

# Exhibit 45

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,  
HEATHER JACKSON,  
Plaintiff,**

**v.**

**Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF EDUCATION,  
HARRISON COUNTY BOARD OF EDUCATION,  
WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISION, W. CLAYTON BURCH  
in his official capacity as State Superintendent, and  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, PATRICK MORRISEY  
In his official capacity as Attorney General, and THE  
STATE OF WEST VIRGINIA,  
Defendants.**

**CERTIFICATE OF SERVICE**

I hereby certify that I, Roberta F. Green, have this day, the 22<sup>nd</sup> day of November, 2021, served a true and exact copy of *“WVSSAC’s Responses to Plaintiff’s First Set of Interrogatories”* was served on counsel by electronic means:

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***/S/ Roberta F. Green***

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

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ACTIVITIES COMMISION, W. CLAYTON BURCH  
in his official capacity as State Superintendent, and  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, PATRICK MORRISEY  
In his official capacity as Attorney General, and THE  
STATE OF WEST VIRGINIA,  
Defendants.**

**WVSSAC'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Now comes West Virginia Secondary School Activities Commission (WVSSAC), by counsel, and responds as follows to Plaintiff's First Set of Interrogatories to Defendant West Virginia Secondary School Activities Commission.

Defendant has not completed discovery in this civil action and has not completed its preparation for trial. For these reasons, the Defendant's responses are based upon only such information and documents as are presently available and known to WVSSAC. Further discovery and independent investigation may supply additional facts, add meaning to facts, or may establish entirely new factual contentions, and, therefore, additions to, changes in, and/or variations from the Defendant's present responses may be necessary or may unavoidably result. The following responses are given in good faith but without prejudice to the Defendant's right to produce evidence of subsequently discovered facts or documents.

The Defendant avails itself of all rights under the Federal Rules of Civil Procedure and such other applicable rules and law, and objects to the instructions contained in Plaintiff's discovery requests to the extent such instructions attempt to impose burdens on the Defendant that are outside the scope of the Rules or the law generally. The Defendant is not bound to follow any instructions which may be contrary to the Rules and other law.

Without waiving the foregoing, the Defendant provides the following responses.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify all PERSONS who provided information in preparation of YOUR Answer and Motion to Dismiss the First Amended Complaint, and for each such PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU and/or B.P.J.; and
- (c) A detailed description of such knowledge and/or information

### **RESPONSE:**

Objection; attorney work product, attorney client privilege. Beyond those objections and without waiving same, WVSSAC responds as follows:

- a. Beyond WVSSAC counsel, WVSSAC Executive Director, Bernie Dolan (contact through undersigned counsel).
- b. Executive Director, WVSSAC
- c. Mr. Dolan provided factual information relative to the history, structure and funding of WVSSAC. He further provided information relative to WVSSAC rules, regulations, policies and practices.

**INTERROGATORY NO. 2:** Identify all financial funding YOU received in 2019 to the present. For each identified funding, please state the following:

- (a) Who provided the funding, and
- (b) What the funding was allocated to.

**RESPONSE:**

West Virginia's Secondary School Activities Commission (WVSSAC) receives no dues whatsoever from member schools and has not for more than a decade. WVSSAC sustains itself with corporate sponsorships, advertising revenue and gate proceeds from championship meets and tournaments. WVSSAC's corporate sponsorships, which change over time, from 2019 to the present have included West Virginia Dairy Association/Milk Producers, Farmers & Mechanics, U.S. Army, MetroNews, Midstate Automotive, Field Turf, Spalding, and CareSource.

**INTERROGATORY NO. 3:** Identify all schools that compete in WVSSAC sponsored activities.

**RESPONSE:**

Member schools compete in WVSSAC sponsored activities. Non-member schools can compete in most WVSSAC sponsored activities as long as they are indeed organized as schools. For example, Calvary Baptist Church School and Teays Valley Christian are non-member schools who participate over time. Additionally, Wood County Christian is currently a member but

participated as a non-member prior to joining. WVSSAC has 289 member schools that appear on the WVSSAC website at <https://www.wvssac.org/school-directory/>

**INTERROGATORY NO. 4:** Identify all COMMUNICATIONS, if any, YOU have received from students, teachers, parents, schools, coaches, legislators, or other PERSONS CONCERNING B.P.J.

**RESPONSE:**

Bridgeport Middle School's eligibility list was posted per the Rules on the WVSSC website.

**INTERROGATORY NO. 5:** Identify all COMMUNICATIONS if any, YOU have received from students, teachers, parents, schools, coaches, legislators, or other PERSONS CONCERNING students who are transgender participating in school sports of any level in West Virginia.

**RESPONSE:**

WVSSAC received one inquiry two years ago directly from an athlete with a male birth gender interested in volleyball and considering female gender purportedly to be eligible to play volleyball. WVSSAC heard nothing further. More recently, WVSSAC had one inquiry from a transgender athlete with a female birth gender. *See also* more generally response to interrogatory numbered 7.

**INTERROGATORY NO. 6:** Identify the number of students who are transgender that YOU are aware of who play or have played school sports in West Virginia, and for each student, please specify the sport(s) played by the student and current school level of that student.

**RESPONSE:**

On information and belief and as reflected in instant pleadings, BPJ (cross country at Bridgeport Middle School). WVSSAC has no knowledge of other transgender participants. However, given that WVSSAC's policies and practices are gender neutral, it would have no reason to know of other transgender athletes unless contacted by the athlete or the school.

**INTERROGATORY NO. 7:** Identify all PERSONS YOU communicated with CONCERNING H.B. 3293 and the date and content of the COMMUNICATION.

**RESPONSE:**

In late March 2021, Mr. Dolan received texts from Senator Baldwin, asking him to appear before the Senate Democratic Caucus. Mr. Dolan was asked to appear to 'discuss the transgender athlete bill.' Also referenced at regional principal's meetings at ten locations across West Virginia from July 28 to August 12, 2021.

**INTERROGATORY NO. 8:** Identify all PERSONS responsible for creating, enforcing, and monitoring YOUR policies for school athletics.

**RESPONSE:**



The Board of Control is where member schools vote on proposals and create the rules and regulations, which are approved by the State Board of Education and then enforced and monitored by the schools. WVSSAC becomes involved in instances of disputes or appeals.

**INTERROGATORY NO. 9:** Identify all steps YOU have taken to contemplate, prepare for, monitor, implement, and/or enforce POLICIES and rules CONCERNING the implementation of H.B. 3293.

**RESPONSE:**

None.

**INTERROGATORY NO. 10:** Identify all PERSONS responsible for determining student eligibility on sports teams under YOUR POLICIES for school athletics.

**RESPONSE:**

All of the member schools.

In the instance of disputes, Executive Director Bernie Dolan, Assistant Executive Director Greg Reed, Assistant Executive Director Wayne Ryan, Assistant Executive Director Dr. Cindy Daniels.

**INTERROGATORY NO. 11:** Identify all YOUR public and private school members, and for each such member state whether they are public or private.

**RESPONSE:**

WVSSAC has 289 member schools identified here (private schools underlined), which schools also appear on the WVSSAC website at <https://www.wvssac.org/school-directory/>

Andrew Jackson Middle – Kanawha Co. (Cross Lanes, WV); Aurora School – Preston Co. (Aurora, WV); Baileysville Elementary – Wyoming Co. (Brenton, WV); Barboursville Middle – Cabell Co. (Barboursville, WV); Barrackville Middle – Marion Co. (Barrackville, WV); Beckley-Stratton Middle School – Raleigh Co. (Beckley, WV); Belington Middle – Barbour Co. (Belington, WV); Berkeley Springs – Morgan Co. (Berkeley Springs, WV); Blennerhassett Middle School – Wood Co. (Parkersburg, WV); Bluefield – Mercer Co. (Bluefield, WV); Bluefield Middle School – Mercer Co. (Bluefield, WV); Braxton County – Braxton Co. (Sutton, WV); Braxton County Middle – Braxton Co. (Sutton, WV); Bridge Street Middle – Ohio Co. (Wheeling, WV); Bridgeport Middle – Harrison Co. (Bridgeport, WV); Bridgeport Senior High School – Harrison Co. (Bridgeport, WV); Brooke High School – Brooke Co. (Wellsburg, WV); Brooke Middle School – Brooke Co. (Wellsburg, WV); Bruceton School – Preston Co. (Bruceton Mills, WV); Buckhannon-Upshur – Upshur Co. (Buckhannon, WV); Buckhanon-Upshur Middle – Upshur Co. (Buckhannon, WV); Buffalo – Putnam Co. (Buffalo, WV); Buffalo Middle – Wayne Co. (Kenova, WV); Burch Middle School – Mingo Co. (Delbarton, WV); Cabell Midland – Cabell Co. (Ona, WV); Calhoun County Middle/High School – Calhoun Co. (Mt. Zion, WV); Cameron – (Cameron, WV); Capital High School – Kanawha Co. (Charleston, WV); Capon Bridge Middle – Hampshire Co. (Capon Bridge, WV); Cedar Grove Middle School – Kanawha Co. (Cedar Grove, WV); Central Preston Middle School – Preston Co. (Kingwood, WV); Ceredo-Kenova Middle – Wayne Co. (Ceredo, WV); Chapmanville Middle – Logan Co. (Chapmanville, WV); Chapmanville Regional High School – Logan Co. (Chapmanville, WV); Charles Town Middle School – Jefferson Co. (Charles Town, WV); Charleston Catholic – Kanawha Co. (Charleston, WV); Clay County High School – Clay Co. (Clay, WV); Clay County Middle – Clay Co. (Clay, WV); Clay Battelle – Monongalia Co. (Blacksville, WV); Covenant Christian School – Monongalia Co. (Morgantown, WV); Crum Middle – Wayne Co. (Crum, WV); Davis Thomas Elementary Middle – Tucker Co. (Thomas, WV); Doddridge County – Doddridge Co. (West Union, WV); Doddridge County Middle – Doddridge Co. (West Union, WV); Dunbar Middle – Kanawha Co. (Dunbar, WV); Dupont Middle – Kanawha Co. (Belle, WV); Duval Middle School – Lincoln Co. (Griffithsville, WV); East Bank Middle – Kanawha Co. (East Bank, WV); East Fairmont – Marion Co. (Fairmont, WV); East Fairmont Middle School - Marion Co. (Fairmont, WV); East Hardy – Hardy Co. (Baker, WV); East Hardy Early Middle – Hardy Co. (Baker, WV); Eastern Greenbrier Middle School – Greenbrier Co. (Ronceverte, WV); Edison Middle School – Wood Co. (Parkersburg, WV); Elkins – Randolph Co. (Elkins, WV); Elkins Middle – Randolph Co. (Elkins, WV); Elkview Middle – Kanawha Co. (Elkview, WV); Enoch High School; Fairmont Catholic Jr. High – Marion Co. (Fairmont, WV); Fairmont Senior High School – Marion Co. (Fairmont, WV); Fairview Middle – Marion Co. (Fairview, WV); Fayetteville Pre K-8 – Fayette Co. (Fayetteville, WV); Fort Gay Pre K-8 – Wayne Co. (Fort Gay, WV); Frankfort – Mineral Co. (Ridgeley, WV); Frankfort Middle – Mineral Co. (Ridgeley, WV); Geary Middle School – Roane Co. (Left Hand, WV); George Washington

– Kanawha Co. (Charleston, WV); George Washington Middle School – Putnam Co. (Eleanor, WV); Gilbert Middle School – Mingo Co. (Gilbert, WV); Gilmer County – Gilmer Co. (Glenville, WV); Glen Fork Middle – Wyoming Co. (Glen Fork, WV); Glenwood School – Mercer Co. (Princeton, WV); Grafton – Taylor Co. (Grafton, WV); Greater Beckley Christian – Raleigh Co. (Prosperity, WV); Green Bank Middle – Pocahontas Co. (Green Bank, WV); Greenbrier East – Greenbrier Co. (Lewisburg, WV); Greenbrier West – Greenbrier Co. (Charmco, WV); Guyan Valley Middle School – Lincoln Co. (Branchland, WV); Hamilton Middle School – Wood Co. (Parkersburg, WV); Hamlin Middle School – Lincoln Co. (Hamlin, WV); Hampshire – Hampshire Co. (Romney, WV); Hannan Senior/Middle School – Mason Co. (Ashton, WV); Harman – Randolph Co. (Harman, WV); Harpers Ferry Middle School – Jefferson Co. (Harpers Ferry, WV); Harts PK-8 – Lincoln Co. (Harts, WV); Hayes Middle School – Kanawha Co. (St. Albans, WV); Hedgesville Middle – Berkeley Co. (Hedgesville, WV); Hedgesville Senior High School – Berkeley Co. (Hedgesville, WV); Herbert Hoover – Kanawha Co. (Elkview, WV); Herndon Consolidated – Wyoming Co. (Bud, WV); Horace Mann Middle School – Kanawha Co. (Charleston, WV); Huff Consolidated Middle School – Wyoming Co. (Hanover, WV); Hundred – Wetzel Co. (Hundred, WV); Huntington – Cabell Co. (Huntington, WV); Huntington East Middle – Cabell Co. (Huntington, WV); Huntington Middle School – Cabell Co. (Huntington, WV); Hurricane – Putnam Co. (Hurricane, WV); Hurricane Middle – Putnam Co. (Hurricane, WV); Independence Middle School – Raleigh Co. (Sophia, WV); Independence Senior – Raleigh Co. (Coal City, WV); Jackson Middle School – Wood Co. (Vienna, WV); James Monroe – Monroe Co. (Lindsay, WV); Jefferson – Jefferson Co. (Shenandoah Junction, WV); John Adams Middle School – Kanawha Co. (Charleston, WV); John Marshall – Marshall Co. (Glen Dale, WV); Kasson Middle School – Barbour Co. (Moatsville, WV); Kermit Area – Mingo Co. (Kermit, WV); Keyser – Mineral Co. (Keyser, WV); Keyser Primary/Middle – Mineral Co. (Keyser, WV); Lenore K-8 – Mingo Co. (Williamson, WV); Lewis County – Lewis Co. (Weston, WV); Liberty (Harrison) – Harrison Co. (Clarksburg, WV); Liberty – Raleigh Co. (Glen Daniel, WV); Lincoln – Harrison Co. (Shinnston, WV); Lincoln County High School – Lincoln Co. (Hamlin, WV); Lincoln Middle School – Harrison Co. (Shinnston, WV); Logan – Logan Co. (Logan, WV); Logan Middle School – Logan Co. (Logan, WV); Long Drain Middle – Wetzel Co. (Metz, WV); Madison Middle – Boone Co. (Madison, WV); Madonna – Hancock Co. (Weirton, WV); Magnolia High School – Wetzel Co. (New Martinsville, WV); Man High School – Logan Co. (Man, WV); Man Middle School – Logan Co. (Mallory, WV); Mannington Middle – Marion Co. (Mannington, WV); Marlinton Middle – Pocahontas Co. (Buckeye, WV); Martinsburg – Berkeley Co. (Martinsburg, WV); Martinsburg South Middle – Berkeley Co. (Martinsburg, WV); Matewan – Mingo Co. (Matewan, WV); McKinley Middle School – Kanawha Co. (St. Albans, WV); Meadow Bridge High – Fayette Co. (Meadow Bridge, WV); Midland Trail High School – Fayette Co. (Hico, WV); Milton Middle – Cabell Co. (Milton, WV); Mingo Central – Mingo Co. (Delbarton, WV); Monongah Middle – Marion Co. (Monongah, WV); Montcalm – Mercer Co. (Rock, WV); Moorefield – Hardy Co. (Moorefield, WV); Moorefield Middle – Hardy Co. (Moorefield, WV); Morgantown – Monongalia Co. (Morgantown, WV); Moundsville Middle School – Marshall Co. (Moundsville, WV); Mount View High School – McDowell Co. (Welch, WV); Mount View Middle School – McDowell Co. (Welch, WV); Mountain Ridge Middle School – Berkeley Co. (Gerrardstown, WV); Mountain View Middle School – Monroe Co. (Union, WV); Mountaineer (M) Middle – Monongalia Co. (Morgantown, WV); Mountaineer Middle School – Harrison Co. (Clarksburg, WV); Mullens

