

Chris Wright, Secretary
U.S. Department of Energy
c/o David Taggart
Office of the General Counsel
1000 Independence Avenue SW
Washington, DC 20585



From: Nancy Hogshead, J.D., OLY and **Champion Women**, Providing Legal Advocacy for Girls and Women in Sports
To: Chris Wright, U.S. Secretary of the Department of Energy
Date: June 16, 2025
RE: Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance, Docket Number [DOE-HQ-2025-0016](#)

To Whom It May Concern:

I am writing as the founder and CEO of **Champion Women**, a nonprofit organization that provides legal advocacy for girls and women in sports. I am a three-time Olympic gold medalist in swimming and a lawyer, dedicated to advocating for gender equality for girls and women in sports. The foundational principle behind all our work is that a sports experience improves the lives of girls and women; academically, professionally and with life-long health benefits. Our work protects girls and women in sports by creating safe environments and fair access to resources. Our work is divided into three main pillars:

- Ending Sexual Abuse in Sports,
- Ensuring Female-Only Girls and Women's Sports, and
- Equality in Sports Opportunities, Athletic Scholarships, and Treatment & Benefits, consistent with Title IX of the Education Amendments of 1972.

This is a **significant adverse comment** opposing the Direct Final Rule (DFR), "Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance."¹ This DFR, if adopted, would rescind critical parts of the Department of Energy (DOE)'s regulations implementing Title IX of the Education Amendments of 1972 (Title IX),

¹ Nondiscrimination on the Basis of Sex in Sports Programs Arising Out of Federal Financial Assistance, 90 Fed. Reg. 20786 (May 16, 2025), <https://www.federalregister.gov/documents/2025/05/16/2025-08557/nondiscrimination-on-the-basis-of-sex-in-sports-programs-arising-out-of-federal-financial-assistance> [hereinafter "Title IX DFR"].

namely 10 C.F.R. § 1042.450, that carry the promise of equal opportunities for all students—but especially women and girls—to play sports. It currently reads in part:

General. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.²

This current regulation requires schools to allow students who are members of the sex for which athletic opportunities have previously been limited (typically women and girls) to try out for a sex-separated sports team, when the school does not offer a comparable team for girls and women, excluding contact sports. This regulation has been and continues to be crucial to increase sports participation for women and girls.

The proposed DFR takes the position that by allowing girls to try out and compete on men's sports teams, when there is no girls' team, that it "ignore(s) the differences between the sexes which are grounded in fundamental and incontrovertible reality..."

We agree that sports specifically for girls and women is essential to provide them with equal athletic opportunities; that the biology of sex-differences typically requires sex-segregation. But preventing girls from competing on boys' teams is unwarranted.

First, for gifted female athletes, participation on boys' teams provides them with opportunities that they would not otherwise have. In 2023-24, high schools provided girls with 1,215,268 fewer sports opportunities as part of their education, as compared to the opportunities schools provided boys.³ These disparities are even more pronounced for women and girls of color.⁴

Girls and women are already competing in boys' and men's sports. Currently:

- 4094 girls play on boys' high school football teams
- 1372 girls play on boys' high school baseball teams.
- 9 women played on NCAA collegiate baseball teams.

² 10 CFR § 1042.450, Athletics, available at: <https://www.ecfr.gov/current/title-10/chapter-X/part-1042/subpart-D/section-1042.450>

³ National Federation of State High School Associations, "Participation in High School Sports Tops Eight Million for First Time in 2023-24," September 10, 2024, available at: <https://www.nfhs.org/articles/participation-in-high-school-sports-tops-eight-million-for-first-time-in-2023-24> (Totals include 4,638,785 boys and 3,423,517 girls.)

⁴ Nat'l Women's Law Ctr., *Finishing Last: Girls of Color and School Sports Opportunities*, 1 (2015), <https://nwlc.org/resources/finishing-last>.

- In 2024, 36% of Men’s points-qualifying NCAA Division I Heavyweight boats had a female coxswain. In Lightweight and Division III men’s rowing, female coxswains were close to a 50/50 split.⁵

Third, the modification does not align with the Presidential direction under [E.O. 14201](#) “Keeping Men Out of Women's Sports.” That E.O. makes clear it is the policy of the United States to “oppose male competitive participation in women's sports more broadly, as a matter of safety, fairness, dignity and truth.”

All athletes are generally permitted to “level up” – to compete in a more difficult sport category. Light weight athletes are eligible to compete in heavier weight classes. A 12-year-old is eligible to compete in the “Seniors” category, with athletes that may be more than 15 years older.

Therefore, allowing females to compete against males, who have greater muscle mass, strength, and endurance, larger lung and heart capacities, allowing more efficient oxygen delivery during intense physical activity, is the rationale for excluding males in female sports, but does not apply to allowing females to compete in male sports.

Fourth, according to the most recent EADA report, released in June, 2025, colleges and universities need to add 70.4% more athletic opportunities for women. In raw numbers, they need to add 222,961 more athletic “slots” for women to compete in sport. In other words, the Department of Energy and the Department of Education should focus on expanding opportunities for girls and women, not contracting them.

