



Kim Liscomb, President
Maine Principals' Association
50 Industrial Drive
Augusta, ME 04330

March 5, 2025

Re: MPA's Gender Identity Participation Policy

Dear President Liscomb,

We write to urge the Maine Principals' Association to amend its "Gender Identity Participation Policy" ("the Policy") to protect female athletes from unfair and unsafe competitions. As this letter will explain, the law not only allows such an amendment, but in fact requires it.

As it currently stands, the MPA's Policy gives male students who identify as female the right to play on girls' teams.¹ The Policy was amended last year to eliminate the vetting process that had previously been in place, which required athletes who identified as transgender to attend a hearing before playing on a team for members of the opposite sex. The purpose of this hearing was to ensure that the assertion of an athlete's gender identity was sincere and that their participation on a team with members of the opposite sex would not undermine the safety or fairness of competitions.² Now, the Policy states that member schools have sole authority to determine gender identity assignment, but that no medical records or official documents shall be required to establish such identity. In practice, the Policy gives schools no choice but to allow male athletes to play on girls' teams.

As you know, the participation of male athletes on girls' teams in Maine has generated intense controversy and made national headlines in recent weeks. This practice, as required by your Policy, has led to unfair and unsafe sports competitions for female athletes. To address this practice nationwide, President Trump issued Executive Order 14201, "Keeping Men Out of Women's Sports," which directs the Secretary of Education to enforce Title IX of the Education Amendments of 1972 to protect all-female sports teams.³ Our governor signaled her intention not to comply with the President's order, and as a

¹ Maine Principals' Association 2024-2025 Handbook, Article II, Section 12, available [here](#).

² Maine Principals' Association 2022-2023 Handbook, Article II, Section 12, available [here](#).

³ EO 14201 of Feb. 5th, 2025, "Keeping Men Out of Women's Sports," 90 FR 9279, available [here](#).

result, the Maine Department of Education is now under investigation by the federal Department of Justice for violating Title IX.⁴

We understand that your office has also stated that it intends not to comply with Title IX as laid out in President Trump's order and to instead keep its current Policy unchanged, in accordance with the Maine Human Rights Act ("MHRA").⁵ For a number of reasons, we believe that this would be a mistake.

First, failing to comply with Title IX will likely subject the MPA and its member schools to liability. Title IX requires all direct or indirect recipients of federal funds which operate education programs and activities, including public schools and certain athletic associations, to refrain from discriminating on the basis of sex.⁶ A fundamental goal of Title IX is to guarantee men and women an equal opportunity to compete in athletics in a meaningful way.⁷ It is incontrovertible, given the litany of stolen championships and serious injuries that male athletes have now inflicted upon women and girls, that allowing males to participate in girls' sports denies female athletes an equal opportunity to compete in athletics. In fact, a Maine court held exactly this over two decades ago in denying a claim against MPA under the MHRA by a male student who wanted to play on a girls' field hockey team.⁸ That court reasoned, as a matter of common sense, that including a male player on a girls' team would inevitably lead to unfair and unsafe competitions for girls.⁹ As such, the MPA's Policy is leading member schools to violate Title IX. And as an athletic association with controlling authority over how member schools engage in sports competitions in Maine, the MPA itself is very likely to also be held liable for Title IX violations.¹⁰ The MPA must reverse course before it is too late.

In addition, the MPA claims that it cannot follow Title IX because the MHRA requires it to allow boys onto girls' sports teams. This is wrong for at least two reasons. First, to the extent that a state law like the MHRA conflicts with a federal law like Title IX, the federal law preempts the conflicting state law.¹¹ This is a basic constitutional principle. Therefore, Title IX would supersede the MHRA and the MPA would be relieved of its obligation to follow the state law.¹² But second, and perhaps even more importantly, there is no true conflict between the state and federal laws at issue here. Regardless of any government official's interpretation to the contrary, the MHRA does not and cannot require schools to undermine equal athletic opportunities for girls by forcing male students onto their teams. The idea that the MHRA would compel schools to discriminate against female students based on their sex in order to accommodate male students based on their gender identity is nonsensical and would completely defeat the statute's purpose. Requiring students who identify as transgender to compete on the team that matches

⁴ U.S. Department of Education, "Office for Civil Rights Launches Title IX Violation Investigations into Maine Department of Education and Maine School District," Feb. 21, 2025, available [here](#).

⁵ Maine Public, "Transgender female athletes can still compete under state law, Maine sports governing body says," Feb 7, 2025, available [here](#).

⁶ 20 U.S.C. § 1681; 34 CFR § 106.

⁷ See 34 CFR § 106.41(c).

⁸ *Maine Human Rights Comm'n v. Maine Principals Ass'n*, 1999 Me. Super. LEXIS 23.

⁹ *Id.* at *14-16.

¹⁰ See, e.g., *Horner v. Ky. High Sch. Athletic Ass'n*, 43 F.3d 265, 271-72 (6th Cir. 1994); *A.B. by C.B. v. Hawaii State Dep't of Educ.*, 386 F. Supp. 3d 1352, 1354-55 (D. Haw. 2019); *Cmtys. for Equity v. Mich. High Sch. Athletic Ass'n*, 80 F. Supp. 2d 729, 735 (W.D. Mich. 2000).

¹¹ U.S. Const. art. VI.

¹² See 34 CFR 106.6.

their birth sex does not deny them of an equal opportunity to participate in sports. But allowing male students into girls' sports competitions does deny girls an equal opportunity to compete.

For these reasons, the path forward for the MPA should be clear: to avoid liability for itself and the member schools that depend upon it, and to protect female athletes, the MPA must amend its "Gender Identity Participation Policy" to exclude male athletes from girls' sports teams. We sincerely hope the MPA will have the courage and good sense to take this course of action without delay.

Very truly yours,



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