

Testimony in Opposition of SB208
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Senate Education Committee
February 21, 2021

I am writing to discuss the proposed Senate Bill No. 208 cited as the “Fairness in Women’s Sports Act.” As I have read the bill, I understand that the *fairness* discussed in this bill is in considering how the presence of (or lack of) testosterone impacts the athletic ability of K-12 youth. In this letter, I will address the term *fairness* and will show that the exclusion of transgender youth from their gender-preferred sport may cause more trauma upon an already stigmatized and harassed population of Kansas youth.

Section 2: *There are “inherent differences between men and women.”* While this may be true for fully developed men and women, this is not true of youth. Research has shown that athletic ability before puberty is very similar in males and females. After puberty, and around the age of 15 or 16, many transgender youth begin taking puberty blockers and hormones, which means that the majority of these youth are indistinguishable from their preferred gender peers (Griffin & Carroll, 2010). Transgender youth that do not take blockers or hormones seem to be the primary concern in this bill, primarily transgender females, as they continue to have the presence of male-rate testosterone, which is erroneously seen as an un-“fair” advantage. Simply, the presence of testosterone gives one student an unfair advantage over another. For this to be a valid argument, all issues of “unfairness” must be addressed across the board. Short female-born athletes should not be allowed to play basketball against tall female-born athletes. Female-born athletes with shorter legs should not be able to swim against female-born athletes with longer limbs. This bill is not about “fairness” as much as it is about discrimination against a select population of individuals—transgender youth.

Section 3: *“Interscholastic, intercollegiate, intramural, or club athletic teams or sports...shall be expressly designated as...A dispute regarding a student’s sex shall be resolved by...”* As a mental health professional that works with transgender youth, I am gravely concerned about this mandate. According to the *2015 Transgender Survey*, transgender youth are **nine times** the national average more likely to attempt suicide due to the harassment and mistreatment associated with being a transgender youth. This number increases if the child comes from an unsupportive family. 77% of transgender youth reported being mistreated by their peers. For many of these youth, recreational activities such as sports gives them a reprieve from these common stressors. It is a protective factor against adolescent suicide and has been shown to decrease depression, anxiety, and promote life-long health benefits (Griffin & Carroll, 2009). It is essential to a transgender youth’s self-esteem, wellness, and mental health that (s)he be permitted to participate in athletics that align with an identified gender preference.

Currently, no federal laws govern transgender participation in youth sports and leaves the decision up to each state, which paves the way for discrimination of youth athletes. The National Collegiate Athletic Association (NCAA) and the International Olympic Committee (IOC) have allowed transgender individuals to perform in line with their gender preference but even this does not fully compare to what this bill is suggesting for transgender youth. The NCAA and IOC are regulating transgender *adults* and this bill is focusing on transgender youth, which is a

significantly different demographic. Kansas should take the recommendation of the US Department of Education (2016) in its recommendation for policies and emerging practices for transgender youth. It states that transgender athletes, “should be allowed to participate in a manner consistent with their gender identity” (pg. 8).

Title IX of the Education Amendments of 1972 states that *no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance*. While the term “sex” is specifically covered under this amendment currently, tides are turning to include “gender” as a population that cannot legally receive discrimination. It is a shame that the State of Kansas is trying to use this small loophole to discriminate against transgender youth instead of being the state that leads the way and models the best treatment of this already vulnerable population. Kansas can do better to recognize our most current scientific research that shows transgender youth as capable of competing against their cis peers. We have a duty to protecting our most vulnerable population. States that allow athletes to compete according to their gender preference have already shown us how this can be accomplished and have proven that all students can rise to the challenge, of not only athletic competition, but also the challenge of creating a kinder, more tolerant, more *fair*, way to live.

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Griffin, P., Carroll, H. J., (2009). On the team: Equal opportunity for transgender student athletes. <https://www.ncirights.org/wp-content/uploads/2013/07/TransgenderStudentAthleteReport.pdf>

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Title IX and Sex Discrimination. (2015, April). *U.S. Department of Education: Office for Civil Rights*. https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

U.S. Department of Education, Office of Elementary and Secondary Education, Office of Safe and Healthy Students, Examples of Policies and Emerging Practices for Supporting Transgender Students (May 2016). <https://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>