

March 21, 2024

Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Building
Washington, DC 20515

Dear Chairman Jim Jordan and Ranking Member Jerrold Nadler,

The Women's Sports Foundation and the National Women's Law Center, joined by 50 undersigned women's rights, gender justice, and sport governance organizations, write to express our strong opposition to H.R. 7187, "The Protection of Women in Olympic and Amateur Sports Act."¹ Contrary to its title, this bill does not protect girls and women's sports. Instead, it is a misguided and harmful measure that amounts to no more than a discriminatory attempt to target and exclude an already-marginalized group of girls and women who are transgender rather than addressing equity issues that girls and women face in sports.

As leaders in this space, keenly aware of the reality faced by girls and women in sports, we urge you to oppose H.R. 7187 and join us in advocating for productive policy and legislation that creates a more inclusive and level playing field for all girls and women.

Specifically, we have concerns that H.R. 7187:

- does nothing to address the real and long-documented challenges faced by girls and women through existing sports policies and programs;
- would primarily impact youth sports participants, outside of the elite pipeline;
- would inevitably harm cisgender and intersex girls and women who do not conform to archaic feminine stereotypes; and
- disregards existing and long-established United States Olympic and Paralympic Committee (USOPC) and International Olympic Committee (IOC) policies by removing any pathway for inclusion in sports for girls and women who are transgender.

H.R. 7187 would amend the eligibility requirements set forth in the Ted Stevens Olympic and Amateur Sports Act for all amateur sports governing bodies. If passed, this bill would prohibit any girls or women who are transgender from participating in girls and women's sports governed by the USOPC and its sport National Governing Bodies (NGBs).

This proposed legislation fails to address well-documented issues within the Olympic and Paralympic pipelines and access to sports for youth. In fact, in 2020, Congress created the independent Commission on the State of U.S. Olympics and Paralympics (CSUSOP), which released its final report, "Passing the Torch: Modernizing Olympic, Paralympic, & Grassroots Sports in America" earlier this month. CSUSOP's report details a myriad of recommendations to

¹ H.R. 7187 "The Protection of Women in Olympic and Amateur Sports Act." 118th Congress (2023-2024).

improve sports for all within the USOPC system, including youth and grassroots programs.² **If this Committee truly wished to positively impact sports opportunities, it should elevate the many productive recommendations contained within the CSUSOP's report.**

While much of the rhetoric around transgender athletes' participation in sports focuses on the elite few, the practical effect of legislation like H.R. 7187 is that far more youth athletes, who are participating through various NGBs' youth sports programs in our country, may be excluded from sports entirely. An often-misunderstood point is that while the USOPC and NGBs oversee our most elite Olympians and Paralympians on Team USA, many NGBs also oversee a wide range of participatory sports, especially at the youth level. Each year, millions of athletes participate in youth and grassroots programs, and gain access to the benefits of playing sports, including physical activity and learning the values of self-discipline and teamwork.³ H.R. 7187 would prevent transgender girls from accessing these benefits. Sport can help break down barriers, create understanding and provide a place to belong. It is the power of sport that drives our mission for all girls and women to have equal access and opportunity to play, regardless of their race, ethnicity, gender identity or expression, sexual orientation, disability status, ZIP code or family income.

Policies that ban girls and women who are transgender from participating in sports, like those contained in H.R. 7187, perpetuate harmful and dangerous stereotypes that lead to the policing and harassment of cisgender girls and women. Several real examples of these harms exist, with schools and parents accusing cisgender girls of being transgender and forcing them to "prove" their sex as a condition to play.⁴ Inevitably, harassment and threats of physical violence, or fear of harassment, will push cisgender girls who do not fit archaic notions of femininity out of sport. These policies and practices enforce harmful stereotypes that disproportionately harm gender nonconforming athletes and Black and brown girls and women.⁵ Athletes who do not meet stereotypes of femininity are routinely targeted, shamed, and dehumanized.

