

UNFAVORABLE

Senate Bill 381

**Education – Interscholastic and Intramural Teams and Sports – Designation Based
on Biological Sex**

Senate Committee on Education, Energy, and the Environment

February 7, 2024

Lauren Lamb

Government Relations

The Maryland State Education Association opposes Senate Bill 381, which would, in practice, require certain school interscholastic and intramural athletic teams or sports to exclude some transgender students, prohibit adverse actions against a school or county board of education for maintaining separate interscholastic and intramural athletic teams and sports, and allow certain parties to bring civil action against schools, government entities, or athletic organizations based on noncompliance with provisions of this bill.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students for the careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

This bill would restrict students' eligibility to participate on certain school athletics teams based on a narrow characterization of biological sex. This would bar many transgender, intersex, and gender nonconforming students, whose gender identity may not align with their sex, from participating on the athletic teams that align with their gender identity, and thus would effectively exclude some students from school athletics altogether. Policies that function to exclude transgender students from school sports are plainly discriminatory and harmful to students. Transgender, non-binary, and gender nonconforming students are important members of our school communities and, like all students, deserve to be embraced, included, and treated with dignity.

It is well-documented that transgender and gender nonconforming youth face increased rates of depression and suicidal ideation compared to their cisgender



peers, and that they are more likely to experience harassment and social alienation at school.¹² The American Academy of Pediatrics firmly opposes legislation that would prevent transgender students' participation on athletic teams that align with their gender identity, calling such bills "dangerous" and advising that "playing on sports teams helps youth develop self-esteem, correlates positively with overall mental health, and appears to have a protective effect against suicide."³ We echo their condemnation of such policies, including those proposed in this bill. School policies play an undeniable role in students' wellbeing, and it is incumbent upon educators to develop and uphold research-based policies that affirm the dignity of all students.⁴

Proponents of this bill state that it intends to advance sex equality, but it would do the opposite: as the 2020 *Bostock v. Clayton County* decision affirms, anti-transgender discrimination *is* sex discrimination.⁵ Like all Maryland students, transgender and gender nonconforming students deserve dignity, opportunity, and access at school, including in athletics.

We strongly urge the committee to issue an Unfavorable Report on Senate Bill 381.

¹ American Academy of Pediatrics (2018). Mental Health of Transgender and Gender Nonconforming Youth Compared With Their Peers. Retrieved January 2024, from

<https://publications.aap.org/pediatrics/article/141/5/e20173845/37843/Mental-Health-of-Transgender-and-Gender>

² Morbidity and Mortality Weekly (2019). Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students — 19 States and Large Urban School Districts. Retrieved January 2024, from <https://pubmed.ncbi.nlm.nih.gov/30677012/>

³ American Academy of Pediatrics (2021). American Academy of Pediatrics Speaks Out Against Bills Harming Transgender Youth. Retrieved January 2024, from <https://www.aap.org/en/news-room/news-releases/aap/2021/american-academy-of-pediatrics-speaks-out-against-bills-harming-transgender-youth/>

⁴ National Association of School Psychologists (2016). Gender Inclusive Schools: Policy, Law, and Practice. Retrieved on January 2024, from <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/diversity-and-social-justice/lgbtq-youth/gender-inclusive-schools-faqs/gender-inclusive-schools-policy-law-and-practice>

⁵ National Archives Federal Register (2021). Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*. Retrieved January 2023, from <https://www.federalregister.gov/documents/2021/06/22/2021-13058/enforcement-of-title-ix-of-the-education-amendments-of-1972-with-respect-to-discrimination-based-on>