

CHAPTER 355—H.F.No. 455

An act relating to education; providing equal opportunity for members of both sexes to participate in certain athletics; modifying the coverage and terms of the current law providing for equal opportunity in certain athletics; requiring the state board of education after consultation with the commissioner of human rights to promulgate certain rules; providing for the rights of certain parties in the case of certain sex discrimination charges; requiring the Minnesota state high school league to transact business in an open meeting; amending Minnesota Statutes 1978, Sections 126.21; 129.121, by adding a subdivision; and 363.02, Subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1978, Section 126.21, is amended to read:

126.21 **ATHLETIC PROGRAMS; SEX DISCRIMINATION.** Subdivision 1. **POLICY.** The legislature recognizes certain past inequities in access to athletic programs and in the various degrees of athletic opportunity previously afforded members of each sex. The purpose of this section is to provide an equal opportunity for members of both sexes to participate in athletic programs.

Subd. 2. Each educational institution or public service shall provide equal opportunity for members of both sexes to participate in its athletic program. In determining whether equal opportunity to participate in athletic programs is available for the purposes of this section, at least the following factors shall be considered to the extent that they are applicable to a given situation: whether the opportunity for males and females to participate in the athletic program reflects the demonstrated interest in athletics of the males and females in the student body of the educational institution or the population served by the public service; whether the variety and selection of sports and levels of competition effectively accommodate the demonstrated interests of members of both sexes; the provision of equipment and supplies; scheduling of games and practice times; assignment of coaches; provision of locker rooms; practice and competitive facilities; and the provision of necessary funds for teams of one sex.

Subd. 3. (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 in 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); or whose overall athletic opportunities have previously been limited.

(2) When an educational institution or a public service provides athletic teams for children 11 years old or younger or in the sixth grade or below, those

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teams 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 a demonstrated interest by members of that sex to participate on a team restricted to members of that sex, the educational institution or public service may provide a team restricted to members of that sex.

(2) to provide (3) When two teams in the same sport which are in fact separated or substantially separated according to sex, if the two teams are shall be provided with substantially equal budgets per participant, exclusive of gate receipts and other revenues generated by that sport, and in all other respects are shall be 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. However, nothing in this section shall be construed to require the two teams to conduct combined practice sessions or any other combined activities related to athletics.

(4) If two teams are provided in the same sport, one of these teams may be restricted to members of a sex whose overall athletic opportunities have previously been limited, and members of either sex shall be permitted to try out for the other team.

Subd. 4. When an equal opportunity to participate in the elementary or secondary school level athletic program of an educational institution or public service is not provided to members of a sex whose overall athletic opportunities have previously been limited, that educational institution or public service shall, where there is demonstrated interest, provide separate teams for members of the excluded sex in sports which it determines will provide members of that excluded sex with an equal opportunity to participate in its athletic program and which will attempt to accommodate their demonstrated interests.

Subd. 2 5. The state board of education, after consultation with the commissioner of human rights shall promulgate rules in accordance with chapter 15 to implement this section to prevent discrimination in elementary and secondary school athletic programs operated by educational institutions. The rules promulgated by the state board pursuant to this section shall not require athletic competition or tournaments for teams whose membership may be restricted to members of a sex whose overall athletic opportunities have previously been limited to be scheduled in conjunction with the scheduling of athletic competition or tournaments for teams whose membership is not so restricted by this section. Any organization, association or league entered into by educational institutions elementary or secondary schools 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 4 and section 363.03, subdivisions 4 and 5 this section. The rules of that organization, association or league may provide separate seasons for athletic competition or tournaments in a sport for teams whose membership may be restricted to members of a sex whose overall athletic opportunities have previously been

limited from athletic competition or tournaments established for teams in that same sport whose membership is not so restricted by this section, and its rules may prohibit a participating student from competing on more than one school team in a given sport during a single school year.

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.

Sec. 2. Minnesota Statutes 1978, Section 129.121, is amended by adding a subdivision to read:

Subd. 5. For the purposes of section 471.705, the Minnesota state high school league shall be deemed to be a state agency required by law to transact business in meetings open to the public.

Sec. 3. Minnesota Statutes 1978, Section 363.02, Subdivision 3, is amended to read:

Subd. 3. **EDUCATION.** (a) It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion. The provisions of section 363.03, subdivision 5, relating to sex, shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll. Nothing in this chapter shall be construed to require any educational institution to provide any special service to any person because of the disability of such person or to modify in any manner its buildings, grounds, facilities, or admission procedures because of the disability of any such person. Nothing in this chapter shall prohibit an educational institution from discriminating on the basis of academic qualifications or achievements or requiring from applicant's information which relates to academic qualifications or achievements.

(b) Notwithstanding any other provisions of this chapter or any law to the contrary, it is not an unfair discriminatory practice for an educational institution or a public service to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one sex, if this separation or restriction meets the requirements of section 126.21.

(c) The department of human rights shall investigate all charges alleging sex discrimination in athletic programs in educational institutions and public services pursuant to the standards and requirements of section 126.21 and the procedures enumerated in chapter 363.

Approved March 18, 1980

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