Middle – Wyoming Co. (Mullens, WV); Musselman – Berkeley Co. (Inwood, WV); Musselman Middle – Berkeley Co. (Bunker Hill, WV); New Martinsville Middle – Wetzel Co. (New Martinsville, WV); Nicholas County – Nicholas Co. (Summersville, WV); Nitro – Kanawha Co. (Nitro, WV); North Marion – Marion Co. (Farmington, WV); North Middle – Berkeley Co. (Martinsburg, WV); Notre Dame – Harrison Co. (Clarksburg, WV); Oak Glen High School – Hancock Co. (New Cumberland, WV); Oak Glen Middle – (New Cumberland, WV); Oak Hill – Fayette Co. (Oak Hill, WV); Oak Hill Middle – Fayette Co. (Oak Hill, WV); Oceana Middle – Wyoming Co. (Oceana, WV); Our Lady of Fatima Parish School – Cabell Co. (Huntington, WV); Paden City High School – Wetzel Co. (Paden City, WV); Park Middle – Raleigh Co. (Beckley, WV); Parkersburg – Wood Co. (Parkersburg, WV); Parkersburg Catholic – Wood Co. (Parkersburg, WV); Parkersburg South – Wood Co. (Parkersburg, WV); Paw Paw – Morgan Co. (Paw Paw, WV); Pendleton County – Pendleton Co. (Franklin, WV); Petersburg – Grant Co. (Petersburg, WV); Peterstown Middle – Monroe Co. (Peterstown, WV); Philip Barbour High School – Barbour Co. (Philippi, WV); Philippi Middle – Barbour Co. (Philippi, WV); Pickens School; Pikeview – Mercer Co. (Princeton, WV); Pikeview Middle School – Mercer Co. (Princeton, WV); Pineville Middle – Wyoming Co. (Pineville, WV); Pleasants County Middle School – Pleasants Co. (Belmont, WV); Poca – Kanawha Co. (Poca, WV); Poca Middle – Kanawha Co. (Poca, WV); Pocahontas County – Pocahontas Co. (Dunmore, WV); Point Pleasant Senior/Middle School – Mason Co. (Point Pleasant, WV); Preston High School – Preston Co. (Kingwood, WV); Princeton Middle School – Mercer Co. (Princeton, WV); Princeton Senior – Mercer Co. (Princeton, WV); Ravenswood – Jackson Co. (Ravenswood, WV); Ravenswood Middle – Jackson Co. (Ravenswood, WV); Richwood – Nicholas Co. (Craigsville, WV); Richwood Middle School – Nicholas Co. (Richwood, WV); Ripley – Jackson Co. (Ripley, WV); Ripley Middle – Jackson Co. (Ripley, WV); Ritchie County – Ritchie Co. (Ellenboro, WV); Ritchie County Middle – Ritchie Co. (Ellenboro, WV); River View – McDowell Co. (Bradshaw, WV); Riverside – Kanawha Co. (Belle, WV); Rivesville Middle – Marion Co. (Rivesville, WV); Road Branch Jr. High – Wyoming Co. (Cyclone, WV); Roane County – Roane Co. (Spencer, WV); Robert C. Byrd – Harrison Co. (Clarksburg, WV); Robert L. Bland Middle – Lewis Co. (Weston, WV); Romney Middle – Hampshire Co. (Romney, WV); Rowlesburg School – Preston Co. (Rowlesburg, WV); Saint Joseph Central – Cabell Co. (Huntington, WV); Saint Joseph School – Berkeley Co. (Martinsburg, WV); Sandy River Middle School – McDowell Co. (Avondale, WV); Scott – Boone Co. (Madison, WV); Shady Spring – Raleigh Co. (Shady Spring, WV); Shady Spring Middle School -Raleigh Co. (Shady Spring, WV); Shepherdstown Middle School – Jefferson Co. (Shepherdstown, WV); Sherman – Boone Co. (Seth, WV); Sherman Junior High School – Boone Co. (Seth, WV); Sherrard Middle School – Marshall Co. (Wheeling, WV); Short Line Middle – Wetzel Co. (Reader, WV); Sissonville – Kanawha Co. (Charleston, WV); Sissonville Middle – Kanawha Co. (Charleston, WV); South Charleston – Kanawha Co. (South Charleston, WV); South Charleston Middle School – Kanawha Co. (South Charleston, WV); South Harrison – Harrison Co. (Lost Creek, WV); South Harrison Middle School – Harrison Co. (Lost Creek, WV); South Middle – Monongalia Co. (Morgantown, WV); South Preston School – Preston Co. (Tunnelton, WV); Southside School – McDowell Co. (War, WV); Spencer Middle – Roane Co. (Spencer, WV); Spring Mills High School – Berkeley Co. (Martinsburg, WV); Spring Mills Middle – Berkeley Co. (Martinsburg, WV); Spring Valley – Wayne Co. (Huntington, WV); St. Albans High School – Kanawha Co. (St. Albans, WV); St. Francis Central Middle School – Monongalia Co. (Morgantown, WV); St. Francis Desales

School – Raleigh Co. (Beckley, WV); St. Mary’s – Pleasants Co. (St. Mary’s, WV); St. Patrick School – Lewis Co. (Weston, WV); Stonewall-Jackson Middle School – Kanawha Co. (Charleston, WV); Summers County High School – Summers Co. (Hinton, WV); Summers Middle School – Summers Co. (Hinton, WV); Summersville Middle School – Nicholas Co. (Summersville, WV); Suncrest Middle – Monongalia Co. (Morgantown, WV); Taylor County Middle – Taylor Co. (Grafton, WV); Terra Alta East Preston – Preston Co. (Terra Alta, WV); Tolsia – Wayne Co. (Fort Gay, WV); Trap Hill Middle – Raleigh Co. (Glen Daniel, WV); Trialephia Middle School – Ohio Co. (Wheeling, WV); Trinity Christian School – Monongalia Co. (Morgantown, WV); Tucker County – Tucker Co. (Hambleton, WV); Tucker Valley Middle – Tucker Co. (Hambleton, WV); Tug Valley – Mingo Co. (Williamson, WV); Tygarts Valley Middle/Senior High – Randolph Co. (Mill Creek, WV); Tyler Consolidated – Tyler Co. (Sistersville, WV); Tyler Consolidated Middle – Tyler Co. (Sistersville, WV); Union – Grant Co. (Mt. Storm, WV); University – Monongalia Co. (Morgantown, WV); Valley (Fayette) – Fayette Co. (Smithers, WV); Valley (Wetzel) – Wetzel Co. (Pine Grove, WV); Valley Pre K-8 – Fayette Co. (Smithers, WV); Van Senior/Middle School – (Van, WV); Vandevender Middle School – Wood Co. (Parkersburg, WV); Vinson Middle School – Wayne Co. (Huntington, WV); Wahama Senior/Middle School – Mason Co. (Mason, WV); Walton Middle – Roane Co. (Walton, WV); Warm Springs Middle – Morgan Co. (Berkeley Springs, WV); Warwood Middle – Ohio Co. (Wheeling, WV); Washington High School – Jefferson Co. (Charles Town, WV); Washington-Irving Middle – Harrison Co. (Clarksburg, WV); Wayne – Wayne Co. (Wayne, WV); Wayne Middle – Wayne Co. (Wayne, WV); Webster County High School – Webster Co. (Upper Glade, WV); Weir – Hancock Co. (Weirton, WV); Weir Middle – Hancock Co. (Weirton, WV); West Fairmont Middle School – Marion Co. (Fairmont, WV); West Preston Middle School – Preston Co. (Arthurdale, WV); Western Greenbrier Middle School – Greenbrier Co. (Crawley, WV); Westside – Wyoming Co. (Clear Fork, WV); Westwood Middle – Monongalia Co. (Morgantown, WV); Wheeling Central Catholic – Ohio Co. (Wheeling, WV); Wheeling Middle – Ohio Co. (Wheeling, WV); Wheeling Park – Ohio Co. (Wheeling, WV); Middle School – Jefferson Co. (Shenandoah Junction, WV); Williamson Pre K-8 – Mingo Co. (Williamson, WV); Williamstown – Wood Co. (Williamstown, WV); Winfield – Putnam Co. (Winfield, WV); Winfield Middle – Putnam Co. (Winfield, WV); Wirt County – Wirt Co. (Elizabeth, WV); Wirt County Middle – Wirt Co. (Elizabeth, WV); Wood County Christian – Wood Co. (Williamstown, WV); Woodrow Wilson – Raleigh Co. (Beckley, WV); WV School for the Blind – Hampshire Co. (Romney, WV); WV School for the Deaf – Hampshire Co. (Romney, WV); Wyoming East – Wyoming Co. (New Richmond, WV)

**INTERROGATORY NO. 12:** Identify each member of YOUR governing board. For each member, please state the following:

- (a) Their name, address, and telephone number;
- (b) Their role; and

- (c) A detailed description of how they were selected.

**RESPONSE:**

WVSSAC has a Board of Control and a Board of Directors. As set out in 127 CSR -1-5, the administration of the WVSSAC shall be vested in a Board of Control. The Board of Control shall determine the regulation of interscholastic athletic and band activities among the schools represented by the members of the Commission and shall have charge of all Commission funds, and in order to expedite the regulations of activities shall delegate and assign to the Board of Directors hereinafter constituted, and the Executive Director, hereinafter constituted, and working through the Board of Directors, authority to interpret and enforce these regulations.

Five members of the Board of Directors are elected from the Board of Control, while two are appointment, all as set out in 127 CSR 1-6, detailing appointment and voting protocols. *See Mayo v. WVSSAC*, 223 W. Va. 88, 672 S.E.2d 224 (2008). The current Board members (who should be contacted through undersigned counsel) are as follows:

- **Region 1 Member** – Gregory Moore, Principal, **President**
- **Region 2 Member** – David Cottrell, Principal
- **Region 3 Member** – Michael Kelley, Principal, **Vice President**
- **Region 4 Member** – Jimmy Frashier, Principal
- **Region 5 Member** – Craig Lee Loy, Principal
  
- **Member** – Steve Campbell, Athletic Directors Association
- **Member** – Dr. Eddie Campbell, County Superintendents
- **Member** – Jim Crawford, County Boards of Education
- **Member** – Robert Dunlevy, WV State Superintendent Designee
- **Member** – Dr. James Wilson, WV State Board of Education

Board members should be contacted through undersigned counsel.

**INTERROGATORY NO. 13:** Identify all employees, contractors, or other personnel affiliated with YOU who maintain records CONCERNING B.P.J. and describe the general nature of those records.

**RESPONSE:**

On information and belief, member school Bridgeport Middle School's eligibility form.

**WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION,  
By Counsel.**

*/S/ Roberta F. Green*

---

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Kimberly M. Bandy (WVSB #10081)  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J., by her next friend and mother,  
HEATHER JACKSON,  
Plaintiff,

v.

Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin, Judge

WEST VIRGINIA STATE BOARD OF EDUCATION,  
HARRISON COUNTY BOARD OF EDUCATION,  
WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION, W. CLAYTON BURCH  
in his official capacity as State Superintendent, and  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, PATRICK MORRISEY  
In his official capacity as Attorney General, and THE  
STATE OF WEST VIRGINIA,  
Defendants.

VERIFICATION

STATE OF WEST VIRGINIA;

COUNTY OF WOOD, to-wit:

Bernie Dolan, being first duly sworn, upon his oath does hereby depose and say that he has read the answers to interrogatories in the foregoing and believes that the facts contained therein, except insofar as they are stated to be upon information and belief, are believed to be true; that the responses set forth herein, subject to inadvertent and undiscovered errors, are based on and therefore necessarily limited by the records and information in existence, presently recollected and thus far discovered in the course of the preparation of these responses; that consequently, he reserves the right to make any changes in the responses if it appears at any time that omissions or errors have been made therein or that more accurate information is available; and that subject to the limitations set forth herein, said responses are true to the best of his knowledge, information and belief.

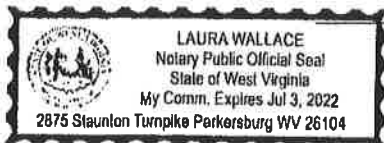
By: Bernie Dolan  
Bernie Dolan

Taken, subscribed and sworn to before me this 22 day of November, 2021.

My commission expires: July 3, 2022

Laura Wallace  
Notary Public

[SEAL]





# Exhibit 46

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

B.P.J, by her next friend and mother, HEATHER JACKSON

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA

*Defendants,*

and

LAINEY ARMISTEAD,

*Defendant-Intervenor.*

Case No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**INTERVENOR LAINEY ARMISTEAD'S  
FIRST SUPPLEMENTAL DISCLOSURES PURSUANT TO RULE 26(A)(1)**

Pursuant to Fed. R. Civ. P. 26(a)(1), Intervenor Lainey Armistead submits her first supplemental disclosures.

**I. Individuals likely to have discoverable information.**

Armistead discloses the following individuals likely to have discoverable information that may be used to support her claims.

1. Lainey Armistead  
c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Lainey Armistead may have discoverable information pertaining to the facts and

issues set forth within Intervenor Lainey Armistead's Memorandum in Support of Her Motion for Intervene, including, but not limited to, Armistead's experiences playing soccer growing up, the several benefits of participating in a team sport, her experience in competing at the collegiate level against female athletes, and the expected impact competing against males would have, on her and others.

2. B.P.J.  
c/o Loree Stark  
American Civil Liberties Union of West Virginia Foundation  
P.O. Box 3952  
Charleston, WV 25339-3952  
(914) 393-4614

B.P.J. is likely to have discoverable information pertaining to this case, including, but not limited to the allegations within Plaintiff's First Amended Complaint.

3. Heather Jackson  
c/o Loree Stark  
American Civil Liberties Union of West Virginia Foundation  
405 Capitol Street  
Suite 507  
Charleston, WV 25301  
(914) 393-4614

Heather Jackson is likely to have discoverable information pertaining to this case, including, but not limited to the allegations within Plaintiff's First Amended Complaint.

4. Person Most Knowledgeable  
West Virginia State Board of Education  
c/o Kelly C. Morgan  
c/o Kristen Vickers Hammond  
c/o Michael W. Taylor  
Bailey & Wyant  
P.O. Box 3710  
Charleston, WV 25337-3710

The person most knowledgeable of the West Virginia State Board of Education is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of West Virginia Code § 18-2-25d ("the Sports Act"),

and policies of West Virginia State Board of Education.

5. Person Most Knowledgeable  
Harrison County Board of Education  
c/o Susah L. Deniker  
Steptoe & Johnson  
400 White Oaks Blvd.  
Bridgeport, WV 26330

The person most knowledgeable of the Harrison County Board of Education is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of Harrison County Board of Education.

6. Person Most Knowledgeable  
West Virginia Secondary School Activities Commission  
c/o Anthony E. Nortz  
Shuman McCusky & Slicer  
P.O. Box 3952  
Charleston, WV 25339

The person most knowledgeable of the West Virginia Secondary School Activities Commission is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of West Virginia Secondary School Activities Commission.

7. W. Clayton Burch, in his capacity of State Superintendent  
c/o Kelly C. Morgan  
c/o Kristen Vickers Hammond  
c/o Michael W. Taylor  
Bailey & Wyant  
P.O. Box 3710  
Charleston, WV 25337-3710

Mr. Burch is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of and as State Superintendent.

8. Dora Stutler, in her official capacity as Harrison County Superintendent  
c/o Susah L. Deniker  
Steptoe & Johnson

400 White Oaks Blvd.  
Bridgeport, WV 26330

Dora Stutler is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of and as Harrison County Superintendent.

9. Patrick Morrissey, in his official capacity as Attorney General  
c/o Curtis R. Capehart  
WV Attorney General's Office  
Building 1, Room 26e  
1900 Kanawa Boulevard, East  
Charleston, WV 25305

Mr. Morrissey is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of and as Attorney General.

10. Person Most Knowledgeable  
The State of West Virginia  
c/o Curtis R. Capehart  
WV Attorney General's Office  
Building 1, Room 26e  
1900 Kanawa Boulevard, East  
Charleston, WV 25305

The person most knowledgeable of the State of West Virginia is likely to have discoverable information pertaining to general matters relating to this case, including the adoption of the Sports Act, and policies of the State of West Virginia.

11. Selina Soule  
c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Selina Soule may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against two male athletes in girls' high school track and field, and the impact it had on her and other female competitors.

12. Chelsea Mitchell

c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Chelsea Mitchell may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against two male athletes in girls' high school track and field, and the impact it had on her and other female competitors.

13. Christina Mitchell

c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Christina Mitchell may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, her daughter's experience competing against male athletes in girls' high school track and field, and the impact it had on her and other female competitors.

14. Alanna Smith

c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Alanna Smith may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in girls' high school track and field, and the impact it had on her and other female competitors.

15. Linnea Saltz

4114 Davis Place, Northwest, Unit 207  
Washington DC 20007  
(702) 523-0545

Linnea Saltz may have discoverable information pertaining to the facts and issues set

forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in girls' college track and field, and the impact it had on her, and other female competitors.

16. Margaret O'Neal

917 Kana Place  
Lahaina, Hawaii 96761  
(808) 280-4423

Margaret O'Neal may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the deflating experience of competing against a male athlete in girls' high school track and field, and the impact it had on her and other female competitors.

