

EQUITY IN SCHOOL SPORTS FOR TRANSGENDER, GENDER-DIVERSE, AND INTERSEX STUDENTS

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Playing sports provides many direct and indirect benefits to young people, and these benefits must be equitably offered to all students in public schools, including transgender, nonbinary, and intersex students.¹ But in Pennsylvania, these students are instead being targeted through proposed statewide legislation, and more than 20 school districts have passed board policies that prevent students from participating in school sports on a team that aligns with their gender identity. Many others are considering the same.

The foundational premise of sports-ban policies — that trans girls are not “real” girls and trans boys are not “real” boys — is based on discriminatory stereotypes prohibited by Title IX case law and the Pennsylvania Human Relations Act (PHRA). This premise is antithetical to the mission of public schools to provide safe environments and equitable opportunities to all students. These policies harm transgender, nonbinary, and intersex students — as well as other students who do not conform to sex stereotypes. Significantly, these policies are likely to disproportionately harm Black girls and other girls of color, who are also subjected to racist and sexist stereotypes associating “femininity” with whiteness.²

THE BENEFITS OF SCHOOL ATHLETICS MUST BE AVAILABLE TO ALL STUDENTS

Playing sports is associated with higher grades and standardized test scores, as well as higher rates of school completion.³ Athletics teaches students about teamwork, helps build leadership skills, and confers psychological benefits, such as feelings of well-being, a sense of belonging among peers, and connectedness to the school community.⁴ All students deserve equal access to these benefits.

Preventing transgender, intersex,⁵ and nonbinary students from playing school sports based solely on those characteristics is a form of sex discrimination that worsens educational outcomes and mental health outcomes for these students, who are already at risk due to the significant rates of in-school and out-of-school victimization they face.⁶ Research shows that when transgender and nonbinary students are allowed to play sports, they tend to receive higher grades⁷ and experience increased feelings of belonging, higher self-esteem, and lower levels of depression.⁸ These benefits are significant and, in many cases, lifesaving.

THERE IS NO EVIDENCE THAT TRANS STUDENTS’ PARTICIPATION IN SPORTS HARMS ANYONE

Anti-trans sports bans and restrictions do nothing to “protect girls’ rights” or address the actual, ongoing gender inequities in athletics.⁹ Indeed, they only heighten the risk of sex discrimination for

all girls who play sports. There is no evidence that permitting transgender and intersex students to play on sports teams aligned with their gender identity harms anyone. An analysis of Centers for Disease Control and Prevention data found that there was no negative impact on the participation of girls and women in school sports in states that had implemented trans-inclusive state athletics policies.¹⁰ In fact, early evidence from California and Connecticut suggests that trans-inclusive policies are correlated with increased participation of girls in school sports.¹¹ In contrast, where states enacted trans-exclusionary policies, girls' overall participation in high school sports declined.¹²

ANTI-TRANS SPORTS BANS IGNORE THE FACT THAT PHYSICAL ABILITIES VARY AND PROMOTE PRIVACY VIOLATIONS OF ALL GIRLS

Anti-trans sports bans ignore the reality that there are (and have always been) wide variations in physical characteristics among students who play sports. This is especially true during formative school-age years as young people are rapidly growing. Their bodies are undergoing tremendous changes at varying rates of speed and, thus, in different school years. Like all other youth, trans youth are short and tall, athletic and non-athletic, fast and slow. Prohibiting their participation does not level the playing field. It only unlawfully discriminates against students based on their sex in violation of state and federal law.

Moreover, anti-trans sports bans and restrictions only codify sexist stereotypes of how girl athletes *should* look or play, which promotes body policing of any student who deviates from this ideal stereotype of femininity. Public examples of broad body policing of professional women athletes include gold-medalist Imane Khelif, an Algerian boxer and cisgender woman who was accused during the Olympics of being transgender or too “masculine.” Khelif had to contend with the effects of this misinformation. Body policing causes all women harm, particularly women and girls of color.¹³ Enforcing anti-trans sports bans often relies upon dangerous practices of “sex testing,” which create new risks of sex harassment against student athletes. These practices can range from collecting sensitive medical documents to needless, traumatizing genital examinations.¹⁴ Students, families and civil rights advocates do not consent to school administrators' or policymakers' invasive questions and investigations of girls' bodies and privacy that would be required to police the mandates of sports bans.

