

**Submission by the Human Rights Campaign to
Call for input to the report of the Special Rapporteur on violence against women and girls to
the UN General Assembly on “violence against women and girls in sport”**

On behalf of the Human Rights Campaign’s more than three million members and supporters across the United States, we write in response to the call for input on the Special Rapporteur on violence against women and girls’s upcoming report to the United Nations General Assembly regarding “the issue of violence against women and girls in sport.”

The Human Rights Campaign (HRC) is the United States’ largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ+) equality. By inspiring and engaging all Americans, HRC strives to end violence and discrimination against LGBTQ+ citizens and realize a nation that achieves fundamental fairness and equality for all. We are grateful for this opportunity to offer our input, as vitriolic rhetoric about LGBTQ+ people is currently on the rise worldwide and is contributing to a dramatic increase in policies, practices, and laws that seek to curtail the fundamental rights of LGBTQ+ people simply for being who they are—including here in the United States within the context of sports, and with a particular focus on curtailing access to sporting opportunities for transgender girls and other gender diverse students.

In light of the current policy environment across the United States in this regard, we write to respectfully challenge the assertion in the Special Rapporteur’s call for input on this matter that policies allowing transgender and other gender diverse athletes to participate in sports consistent with their gender identity have “had significant human rights implications for all women and girls, including their right to equality and non-discrimination.” Likewise, we write to challenge the notion that trans-inclusive sports policies raise “questions regarding fairness, in sports as well as the full participation in education, culture, and sports as well as society as a whole[]” for women and girls, and would instead encourage the Special Rapporteur to consider reporting on trans-exclusionary policies that are indeed raising questions about access, fairness, and violence in sports for women and girls.

Our response below appears best aligned to the Special Rapporteur’s tenth question on “What are the lessons learned from policies and legislations that have been adopted and implemented with regards to women and girls in sports and their implications on the safety, security, dignity, equality and participation of women and girls in sports?” In that spirit, we offer this response to encourage the Special Rapporteur to refrain from implying in the upcoming report that trans-exclusive policies and laws are beneficial to women and girls in sports. Instead, we would encourage that such focus be redirected toward real issues impacting women and girls in sports, such as equal funding and access to facilities and equipment, that many sports policies and legislation have often failed to address whatsoever.

Background

Transgender girls are girls, just as transgender women are women. All people—including transgender, non-binary, and other gender diverse people—deserve equal opportunities and access to sports, which studies have shown provide essential development opportunities that

teach young people about teamwork, self-esteem, perseverance, leadership, discipline, and exercise, and help them build friendships and community.¹ Indeed, we have long seen the positive impact of allowing sports participation for a wide and diverse array of people and in particular young people, including those who are transgender. This includes students like ██████████ a young transgender girl who a federal judge found would be treated “worse than people to whom she is similarly situated” and would be deprived “of any meaningful athletic opportunities” if her state’s ban on transgender athletes playing on female sports teams from middle school through college was allowed to stand.² The Supreme Court of the United States has since declined to reinstate that West Virginia law pending an appeal by the state.³

Trans-Exclusive Policies Harm All Women and Girls

While the call for input is correct in that some jurisdictions, including here in the United States, have allowed individuals’ sports participation consistent with their gender identity, **we would encourage the Special Rapporteur’s upcoming report to also acknowledge the existence of efforts by jurisdictions to ban those inclusive practices, and the impact of same on all girls—whether they are cisgender or transgender.** For example, here in the United States, states are increasingly enacting blanket bans on transgender students, notably transgender girls, from participating in school athletics consistent with their gender identity. As described by former high school wrestler ██████████ who was required to compete in girls’ competitions while in school after beginning his transition, “[t]hese bills don’t help competition. They hurt it.”⁴ Indeed, in order for him to be able to compete in sports at all, he “had to stay within a cis women’s [*sic*] levels . . . [even though t]here [we]re rules already in place . . . to make sure [he] upheld being fair with [his] competitors.”⁵

One of the main critiques offered for trans-inclusive sports policies is that transgender athletes will have an unfair physical advantage over their cisgender teammates—particularly transgender girls and women allowed to play alongside and against cisgender girls and women. This argument is rooted in assumptions that sex differences in sports performance observed between elite adult cisgender males and cisgender females will extend to cisgender and transgender youth.⁶ However, there is little evidence to support this assumption. The lack of issues across the decades of transgender athletes being allowed to participate in sports activities consistent with their gender identity clearly suggest that these data are not applicable to transgender people. Indeed, **despite hundreds, if not thousands, of transgender people**

¹ See generally Jessica L. Fraser-Thomas et al., *Youth Sport Programs: An Avenue to Foster Positive Youth Development*, 10 PHYSICAL EDUC. & SPORT PEDAGOGY 19 (2005).

