

THE WHOLE IX YARDS



After 38 Years, the Law Still Has an Impact

BY ELAINE K. HOWLEY

Jeri Hepworth says she was a “very, very good high school swimmer.” Now 58, Hepworth went to the University of Florida in 1970, two years before passage of Title IX, a 1972 amendment to the 1964 Civil Rights Act that sought to eradicate disparity in opportunities based on gender.

Title IX was an act of Congress that still reverberates loudly in natatoriums around the country. Thirty-eight years after its initial passage, the law is still controversial but very much a force in collegiate athletics in the United States, and swimming has been impacted as much or more than any sport.

Today, Hepworth is a professor of family medicine at the University of Connecticut in Storrs. She was away from the sport for a while but found her way back to competitive swimming through Masters a few years ago. In 2009, she recorded several Top 10 times at Short Course Nationals in Clovis, but she does wonder occasionally what might have happened if she’d swum competitively in college.

“I didn’t think in terms of continuing swimming in college,” she says. “My brother got a swimming scholarship. He is a couple years younger, but it never even crossed my mind to look into it.” When she enrolled (prior to Title IX), Florida didn’t even have a women’s

varsity swim team, so Hepworth joined the synchronized swim team instead.

“Some colleges had women’s swimming,” she says, “but it was random whether schools did or didn’t have programs. It was the politics of the time. If I think back on that, it’s rather remarkable that I didn’t think in terms of it even being a possibility.”

Hepworth says her story is not uncommon for many female athletes from her generation.

“There was no such thing as swimming scholarships [for women] in 1970. Maybe out in California you could find some, but the University of Florida didn’t even have a team. It just wasn’t in our consciousness that it would be available to us,” she recalls.

But Hepworth says that lack of programs really did not make sense considering the long history of women in swimming.

“Swimming was one of the first Olympic sports for women and there were amateur swimming opportunities for

women as far back as the 1920s,” she says.

In 1926, Gertrude Ederle became the first woman to swim the English Channel, crushing the men’s time record and setting the bar very high for future generations of female open water swimmers.

“There’s this great history of women’s swimming,” Hepworth says, “but it wasn’t something that women in my generation even thought about. Women about 58 years old or so ... we were the last ones to not have that opportunity.”

While the law didn’t benefit Hepworth, Title IX has provided many opportunities for women entering college since 1972, Hepworth argues.

THE HISTORY HER-STORY OF TITLE IX

When one hears the term “civil rights,” he or she probably doesn’t immediately think about swimming, or any other sport, for that matter. But discussions of Title IX and the impact it has had on athletics in the United States are undeniably about civil rights. Although now synonymous with college sports, Title IX was not originally written with athletics in mind. The law is a single, declarative sentence that seeks to end discrimination on the basis of gender:

“No person in the United

States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

The Women’s Sports Foundation describes Title IX as an “omnibus education law affecting all curricular and extracurricular offerings, from medicine, law, and science to drama, dance, and athletics.”

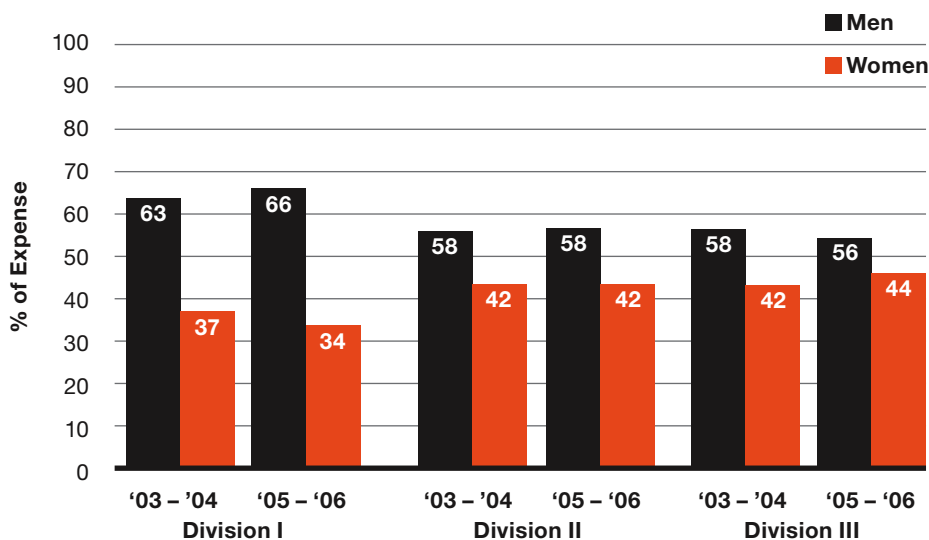
Because most high schools and colleges in the U.S. receive some federal funding for their programming, they are subject to the law. That means everything from the drama club, to the marching band, to the badminton team, are subject to the regulations imposed by Title IX. These days Title IX rarely conjures up images of the chess club. There is no explicit mention of athletics in the title itself.