ARE TRANS STUDENT ATHLETES ABLE TO PLAY SPORTS IN PENNSYLVANIA PUBLIC SCHOOLS?

Transgender, nonbinary, and intersex students in Pennsylvania and around the country are being targeted through federal executive actions, proposed statewide legislation, and school district policies that prevent them from participating on a school sports team that aligns with their gender identity. (This comes while they also face discriminatory policies relating to bathroom and locker room access and refusal to use transgender students' name and pronouns).

In recent years, anti-LGBTQ advocates across the country, including in Pennsylvania, have introduced legislation or school policies to prohibit trans students from participating in school sports on the teams that align with their gender identity.¹⁵

The Pennsylvania legislature has considered multiple bills, including [SB-9 \(2025-26 session\)](#), [HB 216 \(2023-24 session\)](#), [HB 972 \(2021-22 session\)](#), and [SB 1191 \(2021-22 session\)](#), that would single out transgender athletes for discrimination by denying them the ability to play on teams that align with their gender identity. However, those bills did not become law.¹⁶ Unfortunately, similar bills are expected to be introduced in the future. Individuals and organizations can join Education Law Center-PA in opposing these harmful bills.¹⁷

In early 2025, President Trump issued Executive Order (EO) 14168 declaring his administration's policy of recognizing only male and female "biological sex"¹⁸ and Executive Order 14201, which seeks to ban transgender girls and women from participating on teams that align with their gender identity and directs federal agencies to withhold federal funding from schools that allow trans athletes to play.¹⁹ These executive orders are subject to multiple lawsuits challenging the EOs and their discriminatory impact.²⁰ And although an executive order does not have the force of law or supersede state or federal law (see ELC's [Analysis on Executive Orders](#) for more info), the rhetoric and threats from the federal administration have increased the negative attacks and discriminatory board policies excluding trans student athletes.

Many school districts, like Conestoga Valley School District,²¹ have relied on a policy from the Pennsylvania Interscholastic Athletic Association (PIAA) written in 2014, which stated only that "where a student's gender is questioned or uncertain," the principal has the deciding vote on whether the student can play sports and with whom.²² In February 2025, the PIAA amended this policy to require that schools consult with their school solicitors when a student's "sex" is questioned to ensure compliance with the Administration's new executive order titled "Keeping Men Out of Women's Sports."²³ Besides wrongly relying on executive order language that does not carry the force of law, this subjective policy directive leaves students open to a wide variety of discrimination based on the personal viewpoints of their school administrators. ELC-PA and Women's Law Project continue to advocate to the PIAA to correct its policy and stop supporting discrimination against transgender student athletes.²⁴

In this context, a growing number of Pennsylvania school districts have proposed or passed school board policies banning transgender students from participating in school sports that align with their gender identity.²⁵

The discriminatory purpose of the sports ban policies is often very clear from public discussions. For example, in one district, a board member commented that their anti-trans policy would affect six current students and "If we nip it in the bud now, it doesn't have to get more than six."²⁶ In another district, comments from a school board president reflected an intent to discriminate based on the "look" of students and to require a student to present their birth certificate,²⁷ which is not permitted under state school enrollment law.²⁸

As a student at Manheim Township School District testified to her school board, these policies are not only about sports. They are also about whether a student's identity will be honored, affirmed, and welcomed:

These kids' lives are in your hands, my life is in your hands. ... You might think that this is just about sports, but it's not. ... We're watching and we're listening and we're taking

*your decision to heart. You are setting a precedent for how you treat your students. And right now, I'm ashamed to be one of your students. Think about us kids and our lives.*²⁹

In contrast, some Pennsylvania school districts recognize their legal obligations to ensure equitable access and continue to support and affirm their transgender and gender-diverse students by permitting them to play on sports teams that align with their gender identity.³⁰

FEDERAL AND STATE LAW REQUIRE EQUITABLE ACCESS TO SPORTS FOR TRANSGENDER, NONBINARY, AND INTERSEX STUDENTS

Students have the right to participate in school sports activities consistent with their gender identity; to deny students this right is discrimination on the basis of sex and gender identity under federal and state law.

