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February 7, 2024

SB0381 Education – Interscholastic and Intramural Junior Varsity Teams -

Designation Based on Sex -

(Fairness In Girls' Sports Act)

POSITION: Oppose

Dear Chairperson Feldman, Vice Chairperson Kagan and Members of the Senate Education, Energy, and the Environment Committee

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, health services, and state contracts based on race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

SB 381 will authorize discrimination based on gender identity and perpetuate transphobia. It would stigmatize vulnerable children, prevent them from being who they are, and serve to exclude these children from important school activities. This contradicts MCCR’s purpose to eliminate discrimination based on protected classes.

The “Fairness in Girls’ Sports Act” is not a novel idea. Bills with largely the same language have been introduced and even passed in several other states, beginning with Idaho, which enacted its bill in 2020. Other states followed suit by adopting their own bills over the next two years, such as West Virginia (HB 3293), Oklahoma (SB 2), Alabama (HB 391), and South Carolina (HB 4608), among several others. Some states, including Missouri (SB 781) and Ohio (HB 61), proposed similar bills in 2022 that did not pass. Maryland should not join in this trend of recent anti-trans legislation, and instead uphold trans people’s rights, dignity, and identity. When similar bills were introduced in the Maryland House of Delegates in 2022 (HB 757) and last year 2023 (HB 359) it received unfavorable reports from the Ways and Means Committee, and MCCR urges the same result in 2024.

After its demise in 2022, the Maryland bill was amended to focus only on high schools, but almost every student attending a high school is under the age of 18—a child. At this age, like any age, physiological traits do not necessarily determine athletic skill. Any advantage that a trans girl could have could likewise be found in a cisgender girl, as there is vast natural variation among all people. While the NCAA and the Olympic Committees

“Our vision is to have a State that is free from any trace of unlawful discrimination.”

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have recently updated their policies on trans athletes, even they have not gone as far as HB 47 does. This legislation contravenes science and enshrines outdated and damaging social beliefs that do not belong in schools in 2024. Instead, schools should be promoting tolerance, inclusion, and sportsmanship. If Maryland truly wants to be fair to its girls, it must be fair to all girls.

Permitting legal assessments of biological sex to become a matter of law will almost certainly target Marylanders from “disadvantaged and mostly poor backgrounds.” Any analysis of transgender inclusion in sports should be a matter of research and analysis performed by academic and medical experts relying upon credible peer-reviewed research to draw conclusions. An article penned by faculty of the Center for Sport Management Research and Education, Department of Health and Kinesiology, Texas A&M University and published by the Kinesiology review concludes that “sport is a human right, and as such, a right for transgender individuals” further providing “five reasons for inclusion, basing their arguments on sport as a human right, fairness, gendered notions of athleticism, well-being, and economics. (See **Transgender Inclusion in Sport** George B. Cunningham, 1 Risa Isard, 2 and E. Nicole Melton² 1 Center for Sports Management, Research, and Education, Department of Health and Kinesiology, Texas A&M University, College Station, TX, USA; 2Mark H. McCormack Department of Sports Management, University of Massachusetts Amherst, MA, USA.)

Maryland should continue to be the State of inclusion and not pass legislation that seeks to exclude its citizens and legislate intolerance. For these reasons, the Maryland Commission on Civil Rights urges an unfavorable vote on HB 47. Thank you for your time and consideration of the information contained in this letter. MCCR looks forward to the continued opportunity to work with you to improve and promote civil rights and human rights in Maryland.