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December 14, 2022

House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Maloney and Members of the Committee,

The National Women's Law Center ("NWLC") submits the following statement in response to the House Oversight Committee hearing on "The Rise of Anti-LGBTQI+ Extremism and Violence in the United States." As a leading organization advocating for gender justice for over 50 years, NWLC recognizes how attempts to marginalize and punish LGBTQI+ people for being who they are cannot be separated from sex discrimination and gender-based violence. We believe that ending all forms of sex-based discrimination and harassment is crucial to protecting opportunities for all, including the opportunity to live a life free from violence. As an organization that has throughout our history been dedicated to the robust implementation and enforcement of Title IX, we are especially concerned about the targeting of students that has become an increasingly dominant theme in anti-LGBTQI+ extremism.

In particular, we have recently been alarmed at the ongoing rise in anti-trans hate and rhetoric—especially the disingenuous circulation of myths that LGBTQI+ people's civil rights conflict with cisgender women and girls' rights and safety—and the increase in attempts to exclude transgender, nonbinary, and intersex students from sex-separated aspects of education, such as school sports, locker rooms, and restrooms. We are deeply concerned about the harms anti-trans politicians have already inflicted, which include driving anti-trans sports bans that deprive transgender, nonbinary, and intersex students of the essential health and academic benefits of sports participation in school, and actively fueling violence against the LGBTQI+ community with hateful rhetoric stigmatizing and demonizing LGBTQI+ people.

Sports bans targeting transgender, nonbinary, and intersex students worsen already-high rates of discrimination and harassment these students face. Bullying, harassment, and sexual violence are too-often faced by women and girls in sports—and transgender girls and women face especially high rates of such mistreatment. By singling out transgender girls and women for exclusion from school sports, sports bans exacerbate the social stigma that drives such abuse. We write to underscore the very real and devastating harms engendered by anti-trans rhetoric targeting young student athletes, and to rebut the misinformation and lies underpinning anti-trans sports bans. It is particularly critical to name this harm given the many lives lost to unjustifiable and horrific violence against the LGBTQI+ community.¹

Transgender and nonbinary students face heinous rates of sex-based victimization, harassment, and other discrimination fueled by bigotry and stereotypes.² According to a 2015

¹ *Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2022*, HRC (last visited Dec. 13, 2022) <https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2022> (2022 has already seen at least 35 transgender people fatally shot or killed by other violent means, with many deaths going unreported, and with many victims in previous years being Black and Latinx transgender women).

² Andrew R. Flores et al., *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017-2018*, 111 AM. J. PUB. HEALTH 726, 729 (Apr. 2021). See also *id.* at 727 ("Transgender people experience violence at a rate of 86.2 victimizations per 1000 persons compared with 21.7 per 1000 persons among cisgender people.").

study of more than 27,000 transgender adults, 77 percent of those who were out or perceived as transgender while in K-12 schools faced mistreatment in school due to their gender identity—54 percent were verbally harassed, 24 percent were physically attacked, and 13 percent were sexually assaulted.³ Transgender girls are especially vulnerable: they are twice as likely to be physically attacked or sexually assaulted in K-12 schools due to their gender identity, compared to transgender boys and nonbinary children.⁴ Anti-LGBTQI+ violence and misogynist violence are two sides of the same coin, driven by toxic ideology that seeks to enforce gender stereotypes and gendered power structures. It is no coincidence that progress towards ending sex discrimination, including strengthening enforcement of Title IX protections for LGBTQI+ students, has been met by an intense anti-LGBTQI+ backlash. Violence against LGBTQI+ people, especially Black and brown queer and trans women, is fueled by hateful rhetoric against LGBTQI+ people. When LGBTQI+ people are excluded and isolated—including through legislation and school policy—and socially positioned as a “dangerous other,” violence is a predictable consequence.

In school sports, the reality is a small number of transgender student-athletes currently participate in team sports. Nor is this participation novel; many schools and states have encouraged such participation for years.⁵ Allowing transgender students to participate alongside their peers has not hindered fairness or participation opportunities.⁶ If anything, initial evidence shows a correlation between welcoming transgender student athletes and promoting sports participation by all girls. A 2021 study found that in states with trans-inclusive athletics policies, girls’ overall participation in high school sports either *increased* or remained the same after those policies were enacted—even in states where boys’ participation declined during the same period.⁷ In sharp contrast, in states with trans-exclusionary policies, girls’ overall participation in high school sports *declined* over the past decade.⁸ Sports bans in the name of protecting girls’ sports are a poisonous misdirection from the real, ongoing problems of sex discrimination in school sports that actually pose barriers to fairness and participation opportunities for women and girls—indicating that proponents of sports bans are not motivated by gender equity, but rather by animus and a desire to single out transgender and nonbinary students.⁹ In other

³ National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* 4, 11 (2017) [hereinafter USTS Report], available at <http://www.ustranssurvey.org>.

⁴ *Id.* at 133, 134.

⁵ Transathlete, *K-12 Policies* (last updated Nov. 12, 2021), <https://www.transathlete.com/k-12>.