17. Cynthia Monteleone

917 Kana Place  
Lahaina, Hawaii 96761  
(808) 280-4423

Cynthia Monteleone may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, her daughter's experience of competing against a male athlete in girls' high school track and field, and the impact it had on her and other female competitors.

18. Madison Kenyon

c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Madison Keyon may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in women's college track and field and cross-country and the impact it had on her, and other female competitors.

///

19. Mary Kate Marshall  
c/o Christiana Holcomb  
Alliance Defending Freedom  
440 First Street NW, Suite 600  
Washington, DC 20001  
(202) 393-8690

Mary Kate Marshall may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in women's college track and field and cross-country and the impact it had on her, and other female competitors.

20. Darcy Aschoff  
540 W. 700 South,  
Lehi Utah, 84043  
(702) 769-4287

Darcy Aschoff may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, her daughters' experience competing against a male athlete in girls' high school volleyball and the impact it had on her daughters and other female competitors.

21. Female athletes on the University of Pennsylvania women's swimming and diving team  
University of Pennsylvania  
Philadelphia, PA 19104  
215-898-5000

Female swimmers on the University of Pennsylvania swimming and diving team may have discoverable information pertaining to the facts issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in women's collegiate swimming and the impact it had on them and other female competitors.

///



22. Haley Tanne  
current address unknown  
(801) 796-3235

Haley Tanne may have discoverable information pertaining to the facts and issues set forth in this case, including the benefits of competing in girls-only sports, the experience of competing against a male athlete in women's college track and field and cross-country and the impact it had on her, and other female competitors.

23. The following girls and women may have discoverable information pertaining to the facts issues set forth in this case, including the benefits of competing in female-only sports, the experience of competing against a male athlete in women's sports and the impact it had on them and other female competitors. The contact information for these girls and women is unknown.

- Anna Cameron, [College of Siskiyous](#) in 2012
- Shyanna Ashworth, [College of the Siskiyous](#) in 2012
- Brianne Burnside, [College of the Siskiyous](#) in 2012
- Carrie Watson, [College of the Siskiyous](#) in 2012
- Hailey Wales, [College of the Siskiyous](#) in 2012
- Mariia Rachiteleva, [Los Angeles THC Women in 2022](#)
- Katiana Sladanha, [Los Angeles THC Women in 2022](#)
- Patricia Fernandez, [Los Angeles THC Women in 2022](#)
- Sabrina Mcgauran, [Los Angeles THC Women in 2022](#)
- Natallia Zhelnova, [Los Angeles THC Women in 2022](#)
- Robyn Hargrove, competed in [2011 Border States Classic](#)
- Maikayla Malaspina, [Northern AZ women's track & field team](#) in 2020
- Malaina Thacker, [Idaho State women's track & field team](#) in 2020
- Molly Olsen, [Idaho State women's track & field team](#) in 2020
- Pipi Eitel, [Northern Arizona women's track & field team](#) in 2020

- Dawn Orwick, competed in [Masters Track World Championship](#) in 2019
- Kristen Herup Sovange, competed in [Masters Track World Championship](#) in 2019
- Kanani Lodge, [2022 DLS World Rankings](#)
- Katie Calderon, [2022 DLS World Rankings](#)
- Tamikka Brents, MMA fighter in 2014
- Heather Bassett, [XFO 50: Xtreme Fighting Organization 50](#)
- Ashlee Evans-Smith, [CFA 12: Championship Fighting Alliance 12](#)
- Allanna Jones, [CFA 11: Kyle v Wiuff](#)
- Erika Newsome, [CFA: 10 McSweeney vs. Staring](#)

**II. Documents and tangible items.**

Armistead points to L.Armistead\_\_000001-000169 and the forthcoming Defendants' expert reports, and reserves the right to rely on documents produced by the other parties in this case to support her claims and defenses.

**III. Computation of damages.**

Armistead seeks an award of attorneys' fees pursuant to 42 U.S.C. §1988. Armistead reserves the right to supplement this response.

**IV. Insurance Agreements.**

Not applicable.

Dated this 11th day of February, 2022.

*/s/ Brandon S. Steele*

---

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Joshua D. Brown, WV Bar No. 12652  
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Scottsdale, AZ 85260  
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(480) 444-0028 Fax  
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*\*Visiting Attorneys  
Attorneys for Defendant-Intervenor*

# Exhibit 47

## TRANSGENDER POLICY

### WVSSAC BOARD OF DIRECTORS

In the event a member school, or its governing authority, determines to permit transgender students to participate in interscholastic athletics, the WVSSAC has adopted the following policy to govern such participation:

#### I.

##### Definitions

*Transgender Student* – a student whose gender identity differs from the student's assigned sex at birth.

*Gender Identity* – a person's deeply-felt internal sense of being male or female.

#### II.

##### WVSSAC Transgender Student Policy

A Transgender Student shall be eligible to participate in interscholastic athletics in a manner consistent with a member school policy that meets the minimum standards designated by the WVSSAC Board of Directors policy.

The WVSSAC Board of Directors has designated the following as the minimum standards a member school must consider when determining whether a transgender student may participate in interscholastic athletics in a particular sport. A separate determination shall be made by the member school for each sport in which the student seeks to participate.

1. The transgender student's school shall make the initial determination as to whether a student may participate in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth. When determining whether a transgender student is eligible to participate in interscholastic athletics in a manner consistent with the student's gender identity a member school must consider the following:
  - a. Whether the student is a "transgender student" as determined based upon applicable regulations and policies of the member school or its governing authority.
  - b. Whether the student meets all applicable academic and enrollment eligibility requirements.
  - c. Whether fair competition among high school teams would be impacted by the student's participation.
2. The determination of a student's gender assignment for interscholastic athletics shall remain in effect for the duration of the student's high school eligibility.
3. Any member school may appeal the eligibility of a transgender student on the grounds that the student's participation in interscholastic athletics would adversely affect competitive equity or safety of teammates or opposing players.
  - a. Any such appeal will be heard by the WVSSAC Board of Directors.
  - b. The identity of the student shall remain confidential. All discussion and documentation will be kept confidential and the proceedings will also be confidential unless the student and family make a specific request otherwise.
  - c. The WVSSAC Board of Directors will not consider whether the school has properly determined the student's sex assignment. The board's deliberations will be limited to the question of whether the transgender student represents a threat to competitive equity or the safety of teammates or opposing players. Factors to be considered will include, but not be limited to, the age of the student; the athletic experience of the student; the degree to which the student presents a risk of harm to other competitors due to his or her strength, size, or speed; the nature of the sport; and the degree to which fair competition among high school teams would be impacted by the student's participation.

# Exhibit 48

**THE RULES AND REGULATIONS**

of the

**West Virginia Secondary School  
Activities Commission**

as set forth in the

**Constitution and Bylaws**

and

**Approved by the West Virginia State Board of Education**

Published by

**THE BOARD OF DIRECTORS**

of

**The West Virginia Secondary School Activities Commission**

**REVISED AND PRINTED AUGUST 2020**

**Printed by Chapman Printing Co., Inc., Parkersburg, WV**

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IV

## INTRODUCTION

## Officers of the Activities Commission

## THE BOARD OF DIRECTORS

<b>PRESIDENT:</b>	<b>DAVID COTTRELL</b> , Principal Clay-Battelle High School Blacksville, West Virginia 26521	Office: 304-432-8208
<b>VICE PRESIDENT:</b>	<b>DR. GREGORY MOORE</b> , Principal South Harrison High School Lost Creek, West Virginia 26385	Office: 304-326-7440
<b>MEMBER:</b>	<b>JIMMY FRASHIER</b> , Principal Ripley High School Ripley, West Virginia 25271	Office: 304-372-7355
<b>MEMBER</b>	<b>MICHAEL KELLEY</b> Herbert Hoover High School Elkview, West Virginia 25071	Office: 304-965-3394
<b>MEMBER:</b>	<b>CRAIG LEE LOY</b> , Principal Valley PreK-8 School Smithers, West Virginia 25186	Office: 304-442-8284
<b>MEMBER:</b>	<b>ARTHUR PETITTO</b> , Athletic Director Association Bridgeport Middle School Bridgeport, West Virginia 26330	Office: 304-842-6251
<b>MEMBER:</b>	<b>JIM CRAWFORD</b> County Boards of Education St. Albans, West Virginia 25177	Office: 304-549-0499
<b>MEMBER:</b>	<b>DR. EDDIE CAMPBELL</b> County Superintendents, Tucker County Parsons, West Virginia 26287	Office: 304-478-2771
<b>MEMBER:</b>	<b>DR. JAMES WILSON</b> WV State Board of Education Glen Dale, West Virginia 26038	Office: 304-281-1338
<b>MEMBER:</b>	<b>ROBERT DUNLEVY</b> WV State Superintendent Designee 130 North 10th Street Wheeling, West Virginia 26003	Office: 304-281-0529
<b>EXECUTIVE DIRECTOR</b>	<b>BERNIE DOLAN</b> 2875 Staunton Turnpike Parkersburg, West Virginia 26104-7219	Office: 304-485-5494
<b>ASSISTANT EXECUTIVE DIRECTOR</b>	<b>GREG REED</b> 2875 Staunton Turnpike Parkersburg, West Virginia 26104-7219	Office: 304-485-5494
<b>ASSISTANT EXECUTIVE DIRECTOR</b>	<b>WAYNE RYAN</b> 2875 Staunton Turnpike Parkersburg, West Virginia 26104-7219	Office: 304-485-5494
<b>ASSISTANT EXECUTIVE DIRECTOR</b>	<b>DR CINDY DANIEL</b> 2875 Staunton Turnpike Parkersburg, West Virginia 26104-7219	Office: 304-485-5494

WVSSAC000015

**DEPUTY BOARD MEMBERS AND JURISDICTION**

**REGION ONE**

**MEREDITH DAILER**

WHEELING PARK HIGH SCHOOL, WHEELING, WEST VIRGINIA  
Counties: Brooke, Hancock, Marshall, Ohio, Tyler and Wetzel

**REGION TWO**

**DOTTIE SMITH**

WIRT COUNTY HIGH SCHOOL, ELIZABETH, WEST VIRGINIA  
Counties: Calhoun, Doddridge, Gilmer, Jackson, Pleasants, Ritchie, Roane, Wirt and Wood

**REGION THREE**

**MATT DeMOTTO**

BRIDGEPORT HIGH SCHOOL, BRIDGEPORT, WEST VIRGINIA  
Counties: Harrison, Marion, Monongalia, Preston, Taylor and Tucker

**REGION FOUR**

**HOLLY KLOEPPNER**

MUSSELMAN HIGH SCHOOL, INWOOD, WEST VIRGINIA  
Counties: Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, and Pendleton

**REGION FIVE**

**EDDIE VINCENT**

BUCKHANNON-UPSHUR HIGH SCHOOL, BUCKHANNON, WEST VIRGINIA  
Counties: Barbour, Braxton, Clay, Lewis, Nicholas, Randolph, Upshur, and Webster

**REGION SIX**

**ROCKY POWELL**

WOODROW WILSON HIGH SCHOOL, BECKLEY, WEST VIRGINIA  
Counties: Fayette, Raleigh and Summers

**REGION SEVEN**

**AMY ROBERTSON**

GREENBRIER WEST HIGH SCHOOL, CHARMCO, WEST VIRGINIA  
Counties: Greenbrier, Monroe and Pocahontas

**REGION EIGHT**

**ANNA LILLY**

PIKEVIEW HIGH SCHOOL, PRINCETON, WEST VIRGINIA  
Counties: McDowell, Mercer and Wyoming

**REGION NINE**

**PE MCCLANAHAN**

HURRICANE HIGH SCHOOL, HURRICANE, WEST VIRGINIA  
Counties: Boone, Kanawha, Mason and Putnam

**REGION TEN**

**BRENT JARRELL**

BARBOURSVILLE MIDDLE SCHOOL, BARBOURSVILLE, WEST VIRGINIA  
Counties: Cabell, Lincoln, Logan, Mingo and Wayne

**CONSTITUTION AND BYLAWS COMMITTEE**

**TRENT SHERMAN**, Principal  
Martinsburg High School  
Martinsburg, West Virginia

**JEFF SOLE**, Principal  
St. Marys High School  
St. Marys, West Virginia

**STEVE WAMSLEY**, Principal  
Tygarts Valley High School  
Mill Creek, West Virginia

**MIKE COLLINS**, Principal  
Bluefield High School  
Bluefield, West Virginia

**JASON MARLING**, Principal  
Sherrard Middle School  
Wheeling, West Virginia

**BOARD OF TRUSTEES**

**KENT YOHO**

Tyler Consolidated High School

**VACANT**

**RON REEDY**

Sissonville High School

**KENNY DEMOSS**

Parkersburg High School

**HOLLY KLOEPPNER**

Musselman High School

**DISCRIMINATION PROHIBITED:** As required by federal laws and regulations, the West Virginia Secondary School Activities Commission does not discriminate on the basis of sex, race, color, religion, handicapping condition, marital status, or national origin to employment or in its programs and activities. Inquiries may be referred to Bernie Dolan, Executive Director, 2875 Staunton Turnpike, Parkersburg, WV 26104. NOTE: State and Federal laws include Title IX, Education Amendments of 1972; Title VI, Civil Rights Act of 1964; Title VII, Civil Rights Act of 1964; Rehabilitation Act of 1973, Section 504; and other State and Federal laws and regulations governing students and employees.

**BELIEFS AND OBJECTIVES**

The Commission believes that a controlled activities program is a strong factor in the development of courage, personality, cooperation, and leadership. The Commission believes that representatives of a school should be good citizens of that school, hence the need for requirements and regulations governing eligibility that have been standardized.

The Commission is designed to provide means for the unbiased and amicable settlement of disputes regarding activities.

The Commission seeks to present proper ideals of sportsmanship so that coaches, players, school authorities, game officials, and spectators may combine to make any activity enjoyable and productive of physical and social benefits to both sides involved in the contest, with partisanship and prejudice eliminated as far as possible.

To accomplish these objectives the Commission asks the cooperation of its members, all lovers of clean, wholesome activities, and all fans, young and old, who believe in our American system of interscholastics.

**HISTORICAL SKETCH**

The West Virginia High School Athletic Association was organized June 17, 1916, during a meeting of the West Virginia State Education Association. The original draft of the Constitution and Bylaws as formulated by Mr. R.J. Gorman, Charleston, West Virginia, was submitted to the principals of the high schools by Principal W.C. McKee of Charleston High School.

The charter members were Bluefield, Charleston, Clarksburg (Washington Irving), Elkins, Fairmont West,

Grafton, Huntington, Parkersburg, St. Marys, Sistersville and Wheeling.

The first officers were: President, John G. Graham, Principal of Huntington High School; Vice President, Benjamin H. Williams, Principal of Beaver High School, Bluefield; and Secretary-Treasurer, H. P. Johns, Principal of Wheeling High School.

The officers of the association were to be three in number; namely, a president, a vice president, and a secretary-treasurer.

After a few minor changes of the original draft, the eleven charter member schools met and adopted the Constitution and Bylaws by an unanimous vote.

The Association grew very rapidly during the ensuing years, and the work on the part of the secretary-treasurer especially became very burdensome. During these years on three or four occasions, moves were made to employ a full time executive secretary, a step that had been taken in several other states. However, on each occasion, such proposal was defeated.

It was not until 1946 that the Board of Control of the Association realized that a principal of a member school could not serve his school in an acceptable manner and at the same time serve as secretary-treasurer of the High School Athletic Association.

As a result of a meeting of the Board of Control held in Bluefield, West Virginia, on April 6, 1946, "the report of the Committee on the Executive Secretary was distributed to the members in mimeographed form, and on motion of Principal W. C. Whaley, East Fairmont, and seconded by Principal Robert L. Bryan, South Charleston, the report was accepted by a majority vote."

The report accepted was as follows:

"The president, vice president and treasurer shall constitute a Board of Appeals, which board shall have authority to appoint an executive secretary to serve for a period of four years or during the will and pleasure of the Board of Appeals. The beginning salary of the executive secretary shall be three thousand four hundred dollars (\$3,400) to four thousand dollars (\$4,000)."

Shortly after the meeting in Bluefield, the Board of Appeals met and employed William R. Fugitt as the first Executive Secretary of the West Virginia School Athletic Association, and Mr. Fugitt immediately set up his office in Beckley, West Virginia.

Mr. Fugitt came into his new position well prepared for the work ahead. A graduate of Marshall College (AB) and the University of Cincinnati (MA), Mr. Fugitt began his career as an elementary principal. He then taught and coached at Proctorville, Ohio, and Dunbar, West Virginia, after which he served for four years as a high school principal in Beckley. From 1933 to 1937, Mr. Fugitt was Assistant County Superintendent of Raleigh County Schools.

