Transgender Athletics

Presented by:
Holly Boyd Wardell and
tiger hanner, law offices of tiger hanner

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ARGUMENTS FOR TRANSGENDER PARTICIPATION

Proponents of anti-trans sports bans are relying on stereotypes that have sexist implications.

Transgender youth are a small part of the overall population.

Just like other you, transgender youth will have varying degrees of physical ability and attributes that may/may not lend themselves to success in the sport of their choice.

Playing sports comes with well-known academic, emotional, mental, and social benefits. Transgender youth should not be shut off from these opportunities.

Get the Facts about Transgender & Non-Binary Athletes - Human Rights Campaign (hrc.org)
ARGUMENTS AGAINST TRANSGENDER PARTICIPATION

Sports are competitive, and like any competition should be played on a fair and level playing field.

There are divisions, age brackets, and weight classes for a reason. Female sports should be for female athletes.

Unfair advantage: males have higher cardiovascular capacity, greater bone density, and more muscle mass.

Privacy Issues

Save Girls Sports | Family Policy Alliance

SB 3 – Texas Fair Sports for Women and Girls Act (2021)

“Women have fought for equality in sports for decades, and they have achieved enormous success along the way. It is not fair to allow boys to compete in girls' sports because, statistically, boys run faster, jump higher and throw farther. In Texas, we refuse to deny any woman or girl athlete the right to compete on a level playing field, and to be the best in their sport.

“We cannot allow our women to be pushed out of athletic scholarships and out of sporting excellence. This is the fourth time we have passed this bill out of the Senate this year, and we will continue passing this bill until it finally becomes law in Texas.”

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SB 3 – Texas Fair Sports for Women and Girls Act (2021)

Sec. 33.0834. INTERSCHOLASTIC ATHLETIC COMPETITION BASED ON BIOLOGICAL SEX. (a) Except as provided by Subsection (b), an interscholastic athletic team sponsored or authorized by a school district or open-enrollment charter school may not allow a student to compete in an interscholastic athletic competition sponsored or authorized by the district or school that is designated for the biological sex opposite to the student's biological sex as correctly stated on:

(1) the student's official birth certificate, as described by Subsection (c); or
(2) if the student's official birth certificate described by Subdivision (1) is unobtainable, another government record.

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(b) An interscholastic athletic team described by Subsection (a) may allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition designated for female students is not offered or available.

(c) For purposes of this section, a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex only if the statement was:

(1) entered at or near the time of the student's birth; or

(2) modified to correct a clerical error in the student's biological sex.

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(d) The University Interscholastic League shall adopt rules to implement this section, provided that the rules must be approved by the commissioner in accordance with Section 33.083(b).

• Based on two years of input from stakeholders
• To provide “needed clarity, in response to questions from stakeholders, on how recipients can ensure that students have equal opportunity to participate on male and female athletic teams as required by Title IX.”
• Prohibits a one-size-fits-all policy that categorically bans transgender students from playing on sports teams consistent with their gender identity.
If a recipient [of federal funds] adopts or applies sex-related criteria that would **limit or deny a student’s eligibility** to participate on a male or female team **consistent with their gender identity**, such **criteria** must, for each sport, level of competition, and grade or education level:

(i) Be substantially related to the achievement of an **important educational objective**, and

(ii) **Minimize harms to students** whose opportunity to participate on a male or female team consistent with their **gender identity** would be limited or denied.

Emphasis added.
IMPORTANT EDUCATIONAL OBJECTIVES

• Prevention of sports-related injury
• Fairness in competition

*Is there a way to achieve this objective without excluding a transgender student?

From NPRM

NOT VALID EDUCATIONAL OBJECTIVES

• Excluding transgender students from sports
• Disapproval of transgender students
• Adherence to stereotypes
• Administrative convenience

From NPRM
Criteria must be specific to each sport, level of competition, and grade or education level.
Texas v. Cardona

Alleges that the U.S. Department of Education’s guidance and proposed rules applying Bostock to Title IX is flawed and seeks a ruling that Title IX does not bar discrimination on the basis of sexual orientation or gender identity.

No ruling has been made to date.

The information in this handout was prepared by Eichelbaum Wardell Hansen Powell & Muñoz, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If special legal advice is sought, consult an attorney.

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