



League of Women Voters of Minnesota Records

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What's the score in Minnesota?

"Equal opportunity for girls in athletics"



A summary report on the monitoring project of
the League of Women Voters of Minnesota.

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WHAT'S THE SCORE IN MINNESOTA?

A Summary Report on the Monitoring Project of
The League of Women Voters of Minnesota
on "Equal Opportunity for Girls in Athletics"

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Edited by
Elizabeth Ebbott and Jeannette Kahlenberg

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League of Women Voters of Minnesota
555 Wabasha
St. Paul, MN 55102
(612) 224-5445

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PRACTICING THE FUNDAMENTALS: Equal Opportunity

"Keep your eye on the ball!" "Follow through!" "Get that rebound!" For years coaches have drummed these fundamentals into athletes' ears. But for the League of Women Voters of Minnesota (LWVMN) - and in a larger sense - for democracy in America, a much more important fundamental in athletics is the provision of equal opportunity for all people.

Since its founding 60 years ago, out of the heritage of a nearly century-long campaign to win women the fundamental right of suffrage, the League of Women Voters has supported equality of opportunity. Athletics is one highly visible area of life in which there is a long-standing pattern of discrimination on the basis of sex. This pattern is slowly being erased in the 1970's but not without considerable pain.

LWVMN has no consensus of opinion on the intrinsic value of athletics. Individual League members probably reflect the variations of viewpoints found throughout society. Some people believe that learning through competitive athletics to understand team work, to be challenged, and to show leadership gives a person a decisive edge later in business or politics. Others believe that athletics hurt those who don't make the team and are overemphasized in school and society. Some claim that athletic participation during school years brings a lifetime of health benefits. Others are concerned about a kind of anti-intellectualism which applauds physical strength and skill and aggressiveness above all else. In some communities athletics are a focus of social life and the source of community spirit, breaking down social and economic barriers. In other circles sports events are seen as wasteful of time, energy and resources.

However, organized competitive athletics exist. They are part of our educational programs and supported by taxes. They therefore ought to be provided equally for boys and girls. LWVMN believes that if athletics do indeed teach significant values and enhance physical fitness, then girls ought to be equally encouraged to be interested. If athletic programs are not particularly valuable, then they ought not to be encouraged for boys either. If broken noses and chipped teeth would be bad for girls, why aren't they bad for boys? If learning about power and teamwork is valuable for boys, why not for girls? At least the encouragement and the opportunities ought to be equal.

THE RULES OF THE GAME: Title IX and Minnesota Laws

LWVMN supports laws which forbid discrimination on the basis of sex and continues to work for state and local compliance with such laws. In the area of athletics, therefore, the League supports the three major laws which apply to sex discrimination in Minnesota's athletic programs. (See Appendix I for text of the laws.) In brief, these three laws are:

1. Minnesota Statute 363.03, the Human Rights Act, which forbids discrimination on the basis of sex in any service rendered by any educational institution or public service and which includes "separation" in its definition of "discrimination."

2. Minnesota Statute 126.21, the Kahn Law, which
 - a. Allows separation by sex in athletic programs but only for students 12 years or older and only if it "is necessary to provide members of each sex with an equal opportunity to participate in the athletic program."
 - b. Provides that if separate sex teams in the same sport are provided, they must be treated in a substantially equal manner.
3. Title IX of the Federal Higher Education Act which forbids discrimination on the basis of sex in education, including athletic programs.

Because in the area of athletics, M.S. 126.21 is stronger and not in conflict with Title IX, the state statute controls. In the case of the conflict between the two state statutes, M.S. 126.21 is specifically designed to allow a carefully limited exception to the Human Rights Act. LWVMN agrees with the Minnesota Legislature that in programs for students grades 7 and up, most girls are not able to compete in a totally integrated program due to less height, weight, and historically less emphasis on skill development. Therefore, separate competition for girls to allow them an opportunity to participate in athletics is justifiable and in conformance with the intent of the Human Rights Act.

MAKING THE TEAM: The League of Women Voters Gets Involved

In the summer of 1978, the League of Women Voters of Minnesota was asked by the State Department of Human Rights to undertake a project throughout the state to monitor compliance with the various laws designed to ensure equal opportunity for girls in athletics. LWVMN agreed, but with the assurance that each monitoring project would be under complete control of local Leagues around the state, who would look at their own communities. The goal of the project has been to achieve voluntary compliance with the laws through community awareness.

A comprehensive committee guide was prepared by the state League to assist local Leagues in organizing the project in their own communities. LWVMN held a workshop in October 1978 so that those responsible for the project in the local Leagues could get information directly from various agencies and experts involved with the laws. Forty local Leagues (see Appendix II) have been involved in the project. They are monitoring 44 school districts as well as six private schools, 13 park and recreation programs and six local community sports programs. Monitoring is being done throughout the state: from Crookston to Winona, Lake County to Worthington, in the major cities, in suburbs, and in small rural districts.

Each League organized its own committee. Many expanded their group to include representatives of other community organizations. School officials, athletic directors, coaches, physical education teachers, students and parents were contacted. Eight of the Leagues have reported on attitudinal surveys they did of students, teachers and parents. Four surveys are in progress. The form required by the Department of Education entitled "Assurance of Compliance with State and Federal Law Prohibiting Discrimination" and the voluntary "Interscholastic Student Athletic Activities Program Report" form were obtained from local school officials by the monitoring committees. Local Leagues evaluated what they had found and reported it to the community, to the schools and to LWVMN.

The following summary report is based on what the local Leagues have found out about compliance in their communities and what LWVMN has found in evaluating state level responsibilities toward these laws. This report covers the work of the 36 Leagues in 38 school districts which have reported so far. Several common themes and problems have emerged from the information. The state League believes that these issues should be receiving attention now. If additional local reports point out other areas needing attention, further summaries will be issued. The 38 school districts covered in this report have a total enrollment of 241,058 students and range in size from under 700 to over 31,000. Reports are still pending from Minneapolis, St. Paul and Duluth.

The reports from the local Leagues to LWVMN varied from one-half page to 34 pages. The main focus of each autonomous local monitoring project was on community awareness of the issue and on facilitating voluntary local compliance. Therefore, the reports to the state League were a small part of most local committees' efforts. The following summary makes no pretense at being a "statistical analysis" but rather is an honest attempt to capture the flavor of the reports and to highlight comments which appear noteworthy.

WHICH WAY'S THE LOCKER ROOM? Experiences in Monitoring

In almost all cases, the school districts were cooperative. Leagues were very pleased with the receptivity of school officials. A typical comment was:

- "We found those responsible for the various programs cooperative and open about sharing their knowledge and views."

Community people were also generally helpful and interested in the project. However, in one case, community attitudes posed a problem in getting committee members for a League. One woman declined to help because she felt girls' sports were unnecessary, and since she did not have sports when she was young, "Why have them now?" Others in the community did not want to get involved because they did not want to "rock the boat." Three women committee members dropped out because of pressure from husbands.

In only two instances was there reported hostility from the school district. In one case the League attempted to interview the coaches. The athletic director notified the staff in advance that the questions "were loaded" and that the coaches were to remain "cool and collected" during the interviews. Five coaches refused to be interviewed, three of them female. When this League later presented its report to the school board, it was received with hostility, and the board passed a policy that in the future the school will charge for an employee's time "when working for non-school individuals, groups and/or organizations." By putting a charge on providing public information to the public, it will be more difficult for citizens to learn about how their schools operate.

In the other situation, the school board was hostile and accused the League of being on a witch hunt. The media was negative with a radio editorial identifying the League as "bearers of ill will." This League identified, as a by-product of its monitoring project, the defeat in the next election of a school board member who was especially negative toward the League's position on girls' athletics.

Leagues were pleased to report that their monitoring projects seemed to have an impact. Among the comments:

- "Simply asking what Title IX and the Minnesota laws meant forced many to sharpen their knowledge and thinking."
- "Because of the League's concern with the laws, the school added coaches for girls' basketball and volleyball."
- "The project prodded the athletic director into more surveying of interests than would otherwise have been done."
- "The Equal Opportunity Policy is now in the faculty handbook. They know who the equal opportunity officer is; they didn't before. The 'all-male' athlete pictures in the bulletin have been changed. They have cheerleaders for all sports, not just boys'."
- "A track coach called and said they had added an extra coach for girls' track (3 for girls', 4 for boys'), and he credited our project for that. We had not even talked to him; he had just heard about us."
- "We think that the ones filling out the forms this year will be a little more careful knowing that someone might come and look at them."
- "After the League meeting reporting on the findings, the school superintendent, a school board member, and their wives attended a girls' basketball game. Both wives are League members."
- There is "increased awareness in schools that (the) community is interested in equal opportunity for girls."

A measure of the interest this project has generated is that in 19 of the 38 school districts, the Leagues plan to continue the monitoring. Other LWV's that originally had not planned to participate are now undertaking the project.

BLOCKING AND TACKLING: The Interpretation Controversy

About the time the League of Women Voters began its study, the Department of Human Rights began to deal with complaints of violations of the law. The Department's proposals for resolving the complaints were seen by the school communities as excessive, unrealistic, threatening and, in some instances, in violation of the law itself. School officials undertook a strong lobbying effort against the Department of Human Rights and its attempts to enforce the law. Efforts to clarify the law have led to clashing opinions about what some of the law means and who should administer it. This clash of opinion resulted in the Commissioner of Human Rights withdrawing his Department's proposed rules on sex discrimination in athletics which had had two days of public hearing in February 1979 and were awaiting the impartial hearing examiner's decision. The clash of opinions has continued through efforts by the 1979 Legislature to change the law, with the widely different House and Senate versions of an amended law in conference

committee when the Legislature recessed in May 1979. As this summary report goes to press, the Governor, the Departments of Human Rights and Education, and the bills' authors have indicated a willingness to proceed in getting the conflicting opinions resolved and in getting rules written for the existing laws. These rules are to be prepared by the Department of Education for the Department of Human Rights before January 1980. The proposed rules will then have to go through the public hearing process.

ALL EVEN ON THE COUNT: Defining Equal Opportunity

One of the major unresolved issues is what standard should be used to measure compliance with state law. One standard of equal opportunity is equal number of participants. Local Leagues found that while girls' participation has increased a great deal, no LWV reported equal numbers of girls to boys. Local findings parallel the state-wide statistics compiled by the Department of Education from reports filed by about 90% of the state's school districts. These figures for 1977-78 (latest available figures) show overall participation of high school boys to girls in interscholastic sports was about two to one with the excess numbers of boys being involved in football, soccer, wrestling and ice hockey. The participation ratio at the junior high level was a little higher for girls at about 40%, but the total number of programs and participants in interscholastic sports at the junior high level was not as extensive. (See Appendix III for analysis of data from the Department of Education report.) Iowa reports 48.8% of its high school interscholastic athletes are female, so a goal of equal participants of each sex is not far-fetched.

Another measure of equality is the amount of public money being spent. The law is specific that for separate sex teams in the same sport there shall be substantially equal budgets per participant. The question of financial equality for the total program is not specifically stated in the law. Some schools are using the figures for only the separate sex teams in the same sports to claim equal or even favorable treatment of the girls' program. They do not include budgets for sports that do not have girls' teams - football, ice hockey, wrestling, soccer.

Many Leagues report that their schools are budgeting close to equal dollars per participant for the separate sex teams in the same sport. In a few cases, the total dollars allowed for all teams of one sex, divided by the total numbers of participants of that sex, show close to equal dollars being spent for girl participants. (This is exceptional, and most schools are not yet budgeting equal amounts.) However, even when the total dollars per total participants approach an equal figure, this may not measure equality. A school might have ten sports for boys costing \$80,000 with 500 participants - a cost of \$160 per participant - yet only offer six opportunities for girls, costing \$24,000 with 120 participants at a cost of \$200 each. It would be hard to claim that these programs offer equality for girls, even though more is being spent on each girl. Some districts are using their figures to make this claim. No district monitored reported anything close to the same total dollars being spent on girls as boys.

A third approach to equal opportunity is equal numbers of sports offerings to girls and boys. The Minnesota State High School League (MSHSL) provides tournaments for ten girls' sports - volleyball plus the nine separate sex

teams in the same sports of basketball, swimming, tennis, gymnastics, softball/baseball, golf, cross country, track and field, and skiing. Boys have tournaments for the same nine opportunities plus football, soccer, wrestling, and ice hockey, 13 in all. MSHSL calls the latter four sports "unitary", meaning that either boys or girls can participate. The Leagues of Women Voters did not find any evidence that girls are participating in the "unitary" sports in any numbers that would indicate they offer a genuine opportunity to girls for participation. This is contrary to the MSHSL's claim that they have 13 boys' sports but 14 sports for girls, including these 4 "unitary" sports.

MINNESOTA STATE HIGH SCHOOL LEAGUE OFFICIAL CALENDAR					
1978-79					
<u>Fall</u>		<u>Winter</u>		<u>Spring</u>	
<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Tennis	Gymnastics	Gymnastics	Swimming	Softball	Baseball
Cross	Cross	Basketball	Basketball	Golf	Golf
Country	Country	Skiing	Skiing	Track and	Track and
Swimming	Football*		Wrestling*	Field	Field
Volleyball	Soccer*		Ice Hockey*		Tennis

*MSHSL designates as "Unitary"

Most Leagues reported that their schools offer more sports opportunities for boys than for girls. While a few school districts are close to having equal sports offerings, the "equalizing" opportunities are usually badminton, table tennis, and synchronized swimming. None of these sports have state tournaments or much if any competition beyond the home district. Several districts tried to call cheerleading or danceline girls' sports offerings. The St. Paul school district is under court order to offer an equal number of sports to boys and girls. Reports are that it has complied although the League monitoring project there is not yet completed. It is encouraging that increased opportunities are available in these districts, but questions can be raised about the status of table tennis as a comparable experience with football or ice hockey. The latter sports clearly use greater tax resources, probably claim that the competition justifies higher coaches' salaries, receive greater community/media support and attention, and offer the "team" experiences which some consider an important value of sports participation.

Within the context of equal sports offerings, there is the issue of equal team opportunities within each sport. For example, schools might offer football for boys and volleyball for girls. However, in football there might be a varsity team, a junior varsity, sophomore, 9th grade, 8th grade, and 7th grade teams - all of these with two coaches each, for a total of 12 coaches. Volleyball might be a single team, grades 7-12, with a single coach.

Sports offerings can also be judged by the number of team sports available. The MSHSL has tournaments for three team sports for girls (volleyball, basketball, and softball), versus five for boys (soccer, football, basket-

ball, ice hockey, and baseball). Several schools surveyed do not offer even these three team sports for girls (nor all five team sports for boys), but they generally offer more team opportunities for boys than girls.

Opportunities per season and the kinds of sports per season can be another measure of equality. Girls have fewer opportunities, particularly in the winter season, when no ice sport is provided for girls. During the winter the MSHSL has tournaments for basketball and skiing for both boys and girls. Girls also have gymnastics, while boys have swimming. (These latter two sports have matching opportunities for the other sex in the fall.) But, in addition, boys are offered tournaments in both ice hockey and wrestling, making five sports for boys to three for girls. In the spring MSHSL sponsors three tournaments for girls and four for boys; in fall each sex has four, but girls have no outdoor team sport then, while boys have two. (See chart on preceding page.)

ALL TOGETHER NOW: Coed Programs

Under present laws, a considerable part of a school district's athletic program is intended to be coed. All elementary programs, in and outside of school, are legally required to be integrated by sex. No exception to the Human Rights Act's prohibition of separation has been passed by the Minnesota Legislature. In 1975 MS. 126.21 specifically required school districts to phase out separate sex athletic programs for children below seventh grade before 1978-79. The rationale of the legislation is the evidence that the physical differences between boys and girls up to age 12 are minimal. If girls are less successful in athletics at these early ages, it is attributable to lack of instruction in necessary skills or lack of encouragement rather than their size or strength.

Under the Minnesota Human Rights law and Title IX, all physical education classes are also required to be coed. This applies to elementary, junior and senior high classes. This requirement has meant a need to readjust curriculum in order to meet the differing needs of boys and girls at older levels where there are some real physical differences in height, weight and strength, as well as past skill development differences. In many cases, this has meant a new emphasis on lifetime sports.

The chief author of M.S. 126.21 also claims that the law was intended to require a great deal more coed activity in secondary school interscholastic sport activities than has developed since 1975. This represents a more dramatic break with traditional separate teams and has been resisted by many. The intention of the law, however, is stated in the phrase that only those activities "where separation is necessary to provide the members of each sex equal opportunity to participate in the athletic program" may legitimately be conducted separately. That means that in individual sports such as tennis, track, or swimming, a school is expected to have coed practices.

From the League monitoring reports, it appears that compliance with this aspect of the law is fairly good in physical education classes, at least at the elementary level, and in some elementary after-school programs. Non-compliance is rampant among park and recreation programs for elementary children and with community-sponsored teams. These programs are described in more detail later in this report. In interscholastic junior and senior

high school sports, coed practices, joint training, and joint meets with separate sex competition are beginning to take hold in cross country, golf, and skiing. A few schools are starting joint training in track and field. The MSHSL now sponsors joint state tournaments for cross country, skiing, golf, and track and field. However, MSHSL scheduling of tournaments has effectively prevented coed practice in the three sports of swimming, gymnastics, and tennis, which are in different seasons for boys and girls.

WINS AND LOSSES: Findings

Because Minnesota Statute 126.21 is not yet clearly defined by administrative rules, accurate monitoring by LWVs was made more difficult. However, the broad outlines of the applicable laws are clear. The Leagues rated compliance in their districts from fair to excellent. Most felt that the schools were trying and had made great progress.

The laws were acknowledged as being very important. There was evidence that laws do change attitudes and action. A woman coach commented:

- "Women's sports would be nil without the law."

Another League concluded its report:

- "We feel the school system is very supportive of equal opportunity for women in sports. We do not feel this would have been achieved without Title IX."

On the other hand, while the Leagues were impressed with how much progress had been made, they did find many problem areas where equality has not been achieved. This was based on one or more of the four criteria described above for measuring equality: 1) equal numbers of participants; 2) equal dollars per participant or for the total programs for boys and girls; 3) equal numbers and team levels of sports offerings; and 4) equal numbers and variety of opportunities per season. Leagues also found some weaknesses in understanding of the laws, limits to the willingness to push for change, and some specific violations of the law.

THE WAY TO GO: Student Attitudes and Interests

On the positive side, Leagues report a tremendous upsurge in the number of girls out for athletics and the number of opportunities they have in which to participate. One League, typical of most, reported that there had been one sport for girls in 1972. Five years later there were twelve. As the opportunities to participate have expanded, the interest in participating has also increased dramatically. According to one League:

- "There were 72 more girls out this year over last year with two added sports - volleyball and softball. So many girls came out for softball that they had to hire an assistant softball coach."

Eight of the Leagues conducted their own student attitude surveys. Two others reported on surveys that had been done by the schools themselves. The findings showed consistently that students like coed physical education.

In response to the question, "Do you like physical education with boys and girls together?", the following percentages of "yes" answers were reported to LWVMN:

	<u>Boys</u>	<u>Girls</u>	<u>Both</u>
Willmar			
Senior High	75%	73%	
Junior High	61%	61%	
Elementary School	59%	64%	
Woodbury, grades 6-12			65%
Brooklyn Park Junior and Senior High Schools	76%	68%	
Atwater			75%+
Shakopee Senior High School			61%
		(plus 8% "sometimes")	

The League comment on the Shakopee results was: "Respectable for a program new this year." The survey done by the Fridley schools showed the same pattern.

One district found 15.6% of the boys saying the district offered "too few athletics for boys," while 42.8% of the girls believed there were "too few athletics for girls."

Another League asked if students were interested in interscholastic sports, as contrasted with intramural programs, the more traditional route for girls. They received "yes" answers from:

	<u>Boys</u>	<u>Girls</u>
Senior High	71%	76%
Junior High	83%	85%

The League commented, "Given the same opportunity to participate, it should not be difficult to involve equal numbers of girls and boys" in interscholastic programs.

(A side issue explored by one League is that intramurals are now disappearing for all students, boys and girls. In their district there was a great drop from extensive intramural participation in junior high to a senior high interscholastic program with an "accent on excellence," serving less than 24% of the students -- through ten boys' sports and seven girls'.)

In addition to discovering what students like or don't like about present programs, some of the surveys were geared to assessing what future programming might be of interest to students. One report by a local League to its school board urged further district action along this line. It said:

- "If girls are not interested in the sports offered to boys and/or to boys and girls alike, the district should provide for an interest assessment to determine in which sports the girls are interested."

This sort of process would enable a district to offer the most appealing choices to girls and so move toward equalized participation numbers.

PRAYING FOR RAIN: Resistance to Change

Many positive comments included in the monitoring reports indicate that most students have little trouble with compliance with the law. As indicated above, student attitudes toward coed physical education are positive and the numbers show greatly increased participation by girls in interscholastic sports as opportunities are made available. One League said:

- "The attitude toward girls' sports by students is different than towards boys' but is slowly changing."

Many parents and some school staff also are very enthusiastic about the new directions for girls. Said one woman physical education teacher: "We've had coed sports for four years. It's great!" But some school administrators, coaches and teachers have more trouble accepting the equality of treatment required by the law. The Leagues found a bedrock reluctance to proceed further:

- "Full compliance has not been achieved, nor is it actively sought."
- "'We've come a long way' is also an excuse for not going further."
- "The success of the...girls' basketball team in the state tournament helped. But one sensed a limit though. 'Don't take away funds from boys' sports.' Equality of ability (both sexes on the same team) would be considered ridiculous."
- "Everyone points out how much progress has been made. Changes have not come easily, and further changes are viewed with hesitation. Most people seemed to feel that the additions made are about all that they want to see made."
- "Boys feel their programs are threatened! The community (feels it) is unrealistic to expect absolute equality."

The Leagues also found resistance to coed programs.

- "The Superintendent feels that girls, due to cultural influences, eliminate themselves from competition with boys."
- "Coaches stated that an entirely different approach was needed with boys and girls."
- "The school board prepared a recommendation that there be a 13-year trial period to change social attitudes and public opinion. It felt, 'The changes should begin in kindergarten first....Children are especially prone to peer pressure and very few want to be different. It is next to impossible and

hardly ever practical to implement philosophical legislation. This is not the time to promote change."

- "A male teacher/coach stated that he doesn't teach coed sports and wouldn't if asked to."
- "Attitudes varied from indifference, to pride in the progress made, to a desire for the way it used to be, completely separate."

WHAT'S GOING ON IN THE GYM? - Physical Education Classes

Some of the LWVs took careful looks at the physical education instruction programs. Many schools have only recently changed their programs at the secondary level to begin to comply with the law. The Leagues found attitudes toward the mandated coed program varied a great deal.

At the elementary level, physical education classes appear to have been handled in a coed manner for several years. Leagues report these programs are successful. However, in one elementary school, one League observed "separation by sex in several cases. The school uses a series of tests of skill each year with different standards for boys and girls." Leagues also reported that elementary field day competitions are often based on sex. In one case, two events based on sex were held on different days.

At the secondary level a League reported that some girls were surprised at their capabilities when they played with boys and they "tried harder." They said:

- "Our teacher is tough. He makes us do things we never thought we could do. It's neat finding out we can."

Some of the teachers felt boys had been held back by being in coed gym. Other teachers felt less-skilled boys benefited from mixed classes, since they "no longer had to compete with the 'super-jocks' and were able to gain a better sense of their own skills in classes with a wider range of abilities." One teacher, out of concern for girls' safety, spent much of the period supervising the boys which left less time to teach skills to the girls. It was also pointed out in one school that with the high student/teacher ratio, 35 to 40 students, and the wider range of skill levels inherent in coed classes, it is difficult to meet the needs of all students.

Other Leagues reported:

- "A teacher commented that 'seeing boys and girls sharing athletic experiences is very healthy in that it allows each to respect the other's abilities.'"
- "Teachers like coed physical education classes. One said that special rules need to be drawn occasionally - i.e., girls must shoot a basketball so many times out of ten total shots. This is to prevent boys from dominating the play."

It appears, from the League reports, that a good attitude and a willingness to make a success of coed physical education classes on the part of the teachers and school officials can result in very successful programs.

However, many schools are not complying with the laws. Schools may schedule two physical education classes at the same time, then split the class into "girls" and "boys," each going into a separate program. Some senior high physical education classes are specifically designated "for girls" or "for boys." Another League reports that "aggressive-type sports are segregated. Football is an example." This may indicate a lack of effort by the physical education teachers to modify their curriculum by offering activities more suitable to coed participation.

WHO'S GOT THE RULE BOOK? - Administrative Understanding of Laws

The LWVs found that in all of the schools that were checked, someone had been designated Title IX Coordinator. Most of the schools had the reports available that had been filed with the Department of Education (described below). In only a couple of instances did the Leagues have trouble and face lack of cooperation in trying to get copies of the reports.

Leagues indicated they were not sure school officials understood the laws. In response to the state League's question, "Were those responsible for the programs knowledgeable about the law?", local LWVs responded:

- "Fairly so, but they were hampered by misinformation and publicity." (This was probably a reference to the controversy over the Department of Human Right's proposed rules and the 1979 legislative activity.)
- "More so on Title IX than Minnesota law."
- "Most were. The secondary principals who were least directly involved were least knowledgeable."
- "We found teachers and principals that didn't seem to know state and federal statutes."
- "School district was, but the local athletic association wasn't."

In one district the confusion between Title IX and Minnesota law had resulted in a "Title IX contact sport policy" which appears to violate the over-riding state law. The policy states that girls cannot participate with boys in contact sports. This is contrary to Minnesota law which allows girls to try out for any sport if only one team is offered.

One League, in monitoring a private school's program found the director very receptive to information about the anti-discrimination laws. He indicated that he had no contact with any state or federal agencies and no source for getting information about the laws.

KEEPING SCORE: Anti-Discrimination Reports

Two forms deal with athletics and are sent into the Department of Education. "Assurance of Compliance with State and Federal Law Prohibiting Discrimination" is a required report. It asks a series of questions with a "yes" or "no" answer. If the answer is "no," an explanation is required.

Presumably a "no" answer may indicate a violation of the laws, either state or federal. Since a "no" could get a school into non-compliance trouble, the Leagues found schools were checking "yes" even though that answer was not correct. The Leagues that did pursue the answers found the forms to be "very poor forms to judge compliance. No indication of the degree of compliance is stated."

Leagues took issue with answers that had been checked "yes" on a variety of questions. Some inconsistencies that stood out despite "yes" answers were:

- Honors were not awarded equally to both sexes.
- Elementary programs were not designed for members of both sexes equally (noon recess teams were sex-separated).
- There were not equal numbers of sports each season for boys and girls.
- The expenditure per student was not the same for the sex-separated teams in the same sport. (In one case, it was \$179 per boy for baseball and \$105 per girl for softball. In fact, the total spent on baseball was about equal to the total spent on all four girls' spring sports.)

The other form is entitled "Interscholastic Student Athletic Activities Program Report." It is a report of participants, coaches, and dollars in interscholastic athletic programs. The report is not required. Leagues who checked on this report found inaccuracies:

- "They were sloppily done, and there were some discrepancies in the figure totals."
- "There was an error in filling in the wrong column."
- "The reports from two high schools were incomplete."
- "Athletic directors file the report based on figures provided by the coaches. Some coaches wondered if the numbers were those who turned out at the beginning of the season or those who actually played on the team."
- "The categories are confusing as to what is a boys' sport and what is 'unitary.'"

The state League of Women Voters in working with these reports and the summary report prepared by the Department of Education has also found the categories very confusing. Since the dollars budgeted per participant are legally significant in determining compliance, it is important that these figures be accurate and consistent statewide. The time point at which participants are counted needs to be defined. The summary report made by the Department of Education from the 1977-78 reports did not include several large districts. The omissions distort the summary information. The fact that filing of these reports is not now required of all districts also prevents an accurate and complete State Department summary.

WHEN'S THE CHAMPIONSHIP GAME? - Seasons and Schedules

At the present time, the MSHSL determines when the season shall be for those sports that have state tournaments. One of the issues in interpreting the law is whether separate sex teams in the same sport should play during the same season. This is not now the case in three sports: gymnastics, swimming and tennis. While the local League reports did not specifically evaluate this issue, they did indicate that in other sports when the seasons are the same for the two teams, increasingly the schools are arranging joint practicing, coaching and meets, while keeping the competition separate by sex. This appears to be satisfactory to the schools and can help in saving money.

An emerging issue reported by some Leagues is the soccer program for girls. Schools are starting the program, some in the fall and some in the spring. As the season for girls' soccer is formally set through the MSHSL, there may be some pressure within the athletic establishment to base this decision on when the boys are not using the fields (i.e., spring), rather than on the criteria of equal opportunity and the balance of the total girls' program. Yet when the decision was made several years ago through the MSHSL on the season for girls' basketball, it was agreed to place that sport in the traditional winter season. Schools appear to have learned to share gyms between boys' and girls' basketball in an admirably fair and equitable manner. Some Leagues report that girls' soccer is now being scheduled in the fall in their school districts.

WHO'S THE COACH? - Equal Pay for Equal Work

Coaching salaries appear to be handled in different ways depending upon the school district. Leagues found in most instances that they have been equalized for boys' and girls' sports with the coaches of the same sport being paid the same. It is not as clear how coaches' salaries in different sports relate to each other. (In one case, when pressure was brought, a district was willing to pay the volleyball coach the same amount as the head football coach.) The benefits of equalizing pay were noted by the Leagues:

- "A female coach commented that when the district equalized salaries, it really made a difference. It meant the coach had the same value and thus the same obligations to produce as the male coach had."
- "With coaching salaries on a par, the quality of girls' coaching had improved."

However, not all salaries have been equalized. One League reported that its district paid the head boys' basketball coach 12% of the salary schedule, the head girls' coach, 10%. The assistants were paid 10% and 8%, depending upon the sex of the team.

Two districts reported using a point system for setting extra-curricular activity salaries. The systems include factors such as numbers of participants, facility responsibility, health and safety, community interest, audience, time spent, evening, Saturday and vacation-time requirements. In

one case, the coaches of girls' sports were pleased with the system, since it gave them more money. In the other case, questions have been raised whether the system is equal. Baseball coaches have more points than softball coaches because it is considered that health and safety are a greater factor in baseball. Paying on the basis of audience size may reward the boys' sports that traditionally have the "big audience nights." For equality, the girls' program should have at least equal access to Friday night games. Factors such as time spent, evenings and vacation-time games should not be substantially different. The law says that boys' and girls' teams in the same sport are to be treated in substantially equal ways. Additionally, if various factors are to be considered in setting pay, then the extra burden girls' coaches have in starting up a new sport should be considered.

The number of women coaching girls and teaching physical education is declining and is causing concern. Leagues comment:

- "Still too many men hired to fill girls' coaching jobs, with women getting too little recognition and pay."
- "Tenure laws result in more male coaches than female."
- "Girls are felt to benefit from having female role models as teachers and coaches...In 1979-80 there will be no woman physical education teacher at the school."
- "Girls need role models of female coaches/athletes." This League suggests offering financial assistance to female staff members for courses in coaching competitive sports.
- "Try to equalize expertise in coaching for girls and boys through in-service training, assignments as assistant coaches to gain experience, consistent guidelines for coaching requirements."

HEADLINES AND CHEERING: Equal Public Attention

Leagues pointed out a variety of improvements in drawing public attention to the girls' programs--and the need for more. There have been some positive advances. Some districts are rotating game times so that girls can have their events on Friday nights occasionally. Double-header basketball games of a boys' game and a girls' game the same evening are being held in some places. Pep bands and cheerleaders participate in both girls' and boys' games in some districts. Media coverage of girls' games and girl athletes is improving. One League said:

- "Our newspaper certainly gives girls' sports equal coverage."

On the other hand, Leagues specifically pointed out some vestiges of inequality:

- "The LWV had clippings...for the winter season which showed 44 inches of news space was devoted to girls' athletics, 164½ inches to boys' athletics; however, it was pointed out the girls had only one sport in the winter, the boys, two."

- In one case "the band said it only attended boys' events because having the band wasn't to assist the team but to have an educational experience for the band members."
- "The boys' basketball team has a band, color guard, pom-pom girls and cheerleaders at the home games. The girls' team had the band scheduled once, but they couldn't come so sent the junior high band. The cheerleaders came to one home game."
- "There is no interest in scheduling double headers."
- "The girls' games are on Monday and Thursday nights--with school the next day. Since we have a widespread conference, the girls can get home from meets at 12:30 a.m. to 1:00 a.m. The boys have Tuesday and Friday or Saturday night games--only one school night."
- "Parents are aware of...some lack of awards for girls."

ON THE PLAYGROUND AND THE PARK: Elementary Age Programs

Leagues had some positive reports on programs for younger children. Where given a chance, coed teams are working at the elementary school level. One League commented:

- "A fifth and sixth grade basketball program in one school has six coed teams, 34 girls and 41 boys."

But, overall, the LWVs found that the law's requirement that there be no designation of athletic programs by sex up until age 12 or 7th grade is the most often violated aspect of the law in programs outside of the classroom.

- "According to an elementary principal, the lunchtime sports program is divided into boys' and girls' teams. When he was asked if this was permissible under the state law, he replied, 'Of course we have boys' teams and girls' teams; we also have boys' lines and girls' lines.'"
- "It is fairly obvious that the community athletic association advertises coeducational sports at the elementary age with the plan to separate after the kids get there."
- "The football association (grades 4-8) practices on the school fields. It is for boys only."
- "Wrestling is offered after school to 5th and 6th grade boys. Girls are not invited."
- "The elementary extracurricular basketball program, 4th to 6th grade, is currently segregated by sex."
- "The after-school program has coed volleyball, which has good participation, but separate sex basketball and track. Wrestling, gymnastics and softball were dropped."

- "In the summer recreation program, elementary wrestling is for boys only. There is nothing for girls."
- "There is wrestling for boys grades 3-6, and this continues on into high school. Gymnastics is for girls (with 3 or 4 boys) in elementary school. It doesn't continue into high school. The hockey boosters have 60 boys and 3 girls in the program. They are requesting the school to take over the program. The school has turned them down because of budget and 'Title IX.' Over the years there have been complaints from parents that girls are not encouraged to participate in the park and recreation program. In the summer of 1978 only 17 of the 78 children K-6 were girls."

A further difficulty with monitoring park, recreation, community groups programs is that there is no centralized authority to communicate with the groups about their obligations. No reporting is required, and accurate figures about participation and expenditures are very difficult to obtain.

THE HOME TEAM: Local Problems

In addition to the various difficulties discussed above, Leagues noted some local problems:

- "Boys' locker facilities are better and bigger. However, the girls have wall-mounted hair dryers."
- "Members of the girls' varsity had to take home their game uniforms and wash them themselves, while the boys' varsity didn't have to."
- "The biggest scholarship offered in the school is open only to males."
- "The 7th grade orientation booklet describing the physical education program was written in a discriminatory manner. Due to League effort, it is now being rewritten."

STAYING IN THE BALL GAME: LWVMN Recommendations

Based on these reports from local League monitoring projects and the League of Women Voters' long-standing position in "support of policies to insure equality of opportunity in...education...for all persons" and in "support of administrative enforcement of antidiscrimination laws," LWVMN makes the following recommendations:

1. The law should be defined. Rules should be worked out for M.S. 126.21 involving those with responsibility under the law, public interest groups, and those who are affected by the law.
2. It should be made clear that there will be enforcement of the law at all levels. The enforcement roles of the Department of Education and the Department of Human Rights should be clarified.

