

POLICY BRIEF

State bills restricting access of transgender youth to health care, school facilities, and school athletics threaten health and well-being

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EXECUTIVE SUMMARY

Transgender and gender diverse (TGD) youth have challenges accessing quality health care, with TGD youth who belong to racial and ethnic minorities facing even greater barriers to access. Barriers to care range from experiencing stigma and discrimination in health care settings to the refusal of health insurers to cover medically necessary care.

In 2021, these challenges worsened when lawmakers across the country filed a record number of bills seeking to limit access to health care for TGD youth and ban TGD youth from participating in school sports. The New York Times reports that these bills are part of a "coordinated and poll-tested campaign by social conservative organizations like the American Principles Project and Concerned Women for America." They have not been created in response to a societal problem. Rather, they are being used to advance the political right's culture war against LGBTQIA+ people. Whether these bills are enacted into law or not, they may ultimately result in immediate and long-term harms to the health of TGD youth.

Potential harms range from limiting or prohibiting access to medically necessary health care and increasing potential health risks by banning participation in sports activities that improve physical and mental health. Additionally, research shows that public discourse about the rights of people who have been marginalized, including TGD youth, can also have a significant negative impact on mental health.³ So further harm may occur to TGD youth when politicians and other public figures give a platform to the dangerous health misinformation in these bills. After passage of the Save Adolescents From Experimentation (SAFE) Act in Arkansas in April 2021, at least six Arkansas TGD youth attempted suicide.⁴

Lawsuits have been filed in state and district courts challenging the legality of the SAFE Act in Arkansas and other anti-transgender bills that have been enacted into law. While this legal advocacy continues, it is incumbent upon parents to create safe home environments for their TGD youth and advocate for safe schools. Clinicians have a responsibility to be familiar with the most up-to-date scientific and clinical information. Every child has a right to public education in this country and educators must create school cultures that support all youth, including TGD youth. Lawmakers are charged with representing the interests of all community members, and must speak up in support of TGD youth and actively work to defeat bills that harm their well-being and quality of life.

¹ Lauren S. H. Chong and others, 'Experiences and Perspectives of Transgender Youths in Accessing Health Care: A Systematic Review', JAMA Pediatrics, 175.11 (2021), 1159 https://doi.org/10.1001/jamapediatrics.2021.2061.

² Jeremy W. Peters, 'Why Transgender Girls Are Suddenly the G.O.P.'s Culture-War Focus', The New York Times, 29 March 2021, section U.S. https://www.nytimes.com/2021/03/29/us/politics/transgender-girls-sports.html [accessed 4 November 2021].

³ Mark L. Hatzenbuehler, Susan Nolen-Hoeksema, and Sarah J. Erickson, 'Minority Stress Predictors of HIV Risk Behavior, Substance Use, and Depressive Symptoms: Results from a Prospective Study of Bereaved Gay Men.', Health Psychology, 27.4 (2008), 455–62 https://doi.org/10.1037/0278-6133.27.4.455>.

⁴ Brant v. Rutledge, 2021 https://www.aclu.org/sites/default/files/field_document/brandt_et_al_v_rutledge_et_al_-complaint.pdf.

BACKGROUND

In 2021, lawmakers from 33 state legislatures and assemblies representing every region of the country filed 98 bills seeking to restrict of the ability of transgender and gender diverse youth (TGD) to access health care, school facilities, and school athletics.⁵ Sixty-three bills sought to prohibit or limit the participation of transgender youth in school sports; 29 sought to prohibit or limit access to health care; and six sought to restrict access to public facilities such as school locker rooms and bathrooms.

Taken together, these bills harm the health of TGD children and adolescents in three distinct ways. The first is by denying access to medically-necessary health care. The second is by subjecting TGD youth to government-sanctioned stigma and discrimination. The third is by denying access to educational activities and depriving TGD youth of the social, emotional, and health benefits such activities bring.

A growing body of research documents the harm that TGD people experience when they are exposed to societal stigma and discrimination based on gender identity, such as efforts to enact anti-transgender legislation.^{6,7} A growing body of research also shows the long-term harms to health that can occur when transgender and gender diverse children and adolescents do not have access to gender-affirming health care.^{8,9}

This policy brief will describe the tenets of gender-affirming health care, which can include mental health counseling, non-medical social transition, gender-affirming hormone therapy, and/or gender-affirming surgeries. It will outline the potential harms to health of laws that restrict access to health care, school facilities, and school athletics. Finally, it will offer recommendations for health care providers, school boards, and other school officials, and parents for navigating the current anti-transgender youth climate.

But first, it must be understood that these bills have not been filed in response to a societal need. Rather, they are being used to advance the political right's culture war against LGBTQIA+ people. A growing body of research documents the harm that TGD people experience when they are exposed to societal stigma and discrimination based on gender identity, such as efforts to enact anti-transgender legislation.

⁵ American Civil Liberties Union, 'Legislation Affecting LGBT Rights Across the Country | American Civil Liberties Union', ACLU.Org, 2021 < https://www.aclu.org/legislation-affecting-lgbt-rights-across-country [accessed 4 November 2021].

⁶ Jack L. Turban, Stephanie S. Loo, and others, 'Factors Leading to "Detransition" Among Transgender and Gender Diverse People in the United States: A Mixed-Methods Analysis', LGBT Health, 8.4 (2021), 273-80 < https://doi.org/10.1089/lgbt.2020.0437>.

⁷ Jaclyn M.W. Hughto and others, 'Negative Transgender-Related Media Messages Are Associated with Adverse Mental Health Outcomes in a Multistate Study of Transgender Adults', LGBT Health, 8.1 (2021), 32-41 https://doi.org/10.1089/lgbt.2020.0279>.

⁸ Jack L. Turban, Dana King, Jason J. Li, and others, 'Timing of Social Transition for Transgender and Gender Diverse Youth, K-12 Harassment, and Adult Mental Health Outcomes', Journal of Adolescent Health, 2021, S1054139X21002834 https://doi.org/10.1016/j.jadohealth.2021.06.001.

⁹ Jack L. Turban, Dana King, Jeremi M. Carswell, and others, 'Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation', Pediatrics, 145.2 (2020), e20191725 https://doi.org/10.1542/peds.2019-1725>.

The New York Times reports that the bills focused on limiting access to school sports are part of a "coordinated and poll-tested campaign by social conservative organizations like the American Principles Project and Concerned Women for America." The American Civil Liberties Union and Southern Poverty Law Center also show that these bills have been filed as part of a coordinated and centralized campaign by anti-LGBTQIA+ organizations. In February, 2021, a new anti-LGBTQIA+ national coalition called Promise to America's Children launched a website with sample text for anti-LGBTQIA+ bills for lawmakers, talking points for parents, and social media messages and graphics. In International Coalition Called Promise to America's Children launched a website with sample text for anti-LGBTQIA+ bills for lawmakers, talking points for parents, and social media messages and graphics. In International Coalition Called Promise to America's Children launched a website with sample text for anti-LGBTQIA+ bills for lawmakers, talking points for parents, and social media

One of the Promise to America's Children Coalition's three Leading National Partners, Alliance Defending Freedom, has been designated an anti-LGBTQIA+ hate group by the Southern Poverty Law Center for its advocacy to recriminalize "sexual acts between consenting LGBTQ adults in the U.S.," its promotion of "sterilization of trans people abroad," and its publication of propaganda claiming that "LGBTQ people are more likely to engage in pedophilia." Three of the coalition's 19 National Partners have also been designated anti-LGBTQIA+ hate groups by the Southern Poverty Law Center: the American College of Pediatricians¹⁶, the Family Research Council¹⁷, and Family Watch International.¹⁸

A WELL-PLACED LIE

The Promise to America's Children Coalition is the primary organizer of the anti-transgender bills filed in 2021. The purpose of the coalition, as published on its website home page, is to "to create and support laws that will protect children's health, safety, and families."19 But all of the anti-transgender bills filed in 2021, many of which are derived from sample text provided by the Promise to America's Children Coalition,20 would do the opposite by limiting access to medically necessary healthcare, limiting access to athletic activities that promote health and well-being, and restricting access to school facilities, such as bathrooms, that are necessary to meeting bodily needs throughout the day as well as maintaining basic hygiene.

