NO. _____

IN THE

Supreme Court of the United States

BRADLEY LITTLE, in his official capacity as Governor of the State of Idaho; MADISON KENYON; MARY MARSHALL, et al.,

Petitioners,

v.

LINDSAY HECOX; JANE DOE, with her next friends Jean Doe and John Doe,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI (VOLUME 2)

JOHN J. BURSCH
LINCOLN DAVIS WILSON
CHRISTOPHER P. SCHANDEVEL
CODY S. BARNETT
ALLIANCE DEFENDING FREEDOM
440 First Street NW
Suite 600
Washington, DC 20001
(202) 393-8690

RAÚL R. LABRADOR
ATTORNEY GENERAL
ALAN M. HURST
SOLICITOR GENERAL
Counsel of Record
JOSHUA N. TURNER
JAMES E.M. CRAIG
700 W Jefferson St #210
Boise, ID 83720
alan.hurst@ag.idaho.gov
(208) 332-3548

Counsel for Petitioners

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Transgender Student-Athlete Participation Policy

UPDATED MAY 2024

At its January 19, 2022, meeting, the NCAA Board of Governors updated the transgender student-athlete participation policy governing college sports.

The new policy aligns transgender student-athlete participation with the Olympic Movement. The resulting sport-by-sport approach preserves opportunity for transgender student-athletes while balancing fairness, inclusion and safety for all who compete.

Like the U.S. Olympic and Paralympic Committee, the updated NCAA policy calls for transgender student-athlete participation for each sport to be determined by the policy for the national governing body of that sport. If there is no NGB policy for a sport, it would then be determined by the policy for that sport's international federation. If there is no international federation policy, it would be determined by policy criteria previously established by the International Olympic Committee. Sport-specific policies are subject to ongoing review and recommendation by the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports to the Board of Governors.

cited in Hecox v. Little
No. 20-35813 archived June 10, 2024

Phase Two – regular season and championships

Phase Two of the NCAA transgender student-athlete participation policy requires transgender student-athletes to provide documentation that meets the 2010 NCAA policy plus meet the sport standard for documented testosterone levels at three points in time: 1. Prior to any competition during the regular season; 2. Prior to the first competition in an NCAA championship event; and 3. Prior to any competition in the non-championship segment. See the transgender student-athlete eligibility review procedures for more information.

Additional flexibility

The Board of Governors urged the divisions to allow for additional, future eligibility if a transgender student-athlete loses eligibility based on the policy change, provided they meet the newly adopted standards.

The NCAA's Office of Inclusion and Sport Science Institute also released the Gender Identity and Student-Athlete Participation Summit Final Report. The report assists ongoing membership efforts to support an inclusive environment that promotes and develops the mental and physical health of transgender and non-binary student-athletes in collegiate sport. The foundational principles in this report will be developed further in conjunction with the Committee to Promote Cultural Diversity and Equity, CSMAS and other core membership committees that address gender identity.

Transgender Student-Athlete Resources

- Transgender Student-Athlete Eligibility Review Procedures
- 2024-25 Fall Sport Testosterone Thresholds and Championship Submission Deadlines
- 2024-25 Winter Sport Testosterone Thresholds and Championship Submission Deadlines

- 2024-25 Spring Sport Testosterone Thresholds and Championship Submission Deadlines
- 2023-24 Spring Sport Testosterone Thresholds and Championship Submission Deadlines
- Clarifying Application and Next Steps
- 2010 NCAA Transgender Participation Policy
- NCAA Inclusion of Transgender Student-Athletes Handbook
- Gender Identity and Student-Athlete Participation Summit Final Report
- Medical Exceptions Procedures and Form

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cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

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GUEST OPINIONS

5 former Idaho attorneys general urge transgender bill veto

BY TONY PARK, WAYNE KIDWELL, DAVID LEROY, JIM JONES AND AL LANCE
MARCH 17, 2020 10:53 AM

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

Transgender Nike athlete Chris Mosier: Sport is where I felt most like myself

00:00 03:06

Nike-sponsored athlete Chris Mosier argues Idaho's HB500 is wrong, and all people should be allowed to play sports. BY KATHERINE JONES

Dear Governor Little:

We write to urge that you give great weight to the advice of our successor, incumbent Idaho Attorney General Lawrence Wasden, regarding House Bill 500. The Attorney General has opined that the legislation contains a number of legal infirmities, making it subject to invalidation in federal court proceedings. The more serious concern is apparent conflict with the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, but other provisions of federal law are implicated.

TOP VIDEOS



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No. 20-35813ao archived June 10, 2024

Idaho Statesman

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Rent in Boise has been a roller coaster ride, where are we at now?

As you know, the Attorney General is a constitutional officer, charged with providing legal advice to officers and entities of state government. It is not always a comfortable position to occupy, particularly where politically-charged issues

are involved. Transgender issues certainly fit into that category. Regardless of how an Attorney General may personally feel about an issue, it is his or her responsibility to observe our sacrosanct regard for the rule of law and give sound legal advice based on the law, as interpreted by the courts.

The Attorney General has raised serious concerns about the legal viability and timing of this legislation, which will have a difficult time withstanding a court challenge. Our State has been in this position a number of times during our respective tenures as Attorney General and rather more so during the incumbent's tenure. He has frequently cautioned against passage of legally suspect legislation and has a good record of being correct. He has urged awaiting the outcome of currently pending federal cases relating to this issue. Disregarding his sound advice has been costly for our State. It could well be with regard to House Bill 500.

We urge that you exercise your veto on House Bill 500 to keep a legally infirm statute off of the books and to save the State from having to pay out substantial legal fees to those who take it to court. The Attorney General has provided sound advice and fair warning. Please heed it.

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

Tony Park was Idaho Attorney General 1971-1975; Wayne Kidwell 1975-1979; David Leroy 1979-1983; Jim Jones 1983-1991; and Al Lance 1995-2003.

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MARCH 05, 2020 6:00 AM

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International Olympic Committee

IOC FRAMEWORK ON FAIRNESS, INCLUSION AND NON-DISCRIMINATION ON THE BASIS OF GENDER IDENTITY AND SEX VARIATIONS

INTRODUCTION

Every person has the right to practise sport without discrimination and in a way that respects their health, safety, and dignity. At the same time, the credibility of competitive sport – and particularly high-level organised sporting competitions – relies on a level playing field, where no athlete has an unfair and disproportionate advantage over the rest.

Through this Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations, the International Olympic Committee (IOC) seeks to promote a safe and welcoming environment for everyone, consistent with the principles enshrined in the Olympic Charter. The Framework also acknowledges the central role that eligibility criteria play in ensuring fairness, particularly in high-level organised sport in the women's category.

This Framework is issued as part of the IOC's commitment to respecting human rights (as expressed in Olympic Agenda 2020+5) and as part of the action taken to foster gender equality and inclusion.

cited in Hecox v. Little
No. 20-35813 archived June 10, 2024

In issuing this Framework, the IOC recognises that it must be in the remit of each sport and its governing body to determine how an athlete may be at a disproportionate advantage against their peers, taking into consideration the nature of each sport. The IOC is therefore not in a position to issue regulations that define eligibility criteria for every sport, discipline or event across the very different national jurisdictions and sport systems.

Therefore, the aim of this Framework is to offer sporting bodies – particularly those in charge of organising elite-level competition – a principled approach to develop their criteria that are applicable to their sport. Sports bodies will also need to consider particular ethical, social, cultural and legal aspects that may be relevant in their context.

This Framework was developed following an extensive consultation with athletes and stakeholders concerned. This included members of the athlete community, International Federations and other sports organisations, as well as human rights, legal and medical experts. It replaces and updates previous IOC statements on this matter, including the 2015 Consensus Statement.

This Framework recognises both the need to ensure that everyone, irrespective of their gender identity or sex variations, can practise sport in a safe, harassment-free environment that recognises and respects their needs and identities, and the interest of everyone – particularly athletes at elite level – to participate in fair competitions where no participant has an unfair and disproportionate advantage over the rest.

International Olympic Committee

Lastly, the IOC also recognises that most high-level organised sports competitions are staged with men's and women's categories competing separately. In this context, the principles contained herein aim to ensure that competition in each of these categories is fair and safe and that athletes are not excluded solely on the basis of their transgender identity or sex variations.

Where eligibility criteria must be set in order to regulate the participation in the women's and men's categories, the establishment and implementation of such criteria should be carried out as part of a comprehensive approach grounded on the respect for internationally recognised human rights, robust evidence and athlete consultation. In so doing, precaution should be used to avoid causing harm to the health and well-being of athletes.

PRINCIPLES

This Framework should be considered as a coherent whole and should be taken into consideration by International Federations and other sports organisations when exercising their responsibility in establishing and implementing eligibility rules for high-level organised competition in their respective sports, disciplines and events and, more generally, in ensuring safe and fair competition in the context of inclusion and non-discrimination on the basis of gender identity and sex variations.

cited in Hecox v. Little
No. 20-35813 archived June 10, 2024

While these principles have been drafted with the specific needs of high-level organised sports competitions in mind, the general principles of inclusion and non-discrimination reflected below should be promoted and defended at all levels of sport.

1. INCLUSION

1.1. Everyone, regardless of their gender identity, expression and/or sex variations should be able to participate in sport safely and without prejudice.

1.2. Measures should be put in place with a view to making sporting environments and facilities welcoming to people of all gender identities.