3. All the groups which come under the law should be informed in an authoritative way by the Departments of Education and Human Rights about what the law means for them. These groups include public and private educational institutions, public services including park and recreation programs, and community athletic groups. The relationship between Title IX and Minnesota law should be made clear to all the above groups.
4. The Minnesota State High School League, the Minnesota Association of School Administrators, the Minnesota School Boards Association, state recreation associations, youth sports organizations all should cooperate to see that the groups they work with understand the law and abide by it. Compliance with the law should be of equal concern to these groups. They should conduct workshops, training sessions, and/or in-service programs explaining the law. Help should be given to physical education teachers, professional coaches, and volunteer coaches to understand the law. Physical education teachers should be provided with curriculum suggestions that will help them comply with the law.
5. The Department of Education should review its form, "Assurance of Compliance with State and Federal Law Prohibiting Discrimination," to improve clarity and facilitate accurate reporting.
6. The Department of Education should seek rules to require the filing of its interscholastic athletic reports. The form itself and the Department's annual summary report should be changed to make them more understandable. In cooperation with the MSHSL, the definition of when to count participants should be established.
7. Local school boards and administrators should show leadership and commitment in complying with the laws. The attitude needs to be: "How can we help improve the situation" rather than "Now what do we have to do?" A first step should be self-evaluation of the facts the district has gathered for the Department of Education to measure compliance with the law. Conscientious efforts to apply the criteria for "equal opportunity" should follow: i.e., equal number of participants; equal dollars per sex; equal sports; equal teams; a balance of team and individual sports; and seasonal balance.
8. Schools should be encouraged to conduct interest assessments of their students. This would facilitate compliance with the spirit as well as the letter of the law by showing what opportunities would interest the under-represented sex, girls.
9. School districts should be encouraged to establish policies about what will happen when cuts in athletic budgets are necessary and what will happen if a budgeted program for girls is not provided because of failure to get a coach. In both instances, the interests of girls should be primary. Cutting out both a boys' and a girls' program is not treating the two sexes equally, since the boys may have up to twice as many participants as girls before the cuts are made. When a program must be cut at the last minute because a coach is not available, other opportunities to participate in sports should be provided, or the budgeted money should be retained for girls' programs rather than being put back into the general budget.

10. Formulas for establishing extracurricular salaries should be reviewed by teachers' organizations, school boards, and the coaches of girls' sports to ensure that they are equal and in compliance with the law.
11. In districts where policies and practices were found in violation of the law, efforts should be taken immediately by administrators and school boards to correct the problems.
12. Special efforts should be made by all groups involved in athletic programs to see that there is compliance with the coed provisions of the law. This is especially needed for secondary physical education and all elementary programs outside the classroom.
13. When new sports programs are added for girls, seasons should be established based on existing girls' opportunities per season including the number of team vs. individual sports per season and the number of outdoor vs. indoor sports per season.

The preceding recommendations deal only with minimum justice: compliance with a law which passed the Minnesota Legislature in 1975 and with Title IX which passed the U.S. Congress in 1972.

KEEP YOUR EYE ON THE BALL: Your Role

There has been a tremendous increase in opportunities for girls in the last ten years. But the opportunities are still not equal. The number of girls participating is still not equal. The dollars being spent on girls' programs in this state are still not equal. The varieties of sports in each season and levels of teams for girls are still not equal.

While most school districts are making an honest effort to obey the law, others are ignoring it and hoping it will go away. Monitoring on the local level continues to be needed to bring about heightened community awareness.

It is the hope of the LWVMN that the readers of this summary report will have a better understanding of some of the progress and some of the injustices still occurring in our school and community athletic programs. It is our hope that you will ask questions in your own local community or will seek out specific data from your local League if it participated in the project.

Enforcement of the law is possible, but the process is slow and cumbersome. By the time rights are redressed through complaints to the Department of Human Rights or through the courts, the girls who have suffered discrimination will probably have graduated from high school. The American ideal of justice for all will be served when schools and communities voluntarily comply with laws prohibiting discrimination and seek all possible ways of opening up equal opportunity for the half of their student bodies who have been restricted in the past: the girls of Minnesota.

You can help in this process.

APPENDIX I

LAWS DEALING WITH SEX EQUALITY IN ATHLETICS IN MINNESOTA

FEDERAL LAW:

TITLE IX of the EDUCATION AMENDMENTS of 1972

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance..."

MINNESOTA LAW:

MINNESOTA HUMAN RIGHTS ACT

MN Stat. 363.01 - Subd. 10 - "Discriminate. The term 'discriminate' includes segregate or separate."

MN Stat. 363.03 - Subd. 5(1) - "Education Institution. It is an unfair discriminatory practice: (1) To discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability."

MN Stat. 363.03 - Subd. 4 - "Public Services. It is an unfair discriminatory practice: To discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of sex..."

MINNESOTA EDUCATION ACT

MN Stat. 126.21 - Discrimination; Athletics; Equal Opportunity.

Subd. 1 - Notwithstanding any other state law to the contrary, in athletic programs operated by educational institutions or public services and designed for participants 12 years old or older or the seventh grade or above, it is not an unfair discriminatory practice:

(1) to restrict membership on an athletic team to participants of one sex, if this restriction is necessary to provide members of each sex with an equal opportunity to participate in the

athletic program; provided, if a membership restriction on the basis of sex results in the operation of two teams in the same sport which are separated or substantially separated according to sex, the two teams shall be operated in compliance with all the provisions of clause (2) of this subdivision; or

(2) to provide two teams in the same sport which are in fact separated or substantially separated according to sex, if the two teams are provided with substantially equal budgets per participant, exclusive of gate receipts and other revenues generated by that sport, and in all other respects are treated in a substantially equal manner. The two teams shall be operated separately only in those activities where separation is necessary to provide the members of each sex equal opportunity to participate in the athletic program.

Subd. 2 - Any organization, association or league entered into by educational institutions or public services for the purpose of promoting sports or adopting rules and regulations for the conduct of athletic contests between members shall, effective July 1, 1976, provide rules and regulations and conduct its activities so as to permit its members to comply fully with subdivision 1 and section 363.03, subdivisions 1 and 5.

Subd. 3 - Educational institutions and public services shall make every reasonable effort to provide substantially equal budgets per participant pursuant to subdivision 1 during the school year 1975-1976, and thereafter shall provide substantially equal budgets per participant pursuant to subdivision 1. Educational institutions and public services shall phase out separation based on sex in athletic programs designed for participants 11 years old or younger and in the sixth grade or below during the school years 1975-1976, 1976-1977, and 1977-1978, and thereafter shall comply fully with subdivision 1 and section 363.03, subdivisions 4 and 5.

APPENDIX II

PARTICIPATING LEAGUES OF WOMEN VOTERS

Alexandria	Mounds View
Anoka-Coon Rapids Area	New Brighton
Arden Hills-Shoreview	Northern Dakota County Area
Bemidji Area	Northfield
Brooklyn Park	Red Wing
Chaska	Robbinsdale
Cottage Grove	Rochester
Crookston	Roseville
Crystal-New Hope	St. Anthony
Duluth	St. Croix Valley
Edina	St. Paul
Falcon Heights	St. Peter
Fridley	Shakopee
Grand Rapids	West Dakota County
Mahtomedi Area	Westonka
Mankato Area	White Bear Lake
Marshall	Willmar
Minneapolis	Winona
Minnetonka-Eden Prairie-Hopkins	Woodbury
Moorhead	Worthington

APPENDIX III

League of Women Voters of Minnesota

Analysis of Participation of Girls in Interscholastic Athletic Programs

Based on MN Department of Education report of data filed
by over 400 school districts, school year 1977-78

Junior High Schools

<u>Sport</u>	<u>Team Numbers</u>		<u>Participation Numbers</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Football	-	346	1	20,588
Hockey	-	10	136	685
Wrestling	-	193	6	6,412
Volleyball	249	-	8,918	-
Soccer	10	16	320	2,033
Basketball	342	365	11,840	14,672
Track and Field	257	263	9,641	10,449
Swimming	55	45	2,688	1,987
Tennis	79	69	2,633	2,421
Gymnastics	93	14	5,432	593
Golf	75	108	713	2,166
Skiing, downhill	4	5	63	74
Skiing, cross country	58	76	513	1,225
Baseball/softball	69	169	3,397	6,481
Curling	1	1	16	16
Total:	1,296	1,683	46,352	69,839
Percentage:	44%	56%	40%	60%
Total expenditure:	Girls - \$1,900,881		Boys - \$3,204,200	
Percentage:	37%		63%	
Ave. cost/participant:	\$41.00		\$45.88	

Analysis of Participation of Girls in Interscholastic Athletic Programs (cont.)

Senior High Schools

<u>Sport</u>	<u>Team Numbers</u>		<u>MSHSL Teams*</u>		<u>Participation Numbers**</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Football	-	395	-	504	6	24,360
Hockey	-	81	-	148	3	4,130
Wrestling	-	278	-	366	-	9,933
Volleyball	370	-	483	-	12,184	-
Soccer	4	18	-	48	244	2,038
Basketball	402	408	504	514	11,728	14,215
Track and Field	367	353	474	461	10,983	17,057
Swimming	81	79	122	127	3,102	2,992
Tennis	130	116	188	180	3,169	3,112
Gymnastics	136	22	172	45	4,210	713
Golf	133	221	160	306	1,509	3,855
Skiing, downhill	23	25	65	60	455	800
Skiing, cross country	27	25	-	-	567	685
Skiing, jumping	-	8	-	-	7	64
Cross-country	124	181	179	264	1,358	3,562
Baseball/softball	123	319	161	424	4,421	10,291
Curling	1	2	-	-	22	36
Total:	1,921	2,531	2,508	3,447	53,972	97,843
Percentage:	43%	57%	42%	58%	36%	64%
Total expenditure:	Girls - \$6,214,000		Boys - \$11,991,000			
Percentage:	34%		66%			
Ave. cost/participant:	\$115.13		\$122.55			

<u>Seasons</u>	<u>Participation</u>		<u>Percentage</u>		<u>Percentage of Year's Participation/Season</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Fall	20,063	30,673	40%	60%	37%	31%
Winter	16,996	32,855	34%	66%	32%	34%
Spring	16,913	34,315	33%	67%	31%	35%
Total:	53,972	97,843			100%	100%

*Minnesota State High School League (MSHSL) figures include private senior high schools which are not included in the Department of Education Figures. Source: Document furnished to League of Women Voters Workshop on Athletics, Oct. 17, 1978, by the Minnesota State High School League.

**Department of Education

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Filed

League of Women Voters of Minnesota Testimony
on
Proposed Rules for M.S. 126.21
(The Equal Opportunity in Athletics Law)
to be given at
Public Hearing, March 27, 1981
by
Rosemary Ritchie, Lobbyist

The League of Women Voters of Minnesota generally supports the proposed rules as written by the Department of Education. We feel that the following points deserve utmost consideration:

1. The League of Women Voters of Minnesota agrees with the proposed inclusion of all athletic programs, interscholastic and intramural, at all schools, for all ages of school children. Since there is nothing in the law excluding any form of athletic program, it would be inappropriate for the rules to exclude any. Equality of opportunity is as essential in school intramural programs as in all other school programs. Also, since Title IX's athletic rules apply to intramural as well as interscholastic programs, it will simplify enforcement and compliance if both laws are consistent.
2. The sentence on elementary athletic programs (5MCAR 1.0669, Section A, bottom of page 1) should be reworded to convey:
 - a) that sex-integrated teams are to be the general rule, and that sex-segregated teams shall be the exception, used only when there is a clear preference for such, and
 - b) that this clear preference or demonstrated interest be determined by means of a methodology referred to in Section A, Item 1, of 5MCAR 1.0670 (page 2).

Our suggested wording for this section is as follows: "Athletic programs for students in the sixth grade or below shall be operated without restrictions on the basis of sex, except that when overall athletic opportunities for one sex have previously been limited and there is demonstrated interest by members of that sex to participate

(more)

on a team restricted to members of that sex, the educational institution may provide a team restricted to members of that sex. Demonstrated interest shall be determined by use of a methodology the nature of which will be reported to the Department of Education in conjunction with the report required by 5MCAR 1.0671. This wording comes from Subdivision 3, Part 3, of the law and more accurately reflects the intent of the law than the proposed wording.

3. Delete the words, "while recognizing the voluntary nature of student involvement in ... athletics," 5MCAR 1.0670, Section A, Item 6. These words serve no constructive purpose and may be interpreted as a rationale for continuing discriminatory practices. Comparable participation rates for both sexes are a vitally important measure in the efforts toward providing equal opportunity in athletics. Although participation rates were not specifically mentioned in the law, Subdivision 2 states that "...at least the following factors shall be considered..." suggesting that the Legislature wished to allow consideration of factors other than those specifically mentioned. We do recognize the impracticality of requiring participation rates for girls in Minnesota's school athletic programs to rise from the current average of 37% to the desired figure of 50% "overnight." Thus we recommend that a time table be established which would allow for some variation but would generally require participation rates to become increasingly closer to equal over a period of years.
4. Coaches' salaries should not be excluded from consideration, as in 5MCAR 110670, Section B, Item 9. The law says in Subdivision 3, Part 3, that when there are two teams in the same sport substantially separated by sex, the two teams shall be provided with substantially equal budgets per participant. The law excludes gate receipts but not coaches' salaries. Since coaching salaries constitute a large portion of the budget in most sports, to leave them out would render the cost comparisons implied in the law meaningless. We do recognize that in some districts coaches for two sex-segregated teams in the same sport may legitimately receive different salaries due to their placement on the salary schedule, in districts where such a method is used to determine coaching salary. Thus we recommend that Item 9 read as follows: "The expenditure per participant of each team is substantially equal, although fluctuations will be permitted if coaches' salaries differ due to placement on a salary schedule." We further recommend

(more)

that the compliance reports described in 5MCAR 1.0671 (bottom on page 3) include the total dollar expenditure per sport, including coaching salaries. This would give the state the information it needs to clearly determine whether budgets per participants are substantially equal.

The League of Women Voters of Minnesota commends the Department of Education for its efforts to produce rules which fairly and accurately reflect M.S. 126.21. We believe that with the changes we have suggested, the rules will provide valuable assistance to school children in Minnesota by defining what constitutes equal opportunity in school athletic programs.

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(more)

on a team restricted to members of that sex, the educational institution may provide a team restricted to members of that sex. Demonstrated interest shall be determined by use of a methodology the nature of which will be reported to the Department of Education in conjunction with the report required by 5MCAR 1.0671. This wording comes from Subdivision 3, Part 3, of the law and more accurately reflects the intent of the law than the proposed wording.

3. Delete the words, "while recognizing the voluntary nature of student involvement in ... athletics," 5MCAR 1.0670, Section A, Item 6. These words serve no constructive purpose and may be interpreted as a rationale for continuing discriminatory practices. Comparable participation rates for both sexes are a vitally important measure in the efforts toward providing equal opportunity in athletics. Although participation rates were not specifically mentioned in the law, Subdivision 2 states that "...at least the following factors shall be considered..." suggesting that the Legislature wished to allow consideration of factors other than those specifically mentioned. We do recognize the impracticality of requiring participation rates for girls in Minnesota's school athletic programs to rise from the current average of 37% to the desired figure of 50% "overnight." Thus we recommend that a time table be established which would allow for some variation but would generally require participation rates to become increasingly closer to equal over a period of years.
4. Coaches' salaries should not be excluded from consideration, as in 5MCAR 1.0670, Section B, Item 9. The law says in Subdivision 3, Part 3, that when there are two teams in the same sport substantially separated by sex, the two teams shall be provided with substantially equal budgets per participant. The law excludes gate receipts but not coaches' salaries. Since coaching salaries constitute a large portion of the budget in most sports, to leave them out would render the cost comparisons implied in the law meaningless. We do recognize that in some districts coaches for two sex-segregated teams in the same sport may legitimately receive different salaries due to their placement on the salary schedule, in districts where such a method is used to determine coaching salary. Thus we recommend that Item 9 read as follows: "The expenditure per participant of each team is substantially equal, although fluctuations will be permitted if coaches' salaries differ due to placement on a salary schedule." We further recommend

(more)

that the compliance reports described in SMCAR 1.0671 (bottom on page 3) include the total dollar expenditure per sport, including coaching salaries. This would give the state the information it needs to clearly determine whether budgets per participants are substantially equal.

The League of Women Voters of Minnesota commends the Department of Education for its efforts to produce rules which fairly and accurately reflect M.S. 126.11. We believe that with the changes we have suggested, the rules will provide valuable assistance to school children in Minnesota by defining what constitutes equal opportunity in school athletic programs.



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

August 1, 1979

Dr. Von Valletta
Deputy Commissioner of Education - Operations
State Department of Education
Room 713 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Dear Dr. Valletta:

The League of Women Voters of Minnesota is pleased that attention is being given to writing rules to clarify the laws guaranteeing girls the right to have equal opportunities in athletic programs. High priority should be given to this effort. At best, the final adoption of rules can come only in time to affect the 1980-81 school year. Girls have waited a long time since the passage of these laws to have their rights clarified. We urge speedy action in drafting the proposed rules.

It is also important that the varying viewpoints that are in conflict over what the law means should be represented as you prepare the draft. The League of Women Voters was basically supportive of the rules drafted by the Department of Human Rights, although we were critical of some of the details. We would urge careful consideration of the concepts incorporated in those original proposed rules.

As a public group seeking public input in the rules process before the rules are drafted, as suggested in MN Stat. Chapter 15, the League of Women Voters would like to offer the following suggestions:

- I. That the scope of the rules be clearly defined. The law covers:
 - Interscholastic sports
 - Intramural programs
 - Private schools
 - Public service programs: park and recreation
 - Volunteer groups using educational institution or public service facilities

The League of Women Voters would like to therefore see the rules written to apply to all these categories.

- II. That the following be defined in the rules:
 - A. Athletic program. Does this apply to more than interscholastic sports programs? MN Stat. 126.21 uses the phrase so that it applies to elementary programs (Dept. of Ed. Rule, 5 MCAR #1.0662C, Exhibit B, # 13 (a)) as well as public service programs. Does this phrase also

include intramural? Does it mean physical education instruction?

- B. Sports. The easiest definition might be to list the present and potential sports by name as well as delegating to some agency the right to name new ones (DHR or SDE). Whatever the definition, we would like to have it made clear that danceline and cheerleading are not included. On the other hand, to limit the definition to just the MN State High School League tournament sports is not broad enough.
- C. Substantially equal budget per participant, for the purpose of these rules, needs to be defined as substantially equal expenditure. This will resolve the confusion over this difference between Title IX and Minnesota law.
- D. Participation numbers should be clarified as to who is a participant and when the number is to be determined. Since this figure is used in calculating the "substantially equal" cost per participant described in MN Stat. 126.21 (2), it is important that the numbers be consistent and accurate.

III. that the rules state how to measure "equal opportunity to participate." This should be related to the ratio of boys to girls in the total student body. A 5% deviation could be written in to accommodate temporary variations.

Until equality in numbers is achieved, the level of interest needs to be measured and evaluated in order for schools to adjust the offerings.

Until equality is achieved, efforts should be made to encourage participation and assist with skill development.

- IV. that the measurement of equal opportunity to participate apply to the opportunities offered each season.
- V. that the substantially equal manner of treating separate sex teams in the same sport be identified. Title IX has a listing of factors that could be used.
- VI. allowing the teams covered by MN Stat. 126.21(2) to operate separately in activities where separation is necessary should allow separate team practice in team sports such as basketball and baseball/softball. Separate practice would not be considered "necessary" in individual sports such as cross country, skiing, golf, etc.
- VII. that budgets for teams in different sports require substantially equal treatment between boys and girls' programs in terms of scope and quality of the specific sport, based on the needs of that sport.
- VIII. that girls whose opportunities to participate would otherwise be unequal should be allowed to try out for any team, based on what is best for the individual girl's development.

- IX. that the same sports for boys and girls be played in the same season to insure being treated "in a substantially equal manner." If they are in separate seasons, it is impossible to prevent the separate practices which the law prohibits unless "necessary to provide members of each sex equal opportunity to participate." (M.S. 126.21 (2))
- X. that Department of Education reports applying to athletics be required by the rules for public and private schools in order to show compliance.

The details of these report forms probably do not need to be spelled out in these rules. The LWVMN's report on our experience in monitoring compliance with the laws regarding equal opportunity for girls in athletics will be released in September and covers up to 50 school districts; the report includes a number of specific recommendations on how to clarify both the present Athletic Report and MN State Board of Education Rules, Chapter 33, 5 MCAR # 1.0662(C), Exhibit B, Section 13.

The League of Women Voters of Minnesota hopes that our views will be taken into consideration as the rules are drafted. We would be most pleased to meet with you personally to explain these views of the laws or to discuss other issues to be covered by the rules. Let us know if we can be of further help.

Sincerely yours,

Pamela Berkwitz, President
League of Women Voters of Minnesota

cc: Marilyn McClure, Commissioner, Minnesota Department of Human Rights
Dr. Cathy Tisinger, Special Assistant, Governor's Office
Suzanne Perry, Minneapolis STAR
Senators
Braatas
Knaak
Merriam
Peterson
Staples
Representatives
C. Johnson
Kahn
McEachern
Olsen
Weaver

B:M



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

August 1, 1979

Dr. Von Valletta
Deputy Commissioner of Education - Operations
State Department of Education
Room 713 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

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 - D. Participation numbers should be clarified as to who is a participant and when the number is to be determined. Since this figure is used in calculating the "substantially equal" cost per participant described in MN Stat. 126.21 (2), it is important that the numbers be consistent and accurate.
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Sincerely yours,

Pamela Berkwitz, President
League of Women Voters of Minnesota

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Suzanne Perry, Minneapolis STAR
Senators
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Representatives
 C. Johnson
 Kahn
 McEachern
 Olsen
 Weaver

B:M



STATE OF MINNESOTA
DEPARTMENT OF FINANCE
309 STATE ADMINISTRATION BUILDING
SAINT PAUL, MINNESOTA 55155

612-296-5900

JAN 9 1985

*Tews
Lucas
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✓ Files*

January 7, 1985

Peggy Lucas/Jean Tews
League of Women Voters
555 Wabasha
St. Paul, Minnesota 55102

Dear Ms. Lucas and Ms. Tews:

Thank you for your letter concerning state support of Womens' Intercollegiate Athletics at the University of Minnesota.

No doubt you are aware that this program at the University is one of the best funded Womens' Athletic Programs in the United States, both in terms of total funding and in terms of support from taxpayers funds.

The Governor has received much correspondence on this topic as well as the formal request for increased funding from the Board of Regents of the University. He fully support the objectives you outlined in your letter. While final funding decisions have not yet been made for the Governor's budget, there is an excellent prospect for increased support for woemens' athletics at the University.

Sincerely,

Nellie Johnson
State Budget Director

TL/DN/MK/080





LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

December 21, 1984

The Honorable Rudy Perpich
Governor of the State of Minnesota
130 State Capitol
St. Paul, MN 55155

Dear Governor Perpich:

The League of Women Voters of Minnesota has long supported equal opportunity for women. We have actively supported Title 9 Legislation and have monitored its implementation at the national, state and local levels.

The League of Women Voters believes that one of the greatest measurable changes under Title 9 has been in the area of providing increased opportunities for women and girls in athletics. These opportunities have translated into many accomplishments at the individual level as attested to by the fact that 44% of the Olympic medals won by the United States were won by women. These opportunities have also translated into expanded horizons and increased self esteem for a whole new generation of girls now growing up in the State of Minnesota.

We urge you to continue Minnesota's commitment to equal participation for women by including an appropriation for full funding of the University of Minnesota Women's Athletic Department in your budget. It is important that equity in women's programs continue without creating a deficit for men's programs. It is crucial that the Minnesota Women's Athletics Program not lose its emphasis and identity.

Minnesota is looked to as a leader in Women's Equity issues. Your commitment to Minnesota's continued leadership is demonstrated by your strong support of programs such as Pay Equity. It would be a setback in the long struggle for equality of opportunity if there were a de-emphasis on equity in Women's Collegiate Athletics at this time.

Sincerely,

Peggy Lucas

Peggy Lucas
Social Policy Co-Chair

Jean Tews

Jean Tews
President

L:T/rk

cc: Gordon M. Donahowe
Commissioner of Finance



LEAGUE OF WOMEN VOTERS OF MINNESOTA

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Sincerely,

Peggy Lucas

Peggy Lucas
Social Policy Co-Chair

Jean Tews

Jean Tews
President

L:T/rk

cc: Gordon M. Donahowe
Commissioner of Finance



UNIVERSITY OF MINNESOTA
TWIN CITIES

Women's Intercollegiate Athletics
Bierman Field Athletic Building
516 15th Avenue S.E.
Minneapolis, Minnesota 55455
(612) 373-2255

JT
EB
files

December 19, 1984

DEC 19 1984

Peggy Lucas
League of Women Voters
555 Wabasha
St. Paul, MN 55102

Dear Peggy:

Thanks so much for taking the time to meet with us this morning to discuss the upcoming legislative request for full funding of Women's Intercollegiate Athletics.

Your responsiveness and commitment to help coordinate networking support among a broad-based constituency is most appreciated. If you need any further information, please don't hesitate to call me at the office or at home.

I'll be in touch as events unfold over the next few weeks and we determine what next steps need to be taken.

Again, THANK YOU, for your willingness to help.

Best wishes for a happy holiday season!

Warm regards,

Merrily Dean Baker

Merrily Dean Baker
Director, Women's Athletics

MDB:ls

For more information call:

Elizabeth Ebbott 426-3643 or 224-5445

The League of Women Voters of Minnesota invites you to cover Tuesday, October 17, 1978, 10:00 a.m. to 3:00 p.m.:

An authoritative look at the law and current status of girls' athletics in Minnesota will be presented at the League of Women Voters of Minnesota workshop, EQUALIZING OPPORTUNITIES IN ATHLETICS: JOINING THE GAME AT LAST, Tuesday, October 17, 1978, 10:00 a.m. to 3:00 p.m., Weyerhaeuser Room, Minnesota Historical Society Building, 690 Cedar, St. Paul (adjacent to the state capitol).

The program will include:

Representative Phyllis Kahn, author of the Minnesota law dealing with athletics;

Commissioner William Wilson, Minnesota Department of Human Rights;

Archie Holmes, Supervisor, Equal Education Opportunities Section, Minnesota Department of Education;

Dorothy McIntire, Assistant to Director, Minnesota State High School League;

Marian Johnson, Women's Athletic Director, Lakewood Community College;

Charlene Smith, Attorney, Minnesota Attorney General's staff;

Dorothy Olson, Investigating Supervisor, Minnesota Department of Human Rights;

A student involved in girls' athletics.

The workshop is the training session to prepare local League of Women Voters' groups throughout Minnesota to organize community groups to look at the status of girls' athletics and the compliance with the laws. Over 50 local Leagues will be involved. The project is being organized in cooperation with the Minnesota Department of Human Rights. Local Human Rights Commissions, AAUW, WEAL, and other interested organizations will be cooperating.

Federal and state laws forbidding discrimination based on sex and insuring girls' equal opportunities in athletics are now fully operational. The League of Women Voters will be evaluating compliance by school districts, community recreation programs, private schools and privately organized sports' programs using public facilities up through secondary school age. Through evaluation and community understanding of the laws, the League hopes that any local problems can be worked out within the community to insure compliance.

(Program attached)

#

For more information call:

Elizabeth Ebbott 426-3643 or 224-5445

Announcement for publication, Sunday, October 15, 1978

The League of Women Voters of Minnesota, in cooperation with the Minnesota Department of Human Rights, is sponsoring a workshop, EQUALIZING OPPORTUNITIES IN ATHLETICS: JOINING THE GAME AT LAST, Tuesday, October 17, 10:00 a.m. to 3:00 p.m. at the Weyerhaeuser Room, Minnesota Historical Society Building, 690 Cedar Street, St. Paul (adjacent to the state capitol).

Speakers who will present an authoritative look at the law and current status of girls' athletics in Minnesota will include:

Representative Phyllis Kahn, author of the Minnesota law dealing with athletics;

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Archie Holmes, Supervisor, Equal Education Opportunities Section, Minnesota Department of Education;

Dorothy McIntire, Assistant to Director, Minnesota State High School League;

Marian Johnson, Women's Athletic Director, Lakewood Community College;

Charlene Smith, Attorney, Minnesota Attorney General's staff;

Dorothy Olson, Investigating Supervisor, Minnesota Department of Human Rights;

A student involved in girls' athletics.

The program is a training session to start the League of Women Voters' project of organizing local community groups to look at the status of girls' athletics and compliance with the laws. Over 50 local Leagues of Women Voters will be forming committees to look at girls' opportunities in sports in school districts, community recreation programs, private schools and privately organized sports programs using public facilities.

The public is invited. There is no charge.

###

(A copy of the day's program is enclosed.)

TO: Local LWV Human Resources Chairs
and/or Education Chairs
FROM: Jeannette Kahlenberg,
LWVMN Human Resources Co-chair
DATE: June 15, 1978

The Minnesota Commissioner of Human Rights, William Wilson, has approached the League about help in ensuring that school districts comply with the laws requiring equal opportunity for girls and boys in athletics. Commissioner Wilson envisions local community committees in each school district, chaired by a Leaguer and commissioned by the Department of Human Rights, to monitor and actively encourage local compliance with the law. A committee of state Board members is pursuing the matter with the Commissioner. Meanwhile, we would like a response from each local League to the following questions:

1. What school districts, by number and name, are covered by your League?
2. Do you have a League member in each of your school districts who might be willing to chair a monitoring committee on behalf of the Department of Human Rights? (We are not asking for a definite commitment at this point.)
3. Is there any other committee in your school district(s) presently working on the issue of equal athletic opportunity, as far as you know?

We will appreciate a response to these questions by July 10. Armed with this information and after further consultation and thought, we will let you know if this project is going to materialize and whether League will have this exciting opportunity to put our equal rights position into action in official cooperation with the Department of Human Rights.

(If you use this sheet for your response, please be sure to put your League name on it.)

Sally



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

December 11, 1980

Dr. Gregory J. Waddick, Assistant Commissioner
Division of Special Services
Minnesota State Department of Education
Capitol Square
550 Cedar Street
St. Paul, MN 55101

Dear Dr. Waddick:

The League of Women Voters of Minnesota has reviewed with interest the proposed rules for MS 126-21, subd. 5, as amended by Laws of 1980, Ch. 355,1. We are pleased to note that both secondary and elementary programs were included in the rules. We also appreciated the fact that the participation rate of both sexes was to be used as a measure of equal opportunity, as discussed in item 6 on page 3. Another positive feature, we feel, is the inclusion of a useful definition of the word "participate."

While we generally feel that these rules would make steps in the right direction, we suggest the following alterations:

1. Page 1, B. Definition of athletic program - The reference to "the high school league" should be deleted, since not all interscholastic sports are under the auspices of the Minnesota State High School League; for example, badminton, junior high, and elementary sports.
2. Page 2, Sec. A. The sentence about "demonstrated interest" in participating in a single sex team should include a reference to the biennial survey described on page 3, A.1.
3. Page 3, A. The addition of Community Service departments to this section would facilitate the progress toward sex equity in their athletic programs. In some districts the intramural program is conducted by the Community Service Department.
4. Page 3. Items 2 and 6 may be contradictory in some instances. We would like to see the emphasis on participation rate (item 6) rather than on opportunities to participate (item 2), since the ultimate goal is to have girls and boys participating in sports in comparable numbers.
5. Page 3, item 3. The equipment, supplies, and uniforms should be comparable for both sexes, not merely "adequate."

6. Page 3, item 6. Delete the words, "while recognizing the voluntary nature of.....athletic involvement." These words serve no constructive purpose and may be interpreted as a rationale for discriminatory actions.
7. Page 4, item 9. Coaches' salaries should not be excluded in figuring per participant expenditures. Coaches' salaries are an extremely important part of the cost of athletics. To leave them out would render the cost comparisons meaningless. We recognize that some differences in coaches' salaries are legitimate, such as those based on training and experience; however, the net impact should not be that coaches for boys' sports are paid more than coaches for girls' sports, or vice versa.
8. Page 5(g). The dollar expenditures should include coaches' salaries. It is not clear whether or not this was intended in this section.

We appreciate having the opportunity to offer these comments on the proposed rules before their presentation to the State Board of Education.

Thank you for your thoughtful consideration.

Yours sincerely,

Harriette Burkhalter
President
League of Women Voters of Minnesota

Rosemary Ritchie
Girls' Athletics Chair
League of Women Voters of Minnesota

B/R:M



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

January 6, 1981

Ms. Mary Morgan
Assistant Vice President for Student Affairs
Mankato State University
Mankato, MN 56001

Dear Ms. Morgan:

Harriette Burkhalter referred your letter of December 22, 1980, to me. You asked for information on job sharing. I am enclosing a pamphlet on the Minnesota Job-sharing Project. Also, I recommend two very helpful additional sources. First is the State of Wisconsin's Final Report and the Manual for Replication from their job-sharing project. These are very comprehensive manuals and have been very helpful to Minnesota and other states investigating the implementation of job-sharing programs. They are available from:

State of Wisconsin
Division of Human Resource Services
Department of Employee Relations
Federal Manpower Programs Section
149 East Wilson Street
Madison, Wisconsin 53702

The second source is the Booklet of General Information About Job Sharing, published by New Ways to Work in 1977. That organization has two addresses:

457 Kinglsey Avenue
Palo Alto, California 94301
(415) 321-9675

149 Ninth Street
San Francisco, California 94103
(415) 552-2949

I hope these materials will be of assistance to you.

Sincerely,

Jean Tews
Action Chair

T:M
Enclosure

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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

January 8, 1981

Mr. C. Peter Magrath, President
University of Minnesota
Room 202, Morrill Hall
100 Church Street
Minneapolis, MN 55455

Dear President Magrath:

The League of Women Voters of Minnesota has been actively encouraging compliance with Title IX by educational institutions for the past eight years.

For this reason, we urge you to oppose the proposal of the National Collegiate Athletics Association (NCAA) to provide championships for women's sports and to incorporate a small number of women into its governing structure. It is unreasonable that an organization that has fought Title IX since its inception, and which is still questioning its legality in court, should now propose to govern women's sports!

We fear that the progress the University of Minnesota has made in providing athletic opportunities for women would be greatly hindered if the NCAA proposal were to pass.

Thank you for your attention to this matter.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chairperson

B/R:M



files

• LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

July 10, 1979

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Re: Title IX, Education Amendments of 1972, Subpart D, Para. 86.31 (b)(5)

The League of Women Voters of Minnesota supports retention of the present regulation which prohibits discrimination on the basis of sex in "rules of appearance."

Since such rules may be discriminatory in their application, it is essential that the provision remain a part of Title IX. We feel that such a regulation is not an intrusion on the students and their families but, rather, prevents schools from intruding on students' rights to dress as they see fit. While this regulation does not prevent schools from having rules regarding neat appearance for their students, revoking the regulation would inhibit a child's independence and once again encourage sexual stereotyping in matters of dress.

