

**From:** (b)(6)  
**Sent:** Fri, 11 Jun 2021 13:23:04 -0700  
**To:** T9PublicHearing  
**Subject:** Inclusion of Transgender Girls and Women in Girls' and Women's Competitive Athletics  
**Attachments:** TS-Title IX Public Hearing written comments Final 6.11.21.docx

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Attached, please, find written comments for the National Scholastic Athletics Foundation regarding the inclusion of transgender girls and women in girls' and women's interscholastic competitive sports. Thank you for your time and consideration.

All the best,  
Tracy Sundlun

**Tracy Sundlun**  
**National Scholastic Athletics Foundation**  
***"Opening Doors to the World Through Track & Field"***

(b)(6)

**Written testimony of TRACY SUNDLUN**  
**Regarding Title IX Regulations**  
**Submitted to the Department of Education, Office of Civil Rights**  
**June 11, 2021**

My name is Tracy Sundlun, and I am writing as a founding Board member of the National Scholastic Athletics Foundation (NSAF), which since its inception over 30 years ago has focused exclusively on scholastic age track and field. While we conduct a number of national programs supporting our mission of “Opening Doors to the World Through Track & Field”, we are best known for creating and running the national indoor and outdoor track & field championships for high school-age boys and girls each year beginning in 1984. I was our first Meet Director. I have also had the honor and joy to have been a coach and then event organizer for over 50 years at every level and ability and for both boys and girls and men and women from age-group clubs to high school to college (Georgetown, USC, and Colorado) to post-collegiate, professionals, and even the Olympics ... and all over the world. I have coached over 100 men and women in virtually every event from 15 countries who have represented their country in the Olympic Games or other international championships.

At the world level the International Federation rules vigorously protect the female category, today by monitoring and controlling male endocrine hormones, i.e., testosterone levels. My fear and the fear of the great majority, if not all international level athletes in my sport that I know and speak with, is that if women’s sports do not continue to be protected as they are internationally, and as they are domestically by statutes such as Title IX, women’s sport around the globe will disappear; and if the same or similar protections don’t exist at the developmental level – and in the U.S., most specifically at the high school level – many of tomorrow’s female stars will have stopped competing long before they ever find out how good they are, all because the playing field will be uneven and unequal and their opportunities in and through the sport will not be clear.

A total of 323 of our NSAF National Championships’ alumni – 153 women and 170 men -- have earned 498 Olympic berths and competed in 601 Olympic events earning 148 Olympic medals, including 76 Gold, 40 Silver, and 32 Bronze. Yet the great majority of them didn’t win our meets in high school, and at least 50% didn’t even place. When I last looked, the average age of a U.S. Olympian was 29.6, all of which means that today’s great athletes take a long time to develop, and they must be nurtured by encouraging and positive experiences throughout their careers, and especially at the beginning.

That goes for both biological girls and women and transgender girls and women. We must protect all of them and their rights to compete equally. This was the NSAF’s goal when we first heard about transgender athletes Terry Miller and Andraya Yearwood beginning to compete in Connecticut. Our NSAF Board immediately set out to create a safe and nurturing space for all of our participants, while protecting and maintaining the integrity and fairness of the competition within the guidelines of all applicable discrimination laws and non-discrimination policies. Our policy and procedures also had to be consistent for all athletes regardless of where they lived and where our competitions were conducted. Our rules mirror those of our national and international sports federations, USA Track & Field (USATF) and World Athletics (WA). All transgender girls must take gender-affirming hormones in order to mitigate their sex-related competitive advantages and test within the female testosterone range of under 5 nanomoles per liter for a period of 12 months before being allowed to record qualifying times and to compete in our events, and then, of course, they must maintain these levels throughout the competitive period. In March 2019, Andraya Yearwood became the first transgender girl to compete in

our Indoor Nationals. Like virtually every other participant there, while she competed well, she left wanting more ... the way it is supposed to be in athletics. She was also – and in many cases, perhaps for the first time – mostly welcomed by her competitors because they were all generally confident that the eligibility standards ensured they were competing on an even playing field. For the same reasons, for the spectators and the general public it also became a relative non-event. We were thrilled to welcome Andraya into the NSAF family in 2019, and we were looking forward to welcoming Terry Miller at our Outdoor Nationals in June 2020, but the Nationals had to be canceled due to COVID-19. Now, we just look forward to welcoming our next Andraya or Terry.

The following is a copy of the NSAF's Transgender Policy:

**National Scholastic Athletics Foundation  
Transgender Participation Policy & Procedure**

The National Scholastic Athletics Foundation (NSAF) is an athlete-centric organization focused on providing national level competitions and developmental programs to American high school-aged track and field athletes. The NSAF supports diversity and inclusion in all aspects of track and field and cross country, and promotes programs that offer unique opportunities to participate and grow in and through the sport.

