

## O.C.G.A. 20-2-315

*20-2-315. Gender discrimination prohibited; authorized separate gender teams; equal athletic opportunity; physical education classes; employee designated to monitor compliance; grievance procedures; reporting requirements*

(a) No student shall, on the basis of gender, be excluded from participation in, be denied the benefits of, be treated differently from another student, or otherwise be discriminated against in any interscholastic or intramural athletics offered by a local school system, and no local school system shall provide any such athletics separately on such basis.

(b) Notwithstanding the requirements of subsection (a) of this Code section, a local school system may operate or sponsor separate teams for members of each gender where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a local school system operates or sponsors a team in a particular sport for members of one gender but operates or sponsors no such team for members of the other gender, and athletic opportunities for members of that gender in that particular sport have previously been limited, members of the excluded gender must be allowed to try out for the team offered unless the sport involved is a contact sport. Nothing in this subsection shall be construed to limit the authority of a local school system to operate or sponsor a single team for a contact sport that includes members of both genders. As used in this subsection, the term "contact sport" includes boxing, wrestling, rugby, ice hockey, football, basketball, and any other sport the purpose or major activity of which involves bodily contact.

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

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

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

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

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

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

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

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

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

(g) Each local school system shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this Code section, including the investigation of any complaint communicated to such local school system alleging its noncompliance with this Code section. The employee designated under this subsection may be the same person required to be designated under 34 C.F.R. Section 106.8. The local school system annually shall notify all its students of the name, office address, and office telephone number of the employee or employees appointed pursuant to this

subsection. Such notification may be included in a student handbook distributed pursuant to Code Section 20-2-736.

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

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

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

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

(i)(1) A complainant may appeal a decision of a local board that is rendered under subsection (h) of this Code section in accordance with the procedures specified in Code Section 20-2-1160. If the State Board of Education determines that a local school system has failed to comply with this Code section, then the state board shall provide the local school system with opportunities to prepare a corrective plan. If the state board determines that a corrective plan of the local school system adequately plans and provides for future compliance with this Code section, then the state board shall approve the plan and direct the local school system to implement such plan.

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

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

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

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