



In Brief

ANALYSIS: PENNSYLVANIA WOMEN'S ATHLETICS & SEX-DISTINCT SPORTS POLICIES

June 2025

Athletic teams have long been separated by male and female in order to foster safety, fairness, and athletic opportunities for women and girls. While sex distinctions were generally prohibited under Title IX, these reasonable sex-based distinctions were permitted, even required, in order to carry out Title IX's purpose of creating educational and athletic opportunities on the basis of sex.

Understanding the context helps to explain the next unremarkable point, that all males may continue to be excluded from female athletic teams. Female teams make distinctions based on sex, but do not make any distinctions based on pregnancy, gender identity, or sexual orientation of an individual. All females, whether they are female and pregnant, female and same-sex attracted, or female and identify differently, are entitled to try out for a female athletic team.

Girls deserve to compete on a level playing field. Title IX was designed to stop discrimination and create equal athletic opportunities for women. Allowing males (regardless of gender identity) to compete in girls' sports destroys fair competition and women's athletic opportunities. It also reverses nearly 50 years of advances for women. In athletics, girls are losing medals, podium spots, public recognition, and opportunities to compete. When males compete in women's-only divisions, women lose their right to a fair playing field, their safety is put at risk, their spots to participate on teams are taken, and their chances of succeeding are drastically lowered. Males have a biological advantage over women, even without testosterone. They have denser bones, larger hearts and lungs, greater explosive strength, and are generally larger.

The best way to include everyone is to keep sports separated by sex, allowing everyone to compete fairly and safely. The differences giving males an inherent advantage over women in sports cannot be erased by how one identifies or by the use of cross-sex hormones. Gender identity activists' solution for sports is not only bad for girls who identify as girls, it is also bad for girls who identify as boys. The only people who win are males who get to steal opportunities from women.

I. Federal laws require school districts to separate athletics on the basis of sex.

Title IX prohibits sex discrimination in education while specifically providing for the separation of the sexes in the common-sense circumstances of athletics. It is precisely because schools have a significant interest in providing increased competitive opportunities to girls that implementing regulations provide that schools may operate and sponsor separate teams for members of each sex. *See 34 C.F.R. § 106.41(b)* (“[A] recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.”); *§ 106.41(c)* (“A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes.”) What’s more, Congress mandated, through the Javits Amendment in 1974, that regulations be enacted for sex-based distinctions in sports.

Furthermore, [President Trump’s Executive Order of February 5, 2025](#), reads in part:

In recent years, many educational institutions and athletic associations have allowed men to compete in women’s sports. This is demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports.

Moreover, under Title IX of the Education Amendments Act of 1972 (Title IX), educational institutions receiving Federal funds cannot deny women an equal opportunity to participate in sports. As some Federal courts have recognized, “ignoring fundamental biological truths between the two sexes deprives women and girls of meaningful access to educational facilities.” *Tennessee v. Cardona*, 24-cv-00072 at 73 (E.D. Ky. 2024). *See also Kansas v. U.S. Dept. of Education*, 24-cv-04041 at 23 (D. Kan. 2024) (highlighting “Congress’ goals of protecting biological women in education”).

Therefore, it is the policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities, which results in the endangerment, humiliation, and silencing of women and girls and deprives them of privacy. It shall also be the policy of the United States to oppose male competitive participation in women’s sports more broadly, as a matter of safety, fairness, dignity, and truth.

Keeping Men out of Women’s Sports Executive Order, § 1.

The Executive Order further indicates that the Secretary of Education and Attorney General will

protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX of the Education Amendments

Act of 1972, including enforcement actions described in subsection (iii); to bring regulations and policy guidance into line with the Congress' existing demand for "equal athletic opportunity for members of both sexes" by clearly specifying and clarifying that women's sports are reserved for women.

Id. § 3. It further provides that the Department of Education and Attorney General will "prioritize Title IX enforcement actions against educational institutions (including athletic associations composed of or governed by such institutions) that deny female students an equal opportunity to participate in sports and athletic events by requiring them, in the women's category, to compete with or against or to appear unclothed before males." *Id.*

On [April 28, 2025](#), the U.S. Department of Education's (ED) Office for Civil Rights (OCR) announced its finding that the University of Pennsylvania (UPenn) violated Title IX of the Education Amendments of 1972. OCR notified UPenn President J. Larry Jameson that the University's policies and practices violated Title IX by denying women equal opportunities by permitting males to compete in women's intercollegiate athletics and to occupy women-only intimate facilities. On [June 2, 2025](#), the U.S. Department of Justice announced its finding that the California Athletic Association policy allowing males to play on female teams under guise of gender identity deprives female students of athletic opportunities and benefits and constitutes unconstitutional sex discrimination under the Equal Protection Clause.

FAQ: Did the Biden Administration change Title IX to require schools to separate teams based on gender identity instead of sex?

No. The Biden Administration issued draft changes to the Title IX regulations to open female teams to males. However, the Biden administration never finalized the changes and decided to rescind the draft regulations in December 2024. As such, the Title IX regulations regarding sports were not changed.