1.3. Sports organisations should work together to advance inclusion and prevent discrimination based on gender identity and/or sex variations, through training, capacity-building and campaigns that are informed by affected stakeholders.

1.4. Mechanisms to prevent harassment and abuse in sport should be further developed by taking into account the particular needs and vulnerabilities of transgender people and people with sex variations.

International Olympic Committee

1.5. Where sports organisations choose to establish eligibility criteria in order to determine the participation conditions for men's and women's categories for specific contests in high-level organised sports competitions, these criteria should be established and applied in a manner that respects the principles included in this Framework. Individuals or parties responsible for issuing such criteria should be appropriately trained in order to ensure that these issues are handled in a manner consistent with these principles.

1.6. The design, implementation and evaluation of these measures and mechanisms should be done in consultation with a cross-section of affected athletes.

2. PREVENTION OF HARM

2.1 The physical, psychological and mental well-being of athletes should be prioritised when establishing eligibility criteria.

2.2. Sports organisations should identify and prevent negative direct and indirect impacts on athletes' health and well-being that may come from the design, implementation and or interpretation of eligibility criteria.

cited in Hecox v. Little
No. 20-35813 (9th Cir.) archived June 10, 2024

3. NON-DISCRIMINATION

3.1 Eligibility criteria should be established and implemented fairly and in a manner that does not systematically exclude athletes from competition based upon their gender identity, physical appearance and/or sex variations.

3.2 Provided they meet eligibility criteria that are consistent with principle 4, athletes should be allowed to compete in the category that best aligns with their self-determined gender identity.

3.3 Criteria to determine disproportionate competitive advantage may, at times, require testing of an athlete's performance and physical capacity. However, no athlete should be subject to targeted testing because of, or aimed at determining, their sex, gender identity and/or sex variations.

4. FAIRNESS

4.1 Where sports organisations elect to issue eligibility criteria for men's and women's categories for a given competition, they should do so with a view to:

a) Providing confidence that no athlete within a category has an unfair and disproportionate competitive advantage (namely an advantage gained by altering one's

International Olympic Committee

body or one that disproportionately exceeds other advantages that exist at elite-level competition);

b) preventing a risk to the physical safety of other athletes; and

c) preventing athletes from claiming a gender identity different from the one consistently and persistently used, with a view to entering a competition in a given category.

5. NO PRESUMPTION OF ADVANTAGE

5.1 No athlete should be precluded from competing or excluded from competition on the exclusive ground of an unverified, alleged or perceived unfair competitive advantage due to their sex variations, physical appearance and/or transgender status.

5.2 Until evidence (per principle 6) determines otherwise, athletes should not be deemed to have an unfair or disproportionate competitive advantage due to their sex variations, physical appearance and/or transgender status.

6. EVIDENCE-BASED APPROACH

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

6.1 Any restrictions arising from eligibility criteria should be based on robust and peer reviewed research that:

a) demonstrates a consistent, unfair, disproportionate competitive advantage in performance and/or an unpreventable risk to the physical safety of other athletes;

b) is largely based on data collected from a demographic group that is consistent in gender and athletic engagement with the group that the eligibility criteria aim to regulate; and

c) demonstrates that such disproportionate competitive advantage and/or unpreventable risk exists for the specific sport, discipline and event that the eligibility criteria aim to regulate.

6.2 Should eligibility criteria prevent an athlete from entering a given competition, such athlete should:

a) be allowed to participate in other disciplines and events for which they are eligible, in the same gender category; and

International Olympic Committee

b) be able to contest the ultimate decision of International Federations or other sports organisations through an appropriate internal mediation mechanism, such as ombudsperson, and/or procedures before the Court of Arbitration for Sport, to seek remedy.

7. PRIMACY OF HEALTH AND BODILY AUTONOMY

7.1 Athletes should never be pressured by an International Federation, sports organization, or any other party (either by way of the eligibility criteria or otherwise) to undergo medically unnecessary procedures or treatment to meet eligibility criteria.

7.2 Criteria to determine eligibility for a gender category should not include gynaecological examinations or similar forms of invasive physical examinations, aimed at determining an athlete's sex, sex variations or gender.

7.3 Sports organisations should seek to educate coaches, managers and other members of the entourage to prevent interpretations of their eligibility criteria that can lead to harm.

8. STAKEHOLDER-CENTRED APPROACH

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

8.1 When drafting, reviewing, evaluating and updating eligibility criteria, sports organisations should meaningfully consult with a cross-section of athletes who may be negatively affected in order to prevent harm.

8.2 Any decisions affecting an athlete's ability to compete should follow the basic standards of procedural fairness, including neutrality and impartiality.

8.3 Sports organisations should put in place internal mechanisms that offer athletes and other affected stakeholders accessible, legitimate, safe and predictable avenues to raise concerns and grievances connected to gender-based eligibility.

9. RIGHT TO PRIVACY

9.1 Sports organisations should ensure transparency in their decision-making processes on eligibility while working to preserve the privacy of individuals who may be affected by such restrictions. This includes all personally identifiable information processed in the context of eligibility decisions which should be handled in compliance with applicable laws and international standards.

9.2 Medical information about an athlete, including testosterone levels, that is collected in the context of anti-doping or otherwise, must be handled in compliance with applicable privacy laws and should be used only for the purposes disclosed to the athlete at the time such information is collected.

International Olympic Committee

9.3 Informed consent should be acquired from athletes prior to the collection of data that is obtained for the purpose of determining eligibility to compete in the men's or women's category.

9.4 Sports organisations should avoid public disclosure of athletes' confidential health and other personal information in the absence of the athlete's consent. In addition, sports organisations should consult with the athletes concerned on the best ways to publicly communicate about their eligibility.

10. PERIODIC REVIEWS

10.1 Eligibility criteria should be subject to predictable periodic review to reflect any relevant ethical, human rights, legal, scientific, and medical developments in this area and should include the affected stakeholder's feedback on their application.

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cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

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World Athletics logo

The World Athletics Council has today made a number of important decisions regarding the future participation of the Russian and Belarusian Member Federations in athletics, and the eligibility regulations for athletes who are transgender or who have Differences of Sexual Development (DSD).

The Council agreed to the reinstatement of the Russian Federation (RusAF) following seven years of suspension due to egregious institutional doping violations. However, athletes, officials and supporting personnel from Russia and Belarus are still excluded from competition for the foreseeable future due to Russia's invasion of Ukraine.

Russia Taskforce recommendation

The Council approved the Russia Taskforce's recommendation that RusAF, which has been suspended for seven years due to doping, be reinstated after meeting all the requirements of the Reinstatement plan, which has been

confirmed by an independent audit.

However RusAF will be required to comply with a set of 35 'Special Conditions' that are intended to ensure that RusAf's anti-doping reforms remain in place and continue to operate effectively.

These Special Conditions are designed to enable the Athletics Integrity Unit to monitor, evaluate, communicate, mentor, oversee, and assist RusAF and its external stakeholders to ensure they maintain good governance practices and to protect RusAF from external pressures and attempts to influence or control its functioning.

They focus on four areas: organisational good governance, protection from inappropriate external influence and control, operational capability and capacity (with a particular emphasis on ethical and anti-doping requirements, and change in the regions), and budget allocation and fiscal management.

These Special Conditions are intended be applied for a period of **three years**, with a review at the end of that period to determine whether or not it is necessary to maintain those conditions (as they are or with variations) for a further period.

Totalling 35 separate monitoring and evaluation measures, the special conditions cover: organisational governance, presidium leadership oversight, anti-doping, cultural change in the regions, engagement with external stakeholders, ethics, anti-corruption and anti-conflicts of interest, fiscal management.

Further, the Athletics Integrity Unit, has determined that RusAF should be categorised as a Category 'A' member federation after its reinstatement.

That means that RusAF will have to comply not only with the general obligations applicable to all member federations that are set out in WA ADR 15.4 but also with the special obligations applicable to Category 'A' member federations that are set out in WA ADR 15.5. These federations are subject to greater scrutiny and more testing requirements.

cited in Hecox v. Little
No. 20-35813 archived June 10, 2024

The Taskforce confirmed that RusAF has paid all of the costs of the reinstatement process until the end of 2022. World Athletics will invoice RusAF in early April for the costs incurred by World Athletics in January-March, and the prompt payment of that invoice will be one of the Special Conditions.

RusAF must also pay all of the costs incurred by the AIU in overseeing RusAF's compliance with the Category A requirements and the Special Conditions over the next three years, as well as any World Athletics costs in connection with this oversight.

As a consequence of these decisions, the Authorised Neutral Athlete (ANA) programme will be discontinued, and the Doping Review Board, which rules on ANA applications, will be stood down.

The Russia Taskforce, having completed its work, will be disbanded and the two international experts who have advised it will be stood down.

World Athletics President Sebastian Coe said: "I would like to express my deep gratitude to Rune Andersen and the Taskforce members for staying the course and helping us to resolve a major integrity issue in our sport. It has been a mammoth undertaking over seven years but their commitment and diligence has given the Council confidence that the Russian Federation has reformed its structure and culture and is now on the right path in terms of addressing doping issues. It is important that RusAF continues on this path, but we are confident the Athletics Integrity Unit has the expertise to monitor and assess the situation going forwards."

War in Ukraine

The World Athletics Council has also reaffirmed the decision it originally made in March 2022, to exclude Russian and Belarusian athletes, support personnel, Member Federation officials and officials who are citizens of those two countries from all World Athetics Series events for the foreseeable future.