¹⁰ Jeremy W. Peters, 'Why Transgender Girls Are Suddenly the G.O.P.'s Culture-War Focus', The New York Times, 29 March 2021, section U.S. https://www.nytimes.com/2021/03/29/us/politics/transgender-girls-sports.html [accessed 4 November 2021].

[&]quot;Hatewatch staff, 'Far-Right Groups Flood State Legislatures With Anti-Trans Bills Targeting Children | Southern Poverty Law Center', Southern Poverty Law Center, 2021 https://www.splcenter.org/hatewatch/2021/04/26/far-right-groups-flood-state-legislatures-anti-trans-bills-targeting-children [accessed 4 November 2021].

¹² Dan Avery, 'State Anti-Transgender Bills Represent Coordinated Attack, Advocates Say', NBC News, 2021 https://www.nbcnews.com/feature/nbc-out/state-anti-transgender-bills-represent-coordinated-attack-advocates-say-n1258124 [accessed 3 November 2021].

¹³ Emilie Kao, 'Promise to America's Children Warns of Destructive Equality Act LGBT Agenda', The Heritage Foundation, 2021 https://www.heritage.org/gender/commentary/promise-americas-children-warns-destructive-equality-act-lgbt-agenda [accessed 4 November 2021].

¹⁴ Kao.

¹⁵ Southern Poverty Law Center, 'Alliance Defending Freedom', Southern Poverty Law Center < https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom [accessed 3 November 2021].

¹⁶ Southern Poverty Law Center, 'American College of Pediatricians', Southern Poverty Law Center < https://www.splcenter.org/fighting-hate/extremist-files/group/american-college-pediatricians [accessed 3 November 2021].

¹⁷ Southern Poverty Law Center, 'Family Research Council', Southern Poverty Law Center < https://www.splcenter.org/fighting-hate/extremist-files/group/family-research-council [accessed 3 November 2021].

¹⁸ Southern Poverty Law Center, 'Family Watch International', Southern Poverty Law Center < https://www.splcenter.org/fighting-hate/extremist-files/group/family-watch-international [accessed 3 November 2021].

¹⁹ Promise to America's Children, 'Protecting America's Children', Promise to America's Children http://promisetoamericaschildren.org> [accessed 3 November 2021].

²⁰ Kate Sosin, 'Anti-LGBTQ+ Orgs Are Drafting Anti-Trans Bills for Policymakers with an Online Form', The 19th, 2021 https://19thnews.org/2021/03/anti-lgbtq-orgs-drafting-anti-trans-bills-policymakers/ [accessed 3 November 2021].

BILLS THAT SEEK TO LIMIT ACCESS TO GENDER AFFIRMING MEDICAL CARE

Gender affirming medical care encompasses a wide range of physical and mental health care and treatment that supports the recognition, acceptance, and expression of one's gender identity.²¹ For transgender and gender diverse (TGD) children and adolescents, such care can include the following:

- Psychiatric support for social transition, which is the process by which TGD children or adolescents adopt the name, pronouns, and gender expression, such as clothing and haircuts, that match their gender identity.
- The prescription of puberty-blocking drugs (gonadotropin-releasing hormone analogs), which delay the onset of puberty for transgender adolescents.
- The prescription of hormone therapy to masculinize or feminize the body.
- Chest surgery for older adolescents assigned female at birth but whose gender identity is male.

The World Professional Association of Transgender Health (WPATH) monitors current research and new knowledge about evidence-based medicine for transgender people. It publishes Standards of Care and Ethical Guidelines (SOC) for health care providers, which "articulate a professional consensus about the psychiatric, psychological, medical, and surgical management of gender dysphoria" to guide clinicians in providing quality care for transgender and gender diverse people, including children and adolescents.²²

For patients whose sex assigned at birth is incongruent with their gender identity and who are still pre-pubertal, no medical interventions are recommended in most cases. Instead, parents and caregivers are encouraged to focus on "acceptance and affirmation of the patient's gender identity."²³ The American Academy of Pediatrics also recommends a treatment model in which providers "offer developmentally appropriate care that is oriented towards understanding and appreciating the youth's gender experience."²⁴

While this exploration of identity occurs, the patient can see a mental health provider who specializes in gender identity, who can help set up personal support networks if the patient experiences gender dysphoria. This stage of social transition is critical to help children feel that their gender identity is accepted. It allows them to interact with peers, build a base of self-realized identity, and cement feelings of safety in their home and school environments. These skills are foundational to mental and emotional health for all children.²⁵

²¹ National LGBTQIA+ Health Education Center, 'LGBTQIA+ Glossary of Terms for Health Care Teams' (National LGBTQIA+ Health Education Center | A Program of the Fenway Institute, 2020) < https://www.lgbtqiahealtheducation.org/publication/lgbtqia-glossary-of-terms-for-health-care-teams/>.

²² World Professional Association for Transgender Health, 'Standards of Care Version 7' (World Professional Association for Transgender Health, 2012) https://www.wpath.org/publications/soc>.

²³ World Professional Association for Transgender Health.

²⁴ Jason Rafferty and others, 'Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents', Pediatrics, 142.4 (2018), e20182162 https://doi.org/10.1542/peds.2018-2162>.

²⁵ David C. Call, Mamatha Challa, and Cynthia J. Telingator, 'Providing Affirmative Care to Transgender and Gender Diverse Youth: Disparities, Interventions, and Outcomes', Current Psychiatry Reports, 23.6 (2021), 33 < https://doi.org/10.1007/s11920-021-01245-9>.

Feelings of gender dysphoria may become more intense at the onset of puberty. At this stage, the WPATH SOC recommends consideration of puberty blockers in combination with seeing a mental health provider. Transgender adolescents who receive treatment that suppresses their pubertal development can explore their gender identity without the pressure of dysphoria that often accompanies physical development that is incongruent with their gender identity. This therapy is unique among most gender-affirming medical interventions in that it is reversible. Once the medication is stopped, puberty resumes.

The anti-transgender bills filed in 2021 that seek to prohibit or limit access to health care, define and describe a standard of medical treatment for transgender children and adolescents that does not exist. For example, bills in Arizona²⁶, Georgia²⁷, Iowa²⁸, Kansas²⁹, Louisiana,³⁰ South Carolina,³¹ and West Virginia³² would prohibit "castration, vasectomy, [and] hysterectomy" from being performed, when in fact these procedures are not part of the WPATH SOC for children and adolescents.

As noted above, these procedures are never recommended for medical treatment of pre-pubertal transgender children. It is only after careful consideration with the youth and their family that reversible puberty blockade is offered at the beginning stages of puberty. The WPATH SOC does recommend chest surgery for older adolescents on a case-by-case basis. For these patients, they must have experienced "ample time of living in the desired gender role" in order "to give adolescents sufficient opportunity to experience and socially adjust in a more masculine gender role, before undergoing irreversible surgery." As always, clinical advice and recommendations will depend "on an adolescent's specific clinical situation and goals for gender identity expression."

COPY AND PASTE

Bills in Arizona, Georgia, Iowa, Kansas, Louisiana, South Carolina, and West Virginia include the identical language below, which suggests that they have not been written in response to local demand, but have instead been copied from a central source of anti-LGBTQIA+ legislative advocacy. They ban medical procedures such as "castration" and "vasectomy" that are never performed on children or adolescents. The bills also falsely assert that hormone blockers cause infertility.

- 1. Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchiectomy, penectomy, phalloplasty and vaginoplasty.
- 2. Performing a mastectomy.
- 3. Administering, prescribing or supplying any of the following medications that induce transient or permanent infertility:
- (a) puberty-blocking medication that stops or delays normal puberty.
- (b) supraphysiologic doses of testosterone to females.
- (c) supraphysiologic doses of estrogen to males.
- 4. Removing any otherwise healthy or nondiseased body part or tissue.

²⁶ Wendy Rogers, An Act AMENDING SECTIONS 13-705 AND 13-3623, ARIZONA REVISED STATUTES; RELATING TO FAMILY OFFENSES, 2021 https://www.azleg.gov/legtext/55leg/1r/bills/sb1511p.htm>.

²⁷ Ginny Ehrhart, Vulnerable Child Protection Act, 2021 < https://www.legis.ga.gov/legislation/59562>.