Sincerely yours,

Pamela Berkwitz, President
League of Women Voters of Minnesota

Joan Higinbotham, Human Resources Co-Chair
League of Women Voters of Minnesota

B/H:M

Copies: The Honorable Joseph A. Califano, Jr., Secretary, Health, Education,
and Welfare
Ms. Sarah R. Weddington, Special Assistant to the President for
Women's Issues
Ms. Elizabeth Abramowitz, Assistant Director - Education, Domestic
Policy Staff
Minnesota Congressional Delegation

27 June 1979

JUL 2 1979

Pam Berwitz, President
LWV-Minnesota
555 Wabasha
Saint Paul, Minnesota 55102

Dear Ms. Berwitz:

I am writing to you to express the concern of the Bay Area Title IX Coalition at the proposal by HEW Secretary Califano to revoke the regulation of Title IX of the Education Amendments of 1972 prohibiting rules of appearance which discriminate on the basis of sex.

Our extensive inquiry into this proposal and the Secretary's statement (12/6/78) announcing it has produced no explanation justifying this decision to drop from the law the provision most fundamental to its successful enforcement.

Such reasons for the proposal as have emerged are extrinsic to the regulation and could in no way compensate for the ill effects of its loss. These reasons are:

- 1) desire to be relieved of the embarrassing burden of enforcing a regulation which the press, in the absence of a strong, well-informed commitment on the part of HEW, finds easy to trivialize. (As anti-E.R.A. rhetoric reminds us, ridicule is a weapon commonly used against measures promoting sex-fairness.)
- 2) desire to demonstrate, to an American public supposedly "tired of over-regulation," HEW's eagerness not to over-regulate - by conspicuously dropping what it assumes to be an unpopular regulation. (This assumption seems based more on the kind of journalistic trifling mentioned above than on any significant evidence of public disapproval. Prompted by Title IX, all but a tiny minority of U. S. school districts have ceased using dress codes to enforce sex role stereotypes and now use them only to enforce non-sex-specific standards for student neatness.)

We refer you to our comment (2/14/79), filed with HEW's Office For Civil Rights, for our reasons for concluding that the rules of appearance regulation is essential and must be retained. Other information that may be useful to you in considering this matter is included as well.

It is our hope that President Carter will decide not to submit to Congress the proposal to revoke the rules of appearance regulation. Your help in causing that hope to be realized would be greatly appreciated.

Thank you.

Twiss Butler
Twiss Butler
Bay Area Title IX Coalition
18507 Point Lookout Drive
Houston, Texas 77058
(713) 333-4764

Date: 14 February 1979

To: Director, Office for Civil Rights
Department of Health, Education and Welfare
330 Independence Ave. SW, Washington, D. C. 20201

From: Bay Area Title IX Coalition
18507 Point Lookout Dr., Houston, TX 77058
(713) 333-4764

Re: Title IX, Education Amendments of 1972, Subpart D, §86.31 (b) (5)

The Bay Area Title IX Coalition advocates retaining the Title IX regulation banning sex discrimination "in rules of appearance."

Stress on stereotypical "differences" between the sexes, enshrined in school dress codes, has always served to support and perpetuate the traditional rationale for discriminatory treatment, chiefly disadvantageous to females, of students and staff in educational institutions throughout the United States.

The "dress code" ban was the first provision of Title IX to have significant impact on the schools. Its actual and symbolic value in communicating the fundamental requirement of sex-fairness has been effective and lasting. Experience gained in applying this provision has helped create a climate of acceptance for other, more complex, requirements of Title IX.

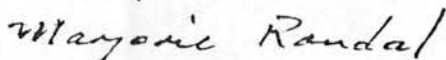
To retreat from a positive position on this basic principle prohibiting differential treatment based on sex would be to cast doubt on the strength of HEW's commitment to impartial pursuit of the objectives of Title IX. Certainly, any ongoing and future efforts to work out local problems and gain full compliance with other Title IX regulations would be badly compromised by evident abandonment of the basic principle on which the law rests, that "no person in the United States shall, on the basis of sex...be subjected to discrimination under any educational program or activity receiving Federal financial assistance."



Elizabeth Glenn, Representative
Clear Lake City Branch, American Association of University Women



Twiss Butler, Representative
Bay Area League of Women Voters



Marjorie Randal, Representative
Bay Area Chapter, National Organization for Women

Phyllis L. Kahn

District 57A
Hennepin County
Committees:
Agriculture
Appropriations
Energy and Utilities



May 9, 1979

Minnesota House of Representatives

Rodney N. Searle, Speaker

Secretary Joseph Califano
U. S. Department of Health, Education and Welfare
200 Independence Avenue S. W.
Washington, D. C. 20201

Dear Secretary Califano,

I am writing to express my great concern at the proposed repeal of the Title IX regulation banning sex discrimination in rules of appearance. I am appalled that you would consider taking such a backward step that would place sole authority over possibly discriminatory rules into the hands of the discriminators.

Discrimination in rules of appearance is not trivial. It touches both sex and race discrimination. Children express individuality, independence, creativity, and their sense of self through their appearance. Conformist dress codes restrict development of self-esteem, independence, and inhibit the creative impulses of children.

I can recall restrictive dress codes of my own youth which required girls to wear dresses, regardless of weather conditions or other considerations. The discomfort of cold legs in winter weather and the limitations placed on childish exuberance because of the necessity for "modest, lady-like" behavior remains in my memory. Let us not return to the days of enforced stereotyped sex roles. A requirement for non-discriminatory dress and appearance codes are clearly not an unwarranted intrusion of the federal government into the affairs of local school districts, but is instead a proper protection of the rights of children to non-discriminatory treatment in an area most important to health, self-concept and well-being.

Sincerely,

Phyllis Kahn
State Representative

PK:mk

cc: Twiss Butler
Sarah Weddington

TEXAS HOUSE OF REPRESENTATIVES



RON WATERS

DISTRICT 79 MONTROSE 4TH WARD THE HEIGHTS 6TH WARD

February 20, 1979

Director
Office for Civil Rights
HEW
330 Independence Avenue Southwest
Washington, D.C. 20201

To Whom It May Concern:

I am writing to formally comment on Title IX of the Educational Amendments of 1972, Subpart D, Paragraph 86.31 (b) and (5). I favor retention of the regulation banning "sex discrimination in rules of appearance." Differential treatment of boys and girls, particularly as institutionalized in schools, is the root of all sex discrimination. Requisite differences in dress inevitably lead to differences in treatment, i.e., sex discrimination. Dress codes have become a tool for school districts to impose standardized morality and inhibit independence in children. I submit to you that these are areas solely within jurisdiction of the parent/child relationship.

In some families, girls wear dresses only to the most formal occasions, the counter of which would be to require suits and ties on boys. In other families, hair length is considered to be the choice of the individual child... the parents try to use this as a tool for the child to express independence and control of his own person and environment. This is a valid developmental phase. The government should not be in the business of allowing or encouraging sex stereotyping. Neutral standards of cleanliness have a place in our schools for obvious reasons, but reinforcing that girls should dress like "little ladies" should only be the choice of those parents who wish to discourage assertiveness, strength, and physical expression in those children.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Ron".

Ron Waters

cc: Twiss Butler

3620 WASHINGTON AVENUE, NO. 362
HOUSTON, TEXAS 77007



The Senate of The State of Texas

March 13, 1979

A. R. SCHWARTZ
GALVESTON, BRAZORIA, MATAGORDA, CALHOUN,
ARANSAS AND HARRIS COUNTIES

SENATE COMMITTEES:

Chairman: NATURAL RESOURCES

Member: FINANCE
JURISPRUDENCE

Chairman: TEXAS COASTAL and
MARINE COUNCIL
Past Chairman & State Delegate:
COASTAL STATES ORGANIZATION
Member: SUNSET ADVISORY
COMMISSION
Member: SPECIAL COMMITTEE ON
DELIVERY OF HUMAN SERVICES
IN TEXAS

Director, Office of Civil Rights
Department of Health, Education and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Title IX, Education Amendments of 1972, Subpart D,
Paragraph 86.31 (b)(5)

Dear Sir:

I am writing to protest the shocking proposition that the United States government would encourage irrational discrimination based on sex by repealing the regulation banning sex discrimination in rules of appearance. The repeal of that section will not merely remove the Department from regulating such actions, but the act of repealing would itself encourage and sanction such irrational and discriminatory conduct. Perhaps the most appalling aspect of the proposed repeal is that it will produce no social or economic benefit to education or society whatsoever. In effect, this action will cause discrimination while promoting no governmental objective.

For these reasons and others detailed in other comments which I have seen, I strongly urge you to abandon your counter-productive proposal to repeal this regulation.

THE COASTAL STATES ORGANIZATION

Sincerely,

A. R. Schwartz

ARS/nf



The State of Texas
House of Representatives
Austin

BILL CARAWAY
DISTRICT 100
HARRIS COUNTY

1110 NASA ONE, SUITE 200
HOUSTON, TEXAS 77058
713-333-5616

March 28, 1979

The Honorable Joseph Califano
Secretary, Department of Health,
Education and Welfare
200 Independence Avenue, Southwest
Washington, D.C. 20201

Dear Secretary Califano:

Several constituents have brought to my attention H.E.W.'s proposed change in Title IX regulations banning sex discrimination in "rules of appearance." It is my understanding that H.E.W.'s proposed regulations would remove the ban on discriminatory dress codes from Title IX of the 1972 Education Amendments.

Current regulations do not prohibit dress codes that provide reasonable requirements for decorum. However, Title IX does say what goes for one sex must go for another. Staff research indicates that only 121 complaints have been filed against the dress code regulations since 1975, which indicates school districts have adopted an attitude of compliance with the Title IX regulations.

For these reasons, I hope you will re-examine your proposal to revoke the school dress code provisions of Title IX. A retreat from Title IX dress code provisions could provoke costly lawsuits against the government and erode the spirit of compliance with Title IX that has been established in the past four years.

Sincerely,



Bill Caraway

BC/mw

COMMITTEES:
HIGHER EDUCATION
INTERGOVERNMENTAL AFFAIRS



National Coalition for Women and Girls in Education

February 21, 1979

The Honorable Joseph A. Califano, Jr.
U. S. Department of Health, Education
and Welfare
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary,

The National Coalition for Women and Girls in Education objects in the strongest possible terms to your proposal to remove the ban on discriminatory student appearance codes from the regulation under Title IX of the 1972 Education Amendments.

Our objections, briefly, are the following:

1. The proposal would sanction one of the most obvious and damaging forms of sex discrimination practiced by public school authorities today.

Students who stand up for their right to be treated in a non-discriminatory way under school rules risk severe and permanent damage to their educational careers: suspension, the outright denial of a public education, permanent black marks on their records. In addition to those, many more students are subject to humiliation and harassment at the hands of school authorities under these rules.

2. The HEW proposal condones the most arbitrary attempts of school authorities to make boys and girls conform to their own restrictive concepts of appropriate roles for each sex.

Young people are particularly sensitive to the symbolic, expressive value of their decisions about clothes and hair style. School rules which force boys or girls into a certain mold convey a powerful message to all students. Through the enforcement of a discriminatory code, they learn that arbitrary differences in treatment based on gender are legitimate. That lesson seeps into the rest of the school environment and affects other aspects of the educational experience.

3. In some schools, girls are subject to restrictive and arbitrary rules about how they must dress.

The HEW proposal would allow school rules forcing girls to wear dresses at all times. It would allow the perpetuation of a variety of rules designed to force girls to dress in a "ladylike" manner.

For example, the lawsuit still on appeal in the U.S. Court of Appeals for the Sixth Circuit, Lodwig v. the Board of Education of the Pleasant School District, No. 77-3375, deals with a junior high school dress code which allows boys but not girls to wear blue denim jeans. The blue jeans rule clearly conveys the message that restricted wardrobes are appropriate to the restricted roles the school authorities expect women to play. The girls' guidance counselor allegedly articulated the rationale for disparate treatment in this way: "Jeans, jeans, jeans. Why do girls want to wear them? Girls are not the same as boys. Girls have babies and boys don't." (Complaint Paragraph 8 (c) Lodwig, supra.)

Suspension of girls from school for violations of a dress code treats girls more strictly than boys and denies them educational opportunities available to boys. The reverse is true for boys suspended for violations of hair-length rules restricting boys alone.

4. HEW is unable to offer any legal rationale for condoning rules which on their face discriminate on the basis of sex.

The deletion of these rules from Title IX regulation would invite lawsuits against the Department.

5. The Department is proposing to treat sex discrimination in a different way from identical forms of racial discrimination under comparable statutes.

According to the announcement about the proposed change, HEW reserves its authority to bar school appearance rules that discriminate based on race or national origin. We know of no legal or moral reason for making that distinction. HEW's proposal suggests a Departmental attitude that if it is race discrimination, it is a serious matter, while sex discrimination is not.

The Department's proposal to make sex discrimination legal here while appearing to defend against racial discrimination

in identical situations is an assault on the tradition of civil rights law and a threat to every young person victimized by sex discrimination, be they female or male, minority or non-minority.

6. The proposal will have a damaging effect on minority males barred from school because of rules restricting the length of boys' hair.

The Coalition pointed out in 1977 that rules restricting the length of boys' hair can have a particularly damaging effect on minority males. The offending rules make explicit distinctions based on sex, not race. We know of no rules which on their face discriminate on the basis of race or national minority. A number of court decisions have declined to bar restrictive hair length rules on race discrimination grounds. Title VI appears to be an ineffective tool for dealing with these rules, while Title IX clearly and unambiguously bars the explicit discrimination represented by sex-based rules. In short, if HEW is concerned about the impact of these rules on minority males, the Department must stand by Title IX as the only effective means of protecting their rights.

In sum, the Coalition is vehemently opposed to dropping appearance codes from the protection of Title IX. Sex-based rules have a serious and damaging impact, they are blatantly discriminatory and perpetuate outmoded concepts of different life roles for men and women, and the change is legally indefensible.

Attached is a copy of the comments on the application of Title IX to hair-length rules, submitted by the Coalition in 1977. We ask that the regulation stand as is. The suggestion that problems of discriminatory appearance codes are "properly resolved at the local level" is obviously specious, since the "local resolution" means the continuation of harsh and arbitrary restrictions on educational opportunities based on a student's gender. Title IX was enacted to eliminate such restrictions.

Sincerely,

Leslie Gladstone

Leslie Gladstone
Chair, National Coalition
for Women and Girls in
Education

On behalf of the attached
organizations

American Association of University Professors

National Organization for Women

American Association of University Women

Center for Women and Work, National Commission on Working Women

National Education Association

National Council of Jewish Women

LULAC National Educational Service Centers

Association for Intercollegiate Athletics for Women

Project on the Status and Education of Women, Association of American Colleges

National Women's Political Caucus

Women's Equity Action League

American Personnel and Guidance Association

Federal Education Project of the Lawyer's Committee for Civil Rights Under the Law

Association for Intercollegiate Athletics for Women

WEAL - Education and Legal Defense Fund

Project on Equal Education Rights, NOW LDEF

NOTE: • TRIVIALIZING STRESS ON HAIR LENGTH

- ASSERTION THAT DISCRIMINATION ISSUES ARE "PROPERLY RESOLVED AT THE LOCAL LEVEL" i. e. BY THE DISCRIMINATORS
- SUGGESTION THAT RACE DISCRIMINATION IS ILLEGAL, BUT SEX DISCRIMINATION IS NOT

58076

the revenue producing athletic programs of the student's institution of higher education.

The inclusion of revenue-producing intercollegiate athletics within the education programs and activities receiving Federal financial assistance is not the only basis on which an institution of higher education is required to comply with Title IX in the administration of such programs. It is well settled, with respect to the prohibition against discrimination on the basis of race, religion, color or national origin imposed by Title VI of the Civil Rights Act of 1964, that Federal financial assistance may not be provided to any program or activity which is either administered in a discriminatory manner or "infected by a discriminatory environment."

Board of Public Institution of Taylor County, Florida v. Finch, 414 F. 2d 1068, 1078 (5th Cir. 1968).

Under this infection doctrine, a Federal grantee is required to comply with Title VI in the administration of an activity that does not receive Federal financial assistance if that activity is so closely related to, and such an integral part of, a program or activity that does receive Federal financial assistance that discrimination in the administration of the former would infect the latter.

The infection doctrine is as applicable to Title IX of the Education Amendments of 1972 as it is to Title VI of the Civil Rights Act of 1964. As indicated previously, historically intercollegiate athletics have been described as an integral part of general undergraduate education. In our view, revenue producing intercollegiate athletics are so integral to the general undergraduate education program of an institution of higher education that sex discrimination in the administration of a revenue producing athletic activity would necessarily infect the general undergraduate education program of the institution.

Therefore, in our opinion, an institution of higher education which is receiving Federal financial assistance for its general undergraduate education program must comply with the prohibitions against sex discrimination imposed by Title IX in the administration of its revenue producing intercollegiate athletic activities regardless of whether those athletic activities are themselves receiving Federal financial assistance.

The Secretary, in fulfilling his obligation to assure that institutions of higher education receiving Federal financial assistance comply with Title IX, is authorized to promulgate regulations and policies defining what constitutes discrimination prohibited by that title. In our opinion, the provisions of the current Title IX regulations and the Department's policies that deal specifically with athletics, including revenue producing intercollegiate athletics, are consistent with the statute and are a proper exercise of the Secretary's discretion. The text of the regulations, 45 C.F.R. 86.41, is attached at Tab B.

It should also be noted that in our view the current Title IX regulations and policies allow flexibility in their application to revenue producing intercollegiate athletics.

[FR Doc. 78 34531 Filed 12-7-78; 11:59 am]

PROPOSED RULES

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 86]

NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

AGENCY: Office of the Secretary,
HEW.

ACTION: Notice of Proposed Rule-making.

SUMMARY: The Department of Health, Education, and Welfare proposes to revoke a subparagraph of its Title IX Regulation which lists codes of personal appearance as an example of sex discrimination in education over which the Department takes jurisdiction.

DATES: Comments must be received on or before February 20, 1979.

ADDRESS: Send your comments to: David S. Tatel, Director, Office for Civil Rights, 330 Independence Avenue SW., Room 5027, Washington, D.C. 20201.

FOR FURTHER INFORMATION
CONTACT:

Colleen O'Connor, 202-245-6700.

SUPPLEMENTARY INFORMATION:

The purpose of the proposed revocation is to remove local rules relating to personal appearance from Departmental review under Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. seq.). The legislative history of Title IX gives no indication that the Congress intended the Executive Branch to regulate in the area of personal appearance. Issues of sex discrimination pertaining to hair length and other aspects of appearance are properly resolved at the local level. Moreover, by deleting the subparagraph concerning codes of appearance, the Department can more effectively use its resources for enforcing other parts of the current regulation, thus fulfilling more completely the intent of the Congress in enacting Title IX.

The deletion of this subparagraph is not intended to alter the Department's authority to prohibit codes of appearance that discriminate against individuals in Federally funded programs on the basis of national origin or race under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.).

Paragraph (b) of 45 CFR 86.31 currently reads as follows:

(b) Specific prohibitions. Except as pro-

vided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment.

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for instate fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

The proposed deletion of paragraph (b)(5) would leave the remainder of the paragraph unchanged, except for a renumbering of subparagraphs (6), (7), and (8).

Any regulation adopted under Title IX of the Education Amendments of 1972 must be approved by the President.

Under the requirements of the General Education Provision Act, any regulation adopted under Title IX must also be submitted to the Speaker of the House of Representatives and the President of the Senate before becoming effective.

The deletion of 45 CFR 86.31(b)(5) is proposed under the authority of Sections 901 and 902 of the Education Amendments of 1972, Pub. L. 92-318, 86 Stat. 373 (20 U.S.C. 1681, 1682) as amended by Section 3(a) of Pub. L. 93-568, 88 Stat. 1862; and Section 412(a) of Pub. L. 94-482, 90 Stat. 2234.

§ 86.31 [Amended]

Accordingly, the Department of Health, Education, and Welfare proposes to amend 45 CFR 86.31(b) by deleting subparagraph (5) and renumbering subparagraphs (6), (7), and (8) as (5), (6), and (7) respectively.

Dated: December 6, 1978.

DAVID S. TATEL,

Director,

Office for Civil Rights.

JOSEPH A. CALIFANO, Jr.,

Secretary of

Health, Education, and Welfare.

[FR Doc. 78-34532 Filed 12-7-78; 11:59 am]

HEW



NEWS

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOR RELEASE AT 11 A.M.
WEDNESDAY, DEC. 6, 1978

CONTACT:
JOHN BLAMPHIN
(202) 245-6343

STATEMENT BY
JOSEPH A. CALIFANO, JR.
SECRETARY OF HEALTH, EDUCATION, AND WELFARE

I AM ANNOUNCING TODAY **TWO ACTIONS** TO FURTHER THE GOALS OF TITLE IX OF THE 1972 EDUCATION AMENDMENTS PASSED BY THE CONGRESS. TITLE IX PROVIDES:

"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"

THESE ACTIONS ARE IMPORTANT IN THEIR OWN RIGHT. BUT **TAKEN TOGETHER** THEY DEMONSTRATE SOMETHING EVEN MORE SIGNIFICANT--THE COMMITMENT OF THIS DEPARTMENT TO ENFORCE THE LAWS AGAINST DISCRIMINATION IN WAYS THAT ARE EFFECTIVE, BUT **NOT EXCESSIVELY INTRUSIVE.**

FIRST, WE ARE PUBLISHING FOR PUBLIC COMMENT A PROPOSED POLICY INTERPRETATION TO CLARIFY HOW TITLE IX AND ITS REGULATIONS APPLY TO COLLEGE ATHLETIC PROGRAMS. THE PURPOSE OF THIS ACTION IS TO ENSURE THAT OUR COLLEGES AND UNIVERSITIES UNDERSTAND THEIR OBLIGATION TO PROVIDE WOMEN AN EQUAL OPPORTUNITY TO ACHIEVE THEIR FULL POTENTIAL IN ATHLETIC ACTIVITIES.

SECOND, WE ARE TODAY ALSO PUBLISHING FOR PUBLIC COMMENT AN AMENDMENT TO THE TITLE IX REGULATION THAT WOULD TAKE HEW OUT OF THE BUSINESS OF EXAMINING THE RULES IMPOSED BY LOCAL SCHOOL AUTHORITIES ON THE WAY STUDENTS MAY DRESS OR WEAR THEIR HAIR. THE PURPOSE OF THIS ACTION IS TO KEEP THE FEDERAL GOVERNMENT OUT OF ISSUES THAT MOST AMERICANS FEEL ARE HANDLED WITH MORE COMMON SENSE AT THE LOCAL LEVEL.

[NOTE EMOTIONAL BIAS
IN LANGUAGE]

IN DRAFTING ITS PROPOSED POLICY INTERPRETATION ON TITLE IX AND INTERCOLLEGIATE ATHLETICS, WE HAVE TAKEN INTO ACCOUNT A NUMBER OF CIRCUMSTANCES RELATING TO THE DEVELOPMENT AND OPERATION OF COLLEGE SPORTS FOR MEN AND WOMEN. THESE FACTS INCLUDE:

AS OF LAST WEEK, WE HAD RECEIVED COMPLAINTS ALLEGING SEX DISCRIMINATION IN THE ATHLETIC PROGRAMS OF 62 UNIVERSITIES. WITH THE BENEFIT OF COMMENTS WE EXPECT TO RECEIVE FROM ALL INTERESTED INDIVIDUALS AND GROUPS, I AM CONFIDENT WE WILL END UP WITH A POLICY THAT IS BOTH PRACTICAL AND CONSISTENT WITH THE LAW.

ONCE A FINAL INTERPRETATION IS ISSUED, WE INTEND TO ENFORCE IT.

AT THE SAME TIME THAT WE ARE TAKING THIS MAJOR STEP IN THE AREA OF COLLEGIATE ATHLETICS, I AM ALSO ANNOUNCING AN EFFORT TO REDUCE UNNECESSARY AND INAPPROPRIATE FEDERAL INTRUSION IN ELEMENTARY AND SECONDARY SCHOOLS. I AM TODAY SENDING TO THE FEDERAL REGISTER A PROPOSAL TO DELETE ONE ITEM IN THE TITLE IX REGULATION--THE ITEM THAT DEALS WITH "RULES OF APPEARANCE" SET BY SCHOOL OFFICIALS. THIS PROVISION IN THE EXISTING TITLE IX REGULATION PROHIBITS SCHOOLS FROM ADOPTING AND ENFORCING DISCRIMINATORY CODES OF APPEARANCE, INCLUDING HAIR LENGTH AND DRESS CODES, FOR BOYS AND GIRLS.

ADmits CODES MAY BE DISCRIMINATORY

MISLEADING RHETORIC - THE LAW DOES NOT DETERMINE "THE WAY STUDENTS MAY DRESS..." BUT IS ONLY CONCERNED WITH WHETHER RULES APPLY EQUALLY TO BOTH SEXES. ALSO, REGULATION IS HERE ARBITRARILY DISMISSED AS "INTRUSION." ACTUALLY, THE REGULATION FUNCTIONS TO PROTECT PARENTS AND CHILDREN FROM INTRUSION ON THEIR RIGHTS BY LOCAL AUTHORITIES.

I BELIEVE DECISIONS REGARDING THE WAY STUDENTS MAY DRESS OR WEAR THEIR HAIR ARE BEST MADE AT THE LOCAL LEVEL, AND NOT BY THE FEDERAL GOVERNMENT. I AM, THEREFORE, PROPOSING THAT THE DEPARTMENT ELIMINATE THIS PROVISION TO PREVENT SUCH INTRUSIONS.

WE WILL REVIEW ALL WRITTEN COMMENTS ON THIS PROPOSAL AND MODIFY IT IF NECESSARY BEFORE SUBMISSION TO PRESIDENT CARTER AND BOTH HOUSES OF CONGRESS.

IN TAKING THESE TWO ACTIONS, THE DEPARTMENT HAS IMPROVED THE ENFORCEMENT OF TITLE IX. GOVERNMENT MUST CONCENTRATE ITS RESOURCES ON MATTERS OF GREATEST IMPORTANCE. ISSUES THAT PROFOUNDLY AFFECT THE WELL-BEING AND PERSONAL DEVELOPMENT OF OUR YOUNG PEOPLE DESERVE--AND REQUIRE--OUR ATTENTION.

STATEMENT OF
GOVERNMENTAL
OBLIGATION BASED
ON SECRETARY'S OWN
VALUE JUDGMENT.



**LEAGUE OF WOMEN VOTERS
OF MINNESOTA**

PHONE (612) 224-5445

555 WABASHA • ST PAUL, MINNESOTA 55102

action

EQUALITY OF OPPORTUNITY IN ATHLETICS

To: Local League Presidents
From: Jeannette Kahlenberg, Human Resources Co-Chair, (612) 429-6070
Date: May 11, 1979

An amended version of H.F. 455, much closer to LWV's "equal opportunity" position, was passed by the Senate on Wednesday night, May 9. It was rejected by the House on May 10 and is being sent to Conference Committee.

Please contact your Representatives and Senators immediately and ask them to

- a) urge their respective Conference Committee representatives to agree on the Senate version of H.F. 455.
- b) oppose H.F. 455 if the Senate version does not emerge from the Conference Committee.

FACTS: The Senate bill now includes:

- 1) Definition of equal opportunity in terms of proportion and demonstrated interest.
- 2) No separation by sex for children under age 12, except when special remedial programs are needed "to improve the skills" of those who are "unable or unwilling to participate." (This provides an option for little girls who are socially conditioned against playing with boys until their skills and self-confidence improve.)
- 3) Girls are allowed to try out for boys' teams. (This is a practical incentive for a girls' program.)

Responses to Times for Action from local Leagues have been very effective! Thanks, and keep up the good work!



League of Women Voters of the United States 1730 M Street, NW, Washington, DC 20036 (202) 296-1770

July 15, 1981

JUL 2 - 1981

PRESIDENT
RUTH J. HINERFELD

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Louisville, KY

Dorothy K. Powers
Princeton, NJ

SECRETARY/TREASURER

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Sarasota, FL

Florence Rubin
Newton Centre, MA

Fumi Sugihara
College Station, TX

EXECUTIVE DIRECTOR

Harriet Hentges

Harriette Burkhalter, President
Rosemary Ritchie, Women's
Athletics Chairperson
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 44102

Dear Harriette and Rosemary:

Thank you for your correspondence requesting that the LWVUS national board adopt a resolution in support of AIAW in its efforts to remain the governing body for college women's athletics.

I wanted to let you know that Nancy Neuman, Social Policy Chair, and Ruth Robbins, Action Chair, recommended, and the board agreed, that we not take any action in this area. We did so because we believe that LWVUS action must reflect both our program priorities and full member understanding and agreement. While the LWVUS has been a steadfast and strong supporter of Title IX policy promulgation and enforcement at the national level, our emphasis has been on equal access to elementary and secondary education; we have not been very involved in issues related to athletics and higher education. Moreover, we are aware that while the LWV of Minnesota, and possible other Leagues, are familiar with athletics governance issues, most have not been working in this area.

Our decision is no way reflective of a lack of support for a struggle that is an important one. I know that the delegates from the LWV of Minnesota made good use of the opportunity at Council to share information with other interested leaders. Your earlier letter to Nancy Neuman had asked for permission to share a list of state presidents with AIAW. We would certainly be pleased to do so if that would be helpful. The LWVUS works closely with AIAW on many areas of shared concern in the National Coalition of Women and Girls in Education.

Good luck with your efforts.

Sincerely,

Ruth J. Hinerfeld
President

*information to LLS
" State Leagues
LWVUS Board recommend?
a resolution*

NCAA Votes Possible "Takeover" of Women's Sports

by Candace Lyle Hogan

In what has been called a "takeover" of women's athletics by men, the National Collegiate Athletic Association, which runs men's college sports tournaments, has decided to hold national women's championships for its "big-time" (Division I) colleges and universities. Also in this coming school year, the NCAA is set to begin such women's events for smaller schools (Division 2 and 3). NCAA affirmed these proposals at its annual convention in January despite vociferous opposition from women and men directly involved in women's sports.

alternative for women to the transcript scandals and high-powered recruitment that has proven ethically and economically damaging to men's programs under the NCAA. If the AIAW is aced out, many feel that schools will lose a unique chance to try a more financially sound and educationally-oriented rule structure for college sports.

NCAA executives have not admitted publicly that the male organization's foray into women's athletics would destroy the female organization. But, whether intentionally or not, in effect that's exactly what could happen.



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PROPOSED RESOLUTION SUPPORTING THE ASSOCIATION FOR INTERCOLLEGIATE
ATHLETICS FOR WOMEN (AIAW)

WHEREAS the LWVUS has actively worked for equality of opportunity
as part of the Human Resources Program, and

WHEREAS the NCAA (National Collegiate Athletic Association) has
actively opposed Title IX in court battles and has not
encouraged the growth of women's athletics, and

WHEREAS the NCAA's adopted plans to incorporate women into its
governance structure and to provide championships in
women's sports are woefully inadequate, and

WHEREAS college women's athletics have grown enormously under the
governance of the AIAW, and

WHEREAS the AIAW has developed fiscally prudent policies, democratic
procedures including student representation, and a healthy
philosophy which recognizes that college athletes are
students first,

THEREFORE the LWVUS supports the AIAW as the governing body for
college women's athletics and urges colleges and universities
to affiliate their women's program with the AIAW rather than
the NCAA.

See HR - State

testimony by Rosemary
Ritchie on Athletics

3/27/81



The League of Women Voters of Minnesota
is pleased to present
this information to you as a public service.

League of Women Voters of Minnesota Testimony
on
Proposed Rules for M.S. 126.21
(The Equal Opportunity in Athletics Law)
to be given at
Public Hearing, March 27, 1981
by
Rosemary Ritchie, Lobbyist

The League of Women Voters of Minnesota generally supports the proposed rules as written by the Department of Education. We feel that the following points deserve utmost consideration:

1. The League of Women Voters of Minnesota agrees with the proposed inclusion of all athletic programs, interscholastic and intramural, at all schools, for all ages of school children. Since there is nothing in the law excluding any form of athletic program, it would be inappropriate for the rules to exclude any. Equality of opportunity is as essential in school intramural programs as in all other school programs. Also, since Title IX's athletic rules apply to intramural as well as interscholastic programs, it will simplify enforcement and compliance if both laws are consistent.
2. The sentence on elementary athletic programs (5MCAR 1.0669, Section A, bottom of page 1) should be reworded to convey:
 - a) that sex-integrated teams are to be the general rule, and that sex-segregated teams shall be the exception, used only when there is a clear preference for such, and
 - b) that this clear preference or demonstrated interest be determined by means of a methodology referred to in Section A, Item 1, of 5MCAR 1.0670 (page 2).

Our suggested wording for this section is as follows: "Athletic programs for students in the sixth grade or below shall be operated without restrictions on the basis of sex, except that when overall athletic opportunities for one sex have previously been limited and there is demonstrated interest by members of that sex to participate

(more)

on a team restricted to members of that sex, the educational institution may provide a team restricted to members of that sex. Demonstrated interest shall be determined by use of a methodology the nature of which will be reported to the Department of Education in conjunction with the report required by 5MCAR 1.0671. This wording comes from Subdivision 3, Part 3, of the law and more accurately reflects the intent of the law than the proposed wording.

3. Delete the words, "while recognizing the voluntary nature of student involvement in ... athletics," 5MCAR 1.0670, Section A, Item 6. These words serve no constructive purpose and may be interpreted as a rationale for continuing discriminatory practices. Comparable participation rates for both sexes are a vitally important measure in the efforts toward providing equal opportunity in athletics. Although participation rates were not specifically mentioned in the law, Subdivision 2 states that "...at least the following factors shall be considered..." suggesting that the Legislature wished to allow consideration of factors other than those specifically mentioned. We do recognize the impracticality of requiring participation rates for girls in Minnesota's school athletic programs to rise from the current average of 37% to the desired figure of 50% "overnight." Thus we recommend that a time table be established which would allow for some variation but would generally require participation rates to become increasingly closer to equal over a period of years.
4. Coaches' salaries should not be excluded from consideration, as in 5MCAR 1.0670, Section B, Item 9. The law says in Subdivision 3, Part 3, that when there are two teams in the same sport substantially separated by sex, the two teams shall be provided with substantially equal budgets per participant. The law excludes gate receipts but not coaches' salaries. Since coaching salaries constitute a large portion of the budget in most sports, to leave them out would render the cost comparisons implied in the law meaningless. We do recognize that in some districts coaches for two sex-segregated teams in the same sport may legitimately receive different salaries due to their placement on the salary schedule, in districts where such a method is used to determine coaching salary. Thus we recommend that Item 9 read as follows: "The expenditure per participant of each team is substantially equal, although fluctuations will be permitted if coaches' salaries differ due to placement on a salary schedule." We further recommend

(more)

that the compliance reports described in 5MCAR 1.0671 (bottom on page 3) include the total dollar expenditure per sport, including coaching salaries. This would give the state the information it needs to clearly determine whether budgets per participants are substantially equal.

The League of Women Voters of Minnesota commends the Department of Education for its efforts to produce rules which fairly and accurately reflect M.S. 126.21. We believe that with the changes we have suggested, the rules will provide valuable assistance to school children in Minnesota by defining what constitutes equal opportunity in school athletic programs.

Statement - League of Women Voters of Minnesota
Sex Equity Seminar
Minnesota State Department of Education
June 30, 1980
by Elizabeth Ebbott, Chairperson, Girls' Athletic Project

Two years ago the League of Women Voters of Minnesota began a project of assisting local Leagues in studying the treatment of girls in athletic programs within their local communities. Forty local Leagues participated, looking at 44 school districts as well as other agencies with athletic programs. The purpose was to evaluate the programs serving that community. Was there compliance with the laws? Athletics is a highly visible area of life where there has been long-standing patterns of discrimination based on sex. If equality had not yet been achieved, the purpose was to involve the community in bringing about compliance. The local Leagues reported on what they did, what they found out, and what happened. From the responses, the report, WHAT'S THE SCORE IN MINNESOTA? was prepared last fall by the League of Women Voters of Minnesota.

