

## 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.