



May 6, 2025

Billy Haun ([bhaun@vhsl.org](mailto:bhaun@vhsl.org))  
Executive Director  
1642 State Farm Boulevard  
Charlottesville, Virginia 22911

Ty Gafford ([tgafford@vhsl.org](mailto:tgafford@vhsl.org))  
Assistant Director for Athletics and Compliance  
1642 State Farm Boulevard  
Charlottesville, Virginia 22911

*Transmitted to additional Executive Committee members via carbon copy*

Dear Director Haun and Assistant Director Gafford,

We write to urge the Virginia High School League (VHSL) to reverse its discriminatory ban on including transgender girls and women in school sports participation. This ban is harmful, illegal, and bad policy. Restricting a student athlete's access to school sports programming because she is trans runs afoul of clear, binding law that protects every student in Virginia. Trans-inclusive athletic policies do not decrease barriers to opportunities for all girls and women in school sports, but anti-trans sports bans like the one VHSL has adopted are dangerous for all girls and women. Including and respecting all students in school sports is the right thing to do and makes *all* girls and women safer from gender policing. It is not too late for VHSL to find its courage, re-center in its mission, and return to an inclusive policy that is both ethical and legally required.

Despite the previous policy's long-running success for trans and cisgender student athletes in Virginia, VHSL abruptly changed course on February 10, 2025, when its executive committee voted to ban trans young women from playing on women's teams.<sup>1</sup> This decision came just days after President Trump issued the "Keeping Men Out of Women's Sports"<sup>2</sup> Executive Order (hereinafter, the "Sports Ban Order") on February 5, 2025. Although VHSL initially stated that it would not deviate from its established inclusive policy after the Sports Ban Order was announced, it hastily pivoted a week later, with Executive Director Billy Haun stating: "We felt like we needed to do this" because of the threatened loss of federal funds and Title IX violation.<sup>3</sup> VHSL then updated its Handbook and Policy Manual to bar trans girls from participating on women's sports teams.<sup>4</sup>

---

<sup>1</sup> David Fawcett, *VHSL changes transgender policy in accordance with President Trump's executive order*, InsideNOVA (Feb. 10, 2025), [https://www.insidenova.com/headlines/vhsl-changes-transgender-policy-in-accordance-with-president-trumps-executive-order/article\\_7f06d998-e7ed-11ef-98a8-736cebdfafc6.html](https://www.insidenova.com/headlines/vhsl-changes-transgender-policy-in-accordance-with-president-trumps-executive-order/article_7f06d998-e7ed-11ef-98a8-736cebdfafc6.html).

<sup>2</sup> Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025).

<sup>3</sup> Cameron Thompson, *Why the Virginia High School League reversed its transgender athlete policy: 'We felt like we needed to,'* WTVR News Richmond (Feb. 11, 2025), <https://www.wtvr.com/news/local-news/virginia-high-school-league-transgender-policy-feb-11-2025>.

<sup>4</sup> Virginia High School League, Inc., *Handbook and Policy Manual 2024-25* (Jul. 2024, edited Feb. 25, 2025), <https://drive.google.com/file/d/1KqfNQfeug0NfsMyfpG4zvRWsUZTvNK6/view>.

It is important, however, for VHSL to understand what President Trump’s Sports Ban Order is and is not. The Sports Ban Order is a statement of the Trump administration’s policy preference. It inaccurately, disrespectfully refers to trans girls and women as “men,” espouses misleading rhetoric that trans girls’ participation in sports is unfair, and directs federal agencies to rescind funding to any educational program that allows trans girls and women to participate on a girls’ or women’s sports team. Ultimately, the Sports Ban Order attempts to intimidate schools into violating civil rights laws.

The Sports Ban Order is not federal law, and it does not—and cannot—reverse the federal and state protections and binding court decisions that protect trans students in Virginia from exclusion and discrimination. Therefore, VHSL’s current ban exposes its members to liability for violating a myriad of civil rights protections. As explained below, prematurely restricting trans girls and women from participating in athletics is contrary to both federal and state law.