The findings pertaining to schools, varied with the three different categories:

- 1) Interscholastic sports as exemplified by the Minnesota State High School League programs.
 - 2) Physical education classes.
 - 3) Programs for elementary age children.
- 1) Interscholastic sports are the most visible and are the easiest to evaluate. Many good things have been and are continuing to happen. There are greatly increased opportunities, and girls' participation is expanding rapidly. However, the findings showed that much more is needed. The goal is not better treatment but equal treatment, and this has not yet been achieved, no matter what measuring stick is used. Equal dollars are not being spent on programs for girls and programs for boys. Participation numbers are not equal. Opportunities to participate are not equal. Offerings per season are not equal. Team sport offerings are not equal. Opportunities to play during prime time Friday nights are not equal. While there is variation among these various measuring standards and variation among schools, girls' share of the athletic programs is only about 33% to 40%. Presumably, girls are about 50% of the population being served by the schools.

There is still a ways to go, and Leagues reported a fear that the momentum will be lost. There were comments like:

- "We've come a long way is also an excuse for not going further."
- "Everyone points out how much progress has been made. Changes have not come easily, and further changes are viewed with hesitation. Most people seemed to feel that the additions made are about all that they want to see made."
- "Boys feel their programs are threatened. The community feels it is unrealistic to expect absolute equality."

Problems of declining enrollments and the need for cutbacks are important issues facing local schools, but they should not be linked to denying equal rights to girls. It is not equal to cut out a boys' team and a girls' team in the same sport. The participation loss to girls will be far greater than the cut for boys, since it represents a much larger portion of the fewer offerings girls have available.

- 2) Physical education classes at the elementary level have been coed "forever," according to one League report. There appears to be very little problem with these programs. At the secondary level, the Leagues found examples of very poor compliance. There were teachers who said flatly that they "did not teach girls." In several instances, a great deal of sexual bias was obvious. Those holding and expressing such attitudes should be made to understand that such views will not be tolerated. Just as with racial minorities, negative attitudes towards girls and their abilities and potentials are very destructive and should not exist in a public education system.

Physical education classes were frequently scheduled at the same time with two teachers. The girls would go with the female teacher, the boys with the male. The instruction was still based on sex, not skill or on some other non-sexist measurement. There were instances of girls sitting on the sidelines, not participating because the boys would not let them have the ball. It would seem that the teacher was not being successful in offering a curriculum to help all children develop their skills.

If, as reported, some girls were sitting out because the play was too rough or otherwise not satisfying to them, then it would also be logical to assume that some boys were also finding the experience unpleasant. There were reports of some schools which had changed their curriculum and were offering sports and athletic opportunities such as badminton, bicycling, canoeing, orienteering, etc., that were non-sexist and were highly successful in holding the interest level and participation of all students.

- 3) Elementary programs outside of physical education classes presented the biggest area of non-compliance. The law at the time of the study mandated coed programs with no differentiation because of sex. (The law has now been changed to allow girls at this age to have a girls' team if they show a demonstrated interest in having a separate sex team. The new law does not leave this decision up to the coaches or administrators, and the other provisions of the law remain that programs are to be coed and all other criteria of equal treatment and equal opportunity apply. It is doubtful that the change in the law has changed the fact of non-compliance.)

The Leagues reported that sports programs run by community groups, which frequently used school facilities, were not complying with the law. They were not only still having "boys" and "girls" teams, but there were considerably fewer opportunities for girls to participate.

A study done by the Minnesota Department of Education in 1979, based on a stratified random sample of 100 elementary schools, showed that only 21% said they offered after-school sports activities on a coed basis; 79% were either totally or some sex separated. When these schools were asked if the laws had affected their program in any way, 79% said "no." It seems obvious that their programs should have been affected.

Leagues also noted in their studies that the number of women coaches and women physical education teachers were declining. One League reported that for the 1979-1980 school year there would be no female physical education teacher in the school. Affirmative efforts are needed to provide girls with the female role models.

Many schools have equal pay for coaches, but in some instances, sex

differences remain. There were differences based on "physical hazard" which was used to justify difference in pay between softball and baseball coaches. There were differences based on "audience pressure" which rewarded the coach for the boys' team which got to play on Friday nights while the girls had to play on less popular audience nights.

Equality for girls in athletics is stated in state and federal law. Equality has not yet been achieved, either legally or morally by the schools of the state. Much of the responsibility for defining the laws as well as a major role in enforcement rests with the Minnesota Board of Education. The Department has been taking an increasingly larger leadership role in helping schools understand their responsibilities and implementing the laws. To this end, there are the on-site reviews and workshops. The Department has also been requiring and collecting the reports that provide the basis of evaluating compliance, and the consolidation and simplifying of the reports is soon to be implemented. Rules had been prepared to explain the previous state law dealing with athletics, and work is now underway to draft rules for the revised law. These are good steps, and the League of Women Voters commends the efforts being made.

But the basic laws guaranteeing equality to women have been on the books now for many years. Equality is a right. Those being deprived must not be asked to accept less than their rights. Those responsible for programs that do not provide quality must understand that attitudes have to change. Budget constraints, past program patterns, community attitudes are not acceptable reasons for denying equality. The State Board of Education and the Department of Education must do more to communicate a sense of urgency to the schools that changes must come now, no more excuses.

In areas of direct Department responsibility, priority should be given to:

- 1) Speedily get the rules explaining the girls' athletic law (MS126.21) finished and ready for public comment. The rules should cover all aspects of the law including "public services." In order to serve the public, it should be made very clear to anyone running a program, whether in school, on school facilities, or on any other public facility that girls are to have equal opportunity rights in all athletic programs.
- 2) The newly designed reports that each school is to file should be carefully scrutinized to see that all objectives are being met. The reports should educate school officials by making it very clear what is expected under the various laws. The reports should be in a form that can easily measure compliance. The reports should be handled so they are readily available to the public. If they are to be stored in the computer system, the public needs to be informed that it can have easy access.

When the local League groups checked the reports locally, they encountered several difficulties that need to be kept in mind as the new process begins. Some Leagues had great difficulty in even getting to see the public reports. Many Leagues found the filed reports had errors, were incomplete, and were sloppily done. They found "yes" answers which were not accurate. (One frequent error was saying that the school had an equal number of sports for boys and girls each season. Very few, if any, schools have totally equal sports programs. Even the Minnesota State High School League sports do not meet this requirement.)

The Board of Education should provide sufficient staff to check the reports for accuracy, and definite procedures or rules should be made to ensure that the reports are filed by all schools, on time.

The Board of Education should plan to require annual summary totals of the filed material so that the Board, the education profession, and the public

can continue to monitor progress. In the sports area it is important to continue to know the total numbers of boys and girls who are participants; boys' and girls' team opportunities; total dollars spent on boys' and girls' programs; dollars spent per participant when there are separate sex teams in the same sport; numbers of male and female coaches.

Continuing attention needs to be paid to girls' athletic opportunities. Leadership has come from the Minnesota Board of Education and the Department of Education. This leadership needs to continue and be expanded until the personnel and programs of all the schools in the state understand that equality for girls is a legal and moral right and that delay in achieving it will not be tolerated.



UNIVERSITY OF MINNESOTA
TWIN CITIES

Law School
285 Law Building
229 19th Avenue South
Minneapolis, Minnesota 55455
(612) 373-2717

*Karen + Sally
FYI from
L. Ritchie
1-8-81*

Dear Colleague:

We are writing to bring to your attention an issue which should be of concern to all of us: The potential loss of autonomy for women in college sports.

Before you toss this aside, thinking that athletics is not important to higher education and consequently doesn't deserve any attention or effort from faculty or professional women, heed our comments. While we concur with the opinions of many that athletics on campus is an auxiliary enterprise which receives far more attention than is warranted, there is a larger question before us.

No one among us can deny the central role that sports generally play in our culture; one only has to read a newspaper, listen to a television or radio news broadcast, or eavesdrop on cocktail party conversations. We are not now and never have been athletes and have little interest in sports. Given the importance of athletics, however, we strongly believe that opportunities for women to participate must be equal to those afforded by our institutions to men.

Ever since Congress passed Title IX in 1972, colleges and universities have been obligated to provide equal opportunities for women in all aspects of their activities. That part of Title IX which has received the most publicity--and the most criticism from the men's athletic establishment--has been the sections dealing with intercollegiate athletics. Despite widespread institutional resistance and foot-dragging, women's college athletic programs have grown enormously over the past nine years, growing from virtual non-existence to full-fledged varsity programs with budgets of hundreds of thousands of dollars at the largest institutions.

In response to a need for uniform rules related to competition, financial aid, eligibility, and so forth, the Association for Intercollegiate Athletics for Women (AIAW) was founded in 1971. It plays the same role in women's college athletics that the National Collegiate Athletic Association (NCAA) has played for men since 1906: that of national governing body.

Although the AIAW and the NCAA play similar management roles in college sports, the philosophies and practices of the two organizations differ dramatically. The AIAW has had the opportunity to learn the lessons of history; it has attempted to avoid the mistakes and excesses of some men's programs and has tried to foster the growth of women's programs that are financially prudent, educationally sound, and which accord with democratic norms of due process and fair play.

Everything the AIAW has accomplished, and all that it hopes to accomplish, is

in danger. The NCAA voted last year to initiate programs for women in its Division II and III schools (the smaller four-year-plus institutions of higher education) and has proposed to incorporate women in its governance structure.

On its face, that may not appear all bad. Appearances, in this case, are decidedly deceiving. The NCAA is comprised of over 700 member institutions (the AIAW has over 950). Each institution has a faculty representative who speaks and votes on behalf of his administration, faculty, and athletic program. The pronoun gender is not an error; because the NCAA has always governed only men's programs, the overwhelming majority of faculty representatives are male. Although institutional positions on issues related to athletics are nominally the collective responsibility of chief executives and the faculty, for the most part it is the NCAA faculty representative and athletic directors who determine how the votes will be cast at the legislating conventions. Occasionally a faculty committee may play a role.

Our concern--and dismay--arises as a result of the NCAA actions and proposals mentioned previously. This body of men has decided, in its infinite wisdom, to incorporate women in its programs. The championship vote at the last convention and the governance proposal to be voted on next January are decided by men, not women. The AIAW has gone on record (last January) as all but unanimously opposed to having women's programs brought under the umbrella of the NCAA. That fact, it has become clear, does not bother the NCAA; it has proceeded with its plans to present the governance proposal to its membership and has every expectation that it will be adopted.

The NCAA proposals are said to be permissive, not mandatory; each institution supposedly has the option to decide whether it will continue to affiliate its women's programs with the AIAW or switch to the NCAA. No women's program can belong to both because a number of the rules of the two associations are mutually exclusive; adhering to one set puts an institution in violation of the other. (The differences are due to the different philosophies of the two associations and the orientation of the AIAW to the special needs of women.) That which is ostensibly merely permitted, however, will in fact be mandatory. The final decision-maker at most institutions is the (male and men's) athletic director; women, sad to say, normally hold only assistant or associate positions in most athletic departments. Many women opposed to switching from the AIAW to the NCAA will be powerless to prevent such a change.

Further, the NCAA has included language in its proposal which will eventually require all women's programs to conform to NCAA rules. At that point, unless the women's program at an institution complies, the men's program will be disqualified from competition. The NCAA has made it clear that it will use its leverage over men's athletics to force the women into line. If that pressure is successful, there will be no reason to have an AIAW; why have two different associations which perforce have identical rules?

We find this wholly unacceptable. The NCAA has been one of the leading and vocal opponents of the implementation of federal equal opportunity legislation in college sports. Its voting members have consistently refused to adopt legislation which would achieve economies in athletics, have refused to recognize that due process has a place in the treatment of students and coaches, and is invested with almost absolute power over its member institutions. Hauled before Congress two years ago, it refused to implement recommendations relating

to fundamental fairness in the treatment of student athletes. The NCAA has long been acknowledged as the "bully of college sports."

This august body has now decided to extend its beneficence and wisdom to women. It has proposed to guarantee women 20% of the seats on its major decision-making committees--a minimum which they will probably never substantially exceed. It has proposed to continue one school, one vote--which means that the faculty representative for men will, overnight, acquire responsibility for voting on behalf of the women's programs as well. (We doubt there will be any stampede to increase the number of women serving as faculty representatives.) It has proposed no changes in the rules governing its men's programs, some of which will work to the disadvantage of women--and the entire body of which are of questionable wisdom. If this move is successful, it will not only bring about the demise of one of the strongest voices speaking on behalf of women in sports, it will also effectively eliminate any chance for progressive changes in athletics generally.

We are writing to ask that you urge the chief executive and faculty representative of your institution or your alma mater, as appropriate, to oppose these measures when they come before the NCAA convention in January of 1981. Drop them a note, give them a call, or raise the issue with your faculty senate if you're on campus. Communicate your views in some fashion. Unfortunately, many of the women in athletics are in no position to exert influence themselves. Unless our institutions oppose the NCAA proposals, a strong and effective voice for women and women's issues will suffer a serious blow.

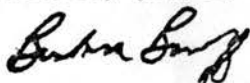
In addition to contacting the president and NCAA faculty representative of your institution or alma mater, you can help in other ways:

- Contact the local women in athletics and let them know you are aware of the situation and are willing to lend your support.
- Feel free to circulate this letter to colleagues who might be interested or willing to help.

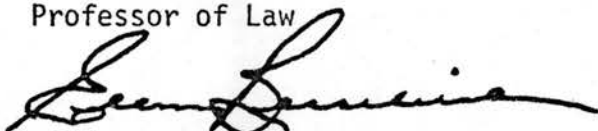
If you have questions or comments, or wish additional information, please contact either of us or, better yet, Gary Engstrand, who is acting as a clearing house for the University of Minnesota's efforts in support of the AIAW. His address is: 200 Morrill Hall, 100 Church Street S.E., Minneapolis, Minnesota 55455, (612) 373-5169.

Thank you for your help.

Sincerely yours,



Barbara Banoff
Professor of Law



Ellen S. Berscheid
Professor of Psychology

P.S. We have attached, for your information, the text of two resolutions passed by our Assembly Committee on Intercollegiate Athletics and a recent article from the New York Times.



ACTION ALERT

December 4, 1980

EQUAL OPPORTUNITY FOR WOMEN IN ALL ASPECTS OF ATHLETICS, GUARANTEED UNDER TITLE IX, ARE IN DANGER. National Collegiate Athletic Association (NCAA) and National Association of Intercollegiate Athletics (NAIA) plan to offer championships for women. At its Convention January 13 - 15, 1981, the NCAA, a long-recognized foe of Title IX, proposes to incorporate women in its governing structure with only 18 percent of the seats on its major decision-making committees allocated to women.

The YWCA of the Minneapolis Area affirms its strong support for women under Title IX and equal opportunity in education, including athletics. The Board of Directors of the YWCA strongly opposes the establishment and conduct of national championships for women within the framework of the National Collegiate Athletic Association (NCAA) and the National Association of Intercollegiate Athletics (NAIA).

IN KEEPING WITH THE MANDATE OF THE YWCA TO EMPOWER WOMEN, WE ASK THAT YOU ACT IMMEDIATELY ON THIS CRUCIAL ISSUE.

- ++Women's college athletic programs have grown enormously over the past nine years, growing from virtual non-existence to full-fledged varsity programs with budgets of hundreds of thousands of dollars at the largest institutions.
- ++The Association for Intercollegiate Athletics for Women (AIAW), founded in 1971, is the national governing body for women's athletics.
- ++The AIAW and NCAA/NAIA play similar management roles in college sports, but the philosophies and practices of the NAIA/NCAA and AIAW differ dramatically.
- ++The NCAA proposal will require all women's programs to conform to NCAA/NAIA rules, thus potentially destroying the AIAW.
- ++The NCAA has been one of the leading and vocal opponents of the implementation of federal equal opportunity legislation in college sports--Title IX.
- ++The NCAA proposal reduces championship opportunities for women.

The YWCA of the Minneapolis Area strongly believes that opportunities to participate must be equal and/or comparable to those afforded by our institutions to men. We, therefore, urge the members of the YWCA to write to the chief executive officer of the college or university from which you graduated or in which you may have an interest urging him/her to vote to retain the Association for Intercollegiate Athletics for Women (AIAW) as the governing body for Women's intercollegiate athletics and to vote against any measure proposed by any male athletic governing association which would have the effect of offering championships for women.

For further information call the YWCA Public Policy Dept. at 332-0501, ext. 132.

SEE SAMPLE LETTER ON BACK

Program for Action / To thrust our collective power toward
the elimination of racism wherever it exists and by any means necessary.

The Young Women's Christian Association of the Minneapolis Area An Agency of United Way

SAMPLE LETTER

TO: The Chief Executive Officer of College or University

FROM: An Alumnus or interested individual

Dear President _____,

I am an alumnus or supporter of the (college/university name). I respectfully encourage you to ensure that our women's athletic program does not affiliate with the (NAIA or NCAA). A great many of our alumnae or friends who were former athletes feel the same way.

I would like to make it very clear that I favor our institution's membership in the Association for Intercollegiate Athletics for Women (AIAW). It is important for young women to be exposed to other women as leadership role models. Membership in AIAW is a visible example of our school's commitment to equal opportunity for women.

I sincerely hope you will continue to act to encourage women's athletic governance by women, for women. Women are in dire need of these leadership and participation opportunities at this time in the development of intercollegiate athletics for women.

Thank you for your attention to this request.

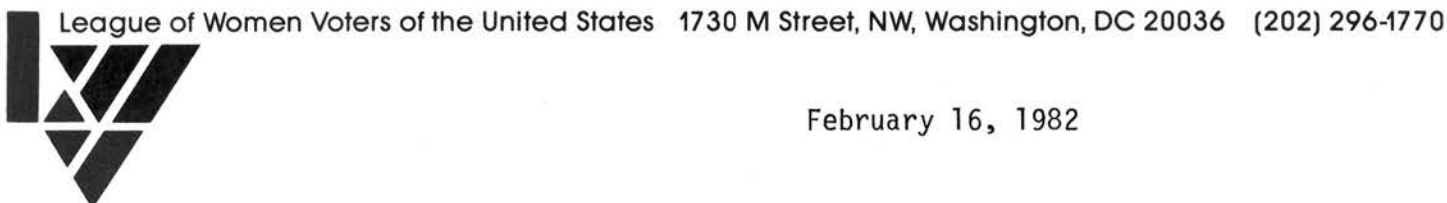
Sincerely,

(Class of Alumn)

NOTE: Insert appropriate information for your school.

Other recommendations you may wish to include in your letter to the President of a college or university:

++Oppose and/or postpone any action to initiate women's championships by the NCAA/NAIA.
++Oppose the adoption of the NCAA Governance Plan to be submitted at convention in January, 1981 in Miami, Florida.



League of Women Voters of the United States 1730 M Street, NW, Washington, DC 20036 (202) 296-1770

February 16, 1982

FEB 19 1982

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Harriette Burkhalter, President
Rosemary Ritchie, Women's Athletics Chairperson
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 55102

Dear Harriette and Rosemary:

I wanted to inform you that subsequent to hearing from the LWVs of Illinois, Massachusetts and the District of Columbia about their decision to join the LWV of Minnesota in supporting the AIAW resolution and their desire for the national board to reconsider this issue, we did discuss it at both the January action committee and national board meetings. The action committee recommended that the LWVUS continue not to take any action on the struggles between the NCAA and AIAW, and the full board concurred with the recommendation.

The reasons for this decision echoed those laid out to you in my letter of July 15, 1981, to which you referred in your letter of September 3. In addition, another concern shared by members of the board surfaced that I wanted to share with you. The League's action to promote program, based on study and consensus, is directed toward governmental bodies. Obviously the NCAA and AIAW are not such bodies.

I feel I must also personally demur from the comment in your September 3 letter that it's better to take action than decline to do so when presented with an opportunity costing little time and money. Literally hundreds of opportunities that generally promote League goals cross my desk--opportunities which, if taken, would prove very costly to our effectiveness in acting on those issues we have selected for sustained and focused action.

Meanwhile, we applaud your excellent efforts to educate Leagues on the issue. The board felt it was especially appropriate for state and local Leagues that want to take action in this area to urge publicly-funded educational institutions to ally themselves with the AIAW.

Sincerely,

Ruth J. Hinerfeld
President

RJH:bb/US

cc: Dorothy O'Neill, President, LWV Illinois
Margaret T. Bliss, President, LWV Massachusetts
Sue Panzer, President, LWV of the District of Columbia



**LEAGUE OF WOMEN VOTERS
OF MINNESOTA**

PHONE (612) 224-5445

555 WABASHA • ST PAUL, MINNESOTA 55102

action

EQUALITY OF OPPORTUNITY IN ATHLETICS

To: Local League Presidents
From: Jeannette Kahlenberg, LWVMN Human Resources Co-Chair - 429-6070
Date: May 8, 1979
Re: H.F. 455 now before the Senate (House authors: C. Johnson, Weaver, Olsen, Kalis, Eken; Senate authors: Merriam, Dunn, Wegener, Knaak, and Setzepfandt)

BACKGROUND:

H.F. 455 has passed the House, was passed by the Senate Education Committee on May 1, and will soon be voted upon by the full Senate. It is considerably improved over the original "separate and unequal" version, thanks to yours and others' lobbying and to the responsiveness of the bill's Senate author, Senator Gene Merriam (DFL-Coon Rapids) as well as other Senators on the Education Committee. It now differs from the House version in several ways, including the following:

- a) It defines equal opportunity in terms of proportion of the student body and demonstrated interest (but not requiring each team be half girls!).
- b) Girls may try out for boys' teams if no separate team in that sport is provided for girls.
- c) The State Board of Education must consult with the Commissioner of Human Rights in writing rules; investigation and enforcement are returned to the Department of Human Rights.

LWVMN continues to prefer present law, M.S. 126.21, accompanied by sensible rules, as closer to our "equal opportunity" position. However, we are grateful for the progress in H.F. 455, which does now say that school districts "shall" provide teams for girls.

CONTACT YOUR SENATOR IMMEDIATELY AND ASK HIM/HER TO SUPPORT:

- a) tabling or studying this bill further, while rules are written for present law.
- b) If the bill is not tabled, retaining the definition of equal opportunity.

This definition is opposed by the Minnesota School Boards Association, and they describe LWV as "opposition" on this issue, so be prepared if your school boards comment. The disputed words are: "whether males and females participate in the athletic program in a proportion reflecting the demonstrated interest in athletics of the males and females in the student body..." Attempts will be made on the floor of the Senate to delete this definition.

- c) Add an amendment to prohibit separate teams for boys and girls under age 12.

This amendment failed in Senate Education Committee on a 7-7 vote. It will be introduced on the floor and is also opposed by the Minnesota School Boards Association and the Minnesota State High School Leagues. The bill presently allows separate teams for small children as an option. Many park and recreation programs will probably let the volunteer adult coaches decide. The result may be rigid separation by sex because of tradition rather than for any physiological reason. This could limit options based on stereotyping: if there are not enough little boys for a separate softball team or enough little girls for a separate soccer team, they will be out of luck, denied equal opportunity to participate on the basis of their sex.

THANKS FOR ALL YOUR EFFORTS!



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

May 1, 1981

Ms. Nancy Newman
132 Verna Road
Lewisburg, Pennsylvania 17837

Dear Ms. Newman:

We are concerned about the pending intrusion into women's college athletics by the National Collegiate Athletic Association (NCAA), which has a long history of opposition to Title IX.

LWVMN has been involved in equal opportunity in athletics issues for several years now. We conducted a survey of school district compliance with anti-discrimination laws in 1978 and have lobbied for improvements in state laws pertaining to high school athletics since 1974. LWVMN has been a leader among sex equity organizations in Minnesota in working for sex equity in athletics.

We see the recent decisions by the NCAA as deterrents to the growth of women's athletics which could have unfortunate repercussions at the secondary and elementary school level as well as at the college level. (The enclosed materials describe the situation in detail. In The Running, September, 1980, also has a lengthy article on the subject. We are having the Association of Intercollegiate Athletics for Women (AIAW) send you one from their Washington office.) The AIAW is also deeply concerned and is looking for support from respected, national organizations such as LWVUS.

For this reason, we were planning to draft a resolution indicating support for the AIAW and opposition to NCAA's involvement in women's programs to be brought before the National Council. (This would not involve use of LWV resources, as AIAW only wants to be able to use our name.) However, Ruth Wolferton advises us that such resolutions are not normally part of the business of National Council and suggested we write to you for advice about enlisting LWV's support.

Here are some possible actions we think would be helpful, listed in order of priority:

1. A LWVUS resolution indicating support for AIAW, either passed by the National Council or by the National Board.
2. An opportunity to talk with delegates to National Council about this matter and to give them materials on it. (Ruth suggested we might hand out materials at the H.R. Workshop Tuesday evening.)

3. Permission to provide the AIAW with a list of state League presidents so that the AIAW can write to them and enlist their support.

We are concerned because we feel that college women will have greater chances for equality of opportunity in athletics through governance of the AIAW than with the NCAA. We see athletics as a critical area in which to work for equality because of the importance our culture places on sports and because the sports field has traditionally been dominated so heavily by males.

We ask you to respond to our suggested actions. If you have other ideas, please let us know. We will appreciate your prompt response so that we can plan whatever is needed for National Council.

Thank you again for your attention to this matter.

Sincerely,

Harriette Burkhalter
President
League of Women Voters of Minnesota
(612) 935-9855

Rosemary Ritchie
Women's Athletics Chair
League of Women Voters of Minnesota
(612) 474-9190

B/R:M
Enclosures



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

Discussion

July 24, 1981

Shari Kharasch, Director of Public Relations
AIAW
1201 16th Street N.W.
Washington, D. C. 20036

Dear Shari:

We are disappointed to have to share with you the decision of the national Board of the LWVUS not to adopt a resolution supporting AIAW. Their reasons have to do with LWV priorities and past activities and with the lack of member understanding of the issue (see enclosed letter).

The LWVMN Board will be discussing the national Board's decision at its August 11th meeting. Perhaps we can find a way to convince the national Board to reconsider.

We are sorry about the rejection but will keep in touch.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chairperson

B/R:M
Enclosure



League of Women Voters of the United States 1730 M Street, NW, Washington, DC 20036 (202) 296-1770

this letter suff

July 15, 1981

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Harriette Burkhalter, President
Rosemary Ritchie, Women's
Athletics Chairperson
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 44102

Dear Harriette and Rosemary:

Thank you for your correspondence requesting that the LWVUS national board adopt a resolution in support of AIAW in its efforts to remain the governing body for college women's athletics.

I wanted to let you know that Nancy Neuman, Social Policy Chair, and Ruth Robbins, Action Chair, recommended, and the board agreed, that we not take any action in this area. We did so because we believe that LWVUS action must reflect both our program priorities and full member understanding and agreement. While the LWVUS has been a steadfast and strong supporter of Title IX policy promulgation and enforcement at the national level, our emphasis has been on equal access to elementary and secondary education; we have not been very involved in issues related to athletics and higher education. Moreover, we are aware that while the LWV of Minnesota, and possible other Leagues, are familiar with athletics governance issues, most have not been working in this area.

Our decision is no way reflective of a lack of support for a struggle that is an important one. I know that the delegates from the LWV of Minnesota made good use of the opportunity at Council to share information with other interested leaders. Your earlier letter to Nancy Neuman had asked for permission to share a list of state presidents with AIAW. We would certainly be pleased to do so if that would be helpful. The LWVUS works closely with AIAW on many areas of shared concern in the National Coalition of Women and Girls in Education.

Good luck with your efforts.

Sincerely,

Ruth J. Hinerfeld
President



Pam
Joan H.
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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

November 16, 1979

Mr. Jon L. Lunde
Office of Hearing Examiners
1745 University Avenue
St. Paul, MN 55104

Dear Mr. Lunde:

Please include the following in the hearing record on the proposed changes to 5 MCAR § 3.108:

The League of Women Voters of Minnesota is opposed to the proposed changes in 5 MCAR § 3.108, Public School Athletic Coaches, rules relating to qualifications for coaches of interscholastic athletics. Although the League supports efforts to provide athletes with qualified coaches, we have some concerns about the impact the proposed changes might have on a school's overall athletic program. Presently many schools are experiencing difficulty in finding enough qualified coaches for their sports programs. By making requirements more stringent, this problem will certainly be exacerbated. Furthermore, it is quite possible that these cuts might decrease the rapidly growing number of opportunities available for women in sports.

In summary, the League supports good coaching skills at all levels of competition but questions whether the final result of the proposed changes would result in fewer coaches, and thus fewer programs, rather than in coaches with better training.

Sincerely,

Pamela Berkwitz
President

Joan Higinbotham
Human Resources Chair

B/H:M

Rules as Adopted

Chapter Thirty-Three: Prohibition of Discriminatory Practices in Education

5 MCAR § 1.0667 Athletic programs. Authority, scope and purpose. These rules are promulgated pursuant to Minn. Stat. § 126.21, subd. 5, as amended by Laws of 1980, ch. 355, § 1. These rules apply to both public and private elementary and secondary schools that operate athletic programs.

5 MCAR § 1.0668 Definitions. All the words below shall have the meaning herein ascribed to them:

A. "Athletic Program" - Means all interscholastic and intramural sports offered to students by public and private elementary and secondary educational institutions.

B. "Interscholastic Athletic Program" - Means all athletic activities offered within a school the purpose of which is to provide opportunities for students to compete with other students on like teams in other schools within an organized conference under the auspices of the Minnesota State High School League or with other like teams in other schools operating under separate jurisdictions.

C. "Intramural Athletic Program" - Means all non-interscholastic athletic activities offered within a school, which are not a part of the regular physical education curriculum, designed to provide students athletic opportunities, experiences and the development of competencies in a variety of sports.

D. "Participate" - Means for interscholastic sports, a student has been selected by the coach to be a member of a particular athletic team, inclusive of varsity, junior varsity, and sophomore teams, after the try-out period has ended.

E. "Participation Rate for a Particular Sex in the Interscholastic Athletic Program" - Means the ratio of the number of participants of that sex in the athletic program to the number of students of that sex in the student body.

F. "Participation Rate for a Particular Sex in the Intramural Athletic Program" - Means the ratio of the number of participants of that sex in the athletic program to the number of students of that sex in the student body.

5 MCAR § 1.0669 Separation by teams.

A. Athletic programs for students in the seventh grade or above may include one or more teams limited to participants of one sex whose overall athletic opportunities have previously been limited. Athletic programs for students in the sixth grade or below shall be operated without restrictions on the basis of sex, except that when overall athletic opportunities for one sex have pre-

viously been limited and there is demonstrated interest by members of that sex to participate on a team restricted to members of that sex, the educational institution may provide a team restricted to members of that sex. The educational institution shall make a biennial determination of students' demonstrated interest. The method used shall be reported to the Department of Education in conjunction with the report required by 5 MCAR § 1.0671.

B. Any public or private elementary or secondary school may provide in the same sport two teams which are separated according to sex when overall athletic opportunities for one sex have previously been limited, but the team for the other sex may only be substantially separated by sex.

C. When overall athletic opportunities for one sex have previously been limited, members of that sex shall be permitted to try out and, if successful, to participate on any team in any sport. This rule does not prohibit any elementary or secondary school from making participation on a team in a sport dependent upon a demonstrated level of skill and ability.

D. When an educational institution has established a team exclusively for members of the sex whose overall athletic opportunities have previously been limited, members of the other sex may not try out for or participate on that team.

E. When an equal opportunity to participate is not provided to members of a sex whose overall athletic opportunities to participate have previously been limited, the school, where there is a demonstrated interest, shall provide separate teams in sports which it determines will provide members of the excluded sex with an equal opportunity and which will attempt to accommodate their demonstrated interest.

5 MCAR § 1.0670 Duties of schools; penalty for failure to comply.

A. Public and private elementary and secondary schools shall make a biennial determination of student demonstrated interest. Schools shall report the method used to make the determination to the Department of Education as part of 5 MCAR § 1.0671. The first biennial determination shall be made prior to the end of the 1981-82 school year.

Student demonstrated interest shall be considered in the selection of those athletic activities to be provided in the athletic program for the purpose of providing separate teams or sports for members of previously excluded sex.

B. Public and private elementary and secondary schools shall provide equal opportunity for members of each sex to participate in both their intramural and interscholastic athletic program by responding to the following considerations:

1. The number of opportunities for females to participate on teams is to be comparable to the number of opportunities for males to participate on teams in each school year in the interscholastic athletic program and comparable, as well as in the intramural athletic program.

2. The equipment, supplies and uniforms for each sport are to be comparable for both sexes.

3. The locker rooms, practice, and competitive facilities are to be comparable for both sexes.

4. The medical services are to be comparable for both sexes.

5. The participation rates for members of both sexes are to be comparable while recognizing the voluntary nature of student involvement in interscholastic and intramural athletics.

C. When two teams in the same sport are provided pursuant to 5 MCAR § 1.0669 A., the two teams shall be treated in a substantially equal manner. Public and private elementary and secondary schools shall accomplish this to the extent that they are applicable in a given situation by providing that:

1. equipment, supplies, and uniforms for each team are comparable.

2. the games and competitive events for each team are scheduled so that the number of opportunities to perform before an audience are comparable.

3. the practice sessions and competitive events scheduled for each team are at equally desirable time periods.

4. the travel and per diem allowances per participant are comparable.

5. the amount of coaching provided for members of each team is comparable.

6. the locker rooms, practice, and competitive facilities for each team are comparable.

7. the medical services for each team are comparable.

8. the publicity produced by the school for each team is comparable.

9. the expenditure, excluding salary of the coach, per participant on each team is substantially equal. Per participant expenditure excludes gate receipts and other revenues generated by that sport. When an item or items of expense are not separated, the expense shall be prorated to the teams according to the number of participants.

D. The penalty for noncompliance with these rules by public elementary and secondary schools shall be the reduction of State Aids pursuant to procedures of Minn. Stat. § 124.15, subd. 3. In addition, nothing in these rules shall be interpreted as limiting the authority of the Human Rights Department over public and nonpublic schools and noncompliance may constitute a violation of Minn. Stat. Chap. 363, Human Rights Act.

5 MCAR § 1.0671 Compliance reports and submission of data. Annually, on or before October 15, each school/school district shall submit to the Commissioner of Education an elementary and secondary athletic program report containing information about both intramural and interscholastic athletics provided. The report shall contain by building: (a) Number of sports offered for each sex, (b) The season each sport is offered for each sex, (c) The number of weeks each

sport is offered, (d) The number of teams in each sport, (e) The number of coaches assigned each sport, (f) The number of students by sex participating in each sport, (g) The dollar expenditure per sport, (h) The total unduplicated count of student participation in the intramural program by sex, and (i) the total unduplicated count of student participation in interscholastic programs by sex.

5 MCAR § 1.0672 Duties of the Commissioner of Education. Upon receipt of an educational institution's athletic program report, the Commissioner of Education shall:

- A. Evaluate the data contained in the report.
- B. Forward reports requiring additional attention to the Commissioner of Human Rights, pursuant to Minn. Stat. § 124.15, subd. 2a.



files

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

September 3, 1981

Ruth Hinerfeld, President
League of Women Voters of the United States
1730 M Street, N.W.
Washington, D.C. 20036

Dear Ruth:

We were sorry to hear of the National Board's decision not to pass the resolution we proposed concerning the AIAW and the governance of college women's athletics. We did, however, concur with one of the reasons for the decision--that being that League members are not well informed on the issue. We are taking steps to alleviate that problem.

