



325 W. Main St.
Suite 2210
Louisville, KY 40202

(502) 581-9746
ACLU-KY.org
@ACLUofKY

March 30, 2022

Hon. Andy Beshear
Governor of Kentucky
Office of the Governor of Kentucky
700 Capital Ave., Ste. 100
Frankfort, KY 40601

VIA ELECTRONIC MAIL

Governor Beshear:

We are writing to request your veto of Senate Bill 83. Transgender athletes want to participate in school sports for the same reason as anybody else: to find a sense of belonging and social engagement, to be a part of a team, and to challenge themselves. However, legislators across the country are trying to exclude trans people from enjoying the benefits of sports on equal terms with their cisgender peers. These proposed laws discriminate against trans youth in ways that compromise their health, social and emotional development, and safety.

The organizations leading these attacks on trans athletes' rights are the same organizations that pushed false myths about trans people in restrooms. Just like it was never about restrooms, today's fight is not about sports. It's about erasing and excluding trans people from participation in all aspects of public life. It's about creating "solutions" to "problems" that don't exist and, in the process, harming some of the most vulnerable young people in the country. Meanwhile, leading advocates for women's sports support inclusion of women and girls who are transgender and warn that these efforts will ultimately harm all athletes in women's sports.

The attacks on trans student-athletes are rooted in the same kind of gender discrimination and stereotyping that has held cisgender women back for centuries. Transgender girls are often told they are not girls (and conversely transgender boys are told they are not really boys) based on inaccurate stereotypes about biology, athleticism, and gender. In reality, trans women and girls have been competing in women's sports at all levels around the world. Despite the hundreds, if not thousands, of trans women competing, only a handful have had any success at the high school and collegiate level. And women's sports have continued to thrive in states with policies that allow trans



student athletes to compete. Everything we know from major medical and mental health associations is that affirming trans youth in their gender is a critical part of improving physical and mental health outcomes for this population.

In 2020, 18 states introduced legislation that would ban transgender student athletes from participating in school sports. In 2021, 31 states introduced similar legislation. Idaho was the first and only state to pass such a ban. In August 2020, a federal judge [blocked](#) Idaho's law targeting transgender student athletes, recognizing that "it is not just the constitutional rights of transgender girls and women athletes at issue but ... the constitutional rights of every girl and woman athlete in Idaho." The Ninth Circuit Court of Appeals is expected to hear arguments in May in the appeal of the lower court's decision and could rule any time after that. Briefs in opposition to this law and in support of transgender student athletes have been filed by [women's rights groups, medical experts, athletes, and coaches](#). Federal courts in [Connecticut](#) and [West Virginia](#) have also ruled in favor of trans students who want to participate in school sports. [I have included links to each of these court cases and references.] Unfortunately, Kentucky in 2022 is following these same dangerous and hateful trends.

Nationally, the Biden administration issued an [executive order](#) aimed at addressing discrimination against LGBTQ people on January 20, 2021. Recent polls indicate this order is the [most popular](#) policy enacted by the administration in its first week. Biden's order restored protections — it did not introduce new ones.

Chase Strangio, the ACLU's deputy director for trans justice, [explains](#):

"Contrary to a trending hashtag on social media and the polemics of a few loud voices, President Biden most certainly did not "erase women" — whatever that means. By stating the administration's intention to follow Supreme Court precedent and federal law, at core all the newly-elected president did was lay out what the law is and agree, unlike his predecessor, to follow it. That includes, as the order makes clear, ensuring that '[c]hildren should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports.'"

Before Biden's executive action, the Obama administration issued guidance regarding protections for transgender students under Title IX, and before that, multiple courts ruled that existing



federal law protects transgender students from discrimination in schools. Since then, the Supreme Court has twice rejected cases challenging school policies that support transgender students ([*Doe v. Boyertown Area School District*](#) and [*Parents for Privacy v. Dallas School District No. 2*](#)). Similarly, passing the Equality Act would not introduce new rights for transgender students, including women and girls who are transgender and wish to participate in school sports.

Consequently, the ACLU of Kentucky strongly urges you to veto this legislation. We encourage you to continue prioritizing the health, safety, and wellbeing of all Kentuckians by vetoing this dangerous bill that will put the health and wellbeing of trans children at risk.

Thank you for your consideration of this request. I hope you, your family, and your staff have a restful interim.

Sincerely,

Jackie McGranahan
Policy Strategist