

Date of Hearing:

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM
Christopher M. Ward, Chair
AB 89 (Sanchez) – As Introduced January 6, 2025

SUBJECT: Interscholastic sports: gender equity

SUMMARY: This bill would require the California Interscholastic Federation (CIF) to amend its constitution, bylaws, and policies, to prohibit a pupil whose sex was assigned male at birth from participating on a girls' interscholastic sports team, notwithstanding any other law.

EXISTING LAW:

- 1) Permits pupils to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records. (Education Code (EDC) Section 221.5 (f))
- 2) States that no person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (EDC 220)
- 3) Defines "Gender" to mean sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. (EDC 210.7)
- 4) Provides that an educational institution is not prohibited from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. (EDC 231)
- 5) Provides, under the Sex Equity in Education Act, that pupils have the right to fair and equitable treatment and not be discriminated against based on sex, have the right to be provided with an equitable opportunity to participate in all academic extracurricular activities including athletics, have the right to receive equitable treatment and benefits including provisions for locker rooms, and have the right to contact the California Department of Education (CDE) and CIF to access information on gender equity laws. (EDC 221.8)
- 6) Establishes CIF as a voluntary organization that consists of school and school-related personnel with responsibility for administering interscholastic athletic activities in secondary schools. (EDC 33353 (a))
- 7) Requires CIF to report to the appropriate policy committees of the Legislature and the Governor on its evaluation and accountability activities, on or before January 1, 2023, and on or before January 1 every seven years thereafter. One section of the report is required to include CIF's goals and objectives with regard to, and the status of, gender equity in

interscholastic athletics, including, but not limited to, the number of male and female pupils participating in interscholastic athletics in secondary schools, and action taken by CIF in order to ensure compliance with Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.). (EDC 33353)

FISCAL EFFECT: None. This measure is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) Author's statement. According to the author, "It is undeniable that men have biological advantages over women in most competitive sports. Ignoring the biological differences between men and women destroys any semblance of a level-playing field and puts young women at an unfair and unsafe disadvantage within their own sport. I introduced AB 89 to restore fairness, integrity, and safety to girls' sports."
- 2) Background. Title IX is a federal civil rights law passed as part of the Education Amendments of 1972. It prohibits sex-based discrimination in any educational program or activity that receives federal funding. The law applies to schools, colleges, and universities, ensuring equal opportunities in academics, athletics, and other aspects of education. Title IX had a transformative impact on girls' sports. Before Title IX, girls had limited opportunities to participate in organized sports, and funding for girls' sports programs was almost nonexistent.

Title IX led to a surge in female participation in sports. High school girls went from comprising about 7% of all athletes in 1972 to nearly 43% by the 2010s, with millions of girls now competing annually.

In 2013, California passed AB 1266, the School Success and Opportunity Act, which requires local school districts to allow transgender students in grades K-12 to full participate in school activities and programs consistent with their gender identity. Since then, local school districts throughout the state have implemented policies to allow students to compete consistent with state law.

On May 15, 2020, the Department of Education issued a letter stating that the policy of the state of Connecticut, which allows transgender girls to compete in high school sports as girls, was a violation of the civil rights of female student-athletes and of Title IX. It stated that Connecticut's policy "denied female student-athletes athletic benefits and opportunities, including advancing to the finals in events, higher-level competitions, awards, medals, recognition, and the possibility of greater visibility to colleges and other benefits."

On March 8, 2021, President Joe Biden issued Executive Order 14021 entitled "Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity." This executive order reversed changes made by the first Trump administration to limit the scope of Title IX to sex only, excluding gender identity and sexual orientation.

In 2024, the U.S. Department of Education issued a new regulation for how K-12 schools, colleges, and universities should enforce Title IX. Twenty-six states filed lawsuits against the U.S. Department of Education alleging the proposed regulations violated the United States Constitution and the traditional interpretation of Title IX. Each state was granted a partial

injunction stating that the states enjoined were not required to implement the regulations as issued by the U.S. Department of Education.

On April 29, 2024, the Department of Education finalized regulations regarding Title IX, which took effect on August 1, 2024, addressing sexual harassment and assault allegations in educational institutions. The regulations expanded the definition of sex-based harassment to include sexual orientation, gender identity, sex stereotypes, and pregnancy. At the time the regulations were finalized and implemented, 26 states had received partial injunctions stating Title IX in those states would be enforced by the 2020 regulations.

