

House Bill 104

By: Representatives Cox of the 28th, Jasperse of the 11th, Barrett of the 24th, Cannon of the 172nd, and Erwin of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the
2 "Quality Basic Education Act," so as to enact the "Equal Athletic Opportunities Act"; to
3 provide generally for student participation in interscholastic athletic activities and events; to
4 generally prohibit discrimination on the basis of sex in such activities and events; to promote
5 fair and safe competition; to provide for the use of student eligibility rules, standards, and
6 classifications; to provide for exceptions to general provisions; to provide for specific
7 designations; to prohibit male students from participating in athletic activities and events
8 designated for female students and vice versa; to provide for definitions; to provide for
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the "Quality
13 Basic Education Act," is amended in Part 14, relating to other educational programs under
14 the "Quality Basic Education Act," by revising Code Section 20-2-315, relating to gender
15 discrimination prohibited, authorized separate gender teams, equal athletic opportunity,

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16 physical education classes, employee designated to monitor compliance, grievance
17 procedures, and reporting requirements, as follows:

18 "(a) This Code section shall be known and may be cited as the 'Equal Athletic
19 Opportunities Act.'

20 (b) As used in this Code section, the term:

21 (1) 'Coed' means the inclusion of both males and females.

22 (2) 'Compete' or 'competition' means the participation of students or teams of local
23 school systems, public schools, or participating private schools in an interscholastic
24 athletic activity or event.

25 (3) 'Covered entity' means local school systems, public schools, and participating private
26 schools.

27 (4) 'Female,' 'woman,' or 'girl' means a student whose sex is female.

28 (5) 'Male,' 'man,' or 'boy' means a student whose sex is male.

29 (6) 'Participating private school' means a private school in this state whose students or
30 teams compete against students or teams from a public school or local school system in
31 this state; provided, however, that such term shall apply to such private schools only
32 when such private schools are competing against a public school or local school system
33 in this state; and provided, further, that such term shall not apply to private schools
34 competing in an athletic activity or event exclusively against one or more other private
35 schools.

36 (7) 'Sex' means a person's biological sex which shall be recognized solely based on a
37 person's reproductive biology and genetics at birth. For purposes of this subsection, a
38 statement of a student's biological sex on the student's official birth certificate shall be
39 deemed to have correctly stated the student's biological sex at birth if the statement was
40 included on such birth certificate at or near the time of the student's birth.

41 (c) No student shall, on the basis of ~~gender~~ sex, be excluded from participation in, be
42 denied the benefits of, be treated differently from another student, or otherwise be

43 discriminated against in any interscholastic or intramural ~~athletics~~ competition offered by
 44 a ~~local school system or a public school~~, and no local school system shall provide any such
 45 ~~athletics separately on such basis.~~

46 ~~(b)(d)~~ Notwithstanding the requirements of subsection (a) of this Code section, a A local
 47 school system or public school may operate or sponsor separate teams for members of each
 48 gender sex where selection for such teams is based upon competitive skill, competitive
 49 fairness, student safety, or the activity involved is a contact sport. However, where a local
 50 school system operates or sponsors a team in a particular sport for members of one gender
 51 sex but operates or sponsors no such team for members of the other gender sex, and athletic
 52 opportunities for members of that gender sex in that particular sport have previously been
 53 limited, members of the excluded gender sex must be allowed to try out for the team
 54 offered unless the sport involved is a contact sport. Nothing in this subsection shall be
 55 construed to limit the authority of a local school system to operate or sponsor a single team
 56 for a contact sport that includes members of both genders sexes. As used in this
 57 subsection, the term 'contact sport' includes basketball, boxing, football, ice hockey,
 58 lacrosse, martial arts, soccer, rugby, wrestling, rugby, ice hockey, football, basketball, and
 59 any other sport the purpose or major activity of which involves bodily contact.

60 ~~(c)~~(e)(1) For each competition, each interscholastic athletic team organized, operated,
 61 or sponsored by a covered entity shall be designated as one of the following:

62 (A) Males, men, or boys;

63 (B) Females, women, or girls; or

64 (C) Coed.

65 (2) Any student shall be allowed to participate in athletic programs, events, and teams
 66 designated as coed.

67 (3) Males, men, or boys shall not be allowed to participate in athletic programs, events,
 68 or teams designated for females, women, or girls.

69 (4) Females, women, or girls shall not be allowed to participate in athletic programs,
70 events, or teams designated for males, men, or boys.

