

08.06.01 – RULES GOVERNING THE K-12 AND POSTSECONDARY EDUCATION SYSTEM

000. LEGAL AUTHORITY.

Article IX, Section 2 of the Idaho Constitution and Sections 33-105, 33-107, 33-116, 33-1612, and 33-6203 Idaho Code. ()

001. SCOPE.

Uniform and thorough standards by the State Board of Education to address issues and processes that impact more than one entity under the Board's governance in support of the implementation of a coherent K-20 public education system. ()

002. DEFINITIONS.

01. Institution of higher education. Referred to as an institution in this rule, is defined as any accredited public university or community college in Idaho, or any public professional-technical school operated by the state of Idaho or any political subdivision thereof. ()

02. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. ()

003. -- 009. (RESERVED)

010. RESOLUTION OF ATHLETIC PARTICIPATION DISPUTES

01. Scope. These rules establish procedures for the receipt and timely resolution of disputes regarding a student's biological sex under Section 33-6203, Idaho Code. ()

02. Designated Administrator. Each institution and school shall identify a designated administrator responsible for resolving disputes under Section 33-6203, Idaho Code. Each institution, school, and LEA shall publish the name and contact information for the designated administrator on its website. ()

a. A local education agency (LEA) with more than one school may identify a single designated administrator for all schools under its governance. ()

b. Each institution, school, or LEA shall identify an alternate for the designated administrator in cases of a reasonable conflict of interest or lack of availability to address a dispute. For purposes of this chapter, if an alternate is identified, all references to the "designated administrator" shall apply to the alternate only for the duration of the dispute. ()

c. The designated administrator shall process athletic disputes including: ()

i. Receipt of disputes. ()

ii. Providing required notices. ()

iii. Receiving documentation to verify the student's biological sex as required by Section 33-6203, Idaho Code. ()

iv. Maintaining confidential records. ()

v. Issuing a written resolution. ()

03. Content of Dispute. A written dispute shall be submitted electronically or via certified mail to the designated administrator. ()

a. The written dispute submission shall include: ()

i. The name and contact information of the student who is deprived of an athletic opportunity or suffers a direct or indirect harm (dispute initiator). If the dispute initiator is a minor, the name and contact information of the student's parent or legal guardian shall be provided and the student's parent or legal guardian shall then constitute the dispute initiator. ()

ii. The name of the student whose biological sex is in question and identification of that student's applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports. ()

iii. A statement describing the factual basis for the dispute. ()

04. Review and Notices. As soon as is practicable and no later than five (5) business days of receipt of a dispute, the designated administrator shall conduct an initial review and issue the applicable notices as outlined in 010.04.a. and 010.04.b. below. ()

a. Notice to Dispute Initiator. ()

i. If the dispute does not include the required information as outlined in Section 010.03.a, the designated administrator shall notify the dispute initiator that the dispute is declined due to failure to provide information required by rule. Dispute submissions may not be amended or supplemented, but a new submission may be prepared and re-submitted for review. ()

ii. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the designated administrator may decline further investigation and include notification that the matter is closed in the acknowledgment of receipt. ()

iii. If the dispute is eligible for review, the designated administrator shall provide the dispute initiator with an acknowledgement of receipt. ()

b. Notice to Student Whose Biological Sex is in Question. ()

i. If the dispute is declined pursuant to 010.04.a.i or 010.04.a.ii, no notification is required to the student or the minor student's parent or legal guardian. ()

ii. If the dispute is eligible for review, the designated administrator shall provide the student or the minor student's parent or legal guardian with a notification of dispute. ()

(1) If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the notification of dispute shall include a statement of documentation required by Section 33-6203(3), Idaho Code, to be submitted pursuant to Section 010.05. The dispute shall be addressed per Section 010.06. ()

05. Documentation. The designated administrator shall accept documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code. ()

a. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, such as an athletic physical form, the designated administrator shall use said documentation. ()

b. If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, the student or the minor student's parent or legal guardian shall submit documentation from the student's personal health care provider in the manner required in Section 33-6203(3), Idaho Code, or shall arrange for the submission of such documentation directly from the student's personal health care provider to the designated administrator. ()

c. The designated administrator shall not require or request documentation different from or in addition to that required by Section 33-6203(3), Idaho Code. ()

06. Review and Resolution. As soon as is practicable and no later than five (5) business days of receipt of documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, the designated administrator shall review the dispute and the submitted documentation, and issue a written resolution. ()

a. The designated administrator shall issue a written resolution to the student whose biological sex is in question or the minor student's parent or legal guardian. The written resolution shall confirm that the designated administrator has received documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, and shall indicate the student's biological sex as stated in the documentation. ()

b. The designated administrator shall notify the dispute initiator that the matter has been closed.()

07. Confidentiality. Records created or received pursuant to these rules shall be maintained in accordance with applicable law. ()

a. The identity of the dispute initiator shall be limited to individuals whose participation is reasonably necessary to resolve the dispute. ()

b. The identity of the student whose biological sex is in question, the documentation verifying the student's biological sex as required by Section 33-6203(3), and the written resolution shall be limited to individuals whose participation is reasonably necessary to resolve the dispute and individuals whose participation is reasonably necessary to determine eligibility for participation in applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports consistent with Section 33-6203, Idaho Code. ()

c. The documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, shall be maintained separately from general student educational records. ()

d. Disclosure of documentation shall occur only as authorized or required by law. ()

e. If a student transfers institutions or schools, the student may request a copy of the written resolution. The release shall be limited to the written resolution documentation. ()

011. – 999. (RESERVED)