²⁸ Salmon, An Act Relating to Actions Relative to Treatment of Intervention Regarding the Discordance between a Minor's Sex and Gender Identity, and Providing Civil Penalties, 2021 https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=HF%20193&v=i.

²⁹ Fairchild, AN ACT Concerning Crimes, Punishment and Criminal Procedure; Creating the Crime of Unlawful Gender Reassignment Service; Providing Grounds for Unprofessional Conduct for Healing Arts Licensees, 2021 http://kslegislature.org/li/b2021_22/measures/documents/hb2210_00_0000.pdf.

³⁰ FIRMENT, HEALTH/CHILDREN: Restricts Prescribing and Dispensing of Certain Drugs to Delay Puberty and Prohibits Withholding of Certain Information from the Minor's Parent or Legal Guardian, HLS 21RS-637, 2021 < http://www.legis.la.gov/Legis/ViewDocument.aspx?d=1212045 >.

³¹ McKnight, SOUTH CAROLINA VULNERABLE CHILD COMPASSION AND PROTECTION ACT, Title 44 of the 1976 Code, 2021 < https://www.scstatehouse.gov/sess124_2021-2022/bills/4047.htm>.

³² JEFFRIES, Vulnerable Child Protection Act, 2021R1196, 2021 < http://www.wvlegislature.gov/Bill_Text_HTML/2021_SESSIONS/RS/bills/HB2171%20INTR.pdf>.

PROPAGATING HEALTH DISINFORMATION

The anti-transgender bills that seek to limit access to medically necessary healthcare propagate dangerous health disinformation in three key ways.

First, as noted in the section above, they give a false impression of what health care for transgender children and adolescents is by describing and banning medical treatment that does not exist in widely accepted standards of care. In doing so, these bills give a dangerously inaccurate portrayal of what evidence-based, medically accurate care for transgender children and adolescents consists of. Such health disinformation can be manipulated with significant real world consequences, as the examples below demonstrate.

These bills give a dangerously inaccurate portrayal of what evidence-based, medically accurate care for transgender children and adolescents consists of.

On March 8, 2021, International Women's Day, a group of protesters gathered outside of the White House to demand that the Biden Administration take action to prohibit doctors from "mutilating children's healthy bodies." On March 16, 2021, Partners for Ethical Care, an anti-transgender health care organization that purports to fight the "unethical treatment of children by the gender industry," organized protests outside of Mount Sinai Hospital in New York City³⁴ and the University of Utah Hospital in Salt Lake City. Protesters picketed the facilities holding signs that read "Gender Clinics Are Sterilizing Our Youth," "Gender Clinics Harm Children," and "No Child Is Born In the Wrong Body."

On July 13, 2021, Crossroads Church, a Christian megachurch in Cincinnati, Ohio, invited the policy director for the Center for Christian Virtue, which advocates for "public policy that reflects the truth of the Gospel" to preach on how Christians can navigate "controversial cultural and political divides." The policy director warned congregants against seeking medical care for their transgender children: "If you have a child struggling with gender dysphoria and you go to a clinic in this area, eventually you'll get down to brass tacks on if you want a dead daughter or a live son." ³⁶

Congregants and others were so upset by the remarks that Crossroads Church issued a public statement afterwards that read, in part: "What was shared this weekend was never meant to hurt anyone, and we deeply regret that it did. This is a topic that warrants increased care and empathy and we're sorry that didn't happen this weekend." But as a former worship leader of the church told WCPO, an ABC News outlet in the area, the damage had already been done: "Come to their first church service to have this guy completely delegitimize their existence. Can't imagine the emotional toll it's going to take on those kids."

³³ News Frontline, Women Urge Biden to Demand Protection and Rights for Females, 2021 https://www.youtube.com/watch?v=LDUqL2DT_R0 [accessed 4 November 2021].

³⁴ The Deprogrammer, Wake Up America: Protest at Mt. Sinai 'Gender Identity' Clinic in NYC, 2021 < https://www.youtube.com/watch?v=I0avHrdTEac [accessed 3 November 2021].

³⁵ I Care about Transgender Children, Wake Up America, Protest against Harmful Medical Procedures, 2021 < https://www.youtube.com/watch?v=tLBq8byaaRM [accessed 3 November 2021].

³⁶ Jake Ryle, 'Controversial Comments during Sermon at Crossroads Church Angers LGBTQIA+ Community', Abc News WCPO Cincinnati (Cincinnati, OH: abc, 2021) https://www.wcpo.com/news/local-news/hamilton-county/cincinnati/oakley/controversial-comments-during-sermon-at-crossroads-church-angers-lgbtqia-community.

The second way these bills spread and propagate health misinformation is by rejecting legal and medical definitions of "sex" and "gender dysphoria." In doing so, these bills and their proponents deny that transgender people exist. Among the bills that have not yet died in committee this year and still may be enacted into law is Iowa House Bill 193, which was filed on January 22, 2021.³⁷ That bill opens by defining "sex" as "the biological state of being female or male, based on sex organs, chromosomes, and endogenous hormone profiles. An individual's sex is genetically encoded into an individual at the moment of conception, and it cannot be changed."

North Carolina Senate Bill 514, which was filed on April 6, 2021, uses the same definition of "sex" found in the lowa bill, but also claims that "some in the medical community are aggressively pushing for interventions on minors that medically alter the child's hormonal balance and remove healthy external and internal sex organs." ³⁸

The last way these bills propagate misinformation is the most insidious, and that is by only telling half the story.

The Arkansas Save Adolescents From Experimentation (SAFE) Act³⁹, which was passed into law in April 2021 when lawmakers overrode Arkansas Governor Asa Hutchinson's veto of the measure, states that "individuals struggling with distress at identifying with their biological sex often have already experienced psychopathology, which indicates these individuals should be encouraged to seek mental health services to address comorbidities and underlying causes of their distress."

Texas Senate Bill 1646⁴⁰, which was approved by the Texas Senate on April 28, 2021, adds prohibitions on gender-affirming medical care to an existing state law that prohibits child pornography and human sex trafficking, conflating medical care with child sexual abuse.

A bill in Tennessee⁴¹ which has been deferred for action until 2022, confuses sexual orientation with gender identity with its definition of "sexual identity" as "an individual's self-recognition and self expression as either a biological female or biological male." It goes on to ban "sexual identity change therapy," which is "a course of treatment that involves the use of hormone replacement, puberty blockers, or other medical intervention to change the sexual identity or physical appearance of a patient to a sexual identity or physical appearance that does not correspond to the anatomy and chromosomal makeup with which the patient was born."

The last way these bills propagate misinformation is the most insidious, and that is by only telling half the story. Many of these bills accurately note that large numbers of transgender adults experience much higher rates of suicidal ideation and "psychiatric morbidities" than those experienced by the general population. But none acknowledge that the poorer mental health outcomes experienced by transgender people are the result of stigma, discrimination, and manufactured controversy over their rights and health, perpetuated, in part, by the very legislation anti-transgender lawmakers have filed in 2021. They also ignore data showing improved mental health outcomes documented in TGD youth who do have access to gender affirming care.

³⁷ Salmon.

³⁸ Hise, An Act to Protect Minors from Administration of Puberty Blockers and Cross-Sex Hormones and Other Related Actions, Procedures, and Treatments, DRS45273-NB-92, 2021 https://webservices.ncleg.gov/ViewBillDocument/2021/2411/0/DRS45273-NB-92.

³⁹ Lundstrum, An Act to Create the Arkansas Save Adolescents from Experimentation (SAFE) Act, Arkansas Code Title 20, Chapter 9, 2021 <a href="https://web.archive.org/web/20210501234028/https://www.arkleg.state.ar.us/Acts/FTPDocument?path=%2FACTS%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2F&file=626.pdf&ddBienniumSession=2021%2F2021R%2FPublic%2FAGTS%2FPublic%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2FPublic%2FAGTS%2F

⁴⁰ Perry, An Act Relating to the Definition of Abuse of a Child, 2021 < https://capitol.texas.gov/tlodocs/87R/billtext/pdf/5801646E.pdf#navpanes=0>.

⁴¹ Bowling and Ragan, An Act Relative to Courses of Treatment for Children, Tennessee Code Annotated, Title 39, Chapter 15, Part 4, 2021 https://www.capitol.tn.gov/Bills/112/Bill/SB0657.pdf>.

