

March 11, 2025

Chair Murphy, Vice-Chair Nedweski, and Honorable Members of the Assembly Committee on Colleges and Universities:

The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide testimony in opposition to Assembly Bill 102.

Plain and simple, excluding trans students from participating in sports teams consistent with their authentic gender identity is harmful and discriminatory. Bills like AB 102 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.¹ **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 favor² 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 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.

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

² 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).

In April 2024, more than 400 current and former NCAA, professional, Olympic and Paralympic athletes sent an open letter to NCAA’s board of governors calling on the body to “be on the right side of history” and not ban transgender women from NCAA women’s sports, recognizing that “[t]hroughout history, we have seen that segregation and exclusion as policies have never reflected the true values of sport.”³ They stated:

Within the context of broad legislative attacks on the rights of trans people in the United States, opposition to trans athletes is driven by certain politicians who seek to control our bodies, not by science or data. Although trans exclusionary efforts claim to “protect women’s sports,” in reality, they fail to address any of the real, documented threats to women in sports, namely unequal pay, failure to uphold Title IX, rampant sexual abuse and harassment of women and girl athletes, and a lack of equal resources for men’s and women’s teams.

We must also recognize that trans athletes are a tiny percentage of athletes in this country. NCAA President Charlie Baker testified in front of Senate Judiciary Committee in December of 2024 during a hearing on federal sports regulations. When asked about how many transgender athletes participate in college sports, he testified that there are 510,000 NCAA athletes in schools across the U.S. and **fewer than ten of them are transgender**.⁴ There is no crisis of transgender student athletes in our country.

Sports governing bodies created inclusive 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.⁵ The average parent of a child in youth sports spends \$883 per single season of participation.⁶ 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.⁷ Sixty-eight percent experience bullying in middle school and high school.⁸ In 2015, 22% of transgender women surveyed stated they were bullied so badly in school that they dropped out.⁹

Effective solutions to promote sporting fairness and equity do exist, but targeting transgender women and girls is not one of them.

³ [https://www.athleteally.org/wp-content/uploads/2024/04/Open-letter-to-NCAA -Athletes-2.pdf](https://www.athleteally.org/wp-content/uploads/2024/04/Open-letter-to-NCAA-Athletes-2.pdf)

⁴ “NCAA president says there are ‘less than 10’ transgender athletes in college sports,” The Hill (Dec. 18, 2024), <https://thehill.com/homenews/lgbtq/5046662-ncaa-president-transgender-athletes-college-sports/>.

⁵ “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>.

⁶ “Youth Sports Facts: Challenges,” Project Play, <https://projectplay.org/youth-sports/facts/challenges>.

⁷ “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>.

⁸ “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/>.

⁹ “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>.