



## MEMORANDUM

**TO:** The Pennsylvania Senate

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** May 6, 2025

**RE: OPPOSITION TO SB 9 P.N. 177 (J. WARD)**

**Bill summary:** [SB 9](#) (PN 177) is a reintroduction of [HB 972](#), which was [vetoed](#) by Governor Wolf in 2022. SB 9 would ban transgender girls and women from participating on athletic teams or in sports designated for “females, women or girls.” This ban would apply to students participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports sponsored by a public school entity, a public institution of higher education, charter school, regional charter school or cyber charter school, or any school or institution where students or teams compete against a public school or public institution of higher education. Schools would be required to expressly sex-designate athletic teams or sports as one of the following: (1) Male, men or boys; (2) Female, women or girls; or (3) Coed or mixed.

Athletic teams or sports designated for females, women, or girls may not be open to “students of the male sex.” SB 9 defines “sex” as a person’s “immutable characteristics of the reproductive system that define the individual as male or female, as determined by anatomy and genetics existing at the time of birth”, but **there is no provision in the bill that explains how schools are expected to determine a student’s sex.**

Additionally, SB 9 would protect schools from complaints, investigations, or any other adverse action for maintaining separate teams or sports for female students and would create causes of action for injunctive relief, damages, attorney fees and costs for students harmed by a violation of the ban; students punished for reporting a violation of the ban; and schools harmed as a result of a violation of the ban.

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose Senate Bill 9.**

### **[SB 9 cruelly targets vulnerable youth under the banner of protecting women’s sports.](#)**

SB 9 is part of an [on-going campaign](#) targeting transgender student athletes. After years of focusing on nonexistent problems related to restrooms and locker rooms, opponents of trans equality have shifted to excluding trans youth from activities that affirm their sense of self. This strategy is based on [inaccurate and harmful beliefs](#). Medical organizations, including the [American Academy of Pediatrics](#), have decried these blanket bans as unnecessary and unscientific. [Two dozen women’s organizations](#) remind us that “equal participation in athletics for transgender people does not mean an end to women’s sports. The idea that allowing girls who are transgender to compete in girls’ sports leads to male domination of female sports is based on a flawed understanding of what it means to be transgender and a misrepresentation of nondiscrimination laws.” Instead of addressing real challenges facing women’s sports, such as a lack of equal resources, bills like SB 9 attempt to pit cis girls against trans girls, ultimately dividing and harming **all** women.

### **[SB 9 would violate trans girls’ civil rights and constitutional guarantees of equal protection.](#)**

SB 9 would violate state and federal statutory and constitutional protections by permitting sex discrimination in schools or institutions of higher education. In 2020, the U.S. Supreme Court held in [Bostock v. Clayton County](#) that Title VII protections extend to cover not just sex, but also sexual orientation and gender identity,

and therefore prohibit discrimination in employment against trans individuals. In the school context, singling out transgender students for discrimination would violate constitutional guarantees of equal protection and would violate civil rights under [Title IX](#), which protects all students, including transgender students, from discrimination based on sex.

Courts have already intervened in cases targeting trans student athletes. On August 17, 2023, the Ninth Circuit Court of Appeals [upheld an injunction](#) against an Idaho law barring transgender athletes from participating in student athletics, finding that the law likely violates the rights of transgender students under the Equal Protection Clause of the U.S. Constitution. In the Idaho decision, the judge recognized that the law “categorically bans transgender girls and women at all levels from competing on female, women, or girls teams” and noted that the state “failed to adduce any evidence demonstrating that the Act is substantially related to its asserted interests in sex equality and opportunity for women athletes”.<sup>1</sup> Similarly, on April 16, 2024, the Fourth Circuit Court of Appeals held that [West Virginia’s law](#) excluding a student from participating on a girls’ teams violated Title IX.<sup>2</sup> The appellate court found that the law’s sole purpose and effect were to prevent transgender girls from playing on girls’ teams, which was not substantially related to an important government interest. The court concluded that West Virginia’s law violated Title IX by treating the student worse than people to whom she was similarly situated, depriving her of any meaningful athletic opportunities, and did so on the basis of sex.

### **Bans on sports participation can negatively affect students’ mental health.**

Transgender people want to participate in athletics for the same reasons as their peers: to challenge themselves, improve fitness, and be part of a team. And for trans youth and young adults alike—who often consider suicide at high rates when they don’t have support from friends, family and schools<sup>3</sup>—being able to be a part of a team can be lifesaving.<sup>4</sup> Excluding them from sports sends them the message that they are not worthy of the same kinds of opportunities as their classmates.

Adverse effects are not limited only to instances where bans have taken effect—in fact, 85% of transgender and non-binary youth recently reported that the persistent political attacks on trans people [have had a negative impact on their mental health](#).<sup>5</sup> Young transgender people need support and affirmation—state athletic associations in [16 states and Washington, D.C.](#) understand this, having adopted trans-inclusive school sports policies. Trans youth have the right to participate in sports consistent with who they are, just like anyone else. **Denying them that right is blatantly unconstitutional and discriminatory.**

As of March 14, 2025, the ACLU is tracking over [527 anti-TLGBQIA+ laws](#) proposed in 46 states and these bills overwhelmingly target trans youth. While the attacks differ—some would criminalize medical care for trans youth, some would ban them from school sports, and others would make it harder for trans people to get accurate state IDs—they are not isolated. They are part of a coordinated campaign to push trans people out of public life and criminalize being transgender.

**For these reasons, we urge you to oppose Senate Bill 9.**

<sup>1</sup> [Hecox v. Little](#), 79 F.4th 1009 (9th Cir. 2023).

<sup>2</sup> [BPJ v. West Virginia Board of Education](#), No. 23-1078 (4th Cir. 2024).

<sup>3</sup> Toomey, R., et al., [Transgender Adolescent Suicide Behavior](#). Pediatrics October 2018; 142 (4); and Herman J., et al., [Suicide Thoughts and Attempts Among Transgender Adults](#). UCLA School of Law, Williams Institute, September 2019.

<sup>4</sup> Easterlin MC, Chung PJ, Leng M, Dudovitz R. [Association of Team Sports Participation With Long-term Mental Health Outcomes Among Individuals Exposed to Adverse Childhood Experiences](#). JAMA Pediatr. 2019;173(7):681–688.

<sup>5</sup> The Trevor Project and Morning Consult, [New Poll Illustrates the Impacts of Social & Political Issues on LGBTQ Youth](#), January 10, 2022. Full poll: [Issues Impacting LGBTQ Youth](#), January 2022.