BILLS THAT SEEK TO BAN PARTICIPATION IN SCHOOL SPORTS

Bills that seek to limit or ban TGD youth from participating in school sports have advanced further in state legislatures and assemblies than those limiting access to health care. In 2021, 63 bills were filed to supersede state athletic association guidance governing the participation of TGD student athletes in middle and high school athletic competition.

Six anti-transgender sports laws have been enacted in Arkansas, Mississippi, Tennessee, Alabama, West Virginia, and Texas. A seventh state, South Dakota, has also banned the participation of transgender students in school athletics via executive order by Governor Kristi Noem, after Noem rejected a much more restrictive bill passed by lawmakers. An eighth state, Idaho, passed a bill into law prohibiting participation of transgender students in school athletics in 2020. A transgender college student sued the state, and in August 2020, a federal judge issued an injunction preventing the law from being enforced until the lawsuit is decided.

The bills range from preventing "biological males from participating in women's sports," to withholding state funds for any schools that allow students to participate in school sports in accordance with their gender identity, to "Promoting Equality of Athletic Opportunity." ⁴⁵

State athletic associations

State athletic associations have long created the standards that govern student participation in middle and high school athletics. ⁴⁶ Since 1920, the National Federation of State High School Associations has written the rules of competition for most high school sports and activities in the United States. This system is not connected to government or elected officials and has largely remained free of political controversy, until recently.

There is a correlation of decreased participation in sports by cisgender girls who live in states with transgender-exclusive athletic policies.

To date, 15 states and the District of Columbia have state athletic association guidelines that are inclusive of TGD youth. A report on these policies by the Center for American Progress found that "years of open participation by transgender students in those places have produced no evidence of purported harms to cisgender people." Meanwhile, there is a correlation of decreased participation in sports by cisgender girls who live in states with transgender-exclusive athletic policies:

In states with inclusive policies, high school girls' participation in sports remained unchanged from 2011 to 2019. In states with exclusive policies, girls' participation has decreased.

⁴² Allyson Waller, 'Restrictions on Transgender Student Athletes' Participation in School Sports Signed into Law by Gov. Greg Abbott', The Texas Tribune, 2021 https://www.texastribune.org/2021/10/25/texas-transgender-students-sports/>.

⁴³ Lee Strubinger, 'South Dakota Governor Bans Transgender Girls From Sports Teams By Executive Order', NPR, 29 March 2021, section National https://www.npr.org/2021/03/29/982474861/south-dakota-governor-bans-transgender-girls-from-sports-teams-by-executive-orde [accessed 3 November 2021].

⁴⁴ Hecox v. Little, 2020 < https://www.aclu.org/legal-document/hecox-v-little-decision-granting-preliminary-injunction>.

⁴⁵ Freedom for All Americans, 'Legislative Tracker: Anti-Transgender Student Athletics', Freedom for All Americans, 2021 https://freedomforallamericans.org/legislative-tracker/student-athletics/>.

⁴⁶ Wikipedia, 'National Federation of State High School Associations', Wikipedia, 2021 https://en.wikipedia.org/w/index.php?title=National_Federation_of_State_High_School_Associations&oldid=1024281722 [accessed 3 November 2021].

⁴⁷ Shoshana K. Goldberg and Thee Santos, 'Fact Sheet: The Importance of Sports Participation for Transgender Youth', Center for American Progress, 2021 https://www.americanprogress.org/issues/lgbtq-rights/reports/2021/03/18/497336/fact-sheet-importance-sports-participation-transgender-youth/>.

For example, the Oregon School Activities Association (OSAA) "endeavors to allow students to participate for the athletic or activity program of their consistently asserted gender identity while providing a fair and safe environment for all students." The OSAA rule continues to state that this inclusive policy "promotes harmony and fair competition among member schools by maintaining equality of eligibility and increase the number of students who will have an opportunity to participate in interscholastic activities."

The Massachusetts Department of Elementary and Secondary Education (DESE) outlines expectations for a wide range of extra-curricular activities, stating "[w]here there are sex-segregated classes or athletic activities, including intramural and interscholastic athletics, all students must be allowed to participate in a manner consistent with their gender identity." This guidance protects student athletes from discrimination and promotes a safe and supportive school environment.

By contrast, the guidelines in Louisiana from the Louisiana High School Athletic Association (LHSAA) direct schools to allow transgender students athletes to participate only under certain conditions—which include gender-affirming surgery, a hardship appeal process to The Hardship Committee, a legal change on government issued ID, hormone therapy "for sufficient length of time to minimize gender-related advantages in sports competition," and eligibility can only be granted "two years after all surgical and anatomical changes have been completed." Louisiana is one of three states that require transgender students to have had surgery in order to participate in school sports. ⁵¹

Fifteen additional states, from Arizona to Maine, place discriminatory restrictions on participation in school sports by transgender youth. Idaho and five southern states have enacted legislation or executive orders than ban transgender athletes' participation in school sports.⁵²

BOTH THE NCAA AND IOC PERMIT TRANS WOMEN TO COMPETE

In stark contrast with states that seek to prohibit transgender youth from participating in sports, the most elite athletic organizations in the world allow transgender athletes to compete in accordance with their gender identity. The National College Athletics Association adopted a policy in 2011 that allows transgender women to participate in women's sports after one year of testosterone suppression as part of gender affirmation. Transgender student athletes must certify that they have been on hormone therapy for at least one year.⁵³

Prior to 2015, the International Olympic Committee required transgender athletes to show legal documentation of their sex.⁵⁴ Given that it is not possible to obtain such documentation, the policy was updated to require transgender women to demonstrate that their total serum testosterone level has been below 10 nmol/L for at least one year prior to competition. Endocrine Society of America guidelines for transgender women's health care seeks a serum testosterone level of below 1.7 nmol/L.⁵⁵

⁴⁸ Peter Weber, 'Oregon School Activities Association Handbook' (OREGON SCHOOL ACTIVITIES ASSOCIATION, 2021) < https://www.osaa.org/governance/handbooks>.

⁴⁹ Massachusetts Department of Elementary and Secondary Education, 'Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment' (Massachusetts Department of Elementary and Secondary Education) https://l3248aea-16f8-fc0a-cf26-a9339dd2a3f0.filesusr.com/ugd/2bc3fc_447f7b8e8a44c835e855c51087a5a6d9.pdf>.

⁵⁰ The Louisiana High School Athletic Association (LHSAA), '2021-2022 Complete LHSAA Handbook' (The Louisiana High School Athletic Association (LHSAA), 2021), p. 196-7 https://online.flippingbook.com/view/407938288/>.

⁵¹ GLSEN, 'Gender Affirming and Inclusive Athletics Participation' (GLSEN, 2021) < https://www.glsen.org/sites/default/files/2021-05/GLSEN_Transathlete_Policies_Issue_Brief-05-03-21.pdf>.

⁵² GLSEN.

⁵³ GLSEN.

⁵⁴ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants, p. Document 22-9, Page 11 https://www.aclu.org/legal-document/hecox-v-little-safer-declaration>.

⁵⁵ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants.pp. 11-12.

HARMS TO HEALTH

Taken together, these bills harm the health of transgender and gender diverse children and adolescents in three distinct ways. The first is by denying access to medically-necessary health care. The second is by subjecting TGD youth to government-sanctioned stigma and discrimination. The third is by denying access to educational activities and depriving TGD youth of the social, emotional, and health benefits such activities bring.

Lack of access to genderaffirming health care during childhood and adolescence can harm the mental health of TGD people over the course of their lifetimes.

Most troubling of all is that a growing body of research shows that lack of access to gender-affirming health care during childhood and adolescence can harm the mental health of TGD people over the course of their lifetimes, so the impact of these bills to the health of TGD youth extends well into adulthood. Fe. Because of these threats to health, every major medical association, including the American Medical Association, Fe the American Psychological Association, Fe the American Psychological Association, Fe the American Academy of Pediatrics, Fe the American Academy of Child and Adolescent Psychiatry, Fe the Endocrine Society, Fe and the World Professional Association for Transgender Health Health has issued formal, public statements opposing passage of these bills.

⁵⁶ Jack L. Turban, King, Li, and others.