On January 9, 2025, U.S. District court judge Danny C. Reeves vacated the Biden administration's expanded protections for the entire United States in response to the lawsuit filed by the states of Tennessee, Kentucky, Indiana, Ohio, Virginia, and West Virginia.

- 3) Federal Government Policies. As mentioned above, the U.S. District Court for the Eastern District of Kentucky vacated the U.S. Department of Education's 2024 Title IX Final Rule. The court found that the 2024 Title IX Final Rule violated the First Amendment and the Spending Clause of the United States Constitution, and it exceeded the U.S. Department of Education's authority under Title IX of the Education Amendments of 1972, which traditionally prohibited only discrimination based on sex as male or female, not gender identity. The court also determined the rule was vague, overbroad, and arbitrary.

The decision concluded that while the plaintiff states and their schools, colleges, and universities were not required to comply with the 2024 Title IX Final Rule to receive federal funding, they potentially "could violate Title IX in ways unrelated to the Final Rule, which might render them ineligible for federal funding." The 2020 Title IX Rule remains in place for federal enforcement and investigations by the U.S. Department of Education.

While the Title IX 2024 regulations have been vacated, case law has upheld the participation of transgender student-athletes in sports. In April 2024, the Fourth Circuit Court of Appeals blocked a West Virginia law banning transgender student-athletes from playing on teams consistent with their gender identity. The Circuit Court found the law violated the rights of transgender students under Title IX. In determining if the law was in violation of Title IX, the court used the 2020 Title IX regulations. The case has been appealed to the United States Supreme Court.¹

On February 05, 2025, the President of the United States issued an executive order stating as for purpose of enforcing Title IX, the Secretary of Education is to define sex pursuant to the biological definitions provided in an Executive order issued on January 20, 2025. After the February executive order, the U.S. Department of Education Office for Civil Rights issued a "Dear Colleague" letter stating, the 2020 Title IX regulations would be enforced with the definition of sex being the biological definition as provided by the executive order.

¹ <https://www.aclu.org/cases/bpj-v-west-virginia-state-board-education>

Since the executive order, the Maine Department of Education was found to have violated Title IX by the Office for Civil Rights because the department permits biological males to participate in female sports.²

On March 3, 2025, federal legislation that aimed to bar transgender women and girls nationwide from participating in school athletic competitions designated for female athletes failed to advance in the U.S. Senate. The bill sought to determine Title IX protections “based solely on a person’s reproductive biology and genetics at birth.”

- 4) California Interscholastic Federation. The CIF was organized at a high school athletic convention on March 28, 1914, as a voluntary association of schools. Since 1914, the California Department of Education (CDE) has allowed the CIF to regulate interscholastic athletics, and the CIF has been the rule-making body for all of California's K-12 athletics programs since 1917. In 1981, that rule-making authority was expanded to include control over all interscholastic athletics, replacing the CDE in that role.

The Federation consists of ten regional sections, each of which is divided into several “leagues,” for purposes of scheduling athletic contests, and assigning referees. Similar organizations exist in other states. Almost all public, private and parochial schools in California are CIF members.

The primary responsibilities of the CIF are to administer high school athletic programs and to promulgate and enforce rules relating to a student’s involvement in athletics – age, semesters in school, scholarship, residence, transfer status, and amateur standing. Such regulations, which are generated by the 1,609 member base of secondary schools, prevent undesirable exploitation of high school students, provide for the welfare of participants, and ensure that interscholastic athletics offer major benefits to students in a safe, rewarding environment.

After President Donald Trump issued an executive order banning transgender women and girls from college women’s and high school girls’ sports teams, CIF released a statement saying that they would continue to follow California law, which allows athletes to play on a sports team consistent with their gender identity:

“The CIF provides students with the opportunity to belong, connect, and compete in education-based experiences in compliance with California law [Education Code section 221.5. (f)] which permits students to participate in school programs and activities, including athletic teams and competitions, consistent with the student’s gender identity, irrespective of the gender listed on the student’s records.”

The CIF often requires medical clearances and adheres to specific guidelines to ensure student-athletes’ health and safety. Participation in competitive athletic activities and contact sports are addressed on a case-by-case basis. Eligibility criteria may vary depending on various factors, such as hormone levels, medical documentation, and, as aforementioned, a case-by-case review. The CIF Bylaw 300.D. that addresses Gender Identity Participation was approved by the CIF membership in 2013. The policy focuses on allowing students to

² <https://www.ed.gov/about/news/press-release/us-department-of-educations-office-civil-rights-concludes-maine-department-of-education-violating-title-ix>

compete based on their gender identity, with certain guidelines such as regarding hormone levels for transgender female athletes.

