

February 17, 2025



FOUNDATION
AGAINST
INTOLERANCE
& RACISM

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100

Sent via email

To Whom It May Concern:

This is a federal civil rights complaint filed under the U.S. Department of Education's Office for Civil Rights ("OCR") Complaint Resolution Process against Tumwater School District ("TSD"), located at 621 Linwood Avenue South, Tumwater, Washington, 98512.

The Foundation Against Intolerance & Racism (FAIR) is a nonpartisan, nonprofit organization dedicated to advancing civil rights and liberties, and promoting a common culture grounded in fairness, understanding, and humanity. As an interested third party, FAIR files this complaint alleging sex-based discrimination in violation of Title IX of the Education Amendments of 1972 ("Title IX").

We respectfully urge the OCR to investigate Tumwater School District for the actions described below and take all necessary actions to ensure the protection of sex-based rights guaranteed by Title IX.

On February 6, 2025, 15-year-old female student-athlete Frances Staudt, a TSD sophomore, experienced sex-based discrimination which prevented her from participating in her scheduled basketball game. In the course of the discriminatory event and in the days since, Ms. Staudt and others have also experienced material threats to their First Amendment Rights to free speech and expression.

During the warm-up session before the TSD girls' junior varsity basketball game, Ms. Staudt noticed that a player on the opposing team was a male. Upon inquiry made to TSD Principal Zach Suderman and TSD Athletic Director Jordan Magrath, it was confirmed that the TSD school officials had advanced notice that a member of the opposing team was, in fact, a male. Citing a Washington Interscholastic Activities Association ("WIAA") policy that allows athletes to play on the team that aligns with their "gender identity,"¹ both Suderman and Magrath rejected Ms. Staudt's plea to either remove the male or stop the game entirely. Mr. Suderman stated that the male player could not be removed due to the WIAA policy against gender-identity-based discrimination. To this, Ms. Staudt responded that it is actually the failure to remove a male from the basketball game meant for girls that constitutes discrimination. Principal

¹ [Washington Interscholastic Activities Association Handbook](#), Sec. 18.16.0, *Gender Identity Participation*, states: "All students have the opportunity to participate in WIAA athletics and/or activities in a manner that is consistent with their gender identity."

Suderman then ridiculed Ms. Staudt's mother by asking her, "Are you telling me that your daughter will never get knocked down or potentially injured by someone bigger, stronger and faster than she is while playing sports?"

Once it became clear that TSD officials would not take action to protect the sex-based rights of female athletes, Ms. Staudt was forced to withdraw herself from participation in the game.

While watching the game from the sideline, Ms. Staudt became increasingly distraught by the threat she perceived to her teammates' safety. She verbalized her concerns about a boy playing in a game that was meant for girls, and she continued requesting that the school officials remove the male or stop the game. They did not. Instead, TSD is now investigating Ms. Staudt for allegedly "misgendering" the male player, purportedly in violation of TSD policies against bullying and harassment.² A finding of any such violation would arguably constitute an infringement of Ms. Staudt's right to free speech in violation of her First Amendment rights.

Ms. Staudt is not the only student whose First Amendment rights were threatened in the course of the game. When her 13-year-old brother attempted to take a video of the basketball game, just as several other spectators in the gymnasium were, a TSD employee threatened him by saying, "You better think twice about that." When Ms. Staudt's brother questioned what the TSD employee meant by this, the employee responded, "you better think twice about what you're doing right now," while standing inches within the young boy's face. It seems that if one disagrees with the WIAA policy in question and believes it is a violation of a female's sex-based rights to be forced to engage in athletic competition with a male, TSD will use its power and influence to silence such dissenting viewpoints. Needless to say, the TSD actions outlined herein raise significant concerns about federal law violations.