Federal law: Across the country, advocates have challenged discriminatory sports bans as violating the U.S. Constitution's Equal Protection Clause and Title IX's prohibition on sex discrimination. Although there is some mix among the decisions, most courts that have addressed the issue on the merits have overturned anti-trans sports bans.³¹ In fact, every circuit court that has addressed transgender sports bans on the merits has found in favor of transgender student athletes' right to play.³²

This line of case law interpreting Title IX and the Equal Protection clause cannot be undone by the Administration's executive order claiming that it is sex discrimination to allow transgender women and girls to participate in women's sports.³³ See ELC's [Analysis on Executive Orders](#).

Most recently, a federal district court judge in Pennsylvania rejected a request from a cisgender athlete to issue an injunction prohibiting transgender girls from competing in women's sports³⁴ and subsequently dismissed all of her Title IX and constitutional claims.³⁵ In her decision, the judge restated at length the Third Circuit's reasoning from a decision called *Boyertown* holding that there is no privacy violation in requiring cisgender students to share a locker room and bathroom with transgender students.³⁶ The district judge repeated the Third Circuit's finding that because "trans students face extraordinary social, psychological, and medical risks ..., the school district clearly had a compelling state interest in shielding them from discrimination."³⁷ The court noted that "[w]hen transgender students face discrimination in schools, the risk to their wellbeing cannot be overstated — indeed it can be life threatening."³⁸

The U.S. Supreme Court announced in July 2025 that it would hear challenges to two cases that had awarded injunctions allowing a high school trans student and a college trans student to continue to play sports at their schools.³⁹ Oral arguments will likely take place later in 2025, with a ruling expected by June 2026.

State law: Pennsylvania law also protects LGBTQ+ students from discrimination based on their sex or gender identity. The Pennsylvania Constitution and the Equal Rights Amendment prohibit discrimination because of sex.⁴⁰ The state's anti-discrimination statute, the Pennsylvania Human Relations Act (PHRA), also prohibits discrimination in schools based on sex, gender identity, or

transgender identity.⁴¹ The PHRA has not yet been applied to a case or public administrative complaint about transgender students' sports access.

The Pennsylvania Human Relations Commission (PHRC) enforces this key anti-discrimination law, which affords broad protections against sex-based discrimination in public schools. Effective Aug. 16, 2023, PHRA's regulations were amended to more explicitly identify conduct that constitutes illegal sex-based discrimination.⁴² The PHRA prohibitions against discrimination "shall be construed liberally."⁴³ Students are protected against discrimination on the basis of sex, including "sex assigned at birth, gender identity or expression, affectional or sexual orientation, and differences in sex development."⁴⁴ PHRC guidance expansively protects gender identity, which is one's "innermost concept of self as male, female, a blend of both or neither."⁴⁵ Gender expression is also broadly defined as the external "appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine."⁴⁶ All gender identities and expressions, including those held by transgender students, are protected by the PHRA.⁴⁷ This protection is also inclusive of the ways that students' understanding of these identities evolves over time.

The PHRA has not yet been applied to a case about trans student athletes, but Pennsylvania courts have held school districts responsible under the PHRA for discrimination against students based on gender identity. In 2018, a Pennsylvania state court entered a \$500,000 damages award and another \$500,000 attorney fees charged against a school district for violating the PHRA by failing to intervene and address the bullying and harassment a student experienced from other students due to her gender presentation and not conforming to gender stereotypes.⁴⁸

SO, IS MY SCHOOL DISTRICT'S POLICY LEGAL? WHAT SHOULD I DO IF I AM CONCERNED ABOUT MY SCHOOL DISTRICT'S POLICY?