71 ~~(d)~~(f) A local school system or public school which operates or sponsors interscholastic
72 or intramural athletics shall undertake all reasonable efforts to provide equal athletic
73 opportunity for members of both ~~genders~~ sexes. In determining whether equal
74 opportunities are available the following factors shall be considered:

- 75 (1) Whether the selection of sports and levels of competition effectively accommodate
76 the interests and abilities of members of both ~~genders~~ sexes;
- 77 (2) The provision of equipment and supplies;
- 78 (3) Scheduling of games and practice time;
- 79 (4) Travel allowance;
- 80 (5) Opportunity to receive coaching and academic tutoring;
- 81 (6) Assignment and compensation of coaches and tutors;
- 82 (7) Provision of locker rooms and practice and competitive facilities;
- 83 (8) Provision of medical and training facilities and services; and
- 84 (9) Publicity.

85 Unequal aggregate expenditures for members of each ~~gender~~ sex or unequal expenditures
86 for male and female teams if a local school system operates or sponsors separate teams will
87 not constitute noncompliance with this subsection, but the failure to provide essential funds
88 for the basic operations of teams for one ~~gender~~ sex may be considered in assessing
89 equality of opportunity for members of each ~~gender~~ sex. Nothing in Code Section
90 20-2-411 shall be construed to limit the authority of a local school system to expend school
91 tax funds as authorized by Article VIII, Section VI, Paragraph I(b) of the Constitution in
92 order to comply with the requirements of this Code section.

93 ~~(d)~~(g) A local school system may provide separate toilet, locker room, and shower
94 facilities on the basis of ~~gender~~ sex, but such facilities shall be comparable to such facilities
95 provided for students of the other ~~gender~~ sex.

96 (e)(h) This Code section does not prohibit the grouping of students in physical education
97 classes by ~~gender~~ sex.

98 (f)(i)(1) Subject to the provisions of paragraph (3) of this subsection, if a local school
99 system sponsors an athletic activity or sport at a particular school that is similar to a sport
100 for which an institution in the University System of Georgia offers an athletic
101 scholarship, it must sponsor the athletic activity or sport for which a scholarship is
102 offered at that school. This paragraph does not affect academic requirements for
103 participation nor prevent the local school system from sponsoring activities in addition
104 to those for which scholarships are provided.

105 (2) Two athletic activities or sports that are similar may be offered simultaneously.

106 (3) If a local school system demonstrates by a bona fide survey of eligible students at the
107 school, which is approved by the Department of Education for compliance with generally
108 accepted opinion survey principles regarding neutral wording and other matters, that there
109 is insufficient interest among students at the school to field a team described in
110 paragraph (1) of this subsection, then the local school system shall not be required to
111 sponsor such athletic activity or sport at that school. The exemption provided for by this
112 paragraph shall be valid for 24 months following the date when the most recent bona fide
113 student survey demonstrating a lack of student interest was completed, unless a new bona
114 fide student survey is conducted within the 24 month period that demonstrates sufficient
115 interest to field a team. If such a new bona fide student survey demonstrates such
116 sufficient interest, then the local school system must comply with paragraph (1) of this
117 subsection during the local school system's next fiscal year and until such time as a new
118 bona fide student survey demonstrates insufficient interest to field a team described in
119 paragraph (1) of this subsection. A local school system shall conduct the bona fide
120 student survey described in this paragraph regarding interest in a team described in
121 paragraph (1) of this subsection upon the request of nine students at the school, but no
122 more frequently than once every 12 months.

123 (4) Nothing in this subsection shall be construed to preclude the application of generally
124 applicable policies or rules regarding the cancellation of an athletic activity or sport due
125 to lack of student participation in scheduled practices or contests.

126 ~~(g)~~(j) Each local school system shall designate at least one employee to coordinate its
127 efforts to comply with and carry out its responsibilities under this Code section, including
128 the investigation of any complaint communicated to such local school system alleging its
129 noncompliance with this Code section. The employee designated under this subsection
130 may be the same person required to be designated under 34 C.F.R. Section 106.8. The
131 local school system annually shall notify all its students of the name, office address, and
132 office telephone number of the employee or employees appointed pursuant to this
133 subsection. Such notification may be included in a student handbook distributed pursuant
134 to Code Section 20-2-736.

135 ~~(h)~~(k) Each local school system shall adopt and publish grievance procedures providing
136 for prompt and equitable resolution of written student complaints, including complaints
137 brought by a parent or guardian on behalf of his or her minor child who is a student,
138 alleging any action which would be a violation of this Code section. Such procedures shall
139 require that:

140 (1) The employee designated under subsection ~~(g)~~(j) of this Code section shall render his
141 or her decision in writing no later than 30 days after receipt of the complaint, and such
142 decision shall set forth the essential facts and rationale for the decision;

143 (2) A copy of such decision shall be provided to the complainant within five days of the
144 date of the decision; and

145 (3) A complainant shall have a right to appeal such decision to the local board within 35
146 days of the date of the decision.

