

Federal appeals court rules in favor of transgender girl affected by West Virginia sports ban

West Virginia Attorney General Patrick Morrisey, a Republican who argued on behalf of the state, vowed to fight to keep the law in place.

By Matt Lavietes April 16, 2024, 2:18 PM EDT



A federal appeals court ruled in favor of a transgender teenager who sued West Virginia over the state's law barring trans athletes from competing on girls' and women's sports teams in public schools and colleges.

In a [2-1 ruling](#) Tuesday, the 4th U.S. Circuit Court of Appeals sided with Becky Pepper-Jackson, 13, a who argued that the law prevented her from running on the girls' cross-country and track teams at her middle

school.

The federal appeals court, which is based in Richmond, Virginia, concluded that the state legislation violated Title IX, a federal civil rights law that prohibits sex-based discrimination in schools or education programs that receive funding from the federal government.

"Offering B.P.J. a 'choice' between not participating in sports and participating only on boys teams is no real choice at all," Judge Toby Heytens wrote, using the plaintiff's initials. "The defendants cannot expect that B.P.J. will countermand her social transition, her medical treatment, and all the work she has done with her schools, teachers, and coaches for nearly half her life by introducing herself to teammates, coaches, and even opponents as a boy."

Joshua Block, an attorney for the American Civil Liberties Union, which argued on Pepper-Jackson's behalf, applauded the ruling.

"This is a tremendous victory for our client, transgender West Virginians, and the freedom of all youth to play as who they are," Block said in a statement. "It also continues a string of federal courts ruling against bans on the participation of transgender athletes and in favor of their equal participation as the gender they know themselves to be. This case is fundamentally about the equality of transgender youth in our schools and our communities and we're thankful the Fourth Circuit agreed."

A spokesperson for the West Virginia Education Department, one of the defendants, said it had just received the ruling and was "not in a position to comment at this time."



Becky Pepper-Jackson and her mother, Heather Jackson, after a hearing at the 4th U.S. Circuit Court of Appeals in Richmond, Va., on Oct. 27. Shuran Huang for NBC News

West Virginia Attorney General Patrick Morrisey, a Republican who argued the case on behalf of the state, said in a statement that he was “deeply disappointed” and vowed to fight the decision.

“We must keep working to protect women’s sports so that women’s safety is secured and girls have a truly fair playing field,” he said. “We know the law is correct and will use every available tool to defend it.”

The debate over whether transgender athletes should compete in sports that align with their gender identities continues to be a lightning-rod issue within the nation’s culture wars.

West Virginia Gov. Jim Justice, a Republican, signed the state’s transgender sports bill into law in 2021, making West Virginia one of the first states to restrict trans athletes. Now, it is one of 24 states to have passed such legislation, according to the [Movement Advancement Project](#), a think tank that tracks policies affecting the LGBTQ community. Temporary injunctions are blocking some of the laws, including those in Arizona, Idaho and Utah, according to MAP.

Proponents of the measures have argued that trans girls and women have biological advantages over cisgender girls and women, making their inclusion in girls' and women's sports unfair and potentially dangerous.

In his dissent in Tuesday's ruling, Judge G. Steven Agee appeared to agree.

"By continuing to allow B.P.J.—and transgender girls like B.P.J.—to participate on girls' teams, the number of displaced biological girls will expand exponentially," Agee wrote. "Further, as the spots on teams become more limited, B.P.J. will prevent other biological girls from participating on the teams altogether, thereby denying them any athletic opportunity."

Opponents have framed the laws as a discriminatory restriction to deter trans people from playing sports.

Becky Pepper-Jackson runs in Bridgeport, W.Va., in 2021.ACLU via AFP - Getty Images

Pepper-Jackson has been allowed to participate on her school's girls' cross-country team since the appeals court [temporarily halted the law from taking place](#) in February 2023.

"I want to keep going because this is something I love to do, and I'm not just going to give it up," she previously told NBC News. "This is something I truly love, and I'm not going to give up for anything."

CORRECTION (April 18, 2024, 11:20 a.m. ET): A previous version of this article misstated the court's decision in the text and headline. The court's decision applies specifically to the plaintiff, and the law itself remains in place. The court did not strike down the law.