During Mr. Fugitt's tenure as Executive Secretary of the Secondary School Activities Commission, he was elected President of the National Federation of State High School Associations, an organization in which some 20,000 senior and Middle School/9th Grade hold membership.

During Mr. Fugitt's tenure in office, the name of the Association was changed to that of the West Virginia Secondary School Activities Commission. This took place in 1955.

Mr. Fugitt passed away on November 3, 1959 and was succeeded by W. Gordon Eison who, at that time, was a member of the Board of Appeals. The office was moved to Charles Town for a short time and then to Parkersburg upon Mr. Eison's relocation.

Mr. Eison was a graduate of Glenville State College (AB) and West Virginia University (MA). He served the Wirt County Board of Education for a period of 14 years as teacher, coach, principal, and county superintendent of schools before moving on to the principalship of Charles Town High School in Jefferson County.

Mr. Eison was in his 12th year as principal at Charles Town when appointed to the Executive Secretary

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position. During his tenure as Executive Secretary, he, like Mr. Fugitt, was elected President of the National Federation of State High School Associations.

Mr. Eison retired September 1, 1975 and was succeeded by Mr. Sam Williams who, at the time, was serving as West Virginia's first Assistant Executive Secretary.

Mr. Williams was educated at Glenville State College (AB) and received his MA at West Virginia University. He then became Principal of Wirt County High School and served in that capacity for ten years. From Wirt County, Mr. Williams moved to New Matamoras, Ohio, where he served as Executive Head of that school district for two years and moved on to St. Marys High to serve as principal for five years. For a period of twenty years, Mr. Williams was active as a football official in high schools and colleges in West Virginia and Ohio and was ranked as one of the top football officials in the Mid-Atlantic Conference.

It was during his tenure that the Commission experienced tremendous growth, particularly in the area of girls sports and state level championships. The current WVSSAC office was also built during this time. Mr. Williams retired on January 1, 1986.

Mr. Bill Hanlin became Executive Secretary on January 1, 1986, after serving as Assistant Executive Secretary since 1975. Mr. Hanlin was educated at Glenville State College (AB). He then coached football at Tyler County High School and Ashland High School, Ashland, Ohio. Mr. Hanlin entered the University of Maryland as a graduate assistant and earned his MA Degree. After receiving his MA at Maryland, he returned to St. Marys High School as football coach for nine years. He returned to Glenville State College as head coach in football from 1966 until 1975 before becoming the Assistant Executive Secretary.

Important programs implemented during Mr. Hanlin's tenure included the officials and schools rating systems, PROJECT TARGET, the Academic Achievement Awards and state-wide cheering competition. He also served on the National Federation of State High Schools Executive Committee as Vice President and was a member of the National Federation TARGET Executive Committee.

Mr. Jim Hamrick assumed the Executive Secretary position on January 16, 1989. A graduate of Glenville State College (AB) and West Virginia University (MA), Mr. Hamrick began his career at his high school Alma Mater, Meadow Bridge High School. After teaching math and coaching there for three years, he moved to Rainelle High School where he was head coach of all sports for four years. From there he went to Clendenin High School for one year. During that time he was a member of the WVSSAC Board of Appeals, directed the State Track Meet and served on numerous other WVSSAC Committees. He was also a member of the National Federation Track Rules Committee on two occasions. From there he moved on to Herbert Hoover High School for seven years. In 1970 he was named as principal at Clendenin Junior High School where he served until 1989. For twenty-five years he served as a football, basketball, baseball and track official. He also directed numerous state basketball tournaments and was director of the state track meet for thirteen years. He retired in August 1992.

Mr. Warren Carter assumed the position as Executive Secretary in September 1992. He had served as Assistant Executive Secretary since 1985. He graduated from Shepherd College (AB) and West Virginia University (MA). Mr. Carter taught at Charles Town and later assumed the principalship of Shepherdstown High School. He was the Principal at Jefferson High School at the time of his appointment to the WVSSAC staff. Prior to that time he had served as President of the Board of Appeals and as a member of the National Federation Executive Committee.

Important programs expanded or implemented during Mr. Carter's tenure included Sportsmanship, Ethics, and Integrity Program, NFICEP Coaches' Education, Regional Principals' Meetings, Girls' Sports, state championships in swimming and three-person officiating crews in basketball. He was also largely responsible for technology advancements such as computerized scanning of forms, office networking, and creation of a WVSSAC web site. He retired in December 1999.

Ms. Janet Pannett was appointed Assistant Executive Secretary in January 1993. She was appointed Administrative Assistant of the WVSSAC in July 1986. Ms. Pannett was a graduate and former instructor and coach at West Liberty State College. She received her MA degree from West Virginia University. During her tenure, tremendous growth and development occurred in the girls program and implementation of state-wide competition in cheerleading.

Mr. Gerald Trembush, Principal of Moundsville Jr. High School and past president of the WVSSAC Board

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of Appeals, was appointed Assistant Executive Secretary on May 1, 1993. He taught and served as Principal at Sherrard Jr. High School and in 1972 assumed the Assistant Principalship at John Marshall High School. He was appointed Principal at Moundsville Junior High School in 1984.

Ms. Elizabeth W. Best, Assistant Principal of Jefferson High School, was appointed Assistant Executive Secretary on June 13, 1995. She graduated from Shepherd College (BS) and West Virginia University (MA). She taught mathematics and served as department head at Jefferson High School for eleven years. She was appointed Assistant Principal at Jefferson High School in 1988.

Mr. C. W. "Butch" Powell, Athletic Director and Boys' Basketball Coach of Nicholas County High School, was appointed Assistant Executive Secretary on August 5, 1997. He taught, coached, and served as athletic director at Kingwood High School from 1969 to 1974 and then assumed similar positions at Nicholas County High School from 1974-1997.

Mr. Mike Hayden assumed the position as Executive Secretary in January 2000. He graduated from Parkersburg High School in 1960 and Morehead State University in 1965. He taught and coached for two years at Massillion High School and Fremont, OH for 1 year before returning to Parkersburg High School in 1968 as teacher/coach. He was head football coach at Parkersburg South High School from 1970-84 and Assistant Principal at Parkersburg High School from 1984-December 1999. He is a Certified Athletic Administrator (CAA) and has a Masters Degree in Education Administration from West Virginia University.

Mr. Gary W. Ray assumed the position as Executive Director in August 2007. He had served as Assistant Executive Director since May 26, 2001. He graduated from Glenville State College and received his Masters Degree from the WV College of Graduate Studies in 1979. He became athletic director and assistant principal of Oak Hill High School in 1978 and assumed the principalship in 1995. He served as Director of Schools in Fayette County. He was active with the WVSCA Coaches' Association and the West Virginia Athletic Directors' Association. He has also been a member of the WVSSAC Board of Appeals, TARGET Committee, and WVSSAC Sportsmanship Committee.

Miss Kelly Geddis was appointed Assistant Executive Director on October 17, 2002. She earned her teaching certification in English and Physical Education in 1981 and completed her Masters Degree in Sport Management and her Administration Certification from West Virginia University. She began her teaching career at Morgantown High School where she coached the sports of cheer, girls' basketball and boys' track. In 1987 she became Athletic Director and later served as an Assistant Principal. She has been an instructor for the WVSSAC Coaches Education Program since its inception in 1991 and is also an instructor for the American Association of Cheerleaders, Coaches and Advisors (AACCA).

Mr. Ray Londeree, Principal at Valley (F) High School, was appointed Assistant Executive Director on March 15, 2007. He received his AB from Concord College and MS degree from WV College of Graduate Studies. He has served as principal at Oak Hill High School, Eastern Greenbrier Jr. High and Gauley Bridge High/Middle School. He also coached several sports and was athletic director at Valley, Mt. Hope and Oak Hill High School. He has also been a member of the WVSSAC Board of Directors.

Mr. Bernie Dolan assumed the position of Executive Director January 2016. He served as Assistant Executive Director from July 2015 till he took office in January 2016. He received his BA from West Virginia University and his Masters in Safety and Environmental Engineering. He also received a Professional Administration Certificate from Salem International University. He served as Deputy Superintendent in Ohio County. At Wheeling Park High School, he served as Principal, Assistant Principal/Athletic Director, Technology Coordinator and math instructor. He served as Director for the Super Six; Director of the State Golf Tournament; on the OVAC Executive Board; and on the WVADA Board of Directors. He has also been a member of the WVSSAC Board of Directors.

Mr. Greg Reed, Assistant Principal/Athletic Director, Martinsburg High School was appointed Assistant Executive Director in December 2015. He attended Glenville State College majoring in Secondary Education. He received his MA in Communication Studies from WVU and his Educational Leadership degree from Salem International University. He taught and coached at Nicholas County High School. He served as Assistant Principal/Athletic Director at Martinsburg High School since 2003.

Mr. Wayne Ryan assumed the position of Assistant Executive Director in July, 2016. He served as

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Assistant Principal/Athletic Director at Summers County High School. He received his Bachelors in Secondary from Alderson Broaddus and Masters in Communication from West Virginia University. He received his CAA certification from the NIAAA. He is also a member of the WBCA, NFHSCA, WVSACA, NIAAA and the WVADA.

Dr. Cindy Daniel joined the WVSSAC staff in July 2018 as an Assistant Executive Director. A veteran educator with 34 years of experience in the West Virginia public school system, Dr. Daniel has served as a teacher, coach, curriculum supervisor, assistant principal, acting principal, and assistant superintendent before retiring in 2017 as the WV Deputy State Superintendent of Schools. She earned her bachelor's degree in Multi-categorical Special Education from the University of Charleston, masters' degrees in School Counseling and Leadership Studies from Marshall University, and her doctorate in Leadership Studies from Marshall University.

William R. "Bill" Wooton became WVSSAC general counsel on June 1, 1985, following the tenure of Sam White, who resigned to become Judge of the Circuit Court of Doddridge, Pleasants and Ritchie Counties. He was educated at Marshall University (BBA), Ohio University and West Virginia University College of Law. Mr. Wooton resigned as WVSSAC general counsel on December 31, 2020 to become a Justice of the West Virginia Supreme Court of Appeals.

### REORGANIZATION AND LEGALIZATION

Prior to 1952, the Bylaws consisted of major rules to which had been added, over the years, explanations and rulings based upon interpretations and decisions of various Boards of Appeals. As a result of general acceptance and long usage, these explanations and interpretations acquired force and meaning comparable to the basic rules. Consequently, at the annual meeting of the Board of Control in 1952, official action was taken declaring that, because of usage, explanations and interpretations under the rules are a part of the rules.

At the annual meeting in 1955 a constitution was adopted establishing authority for a reorganization to include all interscholastic activities and the changing of the name of the organization from the "West Virginia High School Athletic Association." The reorganization provided for a division of the Bylaws into two separate parts: "The Athletic Bylaws" and "The Non-Athletic Activities Bylaws."

An act to amend Article 2, Chapter 18 of the Code of West Virginia of 1931 as amended by adding thereto a new section, designated Section 25, pertaining to The West Virginia Secondary School Activities Commission was enacted into law by the West Virginia Legislature on March 11, 1967. The new law created the West Virginia Secondary School Activities Commission as a legal entity, an arm of the county school boards. As such it is authorized by law to make rules and regulations and to adjudicate contested cases.

Prior to the enactment of the law in 1967, the Commission's scope of jurisdiction included supervision, control and regulation of all interscholastic extracurricular activities of the schools of its members. The law now limits the Commission's scope of jurisdiction to interscholastic athletic events and band activities.

The position of the Commission was further strengthened as the result of a decision rendered by the West Virginia Supreme Court of Appeals in a case styled, **WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION v HARVEY OAKLEY, JUDGE, AND EDWARD LEE**, dated September 1968.

The decision rendered is long and need not be recounted here in its entirety. However, a few very significant statements from that decision are important enough to be included in this section on LEGALIZATION. (Boldface is pertinent. Points not necessarily in order in the decision).

1. As a general rule courts should not interfere with the internal affairs of school activities commissions or associations.
2. The West Virginia Secondary School Activities Commission is still for all intents and purposes in the same position as it has been for the past fifty years; that is, that member schools eligible to participate may voluntarily do so, and after such participation, they agree to comply with the rules and regulations that have governed such organization in the past and will govern in the future.
3. The organization has had rules for eligibility of students to participate in athletics or procedure for



declaring such students ineligible to participate and for disciplinary procedures for member schools and for the review of such action or decision made by the officers of boards of the association or organization during its entire existence. Where such procedure is provided for in such organization or association the procedure must be followed and due process of law may be afforded administratively without the use of or application to the courts.  
(State ex. rel. Burchett v Taylor, 150 W.Va. 702, 149 S.E. 2d 234.)

The question as to whether a student's participation in interscholastic athletics is a CONSTITUTIONAL RIGHT or a PRIVILEGE was answered in litigation in the UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF WEST VIRGINIA, CHARLESTON, in a Civil Action case No. 79-2497 Harris vs. West Virginia Secondary School Activities Commission, et. al.

On September 2, 1981, Chief Judge Dennis R. Knapp ruled:

"The Supreme Court held that a student's legitimate entitlement to an education is a property interest protected by the due process clause of the Fourteenth Amendment, Gross vs. Lopez, 419 U.S. 754; 95 S. Ct. 729 (1975). However, participating in interscholastic athletics is only a mere expectation rather than a constitutionally protected claim of entitlement and, thus, falls outside the protection of due process. Moreland v. Western Pennsylvania, 572 F. 2d 121 (3rd Cir. 1978). Even if the plaintiff's due process arguments were well founded, the WVSSAC, in both its rules and actions, provided plaintiff with a sufficient review procedure that ultimately resulted in the relief sought."

Judge Knapp's decision was appealed to the UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT in Richmond, Virginia. On May 2, 1982, Senior Circuit Judge Clement F. Haynsworth, Jr. and Circuit Judges H. Emory Widener, Jr. and Robert F. Chapman agreed with and affirmed the District Court's opinion.

In June, 1987, a Petition for Writ of Mandamus was filed by A. James Manchin, Treasurer of State of West Virginia, asking that the WVSSAC comply with statutory requirements of state agencies and that the WVS-SAC deposit with the State Treasurer, within 24 hours, "all monies received or collected by them for or on behalf of the State for any purpose whatsoever."

The Supreme Court ruled and Justice McHugh wrote the opinion in December 1987. This opinion stated that "Funds received by the West Virginia Secondary School Activities Commission, which operates pursuant to authority granted it by county boards of education under W.Va. Code 18-2-25 (1967), are quasi-public funds" as defined in W.Va. Code 18-5-13 (1987), and are to be accounted for in a manner similar to that provided for funds of county boards of education, but such funds are not to be accounted for under W.Va. Code 12-2-2 (1983) as "monies due the State." Consequently, the Writ of Mandamus on behalf of Treasurer Manchin was denied.

The titles Executive Secretary, Assistant Executive Secretary and Board of Appeals were changed by the Board of Control in April 2002 to Executive Director, Assistant Executive Director, and Board of Directors respectively.

A partial list						
showing the	1939-215	1952-287	1965-334	1978-310	1991-320	2004-299
number of	1940-219	1953-289	1966-333	1979-311	1992-306	2005-297
member	1941-220	1954-290	1967-332	1980-313	1993-306	2006-297
schools from	1942-221	1955-291	1968-327	1981-311	1994-306	2007-292
1931:	1943-214	1956-296	1969-317	1982-311	1995-307	2008-292
1931-135	1944-214	1957-305	1970-320+	1983-313	1996-308	2009-301
1932-193	1945-214	1958-318	1971-323	1984-321	1997-307	2010-293
1933-195	1946-219	1959-320	1972-318	1985-314	1998-304	2011-287
1934-198	1947-221	1960-320	1973-322	1986-313	1999-304	2012-287
1935-196	1948-222	1961-318	1974-322	1987-316	2000-304	2013-288
1936-205	1949-226	1962-321	1975-320	1988-316	2001-306	2014-288
1937-212	1950-228	1963-328	1976-313	1989-318	2002-300	2015-288
1938-218	1951-287*	1964-333	1977-312	1990-327	2003-296	2016-288
						2017-288
						2018-289

\*Hereafter this figure includes Middle School/9th Grade as members.  
 +Hereafter this number also includes Private and Parochial School Members.

### **NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS**

The National Federation consists of the fifty individual state high school athletic and/or activities associations and the association of the District of Columbia. Also affiliated are nine interscholastic organizations from the Canadian Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland-Labrador, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Quebec as well as the Canadian School Sports Federation and the associations of the Republic of the Philippines, Guam and Saint Thomas.

These associations have united to secure the benefits of cooperative action which eliminates unnecessary duplication of effort and increases efficiency through the pooling and coordinating of ideas of all who are engaged in the administration of high school athletic and activities programs.