These sanctions take effect immediately and include:

a. no hosting of any International or European athletics events, which includes World Athletics Series, Continental Tour meetings and other International Competitions;

b. no right to attend, speak and/or vote at meetings of Congress;

c. no accreditation to attend any World Athletics Series events;

d. no involvement of Member Federation personnel in any official World Athletics development or professional programmes; and

e. Athletes, Athlete Support Personnel, Member Federation Officials and Officials who are Citizens of Russia and Belarus are excluded from World Athletics Series Events for the foreseeable future.

The Council recommends to the meeting organisers of the Diamond League, Continental Tour, Label Races and the various other Tours that they take the same approach and exclude Athletes and Officials from RusAF and the Belarus Athletic Federation.

The Council also agreed to establish a working group to advise and recommend to Council the conditions that would need to be met for the restrictions on Athletes and Officials from RusAF and the Belarus Athletic Federation participating at World Athletics Series Events to be lifted.

World Athletics President Sebastian Coe said: "As I noted at the time these measures were introduced last year, the unprecedented sanctions imposed on Russia and Belarus by countries and industries all over the world appear to be the only peaceful way to disrupt and disable Russia's current intentions and restore peace. The death and destruction we have seen in Ukraine over the past year, including the deaths of some 185 athletes, have only hardened my resolve on this matter. The integrity of our major international competitions has already been substantially damaged by the actions of the Russian and Belarusian governments, through the hardship inflicted on Ukrainian athletes and the destruction of Ukraine's sports systems. Russian and Belarusian athletes, many of whom have military affiliations, should not be beneficiaries of these actions."

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

In accordance with the World Athletics constitution, the Member Federations from Russia and Belarus have been informed of the Council's decisions and have the right to respond. If necessary, the Council will reconvene to consider that response.

Transgender and DSD Regulations

The Council agreed to update the eligibility regulations for transgender and DSD athletes to compete in the female category.

For DSD athletes, the new regulations will require any relevant athletes to reduce their testosterone levels below a limit of 2.5 nmol/L for a minimum of 24 months to compete internationally in the female category in any event, not just the events that were restricted (400m to one mile) under the previous regulations.

The principle of restricted events has been removed from the regulations.

Interim provisions will be introduced for those relevant athletes who are already competing in what were the unrestricted events (distances below 400m and above one mile, plus field events). These provisions include a requirement to suppress their testosterone levels below 2.5nmol/L for a minimum of six months, before they are eligible to compete again.

The six months period is consistent with the previous regulations, which required six months of testosterone suppression (below 5nmol/L) for DSD athletes to compete in the restricted events. The interim provisions do not apply to the previously restricted events (400m to one mile) where two years of testosterone suppression will be required before the relevant athlete is eligible to compete.

These regulations will come into effect on 31 March 2023.

In regard to transgender athletes, the Council has agreed to exclude male-to-female transgender athletes who have been through male puberty from female World Rankings competition from 31 March 2023.

World Athletics conducted a consultation period with various stakeholders in the first two months of this year, including Member Federations, the Global Athletics Coaches Academy and Athletes' Commission, the IOC as well as representative transgender and human rights groups.

It became apparent that there was little support within the sport for the option that was first presented to stakeholders, which required transgender athletes to maintain their testosterone levels below 2.5nmol/L for 24 months to be eligible to compete internationally in the female category.

In terms of DSD regulations, World Athletics has more than ten years of research and evidence of the physical advantages that these athletes bring to the female category.

However, there are currently no transgender athletes competing internationally in athletics and consequently no athletics-specific evidence of the impact these athletes would have on the fairness of female competition in athletics.

In these circumstances, the Council decided to prioritise fairness and the integrity of the female competition before inclusion.

However the Council agreed to set up a Working Group for 12 months to further consider the issue of transgender inclusion.

This Working Group will include an independent chair, up to three Council Members, two athletes from the Athletes' Commission, a transgender athlete, three representatives of the Member Federations and representatives of the World Athletics Health and Science Department.

Its remit will be to consult specifically with transgender athletes to seek their views on competing in athletics; to review and/or commission additional research where there is currently limited research and to put forward recommendations to Council.

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

World Athletics President Sebastian Coe said: "Decisions are always difficult when they involve conflicting needs and rights between different groups, but we continue to take the view that we must maintain fairness for female athletes above all other considerations. We will be guided in this by the science around physical performance and male advantage which will inevitably develop over the coming years. As more evidence becomes available, we will review our position, but we believe the integrity of the female category in athletics is paramount."

World Athletics

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cited in Hecox v. Little
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Tuesday, February 1, 2022

USA Swimming Releases Athlete Inclusion, Competitive Equity and Eligibility Policy



by USA Swimming

cited in Hecox v. Little
No. 20-35813ao archived June 10, 2024

Following several months of internal work, critical stakeholder discussions, and medical and legal review, and in light of updated information regarding the Fédération Internationale de Natation's (FINA) policy development, USA Swimming has elected to release its Athlete Inclusion, Competitive Equity and Eligibility Policy. This policy, effective immediately, is applicable only to USA Swimming athlete members and approved elite events as defined in the policy and will remain in place until the release of an elite policy by FINA.

USA Swimming has and will continue to champion gender equity and the inclusivity of all cisgender and transgender women and their rights to participate in sport, while also fervently supporting competitive equity at elite levels of competition.

The development of the elite policy therefore acknowledges a competitive difference in the male and female categories and the disadvantages this presents in elite head-to-head competition. This is supported by statistical data that shows that the top-ranked female in 2021, on average, would be ranked 536th across all short course yards (25 yards) male events in the country and 326th across all long course meters (50 meters) male events in the country, among USA Swimming members. The policy therefore supports the need for competitive equity at the most elite levels of competition.

While recognizing the need for the aforementioned guidelines in elite competition, sport is an important vehicle for positive physical and mental health, and, for this reason, USA Swimming remains steadfast in its continued commitment to greater inclusivity at the non-elite levels.

In order to balance these two priorities, specific guidelines have been developed for both non-elite and elite athletes and elite events. At the non-elite level, an inclusive process has been established by which an athlete can elect to change their competition category in order for them to experience the sport of swimming in a manner that is consistent with their gender identity and expression. At the elite level, a policy has been created for transgender athlete participation in the U.S. that relies on science and medical evidence-based methods to provide a level-playing field for elite cisgender women, and to mitigate the advantages associated with male puberty and physiology. Elite athletes shall include any athlete who has achieved a time standard and desires to participate in elite events as defined in the policy.

The elite athlete policy will be implemented by a decision-making panel comprised of three independent medical experts and eligibility criteria will consist of:

- Evidence that the prior physical development of the athlete as a male, as mitigated by any medical intervention, does not give the athlete a competitive advantage over the athlete's cisgender female competitors.
- Evidence that the concentration of testosterone in the athlete's serum has been less than 5 nmol/L (as measured by liquid chromatography coupled with mass spectrometry) continuously for a period of at least thirty-six (36) months before the date of application.

cited in Hecox v. Little
No. 20-35813 archived June 10, 2024

Athletes will need to abide by USA Swimming's Athlete Inclusion, Competitive Equity and Eligibility Policy to be eligible to set USA Swimming National Age-Group Records in the 13-14 age group and above or to be eligible to set an American Record, per the USA Swimming Rules & Regulations, in a competition category which is different than the gender assigned to the athlete at birth.

USA Swimming's policy is not applicable to non-USA Swimming athlete members nor non-approved Elite events, as defined in the policy.

USA Swimming will continue to learn and to evaluate its policy, with a focus on balancing inclusion and equity, and will continue to work closely with FINA on global standards.

The complete policy, for both elite and non-elite athletes, which is part of the USA Swimming Operating Policy Manual, is available online at https://www.usaswimming.org/inclusion.

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News

The UCI Announces Changes to Its Policy on Transgender Athletes

CYCLING'S INTERNATIONAL GOVERNING BODY EXTENDS TRANSITION TIME AND LOWERS TESTOSTERONE THRESHOLD FOR COMPETITION.

BY MOLLY HURFORD Updated: Jun 17, 2022 3:06 PM EDT

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- The UCI has adjusted its policy on the **inclusion of transgender athletes** in cycling.
- The transition period on low testosterone has been extended to 24 months, from the previous 12-month period.

- The UCI has halved the maximum permitted plasma testosterone level from 5 nmol/L to 2.5 nmol/L.

On June 16, the Union Cycliste Internationale (UCI) adjusted its racing and competition policy for transgender athletes. The new regulations were outlined quietly in a press release and will go into effect on July 1.

The key changes are two-fold. First, the transition period on low testosterone has been extended to 24 months from the previous 12-month period. Second, the UCI has halved the maximum permitted plasma testosterone level from 5 nmol/L to 2.5 nmol/L.

This news comes just days before the world governing body for swimming is set to release their updated guidelines after a drama-filled season, according to *The Washington Post*.

