

**FILED**

**NOV - 7 2000**

  
**CLERK**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

STEVEN PEDERSEN and CHERYL )  
PEDERSEN, as Guardians Ad Litem for )  
MARA PEDERSEN, a minor, and )  
SUZIE TOLZIN, as Guardian Ad Litem )  
for MICAH TOLZIN and ELIZABETH )  
TOLZIN, minors, )

CIV 00-4113

**COMPLAINT-IN-INTERVENTION**

Plaintiffs, )  
)

UNITED STATES OF AMERICA, )  
Plaintiff-Intervenor )

v. )  
)

SOUTH DAKOTA HIGH SCHOOL )  
ACTIVITIES ASSOCIATION, )

Defendant. )  
)  
)  

---

The United States of America ("United States"), Plaintiff-Intervenor, alleges as follows:

1. This action is brought on behalf of the United States to enforce the Fourteenth Amendment to the Constitution of the United States and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., which prohibits recipients of federal financial assistance from discriminating on the basis of sex in education programs and activities.

2. This court has jurisdiction under 28 U.S.C. § 1345 and 42 U.S.C. § 2000h-2.

3. Defendant South Dakota High School Activities Association (hereinafter "SDHSAA" or "the Association") is a voluntary, non-profit association whose membership is composed of approximately 194 South Dakota public and private secondary schools and whose headquarters is located in Pierre, South Dakota. The Association governs interscholastic athletics and activities

in and among member schools, and has controlling authority over sanctioning, operating, providing, and regulating interscholastic athletics and activities in and among its member schools. The Association has approximately 169 members who are public schools that receive federal financial assistance.

4. Pedersen et al. v. South Dakota High Sch. Activities Ass'n, CIV 00-4113, was filed on June 9, 2000. The plaintiffs allege that the defendant SDHSAA violated the Equal Protection Clause of the Fourteenth Amendment and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq., by discriminating on the basis of sex.

5. The minor plaintiffs and their guardians ad litem are all citizens of South Dakota. The minor plaintiffs all participate or aspire to participate in high school volleyball in Sioux Falls, South Dakota. The plaintiffs seek a permanent injunction requiring defendant SDHSAA to immediately schedule girls' high school volleyball during the traditional fall season in order to comply with the Fourteenth Amendment to the Constitution of the United States and Title IX of the Education Amendments of 1972.

6. Defendant SDHSAA is subject to the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States, and to Title IX, including the Title IX Implementing Regulations and Policy Interpretation.

7. Defendant has, continues to, and will continue to discriminate against female students on the basis of gender by failing to provide equal opportunity in the area of interscholastic athletics in violation of the Fourteenth Amendment to the Constitution of the United States, and Title IX and the Title IX Implementing Regulations and Policy Interpretation.

8. The unlawful discrimination engaged in by defendant includes, but is not limited to, requiring several sports played by female students to be played in non-traditional seasons which has limited the opportunities and benefits received by female athletes.

9. On or about June 6, 2000, defendant SDHSAA considered switching South Dakota's girls' high school volleyball season to the fall and the girls' high school basketball to the winter, but subsequently decided against allowing the girls to play in the traditional seasons.

10. Unless enjoined by this court, defendant SDHSAA will continue to violate the Fourteenth Amendment and Title IX and its Implementing Regulations and Policy Interpretation.

11. The Assistant Attorney General for the Civil Rights Division of the United States Department of Justice, by delegation from the Attorney General of the United States, has certified that the above-captioned case is of general public importance. See attachment hereto.

**WHEREFORE**, Plaintiff-Intervenor United States prays that this Court grant the following relief:

1. Declare that defendant has denied plaintiffs the equal protection of the laws in violation of the Fourteenth Amendment;

2. Declare that defendant has unlawfully discriminated on the basis of gender by failing to provide equal opportunities to female students in interscholastic athletics, and in doing so failed to provide plaintiffs equal athletic opportunity in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.;

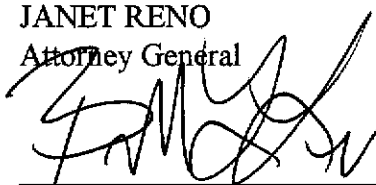
3. Issue a permanent injunction requiring defendant, its officers, agents, employees, successors, assigns, and all persons in active concert or participation with the Association to immediately schedule girls' high school volleyball during the traditional fall season and girls' basketball during the traditional winter season;

4. Order defendant to formulate, adopt, and fully and timely implement an effective plan to remedy fully its discriminatory policies and practices, and to comply fully with the requirements of federal law, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States, Title IX, and the Title IX Implementing Regulations and Policy Interpretation; and

5. Grant such other additional relief as the Court deems just and proper, including the costs and disbursements of this action.

Respectfully Submitted,

JANET RENO  
Attorney General



By:

BILL LANN LEE  
Assistant Attorney General



HELEN L. NORTON  
Deputy Assistant Attorney General



FRANZ R. MARSHALL  
SARAH A. DUNNE

Attorneys  
U.S. Department of Justice  
Civil Rights Division  
Educational Opportunities Section  
601 D Street, N.W., Suite 4300  
Washington, D.C. 20530  
(202) 514-6406



TED L. McBRIDE  
United States Attorney

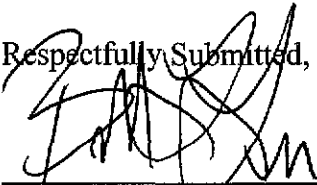
BONNIE ULRICH  
Chief - Civil Division  
United States Attorney's Office  
230 Phillips Ave., Suite 600  
Sioux Falls, SD 57104  
(605) 330-4400

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

STEVEN PEDERSEN and CHERYL )	
PEDERSEN, as Guardians Ad Litem for )	
MARA PEDERSEN, a minor, and )	CIV 00-4113
SUZIE TOLZIN, as Guardian Ad Litem )	
for MICAH TOLZIN and ELIZABETH )	
TOLZIN, minors, )	
)	
Plaintiffs, )	
)	
UNITED STATES OF AMERICA, )	
Plaintiff-Intervenor )	
)	
v. )	
)	
SOUTH DAKOTA HIGH SCHOOL )	
ACTIVITIES ASSOCIATION, )	
)	
Defendant. )	
)	
)	

CERTIFICATION OF PUBLIC IMPORTANCE

Pursuant to delegation from the United States Attorney General, see 28 C.F.R. § .50(a), I, Bill Lann Lee, Assistant Attorney General, Civil Rights Division, United States Department of Justice, hereby certify, in accordance with Section 902 of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000h-2, that the above-captioned matter is of general public importance and that, accordingly, intervention by the United States as plaintiff is warranted.

Respectfully Submitted,  
  
\_\_\_\_\_  
BILL LANN LEE  
Assistant Attorney General  
Civil Rights Division