

Students Deserve Access to School Sports

46%

of transgender students discriminated against in school sports¹

16

state athletic associations call for inclusive policies in high school sports²

48%

greater increase in women's sports participation in states with trans-inclusive policies³

GLSEN recommends that all students, including transgender, nonbinary, and intersex students, should be able to participate in school sports and physical education, free from discrimination, in a manner consistent with their gender identity.

School-based sports programs promote physical activity and yield social and emotional benefits as youth experience teamwork, leadership, and community. Since 2020, states and school districts have increasingly limited access to school sports across all degrees of competition - including interscholastic, club, intramural, and even physical education classes - for transgender, nonbinary, and intersex students. These exclusionary policies deprive students of the benefits of sports participation and have substantial spillover impacts on cisgender students, particularly students of color. Exclusionary policies subject children's bodies to inappropriate scrutiny, unlawfully discriminate against students on the basis of sex, and depress overall participation in women's sports. States and school districts should instead adopt inclusive policies that affirm students' identities and provide students with the chance to play and compete free from discrimination.

Sports Can Reduce LGBTQI+ Health Disparities

Affirming access to physical education and school sports is an effective strategy in addressing the physical and mental health disparities faced by LGBTQI+ students. LGBTQI+ youth report lower rates of routine physical activity than the total population, with transgender girls demonstrating the sharpest disparities.⁴ As youth sports participation generally results in higher rates of physical activity in adulthood,⁵ access to school sports is a critical early intervention that can yield healthier long-term outcomes for LGBTQI+ youth and mitigate risk factors for chronic conditions. Recent research indicates that transgender youth are 32% more likely to have obesity than their cisgender peers,⁶ an indicator that is associated with a five times greater likelihood of obesity in adulthood⁷ and may also be an early contributor to stark disparities in cardiovascular disease among transgender adults.⁸ Closing avenues to physical activity for transgender students may have a rippling effect that impacts their physical health well into adulthood.

Excluding LGBTQI+ youth from sports exacerbates school-based discrimination and social isolation, worsening adverse youth mental health outcomes. Half of all transgender youth considered suicide in 2022,⁹ representing one of the most vulnerable populations as suicide remains the second-leading cause of death among *all* 10-14 year olds.¹⁰ Nearly half (46%) of transgender students face discrimination in school sports, most often by being prohibited from participating on a team consistent with their gender identity.¹¹ One-in-eight (13%) of LGB students and more than one-in-four (28%) of nonbinary students also faced discrimination in school sports.¹² Even when students participate in school sports, they are less likely to be out to their peers: transgender students are 54% more likely to be on a sports team if no one knows their gender identity and LGB students are 60% more likely to be involved in sports if no one knows their sexual orientation.¹³

Inclusive policies can make a difference in students' social and emotional well-being and mental health. LGBTQI+ youth consistently identify school sports as an important social support, where friendships are made and a sense of community and belonging is forged.¹⁴ When schools adopts inclusive and affirming policies related to school sports, transgender and nonbinary students reported a 74% lower likelihood of experiencing discrimination.¹⁵

Inclusion Strengthens Women's Sports

Since 2020, 34 states have adopted restrictions on students participating in school sports on teams consistent with their gender identity, with 25 states imposing outright bans.¹⁶ State actions to discriminate against transgender students have at times been focused on limiting opportunities for transgender girls and been cloaked in a concern for women's sports programs. However, data shows that trans-exclusionary policies are *more* likely to depress participation in women's sports. The National Federation of State High School Associations reports that states with inclusive policies recorded a 48% greater average increase in total women's sports participation in the 2022-2023 school year compared to states with trans-exclusionary policies.¹⁷ In the same school year, when the majority of state-imposed bans on trans sports participation were going into effect, the total number of students in women's sports across all states with inclusive policies increased at a rate 6.7 times greater than across all states with exclusionary policies.¹⁸

Strong policies promoting inclusion protect not just transgender students, but also cisgender girls who may not conform to stereotypical assumptions of femininity. Subjective standards that may be used to exclude transgender students, such as fairness in competition and preventing risk of injury, can similarly be used to exclude cisgender girls who are deemed to be too tall, too muscular, or otherwise unfeminine. Intrusive inquiries into a transgender student's gender - including review of birth certificates and student records and, in some cases, physical exams - leave all students open to inappropriate scrutiny and disproportionately impact students of color. CDC data suggests that exclusionary policies are already having an impact: between 2019 and 2021, sports participation among Black girls decreased at a rate nearly twice that of white girls, whereas Hispanic girls reported decreased participation at a rate more than three times that of white girls.¹⁹

In addition to state-level restrictions, some in Congress have proposed overly broad prohibitions on transgender students in school sports, even moving to restrict transgender students from participating in intramural or club sports. Based on the 2022-2023 data, if all states were held to the same changes in participation rates as states with exclusionary policies, then there would be 51,000 fewer participants in interscholastic high school women's sports, let alone other decreases in intramural participation.²⁰

Ensuring Sports Are Free From Discrimination

Exclusionary policies not only deprive transgender, nonbinary, and intersex students of the opportunity to play and compete, but also generally violate federal protections against sex-based discrimination under the U.S. Constitution's Equal Protection Clause and Title IX, the federal law prohibiting sex-based discrimination in federally funded schools. In April 2024, the Fourth Circuit Court of Appeals ruled in *B.P.J. v. West Virginia State Board of Education* that a transgender girl was deprived of meaningful athletic opportunities due to a categorical ban on trans sports participation.²¹ As 24 other states have similar policies in place - including more than a dozen states that adopted such policies even after the U.S. Department of Justice cautioned in the West Virginia litigation that these policies contravene Title IX - transgender, nonbinary, and intersex students may have to continue to vindicate their rights in court to ensure that school sports are free from discriminatory exclusions.²²

In April 2024, the U.S. Department of Education issued updated regulations that clarify that Title IX protects against school-based discrimination on the basis of gender identity and sex characteristics.²³ In spring 2023, the Department had initiated a separate rulemaking to provide more detailed regulations on athletics.²⁴ As that rulemaking remains in progress, GLSEN urges robust enforcement of Title IX - consistent with the Fourth Circuit decision - to invalidate categorical bans on transgender sports participation and secure inclusive approaches to school sports nationwide.