Each policy must be analyzed individually, but any categorical ban for trans students' participation aligned with their gender identity across all levels and types of sports could violate Title IX, Equal Protection, the PHRA and the Pennsylvania Constitution. However, a legal prohibition in itself does not prevent school boards from adopting discriminatory policies; school boards may and, in several cases, have already, passed discriminatory policies. Parents should continue to monitor and advocate for students' rights with their school boards.

If your school limits the way transgender, nonbinary, gender-diverse or intersex students can play sports, contact the [Education Law Center](https://www.edlawcenter.org) and/or [ACLU-Pennsylvania](https://www.aclu-pa.org). For more information about sex discrimination against LGBTQ+ students in schools and how to file an agency complaint, see ELC's resources "[Rights of LGBTQ+ and Gender-Diverse Students](#)," "[Challenging Sex or Gender Based Harassment at School](#)," and "[How to File a Complaint to the Pennsylvania Human Relations Commission](#)." Learn more about efforts to challenge these policies on ELC's [Inclusive Schools and Honest Education](#) webpage.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

¹ **Transgender** refers to many different kinds of people who do not identify with their expected gender role or whose gender identity does not match some or all of their biological indicators of sex other than their gender identity. A student who identifies as transgender may identify as a male, female, nonbinary, genderqueer, or some other term. **Nonbinary** is an umbrella term for people who identify as a gender that is neither entirely man nor entirely woman, or do not identify with any gender. Some people may use the term “gender fluid” or “genderqueer.” **Intersex** is an umbrella term used to refer to people who are born with or naturally develop variations in sex characteristics, such as genitals, chromosomes, hormones, and/or internal organs that may be perceived as not fitting binary definitions of male or female.

² Such stereotyping limits participation in sports. For example, one research study showed that 36% of Black transgender youth reported that they participated in at least one school sports team, compared to 40% of non-Black transgender youth, 54% of Black cisgender youth, and 59.2% of non-Black cisgender youth. J. Rhodes Perry and Shoshana K. Goldberg, *Sports Participation and Health of Black Transgender Youth*, ADVOCATES FOR YOUTH (2021), <https://www.advocatesforyouth.org/wp-content/uploads/2021/07/Black-Trans-Youth-Sports-Participation-and-Health-Policy-Brief.pdf>; Raina V. Voss et al., *Physical Inactivity and the Role of Bullying Among Gender Minority Youth Participating in the 2017 and 2019 Youth Risk Behavior Survey*, J. ADOLESCENT HEALTH (2022), <https://doi.org/10.1016/j.jadohealth.2022.08.020> (finding that transgender girls were less likely to participate in school sports and that, after adjusting for demographics, Black, Hispanic, and Asian transgender girls were significantly less likely to indicate that they participated in school sports).

³ Title IX at 45: *Advancing Opportunity through Equity in Education* 41, NAT'L COAL. FOR WOMEN AND GIRLS IN EDUC. (2017), <https://www.ncwge.org/TitleIX45/Title%20IX%20at%2045-Advancing%20Opportunity%20through%20Equity%20in%20Education.pdf>.

⁴ See, e.g., *id.* at 42; Stacy M. Warner et al., *Examining Sense of Community in Sport: Developing the Multidimensional 'SCS' Scale*, 27 J. OF SPORT MANAGEMENT 349, 349-50 (2013); R. Bailey, *Physical education and sport in schools: A Review of benefits and outcomes*, 76 J. OF SCHOOL HEALTH 397-401 (2006); M. R. Eime et al., *A systematic review of the psychological and social benefits of participation in sport for children and adolescents: Informing development of a conceptual model of health through sport*, 10 INT'L J. OF BEHAVIORAL NUTRITION & PHYSICAL ACTIVITY 98 (2013).

⁵ Because of the absence of inclusive data, less is known about intersex students' experiences with school sports. However, reporting from the Washington Post indicates that intersex students often avoid or are discouraged from participating in sports for fear of scrutiny. See Anne Branigin, *Intersex youths are also hurt by anti-trans laws, advocates say*, WASH. POST (July 16, 2022), <https://www.washingtonpost.com/nation/2022/07/16/intersex-anti-trans-bills/>.