² "Passing the Torch: Modernizing Olympic, Paralympic, & Grassroots Sports in America" (2024) The Final Report of the Commission on the State of the U.S. Olympics & Paralympics, available at <https://static1.squarespace.com/static/642af7d875688d63cfff08be/t/65e1bc1bf438017c9d43ba82/1709292599616/CSUSOP+Final+Report+%28Digital%29.pdf>.

³ "Passing the Torch: Modernizing Olympic, Paralympic, & Grassroots Sports in America" (2024) The Final Report of the Commission on the State of the U.S. Olympics & Paralympics.

⁴ Adamczeski, Ryan "Utah parent accuses girl's basketball player of being trans, gets banned from games" *The Advocate*. January 31, 2024. <https://www.advocate.com/utah-parent-accuses-athlete-transgender>; Associated Press "Utah school secretly investigated if winning female student athlete is transgender" *The Guardian*. August 18, 2022. <https://www.theguardian.com/us-news/2022/aug/18/utah-school-investigates-student-transgender>; Robert Gehrke, *An angry Utah parent accused a high school basketball player of being transgender. Will it keep happening?*, *The Salt Lake Tribune* (Jan. 27, 2024), <https://archive.fo/JHJrD>.

⁵ See, e.g., Patricia Vertinsky et al., *More Myth than History: American Culture and Representations of the Black Female's Athletic Ability*, 25 J. OF SPORT HIST. 532, 541 (1998) (Black women athletes are often described as "masculine," which is rooted in the myth that African Americans were suited for physical labor during slavery because of their "'natural' brute strength"); Anna North, *I Am a Woman and I Am Fast: What Caster Semenya's Story Says about Gender and Race In Sports*, *Vox* (May 3, 2019), <https://www.vox.com/identities/2019/5/3/18526723/caster-semenya-800-gender-race-intersex-athletes>; (Caster Semenya, a Black woman and a sprinter, was forced to submit to a battery of invasive medical tests

Olympic history provides countless examples of invasive sex and gender verification testing. These practices have ranged from the physical examination of girls and women's genitals; to hormone, chromosomal, or other genetic testing; to requiring girls and women to provide information regarding their menstrual cycle. These practices established a false binary notion of sex that is rooted in white-centric ideals of femininity.⁶

H.R. 7187 is in direct conflict with existing USOPC policy, IOC guidelines, the Olympic Charter and the Ted Stevens Olympic and Amateur Sports Act. Current USOPC policy states that,

For athletes participating in sport up to the start of puberty, the USOPC feels strongly that fairness should prioritize inclusion and participation...The emphasis in youth sport needs to be on more kids participating, period. Participation benefits include healthier kids – physically, socially, and emotionally – better relationships, community building, and a stronger pipeline to elite sports for those who seek it.⁷

H.R. 7187 ignores how a ban deprives vulnerable children of the many benefits sports programs have to their development.

Additionally, Principle 4 of the Olympic Charter outlines:

The practice of sport is a human right. Every individual must have access to the practice of sport, without discrimination of any kind in respect of internationally recognised human rights within the remit of the Olympic Movement.⁸

By imposing a categorical ban on girls and women who are transgender, H.R. 7187 directly conflicts with the International Olympic Committee's, "Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations,"⁹ which established 10 principles through which sport governance organizations should create policies and regulations

because of her speed and success as an Olympic track athlete, to determine whether she was "feminine enough" to continue competing with women); Human Rights Watch, *"They're Chasing Us Away from Sport": Human Rights Violations in Sex Testing of Elite Woman Athletes* (Dec. 4, 2020), <https://www.hrw.org/report/2020/12/04/theyre-chasing-us-away-sport/human-rights-violations-sex-testing-elitewomen> (Dutee Chand, an Indian woman sprinter, was ordered by an international sporting body to undergo invasive medical exams after fellow athletes accused her "stride and musculature" of being too "masculine").

