

EQUITY IN SCHOOL SPORTS: THE SUPREME COURT'S DECISION AND WHY PA SCHOOLS SHOULD LET ALL STUDENTS PLAY

August 2026

Playing sports provides many direct and indirect benefits to young people, and these benefits should be equitably offered to all students in public schools, including transgender, nonbinary, and intersex students.¹ Yet in a June 2026 consolidated decision, *West Virginia v. B.P.J.*, the U.S. Supreme Court held that state laws banning transgender girls from playing on their school's girls' sports teams do not violate Title IX (based on a narrow interpretation of sex discrimination) or the Equal Protection Clause (asserting that unequal treatment is justified by a governmental interest in "safety and competitive fairness"). This departure from civil rights precedent is extremely disappointing and harmful. It is important to note, however, that the Court did not hold that bans are *required* and did not apply its reasoning to transgender boys' access to sports or other school issues such as bathroom access or the use of students' affirming names and pronouns.

Pennsylvania has no state law banning sports access, and the *B.P.J.* decision does not require Pennsylvania schools to do anything. ELC-PA urges schools in the state to maintain inclusive policies and practices that allow all students to enjoy the benefits of school sports and a team that aligns with their gender identity, consistent with state law requirements. A formal school board policy on this issue is not required by law, and administrators can implement nondiscriminatory practices that support all students.

WEST VIRGINIA v. B.P.J. & LITTLE v. HECOX: U.S. SUPREME COURT HELD THAT STATES MAY PROHIBIT TRANSGENDER GIRLS FROM PLAYING ON GIRLS' SPORTS TEAMS AT SCHOOL

The U.S. Supreme Court issued a decision on June 30, 2026, in *West Virginia v. B.P.J.*, a case that was consolidated with *Little v. Hecox*, an Idaho case. Both cases challenged state laws banning transgender girls from participating in school athletics aligned with their gender identity rather than their sex assigned at birth.²

In a 6-3 decision, the Court ruled that Title IX and the Equal Protection Clause of the U.S. Constitution allow states to restrict students' access to girls' sports teams based on "biological sex."³ This decision must be analyzed and understood in its appropriate context.

The limited scope of the B.P.J. decision. It is important to recognize at the outset that the Court's ruling is limited in several important ways:

- The Court’s opinion does not require a ban on transgender girls playing on girls’ teams, and the Court expressly stated that its opinion does not determine this issue, recognizing that this question is presented in other cases pending in the lower courts.⁴ This means that **state laws or school policies permitting transgender student-athletes to participate in sports consistent with their gender identity remain valid.**
- The decision only applies to **transgender girls playing on girls’ teams**, so there is no Supreme Court ruling limiting transgender girls playing on co-ed sports teams or transgender boys playing on any teams.⁵
- The Court specifically notes that the ruling **only addresses school sports**, and it emphasizes the unique interests of safety and “competitive fairness” in sports.⁶ The decision does not resolve any questions about transgender students’ access to bathrooms, locker rooms or affirming names and pronouns.⁷
- The decision addresses **K-12 and college athletics** but does not apply to private sports organizations or club/travel sports teams.
- The Court did not decide whether transgender girls who have taken **puberty blockers or hormones** have any physical advantage, describing this as “the subject of ongoing medical and scientific debate.”⁸ The Court said that “[t]he legislatures and the schools are better equipped – and under the Constitution, are the most appropriate entities – to assess competing medical and scientific considerations and draw appropriate lines.”⁹ This leaves open the option for schools to consider individual student circumstances when creating policies.

Court’s reasoning on Title IX. All nine justices of the Supreme Court held that Title IX does not require states to allow transgender girls to participate on girls’ sports teams.

The original 1972 language of Title IX set a general rule that K-12 schools could not separate students by sex without a legal exception, and it included no explicit mention of sports.¹⁰ The Javits Amendment in 1974 directed that regulations be issued addressing sex equity in athletics. That resulted in a requirement that schools provide “equal athletic opportunity for members of both sexes.” It authorized “separate teams for members of each sex where selection of such teams is based upon competitive skill or the activity involved is a contact sport.”¹¹ The regulation allows, but has never required, that schools offer sex-separate sports teams, even in contact sports.¹²

