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About

This trans participation in sports toolkit includes information on PA House Bill 972, a terminology reference guide, suggested talking points, some in-depth discussion for how to respond to common distortions and fears about trans inclusion, and some select resources.

Background

After years of focusing on restrooms and locker rooms as an entry point for excluding trans people from public life, opponents of LGBTQ&T equality have [shifted strategy](#) to focus on excluding trans people, particularly students, from participating in athletics consistent with their gender identity. The so-called threat to women's sports first emerged during the Equality Act hearings before Congress in May, 2019 as the core reason to oppose LGBTQ protections against nondiscrimination in the workplace, housing, and public accommodations.

These arguments rest on the assumption that trans girls and women are not real girls or women, and that they have an unfair advantage over cisgender girls and women. These arguments are a blatant attempt to pit cisgender women against transgender women and create a supposed harm of trans-inclusive policies. These bills purport to “promote fairness in women’s sports” but ultimately they undermine sports for all women and girls, harm women and girls who are transgender, and will cost states millions of dollars in federal funding and litigation costs, all to solve a “problem” that does not exist.

People approach this issue with pre-existing assumptions about “biological differences” between boys and girls and about the role of hormones like testosterone in athletic achievement. When challenging assumptions it is important to first reinforce that trans women and girls are women and girls so it is not appropriate to talk about “biological males” and boys in girls’ sports when we are talking about trans-inclusive policies.

It can also be helpful to name people’s fears about competitive advantage and provide information that creates a more accurate picture of the role of testosterone on athleticism and other oversimplified assumptions at work here. Trans girls sometimes do win, so it isn’t helpful to say that they never do, nor would we want that to be the test. But it can be helpful to point out that despite decades of participation by trans athletes at all levels of competition, there is simply no categorical dominance by trans athletes.

Trans people, like all people, have varying athletic abilities and shutting them out of sports does nothing but send exclusionary and discriminatory messages about trans people not being “real” men and women and suggesting that cis people need to be protected from their trans peers and colleagues.

In challenging these bills and the narratives that drive them, we also believe that lifting up the stories of trans athletes—who are supported by their families, their teammates and their communities—will help counter some of the worst messaging from the other side and remind people that we are talking about kids who just want to participate in the activities they love.

By discriminating against young people who are transgender, these bills violate both Title IX and equal protection under the United States Constitution. Imposing wholesale bans on girls and young women who are transgender and who participate in athletics consistent with their gender identity, discriminates based on transgender status and sex in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Title IX of the Civil Rights Act.¹

Even though it may be constitutionally permissible to separate boys’ and girls’ teams, it is not constitutionally permissible to exclude transgender girls from girls’ teams. Every court to consider this question since the Supreme Court’s decision in [Bostock](#) has held that where a policy treats students who are transgender differently from and worse than students who are not, it violates both Title IX and the Equal Protection Clause.²

Discriminating against transgender youth is wrong, against the law, and risk costly litigation for state taxpayers. The ACLU will continue to fight against these attacks that seek to push trans people out of public life.

¹ *Adams ex. rel. Kasper v. Sch. Bd. of St. Johns Cty.*, No. 18-13592, 968 F.3d 1286 (11th Cir. Aug. 7, 2020).

² See, e.g., *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586, 616 (4th Cir. 2020), as amended (Aug. 28, 2020) (applying *Bostock* and holding that school policy of excluding boy from restroom solely because he was transgender violated Title IX); accord *Adams ex. rel. Kasper v. Sch. Bd. of St. Johns Cty.*, No. 18-13592, 968 F.3d 1286 (11th Cir. Aug. 7, 2020); see also *Hecox*, 2021 WL 4760138 (enjoining law that excluded women and girls who are transgender from women’s sports).

ACLU-PA position: Opposed

Prime sponsors	Rep. Barbara Gleim (R-Cumberland)	Rep. Stephanie Borowicz (R-Clinton)
Rep. Valerie Gaydos (R-Allegheny)	Rep. Dawn Keefer (R-York)	Rep. Martina White (R-Philadelphia)

Bill summary

HB 972 (PN 1133) would ban transgender girls and women from participating on athletic teams or in sports designated for “females, women or girls.”