We did not agree with the Board's reasoning regarding priorities. Priorities, we feel, should determine expenditures of money and time. When presented with an opportunity to take an action which requires almost no money and no time, as would be the case with passing this resolution, it would serve League's goals better to adopt the resolution than to decline to do so. We also were unconvinced that since League's past involvement with Title IX has been at the elementary and secondary school level, that therefore League should not involve itself at the college level. League has often taken its positions and gone where the battle is, so to speak. Right now, a major battle for equality of opportunity is underway in college women's athletics. League needs to be there. Our endorsement of AIAW would carry a lot of weight with college administrators, the ones who ultimately hold the power in this battle.

Because we feel that the issue is too important to drop, the Board of LWVMN took the following actions at its August Board meeting:

1. Passed the resolution we had proposed to LWVUS (copy enclosed).
2. Decided to send letters to each state League with information on the issue, a request for their support of AIAW, and a request that they ask the national Board to reconsider its decision.
3. Decided to publish an article in the MINNESOTA VOTER and to send further information to each local League president in Minnesota, to make sure our Minnesota members are informed of this issue.

Enclosed is a copy of our VOTER article, the letter we are sending to state Leagues, and a reprint of an article by Candace Lyle Hogan explaining the issue.

At a later date we hope the national Board will reconsider its decision. For now, we just wanted you to be informed of our actions on this issue.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chair

cc: Ruth Robbins, Nancy Neumann



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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

September 3, 1981

Shari Kharasch, Public Relations Director
AIAW
1201 16th Street, N.W.
Washington, D.C. 20036

Dear Shari:

The League of Women Voters of Minnesota passed a resolution supporting AIAW at its August Board meeting (see enclosure).

The Board also decided to send information to each of the state Leagues, informing them of the issue, asking them to pass on the information to their local Leagues, and asking the state Leagues to support AIAW and to join us in asking the national Board of the League of Women Voters to reconsider its decision to take no action regarding AIAW.

We won't ask the League of Women Voters of the United States to reconsider until we have gotten responses from several state Leagues (probably 3 to 4 months). If you have suggestions or comments on our future actions, please let us know.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chair

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Enclosure

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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

September 3, 1981

Dear State League President:

You are undoubtedly aware of the threats to Title IX coming from various sources lately. One such threat is that posed to college women's athletics by the recent National Collegiate Athletic Association (NCAA) actions to involve that organization in governing women's sports.

LWVMN is concerned about the issue of governance of college women's athletics because of our intensive efforts for sex equity in athletics in Minnesota's elementary and secondary schools. We fear that what happens at the college level will affect the lower levels too.

College women's sports have advanced tremendously in the past ten years, in numbers of participants, numbers of sports offered, and in dollars spent. And the progress has been aided by the ten year old organization which has governed women's sports, the Association for Intercollegiate Athletics for Women (AIAW).

Please read the enclosed article by Candace Lyle Hogan for an accurate description of the issue of who governs college women's sports, as it is difficult to condense the subject into a few sentences and still answer all the questions you may have on the subject. Suffice it to say here that the threat to the AIAW's existence is very grave.

Our concern is that women will not be treated equitably by the NCAA. Fewer sports will be offered for women than is currently the case; women will be in the minority on all committees and governing bodies of the NCAA, and women's sports will be directed by an organization which has fought Title IX long and hard, and which is, indeed, still fighting a court battle against Title IX.

Some think it is too late to save the AIAW, that the NCAA is so powerful that it will win, right or wrong. But even if the AIAW is doomed, the longer it holds out and the greater the strength exhibited by the voices for equality, the better will be the position of women athletes within the NCAA, or whoever governs women's sports in the future. As one of our Board members said, we may lose the battle but win the war. Of course, if we don't fight any battles, we won't win the war.

In order to exist, the AIAW must have the support of college and university chief executives, who must decide each spring which governance association its women's program will join. It can't join both because of mutually exclusive rules and widely different philosophies concerning the role of athletics in education.

The AIAW hopes to win endorsement from respected organizations such as the League of Women Voters to help them retain their member colleges. Thus, LWVMN asked the LWVUS to pass a resolution supporting AIAW which AIAW could then use in its promotional materials. LWVUS declined to take any action at its June Board meeting, citing lack of member awareness, that fact that it wasn't a priority, and the

(more)

fact that previous LWV action on Title IX has concerned elementary and secondary education, not higher education.

LWVMN feels that the issue is too important to drop. We concur with their first objection, the lack of member awareness, and are attempting to rectify that through this mailing. We ask you to share information on this issue with League members in your state. We do not concur with the objection concerning priorities because this is an action which involves almost no expenditure of time and money and which could do a great deal to advance a League position. We also don't concur with the third reason regarding previous League action on Title IX. League has often taken its positions and gone where the battle is, so to speak. Right now, a major battle for equality of opportunity is under way in college women's athletics. League needs to be there. Our endorsement of AIAW would carry a lot of weight with college administrators, the ones who ultimately hold the power in this struggle.

LWVMN would like your state League to help in three important ways now:

1. Adopt the enclosed resolution, or one similar to it, and notify the AIAW that you have done so. (Their address is on the enclosed Response Form.)
2. Inform local League members in your state about the issue. Enclosed is a recent article from the MINNESOTA VOTER on the subject which you may adapt to your needs. Additional information is available from SPRINT, a national women's athletics project, which publishes "In The Running." See your March, 1981, issue or call their toll-free number with your questions: 800-424-5162. SPRINT's address is 805 15th Street, N.W., Suite 822, Washington, D.C. 20005.
3. Ask the LWVUS Board to reconsider its decision.

We urge you to consider these three requests and let us know, by completing the enclosed Response Form and returning it to us, what actions you have taken. We hope you share our concern, and we thank you for taking the time to read all of this.

Sincerely,

Harriette Burkhalter

Harriette Burkhalter
President

Ritchie

Rosemary Ritchie
Women's Athletics Chair

B/R:M
Enclosures

RESPONSE FORM

Please respond and return to LWVMN, 555 Wabasha, Room 212, St. Paul, MN 55102, by October 30, 1981.

(Name of League)

_____ Yes, we passed the proposed resolution concerning AIAW. (If yes, please send a copy of your resolution to AIAW, 1201 - 16th Street, N.W., Washington, D.C. 20036.)

_____ We have provided information to our members in the form of:

_____ a VOTER ARTICLE

_____ a mailing to local League presidents

_____ other (specify):

_____ We have asked the LWVUS Board to reconsider its decision not to pass a resolution supporting AIAW.

_____ No, we have taken none of the above actions because:

Remarks:

NCAA Votes Possible "Takeover" of Women's Sports

by Candace Lyle Hogan

In what has been called a "takeover" of women's athletics by men, the National Collegiate Athletic Association, which runs men's college sports tournaments, has decided to hold national women's championships for its "big-time" (Division I) colleges and universities. Also in this coming school year, the NCAA is set to begin such women's events for smaller schools (Division 2 and 3). NCAA affirmed these proposals at its annual convention in January despite vociferous opposition from women and men directly involved in women's sports.

alternative for women to the transcript scandals and high-powered recruitment that has proven ethically and economically damaging to men's programs under the NCAA. If the AIAW is aced out, many feel that schools will lose a unique chance to try a more financially sound and educationally-oriented rule structure for college sports.

NCAA executives have not admitted publicly that the male organization's foray into women's athletics would destroy the female organization. But, whether intentionally or not, in effect that's exactly what could happen.



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Losing Season Predicted for Women's Sports

by Rosemary Ritchie

Now that LWVMN's battle for sex equity in elementary and secondary school sports programs is subsiding, we are finding ourselves thrust into the arena of college sports, where hopes for equality of opportunity for women have been severely dimmed by recent events.

The National Collegiate Athletic Association (NCAA) decided to hold national women's championships in its Division I ("big-time") colleges and universities for a few sports and to allot certain limited seats on its governing committees to women.

Until now the NCAA has been primarily a male institution overseeing men's college sports. Women's sports have been governed by the Association for Intercollegiate Athletics for Women (AIAW). This spring colleges and universities all over the U.S. had to decide whether to affiliate their women's athletic program with the AIAW or the NCAA. It is not possible to belong to both because they have mutually exclusive rules, reflecting important differences in the philosophies of the two organizations. The number of colleges affiliated with the AIAW dropped from roughly 900 to 700 and further drops are likely in succeeding years. The NCAA plans to use its leverage in men's athletics to force colleges to choose that organization for their women's program too. The decision often rests with the college athletic director, who is usually male and often has ties to the NCAA.

Why is this happening?

The NCAA is beset with financial problems and the growing interest in women's sports means substantial contract from TV networks to the organization that provides college women's championship games in basketball and other sports.

Another possible reason is ironically related to Title IX, which the NCAA has been fighting in court for several years. A court ruling last fall declared the NCAA could validly sue the government ONLY if the organization truly represented the schools affiliated with it. By providing governance over both men's and women's programs, they will enhance their position in the lawsuit claiming that Title IX's rules pertaining to college athletics are illegal. (The rules require equal opportunities, expenditures, facilities, etc. for males and females in educational institutions receiving federal funds.)

Another possible reason for the NCAA's actions was suggested by a college president quoted in *In the Running* who saw a "battle of the sexes" spirit motivating NCAA leaders. "The men who dominate the NCAA include a large number who are aching to beat the women on something that matters a great deal. You should go to an NCAA meeting some time. You'll hear more sexism and racism than you'd believe possible in the 20th Century."

The existence of sexism can be verified by the representatives of the AIAW who attended the NCAA convention in January, including Vivian Barfield, former women's athletic director of the University of Minnesota, who reported that women who spoke urging rejection of the proposals were hissed and booed.

All Minnesota colleges have opposed NCAA's intrusion into women's sports and have remained in the AIAW for the coming school year. However, if colleges in other states do not also remain, pressure will increase on Minnesota schools to switch to the NCAA.

To LWVMN the central concern in this issue is that women students will have fewer opportunities to participate under NCAA plans than they have in the AIAW ... that female representation in NCAA will be only approximately 18% ... that women who actively support equality for women will not be offered positions (judging by the appointments made thus far) ... that an organization actively opposing Title IX will be strengthened.

LWVMN passed a resolution at the August board meeting supporting the AIAW as the governing association for college women's athletics. The Board also decided to disseminate information on the issue to local Leagues in Minnesota and to other state Leagues. LWVUS had decided not to pass a resolution on the AIAW at its June meeting. LWVMN hopes to persuade them to reconsider and pass a resolution in support of the AIAW.

The AIAW's days may be numbered, but the degree of strength and support they show in the next few years will probably affect how college women athletes are treated in the NCAA or any other governing organization in the future.

RESOLUTION SUPPORTING THE ASSOCIATION FOR INTERCOLLEGIATE ATHLETICS
FOR WOMEN (AIAW) ADOPTED BY LWVMN AUGUST 11, 1981

WHEREAS the LWVMN has actively worked for equality of opportunity as part of the Human Resources Program, and

WHEREAS the NCAA (National Collegiate Athletic Association) has actively opposed Title IX in court battles and has not encouraged the growth of women's athletics, and

WHEREAS the NCAA's adopted plans to incorporate women into its governance structure and to provide championships in women's sports are woefully inadequate, and

WHEREAS college women's athletics have grown enormously under the governance of the AIAW, and

WHEREAS the AIAW has developed fiscally prudent policies, democratic procedures including student representation, and a healthy philosophy which recognizes that college athletes are students first,

THEREFORE the LWVMN supports the AIAW as the governing body for college women's athletics and urges colleges and universities to affiliate their women's programs with the AIAW rather than the NCAA.

cc: Burkhalter
Tews
Ritchie
files ✓

To: Mr. Henry J. Bromelkamp, President
Members of the Minnesota Board of Education
From: Harriette Burkhalter, President
Rosemary Ritchie, Girls' Athletics Chairperson
Date: June 30, 1981

The rules prohibiting discriminatory practices in athletics, pursuant to M.S. 126.21, will be presented for your approval at the July 14 Board meeting, as you know. The League of Women Voters has been deeply involved in efforts to achieve sex equity in school athletic programs in Minnesota and has followed closely the ups and downs of M.S. 126.21 and the development of these proposed rules.

We urge you to support the proposed rules, with a few minor changes. We feel that the rules, as currently revised, will serve to enhance opportunity for both sexes in athletics, and that none of the items should be deleted or made less stringent. To do so would be to render an injustice to the students of Minnesota.

The inclusion of intramurals is an extremely important provision. There can be no justification for omitting intramurals; the hearing examiner's report makes this clear. After all, M.S. 126.21 is an exception to M.S. 363, the Human Rights law, which permits NO separation on the basis of sex and which would be the law applicable to intramurals in the absence of 126.21. Also, M.S. 126.21 refers to "athletic programs," "educational institutions or public services," and to programs offered at the elementary level, where all sports programs are intramural, not interscholastic. These words indicate that the Legislature intended a broader definition of athletics than simply interscholastic high school sports.

The references to participation rates is likewise very necessary to the effectiveness of these rules in providing sex equity. While the law does not require any absolute percentages, the gathering of statistics on numbers of participants of both sexes is essential to determine if meaningful opportunities to participate exist.

The changes we wish to see in the rules are as follows:

1. 5.MCAR 1.0670 B.5. (page 3) - Please delete the words "while recognizing the voluntary nature of student involvement in...athletics." These words serve no useful purpose and may be interpreted as a rationale for continuing discriminatory practices. Also, heading B., under which this item

falls, refers to these as "considerations," not absolute requirements, thus relieving school districts of the burden of meeting quotas anyway.

2. 5.MCAR 1.0670 C. 9. (page 4) - The expenditure per participant is an essential measure of non-discrimination. In most sports the main expense is the coaching salary. Thus, we urge you to delete the words, "excluding salary of the coach," which dilute the effectiveness of this provision drastically. Please note that heading C., under which this item falls, includes the clause, "to the extent they are applicable in a given situation," which would give the Department latitude in determining if a salary difference were discriminatory or not. If those words are not deleted, the Department would not have this latitude and could take no action even if the salary difference were clearly discriminatory.

We appreciate the tremendous effort that the Department has expended in drafting and revising these rules and the degree of public participation which has been afforded. We feel that the rules represent a workable, equitable set of requirements and guidelines for school districts. With the changes we have suggested, we urge you to vote for their adoption.



files

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

May 26, 1981

Ruth Hinerfeld, President
League of Women Voters of the United States
1730 M Street N.W.
Washington, D.C. 20036

Dear Ms. Hinerfeld:

The League of Women Voters of Minnesota has long been concerned with equal opportunity in athletic programs. Our interest in this area had led us to support the Association for Intercollegiate Athletics for Women (AIAW) as the governing body for college women's athletics in its current struggle with the NCAA (National Collegiate Athletic Association).

We urge the National Board at its June meeting to adopt the enclosed resolution supporting the AIAW. The purpose of the resolution is to allow the AIAW to use the name of the League of Women Voters in its letters and other materials in its campaign to remain the governing body for college women's athletics. No resources of the LWVUS need be expended in this effort.

We have discussed this matter with Nancy Newman and Marlene Proviso. We have also sent Ms. Newman information on the problem and brought information to the National Council so that other Leagues would be aware of the problem too.

Enclosed is the proposed resolution and other background information. We thank you for your consideration of this issue.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chairperson

B/R:M
Enclosures

cc: Marlene Proviso, Nancy Newman

PROPOSED RESOLUTION SUPPORTING THE ASSOCIATION FOR INTERCOLLEGIATE
ATHLETICS FOR WOMEN (AIAW)

WHEREAS the LWVUS has actively worked for equality of opportunity
as part of the Human Resources Program, and

WHEREAS the NCAA (National Collegiate Athletic Association) has
actively opposed Title IX in court battles and has not
encouraged the growth of women's athletics, and

WHEREAS the NCAA's adopted plans to incorporate women into its
governance structure and to provide championships in
women's sports are woefully inadequate, and

WHEREAS college women's athletics have grown enormously under the
governance of the AIAW, and

WHEREAS the AIAW has developed fiscally prudent policies, democratic
procedures including student representation, and a healthy
philosophy which recognizes that college athletes are
students first,

THEREFORE the LWVUS supports the AIAW as the governing body for
college women's athletics and urges colleges and universities
to affiliate their women's program with the AIAW rather than
the NCAA.

WILL COLLEGE WOMEN'S ATHLETICS HAVE AUTONOMY?

A critical choice regarding women's athletics is facing U.S. colleges this spring in the wake of recent decisions made by the National Collegiate Athletic Association (NCAA). At its convention in Miami in January, 1981, the NCAA decided to:

- a.) continue sponsoring women's championships in Division II and III schools (the smaller colleges),
- b.) initiate women's championships for Division I schools (large universities), and
- c.) incorporate women into its governance structure by allotting 18-26% of the seats on its major committees to women.

At first glance, these may look like progressive steps forward. However, appearances are deceiving, and feminists are not applauding the forthcoming changes. To understand, one needs to review the history of women's athletics and the NCAA.

The NCAA has governed college athletics (meaning men's athletics) since 1906. The women's governing body, the Association for Intercollegiate Athletics for Women (AIAW), was founded in 1971 because the NCAA was not responsive to the need for women's programs.

In 1972 Congress passed Title IX requiring educational institutions to provide equal opportunity for males and females in all programs. The NCAA has been opposed to Title IX's interference in their affairs since the law's inception, and have been fighting it in court since 1976.

In the meantime, women's college athletic programs have grown enormously. In addition, the AIAW has developed a totally different philosophy from the NCAA, learning from the mistakes and excesses of some men's programs. Unlike the NCAA, The AIAW has fostered the growth of fiscally prudent programs, recognizing that athletes are students first, has developed democratic due process procedures, and has included students in its governance structure.

The NCAA's January decisions pose a grave threat to the AIAW because no college women's athletic program can affiliate with both AIAW and NCAA. A number of their rules are mutually exclusive; adhering to one requires violation of the other. The differences in rules reflect the differences in philosophy. Further, eventually, the NCAA plans to disqualify a college men's program if its women's program does not conform to its rules. In other words, the NCAA, which is controlled almost exclusively by male athletic directors and male faculty representatives, plans to use its leverage over men's athletics to force women into line.

The AIAW, at its January convention, a few days before the NCAA convention, voted unanimously to oppose the NCAA proposals and to urge the NCAA delegates not to adopt them. AIAW opposition is strong for several reasons:

- 1.) The NCAA is proposing to hold fewer championships in fewer sports than the AIAW currently provides for women.
- 2.) The percentage of seats to be allotted to women on the governing committees is woefully low (18-26%). AIAW wants 50%.
- 3.) The NCAA philosophy, which has created a multi-million dollar business in revenue sports, is repugnant to the AIAW.
- 4.) The NCAA is still pursuing its legal battle with Title IX.

Many members of the AIAW, including Vivian Barfield, University of Minnesota's women's athletic director, attended the NCAA convention to plead the AIAW's case. The women were booed, and many rude and sexist remarks were made to them, according to Barfield. The NCAA proposals were adopted

despite their efforts. It should be noted that all Minnesota colleges opposed the proposals.

Perhaps you are wondering why the NCAA developed this sudden interest in women's athletics. One reason is quite simple: money. The NCAA has dug itself into a financial hole, so to speak, and as the popularity of women's sports has increased, so has the opportunity to make money from them. The NCAA has been offered substantial TV contracts if they can provide women's championships in major sports.

Another reason is ironically related to their battle against Title IX. A court ruling last fall declared that the NCAA could validly sue the government only if the organization truly represented the colleges and universities affiliated with it. In order to truly represent these institutions, it needs to provide governance over both men's and women's programs.

What will happen next? Colleges will have to make the decision to affiliate with the AIAW or the NCAA for the 1981-82 school year on or about May 1, 1981. According to Barfield, women in college athletics are hoping that enough colleges and universities will choose to affiliate with the AIAW to render the NCAA efforts a failure.

What can you do? Please write to any college with which you are affiliated (as an alumnus, contributor, student, etc.) and urge them to continue their affiliation with the AIAW for their women's program. We may be too late to influence their decision this year, but it is important for colleges to know how we feel, because they must make the decision annually. AIAW members are fairly sure Minnesota colleges will continue to support the AIAW this year, but are less sure of their continuing support after that. In some other states, particularly in the West, support for the AIAW is weaker, and your letter of encouragement is even more urgent, if you have ties to a college in another state.

Rosemary Ritchie

4/27/81



files

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

May 26, 1981

Shari Kharasch, Director of Public
Relations

AIAW
1201 16th Street N.W.
Washington, D.C. 20036

Dear Shari:

Here is a progress report on our efforts to gain LWVUS support for the AIAW. The materials you sent us on the AIAW arrived the day we talked on the phone (11 days after you mailed them!).

Enclosed is the letter and proposed resolution we are sending to the LWVUS Board for action at their June 5th meeting. Our delegates to the LWVUS National Council meeting May 11-14 reported back that there seems to be no problem with LWVUS support for the resolution, but please wait to hear from either LWVUS or us after the June 5th meeting before using LWVUS' name.

We are also enclosing a list of state LWV presidents in case you wish to inform them of this problem and ask their support.

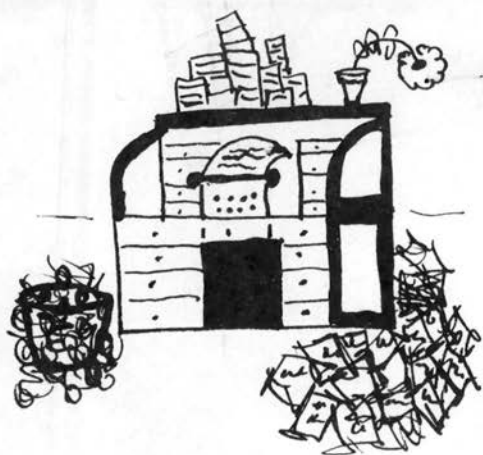
We wish you success in your efforts on behalf of women's athletics and will keep in touch.

Sincerely,

Harriette Burkhalter
President

Rosemary Ritchie
Women's Athletics Chairperson

B/R:M
Enclosures



Rosemary Ritchie
18420 Springcrest Dr.
Minnetonka, MN 55343

DEC 8 1980

from the desk of
a
Leaguer....

Sent out
12/8/80

LWVMN:

Please make 3 copies of these
proposed girls' athletic rules (or more,
if you like). Please send one to:

1. me

2. Joan Higginbotham

3. Liz Ebbott

4. Joan Sorenson, MCOSEE
president

449 Desnoyer

St. Paul, Mn. 55104

I hope you can do it today, as
our comments are due in to the
Dept. of Ed. on Dec. 12. Rosemary

Linda Jala
H.B.
J.T.

Dept. of Education

Rosemary Ritchie

Not to Liz Ebbott

Add Linda Ojala

McLU

628 Central ave

55414

153
10
12

Rules as Proposed (all new material)

Chapter Thirty-Three: Prohibition of Discriminatory Practices in Education

5 MCAR § 1.0667 Authority, scope and purpose. These rules are promulgated pursuant to Minn. Stat. § 126.21, subd. 5, as amended by Laws of 1980, ch. 355, § 1. These rules apply to both public and private elementary and secondary schools that operate athletic programs.

5 MCAR § 1.0668 Definitions. All the words below shall have the meaning herein ascribed to them:

A. "Athletic Program" - Means all interscholastic and intramural sports offered by students by public and private elementary and secondary educational institutions.

B. "Interscholastic Athletic Program" - Means all athletic activities offered within a school the purpose of which is to provide opportunities for students to compete with other students on like teams in other schools within an organized conference under the auspices of the high school league.

C. "Intramural Athletic Program" - Means all non-interscholastic athletic activities offered within a school, which are not a part of the regular physical education curriculum, designed to provide students athletic opportunities, experiences and the development of competencies in a variety of sports.

D. "Participate" - Means for interscholastic sports, a student has been selected by the coach to be a member of a particular athletic activity after the try-out period has ended.

E. "Participation Rate for a Particular Sex in the Interscholastic Athletic Program" - Means the ratio of the number of participants of that sex in the program to the number of students of that sex in the student body.

F. "Participation Rate for a Particular Sex in the Intramural Athletic Program" - Means the ratio of the number of participants of that sex in the program to the number of students of that sex in the student body.

5 MCAR § 1.0669 Separation By Teams.

A. Athletic programs for students in the seventh grade or above may include one or more sports limited to participants of one sex whose overall athletic opportunities have previously been limited. Athletic programs for students in the sixth grade or below may contain one or more sports which are limited to participants of one sex whose overall athletic opportunities have previously been limited and who by demonstrated interest indicate a desire to participate on a team restricted to members of that sex.

B. Any public or private elementary or secondary school may provide in the same sport two teams which are separated or substantially separated according to sex when overall athletic opportunities for one sex have previously been limited.

C. When overall athletic opportunities for one sex have previously been limited, members of that sex shall be permitted to try out and participate on any team in any sport. This rule does not prohibit any elementary or secondary school from making participation on a team in a sport dependent upon a demonstrated level of skill and ability.

D. When overall athletic opportunities for one sex have not previously been limited, members of that sex may not be permitted to try out or participate on any team established exclusively for members of the sex where overall athletic opportunities have previously been limited.

5MCAR § 1.0670 Duties of School Districts, penalty for failure to comply.

A. Public and private elementary and secondary school shall provide equal opportunity for members of each sex to participate in both their intramural and interscholastic athletic program by assuring that:

1. A biennial determination of student demonstrated interest is conducted by use of a methodology the nature of which will be reported to the Department of Education in conjunction with Section 1.0670 reportage. The first biennial determination shall be made prior to the end of the 1980-81 school year.

Student demonstrated interest shall be considered in the selection of those athletic activities to be provided in the athletic program for the purpose of providing separate teams or sports for members of the previously excluded sex.

2. The number of opportunities for females to participate on teams is comparable to the number of opportunities for males to participate on teams in each school year in both the intramural and interscholastic athletic programs.

3. The equipment, supplies and uniforms for each sport are adequate for both sexes.

4. The locker rooms, practice, and competitive facilities are comparable for both sexes.

5. The medical services are comparable for both sexes.

6. The participation rate for members of both sexes are comparable while recognizing the voluntary nature of interscholastic and intramural athletic involvement.

B. When two teams in the same sport are provided pursuant 5 MCAR § 1.0669 A. the two teams shall be treated in a substantially equal manner. Public elementary and secondary schools shall accomplish this by providing that:

1. equipment, supplies, and uniforms for each team are comparable.
2. the games and competitive events for each team are scheduled so that the number of opportunities to perform before an audience are comparable.
3. the travel and per diem allowances per participant are substantially equal.
4. coaching for members of each team is substantially equal.
5. the locker rooms, practice, and competitive facilities for each team are comparable.
6. the medical services for each team are comparable.
7. the publicity produced by the school for each team is comparable.
8. the practice sessions and competitive events scheduled for each team are at equally desirable time periods.
9. the expenditure, excluding coaches salary, per participant on each team is substantially equal. Per participant expenditure excludes gate receipts and other revenues generated by that sport. When an item or items of expense are not separated, the expense shall be pro-rated to the teams according to the number of participants.

C. The penalty for noncompliance with these rules by public elementary and secondary schools shall be the reduction of State Aids pursuant to procedures of Minn. Stat. § 124.15, subd. 3. In addition, nothing in these rules shall be interpreted limiting the authority of the Human Rights Department.

5 MCAR § 1.0671 Compliance reports and submission of data. Annually, on or before October 15, each school district shall submit to the Commissioner an elementary and secondary athletic program report containing information about both intramural and interscholastic athletics provided. The report shall contain by building: (a) Number of sports offered for each sex (b) The season .

each sport is offered for each sex (c) The number of weeks each sport is offered (d) The number of teams in each sport (e) The number of coaches assigned each sport (f) The number of students by sex participating in each sport (g) The dollar expenditure per sport and (h) The total unduplicated count of student participation in the athletic program by sex.

5 MCAR § 1.0672 Duties of the Commissioner of Education.

Upon receipt of an educational institution's athletic program report, the Commissioner of Education shall:

- A. Evaluate the data contained in the report.
- B. Forward the report to the Commissioner of Human Rights pursuant to Minn. Stat. § 124.15, subd. 2a.

To: LWVMN Convention, June 1979

From: Jeannette Kahlenberg (612) 429-6070 and Liz Ebbott (612) 426-3643

EQUAL OPPORTUNITY IN ATHLETICS - MONITORING REPORT

About 45 local Leagues have been monitoring 51 school districts. Reports have come in from 21 Leagues covering 18 school districts. This is therefore a VERY PRELIMINARY SUMMARY, to give the flavor of what has been done - and perhaps some incentive to continue with your own project.

Most Leagues obtained a copy of and evaluated both the Minnesota Department of Education compliance forms and the Department athletic activities forms. WE URGE ALL LEAGUES TO ASK TO SEE THEIR LOCAL SCHOOL DISTRICT'S FORMS. THEY ARE PUBLIC INFORMATION, AND THE VERY ACT OF ASKING TO SEE THEM ENCOURAGES COMPLIANCE. THE ATHLETIC ACTIVITIES FORMS ARE NOT MANDATED, BUT OVER 90% OF THE DISTRICTS FILE THEM. YOU CAN ASK NOW FOR THE 1977-78 FORMS, OR AFTER JULY 1, FOR THE 1978-79 FORMS.

Nine Leagues reported doing attitudinal surveys in various forms, including questionnaires for students, parents, teachers, or coaches. (One was tabulated on a computer as a data processing class project.) The interesting results are available at Convention.

Most of the committees reported back to their own Leagues and at least 7 reported to their school boards. Others held general meetings or had newspaper coverage.

Attitudes towards girls' athletics were generally found to be favorable, with an improving commitment to expanded programs for girls. But several comments set an ominous tone for the future: "One can sense a limit, though; don't take away funds from boys' sports." "too fast, too soon." "Changes have not come easily and further changes are viewed with hesitation. Most people seemed to feel the additions made were about all that they want to see made."

Compliance was rated from fair to excellent. One committee commented: "Full compliance has not been reached nor is it actively sought." But another said that the "LWV project has greatly increased awareness of need for compliance."

The "success stories" and "need for improvement" comments may be organized around some possible definitions of "equal opportunity."

The minimum definition of equality is equal dollars spent per participant, as required by law. Several Leagues report their districts spending close to equal dollars. Others report more on boys and a few more on girls. As long as equity is defined as "per participant" and as long as many less girls participate overall, it is an acceptable standard to most districts. No district reports anything close to the same total dollars being spent on girls as on boys.

A second definition of equal opportunity may be equal numbers of sports offerings to girls and boys. Two Leagues report so far the same number of activities for each sex. One district offers badminton to girls (a sport not yet recognized by the Minnesota State High School League). The other calls cross country and golf girls' and boys' sports, though only 2 Junior High girls play golf and one girl is out for cross country. But even if these are not yet strong girls' sports in that district, they have that potential. The St. Paul school district also offers an equal number of sports to boys and girls, under court order. (Their monitoring project is not yet complete.) One other League, not doing the monitoring, also reports equal offerings in their district, but we have no details. Most Leagues report more sports for boys.

A third issue in the definition of equal opportunity is equal number of participants. All

Leagues report a tremendous upsurge in the number of girls out for athletics. None so far report equal numbers to boys. According to the Department of Education figures state-wide, participation on the high school level in 1977-78 was about two to one. The MSHSL reports higher girls' participation figures, and several school districts also are reported by their Leagues as having about 3 to 2 (boy to girl) participation. Is equal participation, one to one, the appropriate definition of "equal opportunity"?

The Senate bill this last legislative session included in its definition of equal opportunity the concept of variety of sports offerings and levels of competition. No school districts were reported as offering an ice sport for girls or a girls' field sport in the fall, such as soccer or field hockey. A and B squads also may or may not be provided equally for boys and girls in our districts.

League monitoring reports also describe some successes and some continuing needs in other areas. There are the issues of equal newspaper publicity and of equal support by the schools, in order to raise student and community awareness of girls' events. Fair scheduling of games at desirable times for maximum community and school spirit is discussed. There is comment on equal pay for coaches and the need for more women coaches. A final--and perhaps crucial--suggestion for providing equal opportunity for girls deals with encouraging the girls to participate. One League listed as the greatest need an assessment of interests of girls with a view to implementing additional programs or making substitutions to meet current needs.

A few Leagues report that their districts have the coed practices envisioned by present law for individual sports, though competition is still appropriately separate by sex. Coed practice mostly exists in golf, with some in cross country, skiing, or track. One advantage of coed practice is the sharing of expert coaching combined with economies for the school district. The present law allows girls to try out for boys' teams, but we received only one report of a girl who had done so, in order to participate on a boys' gymnastics team. One district actually has an illegal policy forbidding girls to play on boys' teams in contact sports. Some high school phys ed classes are also still designated by sex, according to the reports, though this is illegal.

For elementary children, no separation is now allowed by Minnesota law. Many Leagues report violations, especially by park and rec or community programs.

Has the LWV made a difference? Many reports discussed improvements in equal opportunity. Some specifically cited the LWV project. Some sample quotes: "Because of LWV concern with the laws, the district added coaches for girls' basketball and volleyball." "The project made people aware of the need for girls' athletics." "The track coach called and said they'd added an extra coach for girls' track. We had not even talked to him; he had just heard about us." "We think that the ones filling out the forms this year will be a little more careful knowing that someone might come and look at them."

About half the Leagues reporting will continue the project next year. It is a visible way to focus on the fundamental issue of equal opportunity.

EQUALITY OF OPPORTUNITY IN ATHLETICS

To: Local League Presidents
From: Jeannette Kahlenberg, Human Resources Co-Chair, (612) 429-6070
Date: May 11, 1979

An amended version of H.F. 455, much closer to LWV's "equal opportunity" position, was passed by the Senate on Wednesday night, May 9. It was rejected by the House on May 10 and is being sent to Conference Committee.

Please contact your Representatives and Senators immediately and ask them to

- a) urge their respective Conference Committee representatives to agree on the Senate version of H.F. 455.
- b) oppose H.F. 455 if the Senate version does not emerge from the Conference Committee.

FACTS: The Senate bill now includes:

- 1) Definition of equal opportunity in terms of proportion and demonstrated interest.
- 2) No separation by sex for children under age 12, except when special remedial programs are needed "to improve the skills" of those who are "unable or unwilling to participate." (This provides an option for little girls who are socially conditioned against playing with boys until their skills and self-confidence improve.)
- 3) Girls are allowed to try out for boys' teams. (This is a practical incentive for a girls' program.)

Responses to Times for Action from local Leagues have been very effective! Thanks, and keep up the good work!

EQUALITY OF OPPORTUNITY IN ATHLETICS

To: Local League Presidents
From: Jeannette Kahlenberg, LWVMN Human Resources Co-Chair - 429-6070
Date: May 8, 1979
Re: H.F. 455 now before the Senate (House authors: C. Johnson, Weaver, Olsen, Kalis, Eken; Senate authors: Merriam, Dunn, Wegener, Knaak, and Setzepfandt)

BACKGROUND:

H.F. 455 has passed the House, was passed by the Senate Education Committee on May 1, and will soon be voted upon by the full Senate. It is considerably improved over the original "separate and unequal" version, thanks to yours and others' lobbying and to the responsiveness of the bill's Senate author, Senator Gene Merriam (DFL-Coon Rapids) as well as other Senators on the Education Committee. It now differs from the House version in several ways, including the following:

- a) It defines equal opportunity in terms of proportion of the student body and demonstrated interest (but not requiring each team be half girls!).
- b) Girls may try out for boys' teams if no separate team in that sport is provided for girls.
- c) The State Board of Education must consult with the Commissioner of Human Rights in writing rules; investigation and enforcement are returned to the Department of Human Rights.

