

## **Fairness in Women's Sports Act**

House Bill 2238

Spring 2023

In compliance with legislation implemented July 1, 2023, the following KSHSAA Policy is adopted by the Executive Board.

***Kansas interscholastic activities under the jurisdiction of the KSHSAA shall be expressly designated as one of the following based on biological sex:***

- 1. Males, men, or boys,***
- 2. females, women, or girls; or***
- 3. coed or mixed.***

***Athletic teams or sports designated for females, women or girls shall not be open to students of the male sex.***

***Biological sex means the biological indication of the male and female in the context of reproductive potential or capacity such as sex chromosomes, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender.***

Schools shall utilize information collected on the Preparticipation Physical Exam reflecting the sex identified at birth to determine which gender team is appropriate for respective students. Should a dispute arise from a member school, the school shall refer to the original birth or adoption certificate completed at or near the time of birth. If clarity is not achieved or if the original birth or adoption certificate is not available, the student's parent/guardian shall produce documentation provided by a licensed physician indicating the biological sex of the student based upon an evaluation using current standard assessment protocols. If biological sex is unable to be determined by any of the above means, the student shall be eligible to participate in male, men's, boys, co-ed, or mixed athletic activities only.

***Approved by the KSHSAA Executive Board, 4/26/23***

***Received by the Board of Directors, 4/27/23***

## **KSHSAA Transgender Student Policy**

*For students not covered by HB 2238*

*Updated Spring 2015*

\*Note: This document is not intended for Handbook publication, but to provide guidance to member schools as situations arise.

The Kansas State High School Activities Association Executive Board approves this policy to address the participation of transgendered students in all KSHSAA sponsored athletics and activities.

For the purpose of this policy the following definitions will be in place:

- *Transgendered*: a person whose gender identity doesn't match the sex assigned to him or her at birth.
- *Intersex*: a person who is born with a reproductive or sexual anatomy and/or chromosome pattern that doesn't seem to fit the typical definitions of female or male.
- *Gender Identity*: a person's deeply-felt internal sense of being male or female.
- *Gender Expression*: a person's external characteristics and behaviors that are socially defined as either masculine or feminine (dress, speech, mannerisms, social interactions, etc.)

**Privacy Statement:** To the extent permitted by law, all discussions and documents at all levels of the process either by a member school and/or the KSHSAA shall be kept confidential unless specifically requested by the student and family to do otherwise.

### **School Procedure:**

- 1) The student and/or parents shall contact the school principal or athletic director at the KSHSAA member school notifying them that the student has a different gender identity than listed on the student's school registration records or birth certificate and that the student wishes to participate in athletics/activities in a manner consistent with their gender identity. Gender identity of the student must be bona fide and not for the purpose of "gaining an unfair competitive advantage."

It is recommended schools review the following in making their decision regarding participation:

- a. Gender identity used for school registration records
  - b. Medical documentation (length and duration of hormonal treatments, sexual re-assignment surgery; psychological counseling, medical records, etc.)
  - c. Gender Identity related advantages to the student if participation would be approved
- 2) The school is responsible to determine the appropriate gender team for participation by the student. Once this determination is made, the school is responsible to notify the KSHSAA if a student intends to participate on a team opposite their birth gender. Notification must be given prior to entering the student in the KSHSAA eligibility system and allowing participation.
  - 3) Once a student is identified as transgender and elects to participate, they will participate in that gender category in all sports, for the remainder of their scholastic eligibility in grades 7-12. Annual renewal is not necessary.

- 4) Transfer Student – A student identified by their initial school as transgender for activity participation, should expect a new school to which they transfer, to perform its' own due diligence and make its' own gender determination regarding participation at the new school.
- 5) KSHSAA Mixed Team Rule 23, does not eliminate a school's opportunity to maintain a boys and girls team if a transgender student participates on a team opposite their birth gender.

The KSHSAA Executive Board will make final rulings on student participation in the event of a dispute. If an appeal of the school's decision should occur, appealing parties should provide the following documentation:

- a) A current transcript and school registration information
- b) Documentation of the student's consistent gender identification (e.g. affirmation statements from student, parent/guardian, and/or health care provider.  
\*Note: The KSHSAA discourages submission of documents providing medical or psychological information unrelated to the student's gender/transgender identity or transition.
- c) Any other pertinent documentation or information

The KSHSAA will require the petitioner if 18, or parent/guardian if not, to sign a waiver which states: "I hereby give my consent for the above student to engage in interscholastic athletics and for the disclosure of information to the KSHSAA otherwise protected by FERPA, HIPAA or Kansas law, including but not limited to medical and mental health records, for the purpose of determining eligibility for interscholastic activities and athletics under KSHSAA rules."

The KSHSAA will respond to the member school in writing regarding its decision.

#### **Areas of Awareness for Member Schools:**

Student Privacy rights – FERPA & HIPAA

Have a plan in place.

Use correct names/pronouns- according to student's self-identification.

Gender appropriate restroom accessibility.

Locker room accessibility.

Educational training for teachers, counselors, coaches, administrator and students on transgender sensitivity in relation to student.

Manner of dress according to gender identity.

Access to resources and accurate information.