Definitions: “Biological sex” is defined solely by a person’s reproductive organs, biology or genetics at birth.

-  There is no provision that explains how the person’s sex is determined for the purposes of this bill.

Applicable to: **Students** participating in interscholastic, intercollegiate, intramural or club athletic teams or sports sponsored by a **public primary or high school, a public institution of higher education**, or any school or institution where students or teams compete against a public school or college.

Designation

- **Mechanism:** HB 972 would require that public schools expressly designate teams or sports by biological sex as one of the following: (1) male, men or boys; (2) female, women or girls; or (3) co-ed or mixed.
- **Prohibition:** Athletic teams or sports designated for “females, women or girls” would be prohibited from allowing students of the male sex (as defined by the bill) to participate.
- **Protection:** Government entities, licensing or accrediting organizations or athletic associations would be prohibited from opening an investigation or complaint against a school for designating / maintaining separate athletic teams or sports exclusively for students of the female sex (as defined by the bill).

Causes of action

- HB 972 would allow students and schools to sue for injunctive relief, damages, psychological, emotional, and physical harm suffered, attorney fees and costs and any other relief in cases where:
 - A student claims to have been deprived of an athletic opportunity or suffered direct or indirect harm by a school that violates this act;
 - A student claims to have been subject to retaliation as a result of reporting a violation of this act;
 - A school claims direct or indirect harm as a result of being investigated by a government entity or a professional organization or association for complying with this act.

ACLU-PA opposition

HB 972 is part of a national effort to inject state legislatures with toxic, [copycat bills](#) that invent a wedge issue that doesn’t exist. Bills like HB 972 attempt to pit cis girls/women against trans girls/women, which ultimately harms, targets, scrutinizes, and divides ALL women. In addition, HB 972 would likely:

- Violate state and federal constitutional guarantees of equal protection by permitting sex discrimination in schools or institutions of higher education.
- Violate a student’s privacy if schools are required to determine a person’s sex by documenting the person’s chromosomes and reproductive anatomy.

Bill status

- The [House Education](#) committee held a hearing on HB 972 on August 4, 2021. [[Video](#) | [Transcript](#)]
- [Read the bill](#) and check the bill’s [current status](#).

Terminology: Sex, gender, and gender identity

Media guides

- [GLAAD | Media reference guide—Transgender glossary of terms](#)
- [Transgender Law Center | Tip Sheet for Journalists Covering Trans Student Athlete Bans](#)

Sex: The classification of a person as male or female. At birth, infants are assigned a sex, usually based on the appearance of their external anatomy. (This is what is written on the birth certificate.) A person's sex, however, is actually a combination of bodily characteristics including chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.

Gender identity: A person's internal, deeply held sense of their gender. For transgender people, their own internal gender identity does not match the sex they were assigned at birth. Most people have a gender identity of man or woman (or boy or girl). For some people, their gender identity does not fit neatly into one of those two choices. Unlike gender expression, gender identity is not visible to others.

Gender expression: External manifestations of gender, expressed through a person's name, pronouns, clothing, haircut, behavior, voice, and/or body characteristics. Society identifies these cues as masculine and feminine, although what is considered masculine or feminine changes over time and varies by culture. Typically, transgender people seek to align their gender expression with their gender identity, rather than the sex they were assigned at birth.

Sexual orientation: Describes a person's enduring physical, romantic, and/or emotional attraction to another person. **Gender identity and sexual orientation are not the same.** Transgender people may be straight, lesbian, gay, bisexual, or queer. For example, a person who transitions from male to female and is attracted solely to men would typically identify as a straight woman.

Transgender (adjective): A term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they were assigned at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms—including transgender. Use the descriptive term preferred by the individual. Many transgender people are prescribed hormones by their doctors to adjust their secondary sex characteristics. Some transgender people undergo surgery, as well. But not all transgender people can or will take those steps, and being transgender is not dependent upon medical procedures. Medical care does not make someone a particular gender. It merely brings a person's body into alignment with how they understand the gender that they already are.

Trans: A term used as shorthand to mean transgender or sometimes to be inclusive of a wide variety of identities. Many transgender people use trans interchangeably with transgender.