VHSL’s ban does not comport with Virginia state law. For 5 years, Virginia’s Human Rights Act (“VHRA”),<sup>5</sup> has explicitly protected Virginians from discrimination based on sex and gender identity, including exclusion from public spaces known as “public accommodations.” Schools are explicitly listed as an example of one of these public spaces in which the Commonwealth intends to protect transgender people from discrimination because of who they are.<sup>6</sup> Every incident of anti-transgender discrimination perpetrated against Virginia students based on VHSL’s policy could give rise to a separate civil rights claim under the VHRA. When institutions violate the VHRA, such as by excluding transgender youth, punitive damages (meant to deter violations of the VHRA) up to \$350,000 may be awarded, and there is no limit on the fees, costs, and compensatory damages that may be awarded to students.

VHSL’s ban is also contrary to federal law protecting trans students from sex discrimination, namely Title IX of the Education Amendments of 1972 and the U.S. Constitution’s Equal Protection Clause. For years, federal courts have affirmed that discrimination on the basis of gender identity and transgender status is a form of sex discrimination under Title IX, including when it occurs in sex-separated education programs.<sup>7</sup> This includes federal court decisions finding that, under the Equal Protection Clause, states do not have any valid interest in excluding trans women and girls from education opportunities, solely because of who they are.<sup>8</sup>

---

<sup>5</sup> Va. Code section 2.2-3900.

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., *B.P.J. v. West Virginia State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024); *Grimm v. Gloucester Cty. Schl. Bd.*, 972 F.3d 586 (4th Cir. 2020); *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1047 (7th Cir. 2017); *A.M. v. Indianapolis Public Sch.*, 617 F.Supp.3d 950 (S.D. In. 2022); *M.A.B. v. Bd. of Educ. of Talbot Cnty.*, 286 F. Supp. 3d 704, 719 (D. Md. 2018). See also *Parents for Privacy v. Barr*, 949 F.3d 1210, 1239-40 (9th Cir. 2020); *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 535 (3d Cir. 2018).

<sup>8</sup> *Doe v. Horne*, 115 F.4th 1083 (9th Cir. 2024); *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024); *Grimm*, 972 F.3d 586; *Whitaker*, 858 F.3d 1034.

Further, it is binding federal law in the U.S. Court of Appeals for the Fourth Circuit (which includes Virginia) that Title IX prohibits discrimination against trans students, and that policies singling out trans students are subject to heightened scrutiny under the Equal Protection Clause.<sup>9</sup> Five years ago, in *Bostock v. Clayton County*, the U.S. Supreme Court explained that it is logically impossible to discriminate against a person for being trans without treating them differently because of their sex.<sup>10</sup> Subsequently, the Fourth Circuit held that the Supreme Court’s reasoning applies fully to Title IX and therefore prohibits policies that subject trans students to harm by banning them from sex-separated spaces, including sports teams and restrooms.<sup>11</sup> The Fourth Circuit also held that such policies on their face constitute sex-based classifications and are subject to heightened scrutiny under the Equal Protection Clause, because by conditioning students’ access to restrooms or sports based on their sex assigned at birth, they single out trans students alone for exclusion.<sup>12</sup> The Sports Ban Order and VHSL’s policy further classify on the basis by sex by prohibiting transgender girls’ participation in women’s sports but declining to erect comparable barriers to transgender boys’ participation in men’s sport, which the Fourth Circuit has held is impermissible under the Equal Protection Clause.<sup>13</sup>

It is thus no justification for VHSL to point to the Sports Ban Order as a basis for its ban. The Sports Ban Order is, itself, contrary to what Title IX and the Equal Protection Clause require—and, as indicated above, executive orders cannot change federal or state nondiscrimination laws or binding federal court precedent obligating schools and athletic associations to reject discriminatory policies targeting transgender students. In recognition of this, states like Maine and Minnesota have resisted the Trump administration’s intimidation efforts and have not backed down from their legal and ethical obligations to protect transgender youth from harm. After the Trump administration investigated Maine for refusing to ban transgender students from playing sports, the state refused to sign a compliance letter, citing its own state-level nondiscrimination protections against gender identity-based discrimination.<sup>14</sup> And, just over a week ago, after receiving threats that the Trump administration would cut off its federal funding because of its trans-inclusive sports policies, Minnesota preemptively sued the administration to challenge the Sports Ban Order as violative of Title IX and the Equal Protection Clause.<sup>15</sup> We urge VHSL to defend the law and do right by all of its students by

---

<sup>9</sup> *B.P.J. v. West Virginia State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024); *Grimm*, 972 F.3d 586.

