Michigan High Schools Now in Sync

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BY ADAM EPSTEIN

On April 2, 2007, the Supreme Court of the United States finally put an end to a decade-long gender-equity dispute involving high school sports seasons in the state of Michigan. At issue was whether the Michigan High School Athletic Association’s (MHSAA) refusal to synchronize girls’ and boys’ sports seasons in certain sports violated federal and state antidiscrimination laws, including Title IX. The answer was “yes” on more than one occasion after years of appeals by the MHSAA. The final bell rang in late spring 2007, however, when the Sixth Circuit Court of Appeals—yet again—affirmed the decisions of the Western District of Michigan, which had declared Michigan to be unequivocally out of compliance. The MHSAA must now immediately address how to comply with the law beginning this fall 2007.

For years, six girls’ sports were scheduled in seasons that did not coincide with boys’ sports. While this might seem a bit odd to most parents, coaches and student-athletes around the country who are used to girls’ basketball being played in the same season as men, for example, this separate but equal policy in Michigan actually seemed to work quite well. In fact, many Michiganders had viewed the policy with pride as the arrangement allowed an opportunity to showcase girls’ athletic talents in a way that did not compete with the boys, gyms and fields did not have to be shared with the boys, and, in many instances, a single coaching staff could manage both the boys’ and girls’ teams in an efficient way.

However, that idiosyncratic source of pride began to be noticed at the national level when, in 1998, a Grand Rapids–based organization
known as Communities for Equity (CFE) filed a class-action lawsuit alleging that the separate but equal policy of playing certain girls’ sports in nontraditional seasons violated established state and federal civil rights policies. Mothers Diane Madsen and Jay Roberts-Eveland were the two Grand Rapids–based women who initiated the lawsuit through CFE (who took the case without a fee for approximately 10 years). These two mothers were unhappy with the disparity in treatment with their daughters while in high school with regard to the separate but equal sports seasons.

After the case went to trial in 2001, the federal district court decision (authorised by Judge Richard Alan Enslen) held that the MHSAA policy did indeed violate the U.S. Constitution, Title IX of the Education Amendments of 1972, and even Michigan state law. After a series of appeals, the MHSAA proposed a plan, but that plan was rejected by the court, who sided with both CFE and the Department of Justice, who had both filed responses to the MHSAA plan. Then three alternate plans were given in August 2002 by the court itself from which MHSAA could choose. In 2004, the Sixth Circuit Court of Appeals unanimously upheld the district court decision (which had been appealed again), holding that the MHSAA violated the 14th Amendment in scheduling high school sports. Then, after yet another appeal, the U.S. Supreme Court ordered the Sixth Circuit to reconsider the case after a 2005 federal decision that affected how remedies are decided under federal law. The district court decision was yet again upheld in 2006.

The pros and cons of the Michigan high school sports setup is interesting. One of the advantages of the previous system was that Michigan girls could actually benefit over all the other states because it gave them more individual exposure to college recruiters. However, is that the purpose of high school sports? One of the disadvantages to the system was that many girls were given second-class status in terms of practice or competition time, especially in seasons in which outdoor fields were still thawing out from the winter months.

The impact of the decade-long litigation is that some students might have to choose one sport over another since the sports would be in the same season now. While there may have been advantages and disadvantages to having separate but equal sports seasons for girls in Michigan, the fact remains that this policy will have to change and Michigan high schools, coaches, parents, and student-athletes will have to adapt to the realities of the legalities.

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Michigan now joins the 49 other states who had already synchronized their sports seasons. Some of the states such as Alaska, Arizona, Montana, South Dakota, Virginia, and West Virginia modified their separate but equal girls’ basketball policies amicably in recent years either voluntarily or after being sued. The MHSAA has to realign its sports seasons effective fall 2007 and it will have to consider various financial issues (such as hiring more coaches and referees) for the nearly 56,000 girls and 16,000 boys affected by the change. Some Michigan communities might even have to build new facilities, which could result in an increase in state or local taxes. Such financial concerns are no laughing matter for a state already in dire financial straits.

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3. The sports in question involved a combination of girls’ volleyball, girls’ basketball, girls’ soccer, and boys’ and girls’ golf and tennis. Volleyball is not a male sport in Michigan.