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The news, however, wasn't released with great fanfare. The following paragraphs are buried deep in the press release titled "**UCI Management Committee approves the Federation's Agenda 2030 and awards the first UCI Gravel World Championships**":

> In March 2020, the UCI published rules governing the participation of transgender athletes in events on the UCI International Calendar in the category corresponding to their new gender identity. Although these rules are stricter and more restrictive than those published by the International Olympic Committee (IOC) in 2015, the UCI has begun consideration on their adjustment following the publication of new scientific studies in 2020 and 2021. The principle of eligibility of transgender athletes (in particular female athletes, ie those who have made a transition from male to female) is based on the reversibility under low blood testosterone (the level commonly

> observed in “born female” athletes) of the physiological abilities that determine sports performance, and on the time needed to achieve this reversibility.
>
> The latest scientific publications clearly demonstrate that the return of markers of endurance capacity to “female level” occurs within six to eight months under low blood testosterone, while the awaited adaptations in muscle mass and muscle strength/power take much longer (two years minimum according to a recent study). Given the important role played by muscle strength and power in cycling performance, the UCI has decided to increase the transition period on low testosterone from 12 to 24 months. In addition, the UCI has decided to lower the maximum permitted plasma testosterone level (currently 5 nmol/L) to 2.5 nmol/L. This value corresponds to the maximum testosterone level found in 99.99% of the female population.
>
> This adjustment of the UCI’s eligibility rules is based on the state of scientific knowledge published to date in this area and is intended to promote the integration of transgender athletes into competitive sport, while maintaining fairness, equal opportunities and the safety of competitions. The new rules will come into force on 1st July. They may change in the future as scientific knowledge evolves.
>
> Moreover, the UCI envisages discussions with other International Federations about the possibility of supporting a research programme whose objective would be to study the evolution of the physical performance of highly trained athletes under transitional hormone treatment

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The release then cites a position paper from Xavier Bigard, previous scientific advisor of the French anti-doping agency and former president of the French Society for Sports and Exercise Medicine (SFMES). He’s currently the medical

director of the UCI. The 17-page statement covers several performance metrics, including VO2 max, and Bigard concludes:

> Given the current body of knowledge, the question of when it is fair to authorize TransWomen to compete in sports in line with their experienced gender identity is challenging. Despite an obvious lack of knowledge in well-trained athletes, and based on the most recent current literature (Harper et al., 2021; Hilton and Lundberg, 2021; Roberts et al., 2020), it can be hypothesized that more than 12 months of testosterone suppression may be necessary to ensure that TransWomen do not have an unfair competitive advantage when competing at an elite level. Very little data have been provided to clarify on the potential remaining physical advantage for TransWomen after medical interventions, but based on one of the only published studies to date, it can be assumed that this potential advantage on muscle strength / power cannot be erased before a period of 24 months (Roberts et al., 2020).
>
> The maximum serum testosterone concentration required is a fairly easy question to answer. The 95% confidence interval for serum testosterone in CisWomen is 0.6 - 1.68 nmol/L (Handelsman et al., 2018). For a 99.99% confidence interval (which involves no more than 1 in 10,000 values outside the confidence interval), the highest value of serum testosterone is 2.44 nmol/L. Therefore the maximum serum testosterone value can be defined as 2.5 nmol/L

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UCI President David Lappartient also included a statement in the release, saying: “With the adaptation of new rules for the participation of transgender athletes in competitions on the UCI International Calendar, our sport has a regulation that is fully consistent with the most recent scientific knowledge in this area. It is indeed important in this field to rely on objective knowledge to reconcile the very real

need for inclusion with the essential need for fairness."

This decision has been met with displeasure on both sides. For riders who champion trans inclusion, it feels like a setback. For those who want trans women banned from competition entirely, it feels like 'not enough.'

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Furthermore, announcing this decision without a full press release or press conference to adequately answer questions and explain the reasoning feels as though the UCI has purposefully tried to downplay a decision that has momentous consequences for riders.

For Emily Bridges in the U.K., who began hormone therapy in 2021 and was physically threatened after trying to compete in the women's category this season, she may now have to wait another two years to make it to the start line.

"We'd received no communication from the UCI on their plans and, specifically, how it impacts Em's current application which has been part of the UCI process since March 2022," Bridges's team told *ITV*. "Given that the UCI requested, on May 11, Em provide additional blood tests (specifically over an extended period of three months) and detailed personal information... We are now seeking clarity on why they asked for this information when they were planning on a policy change."

Bridges was barred from racing in the women's category on short notice by the UCI earlier this March, reportedly due to her racing license, though she had been approved to compete by British Cycling. She learned of the UCI's most recent decision through the media, and not from the organization directly.

While conversation around how to best ensure fairness and inclusivity in women's sport is vitally important, it's equally critical to remember that every athlete in question is a human being. Certainly, all discussions should begin with empathy and a desire for understanding, along with full transparency to the public. A *real* need for inclusion should be an open process, not a few paragraphs tucked away in a lengthy, multi-topic press release.

MOLLY HURFORD

Contributing Writer

Molly writes about cycling, nutrition and training with an emphasis on bringing more women into sport. She's the author of nine books including the *Shred Girls* series and is the founder of Strong Girl Publishing. She co-hosts The Consummate Athlete Podcast and spends most of her free time biking and running on trails, occasionally joined by her mini-dachshund.

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World Triathlon Executive Board approves Transgender Policy

by Olalla Cernuda on 03 Aug, 2022 04:04 • Español



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No. 20-35813 Bao archived June 10, 2024

World Triathlon's Executive Board has approved the Transgender Policy, following a period of consultation with the Medical Committee, Athletes Committee, Coaches Committee, Legal & Constitution Committee, Women's Committee and the Equality, Diversion & Inclusion Commission, as well as multiple experts in the field and the transgender community.

The Policy, that will be put in place in 30 days' time, states:
"To compete in the female category in an Elite or Age-Group triathlon competition, a Transgender athlete must demonstrate that the concentration of testosterone in the athlete's serum has been less than 2.5 nmol/L continuously for a period of at least 24 months. Also, at least 48 months must have elapsed since

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the Transgender athlete has competed as a male in any sporting competition".

The Transgender Policy was approved by the majority of the Executive Board, with the votes against of Vice President Ian Howard and President of the Athletes Committee Tamas Toth.

"We have been studying this matter for over a year, we have listened to the voices of all World Triathlon stakeholders, and I can only thank all the Committees and Commissions for the detailed work carried out by them to inform this policy. We are a small International Federation, but one that has always had inclusion and gender balance in our DNA. The Policy that we have just approved shows that we are prioritizing the fairness principle but showing inclusiveness. It is fully aligned with the IOC's recommendation, and similar to what other IFs have done in the last months. We will of course monitor the situation and the evolution of this policy, and we are open to reviewing and discussing it as much as necessary over time, as this subject is still evolving and we need to be flexible", said World Triathlon President and IOC Member, Marisol Casado.

Among the groups consulted in the last month by World Triathlon are sport scientists including Emma Hilton, Yannis Pitsidalis and Ross Tucker; University experts including Dr. Roger Pielke Jr, Dr. Alun Willims and Dr. Ada Cheung; IOC Human Rights expert Madeleine Pape; IOC advisor Daniel Berezowsky, and transgender athletes including Joanna Harper, Chris Mosier, Rachel McBride, Verity Smith, Patty Actually, Annie Lieberman and Veronica Ivy.

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Transgender Student-Athlete Participation Policy

UPDATED 4/17/2023 TO PROVIDE INCREASED CLARITY

Appeal in LINDSAY HECOX, ET AL V. BRADLEY LITTLE, ET AL No. 20-35813 archived on August 14, 2023

At its January 19, 2022 meeting, the NCAA Board of Governors updated the transgender student-athlete participation policy governing college sports.

The new policy aligns transgender student-athlete participation with the Olympic Movement. The resulting sport-by-sport approach preserves opportunity for transgender student-athletes while balancing fairness, inclusion and safety for all who compete.

Like the U.S. Olympic and Paralympic Committee, the updated NCAA policy calls for transgender student-athlete participation for each sport to be determined by the policy for the national governing body of that sport. If there is no NGB policy for a sport, it would then be determined by the policy for that sport's international federation. If there is no international federation policy, it would be determined by policy criteria previously established by the International Olympic Committee. Sport-specific polices are subject to ongoing review and recommendation by the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports to the Board of Governors.

The policy is effective immediately, with three phases of implementation.

Phase One – 2022 winter and spring championships

For participation in 2022 winter and spring championships, transgender student-athletes were required to provide documentation to the CSMAS within four weeks before the selections date for their championship.

The documentation had to demonstrate compliance with the 2010 NCAA policy, which calls for one year of testosterone suppression treatment. It also had to document a one-time serum testosterone level that fell below the maximum allowable level for the sport in which the student-athlete was competing within four weeks of championship selections for that sport. That means that student-athletes who already fulfilled the 2010 NCAA policy only needed provide one validated serum testosterone level.

Transgender student-athletes who participated in regular season competition (including conference championships) remained subject to the 2010 NCAA policy only.

Phase Two – 2022-23 and 2023-24 regular season and championships

Beginning Aug. 1, 2022, participation in NCAA sports requires transgender student-athletes to provide documentation that meets the above criteria for the 2010 NCAA policy, plus meet the sport standard for documented testosterone levels at three points in time: 1. Prior to any competition during the regular season; 2. Prior to the first competition in an NCAA championship event; and 3. Prior to any competition in the non-championship segment. See the transgender student-athlete eligibility review procedures for more information.

Phase Three – 2024-25 full implementation

Beginning Aug. 1, 2024, participation in NCAA sports requires transgender student-athletes to provide documentation no less than twice annually (and at least once within four weeks of competition in NCAA championships) that meets the sport-specific standard (which may include testosterone levels, mitigation timelines and other aspects of sport-governing body policies) as reviewed and approved by CSMAS. More information about the specific application of Phase Three will be provided prior to implementation.