### **ORIGIN AND GROWTH**

The national organization had its beginning in a meeting at Chicago on May 14, 1920. L.W. Smith, secretary of the Illinois High School Athletic Association, issued invitations to neighboring states, and state association representatives came from Illinois, Indiana, Iowa, Michigan and Wisconsin. The primary purpose of the meeting was to discuss problems which had resulted from high school contests which were organized by colleges and universities or by other clubs or promoters. In many cases, little attention was paid to the eligibility rules of the high school associations or to other school group regulations, and chaotic conditions had developed. At this first meeting it was decided that the welfare of the high schools required a more active part in the control of such athletic activities be exercised by the high school through the state associations, and this control necessitated the formation of a national organization. A Constitution and Bylaws were adopted and the group decided on the name "Midwest Federation of State High School Athletic Association." Principal George Edward Marshall, Davenport, Iowa, was elected president and Principal L.W. Smith of Joliet, Illinois, was elected secretary-treasurer.

In 1921, four states — Illinois, Iowa, Michigan and Wisconsin — continued their interest and became charter members through formal ratification of the constitution. Largely due to their efforts, the national organization grew during the early years.

In 1922, the Chicago annual meeting was attended by representatives from eleven states, and the name of the National Federation of State High School Athletic Associations was adopted. A number of college and university representatives who attended the meeting expressed sympathy for and interest in the efforts to introduce a high degree of order in the regulation of interscholastic contests.

Since that time, the National Federation has had a healthy growth to its present nationwide membership. By 1940, a national office with a full-time executive staff became necessary, and such office was established in September of that year.

The legislative body is the National Council made up of one representative from each member state association. Each representative must be a state association chief executive officer or governing board member. The executive body is the Executive Committee of twelve members from the eight territorial sections as outlined in the Constitution. Their election is by the National Council at its summer meeting.

### **STATEMENT OF PHILOSOPHY**

The purpose of the National Federation of State High School Associations is to coordinate the efforts of its member state associations toward the ultimate objectives of interscholastic activities. It shall provide a means for state high school associations to cooperate in order to enhance and protect their interscholastic programs. In order to accomplish this, the National Federation is guided by a philosophy consistent with the accepted purposes of secondary education. Member state associations' programs must be administered in

accordance with the following basic beliefs:

Interscholastic activities shall be an integral part of the total secondary school educational program which has as its purpose to provide educational experiences not otherwise provided in the curriculum, which will develop learning outcomes in the areas of knowledge, skills and emotional patterns and will contribute to the development of better citizens. Emphasis shall be upon teaching "through" activities in addition to teaching the "skills" of activities.

Interschool activities shall be primarily for the benefit of the high school students who participate directly and vicariously in them. The interscholastic activity program shall exist mainly for the value which it has for students and not for the benefit of the sponsoring institutions. The activities and contests involved shall be psychologically sound by being tailored to the physical, mental and emotional maturity levels of the youth participating in them.

Any district and/or state athletic meet competition to determine a so-called champion shall provide opportunities for schools to demonstrate and to evaluate the best taught in their programs with the best taught in other schools and in other areas of the state.

Participation in interscholastic activities is a privilege to be granted to those students who meet the minimum standards of eligibility adopted cooperatively by the schools through their state associations and those additional standards established by each school for its own students.

The state high school associations and the National Federation shall be concerned with the development of those standards, policies and regulations essential to assist their member schools in the implementation of their philosophy of interscholastic activities.

Nonschool activities sponsored primarily for the benefit of the participants in accordance with a philosophy compatible with the school philosophy of interscholastics may have values for youth. When they do not interfere with the academic and interscholastic programs and do not result in exploitation of youth, they shall be considered as a worthwhile supplement to interschool activities.

The welfare of the schools demands a united front in sports direction policies and the high school associations provide opportunity for this unity. **They must be kept strong!**

## GLOSSARY OF TERMS

**ALL-STAR GAME** - a contest where all contestants on each team are students selected from four or more school teams. No more than three students from any one school may participate on the same team.

**COACH** - county board/governing body contracted or approved facilitator of any secondary school athletic team.

**COMMISSION/WVSSAC** - West Virginia Secondary School Activities Commission

**CONTEST or GAME** – one or more of the following conditions are present: previous agreement, advertisement, score and/or time kept, spectators present, regulation or modified rules used, coverage appearing in local media, sufficient number of students to form teams, admission charged, and/or contest officiated by registered officials.

**EXTRACURRICULAR ACTIVITIES** - nonacademic activities such as interscholastic athletics, student government, class officers, marching band that is not a part of the curricular band, and clubs which are not closely related to identifiable programs/areas of study.

**FACULTY MEMBER** - one who has a full-time teacher permit as defined by W. Va. 126CSR136, WVBE Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification.

**FEEDER SCHOOL** - the school(s) designated by the county board of education/governing body as the school of attendance prior to entrance into the high school.

**GRID-O-RAMA/SOCCER-O-RAMA** – must adhere to rules of Preview and Scrimmage (see definitions).

**MEMBER SCHOOL** - a school that is a member of the WVSSAC.

**PREVIEW** - must be three or more teams; teams are only allowed to play the equivalent of one contest; all conditions of a scrimmage apply.

**PRINCIPAL** - the individual charged with supervision, management, and control of a secondary school.

**SCRIMMAGE** - after seven days of practice; prior to the first contest; without keeping score in a book or on a score board; not under game conditions (examples include basketball and soccer - quarters; three out-baseball and softball); admission may be charged; free substitution; time-outs permitted; if officials are used, they must be West Virginia registered officials.

**SEMESTER** - a block of instructional time that is equivalent to at least one-half of the academic year. (See W. Va. 126CSR42, WVBE Policy 2510, Assuring the Quality of Education: Regulations for Education Programs.)

**SECONDARY SCHOOL** - a high school or middle school as registered with the WVDE.

**STUDENT** - a male or female participant in interscholastic athletics or band activities.

**SUBSTITUTE TEACHER** - a person in a public school who has met the requirements as specified by the WVBE and has been approved as a substitute teacher of that county board of education, or a person who has met the requirements of the governing body of a private/parochial school.

**VARSITY** - primary representative team of a high school.

### BASKETBALL CLASSIFICATION FACTORS

This considers the following factors: enrollment, location and economics. These factors are given individual scores, which are then given a weighted aggregate total. All individual scores (scores for enrollment, location and economics) are normalized using maximum-minimum normalization using feature scaling, wherein their values fall between 0-1. Individual scores are calculated in the following ways:

- The **enrollment score** takes enrollment data and normalizes it on a scale from 0-1
- The **location score** is made up of two equally weighted pieces.
  - Part 1 is determined by taking the school county's population divided by the driving distance between the school and the county seat, that value is then normalized between 0-1.
  - Part 2 is calculated by finding the distance from the school to the closest city with a population of 10,000 or more, then normalized between 0-1. Each part is then multiplied by half of the location score weight.
- The **economic score** is determined by first calculating a county score where the z-score of the county's median household income is added to the z-score of the county's poverty rate and the sum is normalized between 0-1.
  - For all schools located within single high school counties, the county economic score serves as the school economic score.
  - For all schools located within multi-high school counties, Direct Certified numbers on students eligible for free or reduced lunch are used to scale the county economic score. The scaling is accomplished by comparing the Direct Certified numbers of each individual school with the county average.

Weights are applied to each score that are determined based on qualitative assessment by the WVSSAC Competitive Balance Committee. All county data (population, median household income, and poverty rate) are from the most recent US Census American Community Survey's Five Year Estimates and the distances are determined using Google Maps.

# Exhibit 49

Search

## **TRANSGENDER ATHLETES & PARTICIPANTS**

USA Rugby believes *everyone* should be not just be allowed, but encouraged to play rugby. Our sport is rooted in a deep history of inclusion and the belief there is a position for *everyone* on the field and in our sport.

USA Rugby strictly prohibits discrimination based on sexual orientation, gender identity and gender expression. The SafeSport program has been set up to give participants an outlet to report these incidents and they are encouraged to do so. Visit the USA Rugby SafeSport Page to find information on this program or to make a report.

Acknowledging the challenge of policies being altered at the international level of the International Olympic Committee and World Rugby, USA Rugby has taken steps to support the players, coaches, referees and administrators who may have questions around the inclusion of athletes of all genders. Any general questions around the policy process or our Transgender Athlete policy can contact the USA Rugby Diversity, Equity and Inclusion Committee at [diversity@usa.rugby](mailto:diversity@usa.rugby).

### **CURRENT POLICY**

USA Rugby currently adheres to the International Olympic Committee Transgender Policy, revised in 2015. That policy can be found [HERE](#).

In this spirit, the IOC Consensus Meeting agreed the following guidelines to be taken into account by sports organizations when determining eligibility to compete in male and female competition:

- Those who transition from female to male are eligible to compete in the male category without restriction.
- Those who transition from male to female are eligible to compete in the female category under the following conditions:
  - 2.1. The athlete has declared that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.
  - 2.2. The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition (with the requirement for any longer period to be based on a confidential case-by-case evaluation, considering whether or not 12 months is a sufficient length of time to minimize any advantage in women's competition).
  - 2.3. The athlete's total testosterone level in serum must remain below 10nmol/L throughout the period of desired eligibility to compete in the female category.
  - 2.4. Compliance with these conditions may be monitored by testing. In the event of non-compliance, the athlete's eligibility for female competition will be suspended for 12 months.

### **FOR ATHLETES**

Athletes with questions around their own playing eligibility you can start with Mike Keating, USA Rugby's Medical Director (mkeating@usa.rugby). The Medical Committee will confidentially help athletes to clarify the policy and answer additional questions around appropriate participation. When a more formal guidance is needed or when another team has a question about a player they participated against, a process has been approved for appropriate evaluation.

Any team with a question or challenge about a player's eligibility to participate, would submit a normal eligibility challenge through their league administration. League administrators can work with the USA Rugby Membership department (eligibility@usa.rugby) for challenges and guidance.

### ***EVALUATION PROCESS***

To initiate our process, an athlete asks to participate in an evaluation; or the athlete is referred to evaluation from an opposing team's challenge.

**Step 1:** Athlete participates in informal, confidential interview with a medical committee representative. Upon completion the athlete will either be released to play, or moves to step 2.

**Step 2:** Athlete participates in testing as designated. Upon completion of testing the athlete is either cleared to play, or moves to step 3.

**Step 3:** Athlete is referred to transgender eligibility work group for clarification on length of stand down of play or referral to appropriate playing opportunity.

### ***FOR COACHES***

Coaches with questions about an athlete or participation, you can refer to our policies above, but keep in mind it is not your place to question an athlete who may or may not be transitioning. Coaches should be prepared to have conversations with athletes and opposing teams around the subject of transitioning players as to not be surprised on a day of competition. Below you can find some resources around this preparedness.

Resources Available for Coaches, Athletes and Administrators:

1. World Rugby Policy Response
2. Champions of Respect - NCAA Resource for inclusion practices
3. On the Team - Inclusion of Transgender Athlete
4. NCAA Inclusion of Transgender Athletes
5. Athlete Ally for Coaches
6. Shape America - Best Practices for PE Teachers and Coaches

United States Anti-Doping Agency (USADA)

1. Therapeutic Use Exemption (TUE) Guidelines
2. TUE Application
3. World Rugby Regulation 21 (Anti-Doping)



General LGBTQ Resources

1. Human Rights Campaign Municipal Equality Index
2. Movement Advancement Project Equality Maps

Sports-Specific Websites

1. [transathlete.com](https://transathlete.com)
2. [athleteally.org](https://athleteally.org)
3. [campusprideindex.org/sports/index](https://campusprideindex.org/sports/index)
4. [sportsinclusion.wix.com/sportsinclusion](https://sportsinclusion.wix.com/sportsinclusion)

LGBTQ General Websites

1. [hrc.org](https://hrc.org)
2. [glsen.org](https://glsen.org)
3. [glaad.org](https://glaad.org)
4. [nclrights.org](https://nclrights.org)

# Exhibit 50

# Guidance for Transgender Inclusion in Domestic Sport



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## Foreword from our CEOs

We want sport to be a place where everyone can be themselves, where everyone can take part and where everyone is treated with kindness, dignity and respect.

Over the past 18 months we, the five Sports Councils responsible for supporting and investing in sport across England, Wales, Scotland and Northern Ireland, have been working together to develop new guidance to support the inclusion of transgender people in sport, recognising that the existing guidance from 2013 was out of date and no longer fit for purpose.

We also recognised that sport at every level required more practical advice and support in this area to be able to maximise opportunities for inclusion and accessibility.

The ultimate aim of this work is to better support our partners in understanding current needs and challenges in this area and to ensure that sports can make informed decisions in seeking to become as inclusive as possible. The guidance has been developed following a review which was divided into two parts.

One involved an extensive independent consultation which considered the views and experiences of hundreds of people within sport, from grassroots through to elite competition. Specialist groups and individuals were also consulted by interviews and surveys and the respondents were a diverse group spread across more than 54 sports and representing 175 organisations. We want to thank everyone who gave up their time and took part, particularly because we know that for many, doing so was challenging and emotive. We are hugely grateful for your input.

The second part of the review explored the background to current policies domestically and internationally and considered the latest scientific findings relating to the inclusion of transgender people in sport, such as testosterone suppression in transgender women, and the use of case-by-case assessments. It explored and considered up-to-date peer reviewed and published studies, up to early 2021.

While our consultation found that there was widespread support for ensuring that sport was a welcoming place for everyone in society, including for transgender people, it also highlighted that there were concerns relating to safety and fairness in relation to transgender inclusion, particularly in female sport, and that there was no consensus on a single solution as to how this should be addressed.

It was clear too that a wider range of solutions than those that are currently on offer needed to be identified so that everyone taking part could do so in a fair, safe and inclusive way.

Our work exploring the latest research, evidence and studies made clear that there are retained differences in strength, stamina and physique between the average woman compared with the average transgender woman or non-binary person registered male at birth, with or without testosterone suppression.

Based on our conclusions, we are publishing suggested recommendations for the National Governing Bodies (NGBs and Scottish Governing Bodies (SGBs we work with and a framework for them to consider when they are developing their own policies in this area, as well as a summary of the research we considered.

This will support NGBs and SGBs and other partners to define the best options for their activity, depending on their own assessment as to their priorities, and consider a range of options as to how they might achieve those. We believe that this provides a significantly stronger, more specific, and authoritative framework than has ever existed before in relation to transgender inclusion in sport.

Our recommendations encourage our NGBs and SGBs to think in innovative and creative ways to ensure nobody is left out.

We want this guidance to open up, rather than close down opportunities for everyone, recognising that many other people already feel excluded from sport and physical activity.

We now want to see meaningful and respectful consultation in developing these approaches, which we hope will facilitate increased transgender participation and help sport to become more open, inclusive and diverse. We all recognise that in order to survive and thrive in the future, sport must adapt to reflect modern society, and that often, it is too slow to do so.

Society is changing, and sport must face the challenge of accommodating participation from every group – even if this means recognising that their traditional structures are not always set up to do so. We believe that this guidance therefore offers a chance for a reimagining of what sport can look like – and we will work closely to support those sports who want to embrace this fresh thinking.

We will be alert and responsive to emerging research and evidence and will commit to reviewing the guidance on a more regular basis to ensure it is fit for purpose. We also commit to continuing to work closely with our partners to support them to navigate the use of the guidance to help them make informed decisions for their sport.

This has been a challenging and emotive piece of work – but we believe we are putting forward pragmatic solutions for sports to work with, so sport can be a place where everyone can take part.

# Introduction

As set out in the foreword from our CEOs, The Sports Councils' Equality Group (SCEG) commissioned a review of its existing Guidance (2013/15) for the inclusion of transgender people in sport last year, recognising that sport at every level required more practical advice and support.

This review investigated the views, knowledge, and experience of hundreds of people with a lived experience in sport, including transgender people, and also explored the background to current policies domestically and internationally and considered the latest scientific findings affecting the inclusion of transgender people in domestic sport.

It was clear throughout that this is a complex area, and that there is an ongoing requirement for education and engagement with the aim of creating an environment in which the inclusion of all people in sport and physical activity is expected, accepted and celebrated.

There are a number of supporting documents to this Guidance, which gives further background and understanding of the recommendations. You can find these documents at <https://equalityinsport.org/resources>.

## Summary of what the review found

The review found that while there was widespread support for ensuring that sport was a welcoming place for everyone in society, there were some concerns relating to safety and sporting fairness in the inclusion of transgender people, particularly transgender women, and no consensus on how this should be addressed.

Two divergent groups emerged amongst respondents. One group believed wholly in the value of inclusion over and above anything else and believe that transgender people should be able to take part in sport at every level with limited to no restrictions.

