



**Education - Interscholastic and Intramural Junior Varsity and Varsity Teams - Designation
Based on Sex
February 7, 2024
Testimony of the National Center for Transgender Equality In OPPOSITION to SB 381**

Dear Chair Feldman, Vice Chair Kagan, and members of the Senate Education, Energy, and the Environment Committee,

The National Center for Transgender Equality (NCTE) is submitting this testimony in opposition to SB 381. NCTE is a nationwide, non-profit, non-partisan organization founded in 2003 to promote public understanding, opportunity, and well-being for the nearly two million Americans who are transgender. In the nation's capital and throughout the country, NCTE works to replace disrespect, discrimination, and violence with empathy, opportunity, and justice. In addition to conducting public education and groundbreaking national survey research, NCTE works with federal, state, and local agencies on a wide range of issues facing transgender individuals in the United States to change policies to create a society where transgender people can freely and safely participate in public life to the same extent of their cisgender peers. It is in pursuit of these goals that NCTE enters this testimony.

NCTE respectfully urges the committee to return an unfavorable report on SB 381. This bill discriminates against students based on sex in violation of federal civil rights law while doing nothing to address pressing issues facing women and girls in athletics. That is why 16 state athletic associations and women's rights organizations like the Women's Sports Foundation and the National Women's Law Center also support the inclusion of transgender athletes.

Title IX of the Educational Amendments Act of 1972 prohibits federally funded educational programs from discriminating against or otherwise restricting the ability of students to participate in educational programs on the basis of sex.¹ As affirmed by the U.S. Supreme Court in *Bostock v. Clayton County*, protections against sex-based discrimination necessarily protect against discrimination based on gender identity or sexual orientation.² SB 381 directly violates federal civil rights law by barring transgender athletes from participating in athletics programs in accordance with their gender identity. Thus, if this bill is implemented, athletics programs will be put in the impossible position of complying with federal law and facing legal liability under state law or abiding by Maryland state law and facing legal liability for violating federally protected civil rights.

¹ Education Amendments Act of 1972, 20 U.S.C. §§1681 - 1688 (2018).

² *Bostock v. Clayton Cty.*, 140 S. Ct. 1731 (2020)



If passed, SB 381 would profoundly hinder the ability of transgender students to participate equally in Maryland’s education system. Athletics are a vital aspect of education that offers important lessons critical to a youth’s development. Sports, especially team sports, allow young people from diverse backgrounds to engage in healthy movement and play, develop core values like discipline and teamwork, and form meaningful connections with their peers. Banning transgender youth from participating in sports deprives them of these opportunities and adversely impacts a child’s education as a whole. The Trevor Project, a national organization that advocates for the mental health of LGBTQI+ youth, found that transgender and nonbinary athletes had significantly higher grades than their transgender and nonbinary peers who did not participate in sports.³ SB 381 would deprive transgender youth of a crucial component of the educational experience.

In conclusion, opposing this bill is imperative to safeguarding fairness and inclusion within our educational institutions. By mandating the designation of athletic teams based solely on “biological sex,” this bill not only perpetuates harmful stereotypes about our youth but also undermines the progress made toward creating safer environments where all students can thrive regardless of gender identity. Restricting the ability of public schools to foster diversity and inclusivity in athletic programs not only discriminates against transgender, intersex, and gender-diverse students but also risks depriving all students of experiences and opportunities that come from participating and sharing in a diverse range of sports participation. Therefore, NCTE respectfully urges this committee to return an unfavorable report on SB 381.

³ The Trevor Project, “The Welbeing of LGBTQ Youth Athletes,” October 2020, <https://www.thetrevorproject.org/wp-content/uploads/2021/07/LGBTQ-Youth-Sports-and-Well-Being-Research-Brief.pdf>