



## TESTIMONY IN OPPOSITION TO HB 2238

February 13, 2023

Chairman Thomas and Members of the House Education Committee,

The Kansas Chapter, American Academy of Pediatrics (KAAP) represents more than 400 of the practicing pediatricians in the state. The KAAP has the fundamental goal that all children and adolescents in Kansas have the opportunity to grow safe and strong. It is with this goal in mind that we want to share our testimony opposing the proposed HB 2238. School environments play a significant role in the social and emotional development of children. Every child has a right to feel safe and respected at school, but for youth who identify as transgender, this can be challenging. This proposed law would ban transgender youth from participating in sports and experiencing the life lessons and long-term benefits of athletics.

Gender is a complex issue, medically and socially, and this legislation does not require a perfect understanding about what it means to be transgender. Sports brings entire communities together – to root for the home team together, to celebrate and learn from wins and losses, and to have a sense of shared identity and belonging.

Transgender individuals have a gender identity that does not match the gender assigned at birth. The term intersex applies to individuals who cannot be easily categorized anatomically as either male or female, and this can have a diverse set of causes which can include genetic, hormonal, and idiopathic diagnoses. Generally, intersex babies are born with either a phenotypic presentation of gender that either is not clear on physical examination, or they have a genotype (genetic code) that doesn't match their phenotype (anatomy). There are also individuals who do not have the typical XX (female) or XY (male) numbers of sex chromosomes.

### **Participating in Sports Teaches Life Lessons**

Kids learn a lot of important lessons in sports: sportsmanship, leadership, confidence, self-discipline, self-respect, relationship-building, and what it means to be part of a team. *All* kids deserve this. Transgender kids want the opportunity to play sports for the same reason other kids do: to be a part of a team where they feel like they belong. We shouldn't ban them from playing sports with their friends just because they're transgender.

### **Decision makers should address the many real challenges to girls' and women's sports**

There are real challenges to girls' and women's sports, but banning transgender kids from participating in sports does not address any of them. Rather, it only hurts transgender kids and denies them the same opportunities as their peers. We recognize that girls do not have the same opportunities in sports (e.g., girls annually get \$240 million less in Division I and II NCAA athletic scholarships) as boys and this could impact their wellbeing, ambitions, education, and

family finances when it comes to college. If the intention of this legislation is to support girls' sports, we should be providing more funding and opportunities to play and creating stronger laws to protect female athletes from harassment and abuse. Twenty-five states have had policies in place for years that allow inclusion of transgender youth in sports. Of note, a [2021 study](#) found that these states that allow all kids to participate in K-12 sports have steady or increasing opportunities for girls in sports, while states that bar transgender kids from sports have declining opportunities for girls in sports.

### **A Level Playing Field**

We can celebrate girls' sports and protect transgender youth from discrimination, making sure that all young people can access the lessons and opportunities that sports afford. As a reminder, 99.9% of kids that play sports never compete at any kind of elite level. Transgender youth, like most kids, just want to play and participate in everyday school sports with their peers. Success in school sports is really about practice, self-discipline, access to good coaches and facilities, and money to pay for outside training. It's hard to imagine any child pretending to be transgender—putting themselves at risk for harassment, bullying and exclusion—simply to attempt to obtain some advantage in sports.

### **Slippery slope of bodily inspection**

Although this bill allows for a student to see a physician to make a determination of the biologic sex, the limitations on a physician for how they can determine gender in this proposed legislation are limited, unreliable and discriminatory. The reality is that HB 2238 cannot possibly be enforced without opening the door to potential accusations and invasive physical inspections of young girls by doctors or educators. This bill invites policing and bullying of all student athletes who do not meet stereotypes of gender and could empower any person to accuse any student athlete, forcing them to undergo invasive physical exams or medical tests in order to “prove” their gender. This could have drastic consequences for young female athletes who are a bit taller or stronger than their peers, or who have short hair. These girls – the ones this bill says it is trying to protect – could get bullied out of their sport. Enforcing this bill would open a can of worms. Do we really want the state to open the door to invasive inspections of female students' bodies in order for them to participate in sports, or to keeping a database of students' genetic information? Physically invasive examinations, blood and genetic testing, a database of students' private medical information... how far will Kansas have to go to maintain such an unenforceable law?

### **Helping Youth Thrive**

The KAAP works toward all children and adolescents, regardless of gender identity or expression, receiving care to promote optimal physical, mental, and social well-being. Involvement in sports, particularly as a member of a sports team, is an integral way for youth to develop psychosocially and help form their social identity. Sports participation helps athletes develop self-esteem, correlates positively with overall mental health, and appears to have a protective effect against suicide.



Any discrimination based on gender identity or expression, real or perceived, is damaging to the socioemotional health of children, families, and society. Even if we don't understand an individual's life journey, we owe it to our children to provide opportunities to feel like they belong. Schools across the country know that transgender students, like any student, thrive when they're treated with dignity and respect.

This legislation would negatively impact and discriminate against both transgender and intersex youth in Kansas and thus we strongly oppose HB 2238. We welcome any questions you might have and are happy to serve as your resource on all pediatric issues.

Respectfully submitted,

Dena Hubbard, MD, FAAP  
Chair, Public Policy Committee  
Kansas Chapter, American Academy of Pediatrics