² Leah Willingham & John Raby, *West Virginia says it will appeal ruling that allowed transgender teen athlete to compete*, AP (Apr. 24, 2024), <https://apnews.com/article/west-virginia-transgender-sports-ban-appeal-6aa0c298297e903226a191cf452371a3>.

³ *Id.*

⁴ Karleigh Webb, *Mack Beggs Protested Texas’ Proposed Trans Athletes Ban At The State House*, OUTSPORTS (May 3, 2023), <https://www.outsports.com/2023/5/3/23708312/mack-beggs-texas-transgender-athlete-college-ban>.

⁵ *Id.*

⁶ See, e.g., Lydia C. Hallam & Fabiano T. Amorim, *Expanding the Gap: An Updated Look Into Sex Differences in Running Performance*, 12 FRONTIERS IN PHYSIOLOGY (2021), <https://www.frontiersin.org/articles/10.3389/fphys.2021.804149/full>; Valérie Thibault et al., *Women and Men in Sport Performance: The Gender Gap has not Evolved since 1983*, 9 J. SPORTS SCI. MED. 214 (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3761733/>.

participating in sports over time, only a handful of transgender athletes in high school or college have had any notable success.

Notably, lawmakers in many of the jurisdictions that have enacted bans on transgender students' participation in sex-separated school sports have been unable to even identify any transgender athletes participating in competitive sports activities in their states.⁷ In Indiana, Governor Eric J. Holcomb vetoed a bill creating such a ban in 2022, finding “no evidence” to support legislators’ claims that allowing transgender students to participate in school sports consistent with their gender identity was interfering with the state’s goals of “consistency and fairness in competitive female sports,” continuing by noting that “not a single case of a male [*sic*] seeking to participate on a female team has completed the process established by [the non-governmental Indiana High School Athletic Association]’s now decade-old [participation] policy.”⁸ Utah Governor Spencer J. Cox likewise vetoed a ban-establishing bill, noting the state had a “very small number of transgender kids who are looking to find a sense of connection and community—without posing any threat to women’s sports” through sports participation consistent with their gender identity: specifically, “[f]our kids and only one of them playing girls sports.”⁹

And importantly, **these transphobic policies can have a direct impact on all women and girls by imposing invasive and extreme requirements like examinations of genitalia, reproductive organs, or chromosomes as a condition for being allowed to play on a team.** Such requirements would cause harm to any student subjected to them, and we have already seen these being applied to cisgender girls. For example, in Utah, a cisgender female athlete reported an investigation on her “student records from her current year all the way back to kindergarten,” after the parents of two girls she had defeated in a high school competition claimed she was transgender and were concerned that “there wasn't a level playing field.”¹⁰

Trans-Inclusive Policies Provide Important Development Opportunities for All

As of this writing, 24 bills have been signed into law in the United States that establish bans on transgender students from participating in school sports consistent with their gender identity.¹¹ **These states' bans outright ignore the numerous, well-established benefits that stem from allowing youth to participate in school athletics, all in service of promoting false, transphobic rhetoric and contrary to the principle that athletics are an important experience everyone deserves to meaningfully access.** In Florida, we filed suit on behalf of

⁷ David Crary & Lindsay Whitehurst, *Lawmakers Can't Cite Local Examples Of Trans Girls In Sports*, ASSOCIATED PRESS (Mar. 3, 2021), <https://apnews.com/article/lawmakers-unable-to-cite-local-trans-girls-sports-914a982545e943ecc1e265e8c41042e7>.

⁸ Jeanie Lindsay & Lauren Chapman, *Gov. Eric Holcomb Vetoes Transgender Girls Athletes Ban Bill*, WFYI (Mar. 21, 2022), <https://www.wfyi.org/news/articles/gov-eric-holcomb-vetoes-transgender-girls-athletes-ban-bill>. In using the term “male,” it is our understanding that Gov. Holcomb intends to reference transgender females.

⁹ Spencer J. Cox, *Gov. Cox: Why I'm Vetoing HB11*, GOVERNOR.UTAH.GOV, <https://governor.utah.gov/2022/03/24/gov-cox-why-im-vetoing-hb11/> (last visited Apr. 27, 2023).

¹⁰ Zoe Christen Jones, *Utah Investigates Winning Student-Athlete's Gender After Parents Of Second- And Third-Place Finishers Submit Complaints*, CBS NEWS (Aug. 18, 2022), <https://www.cbsnews.com/news/transgender-investigation-student-athlete-utah-high-school/>.

¹¹ *Equality Maps: Bans on Transgender Youth Participation in Sports*, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/youth/sports_participation_bans (last visited Apr. 30, 2024).