The second group believed in what they would describe as fair sporting competition and adherence to rules which give sport validity – and therefore, they believe that transgender participation should be subject to regulation.

The review concluded that the views of these two groups couldn't be reconciled within the existing structure of sport and that the system requires a reset and fresh thinking.

The overarching recommendation is that NGBs and SGBs are encouraged to enter a decision-making process, set out below, in which they can best accommodate transgender inclusion, fairness, and safety in their sport.

## **What the review is recommending**

As a result of what the review found, the Guidance concludes that the inclusion of transgender people into female sport cannot be balanced regarding transgender inclusion, fairness and safety in gender-affected sport where there is meaningful competition. This is due to retained differences in strength, stamina and physique between the average woman compared with the average transgender woman or non-binary person assigned male at birth, with or without testosterone suppression.

Sports, however, are incredibly diverse and there can be no 'one-size fits all' approach. This review has concluded therefore that, for many sports, there may not be a common single competition model which will meet the needs of full transgender inclusion while retaining competitive fairness, particularly in female sport.

We are therefore encouraging and advising NGBs and SGBs to define the best options for their sport and determine whether it may be possible to offer more than one version of their sport to achieve the different aims.

NGBs and SGBs are encouraged, and will be supported, to use the decision-making framework set out below, in which they can consider how gender affected their sport is, and if appropriate, consider how this might be modified and adapted to offer multiple competitive or participation models.

The Sports Councils are committed to facilitating and promoting the education and decision-making process to enable NGBs and SGBs to make the best decisions for their sport and for their communities.

This Guidance also sets out the underlying principles which NGBs should consider when developing policies in this area, which are designed to create opportunities for sport to increase inclusion and the breadth of sport for everyone in society.



# Guiding Principles

These 10 Guiding Principles are for sports to use when developing policies in this area:

**1. All of the Sports Councils are committed to the inclusion of transgender people in sport and physical activity.**

In keeping with the findings of this review, the goals of acceptance, social inclusion and physical activity may be best achieved outside of the sex binary in grassroots and domestic sport. The introduction of new and different models within sport offers an alternative option to meet the needs of people across all the strands of the Equality Act.

**2. Categorisation within the sex binary is and remains the most useful and functional division relative to sporting performance.**

This categorisation acknowledges the broad ranging and significant performance differences between the sexes. Hence, sports should retain sex categorisation, along with age and disability (and weight as appropriate) categories.

**3. Evidence indicates it is fair and safe for transgender people to be included within the male category in most sports.**

This is on the assumption that the transgender person will generally be using testosterone supplementation, for which a Therapeutic Use Exemption (TUE) will be required in many sports. The NGBs and SGBs of contact, collision or combat sports in which size may impact safety considerations may consider further parameters to ensure safety of transgender people, including transgender men, non-binary and gender fluid people recorded female at birth.

**4. Competitive fairness cannot be reconciled with self-identification into the female category in gender-affected sport.**

This principle is in keeping with the provisions of the Equality Act, and acknowledges the average differences in strength, stamina, and physique between the sexes.

Self-identification through the 'acceptance of people as they present' may be appropriate in those sports which are not gender-affected. In this instance, for clarity and inclusion, these sports may appropriately be considered 'mixed' or 'universal' sports, in which everyone may participate and compete together.

**5. Based upon current evidence, testosterone suppression is unlikely to guarantee fairness between transgender women and natal females in gender-affected sports:**

- a) Transgender women are on average likely to retain physical advantage in terms of physique, stamina, and strength. Such physical differences will also impact safety parameters in sports which are combat, collision or contact in nature.
- b) Recent international policy on testosterone limits are set at a level below 5nmol/L in sports which choose to provide entry into female sports for transgender women. This is more appropriate than the 10nmol/L which is stipulated by the International Olympic Committee and which remains within the normal range for males. The current preliminary 12-month period is unlikely to result in the achievable minimisation of physical capacity.

**6. 'Case-by-case' assessment is unlikely to be practical nor verifiable for entry into gender-affected sports.**

NGBs may wish to consider the following when determining the appropriateness of this:

- It has not been scientifically validated as to whether any parameters of physical capacity or ability can be defined with a certain cut-off point at which someone is considered appropriately 'female' or appropriately 'male'.
- Many tests related to sports performance are volitional. This means a person must try their very best to get an appropriate measurement. It is difficult to foresee how someone could be expected to provide maximal effort when a positive outcome for them relies on achieving a lesser result.
- Panel members are unlikely to be able to manage a situation in which their decisions can determine the suitability of some individuals, and not others. In the absence of a scientific rationale this places the panel members in a difficult situation.
- Case-by-case analysis may fall outside of the provisions of the Equality Act (whereby provision is for average advantage not individual advantage) and may be based on criteria which cannot be lawfully justified. Some transgender people will be included, some will be excluded through criteria outside of their own control.

**7. Categorisation by sex is lawful, and hence the requirement to request information relating to birth sex is appropriate.**

No individual is compelled to provide any information to a sports organisation. However, failure to provide such information would mean that person may not be able to compete in the category of their choice. Sports should provide options for those people who prefer not to advise of their sex or gender.

All data acquired by a sporting agency should be afforded appropriate protection under the Data Protection Act 2018.

**8. There are likely to be times in which some transgender people cannot or choose not to be registered, either in the short or long-term, within sex binary categories.**

It is imperative that gender-affected sports provide other opportunities for participation in these cases.

**9. The ability of NGBs and SGBs to provide the best mix of sporting options for the broader community may be determined by whether a model is intended as physical activity and participation, or whether it represents 'meaningful competition'.**

An assessment of the merits of fairness and/or inclusion can be determined by the sports' stakeholders to inform policy development, and whether this should be different at different levels of sport.

**10. Achieving inclusion across all the strands of the Equality Act is complex and nuanced.**

It is recognised that many NGBs and SGBs may find the task of developing appropriate policy and protocols both difficult and time-consuming. It is important that views of a wide range of stakeholders are canvassed and that everyone is given an appropriate platform in which to contribute, and that different views and experiences are heard and respected. The Sports Councils are committed to facilitating education and decision making within sports in the UK.

## The way forward

For many NGBs, the development of policy and practice will depend on a closer understanding of the gender-affected nature of their sport, and the priorities which they place on transgender inclusion, fairness and safety. The following table and considerations are offered as a starting point for sports to analyse their current competition format.

In accordance with the Equality Act 2010: A gender-affected activity is a sport, game, or other activity of a competitive nature in circumstances in which the physical strength, stamina, or physique of average persons of one sex would put them at a disadvantage compared with average persons of the other sex as competitors in events involving the activity.

Some useful questions for NGBs and SGBs to consider in order to help them to make informed decisions in seeking to become as inclusive as possible, are:

Question	Considerations
Is your sport 'gender affected', and how is that manifest?	Most, but not all sports are impacted by the physical differences between males and females. Sports which are mainly skillful may not be gender-affected.
Does your sport reward greater strength, stamina or physique?	If there is a material advantage for being bigger, stronger, fitter and faster in your sport then it is likely that it is gender-affected.
If your sport is not gender affected, or some forms of your sport are not gender affected, what are the reasons to retain sex categories for that competition in the future?	This might include considerations of socio-cultural factors, or aspects such as faith or ethnic groups.
What is the purpose of the sex categories in your sport?	This refers to whether your sport considers that the categories exist to provide inclusion or whether it is to provide fairness in competition.
Do you consider inclusion to be the first priority?	If so, then your decisions are based around this priority.
Is fairness paramount to your sport? Is safety paramount to your sport?	Again, if these are the priorities then that informs your decision-making.
Could your sport offer alternative competitive models which may be specific to inclusion or fairness but not necessarily both?	If novel or modified versions of your sport could be developed, then this could increase options for inclusion.
Does your sport currently accommodate consideration of female characteristics such as smaller playing surface, lighter weighted implements, lower net or hurdle height, shorter length of event or distance covered?	If so, it may mean that fairness cannot be achieved alongside inclusion in this format of your sport.

Question	Considerations
Does your sport have modified rules for females, males or other categories such as juniors?	This is the case for some sports and would potentially require modification to promote inclusion.
Does, or could your sport offer modified versions of your playing rules?	This would assist inclusion if at all possible.
Are there some versions which are more specific to categorisation for competitive fairness, and others which would be more appropriate for inclusive sport?	If so, this might create opportunities for inclusion through different models within your sport.
Do you think the emphasis on inclusion and fairness should be different between grassroots community participation compared with sport which offers 'meaningful competition'?	It is important to consider how competitors assess their involvement in sport. Some grassroots sports may be fiercely competitive, and other high-level sport may be considered non-competitive by the participants.
Do you believe your sport's categorisation gives fairness within and access to competition to all participants?	Consultation is needed within your sport to ensure opinions are sought from a range of stakeholders.
Does your sport offer secondary or consequential reward to those who are successful? Does your sport consider this to be an outcome of fair competition or inclusion?	This might relate to things like prizes or winning scholarships, or gaining entry to courses in higher education, or a professional career in sport.
Is your sport able to offer non-competitive outcomes irrespective of the level of competition?	This is relevant if there is an opportunity for 'social' or 'recreational' sport for your participants or club members.

## Hierarchy of 'contact'

This relates to perceptions of both fairness and, more importantly, to safety as a criterion for gender-affected sport. The nature of a given sport allows for different rules/laws and different degrees of physical contact with opposing competitors. Sports can be viewed on a continuum ranging from zero contact to full-force striking and grappling of opponents.

An understanding of levels of physical contact provide an extra dimension of safety, whereby the factors of strength, stamina and physique puts one sex (female) at a disadvantage and present greater risk of injury.

A hierarchy can be presented as:

- 1 Sports which compete in parallel: for example, gymnastics, dressage, skateboarding, downhill skiing, track sprints, rowing, darts, pool swimming.
- 2 Contact sport (within the same space): for example, netball, basketball, football, hockey, some track and road cycling, athletics track races over 400m.
- 3 Collision sports: for example, both rugby codes.
- 4 Combat sports: for example, boxing, taekwondo, judo, karate.

## Other considerations and examples of assessment of gender-affected sport

Some sports are more attributed to skill, or may have an 'implement', which may limit the gender-affected nature of competition, for example:

- Darts, curling, bowls, shooting, snooker, equestrian.

Sports which rely significantly on physical capacity – physique (including height), strength, stamina – despite not being contact or collision sports, will be considered 'gender-affected', for example:

- Rowing, volleyball, climbing, athletics.

Some sports which use implements may or may not have consideration for physical capacity, for example:

- Archery, motorsports.

Some 'judged sports' are more dependent on skill rather than strength, such as rhythmic gymnastics. However, some have significant physical factors of strength, stamina, and physique due to the nature of the activity, such as artistic swimming. Those sports which use lower nets, shorter boundaries, or lighter implements in female competition implicitly recognise themselves as 'gender-affected', and this acknowledges direct competition between the sexes is considered unfair (and perhaps unsafe). Many sports have an age after which mixed competition is prohibited, and it is evident from such rules that mixed competition after this age is considered unfair and/or unsafe.

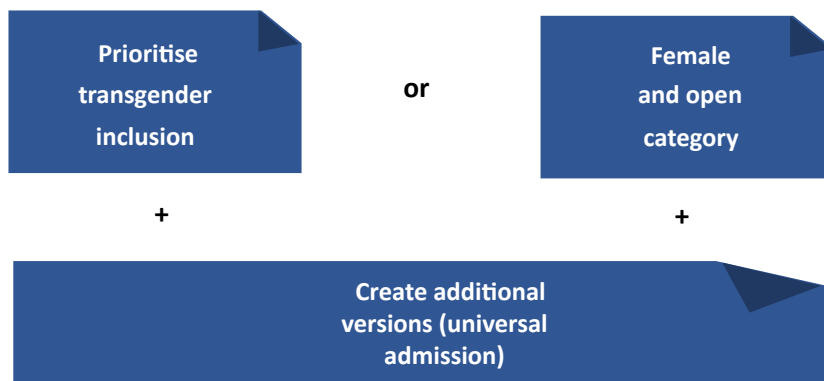
Objectively measured, individual sports may be able to use competition records to make comparisons of physical performance between the sexes, while other sports (such as most team sports) will need to rely on contributing information. It is also relevant to consider the effects of gender-affected sport within a team, and not just compared with the opposing team. In this way, aspects of fairness and safety will also impact decisions around selection within a team and across a club or association.

An assessment should be made as to whether a sport considers all levels of grassroots and domestic competition and participation should retain similar policy and rules, or whether there are different imperatives at varying levels of competition. Estimation of safety is relevant at all levels of sport, and in some cases may be more important at community-level competition where lower skill level may increase risk.

### Three options to be considered

This Guidance suggests the following three options be considered by each governing body.

These options are stated in no particular order and for the avoidance of doubt, are not stated in the order of importance. Each of transgender inclusion, fairness and safety are important, but the role each may play in different individual sports will differ, due to the nature of the sport.



The choice of competitive format is not intended to be mutually exclusive, and NGBs and SGBs can opt to provide competition in more than one model. The Sports Councils encourage all NGBs and SGBs to be creative and accommodating in order to be maximally inclusive for all participants including, if possible, disabled participants and people across the age groups. Different formats of competition will also allow participation for those people who may self-exclude from a holistically inclusive environment. SCEG can offer advice and education to assist NGBs and SGBs in making plans and policy for sport programmes.

Given the assessment of the nature of the sport, along with the priorities of transgender inclusion, fairness, and safety, the following choices are suggested: if a sport is deemed to be gender-affected it should offer either the option relating to transgender inclusion, or the option relating to fairness.

Where possible, NGBs and SGBs should also offer an appropriate version of the option relating to safety as well, within the confines of the sport.

Where appropriate, NGBs and SGBs will need to consider pathways for elite performers into national competition, and compliance with regulations from international federations.

### **Prioritise transgender inclusion**

Based on the current system, which prioritises inclusion of transgender people into existing sex categories of gender-affected sport.

This is 'management' of the inherent differences between the sexes for transgender people wishing to compete in their affirmed gender (and for non-binary or gender fluid people who wish to compete in the sex category not aligned to sex registered at birth). As outlined earlier in Principles 4, 5 and 6, no current method of inclusion of transgender people can guarantee sporting fairness for the female category. Hence, this option is considered appropriate for a sport which has determined that inclusion rather than fairness is the objective of the category. In most sports, transgender men will be able to compete without restriction in the male (or open) category. However, those sports which include collision or combat may wish to institute safety guidance for the sake of the transgender competitor.

Those gender-affected sports which wish to include transgender women, or non-binary or gender fluid people recorded male at birth, within the female category should institute testosterone limits defined by blood tests. More recent policy indicates a level less than 5 nmol/L is more appropriate than the level of 10nmol/L (and per protocols defined in international sport) for a preliminary period before entry into the first competition, and then maintained for as long as the transgender person remains competitive. Current evidence indicates 12 months is likely to be too short a time to minimise performance differences. As testosterone blood levels can vary over a short time period under most treatment regimes, tests should be conducted at least quarterly, and can include further markers of testosterone suppression. Considerations include the need to have a dedicated officer who is able to administer athletes' test results throughout the competitive and off-seasons. Should any athlete be away from testing for any time, they should complete another preliminary period before they can compete again.

Transgender men should not compete in female categories once treatment with testosterone commences, as this would constitute a doping violation as per UK Anti-Doping (and World Anti-Doping Agency) regulations. All competitors, at any level of competition, must adhere to anti-doping regulations and this includes use of TUEs for prohibited medications.

### **Female and open category**

NGBs and SGBs may choose to offer sport in which the female category is protected for reasons of competitive fairness and/or safety if they are gender affected. These sports would offer both a female category and an open category. Female entries would be required to declare themselves as recorded female at birth.

An open category would be available for any competitor to enter. Some sports may choose to acknowledge safety parameters as part of team selection in contact sports.

All competitors will need to be compliant with anti-doping regulations, including in relation to prior or current use of anabolic agents, including testosterone.

It is lawful to offer sex categories in sport through the provisions in the Equality Act in respect of gender-affected sport.

### Create additional versions (universal admission)

A third option for many sports would focus on universal community inclusion which may not require estimation of ability.

NGBs and SGBs are encouraged to develop a model of their sport in which participation is not dependent on a competitor's sex or gender, and the classification based on the sex binary is withdrawn for this competition. Registration for these competitions will not require declaration of any determinant beyond entry above a nominal age (this may be above the age of 12, depending on the rules of sport competition and physical contact level). All people, including transgender people who are transitioning, those who do not seek to transition, and those who may de-transition or be gender fluid, should be able to compete within a universal admission policy.

