

LEGISLATIVE BILL 628

Approved by the Governor March 19, 1982

Introduced by DeCamp, 40; Vickers, 38; Koch, 12;
Kilgarin, 7; Fowler, 27; Wiitala, 31; Beutler,
28; Newell, 13

AN ACT relating to education; to adopt the Nebraska Equal
Opportunity in Education Act.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be
cited as the Nebraska Equal Opportunity in Education Act.

Sec. 2. As used in this act, unless the context
otherwise requires:

(1) Educational institution shall mean any public
preschool, elementary, or secondary school, an
educational service unit, the University of Nebraska,
state colleges, technical community colleges, and the
State Department of Education; and

(2) Governing boards shall mean the duly
constituted board of any public school system of
elementary or secondary schools, any educational service
unit, the Board of Regents of the University of Nebraska,
the Board of Trustees of the Nebraska State Colleges, the
Technical Community College Board of Governors, and the
State Board of Education.

Sec. 3. The Legislature finds and declares that
it shall be an unfair or discriminatory practice for any
educational institution to discriminate on the basis of
sex in any program or activity. Such discriminatory
practices shall include but not be limited to the
following practices:

(1) Exclusion of a person or persons from
participation in, denial of the benefits of, or
subjection to discrimination in any academic,
extracurricular, research, occupational training, or
other program or activity, except athletic programs;

(2) Denial of comparable opportunity in
intramural and interscholastic athletic programs;

(3) Discrimination among persons in employment
and the conditions of such employment; and

(4) The application of any rule which
discriminates on the basis of (a) the pregnancy of any

person, (b) the marital status of any person, or (c) the condition of being a parent. Rules requiring certification of a physician's diagnosis and such physician's recommendation as to what activities a pregnant person may participate in are permissible. For purposes of this section marital status shall include the condition of being single, married, widowed, or divorced.

Sec. 4. The governing boards of educational institutions shall adopt and promulgate rules and regulations needed to carry out this act. The State Department of Education shall provide such technical assistance in the development of these rules and regulations as may be requested by the governing board of any public school system of elementary or secondary schools. Governing boards of educational institutions, with the advice of staff, shall formulate activities and programs needed to carry out this act.

Sec. 5. (1) Any person aggrieved by a violation of this act or any rule, regulation, or procedure adopted pursuant to this act may file a complaint with the governing board of the educational institution committing such violation. Such complaint shall be made in writing, under oath, within one hundred eighty days of such alleged violation, and shall set forth the claimant's address and the facts of such alleged violation with sufficient particularity as to permit the governing board to understand and investigate the conduct complained of.

(2) The governing board is empowered to take such action as may be necessary to correct such violation, including, but not limited to, (a) terminating the discriminatory practice or policy complained of, and (b) awarding to the aggrieved person or persons such compensatory money damages as the particular facts and circumstances may warrant.

(3) The governing body shall dispose of the complaint and shall notify the claimant of its finding. All dispositions of such complaints shall be in writing, signed by the chief officer of the governing board, and a true copy of such disposition shall be mailed by certified mail return receipt requested to the claimant at the address set forth on the complaint, or at such other address as may be filed by the claimant with the governing board. It shall be the duty of the claimant to notify the governing board of any change of address, and the governing board has no duty to attempt to locate any claimant who has failed to advise such board of a change of address.

Sec. 6. If the claimant elects to accept the written disposition of the complaint made by the governing board, he or she shall notify such board in writing of his or her acceptance within sixty days after receipt of such disposition, at which time such disposition shall be deemed final and conclusive. A failure to notify the board of such acceptance within the time period provided in this section shall be deemed a rejection of such disposition.

Sec. 7. If the claimant elects not to accept the written disposition of such complaint made by the governing board, he or she may, within one hundred eighty days of receipt of such disposition, file an original action in the district court of the judicial district where such educational institution is located, for equitable relief and compensatory money damages. If such action includes a claim for money damages, such claimant shall be entitled to a trial by jury as to such claim for damages, unless he or she expressly waives in writing such trial by jury.

Sec. 8. If the governing board fails to dispose of any written complaint filed pursuant to this act within one hundred eighty days after the date of filing, such complaint may be withdrawn by the claimant, and he or she may then proceed to file an original action in the district court of the judicial district where such educational institution is located pursuant to section 7 of this act. Such action must be filed within two years of the date of the filing of such complaint.

Sec. 9. No original action asserting a violation of this act may be filed in any district court unless a complaint asserting such violation is first filed with the governing board of the educational institution committing such discriminatory act or practice and disposed of or withdrawn as provided in this act.

Sec. 10. Nothing in this act shall be construed to prohibit a person asserting a claim for discrimination in employment or the conditions thereof from filing a complaint pursuant to the Nebraska Fair Employment Practice Act. Filing a complaint pursuant to the Nebraska Fair Employment Practice Act shall constitute a waiver of any right to seek relief pursuant to this act and filing a complaint pursuant to this act shall constitute a waiver of any right to seek relief pursuant to the Nebraska Fair Employment Practice Act.

Sec. 11. Nothing in this act shall be construed to prohibit any educational institution from maintaining

LB628

separate toilet facilities, locker rooms, or living facilities for the different sexes.