- 5) California's Anti-Discrimination Statute. Under California law, schools are prohibited from discriminating on the basis of several protected characteristics, including sex, sexual orientation, and gender identity. Regarding equal access to school activities and programs, California is one of 24 states that allows students to participate in school activities and programs based on their gender identity.

Exclusion from athletics could also result in discrimination or harassment of the population that is being banned. A recent study using Youth Risk Behavior Surveillance System data found that transgender high school students report disproportionate bullying, persistent hopelessness, and suicidal ideation compared to cisgender students. Such disparities can worsen should transgender students be denied participation in school activities and programs due to their gender identity or be forced to participate in school activities in programs consistent with their sex assigned at birth, regardless of their gender identity.

- 6) Impact of Policies Restricting the Rights of Transgender Students. According to the Trevor Project's most recent survey of youth mental health, nearly 1 in 3 LGBTQ+ young people reported that their mental health was poor most of the time or always due to laws or policies negatively targeting LGBTQ+ individuals. Studies have shown that participating in athletics and school programs lead to better outcomes in academics and mental health. Participation in sports has been correlated with higher levels of self-esteem, lower levels of depression, and greater school belonging. A study found that transgender students who participated in sports reported higher grades compared to those transgender students who did not participate.

When transgender youth have been banned from participating in athletics and programs, reports yield that the transgender student's mental health worsens and their risk of adverse outcomes worsen. When transgender youth are not allowed to participate in athletics and other programs, they not only face isolation from their peers, but also report bullying and rejection, in addition to concerns of discrimination based on their gender identity.

- 7) Threats to Safety and Well-Being of Student Athletes. Policies banning transgender individuals from participating in sports not only harm transgender athletes – noted by reports of being doxed, cyberbullied, and on the receiving end of threats – but such sports bans also harm cisgender individuals – or, individuals whose gender identity aligns with the sex they were assigned at birth. For instance, a Utah state school board member falsely stated a girl playing on a high school basketball team was transgender. The post by the Utah official suggested that the high school athlete was transgender due to having a larger physical build, among other terms known colloquially as slurs against transgender individuals. The family of the young girl who was targeted reported that their child became the target of threats and harassment, including by adults.
- 8) Uncertain Enforceability. Policies banning transgender individuals from participating in sports lack guidance on how such policies will be enforced. Methods in which governing bodies have enforced gender verifications include sex testing and inspections of the individual's body. In 2020, for instance, Idaho became the first state to pass a law prohibiting transgender women and girls from playing on female-designated sports teams. Idaho

mandated that a student whose sex was in dispute would have to undergo genital checks and chromosomal testing. The law has since been blocked by the 9th U.S. Circuit Court of Appeals. Recently, Texas is actively suing the NCAA to require the testing of NCAA athletes' sex, such tests including examinations of their genital or the requirement that athletes alleged to be transgender must submit to chromosomal testing. Such testing would be required of anyone who is alleged to be transgender, regardless of whether or not the individual identifies as transgender.

- 9) Arguments in support. According to the organization Gays Against Groomers, “We believe that AB-89 aligns with the principle of maintaining competitive integrity in sports while preserving opportunities for female athletes. This bill would uphold the rights of biological females to compete on equal footing, free from the physical advantages that males generally possess, even after they transition.

“Our support for AB-89 is further reinforced by the most recent executive action taken by President Donald. J. Trump, who has signed an Executive Order banning males from participating in female sports at the federal level. This national directive underscores the importance of protecting the sanctity of women’s sports across all levels of competition, from school to professional sports. It underscores and highlights the growing consensus that biological distinctions must be acknowledged in athletic competitions to ensure fairness.”

- 10) Arguments in opposition. According to the American Civil Liberties Union (ACLU) California Action, “AB 89 is part of a nationwide, coordinated effort to sow fear and insecurity about transgender people and chip away at hard-fought civil rights protections, and California must stand firmly against it.

“School sports play a significant role in many young people's learning and development, helping them to develop critical life skills such as communication, teamwork, and leadership. Participation in sports is also linked to better academic outcomes, improved confidence and self-esteem, and lower levels of stress and anxiety. Transgender girls, like all students, deserve the same opportunity to learn these valuable skills and build a sense of belonging with their peers.