147 ~~(i)~~(l)(1) A complainant may appeal a decision of a local board that is rendered under
148 subsection ~~(h)~~(k) of this Code section in accordance with the procedures specified in
149 Code Section 20-2-1160. If the State Board of Education determines that a local school

150 system has failed to comply with this Code section, then the state board shall provide the
151 local school system with opportunities to prepare a corrective plan. If the state board
152 determines that a corrective plan of the local school system adequately plans and provides
153 for future compliance with this Code section, then the state board shall approve the plan
154 and direct the local school system to implement such plan.

155 (2) If, upon a complaint filed pursuant to subsection ~~(h)~~(k) of this Code section after one
156 year following the date of a state board order directing implementation of a corrective
157 plan pursuant to paragraph (1) of this subsection but within four years of the date of such
158 order, the state board determines that the local school system which was subject to such
159 order has willfully failed to comply with this Code section, the state board may, after
160 consideration of the local school system's efforts to implement the corrective plan
161 approved in the earlier proceeding and of any other corrective plan that may be submitted
162 by the local school system, transmit a certification of such determination to the
163 Department of Community Affairs. If the state board's determination of noncompliance
164 is later reversed or vacated upon appeal, the state board shall immediately notify the
165 Department of Community Affairs of such action.

166 (3) If, upon a complaint filed pursuant to subsection ~~(h)~~(k) of this Code section after one
167 year following the date of a state board certification to the Department of Community
168 Affairs pursuant to paragraph (2) of this subsection but within four years of the date of
169 such order, the state board determines that the local school system which was subject to
170 such order has willfully failed to comply with this Code section, the state board may,
171 after consideration of the local school system's efforts to implement a corrective plan
172 approved in an earlier proceeding and of any other corrective plan that may be submitted
173 by the local school system, order that a team or teams within the local school system or
174 school within the local school system shall not participate in interscholastic postseason
175 athletic contests and that participation in violation of such an order may result in
176 withholding of state funds allotted pursuant to Code Section 20-2-186. An order of the

177 state board barring participation in interscholastic postseason athletic contests shall be
 178 made and announced before the beginning of a school year.

179 (4) If, upon a complaint filed pursuant to subsection ~~(h)~~ (k) of this Code section after one
 180 year following the date of a state board order prohibiting participation in interscholastic
 181 postseason athletic contests pursuant to paragraph (3) of this subsection but within four
 182 years of the date of such order, the state board determines that the local school system
 183 which was subject to such order has willfully failed to comply with this Code section, the
 184 state board may, after consideration of the local school system's efforts to implement a
 185 corrective plan approved in an earlier proceeding and of any other corrective plan that
 186 may be submitted by the local school system, withhold state funds that are allotted
 187 pursuant to Code Section 20-2-186 in an amount that the state board determines is
 188 sufficient to secure the local school system's compliance with this Code section. In the
 189 event that state funds are withheld pursuant to this paragraph, such funds shall later be
 190 allotted to the local school system at such time as the state board determines that the local
 191 school system is in compliance with this Code section.

192 ~~(j)~~(m) The Department of Education may publish an annual report of local school systems
 193 to include information regarding expenditures and participation rates for each ~~gender~~ sex
 194 and such other information as the state board and department deem relevant."

195 **SECTION 2.**

196 Said article is further amended in said part by revising paragraph (1) of subsection (b) and
 197 subparagraph (c)(1)(E) of Code Section 20-2-316, relating to involvement of athletic
 198 association in high school athletics, as follows:

199 "(1) The athletic association shall comply with the requirements of subsections (a)
 200 through ~~(f)~~ (i) of Code Section 20-2-315, as those requirements relate to the athletic
 201 association's functions of organizing, sanctioning, scheduling, or rule making for events
 202 in which public high schools participate;"

203 "(E) The authority and duties of the executive oversight committee shall include:
204 (i) To meet in person or remotely not less than twice each school year;
205 (ii) To meet in person or remotely upon the call of the chairperson or a majority of
206 the executive oversight committee;
207 (iii) To establish policies and procedures for the executive oversight committee;
208 (iv) To conduct any independent audit, review, or investigation the executive
209 oversight committee deems necessary, including, but not limited to, the audit, review,
210 or investigation of the classifications of participating schools and ~~travel-related~~ travel
211 related issues of participating schools; and
212 ~~(v) If the athletic association determines that it is necessary and appropriate to~~
213 ~~prohibit students whose gender is male from participating in athletic events that are~~
214 ~~designated for students whose gender is female, then the athletic association may~~
215 ~~adopt a policy to that effect, provided, however, that such policy shall be applied to~~
216 ~~all of the athletic association's participating public high schools; and~~
217 ~~(vi) To conduct an annual evaluation of the athletic association as a whole and~~
218 ~~present a report of its findings, recommendations, and conclusions to the General~~
219 ~~Assembly's High School Athletics Overview Committee; and"~~

220

SECTION 3.

221 All laws and parts of laws in conflict with this Act are repealed.