

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 588 (Senator Carozza, *et al.*)
Education, Energy, and the Environment

Education - Interscholastic and Intramural Junior Varsity and Varsity Teams
and Sports - Designation (Fairness in Girls' Sports Act)

This bill requires an interscholastic or intramural athletic team or sport that is sponsored by a public or specified nonpublic high school to be expressly designated as one of the following: (1) a boys', male, or men's team or sport; (2) a girls', female, or women's team or sport; or (3) a coeducational or mixed team or sport. An interscholastic or intramural junior varsity or varsity athletic team or sport designated for girls, females, or women may not include students of the male sex. A governmental entity, a licensing or accrediting organization, or an athletic association or organization may not accept a complaint, investigate, or take any other adverse action against a school for maintaining separate interscholastic or intramural junior varsity or varsity athletic teams or sports for students of the female sex. Students are authorized to bring specified civil actions. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: Local school systems may incur additional costs related to civil actions brought under the bill. Local school systems can update sports eligibility policies and guidelines using existing resources. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to all public high schools and to nonpublic high schools for which the student athletes or athletic teams compete against public high school student athletes or athletic teams. “Student of the female sex” means a student whose biological sex is female; “student of the male sex” means a student whose biological sex is male.

A student who is deprived of an athletic opportunity or suffers any harm resulting from a violation of the bill’s provisions may bring a civil action against the student’s school. A student who is subject to retaliation or other adverse action by a school or an athletic association or organization resulting from reporting a violation of the bill’s provisions to (1) an employee or representative of the aforementioned entities or (2) any State or federal agency with oversight of schools in the State, may bring a civil action against the school or athletic association or organization.

If any provision of the bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction (1) the provision must be construed to give the provision the maximum effect permitted by law unless the provision is held to be absolutely invalid and (2) the invalidity does not affect other provisions or any other application of this bill, and the provisions of the bill are declared severable.

Current Law: State regulations govern the athletic programs for all high school students in Maryland public secondary schools, which are members of the Maryland Public Secondary Schools Athletic Association (MPSSAA). Local school systems may adopt rules governing their athletic programs that are more restrictive than those of MPSSAA. MPSSAA transgender guidance requires local school systems, on a case-by-case basis, to ensure all students are eligible to participate.

Under federal law – Title IX of the Education Amendments of 1972 – discrimination on the basis of sex in educational programs and activities is prohibited for educational institutions receiving federal funding. Every institution that receives federal financial assistance is bound by Title IX; however, an educational institution that is controlled by a religious organization is exempt from Title IX when the law’s requirements conflict with the organization’s religious tenets.

In April 2024, the U.S. Department of Education (ED) issued regulations related to Title IX, effective August 1, 2024, that in part specified that prohibited discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. However, in June 2024, in the case of *State of Tennessee et al. v. Miguel Cardona et al.*, a U.S. District Court judge granted a preliminary injunction against the regulations’ enforcement in six plaintiff states (not including Maryland). Following a July 2024 denial

of an ED motion for partial stay pending appeal, the U.S. District Court judge found on January 9, 2025, that the regulations and associated final rule are invalid because they exceed ED’s authority under Title IX, violate the U.S. Constitution, and are the result of arbitrary and capricious agency action.

The court opinion states that, “when Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a male or female” and that “expanding the meaning of ‘on the basis of sex’ to include ‘gender identity’ turns Title IX on its head. As its remedy, the District Court ruling vacates nationwide the rule and regulations that took effect August 1, 2024.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 47 and SB 381 of 2024; HB 359 of 2023; and HB 757 of 2022.

Designated Cross File: None.

Information Source(s): Baltimore City Public Schools; Anne Arundel County Public Schools; Frederick County Public Schools; Montgomery County Public Schools; St. Mary’s County Public Schools; Wicomico County Public Schools; Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Maryland Public Secondary Schools Athletic Association; Maryland State Department of Education; Department of Legislative Services

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