<sup>10</sup> *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1741, 1747 (2020).

<sup>11</sup> *Grimm*, 972 F.3d at 616–17 (citing *Bostock*, 140 S. Ct. at 1741) (“As the Supreme Court noted, ‘it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex . . . the Board could not exclude Grimm from the boys bathrooms without referencing his ‘biological gender’ under the policy . . . Therefore, the Board’s policy excluded Grimm from the boys restrooms ‘on the basis of sex.’”). See also *Doe v. Hanover Cty. Sch. Bd.*, E.D. Va. No. 3:24CV493, 2024 WL 3850810, at \*11 (E.D. Va. Aug. 16, 2024) (applying *Grimm* and *B.P.J.* to grant a preliminary injunction in favor of a transgender student’s participation in athletics, finding she was likely to succeed on her Title IX and Equal Protection Clause claims).

<sup>12</sup> *B.P.J.*, 98 F.4th at 555–56; *Grimm*, 972 F.3d at 608. See also *Doe*, 2024 WL 3850810, at \*11.

<sup>13</sup> *B.P.J.*, 98 F.4th at 556–57.

<sup>14</sup> Cate McCusker, *Maine Officials Will Not Sign Title IX Compliance Agreement from Trump Administration*, WMTW (Mar. 27, 2025), <https://www.wmtw.com/article/maine-no-title-ix-compliance-agreement-trump-administration/64308980>.

<sup>15</sup> The Office of Minnesota Attorney General Keith Ellison, *Attorney General Ellison Sues to ‘Stop Trump from Bullying Vulnerable Children’ in Minnesota* (Apr. 22, 2025), [https://www.ag.state.mn.us/Office/Communications/2025/04/22\\_EO\\_TitleIX.asp](https://www.ag.state.mn.us/Office/Communications/2025/04/22_EO_TitleIX.asp).

similarly standing up to the Trump administration's efforts to weaponize civil rights laws to bully a vulnerable group of youth.

As VHSL voting members are well aware, athletics programming is a core aspect of secondary education in the Commonwealth. Opportunities to participate in school sports confer a host of benefits that can serve students for a lifetime. Through sports, students develop physical fitness and healthy exercise habits. They learn crucial skills and values around teamwork, resilience, discipline, and goal-setting. Perhaps most importantly, school sports are associated with significant academic benefits ranging from higher grades and test scores to greater rates of pursuing post-secondary education to stronger attendance records. Denying these benefits to intentionally single out transgender girls as a lower class of student in Virginia inflicts on them the risk of serious and possibly lifelong harm.

Eliza Munshi is an 18-year-old senior student at Falls Church High School who transitioned between fourth and fifth grade. She loves to ski, act in school plays, and spend time with her friends. Eliza plans to study education after she graduates. After her family moved from Florida to Virginia at the start of high school, Eliza wanted to play volleyball but hesitated to go through the prior VHSL approval process and opted out of sports for years. This February, after Eliza saw VHSL's statement that it would maintain its longstanding inclusive policy despite the Sports Ban Order, her friends convinced her it would be safe and fun to join the track team. Eliza attended four practices on the girls' track team before she was informed that she could no longer play on the team due to VHSL's new anti-trans sports ban. Eliza recently shared her story of being unfairly forced to throw discus and shot put in the boys' division with the *Washington Post* and is about to graduate without ever being able to compete alongside the girls at any track meet.<sup>16</sup>