The Court’s *B.P.J.* analysis relied heavily on Title IX’s allowance for schools to maintain sex-separate teams and an assumption that the regulation’s reference to contact sports and competitive skill showed a recognition of “inherent physical differences between biological men and biological women.”¹³ The Court further declared that the term “sex” in the 1972 Title IX statute, the 1974 Javits Amendment and 1975 regulations “cannot plausibly be interpreted to refer to anything other than biological sex. Rather, the ordinary meaning of the term ‘sex’ at the time of enactment in the early 1970s was biological sex and not gender identity, particularly in the sports context.”¹⁴

B.P.J. argued that a blanket ban does not meet the “reasonable” requirement of the Javits Amendment, particularly when some transgender girls like her are receiving gender-affirming care

such as puberty blockers and hormone treatments that erase or mitigate the physical “differences” between them and girls assigned female at birth.¹⁵ The Court majority summarily rejected this without dealing with the lesser “physiological differences” for those receiving gender-affirming treatment, declaring that separate teams are reasonable “given the inherent differences between the sexes” and “can reduce the risk of physical injury and ensure fair competition.”¹⁶

The Court majority also rejected the argument that this athletics context was controlled by its earlier decision in *Bostock v. Clayton County*, which held that the Title VII prohibition against sex discrimination in the workplace extends to “forbid the firing of an employee for being gay or transgender.”¹⁷ In *B.P.J.*, the Court insisted that *Bostock* was “not relevant” because in the workplace, men and women should “be treated without regard to their sex,” but Title IX authorizes “separate men’s and women’s sports teams.”¹⁸

Court’s reasoning on the Equal Protection Clause. A 6-3 majority of justices held that the state laws banning transgender girls from playing on girls’ teams satisfied the Equal Protection analysis. A sex-based classification – such as the state laws at issue requiring separate female and male sports teams – are only permissible under the Equal Protection Clause when the classification is “substantially related” to achieving an “important” government objective.¹⁹

The Court accepted the states’ arguments that restricting girls’ teams to students assigned female at birth “helps prevent serious physical injuries to females” and “preserves opportunities for female athletes to fairly compete and succeed.”²⁰ The Court concluded its Equal Protection analysis by finding that these interests in “safety and competitive fairness” qualified as “important” and that the sex-based separation of sports teams to be substantially related to those interests.²¹

Students *B.P.J.* and *Hecox* argued that the states’ categorical bans are overbroad and could not be “substantially related” to the interests of safety and competitive fairness when transgender girls who have taken puberty blockers or hormone treatments do not present the purported concerns about male physical advantages.²² The Court majority dismissed this argument based on the relatively small population of transgender girls and declared that “states are not required to conduct an individual-by-individual comparison of the physical and athletic capabilities of all” students to satisfy the Equal Protection standard.²³

The dissenting opinion, written by Justice Sonia Sotomayor, points out that prior decisions under the Supreme Court’s Equal Protection analysis did not require an “especially large subclass” to establish that a sex-based classification was overbroad and not substantially related to an important objective.²⁴ Justice Sotomayor would have remanded the case to the lower courts to give greater consideration to the factual question of whether transgender girls receiving gender-affirming care present safety risks and a competitive advantage to cisgender girls.²⁵

Pennsylvania federal courts. Federal courts in Pennsylvania have not yet interpreted or applied the *B.P.J.* decision at the time of this publication. The likely first occasion will be in the matter *Magalengo v. Pennsylvania Interscholastic Athletic Association, Inc.*, which was submitted for appeal to the U.S. Court of Appeals for the Third Circuit as of July 9, 2026.²⁶ In the posture presented and with jurisdictional arguments about standing and mootness, this case may not

require the Third Circuit to decide whether Pennsylvania schools must ban transgender students from playing on school teams aligned with their gender identity. We will provide an update when the Third Circuit decides the case.

In the *Magalengo* case, a federal district court judge rejected a request from a cisgender athlete to issue an injunction prohibiting transgender girls from competing in women's sports²⁷ and subsequently dismissed the cisgender athlete's Title IX and constitutional claims.²⁸ Notably, in her decision, the district judge restated at length the Third Circuit's reasoning in *Doe v. Boyertown Area School Dist.*, which held that there is no privacy violation in requiring cisgender students to share a locker room and bathroom with transgender students.²⁹ 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."³⁰ 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."³¹

EXECUTIVE ORDERS DO NOT HAVE THE FORCE OF LAW AND CANNOT REQUIRE SCHOOLS TO TAKE ANY ACTION

In early 2025, President Trump issued Executive Order (EO) 14168, which declared his administration's policy of recognizing only male and female "biological sex,"³² 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.³³ An executive order does not have the force of law and cannot override state or federal law (see ELC-PA's [analysis on executive orders](#) for more information),³⁴ and these executive orders are subject to multiple lawsuits challenging them and their discriminatory impact.³⁵ But some school boards and school officials, often relying on EOs, rhetoric, and threats from the federal administration, have increased the misinformation, negative attacks, and discriminatory board policies excluding trans student athletes.

