

March 6, 2025

Chair Kitchens, Vice-Chair Goeben, and Honorable Members of the Assembly Committee on Education:

The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide testimony in opposition to Assembly Bill 100.

Plain and simple, excluding trans students from participating in sports teams consistent with their authentic gender identity is harmful and discriminatory. Bills like AB 100 are part of a nationwide coordinated effort to deny transgender people their freedom, safety, and dignity. Anyone paying attention can see that the ultimate goal of legislation like this is to push transgender people out of public life altogether. In just the first two months of 2025, over 450 anti-LGBTQ bills have been introduced in statehouses across the country.<sup>1</sup> **To be clear, transgender people have always existed and they always will. School board members, state legislators, and the President of the United States do not get to decide that they don't.**

Federal courts have consistently found in favor<sup>2</sup> of transgender student-athletes challenging state-level bans on their equal participation consistent with their gender identity, and others have likewise rejected claims that the participation of transgender student-athletes unjustly denies opportunities to cisgender women and girls.

Transgender students participate in sports for the same reasons other young people do: to challenge themselves, express themselves, and be part of a team. Excluding transgender students from participation just deprives them of opportunities available to their peers and sends the message they are not worthy of a full life.

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<sup>1</sup> "Mapping Attacks on LGBTQ Rights in U.S. State Legislatures," ACLU (March 5, 2025), <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2025>.

<sup>2</sup> A bill with similar provisions to AB 377 was signed into law in Idaho in March 2020. The ACLU, ACLU of Idaho, Legal Voice, and Cooley LLP filed a lawsuit, and a federal judge issued a temporary injunction blocking implementation of the Idaho law in August 2020, reaching the "inescapable conclusion that the Act discriminates on the basis of transgender status." The court further held that given the small percentage of people who are transgender and the extensive discrimination that transgender people face, "it appears untenable that allowing transgender women to compete on women's teams would substantially displace female athletes." *Hecox v. Little*, No. 1:20-CV-00184-DCN, 2020 WL 4760138, at \*27 (D. Idaho Aug. 17, 2020). The Ninth Circuit Court of Appeals upheld the injunction, finding the Idaho law barring transgender athletes from participating in student athletics likely violates the rights of transgender students under the Equal Protection Clause of the U.S. Constitution by discriminating on the basis of sex and trans status. *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024). See also *B.P.J. v. West Virginia State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024) (blocking a West Virginia law banning transgender student-athletes from playing on teams consistent with their gender identity); *Tirrell v. Edelblut*, No. 24-cv-251-LM-TSM, 2024 WL 4132435 (D.N.H. Sept. 10, 2024) (blocking enforcement of a New Hampshire law banning transgender girls from playing on school sports teams).

Transgender athletes' participation is nothing new. Trans people of all ages have been participating in sports consistent with their gender at all levels for years, including at the Olympics since at least since 2004 and in the NCAA since at least 2011. With close to 20 years of clear policies for inclusion of women and girls who are transgender in women's events at the highest level of sport around the world, there has been absolutely no categorical dominance by women and girls who are transgender anywhere.

Sports governing bodies created existing transgender sports policies for a population that is exceedingly small, and one that already lacks representation in sports due to exorbitant social and socioeconomic disadvantage. For youth, advantage comes largely from proximity to privilege.<sup>3</sup> The average parent of a child in youth sports spends \$883 per single season of participation.<sup>4</sup> Meanwhile, disparities faced by the transgender community begin at a young age and impact all facets of life including sports access. Transgender youth are 9 times more likely to experience homelessness and associated poverty.<sup>5</sup> Sixty-eight percent experience bullying in middle school and high school.<sup>6</sup> In 2015, 22% of transgender women surveyed stated they were bullied so badly in school that they dropped out.<sup>7</sup>

Without supportive services to help transgender students navigate these additional challenges, it's tougher for them than their peers to make it through class, let alone onto a soccer field. Efforts to ban transgender girls from participating in girls' sports jeopardize their mental health, physical well-being and ability to access education opportunities comparable to their peers. Participating in sports results in positive outcomes for students — better grades, greater homework completion, higher educational and occupational aspirations, and improved self-esteem.<sup>8</sup> We should want that for all Wisconsin students.

We urge committee members to think deeply about the realities of enforcing the ban proposed in AB-100. Do we want to live in a state where little girls are forced to answer invasive personal questions about their bodies and face humiliating physical inspections of their private parts by adult strangers? Every student is at risk under this bill. Any player could be targeted with questions about their gender – whether that's from an opposing team or a teammate who is upset they lost out on playing time or didn't make a team.

Effective solutions to promote sporting fairness and equity do exist, like ensuring equal pay and opportunity for women's leagues and providing equal funding for athletic programs at less wealthy public schools. Targeting transgender women and girls is not one of them.

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<sup>3</sup> "The Making of a College Athlete: High School Experiences, Socioeconomic Advantages, and the Likelihood of Playing College Sports," *Sociology of Sport Journal* (Aug. 2021), <https://journals.humankinetics.com/view/journals/ssj/39/2/article-p129.xml>.

<sup>4</sup> "Youth Sports Facts: Challenges," Project Play, <https://projectplay.org/youth-sports/facts/challenges>.

<sup>5</sup> "Student Homelessness: Lessons from the Youth Risk Behavior Survey," School House Connection (June 2021), <https://schoolhouseconnection.org/wp-content/uploads/2021/06/YRBS-Part-III-Sexual-Orientation-and-Gender-Identity-Equity.pdf>.

<sup>6</sup> "Bullying and Suicide Risk among LGBTQ Youth," The Trevor Project (Oct. 14, 2021), <https://www.thetrevorproject.org/research-briefs/bullying-and-suicide-risk-among-lgbtq-youth/>.

<sup>7</sup> "The Report of the 2015 U.S. Transgender Survey," National Center for Transgender Equality (Dec. 2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

<sup>8</sup> Expert Declaration of Dr. Mary Fry from *Hecox v. Little*, [https://www.aclu.org/sites/default/files/field\\_document/hecox\\_v\\_little\\_-\\_fry\\_declaration.pdf](https://www.aclu.org/sites/default/files/field_document/hecox_v_little_-_fry_declaration.pdf).