So how did the law become so intertwined with sports?

SEPARATE BUT EQUAL

Erin E. Buzuvis, law professor at Western New England College in Springfield, Mass., and contributor to the Title IX blog at title-ix.blogspot.com, says she believes Title IX has become synonymous with athletics because athletics is the only place where segregation still legally exists at schools and universities in the United States.

NCAA Gender-Equity Survey Results — Total Expenses



“Sports is the only place left where it’s OK to segregate on the basis of sex,” Buzuvis. “There’s a different measure of

equality – separate but equal.” Because of this segregation, athletics became a focus area and sometimes battleground

for the enforcement of Title IX. To help schools understand the law and how to comply with it, the U.S. Department of

Education developed and distributed an interpretation and regulations for enacting and enforcing Title IX in 1979. In 1996, the federal Office for Civil Rights further clarified those policies, creating a three-part test to determine whether a school is in compliance with Title IX regulations:

1. Are intercollegiate-level participation opportunities for male and female students provided in numbers substantially proportionate to their respective enrollments?
2. Where the members of one sex have been and are underrepresented among intercollegiate athletics, can the institution show a history and continuing practice of program expansion which is demonstrably responsive to the developing interest and abilities of the members of that sex?
3. Where the members of one sex are underrepresented among intercollegiate athletes and the institution cannot

SUPPORT THE

**U.S. MASTERS SWIMMING
ENDOWMENT FUND**

The USMS Endowment Fund is the charitable arm of U.S. Masters Swimming. To apply for a grant or learn more about grants the USMS Endowment Fund has supported, visit usms.org/giving.

If you would like to include USMS in your will or estate planning, please share the following information with your accountant or attorney so they may designate U.S. Masters Swimming as a beneficiary.

U.S. Masters Swimming Endowment
655 North Tamiami Trail • Sarasota, FL 34236
941-256-8767

*United States Masters Swimming is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Contributions are deductible.

Discover the Vasa Ergometer:

- Allows for power-based swim training
- Develops efficient & powerful freestyle
- Builds fatigue resistance & stamina
- Train at home & save time
- Used by world's best swimmers

FREE DVD

*“Better Technique + More Power = Faster Swimming”
with Karlyn Pipes-Neilson*

“Even spending a few minutes a day on the VASA can result in faster swimming, more power available and it promotes good biomechanics, lessening the chance of injury.”

Karlyn Pipes-Neilson (www.aquaticedge.org)
4-time World Masters Swimmer of the Year

For more info and a free DVD, visit:
www.vasatrainor.com
or call (800) 488-8272

CODE # 3441

show a continuing practice of program expansion such as that cited above, can the institution demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program?

If an institution cannot pass any of these tests, federal funding may be suspended.

The U.S. Department of Education is responsible for enforcing the rules, and investigates complaints against individual schools. In May 2010, the OCR announced it would investigate a complaint made by Ron Neugent, a former University of Kansas swimmer who contends that male participation in athletic programs at Kansas is out of compliance with Title IX, having failed the three-part test every year since 2005.

Kansas eliminated its men's varsity swimming program in 2001, despite the fact that the team had produced numerous conference champions, All-Americans and two Olympic swimmers. What's more, there are no collegiate men's swim teams in the state of Kansas at all, according to the College Swimming Coaches Association of America (CSCAA). Neugent is petitioning to have the men's club swim team elevated to varsity status to correct the gender imbalance he sees in athletic opportunities at the school.