⁶ In a national survey of LGBTQ+ students, an alarming number of students reported being harassed because of their LGBTQ+ status, with an overwhelming majority of all students (76.1%) reporting experiencing verbal harassment on this basis, and 31.2% reporting physical harassment on this basis. This hostility in turn impacts students' academic outcomes: Many students reported not having plans to finish school, with 51.5% of students reporting hostile school climate (e.g., harassment and transphobic policies) as the reason they did not plan to graduate. See *The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth in Our Nation's Schools* 19, 34, GLSEN (2022), <https://www.glsen.org/sites/default/files/2022-10/NSCS-2021-Full-Report.pdf>.

⁷ *The Experiences of LGBT Students in School Athletics*, GLSEN (2013) <https://www.glsen.org/sites/default/files/2020-06/The%20Experiences%20of%20LGBT%20Students%20in%20Athletics.pdf>; *The Well-Being of LGBTQ Youth Athletes*, THE TREVOR PROJECT (Aug. 2020), <https://www.thetrevorproject.org/wp-content/uploads/2020/08/LGBTQ-Youth-Sports-and-Well-Being-Research-Brief.pdf>.

⁸ Russell B. Toomey & Stephen T. Russell, *An initial investigation of sexual minority youth involvement in school-based extracurricular activities*, 23 J. OF RESEARCH ON ADOLESCENCE 304, <https://doi.org/10.1111/2Fj.1532-7795.2012.00830.x>; *LGBTQ Students and School Sports Participation*, GLSEN (2021), <https://www.glsen.org/sites/default/files/2022-02/LGBTQ-Students-and-School-Sports-Participation-Research-Brief.pdf>.

⁹ It is important to understand that women and girls still lack significant opportunities to play sports as compared to men and boys, with Black and Brown women and girls being disproportionately denied opportunities to play. Evidence shows that schools still prioritize funding and resourcing men's and boys' teams while giving women's and girls' teams second-class treatment; and sexual harassment and abuse of student athletes still persists. *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women*, WOMEN'S SPORTS FOUNDATION (2020), https://www.womenssportsfoundation.org/articles_and_report/chasing-equity-the-triumphs-challenges-and-opportunities-in-sports-for-girls-and-women; *Finishing Last: Girls of Color and School Sports Opportunities* 1, NAT'L WOMEN'S L. CTR. (2015), <https://nwlc.org/resources/finishing-last>; Dean Golembeski, *Gender Equality Remains Elusive in College Sports*, BEST COLLEGES (Nov. 10, 2021), <https://www.bestcolleges.com/news/2021-2/07/01/gender-equality-remains-elusive-in-college-sports/>.

¹⁰ Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth 14-16*, CTR. FOR AM. PROGRESS (February 8, 2021), <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/02/08/495502/fair-play>. Florida and South Carolina have since passed anti-trans youth athlete laws; however, these were not implemented at the time of this analysis and would not affect the findings of this study. See GLSEN and TransAthlete.com, *Navigator: Trans and Nonbinary Athletic Inclusion Policies* (2022), <https://maps.glsen.org/trans-and-nonbinary-athletic-inclusion-policies/>.

¹¹ Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth 14-16*, CTR. FOR AM. PROGRESS (February 8, 2021), <https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/02/08/495502/fair-play>.

¹² *Id.* at 14-15.

¹³ See Noreen Nasir, *For women athletes of color, outsized scrutiny over gender is nothing new, historians say*, PBS NEWS (Aug. 4, 2024), <https://www.pbs.org/newshour/world/for-women-athletes-of-color-outsized-scrutiny-over-gender-is-nothing-new-historians-say>

¹⁴ See, e.g., *Ohio lawmakers advance trans sports ban with genital check*, REUTERS (Jun. 3, 2022)

<https://www.reuters.com/world/us/ohio-lawmakers-advance-trans-sports-ban-with-genital-check-2022-06-03/>
¹⁵ See *Legislation Affecting LGBTQ Rights Across the Country in 2025*, ACLU, <https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country>; *Bans on Transgender Youth Participation in Sports*, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/youth/sports_participation_bans.