“[AB 89] would discriminate against transgender girls and prohibit them from playing school sports, even if they have been living as girls, and receiving treatment for gender dysphoria, for years. The bill would also invite scrutiny and harassment of any student perceived as not conforming to sex stereotypes, and violate student privacy by requiring girls to answer invasive personal questions if they want to play sports. Put simply, AB 89 would subject young girls to needless interrogation or make them risk public ridicule to join a sports team.”

- 11) Double-referral. If the bill is passed from this committee, it will be re-referred to the Assembly Committee on Higher Education.
- 12) Policy considerations. Gender segregation in sports is mainly based on concerns about unfair physical advantages between the sexes. A disproportionate amount of political and media focus has been put on perceived competitive advantages that transgender women or girls have when competing on women’s or girls’ teams. These issues are based on beliefs that transgender girls and women should not be considered girls or women in the context of deserving of an equal competitive opportunity. Claims have been asserted that being born

with a male body automatically gives a transgender girl or woman an unfair advantage when competing against non-transgender girls and women. There are also unfounded fears that current policies allow boys or men to pretend to be transgender in order to compete with girls or women.

Concerns that transgender women have an unfair advantage over non-transgender women is based on the belief that transgender girls or women who have gone through male puberty may have an unfair advantage due to size, muscle mass, and strength that is triggered by testosterone. It is worth note there has been a growing number of transgender youth that have undergone medically guided hormonal treatment prior to puberty. Transgender girls who transition in this way do not go through a male puberty, and therefore it is argued that their participation in athletics as girls does not raise the same equity concerns. Transgender girls who do not access hormone blockers or cross-gender hormones still display a great deal of physical variation. It is inaccurate to assume that all male-bodied people are taller, stronger, and more highly skilled in a sport than all female-bodied people.

A 2023 study by the Centers for Disease Control and Prevention, found that just 3% of high school students identify as transgender nationally. There is very little evidence to suggest that transgender female athletes are dominating high school sports. The portrayal of transgender athletes in the media can affect public perceptions by emphasizing extreme cases or focusing on controversial incidents. For instance, stories about high-profile transgender female athletes winning competitions draw significant attention, while the experiences of the majority of transgender athletes who do not compete at elite levels often goes unnoticed.

Transgender people comprise 1.6% of the human population. Of that fraction, even less play sports. Only 34 trans-athletes have openly competed in U.S. college sports across various division and across the nation, with even fewer making it to the professional level.

In contrast, supporters of inclusion focus on the benefits to the psychological well-being of trans-female athletes, which they believe take precedence over concerns about potential physical advantages. In their view, the opportunity for trans-females to participate in sports is crucial for their mental health and sense of belonging. Denying them the opportunity could have damaging consequences, both socially and psychologically. Additionally, ban on transgender females could harm cisgender females as well, as it creates a pathway for gender policing that could subject any woman to invasive tests or accusations of being “too masculine” or “too good” at their sport to be a “real” woman.

It is unclear based on the language contained in this bill, how a restriction on transgender female participation on girls’ high school sports teams would be enforced. A transgender person can obtain a new birth certificate with a corrected gender marker by submitting a request to the California Department of Public Health (CDPH). A court order is not required to change the gender marker. For a minor under 18, a parent or legal guardian must submit the request on their behalf.

In California, student-athletes are generally required to undergo a pre-participation physical examination (PPE) before participating in high school sports. CIF mandates that students complete the PPE, conducted by a licensed medical professional, which focuses on assessing a student's overall health, cardiovascular fitness, joint stability, and medical history to ensure they are safe to participate in athletics. Schools typically provide specific forms that must be completed and submitted before a student can join a team.

Genital inspections are not required during the PPE. While some exams may include a brief hernia check (which involves palpation of the lower abdomen and groin area), this is not always required and varies based on a healthcare provider's discretion. If there are concerns about privacy or discomfort, students and their families can discuss alternative evaluation methods with their doctor. Schools and organizations cannot mandate genital inspections as part of sports eligibility.

Further, AB 89 would set up an inconsistent process whereby students who were assigned male at birth would be prohibited from participating in female sports, regardless of the student's gender identity; however, the bill would allow for students who were assigned female at birth to continue participating in male sports including if their gender identity is male. The bill is also silent on the process for intersex students' participation in sports.

