
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 216 Session of
2023

INTRODUCED BY GLEIM, WHITE, KEEFER, BOROWICZ, M. MACKENZIE,
GREINER, STAMBAUGH, JAMES, FEE, SMITH, HAMM, KAUFFMAN, ROWE,
ZIMMERMAN, STAATS, MOUL, PICKETT, ECKER, GILLEN, ROAE,
MENTZER, OWLETT, IRVIN, JOZWIAK, LEADBETER, SCIALABBA AND
T. JONES, MARCH 8, 2023

REFERRED TO COMMITTEE ON EDUCATION, MARCH 8, 2023

AN ACT

1 Providing for sport activities in public institutions of higher
2 education and public school entities to be expressly
3 designated male, female or coed; and creating causes of
4 action for harms suffered by designation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Fairness in
9 Women's Sports Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Public institution of higher education." One of the
15 following:

16 (1) A community college operating under Article XIX-A of
17 the act of March 10, 1949 (P.L.30, No.14), known as the

1 Public School Code of 1949.

2 (2) A rural regional college established under Article
3 XIX-G of the Public School Code of 1949.

4 (3) A university within the State System of Higher
5 Education under Article XX-A of the Public School Code of
6 1949.

7 (4) A State-related institution as defined in section
8 2001-C of the Public School Code of 1949.

9 (5) The Thaddeus Stevens College of Technology.

10 (6) The Pennsylvania College of Technology.

11 "Public school entity." One of the following operating under
12 the Public School Code of 1949:

13 (1) A school district.

14 (2) An intermediate unit.

15 (3) An area career and technical school.

16 (4) A charter school, regional charter school or cyber
17 charter school.

18 "Sex." The biological distinction between male and female
19 based on reproductive biology and genetic makeup.

20 Section 3. Designation of athletic teams and sports.

21 (a) General rule.--Interscholastic, intercollegiate,
22 intramural or club athletic teams or sports that are sponsored
23 by a public school entity, a public institution of higher
24 education or any school or institution where students or teams
25 compete against a public school entity or public institution of
26 higher education must be expressly designated as one of the
27 following based on sex:

28 (1) Male, men or boys.

29 (2) Female, women or girls.

30 (3) Coed or mixed.

1 (b) Prohibition.--Athletic teams or sports designated for
2 females, women or girls under subsection (a) (2) may not be open
3 to students of the male sex.

4 (c) Limitations on restriction.--Nothing in this section
5 shall be construed to restrict the eligibility of a student to
6 participate in an interscholastic, intercollegiate, intramural
7 or club athletic team or sport designed for the student's sex or
8 designated coed or mixed.

9 Section 4. Protection for educational institutions.

10 A government entity, licensing or accrediting organization or
11 an athletic association or organization may not entertain a
12 complaint, open an investigation or take any other adverse
13 action against a school or institution of higher education for
14 maintaining separate interscholastic, intercollegiate,
15 intramural or club athletic teams or sports for students of the
16 female sex.

17 Section 5. Cause of action.

18 (a) Deprivation of opportunity.--A student who is deprived
19 of an athletic opportunity or who suffers a direct or indirect
20 harm as a result of a known violation of section 3 may bring a
21 cause of action for injunctive relief, damages, psychological,
22 emotional and physical harm suffered, attorney fees and costs
23 and any other relief available under law against the school or
24 institution of higher education.

25 (b) Retaliation.--A student who is subject to retaliation or
26 other adverse action by a school, institution of higher
27 education or athletic association or organization as a result of
28 reporting a violation of section 3 to an employee or
29 representative of the school, institution or athletic
30 association or organization or to any Federal or State agency

1 with oversight of schools or institutions of higher education in
2 Pennsylvania may bring a cause of action for injunctive relief,
3 damages, attorney fees and costs and any other relief available
4 under law against the school, institution or athletic
5 association or organization.

6 (c) School's cause of action.--A school or institution of
7 higher education that suffers direct or indirect harm as a
8 result of a violation of section 4 may bring a cause of action
9 for injunctive relief, damages and any other relief available
10 under law against the government entity, licensing or
11 accrediting organization or athletic association or
12 organization.

13 (d) Limitation.--A person may not bring a civil action under
14 this section later than two years after the day on which the
15 harm underlying the cause of action occurs.

16 Section 6. Severability.

17 If a part of this act is found invalid, all valid parts that
18 are severable from the invalid part shall remain in effect. If a
19 part of this act is invalid in one or more of its applications,
20 the part remains in effect in all valid applications that are
21 severable from the invalid applications.

22 Section 7. Effective date.

23 This act shall take effect in 60 days.