¹⁶ See e.g., Ian Karbal, *Pa. House Republicans tried to force a vote on a transgender athlete ban. Democrats blocked it*, PENNSYLVANIA CAPITAL STAR (Jul. 8, 2025), <https://penncapital-star.com/briefs/pa-house-republicans-tried-to-force-a-vote-on-a-transgender-athlete-ban-democrats-blocked-it/>; AP, *Gov. Wolf vetoes bills on poll watchers, transgender athletes*, WHYY (Jul. 8, 2022), <https://whyy.org/articles/gov-wolf-vetoes-bills-on-poll-watchers-transgender-athletes/>

¹⁷ See e.g. Education Law Center-PA and partners letter to Oppose SB-9 Discriminatory Sports Bills (Mar. 25, 2025), <https://www.elc-pa.org/wp-content/uploads/2025/04/2025-03-ELC-SignOn-Oppose-SB9-anti-trans-sports.pdf>

¹⁸ Exec. Order No. 14168, 90 Fed.Reg. 8615 (Jan 20, 2025).

¹⁹ Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025).

²⁰ See National LGBTQ+ Bar Association, *Anti-LGBTQ+ Executive Order Litigation Tracker*, <https://lgbtqbar.org/programs/trump-executive-order-tracker/>

²¹ Conestoga Valley School District, *Policy 123 Interscholastic Athletics* (May 20, 2019), <http://go.boarddocs.com/pa/conestoga/Board.nsf/goto?open&id=BAU8DL6E7329>; *Conestoga Valley athletics policy will not include specific language regarding transgender athletes, defers to PIAA*, LANCASTER ONLINE, Mar. 16, 2023, https://lancasteronline.com/news/regional/conestoga-valley-athletics-policy-will-not-include-specific-language-regarding-transgender-athletes-defers-to-piaa/article_79bd4654-c367-11ed-843f-c39ab0d984bc.html.

²² Pennsylvania Interscholastic Athletic Assoc., Inc., *News Release June 20, 2014: Article XVI Seasons and Out-of-Seasons Rules and Regulations*, <http://district5.piaa.org/news/mixed%20gender%20press%20release%20%20announcement%206-20-14.pdf>

²³ *Summary of PIAA Board of Directors' Actions*, (Feb. 19, 2025), <https://www.piaa.org/assets/web/documents/Summary%20of%20Board%20of%20Directors%20Meeting%20-%20February%2019,%202025.pdf>; see Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025), <https://www.federalregister.gov/documents/2025/02/11/2025-02513/keeping-men-out-of-womens-sports>.

²⁴ See ELC-PA, WLP, *Open letter: PIAA's revised policies and statement restricting transgender students' participation in school athletics violate state and federal law* (Mar. 6, 2025), <https://www.elc-pa.org/2025/03/06/open-letter-piaas-revised-policies-and-statement-restricting-transgender-students-participation-in-school-athletics-violate-state>

and-federal-law/; Maddie Hanna and Gillian McGoldrick, *Parents of trans Colonial athlete speak out against PIAA rule change: ‘Having her play sports with males would be cruel’*, PHILA. INQUIRER (Mar. 26, 2025), <https://www.inquirer.com/education/piaa-trans-athlete-colonial-school-district-20250326.html>

²⁵ See, e.g., Meredith Willse, *Eastern York School Board adopts ban on transgender student athletes*, YORKDISPATCH (May 18, 2025), <https://www.yorkdispatch.com/story/news/education/2025/05/16/eastern-york-school-board-adopts-ban-on-transgender-student-athletes/83669826007/>; Chris Ullery, *As Dover considers pronoun policy, ties emerge between ILC and firm suing district*, YORK DAILY RECORD, May 22, 2024, <https://www.ydr.com/story/news/local/2024/05/21/firm-suing-dover-area-over-policy-may-have-ties-to-firm-writing-new-rules-york-county/73748058007/> (reporting athletics policy adopted or considered by several districts including Penncrest, Pennridge, Central Bucks, Hempfield, Dover Area). See generally, PA-WINS, School Issue Tracker <https://pawins.org/school-issue-tracker/> (choose “sports” to filter the map) (last visited Aug. 15, 2025).