13) Prior and related legislation.

- a) AB 844 (Essayli), of 2025, would require that a student's participation in sex-segregated athletic programs and activities and use of facilities, including bathrooms, locker rooms, showers, overnight accommodations, and student housing at a postsecondary institution be based upon the student's sex, as determined by anatomy and genetics at the time of birth. The bill is currently in the Assembly's Committee on Arts, Entertainment, Sports, and Tourism.
- b) AB 3067 (Gipson), of 2024, would have required CIF and its sections to post on their respective websites information about sanctions imposed on a member school or on an interscholastic team of a member school. The bill was held in the Senate on third reading.
- c) AB 1327 (Weber), Chapter 366, Statutes of 2023, requires CDE to develop a standardized incident form to track racial discrimination, harassment, or hazing that occurs at high school sporting games or sporting events, and annually report the information from completed incident forms as statewide totals on the department's internet website. CIF is required to include this information in their report to the legislature on the health and safety of pupils, coaches, officials, and spectators.
- d) AB 1538 (Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media), Chapter 43, Statutes of 2015, moved language from a section entitled "Athletes' Bill of Rights" to the Sex Equity in Education Act, which includes rights available to a pupil relating to gender equity in athletics.
- e) AB 1266 (Ammiano), Chapter 85, Statutes of 2013, require that a pupil be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records.
- f) AB 322 (Oropeza), Chapter 386, Statutes of 2005, enacted the Athletes' Bill of Rights which enumerates the rights available to a pupil relating to gender equity in athletics. The bill requires the State Department of Education to post the rights established by federal Title IX on its website.

- g) AB 499 (Kuehl), Chapter 914, Statutes of 1998, created the Sex Equity in Education Act, which consolidated and standardized the non-discrimination provisions of the Education Code into two chapters, one for K-12 and one for higher education.

REGISTERED SUPPORT / OPPOSITION:

Support

California Baptist for Biblical Values
California Family Council
California Federation of Republican Women
Concerned Women for America
Gays Against Groomers
Interfaith Statewide Coalition
Perk Advocacy
Women's Liberation Front

Opposition

ACLU California Action
Advocates for Trans Equality
Alliance San Diego
API Equality-LA
Asian Americans Advancing Justice Southern California
California Alliance of Child and Family Services
California Gender Inclusive Schools Alliance (CA-GISA)
California Latinas for Reproductive Justice
California Legislative LGBTQ Caucus
California LGBTQ Health and Human Services Network
California School Employees Association
California State PTA
Calpride
Calpride Valle Central
Central Valley Pride
Children Now
Community United Against Violence (CUAV)
Courage California
El/la Para Translatinas
End Child Poverty CA
Equality California
Fresno State, LGBTQ2+ Studies Minor
Gender Justice LA
Genders & Sexualities Alliance Network
Grace - End Child Poverty in California
Inland Empire Prism Collective
Inmind Care
Larkin Street Youth Services
Latino Equality Alliance
Let's Kick Ass (aids Survivor Syndrome) Palm Springs

LGBT Community Network
LGBTQ Center Orange County
LGBTQ+ Inclusivity, Visibility, and Empowerment (LIVE)
Los Angeles LGBT Center
Lyric Center for LGBTQ Youth
Mexican-American Legal Defense and Education Fund [MALDEF]
National Center for Lesbian Rights
National Harm Reduction Coalition
Oasis Legal Services
Office of Lieutenant Governor Eleni Kounalakis
Orange County Equality Coalition
Our Family Coalition
PFLAG Fresno
PFLAG Los Angeles
PFLAG Manhattan Beach/South Bay
PFLAG Oakland-East Bay
PFLAG Sacramento
PFLAG San Jose/Peninsula
PFLAG Tri-Valley
Planned Parenthood Affiliates of California
Pride at the Pier
Public Counsel
Queer Humboldt
Rainbow Families Action
Rainbow Pride Youth Alliance
Reproductive Freedom for All California
Sacramento LGBT Community Center
San Diego Pride
San Francisco Aids Foundation
San Francisco Women's Political Committee
SF LGBT Center
Sojourn Chaplaincy
Solano Pride Center
The Badassery Group
The Children's Partnership
The San Diego LGBT Community Center
The Translatin@ Coalition
The Trevor Project
West Hollywood/Hernan Molina, Governmental Affairs Liaison
West Hollywood; City of
Whittier Pride

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