PENNSYLVANIA LAW HAS GENDER-IDENTITY PROTECTIONS, AND IT HAS NO ANTI-TRANS SCHOOL SPORTS BANS.

Pennsylvania does not currently have a state law addressing trans students' access to school sports.³⁶ Several school districts across the state have local school board policies restricting access to separate male and female school sports teams according to sex assigned at birth.³⁷ These restrictions on female teams based on sex assigned at birth would likely be considered permissible under the U.S. Supreme Court's reasoning in *B.P.J.* However, maintaining an inclusive policy or practice allowing trans students to play sports on a team aligned with their gender identity is **also permissible** under current federal law, and it is **required** by Pennsylvania state law, which prohibits gender-identity discrimination. Notably, a formal school board policy on this issue is not required by law, and school administrators may implement equitable access based on individual student circumstances.

Pennsylvania civil rights law. 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 specifically prohibited by the Equal Rights Amendment of the Pennsylvania Constitution and the

Pennsylvania Human Relations Act (PHRA). 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.³⁸

Pennsylvania civil rights law, including the PHRA, protects transgender and gender-diverse students from discrimination based on their sex or gender identity. The Pennsylvania Constitution and the Equal Rights Amendment also prohibit discrimination because of sex,³⁹ and the Pennsylvania Supreme Court has made clear that the highest level of scrutiny applies to sex-based classifications.⁴⁰ The Equal Rights Amendment’s command that benefits and burdens not be conferred on the basis of sex is not consistent with a ban on transgender students playing on sports teams aligned with their gender identity.⁴¹

The state’s anti-discrimination statute – the PHRA – specifically prohibits discrimination in schools based on sex, gender identity, or transgender identity.⁴² The PHRA prohibitions against discrimination “shall be construed liberally.”⁴³

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 \$578,000 in attorney fees charged against a school district for violating the PHRA by failing to intervene and address the bullying and harassment that a student experienced from other students due to her gender presentation and not conforming to gender stereotypes.⁴⁴

PENNSYLVANIA INTERSCHOLASTIC ATHLETIC ASSOCIATION (PIAA) DEFERS TO SCHOOL DECISIONS ON HOW STUDENTS PLAY

The Pennsylvania Interscholastic Athletic Association, which governs interscholastic sports competitions between public school districts in the Commonwealth, has long deferred to school leaders to decide whether their transgender students play on male or female teams.⁴⁵ This is still the PIAA position as of August 2026: that “the decision of the school as to the student’s sex will be accepted by PIAA.” Though the PIAA amended its handbook in February 2025 to include a reference to the Executive Order “Keeping Men Out of Women’s Sports”⁴⁶ and to direct schools to consult with their solicitors on this issue, there was no substantive change to PIAA’s policy.⁴⁷ An executive order does not have the force of law to require any action of a school district, but consultation with a solicitor should clarify this point.

Notably, while deferring to school district policies, the PIAA fails to acknowledge and incorporate gender-identity protections under state law, which, as described above, would require inclusive policies supporting transgender students to play on the team aligned with their gender identity. ELC-PA and Women’s Law Project continue to advocate to the PIAA to remove its reference to the executive order and stop supporting discrimination against transgender student athletes, which is prohibited by state law.⁴⁸

ADVOCATING FOR INCLUSIVE SPORTS POLICIES IN PENNSYLVANIA SCHOOLS

Education Law Center-PA urges Pennsylvania school districts to maintain inclusive policies and practices that allow all students to enjoy the benefits of school sports and to play on a team that aligns with their gender identity, consistent with state and federal obligations. A formal school board policy on this issue is not required by law, and administrators should implement nondiscriminatory practices that consider individual student circumstances. There are many research-backed arguments that support school leaders allowing transgender and gender-diverse students to play on sports teams aligned with their identities. [Contact ELC-PA](#) for individual advocacy and representation options.

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.⁴⁹ 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.⁵⁰ All students deserve equal access to these benefits.