In light of recent court decisions, Federal executive orders, and guidance from the Department of Education³, it is clear that Title IX is currently interpreted to protect students based on their biological sex—either male (boy) or female (girl), and not based on their "gender identity." Therefore, if a school or athletic association offer: (1) a boys' basketball team; and (2) a girls' basketball team, but then allows males to participate on the team for girls, the female athletes are then deprived of the same opportunity the male athletes are given, which is to compete on a sex-segregated sports team. This constitutes sex-based discrimination in violation of Title IX. Unfortunately, it seems that officials in Washington state reject this notion and are unlikely to be reliable in protecting the rights of Washington's female student-athletes.

Several communications from high-ranking officials demonstrate Washington's commitment to allowing trans-identifying males to participate on sports teams meant for females, purportedly following a Washington state law that prohibits discrimination based on gender identity.⁴ When asked for comment on the [recent Federal executive order](#) aimed at protecting girls' sports (the "Girls Sports EO"), Washington

² See Exhibit A.

³ [Dear Colleague letter](#), U.S. Dept. of Education (Feb. 4, 2025).

⁴ RCW 28A.642.010.

Attorney General's Office spokesperson Mike Faulk said "we are repulsed by the president's dehumanization of the trans community," and "[t]his and other orders are clearly part of the administration's larger plan to strip away civil rights across society."⁵

In an email sent to all Washington superintendents on the morning of February 6th, Superintendent of Public Instruction, Chris Reykdal characterized the Girls Sports EO as "condition[ing] the receipt of federal funds on educational institutions' compliance with discrimination against trans female athletes."⁶ The email went on to question the constitutionality of the enforcement mechanisms outlined in the Girls Sports EO, saying there are "serious legal questions about whether this order is able to override the rights of states to further define Title IX consistent with each state's laws and the human rights framework established in each state." Ultimately, Superintendent Reykdal explicitly instructed Washington public schools to disregard the Department of Education's interpretation of Title IX, saying "At this time, schools should continue to follow state law prohibiting discrimination on the basis of gender identity." It seems clear that Washington officials are determined to prioritize the rights of male athletes who identify as transgender ahead of the rights of female athletes.

The overt disregard of the requirements under Title IX is illegal and harmful to the students TSD aims to serve. We urge the OCR to thoroughly investigate the allegations in this complaint and take all steps necessary to secure the safety and protection of Washington female athletes' sex-based rights.

Sincerely,

Leigh Ann O'Neill

Leigh Ann O'Neill
Director of Legal Advocacy
Foundation Against Intolerance & Racism

⁵ Roland, Mitchell, "Washington sports association seeking legal counsel after Trump executive order on trans athletes," *Spokesman-Review* (Feb. 5, 2025), available at: <https://www.spokesman.com/stories/2025/feb/05/washington-sports-association-seeking-legal-counsel/>.

⁶ Reykdal, C., email to Superintendents and Education Partners re: Information About Federal Actions - U.S. Department of Education & Discrimination Against Trans Female Athletes (sent Feb. 6, 2025), *see* Exhibit B.

Exhibit A

From: Zach Suderman [REDACTED]
Date: February 10, 2025 at 10:56:11 AM PST
To: [REDACTED]
Cc: Jordan Magrath [REDACTED], Marty Reid [REDACTED], Lisa Perreira [REDACTED], Meagan Dawson [REDACTED], Amy Finney [REDACTED]
Subject: HIB Investigation

Good morning –

We have received reports of potential Harassment, Intimidation and/or Bullying (HIB) that occurred on Thursday, February 6th at the Girls Basketball game. We have opened a HIB investigation and as part of this we will need to conduct an informal initial hearing to hear Frances' perspective on this event, past communications, and subsequent electronically transmitted messages. This can be done with or without parents present and I would like to give you the opportunity to schedule time this afternoon or tomorrow morning.

I've attached 4 potentially relevant TSD Board Policies:

- Policy 3207 – Prohibition of Harassment, Intimidation and Bullying
- Policy 3210 – Nondiscrimination
- Policy 3211 – Gender-Inclusive Schools
- Policy 3241 – Student Discipline

I'm cc'ing Amy Finney and she can work with you to schedule time for this interview to occur.