Cisgender: A term used to describe a person with a gender that aligns with the sex assigned to the person at birth.

Transition: Altering one's birth assigned sex is not a one-step procedure; it is a complex process that occurs over a long period of time and is based on a person's individual needs. Transition may include any or all personal, medical, and legal steps. Avoid the phrase "sex change."

Gender affirming surgeries: Refers to doctor-supervised surgical interventions. There is no one surgery that constitutes "sex reassignment surgery." There are many surgeries that a transgender person may undergo as part of their treatment, and, as noted above, many transgender people will have no surgery at all. Avoid the phrase "sex change operation." Avoid overemphasizing the role of surgeries in the transition process.

Gender dysphoria: In 2013, the American Psychiatric Association released the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V), which replaced "Gender Identity Disorder" with Gender Dysphoria and changed the criteria for diagnosis. The treatment for Gender Dysphoria is aligning oneself with the gender a person knows themselves to be.

Gender non-conforming: A term used to describe some people whose gender expression is different from conventional expectations of masculinity and femininity. Please note that not all gender non-conforming people identify as transgender; nor are all transgender people gender non-conforming. Many people have gender expressions that are not entirely conventional. That fact alone does not make them transgender. Many transgender men and women have gender expressions that are conventionally masculine or feminine. The term is not a synonym for transgender and should only be used if someone self-identifies as gender non-conforming.

Non-binary: Most people – including most transgender people – are either male or female. But some people don't neatly fit into the categories of "man" or "woman," or "male" or "female." For example, some people have a gender that blends elements of being a man or a woman, or a gender that is different than either male or female. Some people don't identify with any gender. Some people's gender changes over time. People whose gender is not male or female use many different terms to describe themselves, with non-binary being one of the most common. Other terms include genderqueer, agender, bigender, and more. None of these terms mean exactly the same thing – but all speak to an experience of gender that is not simply male or female.

Why pronouns matter—it's basic respect

Gender pronouns: These are the words people choose to identify themselves. Examples include he, she, him, her, they, them, ze, and hir.

It is important to note that you cannot look at someone or their name and assume their gender. As society accepts a more gender-fluid environment, we directly harm people when we do not respect pronoun etiquette and respect someone's individuality.

When we directly or indirectly misgender individuals, people feel invalidated, unseen, and dismissed. It can also impact their mental health. By not respecting pronouns, it affects intersecting communities along with the individual.

It is best practice to ask everyone what pronoun they use rather than assume people's pronouns based on their appearance, voice, or name. If you don't know, ASK. And if you can't ask, DON'T ASSUME. Use neutral terms like they/them/theirs or refer to the person by their name until you find out.

Problematic terms and narratives

Transgender is an adjective, not a noun or a verb: Transgender should be used as an adjective. Do not say, "Tony is a transgender," or, "The parade included many transgenders." Instead say, "Tony is a transgender man," or, "The parade included many transgender people." The adjective transgender should never have an extraneous "-ed" tacked onto the end. An "-ed" suffix adds unnecessary length to the word and can cause tense confusion and grammatical errors.

"Sex change," "pre-operative," "post-operative": Referring to a "sex-change operation," or using terms such as "pre-operative" or "post-operative," inaccurately suggests that one must have surgery in order to transition. Avoid overemphasizing surgery when discussing transgender people or the process of transition. Usually there is no reason to discuss a person's medical care, and the proper approach is to simply refer to the transgender person as transgender or just as whatever their gender is—Tony is a man.

“Biologically male,” “biologically female,” “genetically male,” “genetically female,” “born a man,” “born a woman”: Problematic phrases like those above are reductive and overly-simplify a very complex subject. A person’s sex is determined by a number of factors—not simply genetics. Gender identity, like many components of sex, has a biological basis, so it is factually inaccurate to simplify biology to genitals or chromosomes. Finally, people are born babies. They are not “born a man” or “born a woman.” Preferred terms include assigned male at birth, assigned female at birth or designated male at birth, designated female at birth.

