



June 16, 2025

The Honorable Chris Wright
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue SW
Washington DC 20585

David Taggart
Acting General Counsel
Office of the General Counsel
U.S. Department of Energy
1000 Independence Avenue SW
Washington DC 20585

Re: Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance (Docket No. DOE-HQ-2025-0016)

Dear Secretary Wright and Mr. Taggart:

As members of the Democratic Women's Caucus, we write with deep concern about the Department of Energy's (DOE) direct final rule (DFR) that rescinds critical Title IX protections from 10 CFR § 1042.450 for women and girls participating in sports. Specifically, we are outraged by the proposal to remove the requirement that if a school offers a non-contact sports team for men and boys but not for women and girls then women and girls must be allowed to try out for the men's and boys' teams. The removal of this policy will rob women and girls of athletic opportunities – of which they have historically had fewer compared to men and boys – and does nothing to protect them. In addition to harming women and girls, this DFR is a clear, substantive policy change; it is not a simple, noncontroversial technical change, of the sort that the DFR process is intended to be used for. **We will not let this administration threaten opportunities for women and girls by misusing and trying to hide behind complicated bureaucratic procedures.** To be clear, this letter serves as our adverse comment to this DFR, and we demand that this DFR be rescinded.

Title IX marked a turning point for women's and girls' participation in sports, but there is still more work necessary to achieve full access. Instead, this DFR takes us backwards. After the enactment of Title IX, the number of girls playing sports in high school surged by over 1,000% from 300,000 athletes in 1972 to 3.5 million athletes in 2019 – proving that Title IX is impactful.¹ Yet, rural and low-income communities remain limited by funding and facility constraints, especially as programs tend to double funding

¹ Aban, L. (Ed.). (2023). *Athletics and Title IX*. *Georgetown Journal of Gender and the Law*, 24(2).
<https://www.law.georgetown.edu/gender-journal/in-print/volume-xxiv-issue-2-annual-review-2023/athletics-title-ix/>

resources for men's programs² – all of which limits opportunities for female athletes. In 2019, the National Collegiate Athletic Association (NCAA) reported that women had 62,236 fewer participation opportunities than men in NCAA sports.³ 10 CFR § 1042.450, as it currently stands, fills the gap for female athletes in communities that do not offer a women's or girls' sports team for the non-contact sport of their choice only offered to men and boys. Women and girls will lose athletic opportunities if this DFR is implemented.

The administration's justification for removing this provision via a DFR is that the provision "ignores differences between the sexes" and that it allegedly violates Trump's anti-transgender sports ban. However, that justification is misleading and inaccurate. This regulation does not provide explicit authorization to transgender girls to participate on girls' sports teams – it simply allows girls to try out for boys' teams when there is no girls' team offered. We unequivocally reject this attempt to weaponize Title IX to discriminate against transgender girls and the assumption that girls and boys cannot compete due to differences in skill. The Trump administration is not protecting women and girls; the administration is limiting their opportunities.

Girls' participation in baseball is an example of how female athletes could lose participation opportunities in non-contact sports if this change goes into effect. During the 2023-2024 school year, 1,372 high school girls participated in baseball.⁴ As baseball is typically only offered as a boys' sport, many of those 1,372 girls may no longer be able to participate in their chosen sport because this protection would be removed. Additionally, professional female athletes, who have transformed the landscape of professional women's sports, would have lost the opportunity to play in their youth. Indiana Fever player Caitlin Clark had to play on boys' basketball teams due to lack of Amateur Athletic Union options for girls.⁵ Without the ability to play on those boys' teams, her future career in the Women's National Basketball Association may have slipped out of reach. Whether for love of the game, to try something new, or a dream to become a professional athlete, all girls deserve an equal opportunity to participate in sports. This can only be achieved if they can access a team they can play for.

DOE's efforts to rescind this crucial Title IX protection with a DFR is unlawful. As stated above, direct final rules are only appropriate for noncontroversial or routine changes. This change to DOE's Title IX regulations are neither. By removing protections under Title IX, this DFR would limit opportunities for women and girls and upend over 50 years of progress toward gender equality. Given the harmful impact of removing this Title IX protection, this regulatory change should not be issued, and certainly not through a DFR. Although the government should never seek to limit anyone's rights or protections

² The Associated Press. (2022, June 24). *Title IX: NCAA report shows stark gap in funding for women*. NPR. <https://www.npr.org/2022/06/24/1107242271/the-ncaa-says-that-funding-for-women-in-college-sports-is-falling-behind>

³ Staurowsky, E. J., Watanabe, N., Cooper, J., Cooky, C., Lough, N., Paule-Koba, A., Pharr, J., Williams, S., Cummings, S., Issokson-Silver, K., & Snyder, M. (2020). *Chasing equity: The triumphs, challenges, and opportunities in sports for girls and women*. Women's Sports Foundation. <https://www.womenssportsfoundation.org/wp-content/uploads/2020/01/Chasing-Equity-Full-Report-Web.pdf>

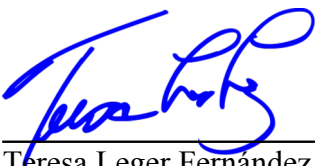
⁴ National Federation of State High School Associations. (2024). *2023–24 High School Athletics Participation Survey*. <https://www.nfhs.org/media/721311/2023-24-nfhs-participation-survey-full.pdf>

⁵ Indiana Fever. (2024, April 15). *10 things to know about Caitlin Clark*. <https://fever.wnba.com/news/10-things-to-know-about-caitlin-clark>

against discrimination, at the very least, it absolutely should not make such major changes through an expedited process like this without meaningful opportunity for the public to weigh in.

The proposed DFR undermines critical progress achieved through Title IX for women and girls in sports, and creates additional barriers to opportunity for women and girls. Additionally, this DFR is a complete misuse of the process and should be rescinded immediately. We urge you to preserve the rights of female athletes and not hinder their opportunities to thrive.

Sincerely,



Teresa Leger Fernández
Chair
Democratic Women's Caucus



Mazie K. Hirono
United States Senator



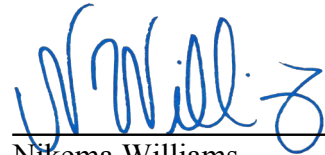
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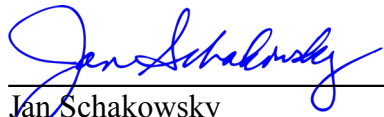
Rashida Tlaib
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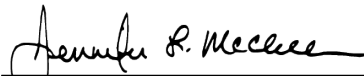
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