



**Prepared Testimony of Elizabeth Kristen and Kim Turner
on behalf of
Legal Aid at Work
Fair Play for Girls in Sports**



Committee on Arts, Entertainment, Sports, Tourism, and Internet Media

**Informational Hearing:
Safe and Equitable Reopening of Sports
State Capitol, Assembly Chambers, Sacramento, California**

Wednesday, March 17, 2021, 2:00 p.m. to 4:30 pm

Introductions

- Good afternoon. Thank you to the Chair and Vice-Chair, Committee members, and its staff, and our co-panelists, for this hearing today.
- My name is Elizabeth Kristen and I am a senior staff attorney and director of the Gender Equity and LGBTQ Rights Program of Legal Aid at Work. Legal Aid at Work is a 105 year old nonprofit organization based in San Francisco, serving all of California and beyond. I am joined by Kim Turner, director of our Fair Play for Girls in Sports project.
- We hope everyone is as safe and as well as possible during these challenging times.
- For nearly two decades, our Fair Play project has helped girls and young women overcome gender inequity in school and park and recreation athletic programming.
- We look forward to sharing with you our perspective on gender inequality in the reopening of youth sports. And moreover, discussing what principles of gender equity *must* be kept in mind as sports re-open in California.
- These principles are important both because gender equity is required under federal laws like Title IX. But also, because girls and women have been denied equal opportunities in sports for generations. It is both legally mandated and part of our core shared values as a state to ensure a level playing field for girls and women.
- Through litigation, training, and policy work, Fair Play advocates for gender equity in youth athletics with a specific focus on the millions of girls in preK, elementary, middle, and high school across California that all too often experience second class sports experiences, or no sports opportunity at all compared to their male peers.

- This corrosive message of inequality for girls causes lifelong harms. Conversely, granting girls equal opportunities to play develops girls' confidence and affords them lifelong benefits. Girls given the chance to play experience improved health and educational outcomes, plus adult employment success. For example, girls playing sports in high school are correlated to make higher wages later in life, compared to their non-athlete peers.
- Fair Play seeks to bring about equity for girls, particularly those in low-income communities and communities of color, where girls have the fewest sports opportunities of all their youth peers.
- Title IX, the federal law prohibiting sex discrimination in federally-funded educational opportunities—including school sports—has been the law for nearly 50 years. And in California, gender equity in youth community sports run or hosted by your local park and recreation department, has been required by AB 2404, also known as the Fair Play Act, for over 15 years.
- Before Title IX, fewer than 300,000 girls were playing high school sports nationwide. Now there are more than 3 million girls playing high school sports. Yet, boys still have a million *more* opportunities to play nationwide, compared to girls.
- In California, statistics in pre-pandemic times gathered by the California Interscholastic Federation from our state's high schools show boys getting 100,000 more opportunities to play sports compared to girls, despite girls wanting to play much more.¹
- Further, girls who do participate in sports are unfairly relegated to sub-par facilities, resources, and treatment.
- And when girls and their families try to solve inequity problems at school, too often they are retaliated against. Such backlash for complaints is not permitted under Title IX. Complaints and concerns should be welcomed and addressed.
- We must continue to work on these matters during and after the pandemic, and Fair Play is ready to help.

¹ CIF Participation Census Data Link: <https://cifstate.org/coaches-admin/census/index>.

Gender Equity Issues and Considerations

- With that context, we will turn to our specific concerns and on-the-ground information about sports re-opening in California with respect to gender equity considerations.
- Plain and simple, during pandemic times, athletic inequity dynamics have been exacerbated. For example:
- Girls' and boys' teams are having to share already-strained, overbooked facilities. Girls' and boys teams are also sharing coaches that are managing several teams and sports in the midst of compressed seasons.
- This forced sharing of athletic facilities, coaching, and resources raises the real threat that girls' sports will be practicing and playing at worse times, getting less coaching attention compared to boys' sports, as well as inferior access to strained resources.
- Girls and their teams have not been prioritized in reopening to the same extent and are seeing shorter seasons compared to boys' sports.
- Just glancing at the last year of news articles and coverage, an outsized level of attention has gone to boys' football and other boys' sports such as baseball and basketball getting back to play, with little to no mention of girls' sports resuming and the impact of the pause on female teams.
- We must remember that youth and school sports are about *education and youth development*. Youth athletic experiences should be equitable and accessible to all, regardless of gender.
- Turning to the community youth sports front, under-resourced park and recreation agencies are struggling to re-introduce youth sports while acting as a safety net for children and their families, much like beleaguered schools.
- We are seeing expensive, private club sports—that often use publicly-resourced gyms and fields—getting back to play for workouts, conditioning, and now games. This leaves low-income families and their kids without sports options, especially low-income girls of color—gaps we must fill.
- When facilities availability is tight in community sports, girls' and boys' teams and leagues alike should get completely equitable access and priority.