Suggested talking points: Trans participation in sports

Value of sports participation

- Having the opportunity to participate in sports results in positive outcomes for students—better grades, greater homework completion, higher educational and occupational aspirations, and improved self-esteem.
 - Resource: [Expert Declaration Dr. Mary Fry, *Hecox v. Little*](#)
 - Resource: [Athletes in Women's Sports Amicus Brief](#)
- Inclusion of girls and women who are transgender in athletics supports the ongoing investment in all girls through access to sports and other athletic activities.
 - Resource: [Athletes in Women's Sports Amicus Brief](#)
- Trans students participate in sports for the same reasons other young people do: to challenge themselves, improve fitness, and be part of a team. Excluding trans students from participation deprives them of opportunities available to their peers and sends the message they are not worthy of a full life.
 - Resource: [Transgender Athletes Amicus Brief](#)

Myth of competition

- Despite the fact that trans people of all ages have been participating in sports consistent with their gender at all levels for years, we simply have not seen any dominance by trans athletes at any level of competition. Athletic success is based on many disparate factors that vary sport to sport, and being transgender does not give girls who are trans an inherent advantage over girls who are not.
 - Resource: [Declaration of Helen Carroll, *Hecox v. Little*](#)
 - Resource: [Sport and Transgender People: A Systematic Review of the Literature Relating to Sport Participation and Competitive Sport Policies. \(2017\)](#)
- When one trans athlete succeeds, her success is often highly publicized and politicized to the point of suggesting that the only reason for the athlete's success is the fact that the person is trans, and that all trans people are inherently better athletes than all cis people. Neither is true. The fact that an occasional trans person succeeds in sport should not be used to exclude all trans athletes.
- Allowing trans athletes to compete doesn't let boys or men pretend to be transgender just to compete in the girls' or women's category nor does it threaten sex separation in sport generally. In the decades that trans women and girls have been participating in women's sports around the world, there has been no effort to collapse sex separation in sport and no examples of men and boys pretending to be women and girls.

Experts and professional athletes agree

- Because allowing trans girls to compete in girls' sports doesn't hurt anyone, advocates for women and girls in sports such as [the National Women's Law Center, the Women's Sports Foundation, Women Leaders in College Sports, and others](#) support trans-inclusive policies and oppose efforts to exclude transgender students from participating in sports.
 - Resource: [Amicus Brief of NWLC et al](#) (over 60 civil rights and women's rights groups)
 - Resource: [Athletes in Women's Sports Amicus Brief](#)
- The main researcher who has been cited in support of bans on trans athletes, Doriane Lambelet Coleman, [opposes these bans](#) and has explained that her research has been misused.
 - Resource: [Preliminary Injunction Decision, *Hecox v. Little*](#)

- Leading women’s sports athletes including Billie Jean King, Megan Rapinoe and Candace Parker have weighed-in at the Ninth Circuit in opposition to bills that ban women and girls who are transgender from women’s sports.
 - Resource: [Athletes in Women’s Sports Amicus Brief](#)
- Efforts to ban trans girls from participating in girls’ sports jeopardize their mental health, physical well-being and ability to access education opportunities comparable to their peers.
 - Resource: [Expert Declaration of Dr. Deanna Adkins, Hecox v. Little](#)
 - Resource: [Expert Declaration of Dr. Jack Turban, Hecox v. Little](#)
 - Resource: [Amicus Brief of American Academy of Pediatrics et al.](#)
- Requiring girls who are trans to compete on boys’ teams, or boys who are trans to compete on girls’ teams, effectively excludes them from participating at all.
 - Resource: [Preliminary Injunction Decision, Hecox v. Little](#)³

Constitutional and civil liberties concerns

- Bills that single out students who are transgender for discrimination violate state and federal constitutional guarantees of equal protection.
 - Resource: [Preliminary Injunction Decision, Hecox v Little](#)
- Sweeping bills that purport to determine a person’s sex by documenting the person’s chromosomes and reproductive anatomy raise serious privacy and administrability concerns.
 - Resource: [Expert declaration in Hecox v. Little, Dr. Sara Swoboda](#)⁴

Distracts from real problems

- There are real issues with gender parity in sports when it comes to funding, resources, pay equity, and more. Promoting baseless fears about trans athletes does nothing to address those real problems.
 - Resource: [Megan Rapinoe Stands Up for Equal Pay and Trans Athletes](#)