Additional flexibility

The Board of Governors urged the divisions to allow for additional, future eligibility if a transgender student-athlete loses eligibility based on the policy change, provided they meet the newly adopted standards.

cited in LINDSAY E COX, ET AL V. BRADLEY LITTLE, ET AL
No. 20-35813 archived on August 14, 2023

The NCAA's Office of Inclusion and Sport Science Institute also released the Gender Identity and Student-Athlete Participation Summit Final Report. The report assists ongoing membership efforts to support an inclusive environment that promotes and develops the mental and physical health of transgender and non-binary student-athletes in collegiate sport. The foundational principles in this report will be developed further in conjunction with the Committee to Promote Cultural Diversity and Equity, CSMAS and other core membership committees that address gender identity.

Transgender Student-Athlete Resources

- Transgender Student-Athlete Eligibility Review Procedures
- 2022-23 Spring Sport Testosterone Thresholds and Championship Submission Deadlines
- 2023-24 Fall Sport Testosterone Thresholds and Championship Submission Deadlines
- 2023-24 Winter Sport Testosterone Thresholds and Championship Submission Deadlines
- 2023-24 Spring Sport Testosterone Thresholds and Championship Submission Deadlines
- Clarifying Application and Next Steps
- 2010 NCAA Transgender Participation Policy
- NCAA Inclusion of Transgender Student-Athletes Handbook
- Gender Identity and Student-Athlete Participation Summit Final Report

- Medical Exceptions Procedures and Form

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BY TONY PARK, WAYNE KIDWELL, DAVID LEROY, JIM JONES AND AL LANCE

MARCH 17, 2020 10:53 AM



Nike-sponsored athlete Chris Mosier argues Idaho's HB500 is wrong, and all people should be allowed to play sports. BY KATHERINE JONES

Filed in LINDSAY HECOX, ET AL V. BRADLEY LITTLE, ET AL
No. 20-35813 archived on August 14, 2023

Dear Governor Little:

We write to urge that you give great weight to the advice of our successor, incumbent Idaho Attorney General Lawrence Wasden, regarding House Bill 500. The Attorney General has opined that the legislation contains a number of legal infirmities, making it subject to invalidation in federal court proceedings. The more serious concern is apparent conflict with the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, but other provisions of federal law are implicated.

As you know, the Attorney General is a constitutional officer, charged with providing legal advice to officers and entities of state government. It is not always a comfortable position to occupy, particularly where politically-charged issues are involved. Transgender issues certainly fit into that category. Regardless of how an Attorney General may personally feel about an issue, it is his or her responsibility to observe our sacrosanct regard for the rule of law and give sound legal advice based on the law, as interpreted by the courts.

The Attorney General has raised serious concerns about the legal viability and timing of this legislation, which will have a difficult time withstanding a court challenge. Our State has been in this position a number of times during our respective tenures as Attorney General and rather more so during the incumbent's tenure. He has frequently cautioned against passage of legally suspect legislation and has a good record of being correct. He has urged awaiting the outcome of currently pending federal cases relating to this issue. Disregarding his sound advice has been costly for our State. It could well be with regard to House Bill 500.

We urge that you exercise your veto on House Bill 500 to keep a legally infirm statute off of the books and to save the State from having to pay out substantial legal fees to those who take it to court. The Attorney General has provided sound advice and fair warning. Please heed it.

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Tony Park was Idaho Attorney General 1971-1975; Wayne Kidwell 1975-1979; David Leroy 1979-1983; Jim Jones 1983-1991; and Al Lance 1995-2003.

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International Olympic Committee

IOC FRAMEWORK ON FAIRNESS, INCLUSION AND NON-DISCRIMINATION ON THE BASIS OF GENDER IDENTITY AND SEX VARIATIONS

INTRODUCTION

Every person has the right to practise sport without discrimination and in a way that respects their health, safety, and dignity. At the same time, the credibility of competitive sport – and particularly high-level organised sporting competitions – relies on a level playing field, where no athlete has an unfair and disproportionate advantage over the rest.

Through this Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations, the International Olympic Committee (IOC) seeks to promote a safe and welcoming environment for everyone, consistent with the principles enshrined in the Olympic Charter. The Framework also acknowledges the central role that eligibility criteria play in ensuring fairness, particularly in high-level organised sport in the women's category.

This Framework is issued as part of the IOC's commitment to respecting human rights (as expressed in Olympic Agenda 2020+5) and as part of the action taken to foster gender equality and inclusion.

Cited in LINDSAY HECOX, ET AL V. BRADLEY LITTLE, ET AL
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In issuing this Framework, the IOC recognises that it must be in the remit of each sport and its governing body to determine how an athlete may be at a disproportionate advantage against their peers, taking into consideration the nature of each sport. The IOC is therefore not in a position to issue regulations that define eligibility criteria for every sport, discipline or event across the very different national jurisdictions and sport systems.

Therefore, the aim of this Framework is to offer sporting bodies – particularly those in charge of organising elite-level competition – a principled approach to develop their criteria that are applicable to their sport. Sports bodies will also need to consider particular ethical, social, cultural and legal aspects that may be relevant in their context.

This Framework was developed following an extensive consultation with athletes and stakeholders concerned. This included members of the athlete community, International Federations and other sports organisations, as well as human rights, legal and medical experts. It replaces and updates previous IOC statements on this matter, including the 2015 Consensus Statement.

This Framework recognises both the need to ensure that everyone, irrespective of their gender identity or sex variations, can practise sport in a safe, harassment-free environment that recognises and respects their needs and identities, and the interest of everyone – particularly athletes at elite level – to participate in fair competitions where no participant has an unfair and disproportionate advantage over the rest.

International Olympic Committee

Lastly, the IOC also recognises that most high-level organised sports competitions are staged with men's and women's categories competing separately. In this context, the principles contained herein aim to ensure that competition in each of these categories is fair and safe and that athletes are not excluded solely on the basis of their transgender identity or sex variations.

Where eligibility criteria must be set in order to regulate the participation in the women's and men's categories, the establishment and implementation of such criteria should be carried out as part of a comprehensive approach grounded on the respect for internationally recognised human rights, robust evidence and athlete consultation. In so doing, precaution should be used to avoid causing harm to the health and well-being of athletes.

PRINCIPLES

This Framework should be considered as a coherent whole and should be taken into consideration by International Federations and other sports organisations when exercising their responsibility in establishing and implementing eligibility rules for high-level organised competition in their respective sports, disciplines and events and, more generally, in ensuring safe and fair competition in the context of inclusion and non-discrimination on the basis of gender identity and sex variations.

While these principles have been drafted with the specific needs of high-level organised sports competitions in mind, the general principles of inclusion and non-discrimination reflected below should be promoted and defended at all levels of sport.

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1. INCLUSION

1.1. Everyone, regardless of their gender identity, expression and/or sex variations should be able to participate in sport safely and without prejudice.

1.2. Measures should be put in place with a view to making sporting environments and facilities welcoming to people of all gender identities.

1.3. Sports organisations should work together to advance inclusion and prevent discrimination based on gender identity and/or sex variations, through training, capacity-building and campaigns that are informed by affected stakeholders.

1.4. Mechanisms to prevent harassment and abuse in sport should be further developed by taking into account the particular needs and vulnerabilities of transgender people and people with sex variations.

International Olympic Committee

1.5. Where sports organisations choose to establish eligibility criteria in order to determine the participation conditions for men's and women's categories for specific contests in high-level organised sports competitions, these criteria should be established and applied in a manner that respects the principles included in this Framework. Individuals or parties responsible for issuing such criteria should be appropriately trained in order to ensure that these issues are handled in a manner consistent with these principles.

1.6. The design, implementation and evaluation of these measures and mechanisms should be done in consultation with a cross-section of affected athletes.

2. PREVENTION OF HARM

2.1 The physical, psychological and mental well-being of athletes should be prioritised when establishing eligibility criteria.

2.2. Sports organisations should identify and prevent negative direct and indirect impacts on athletes' health and well-being that may come from the design, implementation and or interpretation of eligibility criteria.

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3. NON-DISCRIMINATION

3.1 Eligibility criteria should be established and implemented fairly and in a manner that does not systematically exclude athletes from competition based upon their gender identity, physical appearance and/or sex variations.

3.2 Provided they meet eligibility criteria that are consistent with principle 4, athletes should be allowed to compete in the category that best aligns with their self-determined gender identity.

3.3 Criteria to determine disproportionate competitive advantage may, at times, require testing of an athlete's performance and physical capacity. However, no athlete should be subject to targeted testing because of, or aimed at determining, their sex, gender identity and/or sex variations.

4. FAIRNESS

4.1 Where sports organisations elect to issue eligibility criteria for men's and women's categories for a given competition, they should do so with a view to:

a) Providing confidence that no athlete within a category has an unfair and disproportionate competitive advantage (namely an advantage gained by altering one's

International Olympic Committee

body or one that disproportionately exceeds other advantages that exist at elite-level competition);

b) preventing a risk to the physical safety of other athletes; and

c) preventing athletes from claiming a gender identity different from the one consistently and persistently used, with a view to entering a competition in a given category.