We raise the following specific comments re: adverse effects of the DFR:

1. **Schools could effectively ban women and girls from playing on boys’ and men’s sports teams.** If this DFR goes into effect, schools could effectively ban women and girls from playing non-contact sports (for example, badminton, baseball, beach volleyball, bowling, competitive cheer/ stunt, cross country, diving, equestrian, golf, gymnastics, rowing, skiing, swimming, synchronized swimming, tennis, track & field, volleyball, etc.) by offering a team only one team, with no corresponding women’s or girls’ team. The DFR would require the girls and women to compete for athletic opportunities directly with boys and men.

⁵ Interscholastic Rowing Association (IRA), “Coxswain Gender at IRAs”, 2024, available at: https://docs.google.com/spreadsheets/d/e/2PACX-1vRtoSr4ydBGP6KCquTJ1z9NwFy1F9QW__naLgK1pFlxWoZT9yg1u8DuxGZjy0LqirskohWCcQ-sD_/pubhtml#

2. **The DFR is an unlawful and inappropriate use of DFRs.** DFRs can be proposed only to make routine or “noncontroversial” changes to federal regulations to expedite the rulemaking process. Here, the DOE wrongly asserts that the changes in this DFR are “noncontroversial”; yet these changes would curtail substantive educational civil rights for millions of women and girls to access equal athletic opportunities. This DFR would therefore undermine the spirit and purpose of Title IX.
3. **Rescinding 10 C.F.R. § 1042.450 would cause substantial harm to women and girls by eliminating equal opportunities to participate in sports.** By removing a right for girls and women to have equal opportunities to play sports, the DFR would cause substantial harm. Playing sports is a crucial part of a student’s education, including for women and girls. It is well documented that sports participation is linked to higher grades, higher scores on standardized tests, and increased graduation rates, as well as lower rates of depression and higher levels of self-esteem.⁶ They enjoy life-long health benefits and have healthier pregnancies. Accordingly, requiring schools to provide athletic opportunities to students by permitting them to try out for a team otherwise unavailable to them is crucial to ensuring they receive the full benefits of an education.

For example, when thousands of girls began trying out for boys’ wrestling programs, schools responded to this demand by establishing separate girls’ and women’s wrestling programs, high school state championships,⁷ and college conferences and national championships.

This same catalyst effect has also occurred in ice hockey.

Allowing thousands of girls to participate in tackle football has led to girls regularly playing on middle school and high school tackle football teams. Now, high school and college flag football

⁶ EY Global, *Where Will You Find Your Next Leader? EY and ESPNW explore how sport advances girls at every level*, EY.com, n.d., p. 9, available at: <https://www.ey.com/content/dam/ey-unified-site/ey-com/en-au/campaigns/athlete-programs/documents/ey-where-will-you-find-your-next-leader.pdf>. (finding that 94% of women in the C-Suite played sports, 52% of C-suite women played sport at the university level, compared to 39% of women at other management levels.)

Tara Parker-Pope, The New York Times, “As Girls Become Women, Sports Pay Dividends,” February 15, 2010, available at: <https://www.nytimes.com/2010/02/16/health/16well.html>. See also, Graham, J. M., & Hurst, M. R. “The Impact of Participation in High School Sports on Women's Health and Well-Being.” *Journal of Adolescent Health*, 2019, 64(3), 265-272. (Concluding that participation in sports among adolescent girls can lead to long-term health benefits, including healthier pregnancies.) Parker, M. A., & McLoughlin, M. C., “Long-term Health Benefits of Adolescent Sports Participation for Women.” *American Journal of Lifestyle Medicine*, 2014, 8(5), 348-355. This research emphasizes the benefits of sports participation in adolescence, including improved health outcomes and lower rates of complications in later pregnancies. Rosenberg, L., & Palmer, J. R., “Physical Activity in Youth and Risk of Developing Gestational Diabetes: The Black Women's Health Study.” *American Journal of Epidemiology*, 1999, 150(6), 653-662. (sports participation and the reduction of pregnancy-related health issues later in life.)

⁷ Last year, the National Federation of State High School Associations released a [report](#) that estimated girls’ wrestling had 64,257 participants nationwide, and it ranked 11th among all girls' sports in terms of the number of schools that sponsor it.

girls' and women's programs are being established nationally; flag football now an Olympic sport for both men and women.

And these are examples of *contact* sports, that are not covered by the Regulation at issue here.

In non-contact sports, there should be *no argument* regarding girls and women as the underrepresented sex being permitted to try out for teams designated for the opposite sex.

In short, eliminating this regulation will exacerbate barriers to girls and women participating in sport. In attempting to rescind this long-standing regulation, DOE contradicts its own rationale of increasing “fairness” for women and girls, as this regulation has been a major pathway for ensuring their participation in sports they would otherwise not have the ability to play.

In summary, we **urge DOE to withdraw this DFR.**

Thank you for considering this significant adverse comment.

Sincerely,

A handwritten signature in blue ink that reads "Nancy Hogshead". The signature is fluid and cursive, with the first name "Nancy" and last name "Hogshead" clearly legible.

Nancy Hogshead, J.D., OLY
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