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February 5, 2026

TO: The Honorable Jheanelle Wilkins
Chair, Ways and Means Committee

FROM: Tiffany Clark
Director, Legislative Affairs, Office of the Attorney General

RE: House Bill 63 – Education – Interscholastic and Intramural Junior Varsity
and Varsity Teams and Locker Rooms – Designation Based on Sex
(Fairness in Girls’ Sports Act) (Oppose)

The Office of the Attorney General (OAG) opposes **House Bill 63 - Education - Interscholastic and Intramural Junior Varsity and Varsity Teams - Designation Based on Sex (Fairness in Girls' Sports Act)**. House Bill 63 proposes to require public and nonpublic schools' interscholastic or intramural sports teams to be expressly designated based on biological sex.

The Maryland Public Secondary Schools Athletic Association has maintained a transgender student policy for participation in interscholastic athletics since 2012. This policy has worked effectively to ensure fair competition while allowing students to participate on the athletic team of the gender they identify with. A categorical ban on transgender students from participating in athletics consistent with their gender identity across all sports, age groups, and levels of competition fails to account for differences among students across grade and education levels. It also fails to account for different levels of competition, including no-cut teams that let all students participate, and different types of sports.

There is no evidence that including the small number of transgender students, particularly transgender girls, has altered competitive fairness in competition or caused cisgender girls to be excluded from spots on teams. However, evidence is abundant that such bans harm the mental health of vulnerable students who connect to their schools and communities through athletic competition. Categorically preventing participation of students on sports teams of the gender

they identify with adversely impacts a key component of public education—to include students without regard to their identity—and will have lasting impacts on these students.

This legislation directly impacts our efforts to promote equal treatment under the law and uphold principles of equity and inclusion in Maryland's public education system. House Bill 63 may be contrary to Title IX and the Equal Protection Clause, thus barred by the Supremacy Clause. The Department of Education has issued interpretive guidance indicating that categorical bans on transgender student participation in sports consistent with their gender identity constitute prohibited discrimination.

We appreciate the Committee's consideration of this important issue and welcome the opportunity to share our concerns. For the foregoing reasons, the Office of the Attorney General respectfully urges the Committee to give **House Bill 63** an unfavorable report.

Cc: