



January 19, 2022

NCAA Board of Governors,

The undersigned organizations are writing to raise our concerns about the absence of enforceable non-discrimination language in the recent draft of the NCAA constitution.

In recent years, the NCAA has been a leader in the fight against discrimination at several important moments, taking bold and impactful stands against states that have passed discriminatory policies such as Indiana's [religious refusal law in 2015](#) or North Carolina's [HB 2 bathroom bill in 2017](#). Thousands of college athletes across the country depend on the NCAA to set a national baseline for fair, safe, and non-discriminatory treatment. This benchmark has been important to the athletes' sense of security, and only enhances their ability to compete knowing that the NCAA has their back.

While decentralizing the NCAA and giving power to conferences and schools has its benefits, we are concerned that leaving the enforcement of non-discrimination protections to schools will create a patchwork of protections rather than a comprehensive policy that would protect all athletes, no matter where they play. This would be similar to the patchwork of non-discrimination policies in states, where marginalized groups in some states or cities are protected while others are left behind by localities that opt not to enact inclusive policies. The health, safety, and well-being of every athlete is paramount, and a particular challenge for transgender athletes who have to contend with discriminatory laws that are being enacted in states across the country.

The political climate that we have seen develop in certain state legislatures gives us little hope that non-discrimination and fair treatment are principles that will be consistently upheld by state laws, or that state policies are even trending in the right direction. This past year, legislatures across the country have passed legislation that undermines the rights and protections of marginalized groups, from anti-abortion laws that undermine the rights of people who can become pregnant, to voting disenfranchisement laws that target and disproportionately impact communities of color, to anti-critical race theory legislation, to anti-transgender laws that ban trans participation in youth sports outright. Repeated attempts by organizations and individuals to fight against inclusive interpretations of Title IX make clear that the NCAA must be an active partner in the fight for equality.

Our request is simple and straightforward. The NCAA should put non-discrimination language with enumerated categories in its new constitution as it did with its previous version with the clear disaggregation of gender identity. Specifically we request the NCAA adopt this language: *The Association shall promote an atmosphere of respect for and sensitivity to the dignity of every person. It is the policy of the Association to refrain from discrimination with respect to its governance policies, educational programs, activities and employment policies, including on the basis of age, color, disability, sex, gender identity, national origin, race, religion, creed or sexual orientation. It is the responsibility of each member institution to independently enforce its policy regarding nondiscrimination.* Restoring this best practice would be easy, would align with what thousands of companies, hospitals and universities across the country already do, and would give thousands of athletes the sense of security they deserve. It also happens to be the right thing to do.

In previous fights, the NCAA has forcefully spoken up against anti-transgender legislation, committing to holding championships only in states that are “safe, healthy, and free from discrimination” in response to the 2017 passage of HB 2, the discriminatory bill in North Carolina. Transgender young people of all ages are harmed by discriminatory anti-transgender laws, and it’s important to remember that denying transgender children and youth from playing sports today is tantamount to denying the transgender NCAA athletes of tomorrow.

A constitution that empowers schools and student athletes is a welcome change. But the NCAA must also recognize that it also holds real power to make a difference for those athletes and student populations at large. Ceding that power and refusing the opportunity to effect that change would be a mistake. There is still time to adopt simple changes that would make a profound difference for thousands of marginalized student athletes. The NCAA must make these changes.

Respectfully,

Human Rights Campaign
 Athlete Ally
 American School Health Association
 American Federation of Teachers (AFT)
 Equality Federation
 GLAAD
 GLBTQ Legal Advocates & Defenders
 GLSEN
 Lambda Legal
 National LGBTQ Task Force
 National Center for Lesbian Rights
 National Center for Transgender Equality
 National Education Association (NEA)
 National Women's Law Center
 SAGE
 School Social Work Association of America
 The Trevor Project