



March 6, 2025

Dr. Robert A. Lombardi, Executive Director  
Board of Directors  
Pennsylvania Interscholastic Athletic Association, Inc.  
550 Gettysburg Road  
Mechanicsburg, Pennsylvania 17055

Dear Dr. Lombardi and PIAA Board of Directors:

The Pennsylvania Interscholastic Athletic Association, Inc. (“PIAA”) holds itself out as an organization that “believes that all boys and girls should have equal opportunity to participate in all levels of interscholastic athletics regardless of race, color, sex, creed, religion or ethnic background.” PIAA Handbook § 1, Const. & By-Laws at 1 (2024-25). PIAA’s actions and words in the past two weeks regarding transgender students’ participation in interscholastic athletics are directly at odds with this statement and with state and federal law. On February 19, 2025, the PIAA Board of Directors approved removing the “Transgender Policy” from its policy and procedures manual and changing the “Mixed Gender Participation” provisions of its by-laws to provide for when a student’s sex is questioned or uncertain and to require that member schools “consult with their school solicitors relative to compliance” with “the Presidential Executive Order 14201 entitled ‘Keeping Men Out of Women’s Sports,’ dated February 5, 2025.”<sup>1</sup> Following the Board’s actions, PIAA Assistant Executive Director Lyndsay Barna issued a statement that the Board’s “position is the Executive Order is binding to all PIAA Member Schools that accept federal funding.”<sup>2</sup>

The President’s executive order, however, does not carry the force of law and as such does not supersede state or federal law. *See, e.g., Local 1498, Am. Fed’n Gov’t Emps. v. Am. Fed’n Gov’t Emps.*, 522 F.2d 486, 491 (3d Cir. 1975) (holding that an executive order “cannot attain the status as a ‘law of the United States’” if it regulates “solely as a product of executive authority and not as a consequence of congressional law making”). Courts have overwhelmingly found that Title IX and the Fourteenth Amendment of the U.S. Constitution provide clear protections from discrimination based on gender identity across all areas of education, including

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<sup>1</sup> *Summary of PIAA Board of Directors’ Actions from the Meeting of Wednesday, February 19, 2025* at ¶ 15, <https://tinyurl.com/5yf3duam>.

<sup>2</sup> Ethan Morrison, *PIAA takes action after President Donald Trump’s executive order*, Beaver County Times (Feb. 25, 2025), <https://tinyurl.com/atwzrx5j>.

sports. *See B.P.J. ex rel. Jackson v. W. Va. State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024) (holding that a law banning transgender girls and women from participating in female sports violates Title IX as to plaintiff because it discriminated against her on the basis of her gender identity); *Doe v. Horne*, 115 F.4th 1083 (9th Cir. 2024) (upholding a preliminary injunction of a law banning plaintiffs, two transgender girls, from participating in female sports since it violated equal protection as it discriminated based on their transgender status, which is subject to heightened scrutiny); *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024) (upholding a preliminary injunction that banned transgender women and girls from female sports because it discriminates on the basis of sex and was directed at excluding women and girls rather than promoting sex equality); *see also Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3d Cir. 2018) (ruling that the government has a compelling interest in protecting transgender students from discrimination and that “barring transgender students from restrooms that align with their gender identity would pose a potential Title IX violation”).

Pennsylvania law independently makes clear that transgender individuals have the right not to be discriminated against based on their gender identity. The Pennsylvania Human Relations Act (“PHRA”) provides that “[t]he opportunity for an individual to . . . obtain all the accommodations, advantages, facilities, and privileges of any public accommodation . . . without discrimination because of . . . sex . . . is hereby recognized as and declared to be a civil right which shall be enforceable as set forth in this act.” 43 P.S. § 953. “Sex” as used in the PHRA includes “[g]ender, including a person’s gender identity or gender expression.” 16 Pa. Code § 41.206(3). Discrimination under the PHRA includes segregation. 43 P.S. § 954(g). Education institutions are responsible for discrimination against students based on gender identity under the PHRA and as such can be held liable for damages. *See, e.g., Wible v. Sch. Dist. of Phila.*, No. 15-043169, 1392 CD 2018 (Phila. Cty. Ct. of Comm. Pls. 2018) (judgment entered for student plaintiff in the amount of \$500,000 damages and an additional \$578,000 in attorney fees for failing to intervene and address bullying and harassment of a student for her gender presentation). As the Pennsylvania Human Relations Commission (“PHRC”) reiterated in response to the President’s executive orders, the PHRA prohibits discrimination based on sex, including gender identity or expression, and “[r]egardless of what happens nationally, Pennsylvanians can be assured that under Pennsylvania laws, they are protected.”<sup>3</sup> The PHRC also made clear that it “enforces two state laws that prohibit discrimination” and that “nothing that happens on a federal level can change that.”<sup>4</sup>

