



Senate Education Committee

April 3, 2022

**SB 140 - "An Act relating to school athletics, recreation, athletic teams, and sports."**

Chairman Holland, and members of the Senate Education Committee,

The Association of Alaska School Boards encourages the Senate Education Committee to carefully consider the potentially catastrophic effects to school boards and school districts as you hear and vote on **SB 140 – "An Act relating to school athletics, recreation, athletic teams, and sports."** As an association representing school boards across the state, we question whether all potential ramifications, especially student well-being and the significant potential financial liability to school districts, have been adequately considered.

1. In Alaska, we have not been able to obtain any evidence of female sports being affected, much less dominated, by transgender athletes. The anecdotal examples cited lack credibility and seemed to be created by fear and rumor rather than factual occurrences.
2. We have questions about the ability of school districts to enforce the requirements of SB 140; in particular, how does a district determine if a student is a transgender person? Will that person be required to present a birth certificate to "prove their sex"? And would such a requirement violate Alaska's enumerated right to privacy? Would this place the school district in violation of Alaska's privacy laws?
3. School districts across the state of Alaska, especially many REAA's depend upon significant federal funding. SB140 could substantially jeopardize all federal funds to Alaska schools because the consequences of this legislation could likely be determined to constitute discrimination on the basis sex which is not permitted in education programs and activities by Title VI of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. This puts local school districts in direct violation of federal law and further risks their financial ability to provide a requirement of Alaska's constitution to provide for a system of public education.
4. SB 140 permits students to sue the school district if they believe "they have been deprived of an athletic opportunity or have suffered harm." What standard is the district required to use to protect themselves from such a legal charge? Does the burden of proof fall upon the district or the aggrieved students?
5. It is troublesome that SB 140 allows any student who believes they may have suffered by competing against a transgender student to seek monetary damages. What burden of proof must a student provide who claims they have been harmed? It is not beyond the realm of possibility to imagine a school district, ordered by a



- jury decision, to be required to pay for a plaintiff's college tuition and additional damages.
6. The United States Constitution guarantees equal protection for all persons. SB 140 places the school district in the position of determining who should receive protection.
  7. The only certainty for districts to protect themselves from financial liability for compliance with a bill such as SB 140 would be to discontinue all gender-specific sports, thus denying students the opportunity for athletic opportunities.

The Association of Alaska School Boards Delegate Assembly has passed a resolution urging school districts to protect and support ALL students and offer equal opportunities for students. In Alaska, and just like most of the other 49 states, extracurricular activities sponsored and endorsed by school boards are part of the American educational program and learning experience. AASB's resolution focuses on the fundamental tenet that safe and inclusive learning environments should be provided without discrimination.

### **3.30 SAFE AND INCLUSIVE LEARNING ENVIRONMENTS FOR LGBTQ+ STUDENTS**

AASB encourages member districts, state agencies, and other decision-makers to support policies and practices that ensure safe and inclusive learning environments for LGBTQ+ students. AASB supports districts in their efforts to protect the health and dignity of all children and youth, including transgender and nonbinary students, and to ensure equal access to educational programs.

The Association of Alaska School Boards believes there are too far too many questions about the legality, constitutionality, and fiscal impact of this bill for it to proceed.

Respectfully submitted,

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