5. NO PRESUMPTION OF ADVANTAGE

5.1 No athlete should be precluded from competing or excluded from competition on the exclusive ground of an unverified, alleged or perceived unfair competitive advantage due to their sex variations, physical appearance and/or transgender status.

5.2 Until evidence (per principle 6) determines otherwise, athletes should not be deemed to have an unfair or disproportionate competitive advantage due to their sex variations, physical appearance and/or transgender status.

6. EVIDENCE-BASED APPROACH

cited in LINDSAY HECOX, ET AL V. BRADLEY LITTLE, ET AL
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6.1 Any restrictions arising from eligibility criteria should be based on robust and peer reviewed research that:

a) demonstrates a consistent, unfair, disproportionate competitive advantage in performance and/or an unpreventable risk to the physical safety of other athletes;

b) is largely based on data collected from a demographic group that is consistent in gender and athletic engagement with the group that the eligibility criteria aim to regulate; and

c) demonstrates that such disproportionate competitive advantage and/or unpreventable risk exists for the specific sport, discipline and event that the eligibility criteria aim to regulate.

6.2 Should eligibility criteria prevent an athlete from entering a given competition, such athlete should:

a) be allowed to participate in other disciplines and events for which they are eligible, in the same gender category; and

International Olympic Committee

b) be able to contest the ultimate decision of International Federations or other sports organisations through an appropriate internal mediation mechanism, such as ombudsperson, and/or procedures before the Court of Arbitration for Sport, to seek remedy.

7. PRIMACY OF HEALTH AND BODILY AUTONOMY

7.1 Athletes should never be pressured by an International Federation, sports organization, or any other party (either by way of the eligibility criteria or otherwise) to undergo medically unnecessary procedures or treatment to meet eligibility criteria.

7.2 Criteria to determine eligibility for a gender category should not include gynaecological examinations or similar forms of invasive physical examinations, aimed at determining an athlete's sex, sex variations or gender.

7.3 Sports organisations should seek to educate coaches, managers and other members of the entourage to prevent interpretations of their eligibility criteria that can lead to harm.

8. STAKEHOLDER-CENTRED APPROACH

cited in LINDSAY HECOX, ET AL V. BRADLEY LITTLE, ET AL
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8.1 When drafting, reviewing, evaluating and updating eligibility criteria, sports organisations should meaningfully consult with a cross-section of athletes who may be negatively affected in order to prevent harm.

8.2 Any decisions affecting an athlete's ability to compete should follow the basic standards of procedural fairness, including neutrality and impartiality.

8.3 Sports organisations should put in place internal mechanisms that offer athletes and other affected stakeholders accessible, legitimate, safe and predictable avenues to raise concerns and grievances connected to gender-based eligibility.

9. RIGHT TO PRIVACY

9.1 Sports organisations should ensure transparency in their decision-making processes on eligibility while working to preserve the privacy of individuals who may be affected by such restrictions. This includes all personally identifiable information processed in the context of eligibility decisions which should be handled in compliance with applicable laws and international standards.

9.2 Medical information about an athlete, including testosterone levels, that is collected in the context of anti-doping or otherwise, must be handled in compliance with applicable privacy laws and should be used only for the purposes disclosed to the athlete at the time such information is collected.

International Olympic Committee

9.3 Informed consent should be acquired from athletes prior to the collection of data that is obtained for the purpose of determining eligibility to compete in the men's or women's category.

9.4 Sports organisations should avoid public disclosure of athletes' confidential health and other personal information in the absence of the athlete's consent. In addition, sports organisations should consult with the athletes concerned on the best ways to publicly communicate about their eligibility.

10. PERIODIC REVIEWS

10.1 Eligibility criteria should be subject to predictable periodic review to reflect any relevant ethical, human rights, legal, scientific, and medical developments in this area and should include the affected stakeholder's feedback on their application.

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WORLD ATHLETICS

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The World Athletics Council has today made a number of important decisions regarding the future participation of the Russian and Belarusian Member Federations in athletics, and the eligibility regulations for athletes who are transgender or who have Differences of Sexual Development (DSD).

The Council agreed to the reinstatement of the Russian Federation (RusAF) following seven years of suspension due to egregious institutional doping violations. However, athletes, officials and supporting personnel from Russia and Belarus are still excluded from competition for the foreseeable future due to Russia's invasion of Ukraine.

Russia Taskforce recommendation

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These Special Conditions are designed to enable the Athletics Integrity Unit to monitor, evaluate, communicate, mentor, oversee, and assist RusAF and its external stakeholders to ensure they maintain good governance practices and to protect RusAF from external pressures and attempts to influence or control its functioning.

They focus on four areas: organisational good governance, protection from inappropriate external influence and control, operational capability and capacity (with a particular emphasis on ethical and anti-doping requirements, and change in the regions), and budget allocation and fiscal management.

These Special Conditions are intended be applied for a period of **three years**, with a review at the end of that period to determine whether or not it is necessary to maintain those conditions (as they are or with variations) for a further period.

Totalling 35 separate monitoring and evaluation measures, the special conditions cover: organisational governance, presidium leadership oversight, anti-doping, cultural change in the regions, engagement with external stakeholders, ethics, anti-corruption and anti-conflicts of interest, fiscal management.

Further, the Athletics Integrity Unit, has determined that RusAF should be categorised as a Category 'A' member federation after its reinstatement.

That means that RusAF will have to comply not only with the general obligations applicable to all member federations that are set out in WA ADR 15.4 but also with the special obligations applicable to Category 'A' member federations that are set out in WA ADR 15.5. These federations are subject to greater scrutiny and more testing requirements.

The Taskforce confirmed that RusAF has paid all of the costs of the reinstatement process until the end of 2022. World Athletics will invoice RusAF in early April for the costs incurred by World Athletics in January-March, and the prompt payment of that invoice will be one of the Special Conditions.

RusAF must also pay all of the costs incurred by the AIU in overseeing RusAF's compliance with the Category A requirements and the Special Conditions over the next three years, as well as any World Athletics costs in connection with this oversight.

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As a consequence of these decisions, the Authorised Neutral Athlete (ANA) programme will be discontinued, and the Doping Review Board, which rules on ANA applications, will be stood down.

The Russia Taskforce, having completed its work, will be disbanded and the two international experts who have advised it will be stood down.

World Athletics President Sebastian Coe said: "I would like to express my deep gratitude to Rune Andersen and the Taskforce members for staying the course and helping us to resolve a major integrity issue in our sport. It has been a mammoth undertaking over seven years but their commitment and diligence has given the Council confidence that the Russian Federation has reformed its structure and culture and is now on the right path in terms of addressing doping issues. It is important that RusAF continues on this path, but we are confident the Athletics Integrity Unit has the expertise to monitor and assess the situation going forwards."

War in Ukraine

The World Athletics Council has also reaffirmed the decision it originally made in March 2022, to exclude Russian and Belarusian athletes, support personnel, Member Federation officials and officials who are citizens of those two countries from all World Athetics Series events for the foreseeable future.

These sanctions take effect immediately and include:

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c. no accreditation to attend any World Athletics Series events;

d. no involvement of Member Federation personnel in any official World Athletics development or professional programmes; and

e. Athletes, Athlete Support Personnel, Member Federation Officials and Officials who are Citizens of Russia and Belarus are excluded from World Athletics Series Events for the foreseeable future.

The Council recommends to the meeting organisers of the Diamond League, Continental Tour, Label Races and the various other Tours that they take the same approach and exclude Athletes and Officials from RusAF and the Belarus Athletic Federation.

The Council also agreed to establish a working group to advise and recommend to Council the conditions that would need to be met for the restrictions on Athletes and Officials from RusAF and the Belarus Athletic Federation participating at World Athletics Series Events to be lifted.

World Athletics President Sebastian Coe said: "As I noted at the time these measures were introduced last year, the unprecedented sanctions imposed on Russia and Belarus by countries and industries all over the world appear to be the only peaceful way to disrupt and disable Russia's current intentions and restore peace. The death and destruction we have seen in Ukraine over the past year, including the deaths of some 185 athletes, have only hardened my resolve on this matter. The integrity of our major international competitions has already been substantially damaged by the actions of the Russian and Belarusian governments, through the hardship inflicted on Ukrainian athletes and the destruction of Ukraine's sports systems. Russian and Belarusian athletes, many of whom have military affiliations, should not be beneficiaries of these actions."

In accordance with the World Athletics constitution, the Member Federations from Russia and Belarus have been informed of the Council's decisions and have the right to respond. If necessary, the Council will reconvene to consider that response.

Transgender and DSD Regulations

The Council agreed to update the eligibility regulations for transgender and DSD athletes to compete in the female category.

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For DSD athletes, the new regulations will require any relevant athletes to reduce their testosterone levels below a limit of 2.5 nmol/L for a minimum of 24 months to compete internationally in the female category in any event, not just the events that were restricted (400m to one mile) under the previous regulations.

The principle of restricted events has been removed from the regulations.

Interim provisions will be introduced for those relevant athletes who are already competing in what were the unrestricted events (distances below 400m and above one mile, plus field events). These provisions include a requirement to suppress their testosterone levels below 2.5nmol/L for a minimum of six months, before they are eligible to compete again.

The six months period is consistent with the previous regulations, which required six months of testosterone suppression (below 5nmol/L) for DSD athletes to compete in the restricted events. The interim provisions do not apply to the previously restricted events (400m to one mile) where two years of testosterone suppression will be required before the relevant athlete is eligible to compete.