Sports which are not gender-affected may choose to offer universal admission as the primary form of competition. However, it must be recognised that a universal admission policy may not equate to full participation for many reasons, one of which may be self-exclusion.

How best to develop a model of this will be based on decisions relating to how a sport manifests being 'gender-affected' and whether this relates to level of contact, and hence safety, or whether it is because of the physical nature of competition which is relevant to fairness (or both). Further, an understanding of the role of the competition is important; whether it is purely for recreational participation or whether it offers meaningful competition. For many sports it will be a combination of factors. In keeping with Principle 6 (case-by-case assessment), it is likely to be impractical and invalid for methodology around body type to be instituted for categorisation.

Sport with a universal admission policy will have modified rules such that it can be played by all people, and for which fairness and safety can be optimised. These models may already exist in some sports. As much as is possible all adults, including disabled people, should be factored into these offerings. Adaptations of rules include non-contact versions of team sports, handicap competitions, modified playing areas or implements/balls, walking versions of team sports, multi-events and non-traditional formats, distances or length of play. Some sports (such as golf) already have an acknowledgement of 'handicap', and others have options for such modifications (some running, swimming and cycling events). Modern sports allow opportunities to adapt scoring systems to accommodate a wide range of participants, as practiced in some para sports.

It is acknowledged that for some NGBs there will not be an option for universal admission, and this includes those sports which are inherently gender-affected due primarily to safety concerns: modifications to remove physical contact may be impractical, and this includes most of the combat sports. However, elements of such sport, such as competitive 'kata' in karate, may be appropriate.



# Conclusion

This Guidance concludes that for many sports, the inclusion of transgender people, fairness and safety cannot co-exist in a single competitive model.

Each NGB and SGB should use the framework provided to define the priorities for their sport, and whether the current format of their sport will provide a focus on either inclusion or fairness (and safety where relevant). This is a choice.

Where a governing body considers that transgender inclusion, fairness, and safety are all priorities, then a model for decision making around the best options and opportunities should be developed.

Some governing bodies will need to create a mechanism whereby domestic competition can lead to an international competition pathway.

The Sports Councils will work with NGBs and SGBs in order to find the optimal outcome for their sport. Education and training in policy development will be offered to facilitate best practice and the greatest opportunities for inclusion in sport.

**For further background, you can read the supporting documents to this Guidance at <https://equalityinsport.org/resources>.**

# Exhibit 51



## FAQs

### Why did you carry out this review?

The existing guidance set out by the Sports Councils' Equality Group (SCEG) around transgender inclusion in sport from 2013 was out of date. We recognised that sport at every level required more practical advice and support in this area to be able to maximise opportunities for inclusion and accessibility.

### How did your review work?

Our review took the form of an in-depth consultation alongside a review of peer-reviewed public studies. The consultation included a mixture of face-to-face interviews and written surveys across a huge diversity of sports and countries- with 300 individuals from 27 countries and 175 organisations involved. Consultees were a mix of individuals, organisational representatives, current and former athletes, people from the LGBT+ and women's groups and communities, and other specialist groups. The additional work explored and considered the most up to date peer reviewed and published studies to early 2021.

### What did the consultation find?

It found that there was widespread support for ensuring that sport was a welcoming place for everyone in society, including for transgender people. It also, however, highlighted that there were concerns relating to safety and fairness in relation to transgender inclusion, particularly in female sport and that there was no consensus on a single solution as to how this should be addressed.

### What did the review of published studies find?

Long-term evidence indicates that males have numerous physical advantages in sport compared with females, and this is recognised in law in 'gender-affected sport'. Current research indicates that testosterone suppression does not negate this physical advantage over females and so cannot guarantee competitive fairness and/or safety. This information is explained further in the Guidance and in full in the documents on Scientific Research and Policy.

### What did the Review Conclude?

The Review concluded that transgender inclusion, fairness and safety cannot be balanced in gender-affected sport, but rather need to be prioritised across different options available to each sport. These options are explained in the Guidance Document.

### What do you mean by the words Inclusion, Fairness and Safety?

We accept that different people have a different understanding of what the terms 'inclusion', 'fairness' and 'safety' mean. For the purposes of this work, we are using 'inclusion' to mean the inclusion of transgender people into the category of their choice. 'Fairness' means competitive equity in relation to the sex category, and as defined within the Equality Act in relation to strength, stamina and physique in gender-affected sport. 'Safety', which is also referenced in the Equality Act, refers to safety from the risk of injury.

## **What is a gender-affected sport?**

A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared with average persons of the other sex as competitors in events involving the activity.

## **How is the guidance going to help sports to make decisions?**

The guidance provides content and a framework on which sports can make decisions and sets out some of the options a sport might consider, from prioritising transgender inclusion, or protecting the female category, and to additionally introducing universal admission.

## **What science is this based on?**

The review has explored and considered the most up to date peer-reviewed and published studies up to and including early 2021. The references of the scientific research are given in the accompanying documents to the Guidance. The Sport Councils are committed to reviewing the guidance regularly to ensure it aligns with the latest research and recommendations.

## **Are you confident the research this is based on is robust?**

The research this is based upon has been peer-reviewed and is publicly available, but we acknowledge that this is an evolving space, and we will continue to review all available information as it emerges.

## **Is this for grassroots or elite?**

This guidance is intended to support domestic UK sport, which we determine as any sport where there is meaningful competition at a community to national level, and not at an international or elite level, where guidance or regulations are covered by international federations or other bodies.

## **Why aren't you giving definitive advice to sports?**

This is a complex area and what is right for one sport may not be right for another. None of the Sports Councils are regulators and we all understand that there is no one solution to suit everyone. Our aim is to ensure we support sports in finding opportunities to achieve inclusion, fairness and safety, and we will provide a framework for sports to do so.

## **The guidance is different to current IOC guidelines, will that cause an issue for sports?**

The IOC announced recently that their guidelines are no longer fit for purpose, and they are continuing to review them.

## **What does this mean for transgender people already taking part in sport?**

Sports across the UK want to be as inclusive as possible, and we believe individual sports will continue to work closely with and speak with those who are currently participating as part of any assessment that they might undertake. The intention of this guidance is to encourage sports to think in innovative and creative ways to ensure nobody is left out, and that there are more opportunities in sport for everyone.

### **Is testosterone reduction deemed sufficient for transgender women to take part?**

This is set out in the document. The research we currently have shows that testosterone reduction or suppression does not negate all the physiological advantages of having developed testosterone driven strength, stamina and physique.

### **What do you hope to see in the next 12 months?**

We hope to see sports bodies across the UK engaging in the conversation around transgender inclusion in sport in a respectful way and develop policies in this area which help facilitate access for everyone to participate.

### **How are you supporting sports to follow the guidance?**

We will be engaging with governing bodies to raise awareness around transgender inclusion in sport following the release of the guidance and research and will be working with them to review and develop their policies in line with the needs of their sport.

### **What sports could there be a safety issue with?**

We know that some contact, collision and combat sports have concerns on how to ensure safety while also looking to provide transgender inclusion and are actively working to address this.

### **Are you committed to wider inclusion across sport?**

The Sports Councils are united in their belief that everyone should have the opportunity to access sport and physical activity. The evidence that is included within this guidance demonstrates that it is not possible to achieve an equal balance between transgender inclusion, fairness and safety, particularly in female sport. This is also the case in other categories in sport where eligibility is determined to provide safety and/or fairness as well as inclusion, such as Masters' competitions which are age restricted, or classifications in disability sport. We encourage sports to consider how they can best support inclusion for everyone in their sport and we will be working with partners to learn from some new approaches in this area.

### **How can this guidance be called 'transgender inclusion' when it doesn't deliver on full inclusion across all sport?**

The guidance exists to help sports to adapt so that everyone can take part. Inclusion is the goal – but the review we carried out made it clear that balancing transgender inclusion, safety and fairness at all times is not possible in every sport. The guidance recognises that there needs to be different solutions for different sports, so it is about acknowledging the needs of different groups.

# Exhibit 52

# Transgender Women Guidelines

## Can transgender women play rugby?

- Transgender women who transitioned pre-puberty and have not experienced the biological effects of testosterone during puberty and adolescence can play women's rugby (subject to confirmation of medical treatment and the timing thereof)
- Transgender women who transitioned post-puberty and have experienced the biological effects of testosterone during puberty and adolescence cannot currently play women's rugby
- Transgender women can play mixed-gender non-contact rugby
- World rugby are committed to ongoing evaluation of the guidelines and will remain current on all published research that pertains to the biological and physiological implications of testosterone suppression, with a formal review of the Guideline every three years. In support of this, World Rugby will prioritise support for high quality research projects on transgender rugby players, as part of this commitment to evidence-based guidelines.

## Why can't transgender women play women's rugby?

## Effects of testosterone

[Redacted content]

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Testosterone is an androgenic-anabolic hormone whose functions include reproductive maturation, along with the genesis of male secondary sex characteristics. From puberty onwards, testosterone levels increase 20-fold in males, but remain low in females, resulting in circulating testosterone concentrations at least 15 times higher in males than in females of any age [1,2]. Among the biological changes initiated by testosterone and its derivatives are:

- Larger and denser lean muscle mass [3,4];
- Greater force-producing capacity of skeletal muscle [5,6];
- Stiffer connective tissue [7];
- Reduced fat mass and different distribution of body fat and lean muscle mass [3];
- Longer, larger and denser skeletal structure [8,9];
- Changes to cardiovascular and respiratory function that include higher haemoglobin concentration, greater cross-sectional area of the trachea and lower oxygen cost of respiration (as described in [1,10-12]).

Collectively, these biological differences account for large sporting performance differences between males and females. These include gaps between 9% and 15% for running, swimming and jumping events [13], between 15% and 35% for functional tasks like kicking, throwing, bowling and weightlifting, and in excess of 50% for tasks that involve upper body force production [10], since the biological effects of testosterone creates disproportionately greater strength on their upper compared to lower body, while females show the inverse [14,15]. In weight-lifting events, for instance, even when matched for mass and stature, males lift approximately 30% more weight than females. Evaluated differently, males are able to lift weights similar to females who weigh 30% to 40% more than them [10]. Functional movements such as explosive jumping are similarly larger in elite males than females, with approximately 30% more power generated during a counter movement jump [10].

The result of these biological differences is that males outperform females in all sporting activities where speed, size, power, strength, cardiorespiratory and anthropometric characteristics are crucial determinants of performance. This is true for many thousands of boys and men who have undergone a testosterone-



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performance differences varies depending on the contributions made by each of the biological variables to performance, and indeed, some may be detrimental to performance in some events (mass during endurance running or cycling events, for example). Generally, however, there is no overlap in performance between males compared to females at all matched levels of competition from high school to the elite level. The performance disparity is illustrated by the observation that thousands of teenage boys and adult males are able to outperform the very best biological females every year [13].

Similar performance differences between males and females have been described in non athletically trained individuals. Males have muscle mass 30% to 40% greater than females [4], maximal cardiorespiratory capacities (VO<sub>2</sub>max) 25% to 50% greater than in females [17], cardiovascular parameters between 11% and 43% greater than in females, lower limb strength approximately 50% higher than in females across the lifespan, and upper body strength 50% to 100% higher than in age-matched females [6]. Even when elite females, trained in sports where grip strength is an important component of performance (Judo and handball), do not outperform untrained males in a grip strength task, with the very best female performance corresponding to approximately the 58<sup>th</sup> percentile for males, and a 26% advantage for untrained males compared to typical elite females. Punching performance, a composite movement reliant on strength, power, co-ordination and mass, has been found to be 162% higher in males than in females [18], and 17-year old boys are able to throw a ball further than 99% of adult females [19].

## Biological consideration for rugby union

The implications of biological and performance differences for rugby are two-fold. First, significant differences in strength, size, speed and power have potential consequences for the safety of participants in rugby, where much of the sport involves contacts in the form of tackles, rucks and mauls, as well as numerous periods of high force production during static contests for the ball, such as the scrum and ruck. Given the documented risk of injury in rugby from contact events in particular [20-24], the elevated possibility of all injuries, including serious injury, from large disparities in size, speed, power, and force, is of concern. Recent modelling of tackles using validated biomechanical models [25,26] suggests that the

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greater risks for smaller and slower players, particularly when size and speed exist in combination.

Given that the typical male player mass is 20% to 40% greater than typical women mass, that males have strength 40% to 80% greater (unadjusted for mass), and that men are 10% to 15% faster than women despite being heavier, the risk of injury created by large imbalances in mass and speed may be considered significant. To explore this, we assessed the range of masses of players at the international level and applied the findings to a biomechanical model to explore possible implications for injury risk should cross-over scenarios occur.

With respect to mass, we documented the range of sizes of elite men's and women's players from the 2011 Rugby World Cup up to the 2019 Rugby World Cup, finding:

- Typical (median) men's players are 41.1% heavier than typical women's players (103 kg vs 73 kg)
- Among forwards, the heaviest 1% of women players are smaller than the typical men's forward (109kg for women vs 112kg for men)
- The heaviest 1% of women's backs are smaller than typical men's backs (89kg vs 92kg)
- The lightest 1% of men's forwards are approximately equal in mass to the heaviest 10% of women's forwards, while the lightest 2% of men's backs are approximately equal to the heaviest 10% of women's backs
- Figure 1 below shows the frequency histograms for men's and women's players in forward and back positions

**Figure 1: Frequency histograms of mass of forwards (left panel) and backs (right panel) in elite men's and women's rugby players. Dotted lines indicate the 50<sup>th</sup> percentile, while dashed lines indicate the 98<sup>th</sup> percentile for each group.**

## Implications for injury risk - head injury models

The differences observed between men and women with respects to mass may be combined with differences in speed to create a theoretical framework in which the inertial load and forces faced by smaller and slower player is significantly greater when in contact with a larger, faster player. this model is intended for illustrative purposes and demonstrates the impact of only one variable known to differ between biological males and females - namely mass - on head injury risk, in a basic parametric model, absent force application and complex movements, as a preliminary impact analysis. the principles illustrated by the model would apply to other injuries. The addition of speed, and strength or force exerted during contact would further increase the implications of the findings of this illustrative model, summarized below.

The representative figure below illustrates the concept of mass disparity as a risk of injury for ball carriers. It depicts the linear acceleration (A), angular acceleration (B), neck force (C) and neck moment (D) experienced by ball carriers of different masses when tackled by players with different masses. Using the known masses of international rugby player, the position of the average male (M50) and average female (F50) are plotted on each heat map. F90 shows the scenario where a tackler (T) corresponds to the 90th percentile for women's mass (see Figure 1) tackles a typical female mass ball carrier (BC). X indicates the hypothetical cross-over scenario in which a typical male tackler mass is involved in a tackle against a ball carrier with a typical female mass.

**Figure 2. Graphical representations of linear acceleration (A), angular acceleration (B), neck force (C) and neck moment (D) for ball carriers of different masses during tackles by tacklers with different masses. Mso and Fso show the modelled situation when typical/median players tackle one another for men and women, respectively. F90 represents a female ball-carrier with typical mass against a tackler in the heaviest 10% of women's body mass. X denotes the cross-over situation that would hypothetically occur for a tackler at the men's median mass tackling a typical female ball carrier**

The modelling shows that a tackle involving players with typical or average mass produces slightly greater accelerations and forces in men (Mso) than in women (Fso). This is a function of the higher mass of men's players. Head and neck kinematic and kinetic variables increase significantly when the heaviest 10% of women's body mass is used for the tackler against a typical ball carrier (F90), but this extreme "within female-bodied" scenario produces smaller kinetic and kinematic outcomes than if the hypothetical cross-over scenario were to occur, where an average male-bodied player is the tackler and the average female-bodied player the ball carrier (X). The magnitude of the increase in neck forces, moments and accelerations for the ball carrier is between 20% and 30% for typical cross-over scenario compared to the typical female vs female scenario, and is 10% greater for the male-bodied vs female-bodied crossover scenario than a tackle where the heaviest 10% of women are matched against typical women's mass (F90).

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compared to the typical tackle scenario in women's rugby. The magnitude of these extreme head accelerations and neck forces are not seen in women and are created by cross-over of male-bodied players to women's rugby. Similar differences are seen when examining the accelerations and forces for the tackler's head and neck.

The magnitude of the known risk factors for head injury are thus predicted by the size of the disparity in mass between players involved in the tackle. The addition of speed as a biomechanical variable further increases these disparities, which is relevant given that male players weighing 103kg (the median for men) would be expected to run between 10% and 15% faster than typical female players (mass 73kg), and thus considerably faster than female players who are heavier than the median (eg females at the 90<sup>th</sup> percentile, Fig 1). This would further compound the disparity created.