Preventing transgender, intersex,⁵¹ 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.⁵² Research shows that when transgender and nonbinary students are allowed to play sports, they tend to receive higher grades⁵³ and experience increased feelings of belonging, higher self-esteem, and lower levels of depression.⁵⁴ 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.⁵⁵ 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.⁵⁶ In fact, early evidence from California and Connecticut suggests that trans-inclusive policies are correlated with increased participation of girls in school sports.⁵⁷ In contrast, where states enacted trans-exclusionary policies, girls’ overall participation in high school sports declined.⁵⁸

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 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 harms all women,⁵⁹ particularly women and girls of color. Enforcing anti-trans sports bans often relies upon dangerous practices of “sex testing,” which create new risks of sexual harassment against student athletes. These practices can range from collecting sensitive medical documents to needless, traumatizing genital inspections.⁶⁰ 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.

BIAS IS NEVER AN APPROPRIATE BASIS FOR SCHOOL PROGRAMMING DECISIONS

The bias and prejudice underlying 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.”⁶¹ 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,⁶² which is not permitted under state school enrollment law.⁶³

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.*⁶⁴

WHAT SHOULD I DO IF I AM CONCERNED ABOUT MY SCHOOL DISTRICT’S POLICY?

If your school limits the way that transgender, nonbinary, gender-diverse or intersex students can play sports, contact the [Education Law Center-PA](https://www.edlawcenterpa.org/) and/or [ACLU-Pennsylvania](https://www.aclu-pa.org/). For more information about LGBTQ+ students’ rights in other contexts, see ELC-PA’s resource [Rights of LGBTQ+ and Gender-Diverse Students](#).

The Education Law Center-PA (ELC-PA) 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-PA 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, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA'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-PA'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 diverse,” “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 *W. Virginia v. B.P.J.*, 609 U.S.--, 146 S.Ct. 2356 (2026).

³ *B.P.J.*, 146 S.Ct. at 2367 (“In other words, may schools determine eligibility for women's and girls' sports based on biological sex? The answer is yes.”).

⁴ *B.P.J.*, 146 S.Ct. at 2367, note 1 (“[T]hese cases do not present the distinct question of whether, under Title IX and the Equal Protection Clause, schools may *allow* biological males who identify as female to participate on girls' and women's sports teams. That question is currently the subject of litigation in some lower courts. Nothing in this opinion is intended to decide that question.”).

⁵ *Id.*

⁶ *Id.* at 2373 (“the only question here is whether schools may limit women's and girls' sports to biological females”), 2372 (describing safety and competitive fairness concerns).

⁷ At least one lower court addressing an issue of bathroom policy for transgender students has already acknowledged the limited sports context of *B.P.J.* See, e.g., *F.F. v. Valley View Comm. Unit School Dist.* 365U, 2026 WL 2017805, at *8 (N.D. Ill. Jul. 13, 2026) (“The Court's decision is not impacted by *B.P.J.*, however, because the Supreme Court explicitly limited its decision to the sports context.”).

⁸ *B.P.J.*, 146 S.Ct. at 2379.

⁹ *Id.* at 2378.

¹⁰ *Id.* at 2370.

¹¹ 34 C.F.R. § 106.41(b),(c)(2025). The regulations defined contact sports as “boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.” *Id.* See *B.P.J.*, 146 S.Ct. at 2370.

¹² 34 C.F.R. § 106.41(b),(c)(2025). See U.S. Dep't of Health, Educ. & Welfare, Office for Civ. Rts., Elimination of Sex Discrimination in Athletic Programs: Memorandum to Chief State School Officers, Superintendents of Local Educational Agencies and College and University Presidents, 6 (Sept. 1975) (explaining “contact sports and sports for which teams are chosen by competition may be offered either separately or on a unitary basis”), <https://files.eric.ed.gov/fulltext/ED119583.pdf>.

¹³ *B.P.J.*, 146 S.Ct. at 2371.

¹⁴ *Id.* at 2371.

¹⁵ *Id.* at 2372.

¹⁶ *Id.* at 2372.

¹⁷ *Bostock v. Clayton County*, 590 U.S. 644 (2020).

¹⁸ *B.P.J.*, 146 S.Ct. at 2373.

¹⁹ See *B.P.J.*, 146 S.Ct. at 2374 (describing intermediate scrutiny standard).

²⁰ *Id.* at 2374-75.

²¹ *Id.* at 2375.

²² *Id.* at 2375-76; see also *B.P.J.*, 146 S.Ct. at 2391 (Sotomayor, J., dissenting).

²³ *Id.* at 2377 (Kavanaugh, J., majority).

²⁴ *Id.* at 2391-2395 (Sotomayor, J., dissenting).

²⁵ *Id.* at 2385 (Sotomayor, J., dissenting).