Respectfully,

Zach Suderman
Principal
Tumwater High School
360.709.7603

-  **3207prohibitionofharassmentintimidationandbullying.pdf** 
-  **3210nondiscrimination.pdf** 
-  **3211genderinclusive.pdf** 
-  **3241studentdiscipline.pdf** 

Exhibit B

From: Chris Reykdal [REDACTED]
Date: Thu, Feb 6, 2025 at 8:51 AM
Subject: Information About Federal Actions – U.S. Department of Education & Discrimination Against Trans Female Athletes
To:

Dear Superintendents and Education Partners:

It has been another busy week full of announcements and actions at the federal level that impact our shared work. Earlier this week, we received word that the Trump Administration's next federal agency of focus would be the Education Department, with news of an upcoming executive order to dismantle the department. Yesterday, the President signed an executive order to condition the receipt of federal funds on educational institutions' compliance with discrimination against trans female athletes. Below, please find information on what we know about these two actions.

Executive Order: *Keeping Men Out of Women's Sports*

The President attempts two things in the order: First, to restrict transgender female athletes from participating in girls' sports with their peers; and second, to withhold federal funds from school districts that do not comply with these discriminatory actions.

Washington state law prohibits discrimination on the basis of gender identity. The President's order implicates serious constitutional questions by directing federal agencies to refuse to disburse or withhold funds appropriated to educational programs by Congress. The President's executive orders are not law, and there are serious legal questions about whether this order is able to override the rights of states to further define Title IX consistent with each state's laws and the human rights framework established in each state.

Regarding the President's attempt to withhold funds, we do not believe the U.S. Department of Education can lawfully withhold funding provided to the states or local education agencies when the dollars were provided by congressional action for purposes unrelated to the topic of gender equity and inclusion.

We are working closely with the Attorney General's Office and will provide further clarification and guidance to schools soon. At this time, schools should continue to follow state law prohibiting discrimination on the basis of gender identity.

Proposed Closure of the U.S. Department of Education

On Tuesday, the Trump Administration confirmed to the press that they are working on a plan to erode the authority of the U.S. Department of Education (ED) and call upon Congress to eliminate ED entirely. The Administration said that they aim to issue an executive order by the end of the month.

It's important to note that ED was created by Congress in 1979 and can only be dissolved legally through an act of Congress. All the programs currently under ED are specifically mandated by federal law to be administered by the Department, and programs can only be moved legally out of ED through an act of Congress.

What we don't yet know about this proposal is how the work of ED would be distributed to other federal agencies. We already experience a lack of alignment across the divisions within ED, and we anticipate that communication issues would be exacerbated if we were responding to the needs of multiple federal agencies instead of just one.

As the Trump Administration has shifted their focus to the Education Department, the Department has begun experiencing higher-than-usual rates of staff turnover. This loss of institutional knowledge is already impacting response times, and it is taking longer to get questions answered than usual.

Other Issues

We are continuing to receive a lot of questions about federal funding. While the breakdown in funding is different for each school district, just 7% of our overall K-12 funding (on average) comes from federal sources. Of those funds, roughly 5% are formula-directed funds, which we expect would be protected. We anticipate that there will be further legal action to prevent federal agencies from complying with the President's orders to condition the receipt of federal funds on compliance with executive orders that exist outside of our state laws.

Separately, we have updated our Parents' Bill of Rights implementation guidance, and the draft is currently with the Attorney General's Office for review. We anticipate getting that guidance out to you within the next week or two. If questions come up in the meantime, please raise those with your legal counsel.

As a reminder, the AESD is supporting us by collecting your questions, concerns, and feedback in a central location. This process helps to ensure we get your questions answered. Our next statewide webinar for district leaders is next Tuesday, February 11. [Please use this form created by the AESD to submit your questions.](#)

Keeping you informed,

Chris