

From: Donna deVarona
Sent: Thu, 10 Jun 2021 07:48:12 -0400
To: T9PublicHearing
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Subject: Written Comment: Donna de Varona written comment -Title IX Public hearing-
inclusion of Transgender Girls/Women in Girls'/Women's Competitive Athletics
Attachments: Donna de Varona Remarks for DOEOCR-3.docx

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Written testimony of DONNA DE VARONA

Regarding Title IX Regulations

Submitted to the Department of Education, Office of Civil Rights

June 11, 2021

I am Donna de Varona, a two-time Olympic Gold Medalist in swimming. I represented the United States in two consecutive Olympic Games during the 1960s. Participating in international sports as a teenager provided me with the confidence and tools necessary to find success in the competitive world in which we live.

I retired from competition at the age of 17 because women athletes of my generation were not offered college sports scholarships or further competitive opportunities. Retirement at the peak of our collective athletic prowess was the only option in an environment that did not recognize our worth. Our careers were derailed.

I was fortunate that my success in the Olympics led to a pioneering career in sports broadcasting, and almost a decade later was able to use my media platform to advocate for the support and protection of Title IX of the Education Amendments of 1972. As a student during the civil rights era of the 1960s, I also realized that girls and women athletes needed a network of like-minded advocates to advance their opportunities. In the late 1970s I reached out to other elite athletes to establish the Women's Sports Foundation, ultimately serving as its first President and Chairman. I am currently on the Executive Board of the USOPC and a member of the Women's Sports Policy Working Group.

I am writing to provide testimony on the important issue of transgender inclusion on girls' and women's school sports teams.

I support your charge, finding solutions to the discrimination transgender students experience in educational settings. Students who are transgender deserve to be treated with dignity and respect in our schools. Doing so intelligently in the special context of school sports, in a way that adds to all the good that Title IX does, without damaging the progress we've made over the last 50 years, requires understanding of what the girls' and women's category is, why it exists, and why sorting on the basis of sex is necessary in this unique space.

First, what it is:

The girls and women's category is a set-aside for female student-athletes, so that they can compete only against each other and not also against males. The category is designed to discriminate on the basis of sex—every single student is sorted into or out of teams and competitions on that basis. It is not a space for students to perform femininity, to escape the boys' locker room, or to be affirmed in their gender identity without regard to their sex.

Second, why it exists:

The category "girls' and women's sports" exists as separate from "boys' and men's sports" because it's the only way to achieve Title IX's goal – sex equality – given the fact that, from the onset of puberty onward, males as a group outperform females as a group. The two groups are materially different with respect to the physical attributes that contribute to athletic performance: power generation, aerobic power, body composition, fuel utilization, and economy of motion. Because of these material differences – and the performance gap that results – if we didn't sort by sex, by late middle school in general, females would no longer make teams, see significant playing action, or be in championship positions. Despite claims to the contrary, these points are well-established in the scientific literature, and borne out by the results data.

Any eligibility standard that ignores sex and the physical rationale for the category would cause harm: It would harm individual female student-athletes who would lose out on valuable, still relatively scarce competitive opportunities. It would harm their communities whose lives are enriched by living amongst empowered women and girls. And it would harm society, which benefits, including economically, when its laws and policies choose affirmatively to uplift the female half of the population.

I urge you not to risk these harms as you consider whether, and if so how, to revise the regulations that govern separate sex sport. I urge you to approach the inclusion of transgender women and girls in the category with careful attention to the sex-linked traits that are its only tenable justification.