

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER e: INSTRUCTION

PART 200
SEX EQUITY

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AUTHORITY: Implementing Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Article I, Section 18 of the Illinois Constitution, and Sections 10-22.5, 27-1, and 34-18(1) of The School Code (Ill. Rev. Stat. 1987, ch. 122, pars. 10-22.5, 27-1, and 34-18(1)), and authorized by Sections 2-3.6, 27-1, and 34-18(1) of The School Code (Ill. Rev. Stat. 1987, ch. 122, pars. 2-3.6, 27-1, and 34-18(1)).

SOURCE: Adopted at 10 Ill. Reg. 18014, effective October 3, 1986; amended at 13 Ill. Reg. 11491, effective June 29, 1989.

Section 200.10 Definitions

"Comparable" means similar in quality and quantity, taking into consideration all relevant facts and circumstances.

"Contact Sports" means those sports whose purpose or major activity involves bodily contact: e.g., basketball, boxing, football, ice hockey, rugby, and wrestling.

"Counseling" means all guidance activities, personal counseling, guidance-related evaluation and testing, provision of vocational and career information and advice, scheduling assistance, and any other guidance services provided to students by any person acting under the authorization of an educational system.

"Course" means any district-sponsored class regardless of the location of class meetings, nature of instruction, or type or age of student.

"Discrimination" means the violation of individuals' state or federal equal rights guarantees (U.S. Constitution, Amendment 14; 20 U.S.C. 1681 et seq.; Illinois Constitution, Article I, Sections 2, 18; Ill. Rev. Stat. 1987, ch. 122, pars. 10-22.5, 27-1, and 34-18(1)), whether intended or unintended.

"Disparate Interest Levels" means that, according to the results of a school's written student athletics interest survey (conducted pursuant to the requirements set forth in Section 200.80(b)(1)(B)), the total number of students of one sex who wish to participate in all athletics exceeds by more than 50% the total number of students of the other sex who wish to participate in all athletics. Disparate interest levels do not in and of themselves evidence discrimination.

"Disproportionate Enrollment" means that students of one sex constitute at least 75% of a school's participants in a given program, course, or activity. Disproportionate enrollment does not in and of itself evidence discrimination.

"Educational System" means any local public education agency in its entirety, including elementary, secondary and unit districts, area vocational education centers, and special education cooperatives.

"Equal Access" means availability of opportunity without discrimination on the basis of sex, going beyond simple admission to a course or activity to include full and unrestricted participation in educational and experiential processes.

"Prime Time" means that time period which is most desirable locally for a given activity.

"Program" means a series of courses or set of activities leading toward identified educational or experiential student outcomes.

"School" means any attendance center within an educational system.

"Sex Bias" means the attribution of behaviors, abilities, interests, values and/or roles to a person or group of persons on the basis of their sex.

"Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

"Sexual Intimidation" means any behavior, verbal or nonverbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their gender.

"Significant Assistance" means the payment of dues, fees, or other remuneration in return for the provision of services or benefits, or any other collaboration that significantly facilitates the functioning of any agency, organization, or person outside an educational system.

(Source: Amended at 13 Ill. Reg. 11491, effective June 29, 1989)

Section 200.20 State Policy

It is the policy of the State of Illinois and the State Board of Education that no person shall be subjected to discrimination on the basis of sex in any program or activity supported by school district funds.

Section 200.30 Applicability

These rules are applicable to all public school districts. Nothing contained herein shall be construed as relieving a school district of its duty to comply with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) or its implementing regulations (34 CFR 106).

(Source: Amended at 13 Ill. Reg. 11491, effective June 29, 1989)

Section 200.40 Administration

- a) All policies and practices of educational systems shall comply with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Article I, Section 18 of the Illinois Constitution, and Sections 10-22.5, 27-1, and 34-18(1) of The School Code (Ill. Rev. Stat. 1987, ch. 122, pars. 10-22.5, 27-1, and 34-18(1)).
- b) Each educational system shall have a written policy on sex equity stating that it does not discriminate on the basis of sex in the provision of programs, activities, services, or benefits and that it guarantees both sexes equal access to educational and extracurricular programs and activities.
- c) Each system shall have a written grievance procedure available for use by any individual(s) wishing to present a complaint alleging that the system has discriminated against a student or students on the basis of their sex.
 - 1) Such procedure shall specify the steps to be taken in initiating and processing a grievance, shall identify all parties to be involved at each step of the procedure, shall include specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board.
 - 2) Such procedure shall inform complainants of their right to further appeal the decision of the system's governing board to the Superintendent of the appropriate Educational Service Region pursuant to Section 3-10 of The School Code and, thereafter, to the State Superintendent of Education pursuant to Section 2-3.8 of The School Code, as provided in Section 200.90(b).
- d) Each system shall take reasonable measures to assure that employees, students and parents are informed of the system's sex equity policy and grievance procedure, e.g., through the use of policy manuals and student handbooks.