The Biden Administration did finalize other changes to Title IX unrelated to athletics, but even those new regulations were vacated (removed by the court) in early 2025, *see Tennessee v. Cardona*, (E.D. Ky. Jan. 9, 2025), and were no longer enforceable against any school in the United States even before the new administration was sworn in or the new Executive Order protecting women's athletics went into effect. *See also Adams v. St. Johns County Board of Education* (11th Cir. 2022) ("[A] commingling of the biological sexes in the female athletics arena would significantly undermine the benefits afforded to female student-athletes under Title IX's allowance for sex-separated sports teams.") (Lagoa, J., concurring).

II. State law provides for school districts to separate athletic teams for males and females on the basis of sex, as is required by PIAA bylaws.

Pennsylvania statute requires that schools “shall annually submit information to the department regarding interscholastic athletic opportunity and treatment for male and female secondary school students for the preceding school year.” 24 P.S. § 16-1603-C. Furthermore, Pennsylvania code states that “students of both sexes shall have equal access in interscholastic and intramural athletic programs.” 22 Pa. Code § 4.27. State laws and regulations clearly refer to male and female and “both” sexes, not concepts of gender ideology or the hundreds of gender identities posited by gender ideology adherents.

Pennsylvania Interscholastic Athletic Association (PIAA) bylaws follow these state laws. These bylaws explicitly protect the separation of female athletics from male participation because of the “real and demonstrable physical and competitive differences between similarly aged and trained boys and girls in athletic performances” and because of the “chilling effect on female participation.” Art. XVI, § 4. They also state that “PIAA strongly supports and encourages participation by both boys and girls in interscholastic athletics.” *Id.* PIAA bylaws define “girls’ team” as “a team consisting of all girls.” *See* Glossary.

On February 20, 2025, PIAA eliminated a bylaw provision that any “question or uncertainty” about a student’s “gender” would be resolved by the “principal.” PIAA’s new bylaw, which became effective immediately, takes a new and clear approach:

E. Where a student’s **sex is questioned or uncertain, the decision of the **school** as to the student’s **sex** will be accepted by the PIAA. In accordance with the Presidential Executive Order 14201 entitled “Keeping Men Out of Women’s Sports,” dated February 5, 2025, schools are required to consult with their school solicitors relative to compliance with the Order.**

Art. XVI, § 4(E) (emphasis added). President Trump’s Executive Order, referenced in the PIAA changes, defines sex as an “individual’s immutable biological classification as either male or female” and explicitly states that “sex is not a synonym for and does not include the concept of ‘gender identity’.”

The PIAA bylaws, as well as the ILC model policy, provide the same well-thought-out exceptions for when any female may try out for male teams¹ and for when any male can try out for a female team.² Such exceptions are based on decades of existing practice in Pennsylvania and are tied to the important rationale for why we have separate sports based on

¹ PIAA bylaws, Art. XVI, § 4(A) and (B); ILC Model Policy 123.3, § E(1).

² PIAA bylaws, Art. XVI §, 4(C) and (D); ILC Model Policy 123.3, § (E)(2).

sex in the first place. The exceptions are more permissive when a female desires to try out for a male team than in the reverse situation.

FAQ: PHRC has indicated it understands sex discrimination to include not only sex, but also pregnancy, sexual orientation, and gender identity. Does that mean policies protecting sports based on sex are illegal?

No. Separating athletics on the basis of sex makes distinctions between males and females, which is legally required by other laws. Sex-based athletics do not make any distinctions based on pregnancy, gender identity, or sexual orientation of an individual. All females, whether they are female and pregnant, female and same-sex attracted, or female and identify differently, are entitled to try out for a female team. Furthermore, the Pennsylvania Human Relations Commission (PHRC), has not instituted a regulation or guidance regarding sex-based athletics.

Of course, the Pennsylvania Human Relations Act requires schools to continue to treat all students well. As always, districts should continue to protect all students and staff from harassment or discrimination, whether because of membership in a protected class or for any other reason. School districts have a duty to hear all claims of discrimination and explore every appropriate opportunity to protect all students and encourage civility and safety in classrooms. But it is neither a violation of federal or state law to recognize the real differences between males and females when it comes to athletics.

FAQ: How does a school “resolve” the issue of who is a male or female if there is “uncertainty”?

It is extremely simple. When a school policy separates athletics for males and females, students and their families are expected to abide by the policy based on the honor system. Like any policy, if there is good cause to believe a registration mistake was made or that a family is choosing to violate the policy, any confusion can easily be resolved by the family producing to the superintendent an original birth certificate or providing a note from their family doctor or from the doctor who performs their CIPPE medical appointment that is already required for all athletes who want to play interscholastic athletics in Pennsylvania.

FAQ: Does the policy impact people with disorders of sexual development?

No. People with disorders of sexual development (DSDs) have various congenital physical conditions. Males with DSDs and females with DSDs will continue playing sports as they always have, and no disclosure of such DSD ever occurs and never needs to occur.

Humans are a gonochoric species and are either male or female throughout their entire life cycle. People with DSDs are not new sexes or third sexes. Some DSDs affect only males, some DSDs affect only females, and some impact both sexes. People with DSDs are either male or female like everyone else.

DISCLAIMER: The information contained in this document is general in nature and is not intended to provide or be a substitute for specific legal advice for your individual circumstances. The use of this document is not intended to constitute advertising or solicitation and does not create an attorney-client relationship with Independence Law Center. Each situation can be different. For additional questions, contact the Independence Law Center: <https://independencelaw.org/request-help/>