

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1489
(Representatives Koppelman, Louser, Meier, Novak, S. Olson, Steiner, VanWinkle)
(Senators Estenson, Myrdal, Paulson, Wobbema)

AN ACT to create and enact chapter 15-10.6 of the North Dakota Century Code, relating to requiring institutions of higher education designating athletic teams and sports for male, female, or coed participation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-10.6 of the North Dakota Century Code is created and enacted as follows:

15-10.6-01. Definitions.

As used in this chapter:

1. "Institution" means an institution under the control of the state board of higher education or a private institution of higher education whose athletic teams compete against an institution under the control of the state board of higher education.
2. "Sex" means the biological state of being female or male, based on an individual's nonambiguous sex organs, chromosomes, and endogenous hormone profile at birth.
3. "Student" means an individual enrolled in at least one course offered by an institution.

15-10.6-02. Designation of athletic teams.

1. An intercollegiate or intramural athletic team or sport sponsored by an institution must be expressly designated as one of the following based on the sex of the intended participants:
 - a. "Males", "men", or "boys";
 - b. "Females", "women", or "girls"; or
 - c. "Coed" or "mixed".
2. An athletic team or sport designated for "females", "women", or "girls" may not be open to students of the male sex.
3. This section may not be construed to restrict the eligibility of a student to participate in interscholastic or intramural athletic teams or sports designated as "males", "men", or "boys" or designated as "coed" or "mixed".

15-10.6-03. Adverse action against institution prohibition.

A government entity, a licensing or accrediting organization, or an athletic association or organization may not entertain a complaint, open an investigation, or take any other adverse action against an institution for maintaining separate intercollegiate or intramural athletic teams or sports for students of the female sex.

15-10.6-04. Cause of action.

1. A student who is deprived of an athletic opportunity or who suffers direct or indirect harm as a result of an institution knowingly violating this chapter has a private cause of action for injunctive relief, damages, and any other relief available under law against the institution.

2. A student subject to retaliation or other adverse action by an institution or athletic association or organization as a result of reporting a violation of this chapter to an employee or representative of the institution or athletic association or organization, or to a state or federal agency with oversight of institutions in the state has a private cause of action for injunctive relief, damages, and any other relief available under law against the institution or athletic association or organization.
3. An institution that suffers direct or indirect harm as a result of a violation of this chapter has a private cause of action for injunctive relief, damages, and any other relief available under law against the government entity, licensing or accrediting organization, or athletic association or organization.
4. A civil action must be initiated within two years after the harm occurred. A person that prevails on a claim brought pursuant to this section is entitled to monetary damages, including for any psychological, emotional, and physical harm suffered, reasonable attorneys' fees and costs, and any other appropriate relief.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1489.

House Vote: Yeas 75 Nays 18 Absent 1

Senate Vote: Yeas 40 Nays 7 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State