²⁶ Meredith Willse, *Red Lion trans students told to use bathrooms of sex assigned at birth or gender neutral*, YORKDISPATCH (Dec. 8, 2022), <https://www.yorkdispatch.com/story/news/education/2022/12/05/red-lion-trans-students-told-to-use-bathrooms-of-sex-assigned-at-birth-or-gender-neutral/69671716007/>

²⁷ See *Penncrest board enacts book ban with one policy, targets transgender athletes with another*, Jan. 14, 2023, <https://www.goerie.com/story/news/education/2023/01/14/penncrest-school-board-pa-book-ban-and-policy-targeting-transgender-student-athletes/69805245007/>.

²⁸ See *Student Enrollment FAQ*, PA. DEP’T OF EDUC., <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beccs/purdons-statutes/enrollment-of-students/student-enrollment-faq.html> (“For example, a school district can never demand only one kind of document, for example a birth certificate, to prove age.”)

²⁹ *Manheim Township School District tables discussion, research on transgender athlete participation*, LANCASTER ONLINE, Oct. 13, 2022, https://lanasteronline.com/news/local/manheim-township-school-district-tables-discussion-research-on-transgender-athlete-participation/article_185bc520-4b71-11ed-808f-27d27ce6ca8c.html

³⁰ See Kristen A. Graham & Maddie Hanna, *Philly Schools Will Continue to Allow Transgender Athletes to Participate in Sports That Match Their Gender Identity*, PHILA. INQUIRER (Feb. 25, 2025), <https://www.inquirer.com/education/piaa-transgender-athletes-policy-pennsylvania-funding-philadelphia-20250225.html> (discussing the Philadelphia School District’s decision to ignore PIAA’s policy change and to continue permitting transgender athletes to participate in sports aligned with their gender identities).

³¹ See, e.g., *Hecox v. Little*, 79 F.4th 1009 (9th Cir. 2023) (finding Idaho statute that categorically banned transgender women and girls from participating in student athletics and subjected all female athletes to intrusive sex verification process “likely” violated Equal Protection Clause and Title IX and hence enforcement of the Act was properly enjoined), *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024) (affirming likelihood of success on Equal Protection claims; remanded to clarify scope of preliminary injunction); *B.P.J.*, 98 F.4th at 564-65 (holding that the district court erred in granting summary judgment to defendants on an equal protection claim brought by a transgender girl, finding that applying the West Virginia Save Women’s Sports Act to the plaintiff would violate Title IX, as it treated her worse than similarly situated individuals based on sex and caused her harm); *Doe v. Horne*, 115 F.4th 1083, 1112 (9th Cir. 2024) (finding that the district court did not abuse its discretion by preliminarily enjoining an Arizona law prohibiting transgender athletes from playing on women’s sports teams under the Equal Protection Clause, though not deciding on the lower court’s determination that the law also violated Title IX); *A.M. v. Indianapolis Pub. Sch.*, 617 F.Supp. 3d 950, 966 (S.D. Ind. 2022) (granting preliminary injunction for trans student denied access to girls sports team because “[t]he singling out of transgender females is unequivocally discrimination on the basis of sex, regardless of the policy argument as to why that choice was made.”), *vacated for mootness*, 2023 WL 11852464 (S.D.Ind. Jan. 19, 2023).

