



## Lambda 10 Project

### ISSUES FACING TRANS INDIVIDUALS WANTING TO COMPETE IN INTERCOLLEGIATE ATHLETICS

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#### NCAA POLICY INTERPRETATION

The National Collegiate Athletic Association (NCAA), the governing body for collegiate athletics, has yet to establish a policy on trans athletes. Rather, the NCAA issued an “interpretation” to provide guidance to member institutions. According to the current interpretation any *participation*<sup>1</sup> of an athlete whose gender-identity does not match their legal gender classification<sup>2</sup> would cause the team to be classified as “mixed” and therefore would disqualify the team from single-sex championships.<sup>3</sup> Mixed-teams are placed in the men’s brackets and compete against men’s teams.<sup>4</sup>

- a student-athlete’s legal gender classification must match his/her gender-identity.
- no conflict arises under the current policy if a student-athlete continued to play on the team that matches his/her legal gender classification (e.g. female) while living as the opposite gender (e.g. male).
- A team retains its classification for the entire academic year even if all the “opposite” sexed players quit or a player’s legal gender classification changes to match the single-sex team.

**IMPACT:** Because the mixed-teams compete in the men’s bracket, then this rule only adversely affects MTFs and women’s teams as the women’s team would be shifted into the men’s bracket and would not similarly affect FTMs and men’s teams.

#### PRACTICE

The NCAA’s regulations on competition do not necessarily apply to members of opposite genders practice with other teams. The NCAA has outlined multiple

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<sup>1</sup> Participation is defined as “competition.” (email sent from Wendy Walters, Membership Services Representative, sent to Emily Schmit, 8/29/06).

<sup>2</sup> For example, a MTF athlete must have legal recognition of her female gender to compete on a women’s team. If the athlete has not received legal recognition, then she will be considered male.

<sup>3</sup> “This is not to be viewed as an ‘NCAA Policy Statement,’ but rather to contribute some guidance to the membership at this time” (quoted from email from Mary Wilfert, staff liaison to the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports, sent to Emily Schmit, 8/25/06).

<sup>4</sup> NCAA Bylaws 2007-08, 18.2.8.3

requirements for male students who practice with women's teams, but there are no similar regulations for women who practice with men's teams.<sup>5</sup>

IMPACT: This bylaw requires that MTFs whose legal gender identity does not match their gender identity be heavily regulated while FTMs would be able to practice with the team that matches their gender identity without similar regulation.

## MEDICAL WAIVERS

The NCAA Bylaws allow for medical waivers that may extend the standard five-year eligibility period<sup>6</sup> or allow the student-athlete to drop below the minimum 12 units if the athlete's situation meets three conditions.

1. The medical situation must be "beyond the control of the student-athlete."<sup>7</sup>
2. The "the situation is clearly supported by contemporaneous medical documentation, which states that a student-athlete is unable to participate in intercollegiate competition as a result of incapacitating physical or mental circumstances."<sup>8</sup>
3. The student must have been deprived of the opportunity to participate in his/her sport for more than one season within the five-year period of eligibility.

IMPACT: Medical waivers could potentially allow a trans-athlete the time to transition, retain his/her eligibility and compete in his/her sport post-transition.

CONCERN: The legal system has clearly not come to a consensus as to the "control" a trans-individual has over his/her sex change. Hypothetically the NCAA medical committee, which grants medical waivers, could take the position that a gender change is fully in the control of the individual seeking it, effectively arguing that SRS is cosmetic and not necessary for the physical health of the athlete. Conversely, a trans individual would claim/argue that for their mental health, the surgery/ gender change is necessary and "beyond the control" of the individual.<sup>9</sup>

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<sup>5</sup> See *id.* at 14.1.8.1.6

<sup>6</sup> *Id.* at 30.6.1 - 30.6.1.1(a)

<sup>7</sup> *Id.* at 30.6.1.1(a)

<sup>8</sup> *Id.* at 30.6.1.1

<sup>9</sup> It is generally recommended that SRS should be preceded by a period of at least twelve months when the transsexual lives as a member of the self-identified sex on a full-time basis. Jody Lynee Madeira notes "The psychiatric community currently hails SRS as the only "effective" treatment for transsexualism." Jody Lynee Madeira, *Law as a Reflection of Her/His-story: Current Institutional Perceptions of, and Possibilities for, Protecting Transsexuals' Interests in Legal Determinations of Sex*, 5 U.Pa.J.Const.L. 128, 144. This becomes more problematic when courts interject their determination of "medically necessary" See *id.* at 157. SRS is generally accompanied with some form of hormone treatment. Thus, SRS is a double edged sword: the athlete must have SRS but then must take hormones which could cause the athlete to be disqualified for doping.

## HORMONE THERAPY

The doping regulations of most sports organizations, the NCAA included, prohibit the use of performance enhancing drugs, which includes the use of testosterone. The NCAA however, does allow for medical exceptions for some banned substances.<sup>10</sup> Medical exceptions are granted for “legitimate medical purposes” if there is “documented medical history demonstrating the need for regular use of such a drug.”<sup>11</sup>

- NCAA requires the use of anabolic agents must be requested in advance of use.<sup>12</sup> A request for a medical exception for banned substance must be sent to National Center for Drug Free Sport the official administrator of the NCAA drug-testing programs.<sup>13</sup> The Athletics Director of the member institution must make these requests for exceptions.
- It is unlikely that the member institution would allow the athlete to compete or practice at any level until approval is granted, thereby protecting the institutions division standing and avoiding any potential accusations of drug doping.<sup>14</sup>

IMPACT: MTFs do not encounter an issue, as estrogen is not a drug monitored by the NCAA. The impact of doping regulations fall on FTMs taking testosterone to bring out the secondary sex characteristics associated with males.<sup>15</sup>



**More information online at [www.lambda10.org/transgender](http://www.lambda10.org/transgender)**

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<sup>10</sup> NCAA Bylaws 2007-08, 31.2.3.5

<sup>11</sup> *Id.* at 31.2.3

<sup>12</sup> *Id.*; 2007-08 NCAA Drug-Testing Program at pp. 8, available at [http://www2.ncaa.org/portal/media\\_and\\_events/ncaa\\_publications/health\\_and\\_safety/drug-testing\\_program/index.html](http://www2.ncaa.org/portal/media_and_events/ncaa_publications/health_and_safety/drug-testing_program/index.html) (last visited 6/3/08).

<sup>13</sup> Drug Free Sport, <http://www.drugfreesport.com/index.asp>

<sup>14</sup> It is currently unclear how Drug Free Sport would handle a medical exceptions request from a FTM athlete whose T/E ratio was within ranges that are considered normal for a biologically male individual. (email from Kay Hawes, Director of Media Relations, Drug Free Sport., sent to Emily Schmit, 10/12/06).

<sup>15</sup> *See id.*