LWVMN continues to prefer present law, M.S. 126.21, accompanied by sensible rules, as closer to our "equal opportunity" position. However, we are grateful for the progress in H.F. 455, which does now say that school districts "shall" provide teams for girls.

CONTACT YOUR SENATOR IMMEDIATELY AND ASK HIM/HER TO SUPPORT:

- a) tabling or studying this bill further, while rules are written for present law.
- b) If the bill is not tabled, retaining the definition of equal opportunity.

This definition is opposed by the Minnesota School Boards Association, and they describe LWV as "opposition" on this issue, so be prepared if your school boards comment. The disputed words are: "whether males and females participate in the athletic program in a proportion reflecting the demonstrated interest in athletics of the males and females in the student body..." Attempts will be made on the floor of the Senate to delete this definition.

- c) Add an amendment to prohibit separate teams for boys and girls under age 12.

This amendment failed in Senate Education Committee on a 7-7 vote. It will be introduced on the floor and is also opposed by the Minnesota School Boards Association and the Minnesota State High School Leagues. The bill presently allows separate teams for small children as an option. Many park and recreation programs will probably let the volunteer adult coaches decide. The result may be rigid separation by sex because of tradition rather than for any physiological reason. This could limit options based on stereotyping: if there are not enough little boys for a separate softball team or enough little girls for a separate soccer team, they will be out of luck, denied equal opportunity to participate on the basis of their sex.

THANKS FOR ALL YOUR EFFORTS!

Testimony presented to the
Tax Committee - Division I - House of Representatives
by Jeannette Kahlenberg, State Board
League of Women Voters of Minnesota
April 5, 1979

Mr. Chairman and Members of the Committee:

The League of Women Voters of Minnesota strongly supports equal rights for all people. We believe that present inheritance tax law discriminates against homemakers whose contribution to a jointly-owned home or estate cannot be measured in proveable monetary terms. We therefore support the reform suggested in H.F. 467 and similar proposed legislation which presumes that each spouse has contributed 50% of the value of an estate. We also support the use of the word "irrebuttably" so that the presumption of contribution is a secure one.

We appreciate this opportunity to present the position of the League of Women Voters.

Thank you.

TO: Members of the House of Representatives

FROM: Helene Borg, State President

DATE: April 4, 1979

The League of Women Voters of Minnesota believes that there is not wide understanding of the real issues raised by H.F. 455 now before you on General Orders. This bill would allow not only "separate but equal" athletic teams but also "separate and unequal" programs for the girls of our state.

Equal opportunity is not provided by this bill. The critical part is Section 1, subd. 1 (1), lines 12-20, page 2. This says that if a school district does not provide equal athletic opportunity for girls, then girls must be allowed to try out for boys teams. Most girls do not want to be "allowed" to try out for boys teams. They want an equal athletic program.

Currently, the athletic programs for boys and girls in Minnesota schools are not equal. The participation rate by high school boys to girls this year is roughly two to one. Money is spent at the rate of about \$2 for boys to \$1 for girls. Six boys sports are offered by over 300 high schools. Three girls sports are offered by over 300 high schools. This is great progress for girls, but IT IS NOT EQUAL. H.F. 455 allows perpetuation of this situation.

H.F. 455 eliminates the requirement for co-ed programs for elementary children. Yet these programs are just beginning to work well in many areas.

H.F. 455 creates new and worse jurisdictional confusion. The Department of Education is told to write rules for elementary and secondary schools' athletic programs. The Department of Human Rights remains responsible for rules for park and recreation programs, non-public schools, colleges and universities, all of which are covered by this bill. A wasteful and costly duplication of the Department of Human Rights' complaint procedures is also created in the Department of Education by this bill.

Is it really legislative intent to amend our state's prohibition of sex discrimination by perpetuating unequal athletic programs for boys and girls? The issue here is not "separation", for present law and proposed alternatives allow sensible separation of teams by sex. The issue is "equal opportunity."

H.F. 455 was hastily passed by the House Education Committee before all testimony could be considered. One alternative to its passage, as advocated by Governor Quie, would be for the new Commissioner of Human Rights and the Commissioner of Education, with advice from all interested parties, to cooperate in writing reasonable rules for the present law.

We urge your vote against H.F. 455.

Testimony before Special Programs Subcommittee,
Senate Education Committee
Regarding S.F. 914 relating to
Equal Opportunity in Athletics
by
Jeannette Kahlenberg, State Board member
March 30, 1979

Mr. Chairman and Members of the Committee:

One of the League of Women Voters' most fundamental positions is for equal opportunity regardless of sex. We therefore strongly support S.F. 914 which spells out very clearly the requirement that schools and public services in Minnesota provide equity in their athletic programs. This bill contains exactly what we would have liked to have seen emerge from the rule-making process of the Department of Human Rights, when they dealt recently with the subject of sex discrimination in athletics.

The League of Women Voters of Minnesota this year has undertaken a statewide project to monitor compliance with laws relating to equal opportunity for girls in the athletic programs of our local school districts and public services. The results of the project are not yet gathered, but monitoring is now occurring in about 50 local school districts across the state, including most of the largest ones. As a result of this project, we on the state level of the League have been very active in looking at the overall picture, identifying the issues, trying to clarify the present status of the law, talking to interested parties on all sides of the issue, and seeking to apply the League's equal opportunity position to the questions at hand. The result has been a great deal of discussion on our State Board and with our state action committee, testimony by the state League at the Department of Human Rights' public hearing on their proposed rules on sex discrimination in athletics, several articles in state League publications, and generally a great deal of attention, energy, and thought on equal opportunity in athletics this year. Thus, the League does not approach this subject this morning casually or uninformed.

We would like to examine S.F. 914 with you in further detail. Basically, we strongly support the first three sections of the proposed bill, although we oppose subd. 4 of section 3, which delays the effective date for programs for younger children and we have no position on sections 4 and 5.

Section 1 setting out state philosophy of the value of equal opportunity in athletics is, of course, a statement with which we heartily concur. Separation is indeed defined as discrimination, and so we agree that the conditions under which separation is allowed must be carefully defined. On the other hand, when we look at athletic programs for students grades 7 and up, most girls would not be able to compete in a totally integrated program, due to less height and weight and historically less emphasis on skill development. We therefore concur that separation is under certain circumstances the only way in which to provide equal opportunity for participation.

The second section of the bill which defines equal opportunity is badly needed. This definition is clear, fair, and positive. It takes into account the fact that girls and women make up over half the population of the state and of the schools of Minnesota and so ought to be proportionally served by our athletic programs. The definition also takes into account interest. We cannot force girls to be interested in athletics. But if athletics do indeed teach significant values and enhance physical fitness, then girls ought to be encouraged to be interested in participation. If athletic programs are not particularly valuable, then they ought not to be encouraged for boys either. At least, there ought to be the encouragement of interest equally for both sexes.

The definition of equal opportunity also takes into account the interpretation of M.S. 126.21 handed down by Judge Ronald Hachey in 1976. This held that if a school district provides a sport such as football which does not interest girls, then it needs to provide a balancing sport such as volleyball as an equalizing opportunity for participation by girls. Currently many districts are doing just this, but many do not have any offering to correspond to wrestling, soccer or ice hockey, three other popular sports which at present are reaching boys almost exclusively. This bill spells out in its definition of "equal opportunity" the need for a sufficient number and variety of sports to meet the needs of each sex. It is thus an improvement over present law, unless clear and equitable rules can be written for M.S. 126.21. It is also certainly an improvement over the proposed S.F. 526 which not only does not define equal opportunity but even deletes two major references to it and in effect does not require school districts to provide equal opportunity at all.

This definition of equal opportunity in S.F. 914 is really the heart of the bill. The other bill being considered today is not just for separate but equal--it is really for separate and unequal. Under its provisions, school districts, if they choose, can abolish, cut back, or not expand opportunities for girls without that being an act of discrimination--as long as they allow girls to try out for existing boys' teams. We question how many girls' needs will be met by allowing them to try out for football.

The real issue today is not separation. It is equal opportunity. Most girls will not want to play on a boys' team. But they do want equal opportunities in the athletic program. S.F. 914 calls for athletic programs which suit the demonstrated interests and numbers of both girls and boys. It's simple justice.

Why should the legislature make an exception to its anti-discrimination laws by denying girls an equal athletic program? Is that really legislative intent? Let's try to get the discussion off of separation and on to equal opportunity. Boys now have more athletic opportunities in this state than girls. The current participation rate by Minnesota high school boys and girls is roughly two to one. That is a tremendous improvement over five years ago, but it is not equal. There are six boys' sports offered by more than 300 high schools in Minnesota this year, according to Minnesota State High School League figures. There are three girls' sports which are offered by over 300 high schools. That is not equal. S.F. 914 would set a legislative standard for equality for girls and boys in athletics.

The third section of this bill deals with separation of athletic programs on the basis of sex. The League of Women Voters of Minnesota supports the first subdivision restricting certain teams to girls, in order to provide them with equal opportunity to participate. We believe that it is legitimate at this point in history to allow these teams to be restricted to girls. Otherwise the teams would likely be quickly taken over by stronger, bigger boys. The League also agrees that only the girls' teams should have restricted membership. This permits exceptional girls who find

themselves able to compete with boys and who are interested in the tougher competition to participate on either team. A significant case in point is Paula Macdonald, the unusually fine swimmer in Burnsville, whose skills declined when she was restricted to a less challenging girls' swim team after having competed very successfully on a boys' team in junior high. In 1977, Hearing Examiner George Beck ruled against both the Burnsville School District and the Minnesota State High School League in Paula's case. We wish to point out quickly, however, that this is a very unusual case. So boys need not feel threatened. Also the possibility of girls moving onto the unrestricted team will be an incentive for the girls' programs to remain challenging and competitive. As long as they do, the practical effect of S.F. 914 will remain basically separate teams for boys and girls.

We also support subdivision two which deals with equality when separate teams in the same sport are provided for girls and boys. We hope that no one will disagree with the provision of equal budgets per participant and other equal treatment of the two teams. (This is not to imply that all school districts are now in fact complying with this present requirement. In the Department of Education's recent on-site compliance visits to twenty Minnesota school districts, several were found in non-compliance with this very provision.) But surely no one will object to the basic principle of requiring equal treatment of girls' and boys' teams.

One of the more controversial aspects of this subdivision relates to possible coeducational practices for the girls and the unrestricted teams in the same sport. The League of Women Voters of Minnesota supports the concept of coeducational practices where that makes sense, especially in individual sports. This offers the chance for financially hard-pressed school districts to expand their sports programs, including their opportunities for girls, by having joint coaching, practices, and bus travel to meets. Shared coaching and training are already the practice in a number of school districts in the state: golf and cross country being examples. We believe that boys and girls working together on some of the same skills can be healthy and to the advantage of both, particularly in the individual sports of tennis, golf, swimming, skiing, gymnastics, track and field, and cross country. Coed physical education classes are now required in all our high schools and have worked well. Coed practices in athletic programs similarly can be positive experiences. Furthermore, the proposed law does not absolutely require coed practices, so that teams which need to practice together and are separate by sex can still practice as a team. S.F. 914 also specifically does not prohibit competition events separated by sex, and we agree that this is a logical provision.

The League of Women Voters supports the provision for all sports being offered in the same season for both boys and girls. The economies and advantages of coed practices are clearly not possible without this requirement. Presently most sports are already offered that way, so S.F. 914 will not cause enormous disruption for school districts. At this time, however, three sports have separate seasons: gymnastics, swimming and tennis. Some school districts will complain about shortages of facilities, but this problem can be solved by having junior high and senior high programs in separate seasons or possibly junior varsity and varsity programs separately, by season. At any rate, convenience is not an excuse for inequality. Often in our society, we are able to change and to work out inconveniences for the sake of a higher goal. This is a chance for school districts to demonstrate the creativity and flexibility they showed when, several years ago, they set the girls' basketball season in the winter. We need not be prisoners of past practice when our goal is equal opportunity in the future.

We also support subdivision three, since there is an historic lag in skills and interest in athletics among girls and although this is rapidly changing, the kind of separate remedial program allowed in this subdivision appears to be furthering equal opportunity rather than curtailing it.

Subdivision four, as mentioned earlier, causes us problems. We do not see why the date for integrated athletic programs for children 11 years of age and younger should be postponed until 1981. We presume that since present law required this by July 1 of last year, school districts and park recreation programs are already in compliance, and this provision is entirely unnecessary.

Section four deals with restructuring the Minnesota State High School League. The League of Women Voters has made no study of the High School League although some have suggested it, as we have become involved in our monitoring project and have come to realize how much power the High School League wields in promoting or hindering equal opportunity for girls. We believe that there may be merit in the provision to place governance in the hands of elected school board members rather than being shared with appointed athletic directors and superintendents. However, we leave general discussion of this section to others.

Section five deals with mandating coeducational tournaments and may be a logical extension of the provisions which the League of Women Voters has earlier supported. However, we believe it is more specific than we are comfortable supporting based on our position on equal opportunity.

Finally, we support repeal of M.S. 126.21 as provided in the final section, but only if the significant portions of that law are retained in the final version of this one. We believe that this bill is a significant improvement over present law in that it spells out legislative intent much more clearly. The same purpose could have been accomplished had reasonable rules been promulgated by the Department of Human Rights. Since that has not occurred, we strongly support this bill.

We are confident that you in the legislature agree with the League of Women Voters of Minnesota in supporting equal opportunity for the girls and women who make up half of our state's population. We know that you want progress toward the American ideal of equality and justice for all. We therefore urge your favorable consideration of S.F. 914.

Thank you.

CONFERENCE COMMITTEE REPORT ON H.F. 455,
EQUAL OPPORTUNITY IN ATHLETICS

The League of Women Voters of Minnesota (LWVMN) urges the defeat of the Conference Committee Report on H.F. 455, a bill relating to equal opportunity in athletics, which would amend M.S. 126.21 and 363.02.

Recently the Departments of Human Rights and Education completed draft rules for M.S. 126.21. These rules are a result of many hours of time and effort and have the full support of the two Departments which are most concerned with the enforcement of the statute. LWVMN feels that the rules are clear, well drawn, and do provide for equality of opportunity. The Conference Committee Report on H.F. 455 does not, in our opinion, provide such equality. We refer especially to the following provisions:

- * Teams for children eleven years of age or younger or in the sixth grade or below may be restricted to girls if there is a "demonstrated interest" in an all-girl team.

LWVMN questions how it is possible for a very young child to knowingly demonstrate the need for a single sex team. Is this a means for local park and recreation departments to return to single sex teams?

- * Teams will not be required to have combined practice sessions or any other combined activities.

Combined practice permits both sexes to have the advantage of special coaching skills and might prove to have economic benefits for small school districts.

- * Separate teams for boys and girls in the same sports need not compete in the same seasons.

This makes it more difficult for the female athlete who wishes to "cross over" to do so. It also means that one team may have to compete in a less favorable season (from the standpoints of weather and/or community interest).

IT IS ALSO IMPORTANT TO REMEMBER THAT THE NEW LAW MAY NOT BE ENFORCED UNTIL NEW RULES ARE DRAWN UP. PAST EXPERIENCE SHOWS THAT THIS CAN BE A LONG AND INVOLVED PROCESS!

EQUALITY OF OPPORTUNITY
IN ATHLETICS

To: Local League Presidents, H.R. Chairs or Athletic Monitoring Chairs
From: Jeannette Kahlenberg, LWVMN Human Resources Chair, 429-6070
Date: March 29, 1979

Re: League opposition to: H.F. 455 (C. Johnson, Weaver, Olsen, Kalis, Eken)

BACKGROUND: Judge Ronald Hachey's interpretation of current law (MS 126.21) attached.
Capitol Letter - March 9, 1979

- **1. H.F. 455 focuses on separation, not equal opportunity. The crucial issue is that present law, as interpreted by the court, requires equal opportunity. Under H.F. 455 school districts could abolish, cut back, or not expand opportunities for girls without being found "discriminatory," as long as they allow the excluded sex, presumably girls, to try out for existing boys' teams. We question how many girls' needs will be met by allowing them to try out for football. The definition of "equal opportunity" amended onto H.F. 455 in committee in no way changes the lack of incentive to provide that opportunity to girls.
2. The jurisdictional confusion is intensified rather than clarified by H.F. 455 as amended in committee. A new complaint process is established within the Department of Education, just for elementary-secondary athletic discrimination, a wasteful duplication of the Department of Human Rights and estimated by the Department of Education to cost \$70,000. From LWV perspective, either department could write rules for the law, but the Human Rights Department should retain jurisdiction over the complaint process. The Department of Education also has no authority over "public services" (such as park and recreation programs) which were re-inserted into the bill 3/26, and so Human Rights must presumably write rules to cover them.
3. H.F. 455 simply shifts the battle over equal opportunity from the state courts to the federal courts, as Title IX is stronger.
4. H.F. 455 would allow elementary programs to have separate teams by sex. Yet coed elementary programs are just beginning to work well in many areas. At least more time to try them out seems warranted. The reasons for problems are sociological - not physiological.

**LWVMN's MOST IMPORTANT ARGUMENT IN LIGHT OF OUR EQUALITY OF OPPORTUNITY POSITION.

STATUS OF H.F. 455

On March 19 and 26 the Education Committee heard one hour of planned testimony on H.F. 298 (Kahn, Wynia, Jaros) and one hour of planned testimony on H.F. 455. Although there were a number of individuals and groups present desiring to testify on both bills, none of these individuals or groups were allowed to present their testimony. LWVMN did testify in support of H.F. 298 as part of the planned testimony but was not allowed to present our concerns and objections to H.F. 455.

The Governor had sent a letter to the committee expressing his concern about the need to clarify the law and indicating that he would ask the new Commissioner of Human Rights to address this issue as soon as possible. He offered the support of his office in facilitating cooperation between the Departments of Education and Human Rights in developing workable rules to clarify this issue.

In spite of the concern expressed by the Governor and concerns expressed by the vice chairman of the committee, H.F. 455 was moved to pass. There were roll call votes on postponing action or strengthening amendments. The proponents of these amendments were R. Kelly, Levi, Long, K. Nelson (Vice chairman of the Education Committee), Otis, Tomlinson, and Zubay. ALL of their efforts to improve H.F. 455 were defeated 7 to 22. The final vote to recommend to pass succeeded. H.F. 455 is now on its way to the House floor.

HOUSE COMMITTEE ON EDUCATION

Johnson, Chairman
Nelson, K., Vice Chairman
Ainley
Anderson, B.
Carlson, L.
Drew
Eken
Elloff
Esau
Fjoslien
Heap
Hoberg
Jennings
Kalis
Kelly

Knickerbocker
Kostohryz
Levi
Long
Mann
McEachern
Nelsen, M.
Niehaus
Olsen
Otis
Radalen
Sherwood
Thiede
Tomlinson
Zubay

WHAT TO DO:

If your Representatives are R. Kelly, Levi, Long, K. Nelson, Otis, Tomlinson and Zubay, call them and thank them for their efforts to strengthen H.F. 455 and ask that they continue to work for a stronger bill on the floor.

ALL OTHER LEAGUES:

1. Urge a "no" vote on H.F. 455, or at least postponement of action. This is a complex subject, and postponement would allow time for the Department of Human Rights and the Department of Education to develop workable rules to clarify this issue.
2. If he/she is unwilling to do that,

(1) Ask that a section be added defining "equal opportunity" in athletics to exist if:

- (a) both sexes actually participate in proportion to their numbers and interest levels.
- (b) available teams and sports accommodate the numbers and interests of both sexes.

The practical effect of this amendment would be that for school districts to avoid discrimination, they must provide separate sports (such as volleyball) to balance those which do not interest girls (such as football); they must also provide separate girls' teams in sports which interest girls but where most girls would not have the opportunity to participate on the existing boys' teams, due to less height, weight, strength, skill level, etc.

- (2) Ask that the departments be required to coordinate their rules and that the law require rules to be promulgated within a reasonable length of time (6 months) and also that the Human Rights Department handle complaints.

3. Another approach would be to suggest that despite a cost factor, the bill was

not sent to Appropriations and a re-referral to Appropriations is appropriate before consideration by the full House.

REMEMBER:

The real issue is "equal opportunity."

Many school districts now provide more athletic opportunities for boys than for girls, and about twice as many boys as girls participate in high school athletics in Minnesota. H.F. 455 would allow this to continue and declare it is not discrimination.

Use the figures from your own LWV monitoring project, if you have one, to indicate whether your school district's opportunities for and participation of girls are equal yet.

NOTE:

If separate teams in the same sport do exist, existing law requires equal budget and treatment. This is not changed in H.F. 455.

We are not debating the Department of Human Rights' 19 points of conciliation, "sexual parity," or their withdrawn "proposed rules." We are not even debating "separate teams," as present law and H.F. 298 which LWVMN supported and H.F. 455 allow for separate girls' teams. Even the "unrestricted" teams allowed under H.F. 298 would, in practice, be substantially boys' teams.

If your Representative has questions that you cannot answer, please tell him that I will be happy to talk with him about the issues. Please let me know the results of your conversation with your Representative.

BILLS RELATING TO EQUAL OPPORTUNITY
IN ATHLETICS

To: Presidents, H.R. Chairs, or Athletic Monitoring Chair in Districts 15 (Strand), 53 (Knutson), 55 (Stokowski) and 64 (Stumpf, Chairman)

From: Jeannette Kahlenberg, LWVMN Human Resources Chair - 429-6070

Re: S.F. 914 (Dieterich, Coleman, Staples, Brataas, Lewis) - Companion H.F. 298
S.F. 526 (Merriam, Dunn, Knaak, Wegener, Setzepfandt) - Companion H.F. 455

Date: March 28, 1979

BACKGROUND: Judge Ronald Hachey's Interpretation of Current Law (MS 126-21) attached.
Capitol Letter - March 9, 1979

LWVMN supports the following provisions of S.F. 914 (Dieterich, Coleman, Staples, Brataas, and Lewis):

- **1. It defines "equal opportunity" in athletics to exist if:
- A. both sexes actually participate in proportion to their numbers and interest levels.
 - B. Available teams and sports accommodate the numbers and interests of both sexes.

The practical effect is that for school districts to avoid discriminations, they must provide separate sports (such as volleyball) to balance those which do not interest girls (such as football); they must also ^{provide} separate girls' teams in sports which interest girls but where most girls would not have the opportunity to participate on the existing boys' teams, due to less height, weight, strength, skill level, etc.

- 2. Separate teams restricted to girls when necessary to provide them with an equal opportunity to participate in the athletic program (present law).
- 3. Cross-over of highly talented girls onto the ^{un}restricted teams if they are interested and are sufficiently skilled (will be small number).
- 4. Separation of sexes in special programs designed to improve the skills of "those who otherwise would be non-participants." This is to meet the needs of younger girls who are hesitant for sociological and attitudinal but not physiological reasons to participate in coed elementary athletic programs.
- 5. "Public services" (Park and recreation, ~~non-public schools~~, colleges) are included.

LWVMN opposes S.F. 526 (Merriam, Dunn, Wegener, Knaak, and Setzepfandt) because it provides:

- **1. NO requirement for a school district to provide equal opportunity - either balancing sports for girls or even separate teams in sports where boys already have teams. If school districts choose, they can abolish, cut back, or not expand opportunities for girls without being found "discriminatory" as long as they allow the excluded sex, presumably girls, to try out for existing boys' teams. We question how many girls' needs will be met by allowing them to try out for football.

TIME FOR ACTION - Bills Relating to Equal Opportunity in Athletics - 3/28/79

2. Separate teams for boys and girls - no reasons necessary; cross-over can be denied.
3. Jurisdictional overlap, with the Department of Education given jurisdiction over charges of discrimination in athletic programs, a wasteful and costly duplication of the Department of Human Rights. (We do not have a strong preference over which department has rule-making authority for school districts, though Human Rights will presumably have to draw up the rules for public services if they are re-inserted in this bill.)
4. "Public services" have been omitted from this bill though they were amended back onto the House version in committee on 3/26/79.
5. Elementary programs are allowed to be separate just when coed activities are beginning to work well in many areas. At least more time to try them out seems warranted, since there is no physiological reason they could not work.

**LWVMN's most important arguments in light of our equality of opportunity position.

STATUS OF BILLS:

On March 30 S.F. 914 and S.F. 526 are to be heard for the first time in the Senate Education Special Programs Subcommittee. Your Senators are members of this subcommittee.

Status in the House: On March 19 and 26 the Education Committee heard one hour of planned testimony on H.F. 298 (S.F. 914) and one hour of planned testimony on H.F. 455 (S.F. 526). Although there were a number of individuals and groups present desiring to testify on both bills, none of these individuals or groups were allowed to present their testimony. LWVMN did testify in support of H.F. 298 as part of the planned testimony (copy of this testimony included) but was not allowed to present our concerns and objections to H.F. 455.

The Governor had sent a letter to the committee expressing his concern about the need to clarify the law and indicating that he would ask the new Commissioner of Human Rights to address this issue as soon as possible. He offered the support of his office in facilitating cooperation between the Departments of Education and Human Rights in developing workable rules to clarify this issue.

In spite of the concern expressed by the Governor and concerns expressed by the chairman of the committee, H.F. 455 was moved to pass. There were roll call votes on postponing action or strengthening amendments. All of these attempts to improve H.F. 455 were defeated 7 to 22. The final vote to recommend to pass succeeded. (You will be receiving another TIME FOR ACTION about contacting your Representatives before floor vote on H.F. 455.)

WHAT TO DO:

Because of action in the House and the current status of House versions H.F. 298/S.F. 914 and H.F. 455/S.F. 526, PLEASE CONTACT YOUR SENATOR NOW! Ask him

1. To support S.F. 914 and oppose S.F. 526.
2. If he is unwilling to do that, to consider the Governor's request that action be delayed until the new Commissioner of Human Rights can confer with the Commissioner of Education to see if sensible rules for the present law can be written, after adequate input from all parties.

3. If still not receptive, ask him to support strengthening amendments to S.F. 526 to define and require equal opportunity. The words of Section 2 of S.F. 914 could be used. (Page 1 - **1. It defines.....)
4. Ask that handling complaints remain with the Human Rights Department. Indicate that a compromise is possible with the State Board of Education writing rules rather than Human Rights Department, as long as rules are promulgated in a reasonable length of time and are coordinated with Human Rights' rules on athletic programs in "public services."

REMEMBER:

The real issue is "equal opportunity."

Many school districts now provide more athletic opportunities for boys than for girls, and about twice as many boys as girls participate in high school athletics in Minnesota. S.F. 526 would allow this to continue and declare it is not discrimination.

Use the figures from your own LWV monitoring project, if you have one, to indicate whether your school district's opportunities for and participation of girls are equal yet. Statewide, high school level participation is about 2/1, boys to girls.

NOTE:

If separate teams in the same sport do exist, existing law requires equal budget and treatment. This is not changed in S.F. 914 or S.F. 526.

LWVMN has not studied the Minnesota State High School League, and so we took no position on its restructuring or on putting it under the Chap. 15 rule making process, or on requiring coed tournaments: provisions of S.F. 914.

We are not debating the Department of Human Rights' 19 points of conciliation, "sexual parity," or their withdrawn "proposed rules." We are not even debating "separate teams," as both bills allow for separate girls' teams. The unrestricted teams, under S.F. 914, will, in practice, be substantially boys' teams.

If your Senator has questions that you cannot answer, please tell him that I will be happy to talk with him about the issues. Please let me know the results of your conversation with your Senator.



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

To: Ms. Natalie Gaull
Office of Hearing Examiners
Room 300
1745 University Avenue
St. Paul, Minnesota 55104

From: League of Women Voters of Minnesota
Helene Borg, President
Jeannette Kahlenberg, Human Resources Chair
Elizabeth Ebbott, Girls' Athletics Project Chair

Date: February 22, 1979

The League of Women Voters of Minnesota requests that the following comments be accepted as additional written testimony and entered into the record In the Matter of the Proposed Rules Relating to Sex Discrimination In Athletic Programs which has been submitted for hearing by the Minnesota Department of Human Rights.

The attached data provide a very good base line for looking at the level of girls' participation in athletics in Minnesota junior and senior high schools in 1978. The figures we have used are taken from the Department of Education report, "Opportunities and Discrimination in Interscholastic Athletics in Minnesota Public School Districts," October 1978, which was presented to the State Board of Education in December 1978. A copy of this report is attached. The data in the report was compiled from "Junior High and Senior High Interscholastic Student Athletic Activities Program Report," submitted to the Department of Education by over 400 of the state's 438 public school districts in July 1978, covering the 1977-78 school year.

The League of Women Voters put together these figures in new ways to provide more meaningful data. We have used these statistics to give a total picture of girls' participation by team opportunities. The participation numbers are also provided. The Department of Education figures do not give line totals of dollars being spent on each sport, so only the total program dollars are given. The "Unitary" category in the Department of Education report is prorated by the girl/boy ratio of participation in this category. A comparison with Minnesota State High School League figures on numbers of teams is also provided. Here the reported team opportunities also include private schools which are members of the MSHSL. The source of the MSHSL figures is the attached document provided by the MSHSL to a League of Women Voters workshop on October 17, 1978. The 1978-79 figures are not indicated as estimates but they are tentative, since this material was furnished to the LWV in October, when students were not yet committed to winter and spring sports. For purposes of comparison, we have indicated the figures from

the MSHSL for the 1977-78 school year.

The figures show that at the high school level, both the MSHSL and the MN Department of Education indicate 42-43% of the high school teams in the state are for girls; 56-57% for boys. From this point on, the statistics gap widens. The Department of Education shows:

Junior High Schools: 40% participation by girls using 37% of the reported money.
Senior High Schools: 36% participation by girls using 34% of the over \$18,200,000 reported spent on senior high sports.

In 1977-78, there were 54,000 girls reported in senior high sports, 98,000 boys. The 44,000 difference represents the number of boys participating in the four sports of football, wrestling, ice hockey, and soccer, with still over 3,000 more boys involved in athletics than girls. The MSHSL team opportunity figures show 2508 girls' teams and 3447 boys' teams, so that boys in the state have 939 participation opportunities in excess of girls, represented by football, ice hockey, soccer, and 239 more teams.

Season participation shows that girls are 40% of those involved in the fall in senior high schools, but for winter and spring sports, the percentage is down to 33% and actual numbers have declined by 3,000 each of those seasons. This is why the LWV urges attention be given to the seasonal placing of sports.

It should be noted that the report by the Department of Education explains that they are missing 30 to 40 schools districts. Since this includes Minneapolis, at least one of the major school systems of the state, this may make those figures somewhat distorted. For instance, comparing teams with those reported by the MSHSL, the Department of Education figures show they have received reports of 78% of the football teams but only 23 of the MSHSL's 65 girls' ski teams and only 18 of the MSHSL's 52 boys' soccer teams: a 35% response in these sports to the Department of Education. Ice Hockey is only 55% reported to the Department of Education. There is also no report of badminton, a sport played in all 10 of the Minneapolis high schools. The almost \$900,000 that Minneapolis spends on high school sports is not reflected in the financial totals.

The summary of the report figures prepared by the Department of Education poses problems for anyone trying to understand how many girls are participating in inter-scholastic sports; what money is being spent for them; the dollars spent on the total sports program. The report narration effectively obscures the significance of the data. It appears that the intent has not been to inform the public of the status of equal opportunity for girls in Minnesota.

These are the reasons why the League of Women Voters believes that the filing of reports should be required by rule; that they should be required of the state's private secondary schools; and that it be clearly understood that the purpose of the reporting is to evaluate compliance with M.S. 363 and M.S. 126.21.

The League believes that this kind of analysis is important since it shows where sports stand today and it forms a most valuable base line to see what future compliance means. The figures demonstrate the distance we have yet to go to reach equality and they show the need to proceed with compliance. Final adoption of rules will assist in this process.

Again, we emphasize that the League of Women Voters of Minnesota is basically in support of these proposed rules. We believe it is time to move ahead toward defining clearly, once and for all, the rights of girls in the athletic programs of this state. The public and the cause of equality require timely promulgation of rules on equal opportunity.

League of Women Voters of Minnesota
Analysis of Participation of Girls in Interscholastic Athletic Programs
 Based on MN Department of Education report of data filed
 by over 400 school districts, School year 1977-78

Junior High Schools

<u>Sport</u>	<u>Team Numbers</u>		<u>Participation Numbers</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Football	-	346	1	20,588
Hockey	-	10	136	685
Wrestling	-	193	6	6,412
Volleyball	249	-	8,918	-
Soccer	10	16	320	2,033
Basketball	342	365	11,840	14,672
Track and Field	257	263	9,641	10,449
Swimming	55	45	2,688	1,987
Tennis	79	69	2,633	2,421
Gymnastics	93	14	5,432	593
Golf	75	108	713	2,166
Skiing, downhill	4	5	63	74
Skiing, cross country	58	76	513	1,225
Baseball/softball	69	169	3,397	6,481
Curling	1	1	16	16
Total:	1,296	1,683	46,352	69,839
Percentage:	44%	56%	40%	60%
Total expenditure:	Girls - \$1,900,881		Boys - \$3,204,200	
Percentage:	37%		63%	
Ave. cost/participant:	\$41.00		\$45.88	

Analysis of Participation of Girls in Interscholastic Athletic Programs (cont.)Senior High Schools

<u>Sport</u>	<u>Team Numbers</u>		<u>MSL Teams *</u>		<u>Participation Numbers (Dpt. of Ed)</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Football	-	395	-	504	6	24,360
Hockey	-	81	-	148	3	4,130
Wrestling	-	278	-	366	-	9,933
Volleyball	370	-	483	-	12,184	-
Soccer	4	18	-	48	244	2,038
Basketball	402	408	504	514	11,728	14,215
Track and Field	367	353	474	461	10,983	17,057
Swimming	81	79	122	127	3,102	2,992
Tennis	130	116	188	180	3,169	3,112
Gymnastics	136	22	172	45	4,210	713
Golf	133	221	160	306	1,509	3,855
Skiing, downhill	23	25	65	60	455	800
Skiing, cross country	27	25	-	-	567	685
Skiing, jumping	-	8	-	-	7	64
Cross-country	124	181	179	264	1,358	3,562
Baseball/softball	123	319	161	424	4,421	10,291
Curling	1	2	-	-	22	36
Total:	1,921	2,531	2,508	3,447	53,972	97,843
Percentage:	43%	57%	42%	58%	36%	64%

Total expenditure: Girls - \$6,214,000
 Percentage 34%
 Ave. cost/participant \$115.13

Boys - \$11,991,000
 66%
 \$122.55

<u>Seasons</u>	<u>Participation</u>		<u>Percentage</u>		<u>Percentage of Year's Participation/Season</u>	
	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>	<u>Girls</u>	<u>Boys</u>
Fall	20,063	30,673	40%	60%	37%	31%
Winter	16,996	32,855	34%	66%	32%	34%
Spring	16,913	34,315	33%	67%	31%	35%
Total:	53,972	97,843			100%	100%

* Minnesota State High School League (MSHSL) figures include private senior high schools which are not included in the Department of Education figures. Source: Document furnished to League of Women Voters Workshop on Athletics, Oct. 17, 1978, by the Minnesota State High School League. (copy attached.)