There are dozens of Virginia students like Eliza, all forced to live in fear of what might happen to their lives and their families if they are subjected to the scrutiny, judgment, and harassment promoted by extremist anti-trans policies. We therefore urge the VHSL to center and respond to the voices of affected community members, especially trans students and their families. One 10<sup>th</sup> grade student wishes to share her story with VHSL pseudonymously due to fear of harassment: "Callie" is a bright, energetic 10<sup>th</sup> grader who lives in a small town with her mother and sister. She loves soccer and basketball and is looking forward to visiting her grandmother overseas this summer. Callie began playing soccer almost as soon as she could walk, and she came out as trans in 5<sup>th</sup> grade. For half of her K-12 education, everyone has seen and treated Callie as a girl. After VHSL instituted its ban, Callie's school told her she would be a liability if they let her try out for a girls' sports team, or even attend workouts and practices. As a result, she feels her school no longer sees her for who she is. Out of desperation to play on a team after the VHSL ban, Callie tried out for the boys' soccer team but was harassed and shoved so hard she injured her ankle. Callie found herself sitting on a bench while boys with fewer years of experience got to play. She feels betrayed that nobody at VHSL and her school seems willing to stand up for her right to play the sports she loves with her peers. Callie is desperately hoping that in her junior year she will be included on the girls' teams as she was throughout middle school and freshman year.

---

<sup>16</sup> Karina Elwood, *A trans girl was banned from her track team. Now she's competing with the boys.*, Washington Post (Apr. 3, 2025), <https://www.washingtonpost.com/education/2025/04/03/trans-athlete-competes-with-boys/>.

Finally, anti-trans policies like VHSL's are both unnecessary and compromise safety and opportunities for all women and girls in sports. When trans girls get to play, all girls win: CDC data shows a strong correlation between trans-inclusive state policies and increased sports participation by all high school girls between 2011 and 2019. Meanwhile, states with anti-trans policies saw a *decrease* in participation by all high school girls (or no change.)<sup>17</sup> This is likely because anti-trans sports policies rely entirely on dangerous gender policing and sex testing for enforcement, especially hurting women and girls who do not meet narrow, regressive stereotypes of femininity. This gender policing targets girls who are tall, fast, or who excel at sport. We have seen alarming examples of cis girls having their bodies and genders policed, with one cis high school girl in Utah being secretly investigated by a state commission because she was too good at her sport,<sup>18</sup> and another cis girl in Utah in 2024 being publicly harassed by a school board member on account of having an athletic build and wearing baggy clothes, to the point of needing police protection from threats of violence.<sup>19</sup> VHSL's policy continues this alarming trend, coercing schools into enforcing harmful sex stereotypes because of how students look or play, instead of carrying out your responsibility to ensure safe, welcoming environments for *all* student athletes.

For all of these reasons, we urge VHSL to reverse its hasty and harmful anti-trans ban before it leads to costly litigation over violations of state, federal, and constitutional law. Although VHSL appears to have preemptively capitulated to President Trump's misguided Sports Ban Order, a White House memorandum to federal executive agencies, you may be sure that the White House will *not* be paying the fees associated with any lawsuits by the students whose education and wellbeing are currently being harmed by this policy.

VHSL has a duty to ensure that students can play and learn alongside their peers free from sex discrimination, and that includes discrimination based on gender identity.

---

<sup>17</sup> Center for American Progress, *Fair Play: The Importance of Participation for Transgender Youth 15-17* (2021), <https://www.americanprogress.org/wp-content/uploads/sites/2/2021/02/Fair-Play-correction2.pdf>.

<sup>18</sup> Marjorie Cortez, *After a girl beat their daughters in sports, Utah parents triggered investigation into whether she was transgender*, Desert News (Aug. 17, 2022), <https://www.deseret.com/utah/2022/8/17/23310668/school-investigates-female-athlete-transgender-complaint/>.

<sup>19</sup> Emma Tucker, *Utah school district takes steps to protect teen after school board member appears to question girl's gender on social media*, CNN (Feb. 8, 2024), <https://www.cnn.com/2024/02/08/us/natalie-cline-controversy-student-gender-social-media-posts/index.html>.

Sincerely,

**Wyatt S.M. Rolla**

Senior Transgender Rights Attorney  
ACLU of Virginia

**Eden B. Heilman**

Legal Director  
ACLU of Virginia

**Narissa Rahaman**

Executive Director  
Equality Virginia

**Auden Perino**

Senior Counsel for LGBTQI+ Equality  
National Women's Law Center

**Hunter F. Iannucci**

MARGARET Fund Counsel, Education & Workplace Justice  
National Women's Law Center