

INITIATIVE IL26-638

1 AN ACT Relating to defending equity in interscholastic sports;
2 amending RCW 28A.600.200 and 28A.640.020; adding a new section to
3 chapter 28A.600 RCW; and creating new sections.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The people find:

6 (1) Existing Washington state law and school district policies
7 require students to undergo a routine physical examination prior to
8 participation in interscholastic sports, which includes documentation
9 of the student's sex assigned at birth;

10 (2) This established requirement provides a reliable and
11 medically verified basis to determine a student's biological sex;

12 (3) Protecting the integrity and fairness of women's
13 interscholastic sports necessitates that students compete in athletic
14 activities consistent with the gender assigned at birth; and

15 (4) Leveraging the existing physical examination process to
16 verify biological sex ensures equity, safety, and competitive balance
17 in sports intended exclusively for female students, while respecting
18 the rights and opportunities of all participants.

19 **Sec. 2.** RCW 28A.600.200 and 2012 c 155 s 2 are each amended to
20 read as follows:

1 (1) Each school district board of directors is hereby granted and
2 shall exercise the authority to control, supervise and regulate the
3 conduct of interschool athletic activities and other interschool
4 extracurricular activities of an athletic, cultural, social or
5 recreational nature for students of the district. A board of
6 directors may delegate control, supervision and regulation of any
7 such activity to the Washington interscholastic activities
8 association or any other voluntary nonprofit entity and compensate
9 such entity for services provided, subject to the ~~((following))~~
10 conditions(~~(+~~

11 ~~(1))~~) outlined in this section.

12 (2) The voluntary nonprofit entity shall not discriminate in
13 connection with employment or membership upon its governing board, or
14 otherwise in connection with any function it performs, on the basis
15 of race, creed, national origin, sex or marital status(~~(+~~

16 ~~(2)(a))~~) (3) Any rules and policies adopted and applied by the
17 voluntary nonprofit entity that governs student participation in any
18 interschool activity shall be written(~~(+~~

19 ~~((b) Such rules and policies shall))~~) provide for notice of the
20 reasons and a fair opportunity to contest such reasons prior to a
21 final determination to reject a student's request to participate in
22 or to continue in an interschool activity.

23 ~~((3)(a))~~) (4) The association or other voluntary nonprofit
24 entity is authorized to impose penalties for rules violations upon
25 coaches, school district administrators, school administrators, and
26 students, as appropriate, to punish the offending party or parties(~~(+~~

27 ~~(b) No~~), but no penalty may be imposed on a student or students
28 unless the student or students knowingly violated the rules or unless
29 a student gained a significant competitive advantage or materially
30 disadvantaged another student through a rule violation(~~(+~~

31 ~~(e))~~). Any penalty that is imposed for rules violations must be
32 proportional to the offense(~~(+~~

33 ~~(d) Any~~), and any decision resulting in a penalty shall be
34 considered a decision of the school district conducting the activity
35 in which the student seeks to participate or was participating and
36 may be appealed pursuant to RCW 28A.600.205 and 28A.645.010 through
37 28A.645.030.

38 ~~((4))~~) (5) The school districts, Washington interscholastic
39 activities association districts, and leagues that participate in the
40 interschool extracurricular activities shall not impose more severe

1 penalties for rule violations than can be imposed by the rules of the
2 association or the voluntary nonprofit entity.

3 ~~((5))~~ (6) Policies, procedures, rules, and other requirements
4 adopted by a school district or a voluntary nonprofit entity in
5 accordance with this section must conform with section 3 of this act.

6 (7) As used in this section and RCW 28A.600.205, "knowingly"
7 means having actual knowledge of or acting with deliberate ignorance
8 or reckless disregard for the prohibition involved.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.600
10 RCW to read as follows:

11 (1) Policies, procedures, rules, and other requirements adopted
12 in accordance with RCW 28A.600.200 by a school district board of
13 directors or a voluntary nonprofit entity must prohibit biologically
14 male students from competing with and against female students in
15 athletic activities with separate classifications for male and female
16 students if the athletic activity is:

17 (a) Intended for female students only; and

18 (b) An individual or team competition activity.

19 (2) A student who elects to participate in individual or team
20 competition activities intended for female students only governed
21 under subsection (1) of this section shall provide, as part of the
22 required routine sports physical examination, a health examination
23 and consent form or other statement signed by the student's personal
24 health care provider that verifies the student's biological sex,
25 relying only on one or more of the following: The student's
26 reproductive anatomy, genetic makeup, or normal endogenously produced
27 testosterone levels.

28 **Sec. 4.** RCW 28A.640.020 and 2023 c 242 s 3 are each amended to
29 read as follows:

30 (1) The superintendent of public instruction shall develop
31 regulations and guidelines to eliminate sex discrimination as it
32 applies to public school employment, counseling and guidance services
33 to students, recreational and athletic activities for students,
34 access to course offerings, and in textbooks and instructional
35 materials used by students.