FACTS AND FIGURES

Buzuvis says that since Title IX passed in 1972, "the number of women participating [in sports] has risen exponentially." According to the Women's Sports Foundation, "female high school athletic participation has increased by 904 percent and female collegiate athletic participation has increased by 456 percent."

A 2007 Government Accountability Office report, "Intercollegiate Athletics: Recent Trends in Teams and Participants in National Collegiate Athletic Association Sports," states that athletic opportuni-

ties for men and women at four-year institutions have increased as a percentage, as individual opportunities, and relative to enrollment.

"The numbers of both male and female athletic participants increased from 1991-1992 to 2004-2005 – with female participants showing larger rates of increase – but men's participation levels were greater than women's throughout this time period, both in absolute terms and relative to their respective enrollments," the GAO study finds.

The report also found that while female participation had grown at a faster rate than female enrollment from the 1991-1992 to the 2004-2005 school years, "overall participation rates were significantly greater for men in at least three out of four coed schools" in the NCAA. The report also noted that between 1991-1992 and 2004-2005, the number of male participants increased 9 percent among NCAA schools, while the female participation rates increased 49 percent at those same institutions.

The only negative change noted in men's sports was in wrestling. The sport experienced a 5 percent decrease in the number of teams and participants between 1991-1992 and 2004-2005, the GAO found.

For swimming specifically, the GAO study found that the sport has been marginally impacted as a result of Title IX. Men's swimming and diving (categorized together in this report) landed in the "mixed or small trend changes" in both the "Men's Teams by Sport" and the "Male Participants by Sport" surveys, where opportunities in men's swimming increased by less than 5 percent. Conversely, swimming saw a gain of 5 percent or more for both teams and participants on the women's side.

Buzuvis says the GAO study looked only at college athletic participation since 1991 because "during the '80s, en-

forcement was nothing. Any changes in numbers during that time [1972-1991] could not be attributed to the passage and enforcement of Title IX."

At the macro level, it looks like Title IX has been a great success, significantly boosting women's participation rates in college athletics while permitting continued growth in men's athletics. "Title IX has been great for women's sports. It has not been harmful to men's sports overall," Buzuvis says.

NOT EVERYONE AGREES

There is conflicting information from a host of different sources about the impact of Title IX on men's collegiate sports. Opponents of the law point out that raw statistics detailing the numbers of participants and the number of opportunities don't always reveal the true impact of the particular decisions made by schools, teams and individual athletes.

"There's a common misperception that [the implementation of] Title IX has come at the expense of men's sports," says Buzuvis, who argues that this misconception is kept alive by groups and individuals opposed to the law. Several groups have reported that Title IX has reduced opportunities for men, or led to the demise of programs at some schools.

One such group is the Washington, D.C.-based College Sports Council, which released a study on the eve of the 2010 World Cup stating that there is a two-to-one gap between the growth of men's and women's NCAA Division I soccer programs. The CSC study also contends that the odds of a male player earning a soccer scholarship to an NCAA Division I school (197:1) are more than twice as long as for women (79:1).

Describing Title IX as a law that is based on good intentions, the CSC blames aggres-

TRI SWIM

Aqua Therapy Chlorine-Out Hair & Skin Care

CELEBRATE CLEAN

free samples :: email mailing address to processing@tri-swim.com

preferred chlorine-out line tested by:  www.tri-swim.com

sive enforcement for the problems of Title IX, and vows to “raise public awareness about the destructive consequences of Title IX’s gender quota.”

But Buzuvis and other Title IX supporters argue that studies like these miss the mark.

The Women’s Sports Foundation posted a rebuttal to the CSC study on its website, stating that “the premise of comparing any one sport with another is faulty and contrary to the law; the law requires balance within the entire sports department. The law does not make a distinction between athletes wearing facemasks, swimsuits, shoulder pads, or singlets, but compares the overall sports program opportunities, scholarships, and benefits for both genders. The law allows schools themselves to choose how they will divide up these educational opportunities. Schools are not required to provide women’s wrestling or football teams or mirror im-

age sports teams for any sport.”

Buzuvis worries about a “backlash against women’s sports that get blamed for the demise of a men’s team when it gets cut. That’s only been the case with wrestling.” And, she adds, even dropping a wrestling program may not always be the result of keeping a women’s team somewhere else in the school. “The blame could be assessed to the university that chose to keep 120 opportunities for football instead of 15 for wrestling.”