There's also a racial justice lens

- Cisgender Black female athletes experience a disproportionate impact based on perceived classification of gender, advantages, and testosterone levels.
 - Resource: [Black women athletes are still being scrutinized ahead of the Olympics despite their success](#)
 - Resource: [Athletics is waging a war of transphobia and misogyny— and black African women are losing out](#)

³ “Participating in sports on teams that contradict one’s gender identity “is equivalent to gender identity conversion efforts, which every major medical association has found to be dangerous and unethical.” Dkt. 58, at 11 (citing Dkt. 58-3, §§ 24–28).33. As such, the Act’s categorical exclusion of transgender women and girls entirely eliminates their opportunity to participate in school sports—and also subjects all cisgender women to unequal treatment simply to play sports—while the men in Clark had generally equal athletic opportunities.”

⁴ “Sports physicals do not include blood tests for hormone levels or any other purpose. Sports physicals do not include genetic tests for chromosomes or any other purpose. It is also not part of a sports physical to conduct a genital or pelvic examination.” Swoboda Dec. § 18.

Responses: Common objections and concerns about trans athletes

Alleged concern: Policies allowing trans women and girls to compete in the female category in sports are new and untested—we don't know what will happen.

Top-line response: Trans women and girls have been participating in women's sports for decades.

Trans people have been participating in sports and other single-sex activities consistent with their gender for years. For most trans people, this is the only feasible way to participate in sports at all. Because trans women and girls are women and girls and trans men and boys are men and boys, nothing about trans participation undermines the single sex nature of existing sex-segregated sports activities.⁵

Alleged concern: Girls and women who are transgender have a “biological advantage” over girls and women who are cisgender in athletics.

Top-line response: Being transgender does not give girls an inherent advantage over girls who are not transgender.

The notion that women and girls who are transgender have a competitive advantage in school sports is based on two false premises. The first is that transgender women and girls are really males. But that is not true (see below). The second is that testosterone gives people a competitive advantage in sports. [Science does not support this myth](#) either. There is a long history of policing the category of ‘woman’ in sports and it emerges as part of larger structural goals to exclude. There is no ‘threat’ to the integrity of women's sport posed by trans participation as evidenced by the lack of any dominance by women and girls who are trans.

The few examples where trans athletes have gained some minimal success are blown out of proportion and the actual field of competitive parity is obscured. Recently, the success of two Black, young women, runners who are transgender in Connecticut has been used as evidence that transgender girls have an unfair advantage. In a state meet, two trans girls came in first and second and right-wing media immediately capitalized on their hard-won success to claim a threat to cis girls. From cable news to social media, these girls were shamed and called males and their moment of success was completely ruined. When it came time for nationals, one of the two girls didn't even compete because of the shame triggered by the media coverage and the other came in 30th and 31st in her two events. There was no dominance on the national stage—not even close—just discrimination and humiliation.

Alleged concern: Once girls and women who are trans are allowed access to women's sports, there is no basis to maintain single-sex sports categories.

Top-line response: Allowing participation by girls and women who are trans does not change the nature of women's sports and does not inevitably lead to mixed gender sports.

Girls and women who are trans are girls and women and their participation in the girls' category does not change the nature of the category. Maintaining separate sports for girls is legally justifiable and culturally important because it remains remedial and necessary to protect against discrimination. The purpose of girls' sports is not to ‘protect’ girls from boys; it is to protect people from systemic gender discrimination that results in the denial of opportunities for girls and transgender people. Across the country, allowing trans people to participate hasn't let boys pretend to be trans so that they can compete in girls' sports—it has simply allowed girls who are trans to have the same opportunity to play as their peers.

⁵ For non-binary people, living in a binary world creates many barriers, particularly in the context of binary, single-sex spaces and activities. But the best and only legally defensible way to regulate trans people's access to single-sex spaces and activities is to allow for participation based on what most closely aligns with the person's gender.

Alleged concern: In the aggregate, biological differences make boys better at physical activities than girls.

Top-line response: There are many social and physiological factors that impact success in sports.