²⁶ Clerk Letter to Parties, ECF 56, *Magalengo v. PIAA, et al.*, Civ. No. 25-2684, (3d Cir. Jun. 19, 2026) (advising counsel the appeal will be submitted on briefs July 9, 2026).

²⁷ 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>.

²⁸ *Magalengo v. PIAA et al.*, 796 F.Supp.3d 28 (E.D.Pa. Aug. 1, 2025).

²⁹ *Magalengo*, 796 F.Supp.3d at 47 (quoting *Doe v. Boyertown*, 897 F.3d 518, 528 (3d Cir.2018)).

³⁰ *Id.* (quoting *Boyertown*, 897 F.3d at 528).

³¹ *Id.* (citing *Boyertown*, 897 F.3d at 529).

³² Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan 20, 2025).

³³ Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025).

³⁴ See, e.g., *Local 1498, Am. Fed'n Gov't Emps. v. Am. Fed'n Gov't Emps.*, 522 F.2d 486, 491 (3d Cir. 1975) (holding that an executive order "cannot attain the status as a 'law of the United States'" if it regulates "solely as a product of executive authority and not as a consequence of congressional law making").

³⁵ See National LGBTQ+ Bar Association, *Anti-LGBTQ+ Executive Order Litigation Tracker*, <https://lgbtqbar.org/programs/trump-executive-order-tracker/>.

³⁶ 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. 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.

³⁷ For examples, see the school board policy tracker at PA-WINS, <https://pawins.org/school-issue-tracker/>.

³⁸ 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).

³⁹ See Art. I, § 28; *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Human Svs.*, 309 A.3d 808 (Pa. 2024) (finding a sex-based distinction is presumptively unconstitutional and requires a compelling state interest).

⁴⁰ See *Allegheny Reproductive Health Ctr.*, 309 A.3d at 891.

⁴¹ See *id.* at 868-69, 869 n. 51 ("[T]he clear text of the Equal Rights Amendment is unequivocal and prohibits denial of rights, regardless of whether biology is used as a pretext").

⁴² Pa. Human Relations Act, 43 PA. STAT. ANN. § 954(l). See also Protected Classes Under the PHRA and PFEOA (Pennsylvania Fair Educational Opportunities Act), 16 PA. CODE §§ 41.201-41.207 (final regulations defining terms related to sex, sexual orientation, and gender identity used in the PHRA and PFEOA); 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 *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) issued new guidance in 2025 about evaluating claims of harassment in schools, see [PHRC Guidance on Evaluating Claims of Bullying and Harassment Under the PHRA \(2025\)](#).

⁴⁵ Between 2014 and 2025, the PIAA policy 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. See 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>.

⁴⁶ 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>.

⁴⁷ *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>

⁴⁸ 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>.

⁴⁹ *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>.

⁵⁰ 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).

⁵¹ 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/>.

⁵² 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://files.eric.ed.gov/fulltext/ED625378.pdf>.

⁵³ *The Well-Being of LGBTQ Youth Athletes*, THE TREVOR PROJECT (Aug. 2020) (finding 27% of transgender and nonbinary youth who participated in sports reported mostly A’s compared to 19% who did not), <https://www.thetrevorproject.org/wp-content/uploads/2020/08/LGBTQ-Youth-Sports-and-Well-Being-Research-Brief.pdf>.

⁵⁴ 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://files.eric.ed.gov/fulltext/ED617685.pdf>.

⁵⁵ 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/resource/finishing-last-girls-of-color-and-school-sports-opportunities/>.

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- ⁵⁷ 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>.
- ⁵⁸ *Id.* at 14-15.
- ⁵⁹ 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>.
- ⁶⁰ 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/>.
- ⁶¹ Meredith Willse, *Red Lion trans students told to use bathrooms of sex assigned at birth or gender neutral*, YORK DISPATCH (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/>.
- ⁶² 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/>.
- ⁶³ See *ENROLLMENT OF STUDENTS*, PA. DEP'T OF EDUC., <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-beacs/purdons-statutes/enrollment-of-students> (identifying multiple types of proof accepted and instructing “schools should be flexible in consideration of the child’s circumstances”).
- ⁶⁴ *Manheim Township School District tables discussion, research on transgender athlete participation*, LANCASTER ONLINE, Oct. 13, 2022, https://lancasteronline.com/news/local/manheim-township-school-district-tables-discussion-research-on-transgender-athlete-participation/article_185bc520-4b71-11ed-808f-27d27ce6ca8c.html.