

Judge Won't Toss Lawsuit by Connecticut Athletes Seeking to Ban Transgender Girls

[Paul Steinbach](#)



A federal judge in Hartford, Conn., has refused to dismiss a lawsuit by female track and field athletes who allege state policy allowing biological males to compete in girls' sports unfairly discriminates against them and puts them at a disadvantage.

As reported by Edmond H. Mahony of the [Hartford Courant](#), U.S. District Court Robert N. Chatigny on Tuesday released the decision, which means the suit — dismissed once before, but reinstated by a federal appeals court — will proceed. Both sides are expected to argue in coming months that they are entitled to protection under Title IX, which prohibits sex-based discrimination in federally funded education programs.

"This case presents a direct conflict between two interests protected by Title IX: the interest in providing fair competition for biological females, which has long been recognized as a significant governmental interest under Title IX, and the interest in providing transgender girls with opportunities to participate in girls' sports, which is now protected by a Connecticut state statute," Chatigny wrote.

According to Mahony, the suit challenges a decade-old policy by the Connecticut Interscholastic Athletic Conference permitting high school students to participate in school-sponsored athletics consistent with the gender identity established in their school records.

The four plaintiffs, described by the appeals court as "non-transgender girls," challenged the policy, complaining that it violates that portion of Title IX credited with expanding women's athletics by requiring that they receive financing and opportunity equivalent to that given their male counterparts.

In addition to the CIAC, they are suing five school districts. Two trans athletes named in the suit have been allowed to intervene in the case, as has the state Commission on Human Rights and Opportunities and the U.S. Department of Education, Mahony reported.

The four young women competed against the transgender athletes in high school track meets in 2017, 2018 and 2019. Although the four did not always lose, they claim they lost important races because the transgender athletes had a "physiological athletic advantage."

The effect of the allegedly unfair competition was to block the four from progressing to higher levels of competition, such as final heats in championship competitions, and, they said, it hurt their chances to

compete in college.

The four are seeking financial compensation from the CIAC, as well as a court order requiring the CIAC to remove the names of transgender athletes from state athletic records and reranking titles and placements of non-transgender athletes.

Based on the evidence before him, Chatigny said the four female athletes argued "plausibly" that failure to "provide them with sex-separated competition deprived them of high-quality competitive opportunities" and "in effect, decreased the number of competitive opportunities available to female athletes."

However, Chatigny also noted that the CIAC and towns named in the suit argued that they were legally required by the Title IX law to allow the transgender athletes to compete in order to avoid discriminating against them based on their interpretation of the term "sex" in the law. The state's athletics governing body and towns argue that the Title IX definition of sex "encompasses gender identity and thus protects transgender girls as well as biological girls." The four female athletes contend that the term has a plain meaning, one that refers solely to immutable biological characteristics relating to reproduction.

Per Mahony's reporting, Chatigny wrote that when Title IX was enacted in 1972, the commonly accepted definition of sex was that of immutable biology. But he said that, based on his review of relatively new federal appellate law, which is subject to further judicial review, he "assumes" that discrimination on the basis of transgender status violates Title IX.

Since both sides in the suit have plausible arguments that they are

protected by Title IX's anti-discrimination provisions, Chatigny said a means of balancing the conflicting rights needs to be devised. The judge had previously dismissed the suit on procedural grounds in April 2023. He said, among other things, that there was no longer a dispute to resolve because the transgender athletes had graduated from high school.

The full U.S. Circuit Court of Appeals for the Second Circuit, in a decision that included seven concurring and dissenting opinions, reversed Chatigny a year ago. It said the the four high school girls had argued persuasively that they had "a concrete, particularized, and actual injury' that could be "redressable by monetary damages and an injunction ordering Defendants to alter certain athletic records," Mahony reported for the *Courant*.

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