36 (a) Specifically with respect to public school employment, all
37 schools shall be required to:

1 (i) Maintain credential requirements for all personnel without
2 regard to sex;

3 (ii) Make no differentiation in pay scale on the basis of sex;

4 (iii) Assign school duties without regard to sex except where
5 such assignment would involve duty in areas or situations, such as
6 but not limited to a shower room, where persons might be disrobed;

7 (iv) Provide the same opportunities for advancement to males and
8 females; and

9 (v) Make no difference in conditions of employment including, but
10 not limited to, hiring practices, leaves of absence, hours of
11 employment, and assignment of, or pay for, instructional and
12 noninstructional duties, on the basis of sex.

13 (b) Specifically with respect to counseling and guidance services
14 for students, they shall be made available to all students equally.
15 All certificated personnel shall be required to stress access to all
16 career and vocational opportunities to students without regard to
17 sex.

18 (c) Specifically with respect to recreational and athletic
19 activities, they shall be offered to all students without regard to
20 sex, except as provided in section 3 of this act. Schools may provide
21 separate teams for each sex. Schools which provide the following
22 shall do so with no disparities based on sex: Equipment and supplies;
23 medical care; services and insurance; transportation and per diem
24 allowances; opportunities to receive coaching and instruction;
25 laundry services; assignment of game officials; opportunities for
26 competition, publicity and awards; scheduling of games and practice
27 times including use of courts, gyms, and pools: PROVIDED, That such
28 scheduling of games and practice times shall be determined by local
29 administrative authorities after consideration of the public and
30 student interest in attending and participating in various
31 recreational and athletic activities. Each school which provides
32 showers, toilets, or training room facilities for athletic purposes
33 shall provide comparable facilities for both sexes. Such facilities
34 may be provided either as separate facilities or shall be scheduled
35 and used separately by each sex.

36 The superintendent of public instruction shall also be required
37 to develop a student survey to distribute every three years to each
38 local school district in the state to determine student interest for
39 male/female participation in specific sports.

1 (d) Specifically with respect to course offerings, all classes
2 shall be required to be available to all students without regard to
3 sex: PROVIDED, That separation is permitted within any class during
4 sessions on sex education or gym classes.

5 (e) Specifically with respect to textbooks and instructional
6 materials, which shall also include, but not be limited to, reference
7 books and audiovisual materials, they shall be required to adhere to
8 the guidelines developed by the superintendent of public instruction
9 to implement the intent of this chapter: PROVIDED, That this
10 subsection shall not be construed to prohibit the introduction of
11 material deemed appropriate by the instructor for educational
12 purposes.

13 (2)(a) By December 31, 1994, the superintendent of public
14 instruction shall develop criteria for use by school districts in
15 developing sexual harassment policies as required under (b) of this
16 subsection. The criteria shall address the subjects of grievance
17 procedures, remedies to victims of sexual harassment, disciplinary
18 actions against violators of the policy, and other subjects at the
19 discretion of the superintendent of public instruction. Disciplinary
20 actions must conform with collective bargaining agreements and state
21 and federal laws. The superintendent of public instruction also shall
22 supply sample policies to school districts upon request.

23 (b) By June 30, 1995, every school district shall adopt and
24 implement a written policy concerning sexual harassment. The policy
25 shall apply to all school district employees, volunteers, parents,
26 and students, including, but not limited to, conduct between
27 students.

28 (c) School district policies on sexual harassment shall be
29 reviewed by the superintendent of public instruction considering the
30 criteria established under (a) of this subsection as part of the
31 monitoring process established in RCW 28A.640.030.

32 (d) The school district's sexual harassment policy shall be
33 conspicuously posted throughout each school building, and provided to
34 each employee. A copy of the policy shall appear in any publication
35 of the school or school district setting forth the rules,
36 regulations, procedures, and standards of conduct for the school or
37 school district. This requirement as it relates to students, parents,
38 and guardians may be satisfied by using the model student handbook
39 language in RCW 28A.300.286.

1 (e) Each school shall develop a process for discussing the
2 district's sexual harassment policy. The process shall ensure the
3 discussion addresses the definition of sexual harassment and issues
4 covered in the sexual harassment policy.

5 (f) "Sexual harassment" as used in this section means unwelcome
6 sexual advances, requests for sexual favors, sexually motivated
7 physical contact, or other verbal or physical conduct or
8 communication of a sexual nature if:

9 (i) Submission to that conduct or communication is made a term or
10 condition, either explicitly or implicitly, of obtaining an education
11 or employment;

12 (ii) Submission to or rejection of that conduct or communication
13 by an individual is used as a factor in decisions affecting that
14 individual's education or employment; or

15 (iii) That conduct or communication has the purpose or effect of
16 substantially interfering with an individual's educational or work
17 performance, or of creating an intimidating, hostile, or offensive
18 educational or work environment.

19 NEW SECTION. **Sec. 5.** This act may be known and cited as the
20 defending equity in interscholastic sports act.

21 NEW SECTION. **Sec. 6.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.