██████ a then 13-year-old who has played sports since she was 8 and is a goalie on three soccer teams, but who would be forced to play on a boys' team, where she does not belong, or quit sports altogether because of her state's exclusionary law—even though she only sports because they “make [her] feel like [she] fit[s] in.”¹² In our recent analysis of survey data collected from LGBTQ+ youth ages 13–18 in 2022 across all fifty states and the District of Columbia (our “2022 Youth Study”), we found that transgender and non-binary youth are truly just like all other youth in that participating in school sports confers upon them various benefits.¹³

For example, 68.2% of surveyed transgender and non-binary athletes earned mostly As in school, which was significantly higher than the rate of transgender and non-binary non-athletes in our sample who reported the same academic achievements (52.6%).¹⁴ Likewise, surveyed transgender and non-binary athletes reported being significantly less likely to screen positive for depression (56% vs. 62%) and were less likely to report high levels of psychological distress (32.9% vs. 36.7%) when compared to non-athletes.¹⁵ We found that participating in sports whether competitively or for fun confers a particularly important benefit upon transgender and non-binary youth: making them feel safer in schools. Among respondents, 51.7% of those who played sports indicated feeling unsafe at school, whereas that rate increased to 58.7% for transgender and non-binary youth that were not athletes when surveyed. Likewise, respondents were asked about specific spaces including bathrooms and locker rooms, and again those participating in athletics reported being significantly less likely to feel unsafe in those spaces than their non-athlete counterparts.¹⁶

The burden of being subjected to stigma and discrimination, including in sports, is well illustrated by data showing that LGBTQ+ adults and youth have an increased likelihood of experiencing certain mental health challenges, including an elevated prevalence of substance use and suicidal thoughts and attempts.¹⁷ We can see these impacts reflected in the story of swimmer Lia Thomas, whose experience runs counter to the call for input's suggestion that allowing transgender athletes like her to participate in sports consistent with their gender identity is unfair for other women and girls. Lia recounts “barely going to classes . . . [and that she] could barely get out of bed” prior to her transition, but also that she felt “a lot better mentally” and was “less depressed” after beginning hormone replacement therapy

¹² HRC, X (June 30, 2021), <https://twitter.com/HRC/status/1410224887910879233>.

¹³ Forthcoming data from the 2022 Youth Study, see HRC Staff, *HRC Foundation and UConn Launch 2022 Youth Survey to Examine the Experiences of LGBTQ+ Youth*, HRC.ORG (Jan. 31, 2022), <https://www.hrc.org/news/hrc-foundation-and-uconn-launch-2022-youth-survey-to-examine-the-experiences-of-lgbtq-youth>, a nationwide quantitative survey of ~12,000 LGBTQ+ youth ages 13-18, including approximately 6,400 youth who provided responses allowing them to be identified as transgender and/or non-binary, conducted in partnership with the University of Connecticut.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Specifically, looking at locker rooms, 41.5% of student athletes felt unsafe vs. 58.9% of non-athletes who felt unsafe; and looking at bathrooms, 29.5% of student athletes felt unsafe vs. 39.5% of non-athletes. *Id.*

¹⁷ See generally HUMAN RIGHTS CAMPAIGN, MENTAL HEALTH AND THE LGBTQ COMMUNITY (2017), https://suicidepreventionlifeline.org/wp-content/uploads/2017/07/LGBTQ_MentalHealth_OnePager.pdf, citing GRACE MEDLEY ET AL., SEXUAL ORIENTATION AND ESTIMATES OF ADULT SUBSTANCE USE AND MENTAL HEALTH: RESULTS FROM THE 2015 NATIONAL SURVEY ON DRUG USE AND HEALTH, NATIONAL SURVEY ON DRUG USE AND HEALTH (2016), [https://www.samhsa.gov/data/sites/default/files/NSDUH-SexualOrientation-2015/NSDUH-SexualOrientation-2015.htm](https://www.samhsa.gov/data/sites/default/files/NSDUH-SexualOrientation-2015/NSDUH-SexualOrientation-2015/NSDUH-SexualOrientation-2015.htm).

and being allowed to swim on the women's swimming team at the start of her senior year in college—even as she “lost muscle mass and [] became a lot weaker and a lot, a lot slower in the water.”¹⁸ Contrary to popular conception, Lia did not dominate her sport, but rather tied for fifth place in the key race for which she has been criticized for participating in.¹⁹ Indeed, at the NCAA championships, Lia “set no pool, meet or American records” and has generally placed in eighth in her races.²⁰