The aim of this policy and procedure is to provide transgender athletes an avenue to participate in a safe and fair manner in NSAF's programs, including the NSAF Indoor and Outdoor National Championships.

- Upon receipt of a qualified entry into an NSAF competition or written request from a concerned athlete (or parent / guardian if the athlete is a minor), the NSAF will evaluate that athlete's participation in the requested event. Requests will be confidentially evaluated on a case-by-case basis in compliance with HIPAA law and will be specific to the athlete's personal circumstances. Included in the evaluation process will be an Eligibility Committee, which complies with all HIPAA regulations, and which is comprised of at least one medical professional, event director, active age-appropriate coach, and lawyer. The Committee has the right to request any information they believe relevant to the evaluation including, but not limited to interviews with the athlete and / or the athlete's parents or guardian and / or the athlete's coach(es); and a review of relevant medical and legal records.
- As a part of the applicant athlete's entry or written request for accommodation, must be a statement affirming the gender identity of the applicant athlete. While the request must be submitted by a parent / guardian if the athlete is under age 18, the athlete may also submit a personal statement in support of his / her request. The applicant must provide a confirmation of gender identity from a medical professional and if applicable, must provide any information related to the athlete's transition status and / or intent. Such communication should be sent to [eligibility@nationalscholastic.org](mailto:eligibility@nationalscholastic.org).
- Applicable discrimination laws and non-discrimination policies will be considered, as will all existing constitutional law.
- The integrity and fairness of the competition shall be considered and protected.

- The applicant must achieve the applicable entry guideline in a competition in which the athlete competed in the gender category he / she wishes to compete in at the NSAF competition being applied for.
- Applicants must agree in writing to comply with all aspects of the NSAF's eligibility determination.
- Pre-Pubescent athletes may be granted eligibility to participate in their affirmed gender.
- Post-Pubescent athletes will be eligible for participation during their transition or after completing their transition, consistent with the following:
  - Male-to-Female (MTF) athletes shall have 1) completed their surgical anatomical changes, including the appropriate sex reassignment, and obtained legal recognition of the newly assigned sex from the appropriate authorities including USA Track & Field (USATF) and any other involved and / or relevant sports governing bodies; 2) a sufficient amount of time has passed after the gonadectomy; and / or 3) hormone therapy has been administered in a verifiable manner and for a sufficient amount of time to minimize gender-related competitive advantages. Consistent with guidelines promulgated by the USATF, IOC, WA, and NCAA for the purposes of this policy a "sufficient amount of time" shall be at least 12 months. A MTF athlete who is not taking hormone treatments related to gender transition may not compete in female competitions.
  - Female-to-Male (FTM) athletes shall have completed the gender-confirmation surgery if desired, and the athlete is in good health, and has been cleared by their surgeon to compete. Legal recognition of the newly assigned sex has been obtained from the appropriate authorities, including USATF and any other involved sports governing bodies; and if hormone therapy is desired, it is being monitored by a medical doctor and is not being used in a way to enhance athletic advantage. A FTM athlete who is not taking testosterone related to gender transition may compete in male competitions.
- Athletes may not switch back and forth between male and female competition / competitive gender. Athletes will not be permitted to "change back" to their previous competitive gender once their application has been approved and they have been granted the requested competitive eligibility.
- Athletes must comply with the World Anti-Doping Code, WADA International Standards, US Anti-Doping Code, and / or USADA Standards.

### **Definitions**

Gender-related terms are defined in various sources. The National Scholastic Athletics Foundation has not adopted any specific gender-related definitions, but rather, provides these simple definitions to offer a general understanding of 'transgender' and terminology used within this policy.

**Biological / Anatomical Sex:** The physical characteristics typically used to assign ones gender at birth, such as chromosomes, hormones, genitalia and reproductive organs.

**Female-to-Male (FTM):** A transgender person who was born with a female body, but who identifies as a male.

**Gender Identity:** One's internal psychological identification as a male or female.

**Gender Expression:** Ways in which an individual represents or expresses their gender to others,

often through behavior, clothing, hairstyle, etc.

**Male-to-Female (MTF):** A transgender person who was born with a male body, but who identifies as a female.

**Puberty:** The stage of adolescence during which a child's body develops into an adult body, becoming physiologically capable of sexual reproduction. This includes hormonal and morphologic changes. On average, girls begin puberty at ages 10–11; boys at ages 11–12. Girls usually complete puberty by ages 15–17, while boys usually complete puberty by ages 16–17.

**Sexual Reassignment:** Surgical procedures that change one's body to conform to a person's gender identity.

**Transgender:** Describes an individual whose gender identity does not match the person's biological sex. Transgender is not related to sexual preference; a transgender person may be attracted to the same sex or the opposite sex.

**Transition:** The period during which a person begins to live as a new gender. Transitioning may include changing one's name, taking hormones, having surgery, or changing legal documents to reflect their new gender.