- e) Each educational system shall, within one year of becoming subject to this Part and at least every four years thereafter, evaluate its policies and practices in terms of the requirements of this Part to identify sex discrimination and shall develop a written sex equity plan to modify any policy or practice that does not meet the requirements of this Part and to take remedial steps to eliminate the effects of any discrimination resulting from such policy or practice.
- 1) The sex equity evaluation shall include an examination of course enrollment data to identify any instances of disproportionate enrollment on the basis of sex and, where discrimination may have contributed to such disproportionality, the sex equity plan shall seek to redress any such disproportionality identified.
 - 2) Inservice training implementing the sex equity plan shall be provided by the system to school district administrators and to certificated and noncertificated personnel as needed.
- f) Except as provided in Section 200.80(a)(4), an educational system may not on the basis of sex designate or otherwise limit the use of any facility or portion thereof, related services, equipment or supplies. This subsection shall not apply to shower and toilet facilities, locker rooms, and dressing areas. All such accommodations and all related support and maintenance services shall be comparable for both sexes.
- g) Except as provided in Section 200.80(a)(4), an educational system may not provide significant assistance to or enter into any agreement with any organization, group, business or individual that discriminates against students on the basis of sex.
- h) An educational system shall not institute organizational changes or employment practices which would result in discrimination against students of either sex.
- i) A system shall maintain records documenting compliance with this Part, e.g., reports of sex equity evaluations and plans, remediation efforts and inservice

activities, data collection and analyses, grievances and their disposition; such records shall be made available to State Board enforcement authorities upon request.

(Source: Amended at 13 Ill. Reg. 11491, effective June 29, 1989)

Section 200.50 Treatment of Students

- a) No student shall, on the basis of sex, be denied equal access to programs, activities, services or benefits or be limited in the exercise of any right, privilege, advantage, or opportunity.
- b) A system shall apply the same system and program admission standards for both sexes.
- c) A system shall not set quotas limiting the number of either male or female students who will be admitted to the system, its schools, programs, courses or activities unless such quotas have the effect of furthering affirmative action goals established by the system to overcome the effects of conditions that resulted in limited participation in a program or activity by persons of a particular sex.
- d) Graduation requirements shall be the same for both sexes.
- e) No student shall be discriminated against because of his or her actual or potential marital or parental status.
 - 1) Pregnancy shall be treated as any other temporary disability.
 - 2) Pregnancy or parenthood shall not be considered cause for dismissal or exclusion from any program or activity.
 - 3) Participation in special programs provided for pregnant students or students who are parents shall be at the student's option.
 - 4) Systems shall eliminate administrative and programmatic barriers to school attendance and school completion by pregnant students or students who are parents.
- f) No student shall be subjected to sexual intimidation or harassment by any school employee, by other students, or by the effect of any school policy or practice.

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- g) A system shall not discriminate on the basis of sex in the bestowing of awards, honors, scholarships and financial aids.
 - h) A system's discipline policies and practices may not discriminate on the basis of sex.
 - i) Codes of conduct established by a system shall not discriminate on the basis of sex.
 - j) A system may not discriminate on the basis of sex in the provision of employment opportunities for students; a system may not enter into work study or cooperative employment agreements with employers who discriminate against students on the basis of sex.

Section 200.60 Educational Programs and Activities

a) General Practices

- 1) All courses shall be open to students regardless of their sex, although students may be segregated by sex during class sessions or portions thereof which deal exclusively with human sexuality.
- 2) Students shall be advised to take courses consistent with their interests and abilities, regardless of their sex.
- 3) Neither course titles nor course descriptions shall discourage either sex from enrolling.
- 4) Course prerequisites and course requirements shall be the same for both sexes.
- 5) Course content and course objectives shall not discriminate on the basis of sex.

b) Selected Program Areas

1) Music

- A) Students shall not be separated according to sex when participating in voice instruction, although divisions within a class may be established on the basis of vocal range and quality.
- B) The study of musical instruments shall be suited to students' individual interests and abilities, regardless of their sex.

