



PACIFIC LEGAL
FOUNDATION



May 14, 2025

Board of Directors
Indiana High School Athletic Association
9150 Meridian St.
Indianapolis, IN 46260

Via E-Mail &
Overnight Delivery

Re: IHSAA Board of Directors' Unconstitutional Race- and Sex-Based Quotas

Dear Directors:

We are attorneys with the Pacific Legal Foundation and the Equal Protection Project, two public interest legal organizations that seek to dismantle unconstitutional barriers to opportunity and ensure that the law treats everyone equally regardless of race, gender, ethnicity, or national origin. As part of this work, our organizations litigate in support of the Fourteenth Amendment's guarantee of equal treatment under the law. This guarantee must be upheld not only by government actors, but by organizations who act as a governmental entity by exercising a governmental function, like the Indiana High School Athletic Association (IHSAA).

We have learned that IHSAA reserves two seats on its Board of Directors for "qualified female representatives" and two seats for "qualified minorities," who must not be a white male or female.¹ Per IHSAA's By-Laws, individuals who do not meet these race- and sex-based requirements are barred from nomination for these four seats,² regardless of their other skills, qualifications, or attributes. In other words, the IHSAA By-Laws maintain race- and sex-based quotas for its Board of Directors.

No one should be denied the opportunity to serve on a public board due to their race or sex. Our Constitution and civil rights law demand that individuals be judged on their character, qualifications, and achievements, not on characteristics they cannot control.

IHSAA has a constitutional duty to treat all Board of Director nominees equally under the law. In its landmark *Students for Fair Admissions* decision, the Supreme Court held that policies that treat some individuals differently based on their race are only legal in two specific circumstances: "remediating specific, identified instances of past discrimination that violated the Constitution or a statute," or "avoiding imminent and serious risks to human safety in prisons, such as a race riot."³ Neither applies to IHSAA's quota for "qualified minorities" who wish to serve on its Board of Directors. This high bar also calls into question IHSAA's set-aside for female-only Board seats.

Courts and legislatures across the country are striking down laws and policies that place race- and sex-based limits on who may serve their communities on public boards and commissions. Iowa recently

¹ 2024-25 By-Laws, Art. IV, sec. 3(a), (c)(2).

² 2024-25 By-Laws, Art. IV, sec. 3(c)(3).

³ *Students for Fair Admissions, Inc. v. President and Fellows of Harvard Coll.*, 600 U.S. 181, 207 (2023).

outlawed such quotas statewide after a federal court struck down a gender quota for a state judicial nominating commission. Arkansas, Montana, and Tennessee recently abolished racial quotas for all boards and commissions in those states. Federal courts are currently considering challenges brought by attorneys from Pacific Legal Foundation to race- and sex-based quotas on public boards and commissions in Louisiana, Minnesota, South Carolina, West Virginia, and Alabama.

Race- and sex-based quotas like those used by IHSAA perpetuate stereotypes, patronize the qualified, and undermine the ability of other qualified citizens to serve their communities. We strongly urge this Board to reconsider its use of these unconstitutional quotas.

Given the grave constitutional concerns at issue, please let us know by May 30, 2025, whether IHSAA intends on amending its criteria for its Board of Directors so that race and/or sex will no longer be factors for eligibility in the future.

Sincerely,

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cc: Attorney General Todd Rokita