ORAL TESTIMONY for the Public Hearing In the Matter of the Proposed Adoption of Rules of the MN Dept. of Human Rights Governing Sex Discrimination in Athletic Programs. Feb. 9, 1979, Anoka, MN.

I am Jeannette Kahlenberg, member of the State Board of Directors of the League of Women Voters of Minnesota. I have specific responsibility for the State League in the area of "Equal Opportunity". Also testifying for the League will be Elizabeth Ebbott, who chairs the League's state-wide "Equal Opportunity in Athletics" project.

The League of Women Voters of Minnesota has already submitted written testimony in support of the proposed rules. Today we wish to make a public statement in support of the principles underlying the rules.

Basically, we are in support of the rules as proposed, because we have a strong position, as a League, on equal opportunity for all people. This is the goal of the basic human rights law, M.S. 363, and is reiterated in M.S. 126.21, the two laws upon which these proposed rules are based.

The first principle we uphold is clearly stated in M.S. 363.03, that there should be no discrimination on the basis of sex in the athletic programs of school districts. A paradox arises here because the Human Rights statute also defines "separation" as "discrimination". Yet if we look at school athletic programs for students grades 7 and up, most girls would not be able to compete in a totally integrated program, due to less height and weight and historically less emphasis on skill development. Therefore, since a second basic principle we hold is equal opportunity for both boys and girls to participate in athletics, we support the proposed rules which allow separate programs for girls when necessary.

To find out if these separate programs are necessary, we need some facts. So--the League supports the analysis of participation, outlined in these proposed rules. If school districts find out that there are not proportional numbers of girls and boys participating in the athletic program, then they have to do something. It appears clear, to even the most casual observer, that under these proposed rules, almost all school districts in the state will probably have to do something. Because probably very few districts in the state have substantially equal numbers of boys and girls active in athletics.

This fact is borne out by the Dept. of Education figures, by the MN State High School League figures, and by the preliminary findings of projects in which the League of Women Voters is presently engaged, monitoring the provision of equal athletic opportunities in about 50 MN school districts. The current participation rate of high school boys to girls in MN is a little less than 2/1. This is a tremendous improvement over 5 or 10 years ago, but it is not equal.

We support, therefore, the interest assessment of the under-represented sex, girls, and then the provision of equal opportunities for those girls. There are two alternatives provided in the proposed rules and in Judge Ronald Hachey's 1976 interpretation of the law.

One is the provision of a separate team in the same sport, for example, two basketball teams. This is already being done in most school districts and seems minimum justice. Providing equal benefits and budgets per participant is in the law and is non-controversial. Gate receipts are excluded, for the benefit presumably, of long-established popular boys' sports.

Controversy arises, however, on some further points. We believe it is legitimate at this point in history to allow the separate girls' teams to be restricted to girls as stated in the proposed rules and in the law. Otherwise, they would

likely be quickly taken over by stronger bigger boys. The rules allow restricted membership only for girls' teams, and the League of Women Voters supports this provision. This permits exceptional girls who find themselves able to compete with boys and who are interested in the tougher competition, to participate on either team. A significant case in point is Paula Macdonald, the unusually fine swimmer in Burnsville, whose skills did not improve when she was restricted to a less challenging girls' swim team after having competed very successfully on a boys' team in junior high. In 1977, Hearing Examiner George Beck ruled that both the Burnsville School District and the Minnesota State High School League were in violation of the law in Paula's case.

Paula Macdonald's problems would not have been as severe, if the proposed rules had been in effect, mandating coeducational practices when possible. The League of Women Voters supports this provision. It offers the chance for financially hard-pressed school districts to expand their sports program by having joint coaching, practices, and bus travel to meets, with competition still separated on the basis of sex. Shared coaching and training are already the practice in a number of school districts in the state: cross-country a notable example. We believe that to have boys and girls work together in practice on some of the same skills can be healthy and to the advantage of both, particularly in individual sports such as tennis, golf, swimming, skiing, gymnastics, track and cross country. Coeducational phy ed classes are now the rule in all of our high schools and have worked well. Coed practices in athletic programs similarly can be positive experiences.

Coeducational practices when two separate teams are offered in the same sport presupposes one season for both teams. Most sports are now offered that way, so the proposed rules should not cause enormous disruption for school districts. Presently, however, three sports have separate seasons: gymnastics, swimming and tennis. Instead of having Junior Varsity and Varsity teams in separate seasons, the possible shortage of facilities could be alleviated by having junior high and senior high activities in separate seasons. At any rate, convenience is not an excuse for inequality. Often in our society we are able to work out inconveniences and change our way of doing things for the sake of a higher goal. This is a chance for school districts to show creativity and flexibility as they did when, several years ago, they set the girls' basketball season in the winter. We need not be prisoners of past practice when our goal is equal opportunity in the future.

A somewhat separate issue arises when school districts are asked to provide a separate team in a different sport, in order to balance sports that are now reaching only boys. This is required in the proposed rules and by Judge Hachey's 1976 interpretation of M.S. 126.21. At this time, MN schools are generally only offering volleyball to girls to balance four sports usually in practice limited to boys: football, ice hockey, soccer, and wrestling. A 4 to 1 ratio is not equal. The proposed rules would move more school districts in the direction of facing that issue squarely. Because these basically boys' sports are popular ones, does not mean that we can dismiss the question of equity. The League of Women Voters supports equal opportunity for all. To say "We've already upgraded girls' programs enough, leave us alone" does not mean the law and the principle of equality can legitimately be ignored by state policy.

Finally, the question has been raised at this hearing as to whether these rules are even needed. Last fall, I sat in a legislative subcommittee, where school districts which has been charge with committing an unfair discriminatory practice

demanding that rules be written. The League believes it is important for the sake of the school districts which are administering athletic programs, for the sake of public understanding, and for the sake of the girls who are students in MN schools, that rules be promulgated clarifying and spelling out the law.

The League of Women Voters basically supports the proposed rules as written. We do not believe that these rules are asking for the impossible, only for progress toward the American ideal of equality and justice for all.

We do see a few problems with the rules as proposed. Elizabeth Ebbott will now comment on these areas:

TESTIMONY _ RULES HEARING, FEBRUARY 9, 1979

There are several areas in the proped rules about which we have some concern:

First is that they are too narrowly deined by applying only to schools. They do not cover the athletic programs of city recreation departments or private athletic organizations using public facilities. Mn State 363 and 126.21 apply to public services and educational institutions, including private as well as public schools. For this reason, because of the broad coverage, it is appropriate that the Department of Human Rights rather than the Department of Education is involved in writing these proposed rules. The Department of Human Rights has made it a part of the hearing record that the areas of the laws omitted were done to help clarify the portion that is covered by the rules. We urge that the rule process begin soon to cover these omissions.

Secondly, we believe that the definition of "sport" ought not to be tied to those activities for which the Minnesota State High School League now sponsors state-level tournaments, because this limits the emergence of new sports such as badmitton, girls' soccer, field hockey, speed skating and the like. We are faced with a Catch-22 situation: schools can't start a new sport unless the MSHSL has a state tournament in it; and the MSHSL won't have a state tournament in that sport until there are vnuogh schools playing it. Also the MSHSL doesn't regulate junior high school ~~xx~~ programs. We suggest the easiest solution is to define "sport" by listing the present activities considered sport, thus avoiding such activities as sheerleading and danceline, and then provide a mechanism for adding additional sports in the future.

3. We believe the participation rate of boys and girls should be substantially equalized per season. This should be taken into consideration when setting the seasons for sompetition. The importance of this was pointed out by Hudge Hachey in his decision.

4. We also believe that there ought to be a more explicit statement of what is meant by "benefits, services, and privileges" for separate teams.

5. Although we basically support the concept of coeducational practices, we believe that there ought to be a distiction in the proposed rules between team and individual sports. It is reasonable that teams ought to be able to practice together as a team in a team sport, such as basketball.

6. We also believe that there needs to be clarification of the wording in the * rule regarding equal budgets for separate teams in different sport. This has been brought up in previous testimony. We would add though, that to define equal as meaning equal to what some other district is currently spending on the new sport, as implied in the Department of Human Rights' Statement of Need and Reasonableness, could mean the perpetuation of inadequately funded girls' programs.

Finally, we believe that reports ought to be required to be filed under these rules. There is no way now of easily evaluating compliance. The reports filed with the Department of Edycation are optional and are not being filed by private schools. We would like to see the requirement of reports.

The LWV would like to have entered into the record the statistics complied by the Deparment of Education from reports filed on a voluntary basis from the local school districts. The responses are from over 400 of the state's 438 school districts, so for the first time a very comprehensive look at girls' participation in athletics is available.

It should also be noted that the report by the Department of Education indicates that they are probably missing some of the major school systems of the state which may make the figures somewhat distorted. For instance, comparing teams with those reported by the MSHSL, the Dept. Of Ed. figures show they have 80% of the football teams reported, but only 25 of the state's 69 skiing teams and only 18 of the state's 52 soccer teams. A 35% response in these sports. Ice hockey and gymnastics are only 55% reported. And since there is no report of badminton, a sport played in all 10 of the Minneapolis high schools, it would appear that the almost \$900,000 that Minneapolis spends on high school sports is not included in the totals.

To some extent the team difference can be explained because the state has over 100 private high schools that may be involved in MSHSL sports not reported by the Department of Education.

The summary of the report figures prepared by the Department of Education poses problems for anyone trying to understand how many girls are participating in interscholastic sports; what money is being spent for them; for the total sports' program. No summary information was provided on the costs of individual sports. The report narration effectively obscures the significance of the data. It appears that the intent has been not to inform the public of where the state stands in providing equal opportunity for girls.

These are the reasons why the League of Women Voters feels that the filing of reports should be required by rule; that they should be required of the state's private secondary schools; and that it be clearly understood that the purpose of the reporting is to evaluate compliance with Mn State 363 and 126.21.

The LWV has used the reported actual numbers to compile information about sports participation in Minnesota. This information and the Department of Education's report will be submitted in writing. The figures show that at the high school level, both the MSHSL and the Mn Dept of Ed indicate 43% of the high school teams in the state are for girls; 57% for boys. From this point on the statistics gap widens.

Junior High schools: 40% participation by girls using 37% of the reported money

Senior High Schools: 36% participation by girls using 34% of the \$18,200,000. spent last year on senior high sports.

Season participation shows that girls are 40% of those involved in the fall ~~for~~ at the senior high level, but for winter and spring sports their percentage is down to 33% and their actual numbers had declined by 3,000 for those two seasons. This is why we urge attention be paid to the seasonal placing of sports.

There is a great

~~distance yet to go~~/distance yet to go, if you assume that half of the school population has equal rights to participate along with the other half, and it is hard to argue that you can stop anywhere short of that. In 1977-78 there were 54,000 girls in senior high school sports, 98,000 boys. The 44,000 difference represents the numbers of boys now participating in football, wrestling, ice hockey and soccer, with still over 3,000 more boys involved than girls.

The LWV feels that this kind of analysis is important since it shows where sports stand today and it forms a most valuable base line to see what future compliance means. The distance yet to go to reach equality that the figures demonstrate, show the need to get on with compliance which adopting rules will assist.

Again, we emphasize that the League of Women Voters of Minnesota is basically in support of these proposed rules. We believe it is time to move ahead with defining clearly, once and for all, the rights of girls in the athletic programs of this state. The public and the cause of equality require timely promulgation of rules on equal opportunity.



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

To: Ms. Natalie Gaull
Office of Hearing Examiners
Room 300
1745 University Avenue
St. Paul, MN 55104

From: League of Women Voters of Minnesota
Helene Borg, President
Jeannette Kahlenberg, Human Resources Chair
Elizabeth Ebbott, Girls' Athletics Project Chair

Date: January 31, 1979

The League of Women Voters of Minnesota requests that the following comments be accepted as written testimony and entered into the record In the Matter of the Proposed Rules Relating to Sex Discrimination in Athletic Programs which has been submitted for hearing by the Minnesota Department of Human Rights:

The League of Women Voters of Minnesota urges that rules 12 MCAR 1.201 - 1.211 be adopted so that those responsible for complying with the laws, M.S. 363.03 and M.S. 126.21, will know what is expected and those whose rights are defined and protected in the laws will be able to understand and secure their rights. The rules as promulgated clarify girls' rights under the laws. They reflect the interpretation of the laws' intent defined by Judge Ronald E. Hachey, District Court, Ramsey County, MN, June 14, 1976, to date, the only legal interpretation of the laws.

The League of Women Voters believes the following concepts in the proposed rules are especially important:

1. Rule 1.203A, which, in accordance with the basic Human Rights statute, 363.03, reaffirms that athletic programs are to be basically operated without separation because of or according to sex. The League of Women Voters supports anti-discrimination laws, and separation is defined as a form of discrimination. However, the League also supports the exception provided in M.S. 126.21 and Rule 1.203A, since its purpose is to provide equal opportunity, and as long as it is seen as an ex-

ception, we believe that it is not an unfair discriminatory act to permit separate teams in grades 7-12 when such separation is shown to be necessary in order to provide each sex with an equal opportunity to participate in athletic programs.

2. Rule 1.203C that allows all female teams. The new teams that are formed to provide balancing opportunities for participation to girls need protection. This must be assured; otherwise boys with greater physical size and strength can dominate the teams and will force girls off them, thus denying girls an equal opportunity to participate. Equal opportunity is the only reason for the separation by sex that is allowed in the law, M.S. 126.21, subd. 1 (1).
3. Rule 1.203F that requires interest assessments. We support analysis of participation rates of boys and girls and the conduct of an interest assessment of students whose sex is under-represented in present programs. Without the collection of such facts, a school district would be unable to plan effectively for an athletic program which would in fact result in equal opportunity for participation by both sexes.
4. Rule 1.204A which requires substantially equal budgetary expenditures per participant for separate teams restricted to females. We strongly support this requirement for equal budgets per participant and equal access to the benefits, services, and privileges of the athletic program. It would be clearly discriminatory, in our opinion, to deny such equal treatment to the new girls' teams.
5. Rule 1204B which requires separate sex teams in the same sport to operate in the same season. Without this provision, the legal mandate that "teams shall be operated separately only in those activities where separation is necessary to provide members of each sex equal opportunity to participate in the athletic program" (M.S. 126.21, subd. 1 (2)), is violated because separation is not based on ensuring equal opportunity to participate, but is based on such other reasons as availability of facilities. Having separate seasons prevents compliance with M.S. 126.21, subd. 1 (2). In tennis, for instance, each sex is physically able to participate equally in combined practices. All can learn from the same coaching. There is no justification based on sexual differences to have separate seasons for boys' and girls' tennis.

6. Rule 1.204C which provides for coeducational practices, when possible. We support this concept, since it is consistent with the legal requirement for coeducational physical education classes in secondary schools. Separation for practice on the basis of activity or skill level rather than sex, we believe, is a non-discriminatory approach.
7. Rule 1.206B in effect allows girls to try out for all teams by preventing organizations such as the Minnesota State High School League from denying females an opportunity to participate in any athletic program, activity, or team. The Statement of Need and Reasonableness for the proposed rules, p. 7, states that this concept is also in the wording of 1.204, first paragraph.

The League of Women Voters supports this provision. If girls' interest in participating is being met by offering a separate sex team for them in that sport, there is nothing in the law that says the opportunity to participate in the other team is forbidden. With boys' superior size and strength, the opportunity to make the "boys'" team will severely limit the number of girls who can participate so in practical terms it will not limit one sex (boys) the opportunity to participate. This also has the positive result of keeping the girls' teams in these sports "essentially equal" because if the quality of the program declines, girls will have the opportunity to try out for the other team.

We find the wording of proposed Rule 1.204, first paragraph, unclear on this point. Since this concept is so important and has been the subject of a prolonged hearing (which came to the same conclusion and is embodied in the rule), we would urge that the wording of Rule 1.204 be adjusted to ensure the concept of Rule 1.206B.

8. Rule 1.208 requiring annual assessment of interests and requiring that this information be retained for two years. It is important that a record be made and maintained demonstrating girls' interests. The current ratio of boys/girls who participate in sports is 60%/40% in junior high and 64%/36% in senior high according to reports filed with the Department of Education for 1978. The only valid excuse for having participation rates less than the ratio of students (presumably about 50/50) would be lack of interest on the part of girls. The degree of interest to participate should require statistical documentaion.

While the League of Women Voters is basically supportive of the rules, we would urge clarification or some additions as follows:

1. Since M.S. 126.21 is the basis of the provision in the rules that allows separation based on sex under certain circumstances, that statute should be referred to as one of the statutory authorities of the rule.
2. M.S. 126.21 applies to public services as well as educational institutions. We believe that the rules should apply not just to primary, junior high, and senior high schools in the state, but also more broadly to athletic programs conducted by city recreation departments or private organizations which use public facilities. It would be useful if the public record showed that the Department of Human Rights intends to prepare rules covering public service as well as post high school programs in the near future.
3. Rule 1.202A which contains a definition of "sport." This definition is too narrow when it describes sports as those activities for which a "Minnesota High School League" sponsors state-level tournaments. The Minnesota State High School League (MSHSL) is an organization whose procedures in determining whether an activity will have a state tournament (and thus fit the definition of a "sport") are not controlled by law. It is therefore inappropriate to link the definition of a "sport" to the MSHSL. The definition limits the law, since it excludes activities which do not have state tournaments - badminton, ski jumping, curling, and also excludes new and emerging sports that do not yet have enough schools participating so that state tournaments can be organized - soccer for girls, ice hockey for girls, field hockey, etc. This proposed definition becomes a "Catch 22" - schools can't start a new sport unless the MSHSL has state tournaments in it and the MSHSL won't have state tournaments in that sport until there are enough schools playing a new sport. This prevents development of new sport activities. The proposed wording also poses problems because MSHSL deals only with Senior High activities. It is unclear what this definition means for junior high activities.

We would suggest that the easiest solution is to define "sport" by listing those activities that are now considered sports and allowing the Department of Human Rights to add additional ones in the future.

4. Rule 1.202D, which defines "participation rate." It should be made clear that opportunities to participate should be substantially equal during each season.
5. Rule 1.203F, dealing with interest assessment. We believe that a new rule 1.203G ought to be added to enlarge the concept of an interest survey. It could read: "If the interest assessment indicates a lack of

interest in the athletic program by one sex relative to the interest of the other sex, the school district should make a good faith effort to encourage the under-represented sex to participate in the athletic program and offer them opportunities to expand their skills."

6. Rule 1.204A on equal treatment of separate teams. We would prefer a more explicit listing of the "benefits, services, and privileges" referred to in this rule. We believe the list ought to specifically include: equally skilled coaching staff, equal coaching time, equal use of facilities for practice sessions and events at desirable times and dates; equal provision of equipment, uniforms, supplies and medical assistance; equal transportation service; equal representation in athletic associations; equal number of practice sessions, competitive events and competition levels; equal levels of competition in practice sessions and competitive events; equivalent food, officials' services, cleaning and repair of equipment and uniforms; and equal fees for participation in or access to any sports event. We also point out that the phrase "benefits, services, and privileges" is also used in Rule 1.205B so that a reference to the explicit list should be included there.
7. Rule 1.204C and D: on coeducational practices. The wording of section D seems to mandate coeducational practices. However, it might be appropriate to allow greater flexibility. Practicing as a team, in a team sport such as basketball, might be justified. We suggest consideration of a distinction being made between individual and team sports.
8. Rule 1.204D on coaching. We believe the term "coaches" is misleading and implies there must be separate coaches for two entirely separate teams. Better wording might be: "Coaching at coeducational practices shall provide equal benefit to all team members." This reflects better the concept which is clarified in the Statement of Need and Reasonableness, p. 9.
9. Rule 1.205B on equal budget expenditures. The wording of this rule is not clear. It appears to state that the separate teams in different sports shall have expenditures equal to each other. The Statement of Need and Reasonableness, p. 11, implies that the equal expenditure is in relation to what other schools are spending on the new sport. This should be clarified. If it is the latter interpretation, this could mean sanctioning the perpetuation of inadequate expenditures for girls' programs.

10. Rule 1.205C on seasons and tournaments. This rule gives authority to the high school league to determine in what season a sport will be played. This rule should include a requirement that a balance of sports for boys and girls be ensured in each season. This rule might be amended to strike the words after "season" and insert the following: "that will best balance the number of offerings available to males and females in each season. State level tournaments or meets shall be scheduled for the appropriate season." This change also deletes specific reference to the high school league.
11. Rule 1.208D, destruction of records. We suggest the addition of a new Rule 1.208E to require reports on compliance. In order to evaluate compliance, there should be annual reporting of participation numbers and dollars spent, by sex, on athletic programs covered by these rules. At the present time, the Department of Education is collecting data on junior and senior high school programs. However, in order to implement these rules and ensure compliance with M.S. 363.03 and M.S. 126.21, the data collection should be mandated by rule. The Department of Education reports are not required and do not apply to private schools. Their inadequacy is reflected in the numbers of MSHSL schools that did not respond in 1978 to the Department of Education: soccer, 65%; ski teams, 64%; boys' gymnastics, 46%; ice hockey, 45%; and 100 football teams.

The League of Women Voters of Minnesota requests that changes be made in the proposed rules to deal with the above concerns. We reiterate, however, that we are in basic support of them as now promulgated. We would urge that every effort be made to process these rules as soon as possible. The public and the laws will be ill-served until rules are approved.

September 6, 1978

Enclosed for your information is the program for the training session for local Leagues of Women Voters' representatives who will be organizing the project of looking at girls' athletics in their communities.

The program is Tuesday, October 17, 1978, 10:00 a.m. to 3:00 p.m., Weyerhaeuser Room, Ground Floor, Minnesota Historical Society Building, 690 Cedar, St. Paul (next to the State Capitol).

If you are interested in attending, we would be pleased to have you with us. Advanced registration would be appreciated.

Elizabeth Ebbott
409 Birchwood Avenue
White Bear Lake, MN 55110
(612) 426-3643

To: Local Leagues
From: Liz Ebbott
Re: Equality of Opportunity in Athletics
Date: August 15, 1978

ORGANIZING A COMMUNITY LOOK AT GIRLS' ATHLETICS

Anti-discrimination laws affecting girls' participation in athletics have been in force for several years. It is apparent to even the most casual observer of the high school athletic scene that there has been dramatic improvement in girls' activities. Programs are expanding; skills are developing; girls are getting college scholarships for athletic skills. But how equal are the athletic opportunities? The laws are now fully operational. It is time for a careful look by community people to see if the laws are being fully implemented. And if school budget cuts and teacher/coach layoffs are necessary in the future, what will this mean for girls' athletic opportunities?

Problem: Girls 12 and over or 7th grade and older

At the present time the law (MN Stat. 126.21; Fed. Higher Ed. Act, Title IX) and rules (EDU 660-666, Exhibit A) require:

1. When there are two teams in the same sport, there must be substantially equal dollars spent per participant (excluding revenue generated by that sport); equal use of facilities; equal coaching staffs equally trained; equal status given to participants.

Examples: Do the two teams practice as often and as long; do they rotate the time of use of limited practice facilities?
Are the same number of coaches assigned to each team?
Are travel and distant meet opportunities the same for both teams?

2. There must be equal opportunity for girls to participate. Equal number of sports opportunities per season would be an indication of compliance.

Examples: Is someone designated within the athletic program to develop and interest girls in greater athletic opportunities?
If not many girls are out for ice hockey/wrestling, what has been done to find out what sports girls would prefer in the winter season?

3. Girls have the opportunity to try out for a team designated primarily for boys or when there is only one team in that sport for the school (football, ice hockey, wrestling). (MSHSL rules restrict girls to girls' teams if there are both boys' and girls' teams in the sport which are substantially equal. This issue is in the courts. MSHSL - Minnesota State High School League.)

Example: How many girls are on the team when there is only one team in that sport; how many tried out?

Girls under 12 years or under 7th grade

Starting with the 1978-9 school year, there is to be no sex distinction in athletics in the classroom, in after-school public service programs (T-ball, basketball leagues, wrestling programs, etc.)

Examples: How many girls are on the teams playing in the community's ice hockey program, basketball program; how many boys are participating in the gymnastic program?
Are additional efforts being made to encourage both sexes to participate and to teach both sexes the needed skills?

If there is discrimination and past practices have not changed, an individual can file a complaint with the Department of Human Rights and seek remedy. School's state and federal education funds can be cut off until there is compliance.

Equality of Opportunity in Athletics - 2

Rather than getting into individual cases requiring litigation, perhaps costly penalties, it is far more effective to analyze the local situation in light of the law, define shortcomings, arouse public awareness, bring community pressure on those locally responsible for the programs.

Proposal:

Organize a community committee. Use responsible people who have an interest in women's sports/equal opportunity for women (AAUW, Business and Professional Women, local Human Rights Commission members, etc.). Involve parents of girls interested in athletics. Include high school/college girls involved in sports. Keep LWV people in control.

Establish a consultants' group with such people as:

Head of girls' sports in high school; head of boys' sports.

Elementary school athletic director or physical education teacher in elementary school.

The school district's coordinator responsible for discrimination/affirmative action compliance.

The school board member who is the delegate to the Minnesota High School League.

Business office person responsible for the district's financial records.

Head of the community's recreation program or the person responsible for the program's compliance with discrimination/affirmative action laws.

Head of some of the major established youth sport programs for children under 12 years or 7th grade where public facilities or coaches paid from public funds are used. (Little League, hockey, football, gymnastic, etc., programs; those run by volunteer groups, church groups, community recreation programs.)

Person responsible for the sports/athletic program in the private schools in the community that enroll more than one sex. Those serving both under 7th graders and those 7th grade and older.

Procedure:

Local League Board appoint a League person to be responsible for the project in each school district to be covered.

Attend the meeting in St. Paul, early October, to get specific, detailed information on how to proceed and to get answers of all questions. (Minnesota Department of Human Rights is paying mileage, 16¢ a mile.)

Select your community committee.

Familiarize yourself with the laws (pages 5-7).

Set a time table for collecting the information (2-3 months).

Inform the community about the laws and what you are doing. Use the tape-slide presentation prepared by the Department of Human Rights and LWVMN. (Arrangements will be announced at the October meeting.) Work with press coverage.

Adapt the check list (page 4) to your needs.

Contact the superintendent's office of the school district to get copies of the compliance reports that have been filed with the Minnesota Department of Education. (Samples will be available at the October meeting.)

Optional: Conduct a survey of attitudes about girls' participation in athletics; survey girls' interests in sports. (A sample will be available at the October meeting.)

Interview the consultants' group to get their views on how they are complying with the laws. What are they doing to encourage participation by girls?

Set up a meeting or an opportunity for public testimony, comments. Make sure students and parents have a chance to be heard.

Also hold an off-the-record session giving those afraid of publicity or pressure the opportunity to be heard.

Equality of Opportunity in Athletics - 3

Optional: Hold a public hearing with testimony from those who wish to present problems. Allow those responsible for the programs an opportunity to respond. The committee should maintain control of the hearing.

Closely scrutinize the information. Are the school reports accurate? What has been the trend? What are the plans for the future? What is really happening in the elementary schools? What is happening in the community recreation program where reports are not required? In the private schools? Get data; look at dollars; look at percentages of money spent per program, per participant; count the rosters yourself; etc.

Come up with facts and some typical subjective quotes. (It is best to stick to the general, over-all picture and programs, avoiding individual cases.)

The committee should draw together the materials looking for patterns of behavior. What is the conclusion? Present your findings to the school board, community groups, Chamber of Commerce, women's groups, church groups, etc. Interest the community groups in support of girls' activities, sponsoring awards, trips to tournaments, etc. Use the students to tell the story. Girl athlete role-models are badly needed. Share them with the community, the press, programs for elementary girls.

Submit progress reports on your activities to LWV state office (dates to be announced) and a year-end report next spring.

Plan for an on-going monitoring program.

CHECK LIST

- A. For students in 7th grade and above or 12 years old and older:
1. When just one team considered a "boys'" team is available in a sport, is it open to girls on an equal basis? (Football, wrestling, ice hockey, other sports with only one team)
 - *2. For the above sports in total, how many girls are involved? Ratio of girls to boys? Total dollars spent on girls? boys?
 3. Are the number of sports for each sex each season equal? (Unequality may not necessarily indicate discrimination.)
 4. Where there are separate sex teams in the same sport:
are expenditures per participant (exclusive of revenues generated) substantially equal?

Are other factors equal - equipment and supplies, coaches, coaches' training, scheduling games and practice, travel, use of facilities, etc.?
 5. What is done to interest girls to participate in sports; what is done to let them show their interest in sports not presently available? (Indicates good faith intent to comply.)
 6. Go over the above questions for:
junior high interscholastic sports
junior/senior high intermural sports
community recreation program
private schools
- B. For students 6th grade or younger or 11 years or younger:
1. Are all athletic programs designed for and open to members of both sexes on an equal basis?
 2. Have all divisions by sex been eliminated in the programs?
 3. Are the athletic skills taught equally to all children; is remedial help given to those who have difficulty mastering a skill?
 4. What is the sex ratio/team on all teams in the program?
 5. Have the teachers had training/workshops explaining the law and how to implement it?
 6. What has been done to interest girls/explain to girls their opportunities to have equal participation in all athletics?
 7. Go over the above questions for:
community recreation programs
private schools
- C. Has the district filed accurate reports with the State Department of Education: November 15, 1977; July 15, 1978?
- D. What was the evaluation of the November report, returned to the district February, 1978?
- D. *Evaluate over a period of time the press coverage given girls/boys' athletics. Evaluate radio/TV coverage. (Compare inches, column location, page.)

Equality of Opportunity in Athletics - 5

Laws and Rules Dealing with Sex Equality in Athletics in Minnesota - 1978 (not fully quoted)

MN Human Rights Act as amended through July, 1977 - MN Stat. 363-03, Subd. 5(1)

It's an unfair discriminatory practice to discriminate in any manner in the full utilization of or benefit from any educational institution or the services rendered thereby, because of race, color,...sex...etc.

Definitions:

363.01 subd. 10 - Discriminate includes segregate or separate.

363.01 subd. 19 - Public Service - any facility, department, agency, board or commission owned, operated or managed by or on behalf of the State of Minnesota or any subdivision - county, city, township or independent district in the state.

363.01 subd. 20 - Educational Institutions - public or private institutions - nursery through college, business, vocational schools, etc. (363.02 subd. 3 - the sex provision of the law does not apply to private educational institutions which permit students of only one sex to enroll.)

363.05 - Duties of the Commissioner - to administer the law, enforce compliance; to use education, conferences, persuasion to eliminate unfair discriminatory practices; shall conduct research and study discriminatory practices; shall create such local and statewide advisory committees as will effectuate the purposes of the department.

Department of Human Rights Guidelines - Department policy is that "separate but equal" based on sex at any level is illegal.

Sex Discrimination and Equal Opportunity in Athletic Programs - MN Stat. 126.21

In athletic programs operated by education institutions or public services for children 12 years or 7th grade or older, it is not an unfair practice to:

1. Restrict to one sex if necessary to provide equal participation to each sex.
2. Have two teams in the same sport separated according to sex, if there are substantially equal budgets per participants (exclusive of gate receipts and other revenue generated by the sport) and are in all other respects treated in a substantially equal manner. The two teams shall be operated separately only in those activities where separation is necessary to provide the members of each sex equal opportunity to participate.

After 1975-6, when there are two teams based on sex, the budgets shall be substantially equal.

After 1977-8, separation based on sex for those under 12 or 7th grade shall be phased out, and districts shall comply fully with 363.03, subd 5(1), above.

Enforcement Powers - MN Stat. 124-15

Districts are required to file assurances of compliance with state and federal laws prohibiting discrimination. The filing is to be done with the Department of Education. These are reviewed by the Department of Human Rights to determine compliance. If not in compliance, the Department of Education proceeds against the district with the power to reduce state financial aids.

Department of Education Rules - EDU 4

In curriculum, no school shall provide any course or activity on the basis of sex, (health (except human sexuality), phy. ed., home ec., industrial arts).

Department of Education Rules - EDU 660-669

In areas of equal educational opportunity and desegregation:

Schools shall disseminate a policy on non-discrimination on a continual basis.

Reduction in state aids can be the penalty for non-compliance with the rules.

Schools must submit data in this area as required by the Department of Education.

Equality of Opportunity in Athletics - 6

Department of Education Report - Assurance of Compliance with State and Federal Laws Prohibiting Discrimination

1. All athletic programs 6th grade or 11 years or younger are to be designed for and open to both sexes equally.
2. For 7th grade or above or 12 years or older, teams are to be open to members of both sexes on an equal basis# (except where there are separate teams to insure equal opportunity to members of both sexes*).
3. If the district provides separate teams for each sex*, the number of sports for each sex each season is to be equal.
4. If there are separate boys and girls teams*, expenditure per participant (exclusive of revenues generated by the sport) is to be substantially the same for each sex. Other services are also to be equal - equipment and supplies; scheduling games and practice time; travel; coaching; use of facilities; etc.

Title IX - Federal Higher Education Act

Benefits under any educational program or activity receiving federal financial assistance, including athletics, can't be denied on the basis of sex.

Title IX Rules

86.8 - At least one employee is to be designated to insure compliance. Students and employees are to be notified who this is.

86.41 - Athletics

Can't exclude from participation, be denied benefits, be treated differently from another person in interscholastic, club or intermural athletics based on sex; can't provide separate programs based on sex.

Can be separate by sex when based on competitive skill.

Can be separate by sex when a contact sport+.

If only offered to one sex, the sex previously limited can try out unless it is a contact sport+.

Determining facts in equal athletic opportunity:

selection of sports and level of competition accommodates the interests and abilities of members of both sexes (obligation to survey not mentioned).

equal services - equipment and supplies, scheduling games and practice times, travel, coaching, use of facilities, etc.

It does not constitute noncompliance if there are unequal aggregate expenditures per sex in total or if there are unequal expenditures if there are two separate teams based on sex, but failure to provide necessary funds may indicate noncompliance.

Elementary schools must comply by 1976; secondary by July 21, 1978.

86.34 - Access to course offerings, including athletics

No separation based on sex; no refusal to allow participation based on sex.

Grouping according to ability is allowed, but if a single standard of measuring skill or progress has adverse effect on one sex, appropriate standards can be set that don't have this effect.

Elementary and secondary classes in human sexuality can be separated by sex.

Phy. ed. classes or activities can separate by sex in contact sports*.

Athletic scholarships can be granted proportional to the number of students of each sex in interscholastic athletics.

"teams open to members of both sexes on equal basis if there is only one team" - football, hockey, wrestling, soccer, ski jumping, baseball.

* "separate teams in each sport" - basketball, track and field, swimming, tennis, gymnastics, golf, skiing (except jumping), cross country, baseball-softball.

+ "contact sports" - wrestling, boxing, rugby, ice hockey, football, basketball, and other sports where the purpose or major activity involves body contact.

Equality of Opportunity in Athletics - 7

86.14 - Excluded from coverage

YMCA, YWCA, girl scouts, boy scouts, camp fire girls, voluntary youth service organizations exempt from taxation (Int. Rev. Code Sect. 501 (a)) where membership has been traditionally limited to one sex.

If "significant assistance" is provided by public money to a sport - school, public playground, publicly paid coaches, etc., the sport comes under the provisions of Title IX.

The U.S. Supreme Court ruled that girls had to be allowed to play on Little League teams in 1974.

MN Stat. 129-21, Subd. 1, establishes the Minnesota State High School League to regulate interscholastic and extracurricular activities in high schools.

