX's requirement that it effectively

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accommodate the interests and abilities of women students

This is a dicey issue. On one hand, the school, since it must make budget cuts, is being forced to eliminate the women's varsity softball team.

Also, one of the mens' teams is being cut as well, so it would appear that the university is not being unfair in any manner. However, since the school is approximately 50% men and 50% women, and since 39% of women compete in sports, it seems as though the school may have a difficult time making their case for why this program should be cut. 1

On one hand, the womens' softball team does have less athletes, than say, the womens' swim team. It would therefore seem like a logical choice that, in the face of budget cuts, the womens' softball team would be the first to go. However, considering the fact that the school is comprised of about almost the same amount of men, it seems that the university would want to comply with Title IX.

The female student athletes could probably make a reasonable argument that they were not being given reasonable accommodation under Title IX. These are the facts.

3. On which of OCR's three " benchmarks" for measuring effective accommodation of student athletes' interests and abilities might the college base its defense What

arguments could the college raise under each

The first benchmark is one that the college might base its defense on. The college could raise the factors under each benchmark that: a) the college had to make budget cuts; b) the cuts that were made were made both to the mens' and womens' teams; and that c) the cuts were necessary in order so

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that the school could still continue to function.

REFERENCES

Kaplin, W. A. & Lee, B. A. (2007). The law of education fourth edition: student version. USA:

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