⁵⁷ Jack L. Turban, Dana King, Jeremi M. Carswell, and others, 'Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation', Pediatrics, 145.2 (2020), e20191725 https://doi.org/10.1542/peds.2019-1725>.

⁵⁸ American Medical Association, 'March 26, 2021: State Advocacy Update', American Medical Association, 2021 https://www.ama-assn.org/health-care-advocacy/advocacy-update/march-26-2021-state-advocacy-update.

⁵⁹ Jennifer Kelly and PhD, 'APA President: Politicians Should Follow the Science on Gender-Affirmation Treatments', American Psychological Association, 2021 https://www.apa.org/news/press/op-eds/science-gender-affirmation>.

⁶⁰ American Psychiatric Association, 'Frontline Physicians Oppose Legislation That Interferes in or Criminalizes Patient Care', American Psychiatric Association, 2021 https://www.psychiatry.org/newsroom/news-releases/frontline-physicians-oppose-legislation-that-interferes-in-or-criminalizes-patient-care.

⁶¹ Trisha Korioth, 'Pediatricians Say State Bills Would Harm Transgender Youths', AAP News, 2021 < https://www.aappublications.org/news/2021/03/09/transgender-legislation-030921>.

⁶² Stewart L. Adelson, Heather Walter, and Oscar Bukstein, 'Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents', Journal of the American Academy of Child & Adolescent Psychiatry, 51.9 (2012), 957-74 https://doi.org/10.1016/j.jaac.2012.07.004.

⁶³ Wylie C Hembree and others, 'Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society* Clinical Practice Guideline', The Journal of Clinical Endocrinology & Metabolism, 102.11 (2017), 3869–3903 https://doi.org/10.1210/jc.2017-01658>.

⁶⁴ United States Professional Association for Transgender Health, 'USPATH Statement on the Surge of Anti-Trans Legislation Occurring Within the US' (United States Professional Association for Transgender Health, 2021) < https://www.wpath.org/media/cms/Documents/USPATH/2021/FINAL%20USPATH%20Statement%20re%20Anti%20Trans%20Leg%20Mar%2017%202021.pdf?_t=1616007800>.

Prohibiting access to medically-necessary health care

A large body of research shows that TGD youth suffer disproportionately higher rates of anxiety, depression, and suicidality than their cisgender peers. ^{65,66,67,68} The largest of these studies examined the electronic health records of a racially diverse cohort of 1,333 TGD youth age 3-17 in California and Georgia and compared them with a matched, cisgender reference group. ⁶⁹ Published in 2018, the study found the prevalence for suicidal ideation and self-inflicted injuries among TGD youth "especially worrisome" and advised that TGD youth "may require not only thorough and immediate evaluation of mental health needs but also urgent implementation of social and educational measures of gender identity support." These poorer mental health outcomes are linked to lack of access to gender-affirming health care, lack of family/community acceptance and support, gender-related bullying and/or a combination of these factors.

All of the bills filed that address the health care treatment of TGD youth would prohibit access to such care. Arkansas' Save Adolescents From Experimentation (SAFE) Act⁷⁰, which became law in April 2021 after the Arkansas General Assembly overrode Arkansas Governor Asa Hutchinson's veto of the bill, is representative of how such bills would block access to care. First, the SAFE Act prohibits health insurers from covering the costs of gender-affirming health care. Next, it sets up a process by which health care professionals who offer gender-affirming care will lose their license to practice medicine. Finally, it issues a blanket ban on the provision of gender-affirming health care.

After the Arkansas bill became law, American Medical Association Executive Vice President and CEO James L. Madara, MD sent a letter to the National Governors Association warning of the harms to health such laws pose.⁷¹

"We believe this legislation represents a dangerous governmental intrusion into the practice of medicine and will be detrimental to the health of transgender children across the country," Madara wrote. "It is imperative that transgender minors be given the opportunity to explore their gender identity under the safe and supportive care of a physician. Arkansas's law and others like it would forestall that opportunity. This is a dangerous intrusion into the practice of medicine and we strongly urge the NGA and its member governors to oppose these troubling bills."

Madara warned of the additional health risks that could result if transgender adolescents sought to treat themselves with "harmful self-prescribed hormones, use of construction-grade silicone injections, and other interventions that have potential to cause adverse events."

The SAFE Act prohibits health insurers from covering the costs of genderaffirming health care.

⁶⁵ Annelou L.C. de Vries and others, 'Psychiatric Comorbidity in Gender Dysphoric Adolescents: Comorbidity in Gender Dysphoric Adolescents', Journal of Child Psychology and Psychiatry, 52.11 (2011), 1195–1202 https://doi.org/10.1111/j.1469-7610.2011.02426.x.

⁶⁶ Johanna Olson and others, 'Baseline Physiologic and Psychosocial Characteristics of Transgender Youth Seeking Care for Gender Dysphoria', Journal of Adolescent Health, 57.4 (2015), 374–80 https://doi.org/10.1016/j.jadohealth.2015.04.027>.

⁶⁷ Sari L. Reisner, Katie B. Biello, and others, 'Psychiatric Diagnoses and Comorbidities in a Diverse, Multicity Cohort of Young Transgender Women: Baseline Findings From Project LifeSkills', JAMA Pediatrics, 170.5 (2016), 481 https://doi.org/10.1001/jamapediatrics.2016.0067>.

⁶⁸ Sari L. Reisner, Ralph Vetters, and others, 'Mental Health of Transgender Youth in Care at an Adolescent Urban Community Health Center: A Matched Retrospective Cohort Study', Journal of Adolescent Health, 56.3 (2015), 274-79 < https://doi.org/10.1016/j.jadohealth.2014.10.264>.

⁶⁹ Tracy A. Becerra-Culqui and others, 'Mental Health of Transgender and Gender Nonconforming Youth Compared With Their Peers', Pediatrics, 141.5 (2018), e20173845 https://doi.org/10.1542/peds.2017-3845>.

⁷⁰ Lundstrum.

⁷¹ James Madara, 'Request to National Governors Association from American Medical Association to Oppose State Legislation That Would Prohibit the Provision of Medically Necessary Gender Transition-Related Care to Minor Patients', 26 April 2021 https://searchlf.ama-assn.org/letter/documentDownload?uri=%2Funstructured%2Fbinary%2Fletter%2FLETTERS%2F2021-4-26-Bill-McBride-opposing-anti-trans-bills-Final.pdf.

In addition to depriving TGD youth of medically necessary and urgently needed health care, a growing body of research shows that lack of access to gender-affirming health care during child-hood and adolescence can harm the mental health of TGD people over the course of their lifetimes. A 2020 Pediatrics study found that treatment with pubertal suppression during adolescence was associated with lower odds of lifetime suicidal ideation and concludes: "Among transgender adults in the U.S. who have wanted pubertal suppression, access to this treatment is associated with lower odds of lifetime suicidal ideation. This study strengthens recommendations by the Endocrine Society and WPATH for this treatment to be made available for transgender adolescents who want it." ⁷²

Government-sanctioned stigma and discrimination

Many studies suggest that one of the primary reasons TGD youth have such higher rates of anxiety, depression, and suicidality than their cisgender peers, is the stigma and discrimination that they face. For a 2017 study, researchers asked TGD youth in New England what they wanted their doctors to know about. One answered:

Among transgender adults in the U.S. who have wanted pubertal suppression, access to this treatment is associated with lower odds of lifetime suicidal ideation.

If I am depressed or anxious, it's likely not because I have issues with my gender identity, but because everyone else does. [...] Many of us are anxious and depressed not because we are transgender, but because other people have a problem with us being transgender. Misunderstanding, lack of acceptance, harassment, discrimination, and judgment can all take a serious toll.⁷³

Filing bills that block access to medically necessary health care treatment increases the stigma and discrimination experienced by TGD youth. Media coverage of these bills facilitates propaganda about TGD people, while the threat of losing access to life-changing health care can result in debilitating anxiety, depression, and self-harm.