"Offering [a transgender girl] a 'choice' between not participating in sports and participating only on boys teams is no real choice at all . . . [a state ban] thus exposes [the student] to the very harms Title IX is meant to prevent by effectively 'exclud[ing]' her from 'participation in' all non-coed sports entirely."

B.P.J. v. West Virginia State Board of Education
Fourth Circuit (April 2024)

Limitations and outright bans on student participation on teams consistent with their gender identity only serve to prioritize exclusion over teamwork, inconsistent with the values inherent to sports. With clearer federal protections and robust enforcement of the law, states and school districts should reject the politics of exclusion and adopt inclusive policies that allow all students to play and compete in an environment free from discrimination.

ENDNOTES

- 1 Kosciw JG, Clark CM, Menard L. The 2021 National School Climate Survey. GLSEN, at 92. <https://www.glsen.org/sites/default/files/2022-10/NCS-2021-Full-Report.pdf> ("GLSEN NSCS").
- 2 GLSEN & TransAthlete. Gender Affirming and Inclusive Athletics Participation (2021). https://www.glsen.org/sites/default/files/2022-05/GLSEN_Transathlete_Policies_Issue_Brief-04-2022.pdf.
- 3 National Federation of State High School Associations. High School Participation Survey Archive, 2021-2022 and 2022-2023 Data. <https://www.nfhs.org/sports-resource-content/high-school-participation-survey-archive/> (last accessed Dec. 21, 2023) ("NFHS Data").
- 4 See Bishop A, et al. Diet and Physical Activity Behaviors Among Adolescent Transgender Students: School Survey Results. *Journal of Adolescent Health* 66(4):484-490 (2020). <https://doi.org/10.1016/j.jadohealth.2019.10.026>.
- 5 Lee JE, Pope Z, Gao Z. The Role of Youth Sports in Promoting Children's Physical Activity and Preventing Pediatric Obesity: A Systematic Review. *Behavioral Medicine* 44(1):62-76 (2018). <https://doi.org/10.1080/08964289.2016.1193462>.
- 6 Compare Moser CN, et al. Body Mass Index Categories of Transgender and Gender Diverse Youth: Clinical Associations and Predictors. *Childhood Obesity* (2023). <https://doi.org/10.1089/chi.2023.0021>, with Centers for Disease Control and Prevention, NHR No. 158 (2021), <https://doi.org/10.15620/cdc:106273>.
- 7 Simmonds M, et al. Predicting adult obesity from childhood obesity: a systematic review and meta-analysis. *Obesity Reviews* 17(2):95-107 (2016). <https://doi.org/10.1111/obr.12334>.
- 8 Howerton I & Harris JK. Transgender Identity and Cardiovascular Disease. *Transgender Health* 7(5):407-415 (2022). <https://doi.org/10.1089/trgh.2020.0188>.
- 9 The Trevor Project. 2023 U.S. National Survey on the Mental Health of LGBTQ Young People (2023). <https://www.thetrevorproject.org/survey-2023/#intro>.
- 10 Centers for Disease Control and Prevention. Disparities in Suicide. <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html> (last updated May 9, 2023).
- 11 GLSEN NSCS, *supra* n.1, at 92.
- 12 *Id.*
- 13 The Trevor Project. Research Brief: LGBTQ Youth Sports Participation (2020). <https://www.thetrevorproject.org/wp-content/uploads/2021/08/June-2020-Brief-LGBTQ-Youth-Sports-Participation-Research-Brief.pdf>.
- 14 The Trevor Project. Research Brief: LGBTQ Youth Sports Participation (2021). <https://www.thetrevorproject.org/wp-content/uploads/2021/09/LGBTQ-Youth-and-Sports-September-Research-Brief-2.pdf>.
- 15 GLSEN NSCS, *supra* n.1, at 74.
- 16 GLSEN Navigator. Map: Trans and Nonbinary Interscholastic Athletic Inclusion Policies. <https://maps.glsen.org/trans-and-nonbinary-athletic-inclusion-policies/> (last updated Mar. 2024).
- 17 NFHS Data, *supra* n.3.
- 18 *Id.*
- 19 Centers for Disease Control and Prevention. YRBS Explorer, Physical Activity, High School Students Who Played On At Least One Sports Team, 2019 and 2021 Data. <https://yrbs-explorer.services.cdc.gov/#/tables?questionCode=H80&topicCode=C06&year=2>.
- 20 See NFHS Data, *supra* n.3.
- 21 *B.P.J. v. West Virginia State Board of Education*, No. 23-1078 (4th Cir. Apr. 16, 2024). <https://wp.api.acu.org/wp-content/uploads/2024/04/Document.pdf>.
- 22 GLSEN Navigator, *supra* n.16.
- 23 U.S. Department of Education, Office of Civil Rights. Final Rule: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. (April 2024).
- 24 U.S. Department of Education. Proposed Rule: Sex-Related Eligibility Criteria for Male and Female Athletics Teams. 88 Fed. Reg. 22,860, 22,872 (Apr. 13, 2023).