These regulations will come into effect on 31 March 2023.

In regard to transgender athletes, the Council has agreed to exclude male-to-female transgender athletes who have been through male puberty from female World Rankings competition from 31 March 2023.

World Athletics conducted a consultation period with various stakeholders in the first two months of this year, including Member

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In terms of DSD regulations, World Athletics has more than ten years of research and evidence of the physical advantages that these athletes bring to the female category.

However, there are currently no transgender athletes competing internationally in athletics and consequently no athletics-specific evidence of the impact these athletes would have on the fairness of female competition in athletics.

In these circumstances, the Council decided to prioritise fairness and the integrity of the female competition before inclusion.

However the Council agreed to set up a Working Group for 12 months to further consider the issue of transgender inclusion.

This Working Group will include an independent chair, up to three Council Members, two athletes from the Athletes' Commission, a transgender athlete, three representatives of the Member Federations and representatives of the World Athletics Health and Science Department.

Its remit will be to consult specifically with transgender athletes to seek their views on competing in athletics; to review and/or commission additional research where there is currently limited research and to put forward recommendations to Council.

World Athletics President Sebastian Coe said: "Decisions are always difficult when they involve conflicting needs and rights between different groups, but we continue to take the view that we must maintain fairness for female athletes above all other considerations. We will be guided in this by the science around physical performance and male advantage which will inevitably develop over the coming years. As more evidence becomes available, we will review our position, but we believe the integrity of the female category in athletics is paramount."

World Athletics

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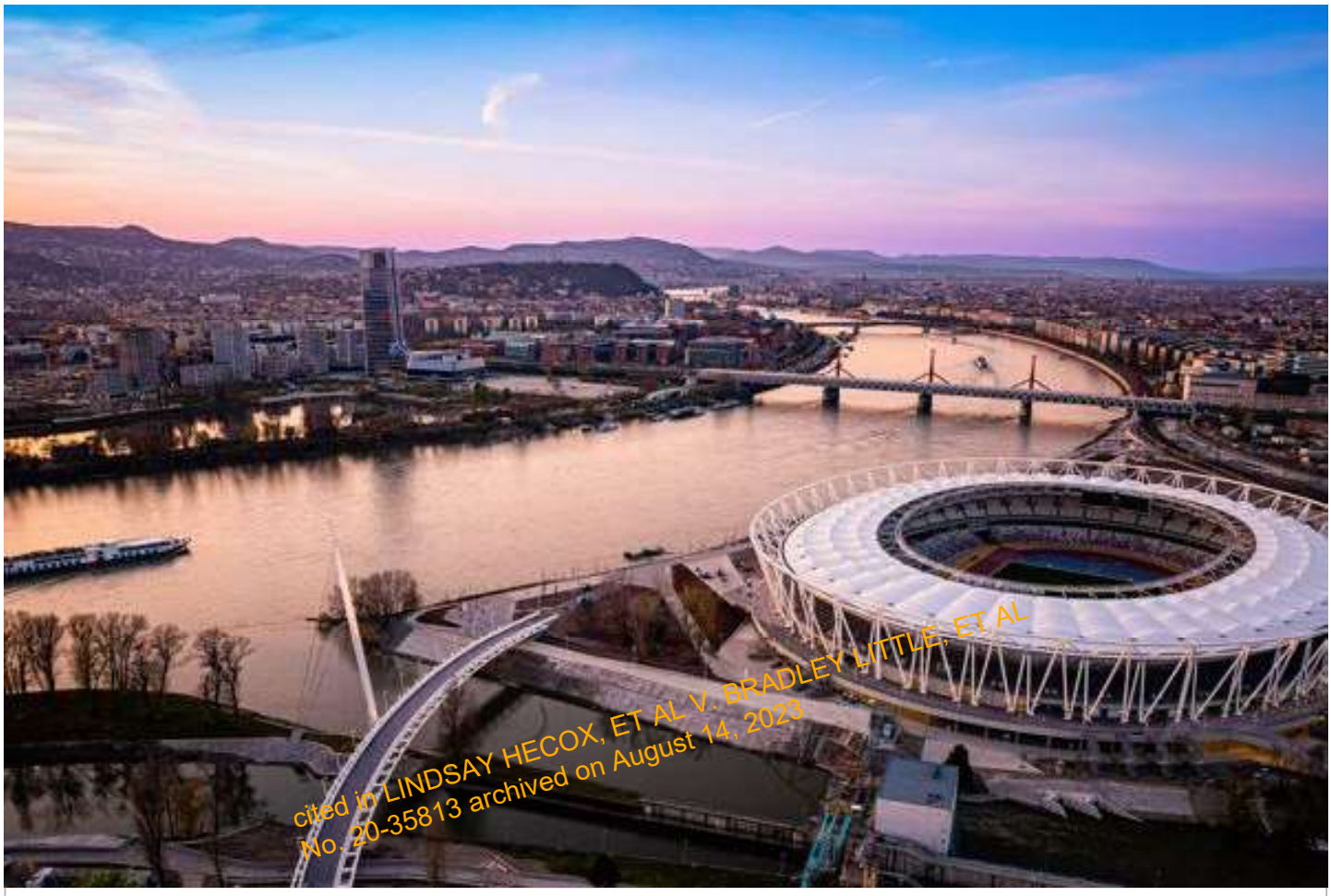
Council selects host cities for future World Athletics Series events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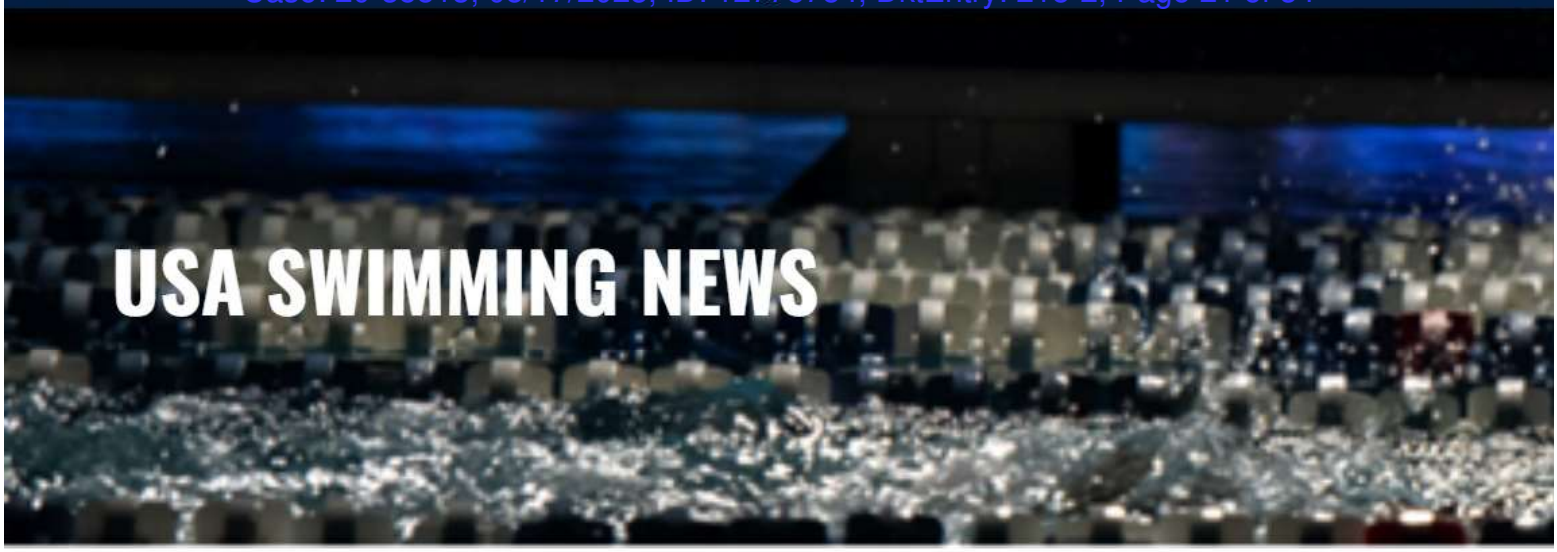

Tuesday, February 1, 2022

USA Swimming Releases Athlete Inclusion, Competitive Equity and Eligibility Policy



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by USA Swimming

Following several months of internal work, critical stakeholder discussions, and medical and legal review, and in light of updated information regarding the Fédération Internationale de Natation's (FINA) policy development, USA Swimming has elected to release its Athlete Inclusion, Competitive Equity and Eligibility Policy. This policy, effective immediately, is applicable only to USA Swimming athlete members and approved elite events as defined in the policy and will remain in place until the release of an elite policy by FINA.

USA Swimming has and will continue to champion gender equity and the inclusivity of all cisgender and transgender women and their rights to participate in sport, while also fervently supporting competitive equity at elite levels of competition.

The development of the elite policy therefore acknowledges a competitive difference in the male and female categories and the disadvantages this presents in elite head-to-head competition. This is supported by statistical data that shows that the top-ranked female in 2021, on average, would be ranked 536th across all short course yards (25 yards) male events in the country and 326th across all long course meters (50 meters) male events in the country, among USA Swimming members. The policy therefore supports the need for competitive equity at most elite levels of competition.

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While recognizing the need for the aforementioned guidelines in elite competition, sport is an important vehicle for positive physical and mental health, and, for this reason, USA Swimming remains steadfast in its continued commitment to greater inclusivity at the non-elite levels.

