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SUPREME COURT BACKS STATE TRANSGENDER SPORTS BANS: A 5-STEP PLAN FOR SCHOOL LEADERS AND ATHLETIC ORGANIZATIONS

Insights
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Supreme Court Backs State Transgender Sports Bans: A 5-Step Plan for School Leaders and Athletic Organizations

States can pass and enforce laws banning transgender high school and college athletes from participating on female sports teams, according to a new ruling from the Supreme Court. Today's decision will significantly change the public high school and collegiate sports landscape, prompting school leaders to immediately review current policies and practices. Although this ruling does not directly apply to private schools that don't receive federal funding, it still provides useful context, especially for those private K-12 schools subject to state and local sex discrimination laws. Here's what your school or athletic organization needs to know about the ruling, its nationwide impact, and the five steps you should consider taking now.

How We Got Here

Since the beginning of his second term, President Trump has shown support for banning transgender girls and women athletes from participating in women's sports, and at least 27 states have passed laws that restrict these transgender athletes from competing in women's sports. SCOTUS has now backed that position.

Here are a few key events that led up to today's ruling:

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- In February 2025, President Trump implemented an Executive Order, "Keeping Men Out of Women's Sports," which defined "sex" as an individual's biological sex at birth and interpreted Title IX to prohibit transgender women's participation in girls' and women's sports. The EO directed federal agencies to prioritize Title IX enforcement actions against educational institutions that require female students to participate in sports against "males."
- The NCAA followed suit and revised its policies to limit college competitions in women's sports to athletes who were assigned female at birth.

Idaho and West Virginia, which are currently at the center of this nationwide debate, enacted laws challenged by transgender athletes in a pair of consolidated SCOTUS cases:

- In Idaho, the *Fairness in Women's Sports Act* not only prohibits transgender athletes from participating but also permits female athletes to contest the sex of a competitor.
- Meanwhile, West Virginia is seeking to enforce the *Save Women's Sports Act* that restricts participation on girls' teams to people classified as female at birth based on reproductive biology and genetics.

In both cases, the appellate courts ruled against the states, finding Idaho's law violates the Constitution's Equal Protection Clause by targeting transgender people, and that West Virginia's law violates Title IX. SCOTUS agreed to hear both cases.

SCOTUS Sides with States

The Ruling

The Supreme Court held that public schools and colleges and universities may determine eligibility for female sports based on biological sex and limit girls' and women's sports teams to biological females. The decision upholds laws in West Virginia and Idaho and reverses both the 4th and the 9th US Circuit Courts of Appeals, respectively.

Title IX (Unanimous Ruling)

All nine Justices agreed that the transgender student-athletes could not rely on Title IX to bring a claim against the

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state laws. Title IX bars schools that receive federal funding from discriminating against students based on sex. But the Court read "sex" to mean biological sex, not gender identity, noting the time of enactment in the early 1970s.

"In addition, the Title IX regulations allowed separate sports teams precisely because of the biological differences between the sexes – namely, the inherent physical differences between biological women and biological men," Justice Kavanaugh wrote for the majority.

The transgender female athlete in the West Virginia case argued that schools must make an exception to that general rule for biological males who identify as female and have taken puberty blockers or hormones. But SCOTUS said Title IX and its regulations could not be interpreted to make this exception.

Justices Sotomayor, Jackson, and Kagan agreed the Title IX claim failed, but wrote separately to say the majority went further than needed in defining "sex" as only encompassing biological sex.

Equal Protection Clause (6-3 Ruling)

The student-athletes in both cases argued that the states violated the Equal Protection Clause by limiting female sports team participation to biological females. The SCOTUS majority disagreed.

While the Idaho and West Virginia laws make a sex-based classification, the Court said safety and competitive fairness are important state interests and limiting women's and girls' sports to biological females is substantially related to those interests. Stated differently, the Court determined that the matter was of a level of importance to allow a state to intervene and create laws like those being challenged.

The majority added that determining the effects of the puberty blockers and hormones taken by transgender athletes would be nearly impossible for courts. "The questions would be endless (and bitter) and yield few, if any, principled answers," Justice Kavanaugh wrote. "The Equal Protection Clause and this Court's precedents do not require such a judicial quagmire."

Justice Sotomayor, joined by Justices Kagan and Jackson, wrote a dissenting opinion on this issue. She noted that the



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lower courts never resolved the key factual dispute on whether a transgender girl who never went through male puberty and receives gender-affirming treatment actually has an athletic advantage or is similarly situated to cisgender girls. Justice Sotomayor said the case should have been remanded for further factfinding.

The Bigger Picture

The majority's ruling today is consistent with prior SCOTUS decisions involving transgender rights:

- In June, the Court upheld a Tennessee law that bans gender-affirming care for minors, which prevents children from taking puberty-blocking treatment.
- The Court has also upheld the President's executive order banning transgender individuals from serving in the military.

Notably, the SCOTUS majority in today's ruling was careful to limit what it decided. In a footnote, the Court explained that it decided only that states *may* limit girls' and women's teams to biological females. It did not decide whether schools are *allowed* to let transgender girls play on those teams if they choose. That question is still working its way through the courts, so we will be tracking developments in this area and providing updates as warranted.

The ruling also does not address participation by biological females on boys' or co-ed sports teams, nor does it address access to facilities like bathrooms or locker rooms.

Impact on Schools and Athletic Organizations

These cases have sparked concerns about the potential for a significant shift in collegiate sports. Particularly, do universities that receive federal funding need to revise their athletics eligibility policies to comply with the Court's interpretation of Title IX? Additionally, do recruiting practices, scholarship allocations, and facility usage, among other routine operations, need to be altered to prevent any threat of reduced federal funding? Reach out to your FP attorney to develop a game plan, particularly since we expect more states to take action in light of the SCOTUS ruling.

Your 5-Step Action Plan

K-12 schools and colleges and universities should consider taking the following five steps now:

1. Audit Existing Athletic Participation Policies: Conduct a comprehensive review of current athletics eligibility rules, Title IX compliance protocols, if applicable, and how they address gender identity. Identify any policies that could conflict with the latest legal developments, especially those concerning biological sex definitions and eligibility standards.

2. Establish a Compliance Task Force: Create a cross-functional working group – including relevant stakeholders at your institution, such as athletics, legal, student affairs, compliance, equal opportunity, diversity professionals, and HR – to track legal developments, determine potential policy shifts, and develop guidance for staff, students, and teams.

3. Plan Your Compliance Frameworks: Review language for athlete handbooks, scholarship agreements, and coaching contracts to ensure alignment with current legal developments.

4. Invest in Training and Communication Tools: Develop proactive training modules for coaches, athletic directors, and HR professionals on the evolving legal landscape. Ensure messaging balances compliance with sensitivity toward affected student-athletes and institutional values.

5. Evaluate Risk and Exposure Related to Federal Funding: Coordinate with legal counsel to assess how changes to Title IX interpretation may impact federal grant eligibility or enforcement actions by the Department of Education. Prepare a risk management strategy to address potential litigation or regulatory scrutiny.

Conclusion

For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on the firm's [Sports Industry Team](#) or [Education Practice Group](#). Fisher Phillips will continue to monitor developments impacting employers, so make sure that you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox.