Memorandum of Opposition

Bill would waste taxpayer dollars, would not protect women, girls in sports

Proposed Nassau County Bill 121-24

Empire Justice Center writes in strong opposition to Nassau County Bill 121-24, “Fairness for Women and Girls in Sports.” From an economic perspective, this legislation is a waste of taxpayer dollars and from a community safety perspective, it does nothing to protect or promote women and girls in sports.

The County Executive’s prior attempt to do this has already resulted in lawsuits, the costs of which have already been borne by county taxpayers. This latest attempt by the legislature is certain to have the same results. If passed, this legislation will also cost Nassau County considerable tax dollars which could instead be spent on improvements to sports for women and girls: improving facilities and purchasing equipment and uniforms, paying the salaries of coaches, or promoting existing programming. This proposal will likely also impact county revenue by decreasing the number of teams and groups who will use Nassau County facilities, and thus limiting revenue stream.

This proposal creates a blanket ban for all teams and events occurring at Nassau County facilities, regardless of whether the events are competitive, regardless of whether the governing body of the sport allows transgender women and girls to participate in accordance with their gender identity, and regardless of the transition status of the particular person.

Further, this legislation will have an enforcement problem, which will also stress the finances of already cash strapped sports programs for women and girls. Any woman or girl who appears “too masculine” or who is “too fast” or “too muscular” or “too tall” will likely invite scrutiny and an inquiry into whether they are “really a girl or woman,” requiring additional resources and in and of itself, creating liability for the county. This has already happened elsewhere, including in the case of a girl in Utah who, after winning a championship had to “prove” her female status and was subjected to an inquiry all the way back to her kindergarten records.¹ This will effectively decrease participation in sports when women and girls who will be concerned about such scrutiny opt not to be involved. One study has already shown that the way to increase participation in through inclusive policies.²

² Shoshana K. Goldberg, Fair Play; The Importance of Sports Participation for Transgender Youth, Center for American Progress, Feb. 8, 2021, at Fig. 6, https://www.americanprogress.org/issues/lgbtqrights/reports/2021/02/08/495502/fair-play/
The proposal legislates a problem that does not exist. Statistics do not show that transgender women and girls have an advantage over cisgender women and girls; these assumptions are based on myths about sex and gender. Transgender people make up a tiny percentage of the population, approximately 1.4% of young people in the United States. Transgender women and girls are not winning sporting events more than 1.4% of the time. What we do know is that participation in sports has a huge impact on self-esteem, well-being and general health. Denying access to a known benefit to one group of people is simply cruel.

Ultimately, from a mental health and community perspective, actions such as these Executive Orders send a clear message of contempt for the county’s LGBTQ community. Studies have shown significantly high levels of psychological distress experienced by LGBTQ youth directly linked to anti-LGBTQ policy measures. Excluding transgender youth from participation in athletics is an example of such a policy measure, leading to severe, adverse impacts on young people’s health. And just as concerning, legislation such as this may also lead to an uptick in animus and hate crimes against the LGBTQ community in Nassau County.

The Nassau County Legislature has the opportunity to distance itself from this hateful messaging. Empire Justice Center urges you to protect both taxpayer dollars and LGBTQ youth by rejecting this bill and promoting a climate of inclusion in Nassau County.

We urge you to vote “no” on this legislation, and to simply let people play sports.

About Empire Justice Center

Empire Justice Center is a non-profit law firm, with offices in Albany, Rochester, Central Islip, Hempstead, Yonkers, and White Plains, dedicated to making the law work for all New Yorkers using a powerful, 360-degree approach. We teach the law by providing training technical assistance to other advocates organizations. We practice the law by providing free, direct civil legal services and impact litigation. We change the law by engaging in legislative and administrative advocacy on issues that affect under-served communities.

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1 https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/