³² See, e.g., *Hecox*, 79 F.4th at 1009 (finding Idaho statute which categorically banned transgender women and girls from participating in student athletics and subjected all female athletes to intrusive sex verification process “likely” violated Equal Protection Clause and Title IX and hence enforcement of the Act was properly enjoined), *Hecox*, 104 F.4th at 1089 (9th Cir. 2024) (affirming likelihood of success on equal protection claims; remanded to clarify scope of preliminary injunction); *B.P.J.*, 98 F.4th at 564-65 (holding that the district court erred in granting summary judgment to defendants on an equal protection claim brought by a transgender girl, finding that applying the West Virginia Save Women’s Sports Act to the plaintiff would violate Title IX, as it treated her worse than similarly situated individuals based on sex and caused her harm); *Horne*, 115 F.4th at 1112 (finding that the district court did not abuse its discretion by preliminarily enjoining an Arizona law prohibiting transgender athletes from playing on women’s sports teams under the Equal Protection Clause, though not deciding on the lower court’s determination that the law also violated Title IX); see also *Boyertown Area Sch. Dist.*, 897 F.3d at 518 (rejecting the argument that a school policy permitting transgender students to use the locker rooms and restrooms that correspond to their gender identity violated the privacy of cisgender students).

³³ Exec. Order No. 14201, *supra*, note 19.

³⁴ Order Denying Plaintiff's Motion for a Temporary Restraining Order, *Magalengo v. U.S. Dep't of Educ.*, No. 25-cv-00325, (E.D. Pa. Mar. 4, 2025). See Maddie Hanna, *A federal judge rejected a Quakertown student's motion to bar transgender athletes from girls' sports*, PHILA. INQUIRER (Mar. 4, 2025), <https://www.inquirer.com/education/trans-athlete-quakertown-colonial-plymouth-whitemarsh-20250304.html>

³⁵ *Magalengo v. PIAA et al*, 2025 WL 2200916 (E.D.Pa. Aug. 1, 2025).

³⁶ *Magalengo*, 2025 WL 2200916 at *11.

³⁷ *Id.* (citing *Boyertown*, 897 F.3d at 528).

³⁸ *Id.* (citing *Boyertown*, 897 F.3d at 529).

³⁹ *Little v. Hecox*, No. 24-38, -- S.Ct. --, 2025 WL 1829165 (Jul. 3, 2025); *West Virginia v. B.P.J.*, No. 24-43, -- S.Ct. --, 2025 WL 1829164 (Jul. 3, 2025).

⁴⁰ See Art. I, § 28; *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Human Svs.*, 309 A.3d 808, 868-69, 869 n. 51 (Pa. 2024) (finding a sex-based distinction is presumptively unconstitutional and requires a compelling state interest).

⁴¹ Pa. Human Relations Act, 43 PA. STAT. ANN. § 954(l).

⁴² Protected Classes Under the PHRA and PFEPA, 16 PA. CODE §§ 41.201-41.207 (final regulations defining terms related to sex, sexual orientation, and gender identity used in the PHRA and PFEPA); Pennsylvania Human Relations Commission, Guidance on Discrimination on the Basis of Sex under the Pennsylvania Human Relations Act 2-3 (Mar. 3, 2021), <https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/documents/Sex%20Discrimination%20Guidance%20PHRA-3-3-2021.pdf> (delineating prohibitions in the PHRA against discrimination on the basis of sex, prohibit discrimination on the basis of sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity, and gender expression).

⁴³ 16 Pa. Code § 42.2.

⁴⁴ 16 Pa. Code § 41.206.

⁴⁵ Pennsylvania Human Relations Commission, *Guidance on Discrimination on the Basis of Sex Under the Pennsylvania Human Relations Act 3* (Mar. 3, 2021), <https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/documents/Sex%20Discrimination%20Guidance%20PHRA-3-3-2021.pdf>.

⁴⁶ *Id.*

⁴⁷ 16 Pa. Code § 41.204 (definition of gender identity); 16 Pa. Code § 41.206 (sex discrimination includes gender identity).

⁴⁸ *Wible v. School District of Philadelphia*, No. 15-043169, 1392 CD 2018 (Phila. Cty. Ct. of Comm. Pls. 2018)(judgment entered for student plaintiff in the amount of \$500,000 damages and an additional \$578,000 in attorney fees), <https://www.berneylaw.com/wp-content/uploads/2017/10/Opinion-Rule-1925.pdf>. Additionally, the Pennsylvania Human Relations Commission (PHRC) has issued new guidance about evaluating claims of harassment in schools, see [PHRC Guidance on Evaluating Claims of Bullying and Harassment Under the PHRA \(2025\)](#).