New research shows that exposure to negative depictions of transgender people in the media is associated with clinical symptoms of depression, anxiety, global psychological distress, and post-traumatic stress disorder.⁷⁴ This includes media coverage of controversial bills, such as the anti-transgender health care bills. Indeed, after passage of the SAFE Act in Arkansas, at least six Arkansas TGD youth attempted suicide.⁷⁵

This research builds on studies that show that passage of laws that restrict rights, or take them away altogether, can have a negative effect on health, even if the laws in question are not related to health care. For example, a 2009 study found that states that enacted bans on same-sex marriages saw rates of HIV transmission increase by 3-5 cases per 100,000 people. (In the U.S., two thirds of new HIV infections occur among gay and bisexual men.)

"Many of us are anxious and depressed not because we are transgender, but because other people have a problem with us being transgender."

⁷² Jack L. Turban, King, Carswell, and others, 'Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation'.

⁷³ Jack Turban, Tony Ferraiolo, and others, 'Ten Things Transgender and Gender Nonconforming Youth Want Their Doctors to Know', Journal of the American Academy of Child & Adolescent Psychiatry, 56.4 (2017), 275–77 https://doi.org/10.1016/j.jaac.2016.12.015>.

 $^{^{74}}$ Hughto and others.

⁷⁵ Brant v. Rutledge.

⁷⁶ Mark L. Hatzenbuehler, Katie A. McLaughlin, and others, 'The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study', American Journal of Public Health, 100.3 (2010), 452–59 https://doi.org/10.2105/AJPH.2009.168815>.

⁷⁷ Ellen D. B. Riggle, Sharon S. Rostosky, and Sharon G. Horne, 'Marriage Amendments and Lesbian, Gay, and Bisexual Individuals in the 2006 Election', Sexuality Research & Social Policy: A Journal of the NSRC, 6.1 (2009), 80-89 https://doi.org/10.1525/srsp.2009.6.1.80.

⁷⁸ Andrew M. Francis and Hugo M. Mialon, 'Tolerance and HIV', Journal of Health Economics, 29.2 (2010), 250-67 < https://doi.org/10.1016/j.jhealeco.2009.11.016>.

⁷⁹ Centers for Disease Control and Prevention. "HIV and Gay and Bisexual Men." Factsheet. Last updated September 16, 20k21. https://www.cdc.gov/hiv/group/msm/index.html

Conversely, legislative and public policy changes that reduce inequality experienced by minoritized populations can positively impact health in significant ways, even if health improvement was not the intent of the new law or policy. For example, 2012 study found that in the 12-month period after marriage equality was enacted in Massachusetts, gay and bisexual men at a Boston health center experienced a 13 percent drop in medical care visits, and a 13 percent drop in appointments related to mental health.

The harms to health caused by public debate, particularly statements by public leaders that denigrate the humanity of TGD youth, are serious, significant, and on-going

Denying access to educational activities negatively affects health and well-being

Participation in sports and extra-curricular activities is an important way that young people relieve stress through physical activity, learn valuable social and team-building skills, and engage in the world outside of their childhood boundaries ⁸¹ They help young people discover their developing identity ⁸² These experiences are especially important for TGD youth whose path of self-discovery is often more challenging than their cisgender peers. Preventing them from participating in this outlet of physical activity and identity exploration is harmful to their mental and physical health, creating unhealthy patterns that can continue into adulthood. While trans-exclusive policies substantially harm transgender youth, it is important to note that trans-inclusive policies do no harm to cisgender youth ⁸³ In states with inclusive and affirmative policies, participation levels in girls' sports remained steady and increased; ⁸⁴ in states with discriminatory policies, participation decreased ⁸⁵

Mental health benefits of participation in school sports include improved emotional regulation, lower rates of hopelessness and suicidality, a reduction in depressive symptoms, and better self-esteem. LGBTQ+ student athletes tend to perform better in school than their non-athlete peers, achieving higher grade point averages. They are also more likely to report a sense of belonging at school.⁸⁶

Mental health benefits of participation in school sports include improved emotional regulation, lower rates of hopelessness and suicidality, a reduction in depressive symptoms, and better self-esteem.

See more statistics from the National Federation of State High School Associations here: https://members.nfhs.org/
participation statistics

⁸⁰ Mark L. Hatzenbuehler, Conall O'Cleirigh, and others, 'Effect of Same-Sex Marriage Laws on Health Care Use and Expenditures in Sexual Minority Men: A Quasi-Natural Experiment', American Journal of Public Health, 102.2 (2012), 285–91 https://doi.org/10.2105/AJPH.2011.300382.

⁸¹ Reed W. Larson, 'Toward a Psychology of Positive Youth Development', American Psychologist, 55.1 (2000), 170-83 https://doi.org/10.1037/0003-066X.55.1.170>.

⁸² Andrew Soundy and others, 'The Psychosocial Consequences of Sports Participation for Individuals with Severe Mental Illness: A Metasynthesis Review', Advances in Psychiatry, 2015 (2015), 1-8 https://doi.org/10.1155/2015/261642.

⁸³ Anna Kavoura and Marja Kokkonen, 'What Do We Know about the Sporting Experiences of Gender and Sexual Minority Athletes and Coaches? A Scoping Review', International Review of Sport and Exercise Psychology, 2020, 1–27 https://doi.org/10.1080/1750984X.2020.1723123.

⁸⁴ Rebecca Brutlag, 'State Media Release: California High School Sports Participation at All-Time High for Eighth Consecutive Year' (California Interscholastic Federation, 2020) < https://www.cifstate.org/mediacenter/releases/2020-21/PR-1_2019-20 CIF Participation Census 8.3.20.pdf>.

⁸⁵ The Centers for Disease Control and Prevention, Youth Risk Behavior Surveillance — United States, 2019 (The Centers for Disease Control and Prevention, 2020), p. 88 https://www.cdc.gov/healthyyouth/data/yrbs/index.htm.

⁸⁶ GLSEN.

On top of the psychological toll that these discriminatory policies have, they prevent TGD students from participating in activities that promote physical fitness and well-being. Rates of obesity and sedentary behavior are higher for LGBTQ youth.⁸⁷ Some studies have found that that the minority stress experienced by such youth "can contribute to stress-linked coping behaviors that lead to poor physical health."⁸⁸ This also causes LGBTQ youth to develop unhealthy exercise habits at a young age, leading to greater health disparities later in life.

Clear guidelines from the Oregon School Activities Association Handbook that protect the rights and privacy of TGD youth have set an example for state athletic associations⁸⁹ to support students. It is unnecessary and inappropriate for state legislatures and elected officials to intervene in these processes that have been developed to protect the rights and health of young people.

The goals of youth athletics should be learning team dynamics, providing healthy physical activity, and having fun. Excluding TGD students for the sake of "fairness" implies the emphasis has shifted to winning above all else. This poses a threat to the mental health of all students participating in school sports. Limiting the participation of TGD youth from participating in sports based on body size, muscle mass, and hormone levels is also setting a dangerous precedent when considering the vast variability in these characteristics for cisgender people and their bodies as well. If we are assessing participation based on size and strength for TGD individuals, then we need to do the same for cisgender participants as well, which is unwieldy, not sustainable, and again, gets away from the fundamentals of sport – participation, comradery, competition, and belonging.

⁸⁷ Lauren B Beach and others, 'Risk Factors for Diabetes Are Higher among Non-Heterosexual US High-School Students', Pediatric Diabetes, 19.7 (2018), 1137-46 https://doi.org/10.1111/pedi.12720.

⁸⁸ Beach and others.

⁸⁹ Caitlin M. Clark and Joseph G. Kosciw, 'Engaged or Excluded: LGBTQ Youth's Participation in School Sports and Their Relationship to Psychological Well-being', Psychology in the Schools, 2021, pits.22500 < https://doi.org/10.1002/pits.22500.

BAD SCIENCE

Medical practice and the laws that govern the field should be based on on science, not pseudoscience or, worse, lies. Unfortunately, the anti-transgender laws filed this year are based on pseudoscience and lies. Below are common false claims made in these bills.

The most common claim in the bills that seek to limit access to health care is that puberty blockers cause infertility. Bills filed in Arizona, Georgia, Iowa, Kansas, Louisiana, South Carolina, and West Virginia all make this claim. In fact, there is no evidence that puberty blockers cause infertility. It is unclear if proponents of these discriminatory bills are lying or if they are confusing puberty blockers with feminizing and masculinizing hormone therapy, which can limit fertility.