⁶ Lindsay Parks Pieper (2014) Sex Testing and the Maintenance of Western Femininity in International Sport, *The International Journal of the History of Sport*, 31:13, 1557-1576, DOI: 10.1080/09523367.2014.927184

⁷ Transgender Athlete Participation in Sport. United States Olympic & Paralympic Committee. December 2022, <https://www.usopc.org/diversity-equity-inclusion/transgender-athlete-participation-in-sport> (emphasis added).

⁸ International Olympic Committee Olympic Charter, October 2023, <https://stillmed.olympics.com/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf>

⁹ International Olympic Committee Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations. (2021) <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>

governing the participation of transgender athletes. Finally, under the Ted Stevens Olympic and Amateur Sports Act (1978), the USOPC is prohibited from discriminating on the basis of race, color, religion, age, sex, disability, or national origin regarding.¹⁰ For decades, federal courts interpreting nondiscrimination laws have overwhelmingly recognized that anti-trans discrimination relies on sex stereotypes and is a form of sex discrimination, with several holding that sports bans violate nondiscrimination laws and the Equal Protection Clause because they target girls and women who are transgender and any girls and women who do not conform to sex stereotypes.¹¹

The discriminatory exclusion that H.R. 7187 would mandate for every age, every sport, and every level of competition flies in the face of sports' purpose and impact. This legislation does not provide any assistance with issues that all girls and women in sport face, and instead invites dangerous stereotypes and sex discrimination based on misinformation, and it should not become law.

If you have questions about this letter, please contact Sarah Axelson (saxelson@womenssportsfoundation.org), Emily Martin (emartin@nwlc.org) and Anya Marino (amarino@nwlc.org).

Sincerely,

Women's Sports Foundation and National Women's Law Center *joined by:*

National gender justice/women's rights organizations:

A Better Balance
Advocates for Youth
American Civil Liberties Union
Autistic Self Advocacy Network
End Rape On Campus
Equal Rights Advocates
Family Equality
Feminist Majority Foundation
FORGE, Inc.
GLMA: Health Professionals Advancing LGBTQ+ Equality
Healthy Teen Network
interACT: Advocates for Intersex Youth
Justice and Joy National Collaborative (formerly National Crittenton)
Know Your IX, a project of Advocates for Youth

Legal Momentum, The Women's Legal Defense and Education Fund
National Center for Transgender Equality
National Education Association
National LGBT Cancer Network
National Organization for Women
National Women's Political Caucus
Physicians for Reproductive Health
Public Justice
Public Policy and Advocacy Manager
Serving at-risk families everywhere, Inc.
Sexual Violence Prevention Association (SVPA)
SIECUS: Sex Ed for Social Change
Stop Sexual Assault in Schools
Trans Empowerment Project
Trans Formations Project
Transathlete.com
UltraViolet
VALOR

¹⁰ S.2727 "Ted Stevens Olympic and Amateur Sports Act." 95th Congress (1977-1978)

¹¹ See, e.g., *Hecox v. Little*, 79 F.4th 1009 (9th Cir. 2023); *Doe v. Horne*, 2023 WL 4661831 (D. Az. July 2023).

VOICEINSPORT Foundation
YWCA Kauai
YWCA USA

Sport Governance organizations:

The Inclusion Playbook
USA Fencing

State or local gender justice/women's rights organizations:

Chicago Alliance Against Sexual
Exploitation (CAASE)
CT Coalition Against Domestic Violence
Family Violence Appellate Project
Gender Justice
Illinois Coalition Against Domestic Violence
Jane Doe Inc. (MA Coalition Against SA/DV)
Pennsylvania Coalition Against Domestic
Violence
Tucker Center for Research on Girls &
Women in Sport
Vermont Network Against Domestic and
Sexual Violence
Women's Center & Shelter of Greater
Pittsburgh
Women's Law Project
YWCA Minneapolis
YWCA North Central Washington