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BILL: House Bill 63
TITLE: Education - Interscholastic and Intramural Junior Varsity and Varsity Teams and Locker Rooms - Designation Based on Sex (Fairness in Girls' Sports Act)
HEARING DATE: February 5, 2026
POSITION: UNFAVORABLE
COMMITTEE: Ways and Means
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The Maryland Association of Boards of Education (MABE), representing all 24 local boards of education in Maryland, **opposes the Interscholastic and Intramural Junior Varsity and Varsity Teams and Locker Rooms - Designation Based on Sex (Fairness in Girls' Sports Act)**. Rather, MABE remains in favor of maintaining the locally controlled system of interscholastic athletics governed by the Maryland Public Secondary Schools Athletic Association (MPSSAA).

House Bill 63 would require all public and applicable nonpublic high school athletic teams and sports to be explicitly designated based on biological sex (male, female, or coeducational), and prohibit students of the male sex from participating on teams designated for the female sex; it also mandates that locker rooms be designated by biological sex and prohibits males from using female locker rooms; the bill bars governmental entities, accrediting/licensing bodies, and athletic organizations from taking adverse actions against schools for maintaining such sex-based designations, and creates private civil rights causes of action for students, schools, and others harmed by violations of its provisions, allowing recovery of damages, attorney's fees, and injunctive relief.

MABE opposes this bill because of the disruption it would introduce into the management of interscholastic sports programs offered in Maryland's public schools, and the potential for creating liability for discriminatory practices under a new statewide system of criteria for student participation in women's sports based solely on sex assigned at birth. Moreover, with *West Virginia v. B.P.J.* under consideration at the U.S. Supreme Court, legislating now would likely cause unnecessary confusion for school systems when the Supreme Court issues a decision later this year that may alter or obviate any state law related to biological sex and sports participation.

Interscholastic sports programs in Maryland's public schools are conducted in accordance with the standards developed by the MPSSAA and the regulations adopted by the State Board of Education. Since 1991, interscholastic sports in Maryland have operated

in accordance with the “Master Agreement Outlining the Interscholastic Structure for Public Schools in Maryland,” which establishes the responsibilities of MPSSAA, MSDE, and local school systems. Local boards of education believe that this system of regulations and oversight is working well.

The MPSSAA Guidance for Participation of Transgender Youth in Interscholastic Athletics states that its purpose is “to designate a set of criteria in which student-athletes are able to compete on a level playing field in a safe, competitive and friendly environment, free of discrimination. At the center of educational programming is the value placed in providing equal opportunity for all students.” The Guidance further provides that “each school system should develop and apply criteria for students to participate on interscholastic athletic teams consistent with their gender identity.”

The Guidance includes several guiding principles and criteria for local school systems to use in determining eligibility of transgender students in interscholastic sports. These include attention to preserving the integrity of women’s sports and policies which are fair in light of the tremendous variation among individuals in strength, size, musculature, and ability. In these ways, the guidance reflects Maryland’s high priority on establishing and maintaining an interscholastic athletic system that assures that sports activities contribute to the entire educational program for all students choosing to participate.

In addition, the subject matter at issue in HB 63 is currently under review at the U.S. Supreme Court in *West Virginia v. B.P.J.*, No. 24-43 (argued Jan. 13, 2026). B.P.J., a transgender girl who has taken puberty-blocking and estrogen hormones, is challenging a West Virginia law that bans transgender girls and women from participating on female school sports teams. Lower courts, including the Fourth Circuit Court of Appeals, whose legal precedents apply in Maryland, found the law unconstitutional as applied to B.P.J. Until the U.S. Supreme Court makes its decision, Fourth Circuit precedent controls and may render this bill, should it become a law, void or unconstitutional.

Because the outcome of *West Virginia v. B. P. J.* will affect the legality of HB 63, MABE recommends that the General Assembly refrain from passing HB 63, at least until the U.S. Supreme Court issues a decision in that case, since prematurely legislating in this area would only result in confusion at the local level.

For these reasons, MABE opposes HB 63 and requests an unfavorable report.