In the case of feminizing and masculinizing hormone therapy, the WPATH standards of care are clear about the need for discussions about fertility with patients considering hormone therapy: "Health care professionals—including mental health professionals recommending hormone therapy or surgery, hormone-prescribing physicians, and surgeons—should discuss reproductive options with patients prior to initiation of these medical treatments for gender dysphoria. These discussions should occur even if patients are not interested in these issues at the time of treatment, which may be more common for younger patients." At the same time, the WPATH standards of care are also clear that the guidelines are meant to be flexible in order to meet the needs of each individual patient, which may require "specific harm-reduction strategies."

This is one of the reasons why parental involvement in decisions about the use of hormone therapy in older adolescents is so important. It can be difficult, if not impossible, for older adolescents or even young adults to fully appreciate what it might mean to have reduced fertility. These potential future concerns must be balanced against any psychological distress, including suicidal ideation, a young patient may be currently experiencing as a result of gender dysphoria.

The most common claim in the bills that seek to restrict or fully ban the participation of transgender athletes in school sports is that the "benefits that natural testosterone provides to male athletes is not diminished through the use of puberty blockers and cross-sex hormones." This claim is made in bills filed in New Jersey, 1 Rhode Island, 2 West Virginia, 3 Arkansas, North Carolina, 5 and Idaho.

There is no evidence to support these claims.

⁹⁰ World Professional Association for Transgender Health.

⁹¹ Michael TESTA, An Act Concerning Student Participation in School-Sanctioned Sporting Events, Chapter 11 of Title 18A, 2021 https://www.njleg.state.nj.us/2020/Bills/S4000/3540_I1.HTM>.

⁹² Morgan, Lombardo, and de la Cruz, The Fairness in Women's Sports Act, LC001969, 2021 < http://webserver.rilin.state.ri.us/BillText/BillText21/SenateText21/S0638.pdf>.

⁹³ Grady, Roberts, and Smith, An Act Relating to Requiring, for an Official or Unofficial School-Sanctioned Athletic or Sporting Event, That Each Athlete's Participation in the Athletic or Sporting Event Be Based on the Athlete's Biological Sex as Indicated on the Athlete's Original Birth Certificate Issued at the Time of Birth; Providing a Revised Designation for Sporting Events; and Providing a Means by Which Civil Actions Can Be Taken, 2021 https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=SB341%20INTR.htm&yr=2021&sesstype=RS&i=341.

⁹⁴ Irvin, AN ACT TO CREATE THE FAIRNESS IN WOMEN'S SPORTS ACT, 2021 https://www.arkleg.state.ar.us/Acts/FTPDocument?path=%2FACTS%2F2021R%2FPublic%2F&file=461.pdf&ddBienniumSession=2021%2F2021R.

⁹⁵ Brody, Save Women's Sports Act, 2021 https://www.ncleg.gov/BillLookUp/2021/h358.

⁹⁶ Legislature of the State of Idaho, Fairness in Women's Sports Act, Idaho Code § 33-6202, 2020 https://casetext.com/statute/idaho-code/title-33-education/chapter-62-fairness-in-womens-sports-act/section-33-6202-legislative-findings-and-purpose.

A transgender teen who was treated with puberty blockers and who wishes to join her high school girls track team will likely hold no hormonal advantage over her cisgender peers. First, if she was treated with puberty blockers, then her body would never have produced the "natural testosterone" cisgender boys generate in puberty. Second, if she is treated with feminizing hormones to initiate puberty consistent with her gender identity, her body would have the impacts of estrogen, not testosterone. It is true that testosterone blockers and estrogen have significant hormonal effects on a transgender girl's or woman's body. But they do not result in the physical advantages claimed by anti-transgender proponents.

In expert testimony provided by Dr. Joshua D. Safer, M.D., FACP, FACE in support of a transgender student who is suing the state of Idaho for its law prohibiting participation of transgender students in school athletics, Safer outlined the ways in which a transgender woman would be at a physical disadvantage to her cisgender competitors.

First, if she went through male puberty, she would tend to have larger bones than her cisgender peers. "Having larger bones without corresponding levels of testosterone and muscle mass would mean that a runner has a bigger body to propel with less power to propel it," Safer declared.⁹⁹

This disadvantage would also carry over to sports in which athletes compete in different weight classes, such as powerlifting, weightlifting, and wrestling. "[B]igger bones may be a disadvantage because her ratio of muscle-to-bone will be much lower than the ratio for other women in her weight class who have smaller bones," he testified.

The claims made in anti-transgender sports bills that female transgender athletes have an advantage over their cisgender peers are "based on speculation and inferences that have not been borne out by any evidence," Safer declared.¹⁰⁰

"Having larger bones without corresponding levels of testosterone and muscle mass would mean that a runner has a bigger body to propel with less power to propel it," Safer declared.

Only one study has examined the effects of gender-affirming hormone therapy on the athletic performance of transgender female athletes. This 2015 study found that transgender female athletes' performance dropped significantly following hormone therapy. The athletes' performance relative to cisgender females was similar to their performance relative to cisgender males prior to initiating hormone therapy. In other words, if they ran 30 percent faster than most males before undergoing hormone therapy, they ran 30 percent faster than most females after undergoing hormone therapy. But they did not have a relative advantage compared to other female athletes.¹⁰¹

⁹⁷ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants.

⁹⁸ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants.p. 16.

⁹⁹ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants.p.17.

¹⁰⁰ LINDSAY HECOX, et al., Plaintiffs, v. BRADLEY LITTLE, et al.; Defendants.p. 15.

¹⁰¹Joanna Harper, 'Race Times for Transgender Athletes', Journal of Sporting Cultures and Identities, 6.1 (2015), 1-9 < https://doi.org/10.18848/2381-6678/CGP/v06i01/54079>.

Speculation that transgender female athletes have a physical advantage over their cisgender peers is contradicted by the real world experiences of high school athletes competing in states with transgender-inclusive policies in place. During an interview with NPR about anti-transgender sports participation bills, Dr. Eric Vilain, a pediatrician and geneticist who studies sex differences in athletes, said: "But the question is whether there is in real life, during actual competitions, an advantage of performance linked to this male hormone and whether trans athletes are systematically winning all competitions. The answer to this latter question, are trans athletes winning everything, is simple — that's not the case." 102

Meanwhile, a recent example that disproves the narrative that transgender woman have an advantage over cisgender women is Olympic athlete Laurel Hubbard. As per International Olympic Committee policy, Hubbard demonstrated that her serum testosterone level was below specified levels after transitioning in order to compete. Despite having undergone male puberty, Hubbard could not complete any of her lifts and was ruled out of medal contention. Her division was eventually won by Li Wenwen, of China. While just one anecdote, Hubbard's example shows that while she is an indisputable leader and champion for transgender athletes, her prior levels of testosterone gave her no advantage over her cisgender peers.

Hubbard's ability to compete at an elite level under the guidelines of the International Olympic Committee belies the bad science behind the bill that seek to prohibit transgender high school athletes from competing in school sports.

¹⁰² Tinbete Ermyas and Kira Wakeam, 'Wave Of Bills To Block Trans Athletes Has No Basis In Science, Researcher Says', NPR, 18 March 2021, section Sports https://www.npr.org/2021/03/18/978716732/wave-of-new-bills-say-trans-athletes-have-an-unfair-edge-what-does-the-science-s [accessed 3 November 2021].

¹⁰³ James Ellingworth and Sally Ho, 'Transgender Weightlifter Hubbard Makes History at Olympics', AP NEWS, 2 August 2021, section 2020 Tokyo Olympics https://apnews.com/article/2020-tokyo-olympics-sports-weightlifting-laurel-hubbard-e721827cdaf7299f47a9115a09c2a162 [accessed 4 November 2021].

RECOMMENDATIONS

Clinicians

Medical providers have a responsibility to be familiar with the most up-to-date scientific and clinical information. The LGBTQIA+ Health Education Center, a program of The Fenway Institute at Fenway Health, offers educational programs, resources, and consultation to health care organizations with the goal of optimizing care for LGBTQIA+ people, including TGD youth. 104 Webinars, publications, videos, and learning modules are available online.

Parents and other caregivers

Create a supportive home environment

Gender Spectrum has extensive resources for parents on understanding gender, myths about TGD youth, and how to talk about gender with children in age-appropriate ways, such as this advice from Gender Spectrum's parenting advice page:¹⁰⁵

Communicate to your children that everyone's gender is unique to them and there is not just one way to be a boy, a girl or a kid. This includes that there is not just one way to be a transboy, transgirl or non-binary person either!

Connect your child or adolescent with gender affirming health care providers

Many organizations have compiled extensive resources for parents seeking gender affirming care for their children, including the American College of Obstetricians and Gynecologists¹⁰⁶ and Gender Spectrum.¹⁰⁷ The Gender Multispecialty Service program at Boston Children's Hospital publishes a lot of useful information online.¹⁰⁸ The National Center for Transgender Equality has a guide for how to get health insurers to cover gender affirming health care.¹⁰⁹

Collaborate with school officials to create a plan to support your child

If you and your child decide that a social transition is appropriate, work ahead of time with your child's school to ensure that there is a plan in place to support your child. Plans should specify your child's pronouns and name, who your child should seek out during the school day if they are feeling unsafe, and how to keep your child's medical information confidential. A sample plan for parents and schools can be found in the report Schools In Transition: A Guide for Supporting Transgender Students in K-12 Schools.¹¹⁰

¹⁰⁴ National LGBTQIA+ Health Education Center, 'National LGBTQIA+ Health Education Center', National LGBTQIA+ Health Education Center < https://www.lgbtqiahealtheducation.org/>.

¹⁰⁵ Gender Spectrum, 'Gender Spectrum | Healthy Parenting TipsGender Spectrum', Gender Spectrum https://genderspectrum.org/articles/healthy-parenting-tips> [accessed 4 November 2021].

¹⁰⁶ The American College of Obstetricians and Gynecologists, 'Health Care for Transgender Teens', The American College of Obstetricians and Gynecologists https://www.acog.org/en/womens-health/faqs/health-care-for-transgender-teens [accessed 5 November 2021].

¹⁰⁷ Gender Spectrum, 'Gender Spectrum | Medical and Mental Health ResourcesGender Spectrum', Gender Spectrum https://genderspectrum.org/articles/medical-and-mental-health-resources> [accessed 5 November 2021].

¹⁰⁸ Boston Children's Hospital, 'Gender Multispecialty Service (GeMS) | Boston Children's Hospital' https://www.childrenshospital.org/centers-and-services/programs/f--n/gender-multispecialty-service [accessed 5 November 2021].

¹⁰⁹ National Center for Transgender Equality, 'Health Coverage Guide | National Center for Transgender Equality,' https://transgender/by-nc-4 [accessed 5 November 2021].

¹¹⁰ Human Rights Campaign, 'Schools In Transition', Human Rights Campaign <<u>https://www.hrc.org/resources/schools-in-transition-a-guide-for-supporting-transgender-students-in-k-12-s</u>> [accessed 5 November 2021].

School superintendents, principals, teachers, and coaches

There is not a lot of research on how to create affirming spaces in school environments for TGD children and adolescents. Experts recommend following best practices for supporting lesbian, gay, and bisexual students in schools and implementing them for TGD youth.¹¹¹ These practices include the following:

- Incorporate LGBTQIA+ history into the curriculum for all students.
- Ensure that all students hear from LGBTQIA+ people, so that young people have a human face and experience to reference and relate to.
- Establish firm policies around harassment to prevent bullying with clear procedures staff can follow.
- Create space for kids to meet and interact with other kids like them. The Gender-Sexuality
 Alliance program allows LGBTQIA+ students and allies to come together in a
 protected space to share experiences.

Additional resources:

- Schools In Transition: A Guide for Supporting Transgender Students in K-12 Schools.¹¹² This report is for administrators, teachers, parents, and other adults who work with youth. It covers topics ranging from basic concepts of gender and the importance of affirming gender identity, to best practices for restroom access and working with unsupportive parents. Authored by experts from The National Center for Lesbian Rights, Gender Spectrum, HRC Foundation, the American Civil Liberties Union, and the National Education Association.
- Gender Affirming and Inclusive and Athletics Participation.¹¹³ This paper by GLSEN includes recommendations for creating inclusive athletics policies.
- The Massachusetts Department of Elementary and Secondary Education's statement of non-discrimination in K-12 education on the basis of gender identity. This statement includes information on understanding gender identity and the importance of using students' names and pronouns, even if they differ from legal names and sex assigned at birth.
- Framingham Inclusive Sports Participation Policy. This guide to athletics participation by the Framingham, Massachusetts public school district states: "All students shall have the opportunity to participate in Framingham Public Schools athletics and/or co-curricular activities in a manner that is consistent with their gender identity, irrespective of the gender listed on a student's records and without prior medical or mental health care."

Pride In Our Health, 'Pride In Our Health: Episode 12: Social Transition and Mental Health Outcomes for Trans Youth'

https://prideinourhealth.libsyn.com/episode-12-social-transition-and-mental-health-outcomes-for-trans-youth

[accessed 5 November 2021].

¹¹² Human Rights Campaign.

¹¹³ GLSEN

¹¹⁴ Massachusetts Department of Elementary and Secondary Education, 'Guidance for MA Public Schools Creating a Safe and Supportive School Environment - Student and Family Support', Massachusetts Department of Elementary and Secondary Education https://www.doe.mass.edu/sfs/lgbtq/genderidentity.html [accessed 5 November 2021].

¹¹⁵ 'FRAMINGHAM INCLUSIVE SPORTS PARTICIPATION POLICY' < https://13248aea-16f8-fc0a-cf26-a9339dd2a3f0.filesusr.com/ugd/2bc3fc_79a9c3bf1e7c499297520bc4655fa38d.pdf [accessed 5 November 2021].

- Oregon School Activities Association Handbook.¹¹⁶ The guide to school athletics in Oregon acknowledges that its "policy will need to be reviewed on a regular basis based on improved understanding of gender identity and expression, evolving law, and societal norms." It states that "once a transgender student has notified the student's school of their gender identity, the student shall be consistently treated as that gender for purposes of eligibility for athletics and activities, provided that if the student has tried out or participated in an activity, the student may not participate during that same season on a team of the other gender."
- Trans Youth Handbook.¹¹⁷ This legal resource guide covers the rights of TGD youth regarding identity documents, school, health care, non-affirming care environments, and work. Co-authored by the National Center for Lesbian Rights and Harvard Law School LGBTQ+ Advocacy Clinic.

Lawmakers

Elected officials at the local, state, and federal level have an important role to play in the health and well-being of TGD youth. First and foremost, they should support legislative measures that affirm the rights of TGD youth by prohibiting discrimination in employment, housing, and public accommodations on the basis of real or perceived gender identity. Second, they should oppose harmful measures such as the ones highlighted in this policy brief. Last, they should lead by example by making public statements that affirm the humanity of TGD youth. Ways to do this include issuing formal press statements on the occasion of Intersex Day of Remembrance (November 8), Transgender Day of Remembrance (November 20), Transgender Awareness Week (the second full week of November) and Transgender Awareness Month (November).

WORDS MATTER

Research shows that public discourse about the rights of people who have been marginalized, including TGD youth, can significantly impact mental health.

"What I wish people would talk about more is not just the direct impacts of this legislation ... but just the conversations we have about these things have a substantial impact," said Dr. Jack Turban, Chief Fellow in Child & Adolescent Psychiatry at the Stanford University School of Medicine. "Having conversations where powerful politicians and the news media are rejecting these kids for their gender identity that's going to impact their mental health.

Turban made his comments during an interview with Fenway Health's Pride in our Health podcast.

"Hearing politicians say you're actually confused, you shouldn't be offered your medical care, your medical care should be taken away from you hurts your mental health," Turban added. "So I may have an adolescent patient who on a conscious level knows [they are] not a threat to [anyone]. ... But unconsciously, those messages creep in. So they have these questions like maybe I'm dangerous, maybe I'm invalid, maybe I am just confused and mentally ill. And those kind of unconscious senses of transphobia drive anxiety and depression."

¹¹⁶ Weber.

¹¹⁷ Harvard Law School LGBTQ+ Advocacy Clinic, 'Trans Youth Handbook — Harvard Law School LGBTQ+ Advocacy Clinic', Harvard Law School LGBTQ+ Advocacy Clinic https://hlslgbtq.org/trans-youth-handbook> [accessed 5 November 2021].

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