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**Friday April 7<sup>th</sup>, 2023**

The *Women's Sports Policy Working Group* and *Champion Women* are gratified to see the Biden administration's "middle-ground" Title IX proposal. The proposed regulations would allow schools and universities to limit the participation of transgender students in the name of fairness and safety, while it would forbid any categorical bans on all transgender students from teams that are consistent with their gender identities.

The proposed regulations represent a welcome change to earlier statements from President Biden and the Department of Education that would have equated "sex discrimination" with "gender identity discrimination."

There is no justification for categorically banning all trans students from teams consistent with their gender because transmen (biological women) who want to compete as men pose no fairness or safety hazards to males.

The fairness and safety issues arise only when transwomen (people with male bodies) want to compete against women. This new proposal would allow schools to keep competitive women's sports female-only -- while allowing transgirls and transwomen to play on women's noncompetitive playing fields such as recreational sports and intramurals, or by making it safe for them to compete in their birth-sex category.

The Department wrote that two legal tests to determine if schools may limit participation for transgender students. First, the school's rules must: "be substantially related to the achievement of an important educational objective." This is not a difficult legal burden. It has been definitively established that girls derive educational benefits from sports participation. Female high school athletes are more likely to graduate, more likely to attend college, and less likely to become pregnant without wanting to be. Girls' sports participation rates are also correlated with lifelong health benefits, and with increased participation in the workforce. Every transwoman (biological male) who

competes on a women's team deprives a female of these and other important educational benefits.<sup>[1]</sup>

The proposal also recognizes that preventing sports injuries is an important educational objective. Women are smaller than men. When large, heavy bodies collide with smaller, lighter bodies, injuries are more likely to occur.

Second, the school's rules limiting transgender sports participation must "minimize harms to students whose opportunity to participate on a male or female team consistent with their gender identity would be limited or denied." *Champion Women* and the *WSPWG* note that transwomen athletes could be appropriately accommodated by creating new trans categories or by re-framing the men's category as "open." An open category would welcome all, regardless of biological sex and gender identity. Alternatively, non-binary and trans athletes could continue to compete on teams based on their biological sex.

The proposal aligns with a worldwide trend. Some of the largest and most influential sport governing bodies – including [World Aquatics](#), [World Athletics](#), the World Boxing Council, and World Rugby – have recently issued regulations that exclude post-puberty males who identify as women from competing in women's sports.

Transwomen athletes possess a post-male-puberty performance advantage that, in the name of fairness, should preclude them from head-to-head competition with females. This male advantage is why the women's category exists.

Transgender people should not face discrimination in public accommodations, in employment or the classroom. But in sports, biological reality trumps gender identity. Because of men's greater strength, size, and speed, females require sex-segregated sport in order to enjoy fair and safe playing conditions.

Today the Biden Administration's proposed regulations represent a sharp departure from its prior efforts to equate that prohibition on sex discrimination with gender identity discrimination. Had the Administration's prior intentions come to pass, girls and women would not have the legal right to their own sports teams. *Champion Women* and the *WSPWG* have been working hard to ensure that any proposals give women equal legal rights to their own competitive sport category.

Call to Action!

Join 400 [Olympians and Paralympians](#) in asking lawmakers to prioritize fairness and safety for any rules or statutes: [Sign up here.](#)

Comments will be open [at this site](#) (search for Title IX) on about April 12.

[1] See, e.g., Betsey Stevenson, “As Girls Become Women, Sports Pay Dividends, Beyond the Classroom” NY Times, 2010, available at: <https://www.nytimes.com/2010/02/16/health/16well.html>

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