Broad generalizations aren't helpful when trying to ensure equal opportunity for all student athletes. From birth, girls and boys are socialized in ways that impact physical opportunities for growth and development. Moreover, each sport and activity differently advantages different body types—what it takes to be great at gymnastics is different from sprinting is different from swimming—so it is impossible to generalize about any competitive advantage of different body types. In any event, girls who are transgender are not boys and deserve the opportunity to play. Trans athletes don't have a single body type and don't have a systematic advantage.

Alleged concern: Scientific studies have shown transgender athletes have an unfair advantage.

Top-line response: Scientific studies have not shown such an advantage.

Scientific studies of sports performance overwhelmingly focus on elite athletes, not K-12 students. No large studies have looked specifically at transgender athletes. Study results vary on the impact of hormone levels on performance, and this relationship may differ based on the sport, level of competition, other characteristics of the athlete, and the type of hormones measured. The research does not support the idea of a systematic advantage for trans athletes.

Alleged concern: Girls and women who are transgender are “biologically” male.

Top-line response: Girls and women who are transgender are female. “Biological sex” is more complex and does not break down in a neat male / female binary.

It is both untrue and unhelpful to refer to trans women as “biological males” and trans men as “biological females.” There are multiple, physiological sex characteristics and they don't always align as all typically male or all typically female. Biological sex characteristics include: chromosomes, hormones, secondary sex characteristics, internal and external reproductive organs. Many trans and intersex individuals possess sex characteristics typical of males and females. Many non-trans, non-intersex people do as well. Each characteristic itself does not break down neatly into a binary. For example, there are more chromosomal variations than just XX and XY. Transgender people possess biological characteristics that accord with their gender, particularly those transgender people that access medical care to affirm their gender. For example, a girl who is transgender may have female-typical hormone levels and breasts.

Resources: Trans participation in sports

Articles

- [The Nation | Transphobia's new target is the world of sports](#) (Mar 5, 2019)
- [Guardian | Stop talking about testosterone—there's no such thing as a 'true sex'](#) (Mar 6, 2019)
- [Outsports | Cracking the code of bias against transgender athletes: A peek at the transphobe's playbook](#) (Dec 3, 2019)
- [Columbia Journalism Review | Caster Semenya and the Myth of the Uneven Playing Field](#) (May 8, 2019)
- [ACLU | Doctors Agree: Gender-Affirming Care is Life-Saving Care](#) (April 1, 2021)
- [ACLU | The Coordinated Attack on Trans Student Athletes](#) (Feb 26, 2021)
- [Jezebel | These Girls Just Wanted to Run: the Right Wanted a War](#) (Mar 3, 2021)
- [Scientific American | Trans Girls Belong on Girls' Sports Teams: There is no scientific case for excluding them](#) (Mar 16, 2021)
- [Idaho Capital Sun | 30 U.S. states now considering version of Idaho's transgender athlete bill](#) (Apr 2, 2021)
- [USA Today | Here's why a bill to ban transgender athletes in Pennsylvania won't become law](#) (Mar 29, 2021)

Trans resources

- [TRANSformationPA](#)—ACLU-PA's Trans Justice Program
- [GLAAD | Transgender resources](#)
- [TransAthlete](#)—Resource for students, athletes, coaches, and administrators to find information about trans inclusion in athletics at various levels of play.
- [GLSEN Policy Brief: Transgender Inclusion in High School Athletics](#)—Challenges common claims about competitive advantage
- [Sign on letter](#)—Major women's sports advocacy groups supporting trans inclusion
- [ACLU | Legislation affecting LGBT rights across the country](#)

For Allies

- [GLAAD | Tips for Allies of Transgender People](#)
- [TransAthlete | Five Tips for Trans Allies](#)
- [AthleteAlly](#)

For Media

- [GLAAD | Media reference guide—Transgender glossary of terms](#)
- [TransAthlete | Trans Terminology](#)
- [Transgender Law Center | Tip Sheet for Journalists Covering Trans Student Athlete Bans](#)
- [GLAAD | In Focus: Covering the Transgender Community](#)

Affirmative stories

- [Changing the Game](#)—Documentary profiling four trans athletes
- [Andraya Yearwood](#)—CT runner profile
- [Rachel McKinnon](#)—Canadian cyclist op-ed