

## Discrimination on the taxpayers' dime

### Transgender athlete ban would likely mean big financial hit for Iowa

Commonly referred to as a transgender athlete ban, [Senate File 2342](#) would keep transgender girls and women from participating in most publicly accessible sports teams in Iowa, from elementary school through college. The bill puts girls' sports in jeopardy and represents a major liability to the state of Iowa that could cost millions of dollars over several years.

#### The legislation would likely violate state and federal law

Legislative Service Agency analysis says SF 2342 “may have a fiscal impact related to noncompliance with Title IX.”<sup>1</sup> The federal government has made it abundantly clear that this type of discrimination against transgender students is at odds with Title IX, which prohibits discrimination on the basis of sex in education.

In 2021, the U.S. Department of Education released a [Notice of Interpretation](#) that Title IX prohibits “discrimination based on gender identity,” expressly noting that this applies to transgender students. Iowa Code Section 216.9 also explicitly prohibits discrimination in education on the basis of gender identity.<sup>2</sup>

#### Title IX litigation has proven costly for other states

In recent years, numerous school boards around the country have faced legal backlash for violating transgender students' Title IX rights. Families and supporters of transgender students will undoubtedly fight back against this law if passed and, given recent outcomes, will likely win.

- In 2018, Wisconsin paid an **\$800,000** settlement for violating transgender students' Title IX rights.<sup>3</sup>
- Gavin Grimm took his Title IX case against his school district all the way to the Supreme Court and won in 2021, resulting in a **\$1.3 million** cost to Virginia.<sup>4</sup>
- A transgender student filed a lawsuit against his Missouri school district for Title IX violation and was recently awarded **\$4 million** in damages.<sup>5</sup> An appeal is underway.
- A Maryland school board paid full legal fees to a transgender student and underwent policy changes to settle a Title IX case in 2018.<sup>6</sup>
- Indiana lost a Title IX case involving discrimination against a transgender student in 2019 and a trial to determine damages is pending.<sup>7</sup>

#### Regardless of outcome, litigation is costly

The state's Office of the Attorney General handles lawsuits against the state and has an annual budget of more than \$21 million.<sup>8</sup> With average attorney salaries well over \$100,000 a year, even a single lawsuit against the state is likely to be quite costly. Most lawsuits of this nature

last several years and require significant attention from staff. Given these considerations, lawsuits stemming from this legislation could easily cost taxpayers millions of dollars.

### **Transgender girls pose no threat to girls' sports**

The ACLU of Iowa notes that “trans girls in Iowa have been able to compete in high school sports legally for the past 15 years.” There has clearly been no domination of girls’ and women’s sports by transgender athletes in that time, and there is no evidence to suggest that will change. In fact, the Iowa Girls High School Athletic Union already has guidance in place for transgender students’ participation since 2014.<sup>9</sup>

The largest contributor to differences in sports performance by gender is athlete testosterone levels. Before puberty, testosterone levels in children are not high enough to create a competitive advantage based on gender. As testosterone levels rise through puberty, differences by gender emerge.<sup>10</sup> Hence, sports governing bodies’ policies on transgender athlete participation typically focus on athlete testosterone levels.

### **The policy would jeopardize participation of Iowa teams**

The real danger to girls’ sports is not transgender athletes, but rather this bill’s discriminatory policy. The LSA’s fiscal note states, “At the collegiate level, Senate File 2342 may conflict with participation rules of the NCAA and may risk eligibility and media rights or competition hosting revenues. At the junior college level, Senate File 2342 also may conflict with current NJCAA participation rules and thereby risk eligibility and athletic competition hosting revenues.”

These governing bodies, NCAA and NJCAA, already have policies in place regarding transgender athletes to ensure fairness. Intervention by the state will only cause unnecessary stress on Iowa’s girls’ and women’s teams.

### **Additional resources**

ACLU of Iowa’s Myths About Transgender Girls in Sports:

<https://www.aclu-ia.org/en/myths-about-transgender-girls-sports>

U.S. Department of Education’s Supporting Transgender Youth in School:

<https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf>

One Iowa Action press release: <https://oneiowaaction.org/joint-press-release-one-iowa-action-and-iowa-safe-schools-condemn-gov-reynolds-call-for-discrimination-in-athletics/>

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<sup>1</sup> <https://www.legis.iowa.gov/docs/publications/FN/1287706.pdf>

<sup>2</sup> <https://icrc.iowa.gov/your-rights/protected-classes>

<sup>3</sup> <https://transgenderlawcenter.org/archives/14181>

<sup>4</sup> <https://www.aclu.org/press-releases/gloucester-county-school-board-pay-13-million-resolve-gavin-grimms-case>

<sup>5</sup> <https://www.kansascity.com/news/article257557243.html>

<sup>6</sup> <https://freestate-justice.org/m-a-b-vs-board-of-education-settlement-reached/>

<sup>7</sup> <https://www.aclu-in.org/en/cases/jaw-v-evansville-vanderburgh-school-corporation>

<sup>8</sup> <https://www.legis.iowa.gov/docs/publications/LAGR/1285598.pdf>

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<sup>9</sup> <https://ighsau.org/news/transgender-statement/>

<sup>10</sup> <https://www.medicalnewstoday.com/articles/323085>