- In addition, a recent survey by the Aspen Institute’s Project Play emphasized the discrepancies between girls’ and boys’ sports in the pandemic era. For example, baseball participants (who are predominantly boys) on average lost just 4 hours a week of engagement during COVID-19 times, while girls’ softball participants lost nearly 7 hours each week. For athletes overall, virtual training increased for male athletes, but not for female athletes.²
- We wouldn’t allow boys to gain access to re-opened playgrounds earlier on than girls as communities open up. Or tell boys that they can have more English and Math classes, at better times in the day, as in-person schooling re-opens. Likewise, we should not allow gender inequity in any form while reopening youth sports.
- Looking again at school issues - in one California high school, a parent was excited to hear her daughter’s spring sport was finally coming back. However, the parent explained her daughter “immediately felt disappointment because football was given an exception to play before reaching their designated orange tier and . . . [f]ootball was given their first choice of practice times and game days with the remainder split between multiple sports.”
- One parent added: “I know these are unprecedented times but after 50 years of Title IX, I would have hoped that there would be equity and just plain fairness when reopening California sports participation. It almost feels as if administrators think they can get away with discrimination because these are unusual times.”
- In yet another California high school where a senior girl athlete is struggling to get even a compressed spring season for her outdoor sport, the girl reports: “With all the pressure of life as a young adult, [my sport] is my calm and comfortable place. I suffer from ADHD and playing sports helps me keep my world in order. Not having that right to play is so difficult but seeing everyone else have that around me is devastating.”
- Girls want to play sports just as much as boys. They want to vie for those life-changing college athletic scholarships. And they need that athletic outlet of sports just as much as boys do. *All* youth are experiencing unprecedented levels of stress, anxiety, social isolation, and mental health strain brought about by shuttered schools and programs.

² Link to Aspen Institute Project Play Survey Report - <https://static1.squarespace.com/static/595ea7d6e58c62dce01d1625/t/5fa984fb066f8a0264beb4f2/1604945148149/COVID-19+Parenting+Survey+FINAL+REPORT.pdf>.

- We are also aware that the Let Them Play campaign and related lawsuit ended in a recent court order and settlement allowing youth sports to resume in San Diego County as long as the relevant school sports “follow the same or similar COVID-19 protocols imposed for competition in professional and/or collegiate sports within the county,” further setting standards across the state.
- We are glad that sports are reopening, so long as it is done safely and equitably. We remind all involved, we must not only follow the new COVID-19 protocols but also the longstanding *Title IX* protocols, and similar state laws, imposed for nearly five decades to ensure a gender equitable re-introduction of sports.
- Our colleagues that help young women combat gender inequity at the college and university level report gender inequity in sports reopening.
- For example, at one California university, when potential COVID-19 exposure was detected within the men’s football program, the team was quarantined, provided housing, and brought expensed meals. When potential COVID-19 exposure was detected within a women’s team at the same university, no such housing or meal arrangement was made—a troubling reflection of blatant, unacceptable gender inequality in sports.
- Further, women’s athletics programs at the college level have been cut or are threatened with cuts, without heed for women’s already-lacking opportunity and Title IX.
- Colleges and universities must ensure women are getting a proportional share of athletic opportunities and equity in treatment and benefits, regardless of the pandemic or budget strains.

Action Steps and Reminders

- First, there has been no alteration of bedrock gender equity obligations during the pandemic. Thus, laws like Title IX for schools and AB 2404 for park and recreation-run and -hosted youth athletics are still 100% in effect.
- Also, there is no exception or carve-out for football or other boy’s and men’s sports in Title IX or AB 2404. Thus, all sports should be getting back to play on a safe, level playing field in terms of season length, facilities access, practice availability, coaching, equipment and more.

- Second, re-opening should be a re-set opportunity for gender equity. It is essential to train coaches, staff, leadership, athletic directors, and families on laws like Title IX and AB 2404.
 - Fair Play for Girls in Sports (at www.fairplayforgirlsinsports.org) and our nonprofit partners have free online toolkits and reports to get communities started in assessing and instilling gender equity.
 - Finally, if a school or community league isn't gender equitable when reopening athletics, demand, expect, and persist with necessary change.
 - For those in leadership, proactively examine and address issues where your institutions, schools, parks and rec., and third party leagues are being gender inequitable.
 - For community members, such as students and parents, if you see gender inequity in youth sports in schools or community leagues, contact local leadership, notify the California Department of Education, the federal Department of Education, the California Interscholastic Federation, as well as Fair Play for Girls in Sports. Highlight and stamp out any gender inequity in youth sports. There are many easy, reasonable solutions to ensure fairness.
 - *Let us today ensure a truly level playing field for girls once and for all.*
 - Thank you for your time and to the Committee for this hearing. We are happy to answer any questions.
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