PIAA and public school districts are also bound by the Pennsylvania Constitution, which prohibits discrimination because of sex. *See* Art. I, § 28; *Commonwealth ex rel. Packel v. Pa. Interscholastic Athletic Ass’n*, 334 A.2d 839, 842 (Pa. Commw. Ct. 1975) (finding that “the PIAA By-Laws are subject to the scrutiny imposed by the [Equal Rights Amendment]” and that, once the state permits participation in interscholastic sports, “it must do so on a basis which does not discriminate in violation of the constitution”). Denying transgender students access to athletic opportunities based on their gender identity runs afoul of the Equal Rights Amendment’s command that benefits and burdens not be conferred on the basis of sex under the Pennsylvania

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<sup>3</sup> *See The PHRC releases statement affirming anti-discrimination protections in Pennsylvania*, PHRC (Jan. 24, 2025), <https://tinyurl.com/mwrfhx8s>.

<sup>4</sup> *Id.*

Constitution. See *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Human Svs.*, 309 A.3d 808, 868-69, 869 n. 51 (Pa. 2024) (explaining that “the clear text of the Equal Rights Amendment is unequivocal and prohibits denial of rights, regardless of whether biology is used as a pretext”).

As PIAA is well aware, playing school sports is associated with many benefits, including higher grades and test scores, higher rates of school completion, leadership skills, and connectedness to the school community.<sup>5</sup> Research shows that these benefits, along with an increased sense of belonging, higher self-esteem, and lower levels of depression, are significant, and in many cases lifesaving, for transgender and nonbinary students who play sports.<sup>6</sup> Meanwhile, data from the Centers for Disease Control and Prevention show that there is no negative impact on the participation of girls and women in school sports in states with trans-inclusive athletic policies.<sup>7</sup> In contrast, in states that exclude transgender students from sports, *all* girls’ participation in high school sports has declined.<sup>8</sup> Anti-trans sports bans and restrictions only codify sexist stereotypes of how female athletes should look or play, which promotes body policing of *any* student who deviates from this ideal of femininity.

PIAA’s statement following its Board actions on February 19, 2025, misconstrues the force of executive orders and ignores clear federal and state legal protections for transgender students. Any school district that changes its policies or implements new policies to discriminate against transgender students in interscholastic athletics based solely on their gender identity in accordance with PIAA’s statement and Board actions runs the risk of legal challenge for these policies.

Transgender students in Pennsylvania remain protected from discrimination on the basis of their gender identity. The President’s executive order has not changed that. We urge you to clarify PIAA’s policies in accordance with your obligations under state and federal law, and with your own constitution and by-laws, which clearly state that “all boys and girls should have equal opportunity to participate in all levels of interscholastic athletics” regardless of sex. To do otherwise violates governing laws and is a disservice to the most marginalized students that you purport to protect in their pursuit of participation in interscholastic athletics.

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<sup>5</sup> See, e.g., *Title IX at 45: Advancing Opportunity Through Equity in Education* 41-42, Nat’l Coal. for Women & Girls in Educ. (2017), <https://tinyurl.com/mrxst3c9>.

<sup>6</sup> See Russell B. Toomey & Stephen T. Russell, *An initial investigation of sexual minority youth involvement in school-based extracurricular activities*, 23 *J. Research on Adolescence* 304 (2012), <https://tinyurl.com/49up8nk8>; Caitlin M. Clark, Joseph G. Kosciw & Jacquelyn Chin, *LGBTQ Students and School Sports Participation*, GLSEN Research Institute (2021), <https://tinyurl.com/bddwm45e>.

<sup>7</sup> Shoshana K. Goldberg, *Fair Play: The Importance of Sports Participation for Transgender Youth* 14-16, *Ctr. for Am. Progress* (Feb. 2021), <https://tinyurl.com/ypwccexuh>.

<sup>8</sup> *Id.*

Sincerely,

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