2) Physical Education

- A) Each physical education class shall be open equally to both sexes.
 - i) Instructional portions of all physical education classes shall be coeducational.
 - ii) Students may be segregated by sex during participation in a contact sport.

- B) Where assignments to classes or portions of classes are based on ability levels, group composition shall be determined by objective standards of individual performance developed and applied without regard to sex, and students shall be re-grouped at appropriate intervals, e.g., when substantial changes occur in either teaching objectives or student ability levels.
 - C) If the use of a single standard for measuring skill or progress in a physical education class results in discrimination against members of either sex, appropriate standards which do not have such effect shall be used.
 - D) Neither physical education classes nor areas where such classes are conducted shall be designated by sex.
- 3) Special Education
- A) Special education referral, testing and placement practices shall not discriminate on the basis of sex.
 - B) Classes and related services for handicapped students shall not discriminate on the basis of sex whether they are provided by the school district, in cooperation with other school districts, or through private placement.
- 4) Gifted Education
- A) Gifted education referral, testing and placement practices shall not discriminate on the basis of sex.
 - B) Programs and classes or related services for gifted students shall not discriminate on the basis of sex.
- 5) Vocational and Career Education

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- A) Students shall be provided opportunities to acquire knowledge and understanding of vocational and career options without discrimination on the basis of sex.
 - B) Materials used in vocational and career education shall not discriminate on the basis of sex.
- c) Classroom Practices
- 1) Classroom practices shall not discriminate on the basis of sex.
 - 2) Teaching methods shall in no way inhibit the participation of any student on the basis of sex.
 - 3) Where appropriate, the history, roles and contributions of both sexes shall be presented on a comparable basis in curricular areas.
 - 4) Teachers shall employ methods designed to counteract sex bias that may be present in instructional materials.
- d) Instructional materials shall not be discriminatory against either sex.

Section 200.70 Counseling Services

- a) Counseling services shall be provided without discrimination on the basis of sex.
 - 1) Students shall not be assigned to a counselor on the basis of sex.
 - 2) Students shall be counseled to take courses and pursue careers that are consistent with their interests and abilities, regardless of their sex.
- b) Career materials used in counseling students shall not discourage by word or image the consideration by both sexes of all careers addressed in the materials.
- c) The content, administration, interpretation and application of appraisal instruments and associated materials shall not discriminate against students on the basis of sex.

Section 200.80 Extracurricular Programs and Activities

a) General Practices

- 1) Except as provided in subsection (b)(1)(A) of this Section, students of both sexes shall have equal access to all extracurricular programs and activities, including clubs, committees, service or honor organizations, intramural sports programs, interscholastic athletics and other after-school activities which are offered by a system.
- 2) Except as provided in subsection (b)(1)(A) of this Section, extracurricular programs and activities offered by a system shall not use titles which imply that membership or participation is restricted on the basis of sex.
- 3) A system shall not provide significant assistance to any association or conference whose purpose is to organize or regulate interscholastic competition if that association or conference discriminates on the basis of sex in the provision of benefits or services to students.
- 4) Schools may cooperate with single sex youth organizations that are tax exempt and whose membership has traditionally been limited to members of one sex and principally to persons who are under 19 years of age, provided that comparable activities shall be available for both sexes.

b) Selected Activity Areas

- 1) Athletics (Interscholastic and Intramural)
 - A) Both sexes shall be accorded equal opportunities to participate in athletics programs.
 - i) Single-sex teams are permitted for contact sports or when selection for team membership is based upon competitive skill, provided the

interests and abilities of both sexes are accommodated.

ii) In a noncontact sport, when a team is provided only for members of one sex, members of the excluded sex must be allowed to compete for a place on the team if their overall athletic opportunities have been limited in comparison with those of the other sex.

iii) Where a coeducational team in a given sport does not accommodate the interests and abilities of members of both sexes, separate teams shall be afforded by sex. For example, if the level of interest determined pursuant to subsection (b)(1)(B) indicates that 30 students of one sex and 30 students of the other sex want to participate in a particular sport, but only one student of the first sex is able to qualify to compete while 20 students of the other sex do so, a coeducational team does not accommodate the interests and abilities of both sexes.