The results of our 2022 Youth Study indicate that states’ policies restricting students’ participation in sports consistent with their gender identity can and will have a tangible impact on whether those youth decide to continue playing sports, in turn denying them the benefits of participating in those types of activities as outlined above. For example, 62.7% of surveyed transgender and non-binary youth (including those playing and not already playing sports) reported that they would be very uncomfortable or uncomfortable if asked to provide a birth certificate or other identity documents to participate in sports at school, with similar rates of these youth (61.1%) reporting that being subjected to such a policy and needing to submit a birth certificate or other documentation to play would result them in quitting or avoiding playing sports altogether.²¹ Less than one in ten (8.9%) of surveyed youth reported they would feel comfortable with such a requirement.²² Among surveyed transgender and non-binary youth currently playing sports, while there were greater rates of respondents indicating comfort in needing to show documentation to be allowed to play, a third (33.6%) still indicated they would quit or avoid playing sports if doing so required them to show a birth certificate or other documentation.²³ Additionally, 60% of surveyed transgender and non-binary former athletes indicated they would quit or avoid sports in the future due to these policies.²⁴ In a separate 2022 survey of approximately 1,500 parents of transgender and non-binary youth, over one-fifth (22.6%) noted their child was no longer participating in extracurriculars due to their gender identity, with two-thirds (66.7%) of these youth stopping playing sports specifically.²⁵ This occurred in states both with and without an existing transgender sports ban, speaking to the chilling and stigma-increasing effect of these types of policies on all transgender youth nationwide.

Finally, we note that states, school districts, and athletic associations across the United States have allowed transgender and intersex young people to participate in school sports consistent with their gender identity for decades—all without issue. Fifteen states and the District of Columbia all currently allow transgender and other students to participate in K-12 sports consistent with their gender identity and without requiring evidence of medical or legal

¹⁸ Associated Press, *Lia Thomas: ‘Trans women are not a threat to women’s sports’*, NBC SPORTS (June 1, 2022), <https://onherturf.nbcsports.com/tag/lia-thomas/>.

¹⁹ Katie Barnes, *Lia Thomas finishes 8th in 100-yard freestyle, final race of collegiate swimming career*, ESPN (Mar. 19, 2022), https://www.espn.com/college-sports/story/_/id/33550045/lia-thomas-finishes-8th-100-yard-freestyle-final-race-collegiate-swimming-career.

²⁰ *Id.*

²¹ 2022 YOUTH STUDY, *supra* note 13.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Forthcoming data from the 2022 Parents of Transgender and Gender Diverse Youth Survey, a nationwide survey of ~1,500 parents of transgender youth (age 18 and younger), conducted in partnership with the University of Arizona.

transition.²⁶ California implemented its state law in this regard in 2013, with the Los Angeles Unified School District—one of the largest school districts in the country—having implemented such a policy since 2005 “without problems.”²⁷ In fact, available data show that in California, high school girls’ sports participation was the highest it had ever been in 2020, increasing by almost 14% since 2014, the first full year of their transgender-inclusive law being in place.²⁸ In Connecticut, which also implemented an inclusive law in 2013, data show that sports participation increased slightly (by 2.3%) from the 2011–2012 to 2018–2019 seasons among girls.²⁹ This was the case even as sports participation decreased among high school students overall (by 1.7%).³⁰

Conclusion

Athletes like ██████████ deserve access to sporting opportunities, and policies that would allow them to participate in same consistent with their gender identity would increase fairness and opportunities for all women and girls, not diminish them. We implore the Special Rapporteur to ensure the upcoming report includes the experiences of a diverse array of girls, including transgender girls like ██████████ a now-17-year-old field hockey player who plays sports to come together with her fellow girls, not take opportunities from them. In her own words, she wants to play school sports because of “the people that [she’s] always surrounded with and the community that [she] create[s].”³¹ To students like ██████████, sports provide the opportunity “to work hard . . . [to] learn[] a lot from not being the best, and from really having to commit to get better at something.”³²

Again, this is because transgender and other gender diverse people do not seek to participate in sports consistent with their gender identity to gain an unfair advantage—they do it for the same reasons others play sports. Those reasons are major goals of athletics everywhere: students who play school sports, and even adults who continue to engage in athletics, can simultaneously challenge themselves, improve their fitness, learn teamwork, and have fun. All women and all girls deserve to be treated with dignity and respect, including through access to these important opportunities. Women and girls who are transgender cannot and should not be treated as an exception to that principle. Thank you for this opportunity to offer our input.

²⁶ Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth*, CTR. FOR AM. PROGRESS (Feb. 8, 2021), <https://www.americanprogress.org/article/fair-play/>.

²⁷ Patrick McGreevy, *California Transgender Students Given Access To Opposite-Sex Programs*, L.A. TIMES (Aug. 12, 2013), <https://www.latimes.com/politics/la-xpm-2013-aug-12-la-me-pc-gov-brown-acts-on-transgender-bill-20130812-story.html>.

²⁸ Goldberg, *supra* note 26.

²⁹ *Id.*

³⁰ *Id.*

³¹ Hum. Rights Campaign, *Meet the Girl Who Lawmakers Want to Ban from Playing Sports*, YOUTUBE (Apr. 13, 2021), <https://www.youtube.com/watch?v=yf9MfYZ-BI4&t=2s>.

³² *Id.*