Often, especially in recent years, the decision to cut a team may be a financial decision.

“When colleges or universities have to cut a particular team for financial reasons, the entire athletics program still needs to be in balance. To do that, schools will often preserve women’s swimming but cut a men’s team to finance a budget shortfall.” Often, schools will keep a team that brings in revenue, like football, at the expense of a non-rev-

enue-producing sport like swimming. But Buzuvis cautions that most football programs “operate in the red, and revenue is not the same as profit.”

“I’d like to correct the record that Title IX is the demise of men’s swimming. It’s the school’s business. They’re not prioritizing certain sports, so the beef should be with the individual universities [making these cuts] not with Title IX itself,” she says.

OUTCOMES FOR THE INDIVIDUAL

The controversy around Title IX often can be misleading, Buzuvis says.

“If you look at the numbers, it’s like the shark bite phenomenon – many people think the situation is a lot more dire than it is. There’s the law itself surrounded by other factors, such as priorities placed on sports that have the potential to be profitable, sports that may be more competitive in

the region or conference, and the financial situation at the school,” Buzuvis says.

No matter who you side with, there’s no arguing that Title IX has changed athletics significantly during the past 38 years, and many would say that more change is in store for college athletics. Hepworth views Title IX as a change for the better, and the best measure of the success of the law for her turned up one afternoon in her kitchen.

“One of my 30-year-old son’s female friends was a coxswain for the men’s crew team at UConn, and she started to complain about ‘that damn Title IX! There’s not enough money for the men’s crew, just because football takes all the money.’ I loved hearing a woman say that; it means we’ve made a lot of progress.”

>>> Elaine K. Howley is a Masters swimmer from the Boston area and a frequent contributor to SWIMMER.

Kastaway SWIMWEAR
www.kastawayswimwear.com
Toll Free: (800) 543-2763

VISIT OUR BOOTH AT USMS NATIONALS!

PROUD OFFICIAL LICENSEE OF **US MASTERS SWIMMING**

- CUSTOM TEAM APPAREL
- TRAINING AIDS
- SPORTWEAR
- AWARDS
- PROMOTIONAL PRODUCTS
- SWIMSUITS
- LIFEGUARD EQUIPMENT
- FUNDRAISING

ORDER ONLINE AT KASTAWAYSWIMWEAR.COM

SKINS << **NEW TECHNOLOGY!**

Recover Quicker, Perform Better...
Wear Skins™ RY400 and you will experience a new level of recovery.

MALE		FEMALE	
LONG SLEEVE TOP Product code: SK000001 Black with grey stitching	LONG SLEEVE TOP Product code: SK000002 White with grey stitching	LONG SLEEVE TOP Product code: SK000003 Black with grey stitching	LONG SLEEVE TOP Product code: SK000004 White with grey stitching
LONG TIGHTS Product code: SK000005 Black with grey stitching	LONG TIGHTS Product code: SK000006 White with grey stitching	LONG TIGHTS Product code: SK000007 Black with grey stitching	LONG TIGHTS Product code: SK000008 White with grey stitching

ALPHARETTA, GA | ATLANTA, GA | CHARLIE, GA | LAWRENCEVILLE, GA
INDIANAPOLIS, IN | CINCINNATI, OH | COLUMBUS, OH | RALEIGH, NC

Swim at Home!

Perfect your stroke with an Endless Pool®

How does Karlyn Pipes-Neilsen break so many records? A passion for excellence, unflagging training... and an Endless Pool. Karlyn swims in her own backyard — and coaches others there, too — enjoying our unrivaled smooth, adjustable current. The pool can be set to your desired temperature and used on your schedule. A floor mirror provides instant feedback, while the pool’s compact design allows a coach to make hands-on adjustments in real time. The resulting improvements translate into enormous gains. Just ask Karlyn.

“This is what serious swimmers have always wanted.”
Karlyn Pipes-Neilsen

U.S. MASTERS SWIMMING
Proud partner since 2002

For more information and a FREE DVD, call 800-233-0741, ext 6683 or visit our website at www.endlesspools.com/6683