

March 18, 2010

Michael P. Flanagan
State Superintendent of Public Instruction
Michigan Department of Education
PO Box 3008
Lansing, Michigan 48909

RE: Equal Treatment of Girls and Boys in Athletic Programs in Michigan Schools

Dear Superintendent Flanagan,

Background

In June 1998, Communities For Equity (CFE) filed a lawsuit against the Michigan High School Athletic Association (MHSAA) because of a pattern of gender discrimination in girls' athletic programs. On December 17, 2001, Judge Richard Enslin of the U.S. District Court for the Western District of Michigan, in Kalamazoo, ruled in favor of the CFE organization. Finally, on April 2, 2007, the U.S. Supreme Court denied another appeal by the MHSAA, ending the lawsuit. The legal outcome of the ruling was that the federal court system found the MHSAA guilty of discrimination against female athletes according to three laws: the Equal Protection clause of the Fourteenth amendment; Title IX; and the Michigan Elliott-Larsen Civil Rights Act.

Unlike colleges and universities, high schools are not currently required to disclose any data on equity in sports. It is, therefore, difficult for students and parents to ensure fairness in school athletic programs. To address this issue, Senator Olympia Snowe (R-Maine) has introduced the High School Sports Information Collection Act (S. 471) to require the Department of Education to collect and assess statistics about student participation in high school sports, as well as operating budgets, post season schedules and successes, in addition to each coach's gender and qualifications. This bill is pending before the Senate Health, Education, Labor, and Pensions Committee. Passage of the Act would assist the implementation of equity in female athletics and strengthen support for Title IX.

Continuing Discrimination

In June, 2009, the Michigan Women's Commission filed a formal civil rights complaint against the Capital Area Activities Conference because of potential discrimination involving the scheduling of boys' and girls' high school basketball games. Girls' games were scheduled at 6:00 p.m. and the boys' games were at 7:30 p.m. The later time slot allowed for more visibility for the boys' program when recruiters and scouts were more likely to be in attendance.

A settlement was reached in the case, with the Capital Area Activities Conference agreeing to alternate the scheduling of boys' varsity basketball games during "prime time." The boys' games will be in the 7:30 p.m. time slot for the 2009-2010 academic year, and the girls' games will be scheduled in the 7:30 p.m. time slot for the 2010-2011 academic year. This alternate pattern will continue for as long as basketball games are scheduled according to sex/gender and level.

Middle School Discrimination

The circumstances addressed in the CFE lawsuit centered on girls' high school athletic programs. Unfortunately, similar discriminatory practices are occurring at the middle school level. One league, for example, the Capital Area League, schedules middle school girls' teams out of season, although they have complied with the new MHSAA arrangement for scheduling high school girls' teams.

Recommendations

The following are some areas of concern that we would like to see addressed as soon as possible, so that implementation can occur in the 2010-2011 school year.

- **Title IX Coordinator**. School districts are responsible for appointing, training and publicly identifying a Title IX coordinator to supervise the district's compliance with the provisions of Title IX of the Education Amendments of 1972, the federal statute prohibiting sex discrimination in education programs and activities that receive federal financial assistance. Based on a preliminary study of districts in the Detroit metro area, identification of Title IX coordinators on district websites is not the standard practice for every district. Parents and students are, therefore, at a disadvantage in knowing how to proceed if a problem involving sexual discrimination or harassment arises. In addition, we recommend that this publicly identified Title IX coordinator be someone who already is in a student advocacy role, or who will be trained to properly and actively fill the position.
- **Equitable Sports Programs and Staffing**. We support equity in sports leadership and female athletics. We request that you communicate with Michigan's local school districts, as well as the Michigan Secondary Schools Principals Association about the need for equitable treatment in sports programs. At the present time, most high school athletic directors are men. Male and female athletic directors, coaches, and other athletic support staff need to be employed in numbers that reflect the sports participation rate of students. There should be equal pay for coaching and other staff roles for male and female teams. Students and public spectators need to see both genders in athletic leadership, coaching and support staff roles.
- If leagues have prime time play, then both girls and boys teams should benefit from the presence of sideline cheering and school bands. If both girls' and boys' teams play on the same day at the same place, there should be equal rotation of the early and late games. We suggest that when athletic budgets are created, there should be comparable support for both genders built into the athletic programs. We suggest that school districts affirmatively work to name women as athletic directors and women as coaches of both male and female athletes, as a means of addressing the issue of gender disparities.
- **Seasonal Sports Assignments**. We ask that you communicate the message to district superintendents that all girls' sports, in both middle school and high school, are to be scheduled in the appropriate season for the sport. It stands to reason that if it is a violation to have high school girls' teams play out of season, it is also a violation when the same thing occurs in middle schools.

To summarize, the following are the issues we would like to see addressed.

1. There may need to be schedule changes to allow middle school girls' teams to play in season.
2. Athletic programs need to be monitored to be sure there is comparable support for both genders.
3. Title IX coordinators should be appointed, trained and publicly identified, as required by law.
4. The results of Title IX audits should be made available to the State Board of Education to demonstrate compliance with the law.

We know that when it has been properly administered and enforced, Title IX has helped girls make great strides both on and off the field. A recently released study by Betsey Stevenson, an economist at the Wharton School of the University of Pennsylvania, has shown that increasing girls' sports participation has a beneficial effect on women's education and employment. It is, therefore, a matter of significance that should not be dismissed. We would be glad to meet with you or your representatives concerning any of the issues we have raised in this letter. We hope that the issues of gender discrimination outlined above can be resolved expeditiously, with your assistance, and we look forward to hearing from you at your earliest convenience.

Sincerely,

Tom Wilson, President
Michigan Gender Equity Team (M GET)
4045-23rd Street
Wyandotte, MI 48192-6902
E-mail: tomwilson@mi-gender-equity.com

Diane Madsen, Vice President
Michigan Gender Equity Team (M GET)
2548 Northboro N.E.
Grand Rapids, MI 49525
E-mail: madsend9@comcast.net

Renee Beeker, President
Michigan National Organization for Women (NOW)
P.O. Box 860
East Lansing, MI 48826
E-mail: ReneeBeeker@aol.com

Kathy Shaw, President
American Association of University Women (AAUW) of Michigan
935 Hillbrook Drive
Battle Creek, MI 49015
E-mail: ksbanf@aol.com

cc: The Hon. Jennifer M. Granholm, Governor of Michigan

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