



**NATIONAL
WOMEN'S
LAW CENTER**

Justice for Her. Justice for All.

SEPTEMBER 2019 | FACT SHEET

Facts on Trans Inclusion in Athletics

FACT: TITLE IX AND MANY STATE LAWS PROTECT TRANSGENDER STUDENTS' RIGHTS TO PLAY SPORTS ON THE TEAM THAT MATCHES THEIR GENDER IDENTITY.

The purpose of Title IX is to ensure that all students have equal access to educational opportunities, regardless of gender.¹ This includes protecting the right of transgender students to access school programs, facilities and athletic opportunities consistent with their gender identity.

In addition, 15 states—California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New York, Oregon, Vermont, and Washington—and the District of Columbia have passed laws that protect transgender students' rights to pursue an education free from discrimination.² These rights extend to equal opportunities to participate in school sports.

FACT: VARIATIONS AMONG ATHLETES' BODIES AND BIOLOGY ARE NORMAL AND POLICING THESE DIFFERENCES CAN LEAD TO MORE GENDER STEREOTYPING AND DISCRIMINATION.

Athletes come in all shapes, sizes and biological makeups. These differences may be advantageous or disadvantageous based on the scenario. For example, at 4 feet, 8 inches tall, professional gymnast Simone Biles is significantly smaller than the average American woman.³ Meanwhile, at 6 feet, 9 inches tall, professional basketball player Brittney Griner towers over her opponents on the court.⁴ Both women's statures are seen as a positive factor in their athletic success—which, for both, has included winning an Olympic Gold Medal.⁵

Transgender athletes, like cisgender athletes, have a range of shapes, sizes, and athletic skills.⁶ The assumption that transgender girls and women have categorical athletic advantages over cisgender girls and women is inaccurate. Reliance on this overbroad assumption leads to discrimination against transgender women and girls, who may be denied opportunities to play sports at all.⁷ Transgender women and girls of color may be especially likely to experience such discrimination.⁸

FACT: ALLOWING TRANSGENDER GIRLS AND WOMEN INTO WOMEN'S AND GIRLS' LOCKER ROOMS DOES NOT PLACE CISGENDER GIRLS AND WOMEN AT RISK.

States with trans-friendly policies have not seen upticks in attacks on women in restrooms or locker rooms.⁹ In reality, transgender individuals—especially girls and women—are significantly more likely to be victims of violence than their cisgender peers.¹⁰

FACT: DISCRIMINATING AGAINST TRANSGENDER GIRLS AND WOMEN THREATENS EQUAL ATHLETIC OPPORTUNITIES FOR ALL GIRLS AND WOMEN.

When any girl or woman is denied an opportunity, the rights of all girls and women are at risk.

Policing who is or isn't "female" is dangerous; it not only erects barriers for transgender athletes who want to compete consistent with their gender identity, but also cisgender women who may fall outside stereotypical notions of femininity.¹¹ If only women and girls who meet certain biological standards are permitted to play athletics as women and girls, tall women, very muscular women, or women who choose to present in more masculine ways could be forced to undergo medical testing or be prevented from playing sports entirely. And Black and brown women and girls would be especially vulnerable to this sort of scrutiny given racist and sexist stereotypes that consider their bodies less "feminine."¹²

What's more—inclusion of transgender girls in girls' sports is already happening, and these sports programs continue to thrive. Athletics associations in 19 states—Arizona, California, Colorado, Connecticut, Florida, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, Oregon, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming—as well as the District of Columbia have inclusive policies that allow all athletes from kindergarten through twelfth grade to play for the team that reflects their gender identity.¹³

¹ *Title IX and Sex Discrimination*, U.S. DEP'T OF EDUC. https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html (last visited July 16, 2019).

² *State Laws*, HUMAN RIGHTS CAMPAIGN, <https://www.hrc.org/state-maps/pdf-all> (last visited July 16, 2019).

³ *Simone Byles*, U.S. OLYMPIC COMM., <https://www.teamusa.org/usa-gymnastics/athletes/Simone-Biles> (last visited July 16, 2019).

⁴ *Brittney Griner*, WOMEN'S NAT'L BASKETBALL ASS'N, <https://www.wnba.com/player/brittney-griner/> (last visited July 16, 2019).

⁵ *Supra* note 4; note 5.

⁶ Shayna Medley & Galen Sherwin, *Banning Trans Girls from School Sports is Neither Feminist Nor Legal*, ACLU BLOG (Mar. 12, 2019) <https://www.aclu.org/blog/lgbt-rights/transgender-rights/banning-trans-girls-school-sports-neither-feminist-nor-legal>.

⁷ See generally Sandy E. James Et Al., *THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY, NAT'L CTR. FOR TRANSGENDER EQUALITY (2016)*, available at <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

⁸ See generally *id.*; see also NAT'L WOMEN'S L. CTR. AND POVERTY & RACE RES. ACTION COUNCIL, *FINISHING LAST: GIRLS OF COLOR AND SCHOOL SPORTS OPPORTUNITIES (2015)*, available at https://nwlc-ciw49tixgw5lbbab.stackpathdns.com/wp-content/uploads/2015/08/final_nwlc_girlsfinishinglast_report.pdf.

⁹ Stephanie Ebert, *Study Finds No Link Between Transgender Rights Law and Bathroom Crimes and Transgender Access*, THE BOSTON GLOBE (Sept 12, 2018) <https://www.bostonglobe.com/news/politics/2018/09/12/study-refutes-link-between-restroom-crime-and-transgender-access/5am4LM11HecGvJTW4MBqN/story.html>.

¹⁰ *Violence Against Trans and Non-Binary People*, VAWN.NET, <https://vawnet.org/sc/serving-trans-and-non-binary-survivors-domestic-and-sexual-violence/violence-against-trans-and>

¹¹ *Trans Inclusion in High School Athletics*, GAY, LESBIAN, & STRAIGHT EDUC. NETWORK, <https://www.glsen.org/article/transgender-inclusion-high-school-athletics> (last visited July 16, 2019).

¹² *Fight for Our Girls: Applying and Intersectional Lens to Girls of Color Facing Status Offenses*, 5 (Ctr. for the Stud. of Social Pol'y, ed., 2018). <http://cssp.org/wp-content/uploads/2018/08/fight-for-our-girls-intersectionality.pdf>

¹³ Sixteen states—Alaska, Delaware, Georgia, Illinois, Iowa, Kansas, Maine, Michigan, Missouri, New Mexico, New York, North Dakota, Oklahoma, Ohio, Pennsylvania, and Wisconsin—have policies that give transgender athletes more access but still need modification to ensure all athletes have a fair chance to play. These policies generally require transgender athletes to complete a period of hormone therapy. Some of the policies in these states review transgender athletes' eligibility on a case by case basis. These policies keep transgender athletes off the field or the court for extended periods of time and prevent many from playing at all. Six states—Hawaii, Mississippi, Montana, South Carolina, Tennessee, and West Virginia—do not have a policy about participation of transgender athletes at all. Chris Mosier, *K-12 Policies*, TRANSATHLETE, <https://www.transathlete.com/k-12> (last visited July 16, 2019).