⁶ See, e.g., Samuel Crankshaw, *Statement on Veto of SB83, Ban on Trans Girls in Girls’ Sports*, ACLU Kentucky (Apr. 6, 2022), <https://www.aclu-ky.org/en/pressreleases/statement-veto-sb83-ban-trans-girls-girls-sports> (proponents of Kentucky’s ban on transgender and intersex athletes could not cite even one example of Kentucky students being harmed by allowing their transgender peers to play); David Crary & Lindsay Whitehurst, *Lawmakers can’t cite local examples of trans girls in sports*, AP (Mar. 3, 2021), <https://apnews.com/article/lawmakers-unable-to-cite-local-trans-girls-sports-914a982545e943ecc1e265e8c41042e7> (proponents of sports bans across the country could not cite examples of transgender student-athletes dominating their competition or creating issues for their cisgender peers).

⁷ Center for American Progress, *Fair Play: The Importance of Sports Participation for Transgender Youth 15-16* (Feb. 8, 2021), https://americanprogress.org/wp-content/uploads/2021/02/Fair-Play-correction2.pdf?_ga=2.1589237.597445779.1650638300-292562780.1650638300.

⁸ *Id.* at 14-15.

⁹ There are numerous examples of sex discrimination that continue to harm women and girls in sports. Girls and women have fewer participation opportunities than do boys and men in high school and college—an impact that disproportionately impacts girls of color, who receive even fewer chances to play than do boys and white girls. Women Sports Foundation, *50 Years of Title IX: We’re Not Done Yet* 52 (May 2022), <https://www.womenssportsfoundation.org/wp-content/uploads/2022/05/50-Years-of-Title-IX-Final-for-Website.pdf>. See also National Women’s Law Center, *Finishing Last: Girls of Color and School Sports Opportunities* 1 (2015), https://nwlc.org/wp-content/uploads/2022/03/final_nwlc_girlsfinishinglast_report.pdf. Additionally, women’s and girls’ teams are often treated as second class by their schools with respect to equipment, facilities, and overall resources. Emine Yucel, *Men’s and Women’s NCAA March Madness Facilities, Separate and Unequal, Spark Uproar*, NPR (Mar. 19, 2021), <https://www.npr.org/2021/03/19/979395795/mens-and-womens-ncaa-march-madness-facilities-separate-and-unequal-spark-uproar?msclkid=4c2d5287c72211ecabb415adf3000cdd>. Finally, rampant sexual abuse of student-athletes of all ages by their teammates, coaches, and team doctors remains a persistent issue. See, e.g., Aaron Slone Jeckell et al., *The Spectrum of Hazing and Peer Sexual Abuse in Sports: A Current Perspective*, 10 *Sports Health* 558, 560 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6204631> (estimating that up to 48% of athletes experience some form of sexual

words, these sports bans misuse the language of gender equity to promote its opposite, serving only to exacerbate sex-based violence and harassment against an already-vulnerable population. Indeed, there is strong support for trans inclusion in the gender justice movement: in recent years, a wide range of women's rights organizations and elite athletes have repeatedly voiced their unequivocal support of transgender inclusion in athletics.¹⁰

NWLC works to ensure that LGBTQI+ girls (and all girls and young women) are safe from sex harassment and discrimination in school, because this organically grows the safety of our shared communities and movements. We have enclosed a summary of NWLC's recent legal and policy resources, including joint statements from women's rights organizations supporting full and equal participation of transgender, non-binary, and intersex students in school sports and in all facets of education, to ensure that all youth can learn and grow free from sex discrimination.

Thank you for your consideration of this statement in the Committee's hearing record.

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mistreatment); Julie Mack & Emily Lawler, *MSU doctor's alleged victims talked for 20 years. Was anyone listening?*, Mlive (Feb. 8, 2017), https://www.mlive.com/news/index.ssf/page/msu_doctor_alleged_sexual_assault.html.

¹⁰ In April 2019, 23 national women's rights and gender justice organizations issued a public letter in support of the full inclusion of transgender people in sports. *Statement of Women's Rights and Gender Justice Organizations in Support of Full and Equal Access to Participation in Athletics for Transgender People* (Apr. 9, 2019), <https://nwlc.org/wp-content/uploads/2019/04/Womens-Groups-Sign-on-Letter-Trans-Sports-4.9.19.pdf>. In December 2020, Billie Jean King, Megan Rapinoe, and Candace Parker joined nearly 200 athletes in an amicus brief opposing an Idaho transgender sports ban. Lambda Legal, *Billie Jean King, Megan Rapinoe, and Candace Parker Join Nearly 200 Athletes Supporting Trans Youth Participation in Sports* (Dec. 21, 2020), https://www.lambdalegal.org/news/id_20201221_billie-jean-king-megan-rapinoe-and-candace-parker. And, in February 2021, the National Coalition for Women and Girls in Education issued a statement announcing the coalition's support of transgender and nonbinary students' "full and equal access to sex-separated activities and facilities consistent with their gender identity, including athletics teams." National Coalition for Women and Girls in Education, *NCWGE Supports Transgender and Nonbinary Students' Full and Equal Participation in All Education Programs and Activities* (Feb. 12, 2021), <https://www.ncwge.org/activities.html>.