B) Within one year of becoming subject to this Part and at least once every four years thereafter, a system shall assess student athletics interest by administering a written survey to all students. Such surveys shall be conducted in accordance with the following specifications:

i) The survey shall be designed to measure the athletics interest of students as participants rather than as spectators;

ii) Students of both sexes shall be surveyed;

iii) The same survey forms listing the same sports options shall be used by students of both sexes;

- iv) On the survey form, sports shall not be designated by gender (e.g., list "basketball" not "boys' basketball" or "girls' basketball");
 - v) Survey forms shall at least include the sports currently available in the system, and shall include provision for students to indicate interest in sports other than those listed by the system on the survey forms; and
 - vi) Students surveyed shall include at least those currently enrolled in the system.
- C) Survey results shall be used in planning for the future as well as in assessing current program comparability. If survey data indicate that the overall levels of student interest in the range of alternatives being provided are disparate between the sexes and such disparity may be the result of discrimination, the system shall initiate efforts to reduce such disparity.
- D) Based upon the results of the interest survey, existing offerings and other pertinent factors (e.g., budget, facilities, available competition, etc.), a system shall provide comparable continuity in sports opportunities for students of both sexes (i.e., students have the opportunity to acquire skills at successive levels, over time, within a given sport).
- E) The nature and extent of the athletics programs offered by a system shall accommodate the interests and abilities of both sexes to a comparable degree. Factors to be considered in assessing program comparability include but are not necessarily limited to the following:
- i) Selection of sports offered,
 - ii) Levels of competition within sports,

- iii) Length of sports seasons,
 - iv) Scheduling of athletics opportunities throughout the calendar year,
 - v) Scheduling of practices and games during prime time,
 - vi) Use of facilities for practice and competition,
 - vii) Ratio of coach(es) to athletes,
 - viii) Quality of coaching and officiating (e.g., credentials, experience and compensation),
 - ix) Assignment and compensation of coaches and officials,
 - x) Supplies and equipment,
 - xi) Allowances for travel and per diem,
 - xii) Medical and training services,
 - xiii) Publicity for teams and individual participants,
 - xiv) Overall distribution of athletic budget funds.
- 2) Music
- A) Choruses segregated by sex shall not be allowed; however, choral groups based upon vocal range and quality are allowable.
 - B) Instrumental music skill acquisition and performance shall be based upon students' individual interests and abilities, regardless of their sex.
- 3) Speech and Drama
- A) Competitive speaking events shall be open to both sexes.

- B) Materials limited to a single sex (e.g., a monologue specific to one sex) may be used as long as comparable opportunities are provided for both sexes.
- 4) Miscellaneous
- A) Activities such as cheerleading, pompom squads, color guards, school safety patrol, teacher/office aides, and library assistants shall be open to students of both sexes.
 - i) Participation criteria, selection procedures, or uniform restrictions which would discriminate on the basis of sex shall not be applied.
 - ii) Criteria for the utilization of such groups shall not discriminate on the basis of sex.
 - B) A king or queen of an activity may be selected; however, comparable opportunities for students of both sexes shall be provided.
 - C) If a system sponsors mother-son, father-daughter, mother-daughter, or father-son activities, comparable activities shall be available for both sexes, and the special needs of children from single-parent families shall be accommodated.

(Source: Amended at 13 Ill. Reg. 11491, effective June 29, 1989)

Section 200.90 Compliance and Enforcement

- a) Compliance with this Part will be subject to evaluation during the recognition process for public schools established in 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).
- b) When a grievance decided at the system level has been appealed through the Regional Superintendent to the State Superintendent of Education, written notification of his or her decision shall be delivered to the parties. Failure of the system to comply with the decision of the State Superintendent of Education shall constitute reason to believe that discrimination may exist under Section 22-19 of The School Code and the State Board of Education shall proceed as provided therein.
- c) Petitions with fifty or more signatures (or at least 10% of a district's residents) alleging that a system has discriminated against a student or students on the basis of sex may be brought independently to the State Board of Education for hearing under the provisions of Section 22-19 of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 22-19).

Section 200.100 Effects of Other Requirements

The obligation to comply with this Part is not obviated or alleviated by any policy or regulation of any club, organization, athletic league or other association which would limit the eligibility or participation of any student on the basis of sex in any program or activity operated by any system covered by this Part.

(Source: Amended at 13 Ill. Reg. 11491, effective June 29, 1989)