Minnesota State High School League (MSHSL) - Technically this is a voluntary organization. High schools don't have to join. If they do, they may compete in state tournaments and must abide by League rules. These rules set sports' seasons:

<u>Fall</u>	<u>Winter</u>	<u>Spring</u>
Volleyball - G	Gymnastics - G	Tennis - B
Football - B - Unitary	Basketball - B & G	Baseball-Softball - B & G
Soccer - B - Unitary	Wrestling - B - Unitary	Golf - B & G
Gymnastics - B	Hockey - B - Unitary	Track - B 7 G
Tennis - G	Skiing - cross country & down hill - B & G	
Swimming - G	Swimming - B	
Cross Country - B & G		
4 Girls	3 Girls	3 Girls
4 Boys (2 Unitary)	5 Boys (2 Unitary)	4 Boys

Girls can try out for boys' teams if there is no girls' team in the sport. This includes "Unitary" sports. Girls are restricted to girls' teams when single sex teams in the same sport are substantially equal. (This was successfully challenged in the case of a Burnsville swimmer, and the Minnesota State High School League (MSHSL) rules were declared in violation of MN Stat. 126.21. On appeal, the ruling was voided as moot, since the girl had left the state. The MSHSL rules currently stand pending further court decisions.)

Ramsey County District Court Judge Hachez ruled in 1976 that for St. Paul schools, sports are to be coed unless justification is shown to restrict to one sex in order to give each sex equal opportunity to participate. Separate teams are to be an exception to the rule of providing coeducational sports programming. If it is necessary to have separate teams in a sport, necessity to provide equal opportunity must be shown before having separate seasons, separate practicing schedules, separate coaching personnel. If requiring the same seasons puts too heavy a burden on facilities, then season should be divided by skill criteria, not sex.

If girls are not interested in unitary sports, there are to be the same number of sports each season.

The state statutes control, since they are not in conflict with federal law and regulations.

The ruling was accepted by the St. Paul schools except for mandating that the seasons must be the same. The seasons issue, challenging the MSHSL set seasons, is now in the courts.

RULES AS PROPOSED

12 MCAR §1.201 Authority, scope, and purpose. These rules are promulgated pursuant to Minn. Stat. §15.0411 to 15.052, (1977 Supp.) relating generally to the promulgation of administrative rules and regulations. These rules apply to all primary, junior, and senior high schools in the state. These rules are promulgated pursuant to Minn. Stat. 363.05 subd. 1(8) (1976) to carry out the Act and to facilitate its full and uniform implementation and enforcement.

12 MCAR §1.202 Definitions. All terms defined in Section 363.01 of the Act shall have the same meanings therein ascribed to them for the purpose of these Rules. All the words below shall have the meaning herein ascribed to them;

A. Sport. "Sport" means an athletic game or match for which a Minnesota High School League sponsored state level tournament or meet is held.

B. Activity. "Activity" means any act in furtherance or creation of an athletic program.

C. Statistical Difference. "Statistical Difference" means a count of occurrences different from that which would be expected such that the difference is greater than that which could be attributed to sampling error.

D. Participation Rate. "Participation Rate" means the number which indicates the percentage of a given sex on an athletic team and is obtained by dividing the number of participants of that sex by the total number of students of that sex in the educational institution which maintains the team.

12 MCAR §1.203 Equal Opportunity.

A. Each educational institution shall operate all athletic programs, activities, or teams developed for grades K through 6 without separation because of or according to sex. All athletic programs, activities, and teams developed for grades 7 through 12 shall be operated without separation because of or according to sex except where restriction of membership on an athletic team to participants of one sex is necessary to provide members of each sex with an equal opportunity to participate in the athletic program.

B. Each educational institution shall provide comparable locker, shower, toilet, and training room facilities for both sexes, but may provide separate facilities for each sex.

C. It is not an unfair discriminatory act to restrict participation to females on teams which have been organized pursuant to 12 MCAR §§1.204 and 1.205.

D. It shall not be an unfair discriminatory practice for an educational institution to limit the gate receipts and other revenues generated by a team in a sport to that team when two teams in the same sport are organized pursuant to 12 MCAR §1.204.

E. Each educational institution shall conduct an analysis of its athletic program to determine if the participation rate of females on any team is statistically different from the participation rate of males on that team.

F. If an educational institution determines that the participation rate of females on any team is less than and statistically different from the participation rate of males on that team, the educational institution shall conduct an interest assessment to determine the cause for the statistical difference.

12 MCAR §1.204 Separate teams in the same sport.

If an educational institution determines, based on its interest assessment conducted pursuant to 12 MCAR §1.203F, that in any sport, it is necessary to operate a separate team in the same sport whose membership is restricted to females, the educational institution shall provide for any team thus restricted:

A. Substantially equal budgetary expenditures per participant, exclusive of gate receipts and other revenues generated by that sport and substantially equal access to the benefits, services, and privileges of the athletic program; and that,

B. The teams shall be operated during the same season;

C. All practices shall, when possible, be conducted in a coeducational manner. Any separation into groups during such practice will be on the basis of activity or skill level and not on the basis of sex;

D. Coaches of the two teams shall cooperate in providing coeducational practices so as to benefit equally members of both teams.

12 MCAR §1.205 Separate teams in different sports.

A. If an educational institution determines after complying with 12 MCAR §1.204 that the participation rate of females on any team is less than the participation rate of males on that team and if the participation rate is reasonably attributable to a lack of interest by females in that sport, the educational institution shall organize and operate, based on the reported interest assessment conducted pursuant to 12 MCAR §1.203F, a team for females in a different sport.

B. If an educational institution organizes a separate team in accordance with 12 MCAR §1.205A, it shall afford substantially equal budget expenditures per participant excluding gate receipts or revenues generated by that sport and substantially equal access to the benefits, services, and privileges of the athletic program.

C. When a separate team in a different sport is organized and operated pursuant to 12 MCAR §1.205, that team shall be operated during the season in which the high school league sponsored state level tournament or meet is held for that sport.

12 MCAR §1.206 Organization, association, or league.

No organization, association, or league entered into by an educational institution for the purpose of promoting sports or adopting rules and regulations for the conduct of athletic contests between students shall:

A. Make rules and regulations or otherwise advance policies which impair the ability of its member schools to comply with these rules.

B. Make rules and regulations or otherwise advance policies which have the effect of denying females an equal opportunity to participate in any athletic program, activity, or team.

12 MCAR §1.207 Compliance.

A. If a charge is filed with the Department alleging a violation of the Act regarding an athletic program, activity, or team as described in these rules, the Commissioner of Human Rights may refer the matter to the Commissioner of Education for a review and report concerning compliance with Minn. Stat. 126.21 and these rules. Any such report may include a

review of the pertinent policies, practices, and actions of the respondent educational institution; the circumstances under which the possible non-compliance occurred; and other factors relevant to assessing as to whether the respondent educational institution has failed to comply with Minn. Stat. 126.21 and these rules.

B. In determining whether probable cause exists to believe the allegations contained in a charge described in 12 MCAR §1.207A, the Commissioner shall consider any report received from the Commissioner of Education pursuant to 12 MCAR §1.207A.

12 MCAR §1.208 Recordkeeping.

A. An educational institution shall conduct annually any analysis and interest assessment that is required by 12 MCAR §§1.203 and 1.204. The educational institution is required to preserve any records of any such analysis and assessment for a period of two years subsequent to the year in which the analysis and assessment are made.

B. An educational institution is required to maintain for each school year a record of the name, address, sex, and date of application of each student who applies or registers for an athletic team. This record shall be preserved for two years subsequent to the school year for which it is made.

C. An educational institution is required to maintain a record of the name, address, sex, and date of all students who participate on a specific athletic team. The list shall be maintained for a period of two years subsequent to the school year in which the student participated.

D. Whenever a charge of discrimination is filed with the Department alleging a violation of the Act relating to an athletic program, no person or educational institution shall destroy any records made pursuant to 12 MCAR §1.208 until final disposition of the charge.

12 MCAR §1.209 Inconsistent rules.

Any rule which is inconsistent with the foregoing provisions is hereby repealed.

12 MCAR §1.210 Severability.

If any provision of these rules contained herein is held to be invalid it does not affect any provision of these rules which can be given effect without the invalid provisions and to that end these rules are severable.

12 MCAR §1.211 Construction.

These rules shall be construed liberally to effect the purpose of the Act.

DEC 15 1980

MINNESOTA CIVIL LIBERTIES UNION

628 Central Avenue
Minneapolis, Minnesota 55414



December 11, 1980

Mr. Greg Waddick
Minnesota Department
of Education
Capitol Square
550 Cedar Street
St. Paul, MN 55101

RE: Proposed Rules Concerning Athletic Programs

Dear Mr. Waddick:

I have received proposed 5 MCAR § 1.0667 - § 1.0672 and am submitting comments on behalf of the Minnesota Civil Liberties Union. As you know, the MCLU has been active for some time in lobbying efforts and litigation to assure equal opportunities for girls and boys in public education, including athletic programs.

Although we were disappointed with the amendments passed by the Minnesota legislature in 1980, we are pleased that the Department of Education is continuing its efforts to assure compliance by elementary and secondary schools with the legislative and constitutional mandate of equal opportunities for girls and boys to participate in athletic programs. In particular, we believe that the reporting requirements in § 1.0670A.1. and § 1.0671 will provide a meaningful tool for the Education and Human Rights Departments' enforcement of the law.

However, we are troubled by § 1.0669A.9., which excludes coaches salary from the total expenditures which must be substantially equal for the two teams in a particular sport. Part of the tradition of discrimination against girls' sports has been the assignment of inferior coaching to girls' teams. This practice would be reflected in inequities in salary of coaches of girls and boys teams in the same sport. We urge reconsideration of this provision and I encourage you to call me at the MCLU office to discuss this question.

Very truly yours,

Linda Ojala
Legal Counsel
628 Central Avenue
Minneapolis, MN 55414
378-2436

*cc. Reg
HAB
Ritchie
Tune*

JAN 13 1981



UNIVERSITY OF MINNESOTA

Office of the Vice President
for Administration and Planning
200 Morrill Hall
100 Church Street S.E.
Minneapolis, Minnesota 55455

*Copy to RR
J.H.*

January 12, 1981

Harriette Burkhalter, President
League of Women Voters of Minnesota
555 Wabasha
St. Paul, Minnesota 55102

Dear Ms. Burkhalter:

President Magrath referred your letter concerning the Association for Intercollegiate Athletics for Women to me.

The University of Minnesota agrees with your views on intercollegiate athletics and strongly supports the AIAW as the appropriate national governing organization for women's intercollegiate athletics. We have indicated that view to both the NCAA and the AIAW, and will make that position known through our voting at the national conventions of those two organizations.

Further, it is the position of the University of Minnesota that we will not affiliate our women's teams with the NCAA, should it offer championships in which we could compete, until and unless there are no other alternatives available.

Your continuing interest in our women's athletic program is greatly appreciated.

Cordially,

Nils Hasselmo

Nils Hasselmo
Vice President for
Administration and Planning

tla

SAMPLE of Report Form

REPORT ON GIRLS' ATHLETICS PROJECT

MAR 22 1979

Send to: LWV of MN, 555 Wabasha, St. Paul, MN 55102 by April 23, 1979

LWV of Fridley, Minnesota

Reported by Connie Beselice
Karen Johnson
Address: 6766 - 7th St. N.E.
Fridley, Mn 55432

Please send a separate report for each school district monitored.

WHICH ACTIVITIES DID YOU DO? (Check those that apply; comment if appropriate.)

1. Publicized the project (Attach copy if available) _____
2. Involved non-LWV people in the project (If they represented other groups, which groups?) _____
3. Monitored:
School district programs (Dist. No. 14 ; Total student enrollment 4,214)
Interscholastic programs ✓
Intermural, club programs _____
Elementary programs ✓
Physical education class programs ✓
Park/recreational programs _____
Community/private groups using public facilities (Which groups?) _____

Private school programs (Which school?) _____

4. Talked with officials (Which?) ✓
Supt. of Fridley Schools; Title IX Coordinator; Athletic Director
5. Minn. Dept. of Ed. compliance form obtained _____
(Page 29, LWV Committee Guide) evaluated X
X
6. Minn. Dept. of Ed. athletic activities form obtained _____
(Page 31, LWV Committee Guide) evaluated _____

7. Talked with students _____
How many? 5 X
8. Talked with parents _____
How many? 5 _____
9. Conducted an attitudinal survey (Attach results) X
10. Prepared a report of your results (If written, please send) X
11. Took your findings to:
the responsible officials (Which?) _____

LWV meeting X
Public meeting _____
Community - newspaper, other media (Attach if available) _____

(over)

WHAT WERE YOUR CONCLUSIONS? (Use separate sheet if needed)

1. Were those responsible for the programs cooperative? *yes*
2. Were they knowledgeable about the laws? *yes*
3. Does your school district have a designated Title IX coordinator? *yes*
4. Did the forms that were filed with the Minn. Dept. of Education appear to be accurate? *yes*
5. What attitudes toward girls' athletics did you find? (Officials, teachers, students, community, media, etc.?) *Attached.*
6. How would you rate compliance? *District #14 seems to be in compliance with the Dept. of Education requirements in most areas.*
7. What were the best success stories?
8. What were the greatest needs for improvement?
Some students felt there is a need for better coaches, more female coaches. They felt that facilities and scheduling aren't always equal.
9. Has the project caused changes? (Examples?) *Yes*
10. Will the committee continue: monitoring girls' athletics? *No*
monitoring other sex discrimination?
other?
11. Other comments:

5. John Hansen, Superintendent of Fridley School District #14, served on a State Task Force to Eliminate Sex Bias, in 1974. He helped to draw up the Assurance of Compliance form which school districts are required to file annually.

When interviewed for this study, Supt. Hansen said that he has great respect for the League of Women Voters but feels that the League is being used by certain feminist groups who are more interested in social engineering than equal opportunity for girls.

He stated that he is committed to the goals proposed in Statute 126.21 but feels the law hinders rather than guarantees full participation. Although the law recognizes no differences between boys and girls at the elementary level, he feels that athletic activities should be separate but equal for the first five to six years and girls should be provided with remedial programs in order to achieve their potential. He feels that girls, due to cultural influences, eliminate themselves from competition with boys.

He feels that Dist. 14 has the best coaches available. Efforts are being made to provide female coaches for girls teams, as role models. Coaches salaries are equal for the same sport. He defends separate seasons in some sports in order to allow more students to participate and to more efficiently utilized facilities.

Overall he felt that the District has a good record of compliance and a positive program for development of girls athletics. He said that there are too many forms to file and too many regulations to comply with. He would like to see the reporting procedure simplified.

Results of Attitude Survey

The following are some conclusions taken from an attitude survey, which was filled out by female students and their parents:

All of the girls said they liked physical education and approved of boys and girls being together in Phy-Ed activities./ The girls were each involved in about 8 different sports during the year.

Most of those surveyed felt there still needed to be improvement in the area of equal coaching and facilities and exposure of girl's sports. But they all felt they had an equal opportunity to participate in athletics in our school district.

To: Local Leagues
From: Liz Ebbott
Re: Equality of Opportunity in Athletics
Date: August 15, 1978

ORGANIZING A COMMUNITY LOOK AT GIRLS' ATHLETICS

Anti-discrimination laws affecting girls' participation in athletics have been in force for several years. It is apparent to even the most casual observer of the high school athletic scene that there has been dramatic improvement in girls' activities. Programs are expanding; skills are developing; girls are getting college scholarships for athletic skills. But how equal are the athletic opportunities? The laws are now fully operational. It is time for a careful look by community people to see if the laws are being fully implemented. And if school budget cuts and teacher/coach layoffs are necessary in the future, what will this mean for girls' athletic opportunities?

Problem: Girls 12 and over or 7th grade and older

At the present time the law (MN Stat. 126.21; Fed. Higher Ed. Act, Title IX) and rules (EDU 660-666, Exhibit A) require:

1. When there are two teams in the same sport, there must be substantially equal dollars spent per participant (excluding revenue generated by that sport); equal use of facilities; equal coaching staffs equally trained; equal status given to participants.

Examples: Do the two teams practice as often and as long; do they rotate the time of use of limited practice facilities?
Are the same number of coaches assigned to each team?
Are travel and distant meet opportunities the same for both teams?

2. There must be equal opportunity for girls to participate. Equal number of sports opportunities per season would be an indication of compliance.

Examples: Is someone designated within the athletic program to develop and interest girls in greater athletic opportunities?
If not many girls are out for ice hockey/wrestling, what has been done to find out what sports girls would prefer in the winter season?

3. Girls have the opportunity to try out for a team designated primarily for boys or when there is only one team in that sport for the school (football, ice hockey, wrestling). (MSHSL rules restrict girls to girls' teams if there are both boys' and girls' teams in the sport which are substantially equal. This issue is in the courts. MSHSL - Minnesota State High School League.)

Example: How many girls are on the team when there is only one team in that sport; how many tried out?

Girls under 12 years or under 7th grade

Starting with the 1978-9 school year, there is to be no sex distinction in athletics in the classroom, in after-school public service programs (T-ball, basketball leagues, wrestling programs, etc.)

Examples: How many girls are on the teams playing in the community's ice hockey program, basketball program; how many boys are participating in the gymnastic program?
Are additional efforts being made to encourage both sexes to participate and to teach both sexes the needed skills?

If there is discrimination and past practices have not changed, an individual can file a complaint with the Department of Human Rights and seek remedy. School's state and federal education funds can be cut off until there is compliance.

Equality of Opportunity in Athletics - 2

Rather than getting into individual cases requiring litigation, perhaps costly penalties, it is far more effective to analyze the local situation in light of the law, define shortcomings, arouse public awareness, bring community pressure on those locally responsible for the programs.

Proposal:

Organize a community committee. Use responsible people who have an interest in women's sports/equal opportunity for women (AAUW, Business and Professional Women, local Human Rights Commission members, etc.). Involve parents of girls interested in athletics. Include high school/college girls involved in sports. Keep LWV people in control.

Establish a consultants' group with such people as:

Head of girls' sports in high school; head of boys' sports.

Elementary school athletic director or physical education teacher in elementary school.

The school district's coordinator responsible for discrimination/affirmative action compliance.

The school board member who is the delegate to the Minnesota High School League. Business office person responsible for the district's financial records.

Head of the community's recreation program or the person responsible for the program's compliance with discrimination/affirmative action laws.

Head of some of the major established youth sport programs for children under 12 years or 7th grade where public facilities or coaches paid from public funds are used. (Little League, hockey, football, gymnastic, etc., programs; those run by volunteer groups, church groups, community recreation programs.)

Person responsible for the sports/athletic program in the private schools in the community that enroll more than one sex. Those serving both under 7th graders and those 7th grade and older.

Procedure:

Local League Board appoint a League person to be responsible for the project in each school district to be covered.

Attend the meeting in St. Paul, early October, to get specific, detailed information on how to proceed and to get answers of all questions. (Minnesota Department of Human Rights is paying mileage, 16¢ a mile.)

Select your community committee.

Familiarize yourself with the laws (pages 5-7).

Set a time table for collecting the information (2-3 months).

Inform the community about the laws and what you are doing. Use the tape-slide presentation prepared by the Department of Human Rights and LWVMN. (Arrangements will be announced at the October meeting.) Work with press coverage.

Adapt the check list (page 4) to your needs.

Contact the superintendent's office of the school district to get copies of the compliance reports that have been filed with the Minnesota Department of Education. (Samples will be available at the October meeting.)

Optional: Conduct a survey of attitudes about girls' participation in athletics; survey girls' interests in sports. (A sample will be available at the October meeting.)

Interview the consultants' group to get their views on how they are complying with the laws. What are they doing to encourage participation by girls?

Set up a meeting or an opportunity for public testimony, comments. Make sure students and parents have a chance to be heard.

Also hold an off-the-record session giving those afraid of publicity or pressure the opportunity to be heard.

Equality of Opportunity in Athletics - 3

Optional: Hold a public hearing with testimony from those who wish to present problems. Allow those responsible for the programs an opportunity to respond. The committee should maintain control of the hearing.

Closely scrutinize the information. Are the school reports accurate? What has been the trend? What are the plans for the future? What is really happening in the elementary schools? What is happening in the community recreation program where reports are not required? In the private schools? Get data; look at dollars; look at percentages of money spent per program, per participant; count the rosters yourself; etc.

Come up with facts and some typical subjective quotes. (It is best to stick to the general, over-all picture and programs, avoiding individual cases.)

The committee should draw together the materials looking for patterns of behavior. What is the conclusion? Present your findings to the school board, community groups, Chamber of Commerce, women's groups, church groups, etc. Interest the community groups in support of girls' activities, sponsoring awards, trips to tournaments, etc. Use the students to tell the story. Girl athlete role-models are badly needed. Share them with the community, the press, programs for elementary girls.

Submit progress reports on your activities to LWV state office (dates to be announced) and a year-end report next spring.

Plan for an on-going monitoring program.

CHECK LIST

A. For students in 7th grade and above or 12 years old and older:

1. When just one team considered a "boys'" team is available in a sport, is it open to girls on an equal basis? (Football, wrestling, ice hockey, other sports with only one team)
- *2. For the above sports in total, how many girls are involved? Ratio of girls to boys? Total dollars spent on girls? boys?
3. Are the number of sports for each sex each season equal? (Unequality may not necessarily indicate discrimination.)
4. Where there are separate sex teams in the same sport:
are expenditures per participant (exclusive of revenues generated) substantially equal?

Are other factors equal - equipment and supplies, coaches, coaches' training, scheduling games and practice, travel, use of facilities, etc.?
5. What is done to interest girls to participate in sports; what is done to let them show their interest in sports not presently available? (Indicates good faith intent to comply.)
6. Go over the above questions for:
junior high interscholastic sports
junior/senior high intermural sports
community recreation program
private schools

B. For students 6th grade or younger or 11 years or younger:

1. Are all athletic programs designed for and open to members of both sexes on an equal basis?
2. Have all divisions by sex been eliminated in the programs?
3. Are the athletic skills taught equally to all children; is remedial help given to those who have difficulty mastering a skill?
4. What is the sex ratio/team on all teams in the program?
5. Have the teachers had training/workshops explaining the law and how to implement it?
6. What has been done to interest girls/explain to girls their opportunities to have equal participation in all athletics?
7. Go over the above questions for:
community recreation programs
private schools

C. Has the district filed accurate reports with the State Department of Education: November 15, 1977; July 15, 1978?

D. What was the evaluation of the November report, returned to the district February, 1978?

D. *Evaluate over a period of time the press coverage given girls/boys' athletics. Evaluate radio/TV coverage. (Compare inches, column location, page.)

Equality of Opportunity in Athletics - 5

Laws and Rules Dealing with Sex Equality in Athletics in Minnesota - 1978 (not fully quoted)

MN Human Rights Act as amended through July, 1977 - MN Stat. 363-03, Subd. 5(1)

It's an unfair discriminatory practice to discriminate in any manner in the full utilization of or benefit from any educational institution or the services rendered thereby, because of race, color,...sex...etc.

Definitions:

363.01 subd. 10 - Discriminate includes segregate or separate.

363.01 subd. 19 - Public Service - any facility, department, agency, board or commission owned, operated or managed by or on behalf of the State of Minnesota or any subdivision - county, city, township or independent district in the state.

363.01 subd. 20 - Educational Institutions - public or private institutions - nursery through college, business, vocational schools, etc. (363.02 subd. 3 - the sex provision of the law does not apply to private educational institutions which permit students of only one sex to enroll.)

363.05 - Duties of the Commissioner - to administer the law, enforce compliance; to use education, conferences, persuasion to eliminate unfair discriminatory practices; shall conduct research and study discriminatory practices; shall create such local and statewide advisory committees as will effectuate the purposes of the department.

Department of Human Rights Guidelines - Department policy is that "separate but equal" based on sex at any level is illegal.

Sex Discrimination and Equal Opportunity in Athletic Programs - MN Stat. 126.21

In athletic programs operated by education institutions or public services for children 12 years or 7th grade or older, it is not an unfair practice to:

1. Restrict to one sex if necessary to provide equal participation to each sex.
2. Have two teams in the same sport separated according to sex, if there are substantially equal budgets per participants (exclusive of gate receipts and other revenue generated by the sport) and are in all other respects treated in a substantially equal manner. The two teams shall be operated separately only in those activities where separation is necessary to provide the members of each sex equal opportunity to participate.

After 1975-6, when there are two teams based on sex, the budgets shall be substantially equal.

After 1977-8, separation based on sex for those under 12 or 7th grade shall be phased out, and districts shall comply fully with 363.03, subd 5(1), above.

Enforcement Powers - MN Stat. 124-15

Districts are required to file assurances of compliance with state and federal laws prohibiting discrimination. The filing is to be done with the Department of Education. These are reviewed by the Department of Human Rights to determine compliance. If not in compliance, the Department of Education proceeds against the district with the power to reduce state financial aids.

Department of Education Rules - EDU 4

In curriculum, no school shall provide any course or activity on the basis of sex, (health (except human sexuality), phy. ed., home ec., industrial arts).

Department of Education Rules - EDU 660-669

In areas of equal educational opportunity and desegregation:

- Schools shall disseminate a policy on non-discrimination on a continual basis.
- Reduction in state aids can be the penalty for non-compliance with the rules.
- Schools must submit data in this area as required by the Department of Education.

Department of Education Report - Assurance of Compliance with State and Federal Laws Prohibiting Discrimination

1. All athletic programs 6th grade or 11 years or younger are to be designed for and open to both sexes equally.
2. For 7th grade or above or 12 years or older, teams are to be open to members of both sexes on an equal basis# (except where there are separate teams to insure equal opportunity to members of both sexes*).
3. If the district provides separate teams for each sex*, the number of sports for each sex each season is to be equal.
4. If there are separate boys and girls teams*, expenditure per participant (exclusive of revenues generated by the sport) is to be substantially the same for each sex. Other services are also to be equal - equipment and supplies; scheduling games and practice time; travel; coaching; use of facilities; etc.

Title IX - Federal Higher Education Act

Benefits under any educational program or activity receiving federal financial assistance, including athletics, can't be denied on the basis of sex.

Title IX Rules

86.8 - At least one employee is to be designated to insure compliance. Students and employees are to be notified who this is.

86.41 - Athletics

Can't exclude from participation, be denied benefits, be treated differently from another person in interscholastic, club or intermural athletics based on sex; can't provide separate programs based on sex.

Can be separate by sex when based on competitive skill.

Can be separate by sex when a contact sport+.

If only offered to one sex, the sex previously limited can try out unless it is a contact sport+.

Determining facts in equal athletic opportunity:

selection of sports and level of competition accommodates the interests and abilities of members of both sexes (obligation to survey not mentioned).

equal services - equipment and supplies, scheduling games and practice times, travel, coaching, use of facilities, etc.

It does not constitute noncompliance if there are unequal aggregate expenditures per sex in total or if there are unequal expenditures if there are two separate teams based on sex, but failure to provide necessary funds may indicate noncompliance.

Elementary schools must comply by 1976; secondary by July 21, 1978.

86.34 - Access to course offerings, including athletics

No separation based on sex; no refusal to allow participation based on sex.

Grouping according to ability is allowed, but if a single standard of measuring skill or progress has adverse effect on one sex, appropriate standards can be set that don't have this effect.

Elementary and secondary classes in human sexuality can be separated by sex.

Phy. ed. classes or activities can separate by sex in contact sports*.

Athletic scholarships can be granted proportional to the number of students of each sex in interscholastic athletics.

"teams open to members of both sexes on equal basis if there is only one team" - football, hockey, wrestling, soccer, ski jumping, baseball.

* "separate teams in each sport" - basketball, track and field, swimming, tennis, gymnastics, golf, skiing (except jumping), cross country, baseball-softball.

+ "contact sports" - wrestling, boxing, rugby, ice hockey, football, basketball, and other sports where the purpose or major activity involves body contact.

Equality of Opportunity in Athletics - 7

86.14 - Excluded from coverage

YMCA, YWCA, girl scouts, boy scouts, camp fire girls, voluntary youth service organizations exempt from taxation (Int. Rev. Code Sect. 501 (a)) where membership has been traditionally limited to one sex.

If "significant assistance" is provided by public money to a sport - school, public playground, publicly paid coaches, etc., the sport comes under the provisions of Title IX.

The U.S. Supreme Court ruled that girls had to be allowed to play on Little League teams in 1974.

MN Stat. 129-21, Subd. 1, establishes the Minnesota State High School League to regulate interscholastic and extracurricular activities in high schools.

Minnesota State High School League (MSHSL) - Technically this is a voluntary organization. High schools don't have to join. If they do, they may compete in state tournaments and must abide by League rules. These rules set sports' seasons:

<u>Fall</u>	<u>Winter</u>	<u>Spring</u>
Volleyball - G	Gymnastics - G	Tennis - B
Football - B - Unitary	Basketball - B & G	Baseball-Softball - B & G
Soccer - B - Unitary	Wrestling - B - Unitary	Golf - B & G
Gymnastics - B	Hockey - B - Unitary	Track - B 7 G
Tennis - G	Skiing - cross country & down hill - B & G	
Swimming - G	Swimming - B	
Cross Country - B & G		
4 Girls	3 Girls	3 Girls
4 Boys (2 Unitary)	5 Boys (2 Unitary)	4 Boys

Girls can try out for boys' teams if there is no girls' team in the sport. This includes "Unitary" sports. Girls are restricted to girls' teams when single sex teams in the same sport are substantially equal. (This was successfully challenged in the case of a Burnsville swimmer, and the Minnesota State High School League (MSHSL) rules were declared in violation of MN Stat. 126.21. On appeal, the ruling was voided as moot, since the girl had left the state. The MSHSL rules currently stand pending further court decisions.)

Ramsey County District Court Judge Hachez ruled in 1976 that for St. Paul schools, sports are to be coed unless justification is shown to restrict to one sex in order to give each sex equal opportunity to participate. Separate teams are to be an exception to the rule of providing coeducational sports programming. If it is necessary to have separate teams in a sport, necessity to provide equal opportunity must be shown before having separate seasons, separate practicing schedules, separate coaching personnel. If requiring the same seasons puts too heavy a burden on facilities, then season should be divided by skill criteria, not sex.

If girls are not interested in unitary sports, there are to be the same number of sports each season.

The state statutes control, since they are not in conflict with federal law and regulations.

The ruling was accepted by the St. Paul schools except for mandating that the seasons must be the same. The seasons issue, challenging the MSHSL set seasons, is now in the courts.

HR

Minneapolis Tribune



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8A

Wednesday, March 28, 1979

Truly equal athletic opportunities

Last week's girls' state basketball tournament showed how far girls' athletic programs have come — skilled competition, wide participation and high public interest. The progress is a direct result of a

ers were culled for boys' teams. Under the league's approach, the level of skill and competition in girls' sports could continue its already significant rise.



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**Independent School
District No. 197**

OFFICE: 1037 BIDWELL STREET
WEST SAINT PAUL, MINNESOTA 55118

March, 1979



THE LEAGUE OF WOMEN VOTERS of the Northern Dakota County Area are leading a community effort to examine the commitment local school districts are making towards girls athletics under Title IX. Recent legislation has outlawed sex bias in federally funded institutions, and the members of the League are assessing area athletic programs at the request of the Minnesota Human Rights Department. Karen Flood, Sandy Wass and Janet Wright of the League recently met with District 197 administrators Dr. Russell Anderson, Stanley Gustafson, Thomas Kleppe and Janna Vockrodt to review local programs.

the

EQUALITY ISSUE

Minnesota Department of Human Rights

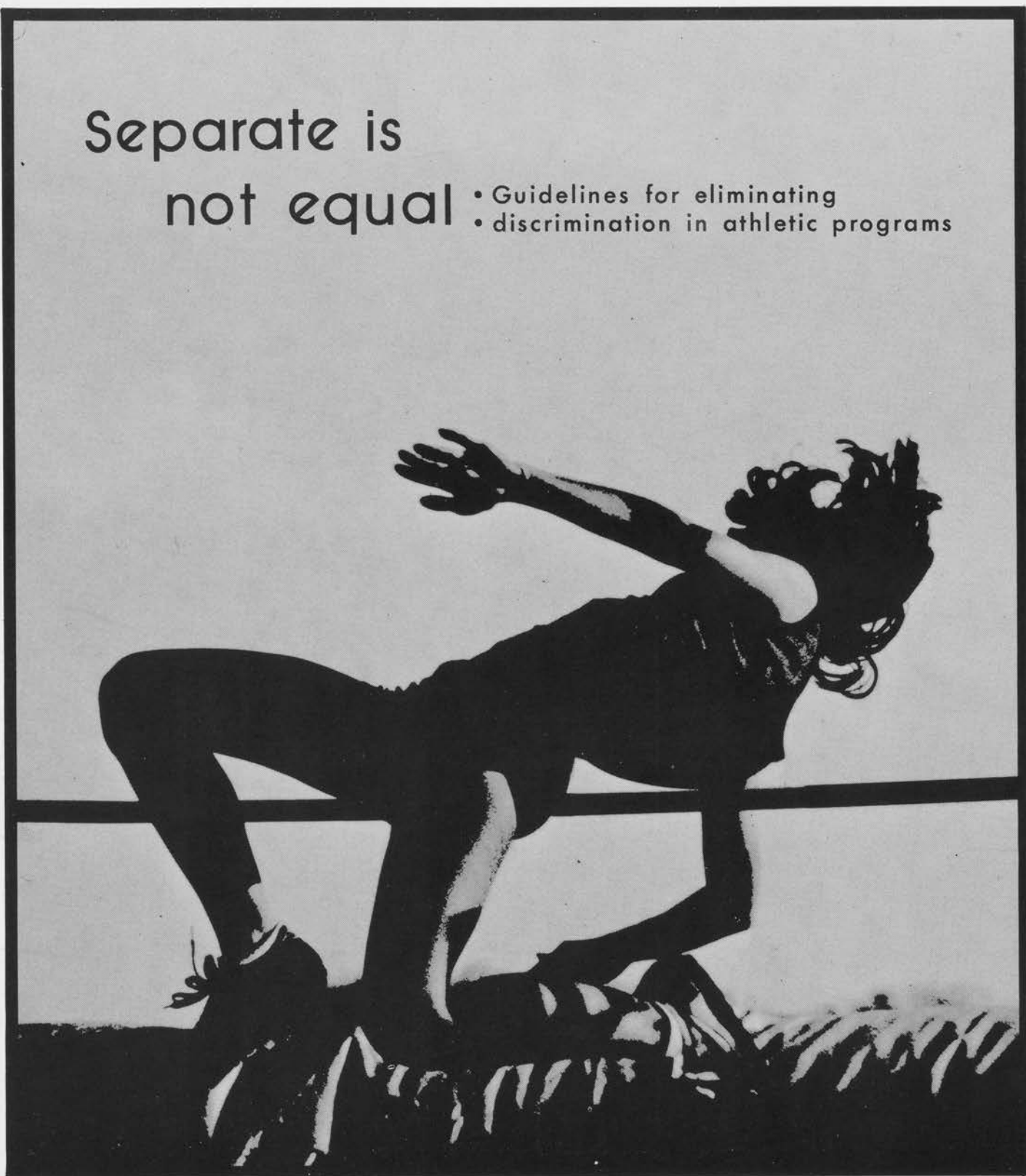
Vol. 2, Issue 1

July-August 1978

Separate is

not equal

- Guidelines for eliminating
- discrimination in athletic programs





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