Next, it is important to also consider that these models do not account for the ability of players to actively exert force at high rates during tackles. This would be a function of power and strength, which are similarly known to be 30% to 80% greater in biological males than females. When these active applications of force during contact are added to the mass and speed characteristics illustrated and described above, the resultant neck and head forces and accelerations will increase even further, such that the illustrative model shown above depicts the smallest possible risk increase for typical players involved in a tackle as a result of mass alone. The addition of speed and force disparities will increase the magnitude of these risk factors beyond the 20% to 30% we illustrate above.

The implication of these increases is complex to quantify but would result in increased injury risk for the player experiencing the elevated risk outcomes (force and acceleration). This is because head injuries occur when forces and accelerations on the head and neck reach a threshold necessary to cause injury, and which is unique to each tackle situation. A tackle situation that typically produces risk factors within 20% of this threshold would, in the circumstance of a typical male-bodied vs typical female-bodied player illustrated above, be sufficiently increased to cause an injury. The higher risk scenario involving heavier male bodied players would further increase injury likelihood, since all tackle situations that normally produce kinetic and kinematic variables within 40% to 50% of an injury threshold would now exceed it, a

causing head injury.

Finally, it must also be considered that the ability to withstand or tolerate forces on the head and neck are required to avoid brain injury. This is the reason neck strength is critical in injury prevention. Since the strength disparities between males and females is so large, including a 50% lower neck isometric strength in females, the reduced ability of female players to tolerate or withstand the forces in tackles is a further risk factor for injury, including head injury as described above, but relevant to all injuries where the rapid application of force or load are responsible for injury.

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## Implications for injury risk - scrum forces

The implication of greater mass and force-producing ability in males can be seen in forces measured during scrums in both elite and community level rugby. Research on the forces applied during scrums shows that at the elite level, males produce approximately twice the peak force of females in the scrum. Even at the community level, where peak force is 30% lower than in the elite game, males produce approximately 40% greater peak force during scrums than elite females. Given that force producing and receiving ability is likely to be significantly lower in female community players, the implication is that men's community level rugby scrums will be considerably more forceful than women's community level scrums.

The risk of particularly serious and catastrophic injuries during scrums has led to a number of law changes specifically designed to depower the scrum to reduce injury risk. This risk would be amplified by large mismatches in strength between opposing players, since the force applied must be withstood by a direct opponent. This is an illustration of how mismatches in strength and size are directly responsible for forces that result in injury.

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## Testosterone as a predictor of performance

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testosterone's androgenizing effects contribute to, but do not solely influence the biology and resultant performance outcomes within a group who are able to utilize it. The biological basis for male vs female differences is thus the result of testosterone, but it does not necessarily follow that within men and within women, the hormone is a predictor of performance.

Further, differences in the sensitivity to testosterone between individuals mean that a given level of testosterone is not a sensitive or specific predictor of performance within each group (males and females). This is in part because most males have elevated levels and some degree of sensitivity, while the level in females is significantly lower and rarely exceeds even the very low end of the male range [1]. Therefore, in two homogenous groups that are matched for either the presence or absence of a given variable (males and females for the presence or absence of testosterone, in this case), the predictive value of that variable within a group is greatly diminished, the same way that V02max is a significant predictor of running or cycling performance across the whole population, but not within a group of elite marathon runners or cyclists, who are already relatively homogenous for that characteristics [30]. Similarly, height is clearly advantageous for professional basketball, but within the National Basketball Association (NBA), where height has already been selected for and participants are in the extreme upper end of the overall population for that characteristic [31], it becomes a poorer predictor of performance.

However, when the same question -does testosterone predict performance across humans of both sexes - is asked of binary categories (males vs females in sport, rather than within males or females), then the predictive power of testosterone is strong, because "high testosterone" during adulthood is a very reliable indicator that the androgenizing effects of testosterone have occurred earlier during life. When understood and assessed this way, testosterone is necessary for peak performance (since the top performers within humans are all male), but it is not sufficient to attain it. It is here that the almost perfect sensitivity of biological sex emerges, since in a ranking list of the top thousand performances in most sport, every year, every single one will be biologically male.

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## Summary

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consequently, performances between the sexes. These are summarized in Figure 3 below, which combines the biological differences between males and females with their performance implications, and is reproduced from a recent article currently in review [10].

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***Figure 3: Summary comparison of biological (left table) and performance (right figure) differences between males and females for a range of biological variables and physical activities/events. Reproduced from Hilton & Lundberg [10]***

Given that the women's category exists to ensure protection, safety and equality for those who do not benefit from the biological advantage created by these biological performance attributes, the relevant and crucial question is whether the suppression of testosterone for a period of 12 months, currently required for transgender women participation in women's sport, is sufficient to remove the biological differences summarized above?

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**Effects of suppression of testosterone**



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based performance advantages described above. However, peer-reviewed evidence suggests that this is not the case, and particularly that the reduction in total mass, muscle mass, and strength variables of transgender women may not be sufficient in order to remove the differences between males and females, and thus assure other participants of safety or fairness in competition.

Based on the available evidence provided by studies where testosterone is reduced, the biological variables that confer sporting performance advantages and create risks as described previously appear to be only minimally affected. Indeed, most studies assessing mass, muscle mass and/or strength suggest that the reductions in these variables range between 5% and 10% (as described by Hilton & Lundberg [10]). Given that the typical male vs female advantage ranges from 30% to 100%, these reductions are small and the biological differences relevant to sport are largely retained.

For instance, bone mass is typically maintained in transgender women over the course of at least 24 months of testosterone suppression, with some evidence even indicating small but significant increases in bone mineral density at the lumbar spine [32-34]. Height and other skeletal measurements such as bone length and hip width have also not been shown to change with testosterone suppression, and nor is there any plausible biological mechanism by which this might occur, and so sporting advantages due to skeletal differences between males and females appear unlikely to change with testosterone reduction.

With respects to strength, 1 year of testosterone suppression and oestrogen supplementation has been found to reduce thigh muscle area by 9% compared to baseline measurement [35]. After 3 years, a further reduction of 3% from baseline measurement occurred [36]. The total loss of 12% over three years of treatment meant that transgender women retained significantly higher thigh muscle size ( $p < 0.05$ ) than the baseline measurement of thigh muscle area in transgender men (who are born female and experience female puberty), leading to a conclusion that testosterone suppression in transgender women does not reverse muscle size to female levels [36].

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these studies find that 1 year of testosterone suppression to female typical reference levels results in a comparatively modest loss of lean body mass (LBM) or muscle size, with consistent changes between 3% and 5% reduction in LBM after 1 year of treatment (as summarized from source research studies by Hilton & Lundberg [10]).

Muscle force-producing capability is reduced after testosterone suppression, though as appears to be the case for muscle/lean mass, these reductions are considerably smaller in magnitude than the initial male-vs-female differences in these variables. For instance, hand-grip strength was reduced by 7% and 9% after 1 and 2 years, respectively, of cross hormone treatment in transgender women [39], and by 4% in 249 transwomen after 1 year of gender-affirming treatment, with no variation between different testosterone levels, age or BMI tertiles [45]. Transgender women retained a 17% grip-strength advantage over transgender men at baseline measurement, with a similarly large, retained advantage when compared to normative data from a reference or comparison group of biological females.

Most recently, Wiik et al found that isokinetic knee extension and flexion strength were not significantly reduced in 11 transgender women after 12 months of testosterone suppression, with a retained advantage of 50% compared to a reference group of biological females and the group of transgender men at baseline [41]. This absence of a reduction in strength occurred in conjunction with a 4% to 5% reduction in thigh volume, and no difference in the contractile density of the muscle, which suggests that the reduction of testosterone for a period of a year had no effect on the force-producing capacity per unit of cross sectional area [41], a variable that is known to be higher in males than females.

In conclusion, longitudinal research studies that have documented changes in lean mass, muscle mass/area and strength show consistently that small decreases occur as a result of testosterone suppression, with a resultant relatively large retained advantage in these variables compared to a group of biological females.

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## Conclusion

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player welfare concerns and performance inequality in rugby, given the importance of physical contact and strength in the sport. Longitudinal research studies on the effect of reducing testosterone to female levels for periods of 12 months or more do not support the contention that variables such as mass, lean mass and strength are altered meaningfully in comparison to the original male-female differences in these variables. The lowering of testosterone removes only a small proportion of the documented biological differences, with large, retained advantages in these physiological attributes, with the safety and performance implications described previously. There is currently no basis with which safety and fairness can be assured to biologically female rugby players should they encounter contact situations with players whose biologically male advantages persist to a large degree.

While there is overlap in variables such as mass, strength, speed and the resultant kinetic and kinematic forces we have modelled to explore the risk factors, the situation where a typical player with male characteristics tackles a typical player with female characteristics increases the magnitude of known risk factors for head injuries by between 20% and 30%. In the event of smaller female players being exposed to that risk, or of larger male players acting as opponents, the risk factors increase significantly, and may reach levels twice as large, at the extremes. The basis for regulation is the typical scenario, though risk mitigation must be mindful of the potential for worst-case scenarios that may arise. Both are deemed unacceptably high, because they would result in a number of tackle situations that currently lie beneath a threshold required to cause injury increasing to exceed that threshold.

Thus, it is on the basis of male vs female biological differences, combined with no evidence for removal of their implications for safety and performance, that the guideline is that trans women should not compete in women's rugby.

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## Assessment of research limitations and implications

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the proposed policy document) have been conducted in untrained transgender women. This invites questions over the validity and generalizability of the studies to a sports-playing population.

This is a valid question, and it is acknowledged that research is required to fully address questions arising out of this limitation. World Rugby is committed to supporting high quality research proposals in this area, should they be submitted as part of World Rugby's Research programme.

However, this limitation can also be assessed within an understanding of the physiological implications of trained compared to untrained individuals undergoing testosterone suppression. The application of insights from complementary studies leads to a conclusion that the available research is in fact sufficient to arrive at firm conclusions about safety, performance and retained advantages, and thus the recognized limitations are not sufficient to refrain from drawing a conclusion on the likely implications of the transgender research for athletes.

In assessing this issue, two primary questions may be asked:

1. How would training undertaken during the process of testosterone suppression affect the changes observed in muscle and lean body mass, and strength variables, compared to studies done in individuals who do not perform training?
2. How would training prior to a period of testosterone suppression influence:
  1. The baseline or pre-suppression measures for muscle mass and strength in transgender women, and thus the differences in these variables compared to a reference or control group of biological women (cisgender women)?
  2. The likely "end-point" for muscle and lean body mass as well as strength after the testosterone suppression for a period of at least twelve months, once again compared to a reference or comparison group of cisgender women?

Both these questions can be answered by exploring complementary research studies. At present, there is evidence that:

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from various study models in which biological males reduce testosterone to within the female range, and are able to maintain or even increase these physiological variables through training [46-48].

The implication is that any performance decline as a result of androgen deprivation is minimized or eliminated, and so the studies cited in support of the World Rugby Guideline, while conducted on non-training individuals, establish the minimum possible retained advantage for trans women. That is, they establish that in the absence of training during testosterone suppression, an advantage is retained compared to cisgender women. That advantage is either the same, or very plausibly increased as a result of training.

**Training prior to the intervention** will cause increased muscle mass and strength variables at baseline. This means that the initial or "pre-suppression" differences in these variables compared to biological females will be greater than in an untrained trans woman. This rebuts the assertion that trans women are weaker, less muscular and thus more similar to biological females at baseline, within a sporting context, since the transgender woman being considered by World Rugby is much more likely to be trained (or will train once transition begins, as described above).

Further, once the period of testosterone suppression begins, then the degree to which muscle mass and strength decreases may be either the same or relatively greater in the trained trans women as a result of this higher baseline. Even if the relative loss of muscle mass and strength are higher than in untrained trans women, it is inconceivable, and even physiologically impossible, that a pre-trained athletic trans woman is going to lose so much muscle mass and strength that they end at a point where they are less muscular/lean and weaker than a theoretically untrained (and even 'self-starved') transgender woman.

Therefore, if research on untrained trans women establishes that the retained advantage in muscle mass and strength is corresponds to a value of X percent, this is the smallest possible remaining advantage for a pre-trained trans woman. The effect of training can only be to increase this value or

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weaker and less muscular than a completely non-athletic individual.

Finally, it is relevant that studies comparing untrained biological males and highly trained females, males retain an advantage despite the training status of biological females. For instance, in a study on grip strength, the strongest elite athletically trained females in sports where grip strength is a performance advantage (Uudo and handball) are only as strong as untrained biological males at the 58th percentile, with a 26% difference in strength between typical elite females and typical untrained males [49]. Similarly, Morrow & Hosler (1981) found that untrained college-aged males were more than twice as strong as trained female basketball and volleyball players in a bench press task, with the top 5% strongest trained females equal in strength to the weakest 14% of untrained males. This establishes that pre-trained biological females can increase strength beyond that of untrained females, but still do not compare to untrained biological males.

The implication is also that since even typical untrained biological males have a large strength advantage compared to elite and trained females, studies that have documented only small reductions in strength and thus persistence of strength advantages with androgen deprivation in untrained biological males (as in Kvorning et al [46], Chen et al [47] and in studies on transgender women cited herein) should be considered relevant for establishing the smallest possible retained advantage that would exist in the absence of training. As described above, and in studies where training is conducted while testosterone is suppressed [46-48], the advantage will only remain this size or increase.

Finally, it is also recognized that not all sports are affected similarly by the variables we have weighted as crucial for rugby (size, strength, speed, power). Indeed, in some sports, excess mass may be disadvantageous, and thus the model for retained advantage and persistent risk may present differently for different physical activities.

In conclusion, with those recognized limitations, World Rugby is committed to supporting research that may in future establish that biological differences between those to whom testosterone confers significant physiological and performance advantages and those to whom it does not are removed sufficiently to

The referenced research used to support this position can be viewed [here](#).

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## Conclusion - Testosterone, Welfare and Performance

Having considered all of the currently available information, the working group determined that the best evidence **currently** available means that those who experienced the biological effects of testosterone during puberty and adolescence cannot safely or fairly compete in women's rugby. That means that currently, transgender women may not compete in women's rugby.

World Rugby is committed to encouraging transgender people to remain involved with rugby and is currently funding research to continue to review any evidence that may emerge to enable the participation of transgender women in women's rugby. Details of the research currently underway, along with details of how to apply for research funding for those who may be interested, is available [here](#).

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## How do I stay involved in rugby if I can no longer play in the category that I want to?

World Rugby acknowledges that the introduction of this Guideline will mean that some players can no longer play in the category that they want to. It is possible that will change in the future and World Rugby is funding research to try to find out if there are ways to allow that safely and fairly (see [here](#) for details). In the meantime, there are many other ways to stay involved with rugby:

- Other forms of the game: Many forms of non-contact Rugby exist such as: Tag; Touch; Flag etc all have open
- Coaching: Coaching can be hugely rewarding and can provide players with life lessons, engender a love for the sport and provide an enjoyable vehicle for World Rugby and its member Unions offer several courses for coaches of children, adolescents, and adults. All courses are open to any participant.

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pathway exists in all Unions for fast-tracking talented

- Administration: All clubs rely on volunteer administrators. As individuals enter the latter stages of the long-term participant model, then administration becomes a realistic outlet for many. A number of Unions have dedicated support resources for individuals who wish to pursue this path of staying involved.

World Rugby is currently exploring the possibility of an "open category" of rugby in which any player could play, regardless of gender identity. World Rugby has committed to exploring this option with its Unions, Associations, International Rugby Players, and trans advocate groups including Gendered Intelligence and International Gay Rugby.

## **What if I have concerns about safety or fairness relating to someone I am playing with or against?**

It is important to note that many people do not meet cultural or local norms or stereotypes related to the expression of gender identity. All players and Unions ought to take care to consider this when raising any concerns about another player. In the event that a player or Union has a genuine concern about safety or fairness in relation to another player, the concern should be dealt with as follows:

1. The concerned person should raise their concerns with their Union's Chief Medical Officer (CMO).
2. The Union's CMO should carefully consider the concerns raised, in the context of all of the known facts and if having done so, the CMO determines that the concerns are not frivolous or vexatious, the CMO should contact the World Rugby CMO setting out the basis for the
3. The World Rugby CMO will engage with the CMO of the Union of the player about whom the concerns have been raised, ensuring confidentiality for the player and involved team-mates and opponents throughout the
4. The World Rugby CMO and the relevant player's CMO will discuss the situation and agree on the most appropriate actions, based on the specific circumstances



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6. For the avoidance of doubt, no player should or would be forced to undergo any medical or other assessment. It is a player's responsibility to decide on whether he or she wishes to proceed with any assessment. However, it should be noted that deciding not to participate in an assessment, having been requested to do so, may have consequences in terms of the player's eligibility to participate in the category of competition that is consistent with his/her/their gender identity, since it may not be possible to determine whether issues of safety or fairness arise without such assessment.