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[HF 2416](#) – Girls’ Athletics, Eligibility (LSB5990HV)  
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Fiscal Note Version – New  
Requester: Representative Mary Mascher

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**Description**

[House File 2416](#) requires an interscholastic athletic team, sport, or athletic event that is sponsored or sanctioned by an accredited nonpublic school, school district, or organization as defined in Iowa Code section [280.13](#), to designate that team, sport, or event as females, women, or girls; males, men, or boys; or coeducational or mixed. Only female students, based on their sex as defined in the Bill, may participate in any team, sport, or athletic event designated as being for females, women, or girls.

A student who suffers direct or indirect harm, or is subject to retaliation or other adverse action by an accredited nonpublic school, school district, or organization based on their sex, as a result of violation of this Bill’s requirements, has a private right of action against the accredited nonpublic school, school district, or organization. Tort liability protection of governmental subdivisions, as defined in Iowa Code chapter [670](#), will not apply to a school district employee or school district that does not comply with the requirements of this Bill. A governmental entity will not investigate a complaint or take any adverse action against an accredited nonpublic school, school district, or organization for compliance with the requirements of this Bill.

If an accredited nonpublic school, school district, or organization suffers direct or indirect harm as a result of violation of this Bill’s requirements, it has a private right of action against the violating entity. A governmental entity, accredited nonpublic school, or school district will not be liable to any student for compliance with requirements of this Bill.

Any civil action related to this Bill must be initiated within two years from the date the alleged harm occurred. The Attorney General will provide legal representation at no cost for an accredited nonpublic school, school district, school employee, school board member, or authority of a nonpublic school for any lawsuit initiated or any complaint filed against such entity for compliance with this Bill. The State will assume financial responsibility for any expenses related to the lawsuit or complaint as incurred by the accredited nonpublic school, school district, school employee, school board member, or authority of a nonpublic school.

**Background**

[Title IX](#) of the Education Amendments Act of 1972 protects persons from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the United States Department of Education.

The United States Department of Education’s Office for Civil Rights (OCR) issued a [notice of interpretation](#) on June 16, 2021, requiring that a recipient institution that received United States Department of Education funds must operate its education program or activity in a manner free of discrimination based on sex, which is to encompass sexual orientation and gender identity. If

a Title IX complaint meets applicable requirements and standards, the OCR will open an investigation allowing for due process, including the reasoning by a state as to why it should not lose federal funds. Opportunities for resolution agreement and an appeals process provide additional pathways for the state to settle the matter with the OCR without the loss of federal funds.

### **Fiscal Impact**

[House File 2416](#) may have a fiscal impact related to noncompliance with Title IX. The loss of federal funds is unlikely due to precedent, but the outcome of future enforcement by the OCR cannot be predicted.

In addition, House File 2416 may have a fiscal impact related to increased future exposure to litigation to the State of Iowa; however, the number of claims is unknown. Fiscal impacts may include financial responsibility, as described in the Bill, and costs related to required legal representation that is to be provided by the Attorney General.

### **Sources**

United States Department of Education  
United States Department of Justice

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/s/ Holly M. Lyons

February 21, 2022

Doc ID 1287638

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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