In order to balance these two priorities, specific guidelines have been developed for both non-elite and elite athletes and elite events. At the non-elite level, an inclusive process has been established by which an athlete can elect to change their competition category in order for them to experience the sport of swimming in a manner that is consistent with their gender identity and expression. At the elite level, a policy has been created for transgender athlete participation in the U.S. that relies on science and medical evidence-based methods to provide a level-playing field for elite cisgender women, and to mitigate the advantages associated with male puberty and physiology. Elite athletes shall include any athlete who has achieved a time standard and desires to participate in elite events as defined in the policy.

The elite athlete policy will be implemented by a decision-making panel comprised of three independent medical experts and eligibility criteria will consist of:

- Evidence that the prior physical development of the athlete as a male, as mitigated by any medical intervention, does not give the athlete a competitive advantage over the athlete's cisgender female competitors.
- Evidence that the concentration of testosterone in the athlete's serum has been less than 5 nmol/L (as measured by liquid chromatography coupled with mass spectrometry) continuously for a period of at least thirty-six (36) months before the date of application.

Athletes will need to abide by USA Swimming's Athlete Inclusion, Competitive Equity and Eligibility Policy to be eligible to set USA Swimming National Age-Group Records in the 13-14 age group and above or to be eligible to set an American Record, per the USA Swimming Rules & Regulations, in a competition category which is different than the gender assigned to the athlete at birth.

USA Swimming's policy is not applicable to non-USA Swimming athlete members nor non-approved Elite events, as defined in the policy.

USA Swimming will continue to learn and to evaluate its policy, with a focus on balancing inclusion and equity, and will continue to work closely with FINA on global standards.

The complete policy, for both elite and non-elite athletes, which is part of the USA Swimming Operating Policy Manual, is available online at https://www.usaswimming.org/inclusion.

USA Swimming Diversity, Equity, and Inclusion Resources
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News

The UCI Announces Changes to Its Policy on Transgender Athletes

CYCLING'S INTERNATIONAL GOVERNING BODY EXTENDS TRANSITION TIME AND LOWERS TESTOSTERONE THRESHOLD FOR COMPETITION.

BY NO LONGER EXISTS Published: Jun 17, 2022



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- The UCI has adjusted its policy on the inclusion of transgender athletes in cycling.
- The transition period on low testosterone has been extended to 24 months, from the previous 12-month period.

- The UCI has halved the maximum permitted plasma testosterone level from 5 nmol/L to 2.5 nmol/L.

On June 16, the Union Cycliste Internationale (UCI) adjusted its racing and competition policy for transgender athletes. The new regulations were outlined quietly in a press release and will go into effect on July 1.

The key changes are two-fold. First, the transition period on low testosterone has been extended to 24 months from the previous 12-month period. Second, the UCI has halved the maximum permitted plasma testosterone level from 5 nmol/L to 2.5 nmol/L.

This news comes just days before the world governing body for swimming is set to release their updated guidelines after a drama-filled season, according to *The Washington Post*.

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The news, however, wasn't released with great fanfare. The following paragraphs are buried deep in the press release titled "UCI Management Committee approves the Federation's Agenda 2030 and awards the first UCI Gravel World Championships":

> In March 2020, the UCI published rules governing the participation of transgender athletes in events on the UCI International Calendar in the category corresponding to their new gender identity. Although these rules are stricter and more restrictive than those published by the International Olympic Committee (IOC) in 2015, the UCI has begun consideration on their adjustment following the publication of new scientific studies in 2020 and 2021. The principle of eligibility of transgender athletes (in particular female athletes, ie those who have made a transition from male to female) is based on the reversibility under low blood testosterone (the level commonly observed in "born female" athletes) of the physiological abilities that determine sports performance, and on the time needed to achieve this reversibility.

> The latest scientific publications clearly demonstrate that the return of markers of endurance capacity to “female level” occurs within six to eight months under low blood testosterone, while the awaited adaptations in muscle mass and muscle strength/power take much longer (two years minimum according to a recent study). Given the important role played by muscle strength and power in cycling performance, the UCI has decided to increase the transition period on low testosterone from 12 to 24 months. In addition, the UCI has decided to lower the maximum permitted plasma testosterone level (currently 5 nmol/L) to 2.5 nmol/L. This value corresponds to the maximum testosterone level found in 99.99% of the female population.
>
> This adjustment of the UCI’s eligibility rules is based on the state of scientific knowledge published to date in this area and is intended to promote the integration of transgender athletes into competitive sport, while maintaining fairness, equal opportunities and the safety of competitions. The new rules will come into force on 1st July. They may change in the future as scientific knowledge evolves.
>
> Moreover, the UCI envisages discussions with other International Federations about the possibility of supporting a research programme whose objective would be to study the evolution of the physical performance of highly trained athletes under transitional hormone treatment

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The release then cites a position paper from Xavier Bigard, previous scientific advisor of the French anti-doping agency and former president of the French Society for Sports and Exercise Medicine (SFMES). He’s currently the medical director of the UCI. The 17-page statement covers several performance metrics, including VO2 max, and Bigard concludes:

> Given the current body of knowledge, the question of when it is fair to authorize TransWomen to compete in sports in line with their experienced



Molly Cameron Won't Stay Silent Any More



CRCA Demands Action From USA Cycling



Alex Showerman Is No Longer Riding From Her Past

Furthermore, announcing this decision without a full press release or press conference to adequately answer questions and explain the reasoning feels as though the UCI has purposefully tried to downplay a decision that has momentous consequences for riders.

For Emily Bridges in the U.K., who began hormone therapy in 2021 and was physically threatened after trying to compete in the women's category this season, she may now have to wait another two years to make it to the start line.

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"We'd received no communication from the UCI on their plans and, specifically, how it impacts Em's current application which has been part of the UCI process since March 2022," Bridges's team told *ITV*. "Given that the UCI requested, on May 11, Em provide additional blood tests (specifically over an extended period of three months) and detailed personal information... We are now seeking clarity on why they asked for this information when they were planning on a policy change."

Bridges was barred from racing in the women's category on short notice by the UCI earlier this March, reportedly due to her racing license, though she had been approved to compete by British Cycling. She learned of the UCI's most recent decision through the media, and not from the organization directly.

While conversation around how to best ensure fairness and inclusivity in women's sport is vitally important, it's equally critical to remember that every athlete in question is a human being. Certainly, all discussions should begin with empathy and a desire for understanding, along with full transparency to the public. A *real* need for

inclusion should be an open process, not a few paragraphs tucked away in a lengthy, multi-topic press release.

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World Triathlon Executive Board approves Transgender Policy

by Olalla Cernuda on 03 Aug, 2022 04:04 • Español



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World Triathlon's Executive Board has approved the Transgender Policy, following a period of consultation with the Medical Committee, Athletes Committee, Coaches Committee, Legal & Constitution Committee, Women's Committee and the Equality, Diversion & Inclusion Commission, as well as multiple experts in the field and the transgender community.

The Policy, that will be put in place in 30 days' time, states:
"To compete in the female category in an Elite or Age-Group triathlon competition, a Transgender athlete must demonstrate that the concentration of testosterone in the athlete's serum has been less than 2.5 nmol/L continuously for a period of at least 24 months. Also, at least 48 months must have elapsed since the Transgender athlete has competed as a male in any sporting competition".

The Transgender Policy was approved by the majority of the Executive Board, with the votes against of Vice President Ian Howard and President of the Athletes Committee Tamas Toth.

"We have been studying this matter for over a year, we have listened to the voices of all World Triathlon stakeholders, and I can only thank all the Committees and Commissions for the detailed work carried out by them to inform this policy. We are a small International Federation, but one that has always had inclusion and gender balance in our DNA. The Policy that we have just approved shows that we are prioritizing the fairness principle but showing inclusiveness. It is fully aligned with the IOC's recommendation, and similar to what other IFs have done in the last months. We will of course monitor the situation and the evolution of this policy, and we are open to reviewing and discussing it as much as necessary over time, as this subject is still evolving and we need to be flexible", said World Triathlon President and IOC Member, Marisol Casado.

Among the groups consulted in the last month by World Triathlon are sport scientists including Emma Hilton, Yannis Pitsidalis and Ross Tucker; University experts including Dr. Roger Pielke Jr, Dr. Alun Willims and Dr. Ada Cheung; IOC Human Rights expert Madeleine Pape; IOC advisor Daniel Berezowsky, and transgender athletes including Joanna Harper, Chris Mosier, Rachel McBride, Verity Smith, Patty Actually, Annie Lieberman and Veronica Ivy.

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50 Years of Title IX: We're Not Done Yet


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Published on May 4th, 2022

June 23, 2022 marks the 50th anniversary of the passage of Title IX. This federal civil rights law has been credited with profoundly changing education in the United States by barring sex discrimination in the nation's schools. Title IX, along with other equity laws, helped to unlock access to educational and athletic opportunities, paving the way for inroads into historically male-dominated professions. The work of five decades of Title IX's impact is writ large in every sector of American society.

This report is grounded in the rich history of Title IX and takes a multi-dimensional look at its impact. The report is based on a rigorous literature review and original research using publicly available data sets. The focus is primarily on the enforcement of Title IX in athletics and the three major areas that should be reviewed in ongoing and regular Title IX audits: athletic participation opportunities, allocation of athletic scholarship funding, and

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