

# Policies Related to the Inclusion and Exclusion of Transgender Athletes from High Level Collegiate and Professional Sports

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During the last decade of the 20<sup>th</sup> century media coverage of LGBT activism has increased, and the overall presence of the LGBT community has normalized through the influence of LGBT celebrities and overall improved representation.<sup>1</sup> With this, there has also been a decrease in transphobia.<sup>1</sup> In 2017, the Independent Press Standards Organization (IPSO), an autonomous regulatory organization based in the United Kingdom focusing on news accuracy and protection of free press, published an online survey of 16 countries specifically discussing their attitudes towards transgender people. These surveys concluded that 59% of people interviewed around the world believed that their country is becoming more tolerant of transgender people.<sup>2</sup> Also, 52% of people in countries surveyed stated that they believe that transgender people are a natural occurrence, and an extremely low percentage of people believe that it is a mental illness.<sup>2</sup> This data clearly shows that there is an increased turn towards acceptance of the transgender community and an shift towards the normalization of individuals who identify as transgender.

Although identifying as transgender is becoming more publicly accepted and normalized, there is still debate and misunderstanding about the experiences of trans people. According to the American Psychological Association (APA), transgender is a term used for people whose gender identity does not conform with the sex they were assigned at birth.<sup>3</sup> There are also terms that the APA defines which are vital to understanding this topic. Specifically, gender identity is an individual's internal sense of what they are, whether that is male, female, or something else.<sup>3</sup> Gender expression is how that individual communicates their gender identity to others. There is also a clear differentiation between sex and gender. Sex being what someone is assigned at birth and can be determined via physical characteristics, chromosomes or hormone levels and gender is a social construct that influences the way people act and how they are perceived in society. The issue of transgender participation in sports is becoming a more widely recognized and discussed

topic in the media as well as within many different sports organizations. Transgender athletes, like most other members of this community, have a significant internal struggle between their gender identity and the biology they were born with. They are forced to choose between their biology and their mind's understanding of who they are. A simple search of "transgender athletes" in Google comes up with hundreds of different articles on this topic. Individuals and groups such as Martina Navratilova, USA Powerlifting and the International Association of Athletics Federation have all made statements both for and against the inclusion of transgender athletes in various sports and levels of competition. This paper will explore this topic via the lens of biology and physiology as well as sociology and ethics, in an effort to appreciate the experiences of trans athlete as well as gain a profound understanding of sports as more than a physical competition and therefore determine the best solution to this controversial issue.

### Existing Policies:

Focusing on transgender athletes at the highest level of competition; either at the collegiate level or the international and professional level, one of the most well-known and highly discussed policies is that of the International Olympic Committee (IOC). In 2003, the IOC met in Stockholm to discuss policies for inclusion of transgender athletes in the Olympic games.<sup>4</sup> This policy was released in May 2004 and was known as the Stockholm Consensus.<sup>4</sup> Specifically, the policy stated that transgender females that had transitioned before puberty could compete in the female gender category and vice versa for males.<sup>4</sup> After puberty, the criteria for participation is more strict. The athlete must have a gonadectomy performed at least 2 years before competition, they must have legal documentation of their gender identity, and they must have undergone hormone therapy.<sup>4</sup> In the last few years this criteria has changed, currently transgender females no longer need to have gone through gender affirmation surgery or have legal recognition of their chosen gender.

Although the IOC reserves the right to test and confirm compliance the only requirements for transgender females is that their serum testosterone levels are below 10 nmol.L for 12 months leading to competition and their gender cannot change in relation to sport for 4 years after proclamation.<sup>4</sup>

The National Collegiate Athletic Association (NCAA) is another organization that has put forth a clear policy of inclusion of transgender student athletes. Overall, the NCAA policy is more inclusive compared to the finalized policy of the IOC.<sup>5</sup> The NCAA does not require sex reassignment surgery or legal recognition of one's gender identity because they believe that hormone treatment is enough to neutralize and eliminate and gender based physical athletic advantage.<sup>5</sup> Specifically, they require one year of hormone treatment to become eligible to participate in women's sports compared to the two year minimum that the IOC requires.<sup>5</sup> There is however a major discrepancy between the rights and policies of and relating to male versus female transgender athletes. In team sports, the team which includes a transgender athlete will have specific ramifications when it comes to their tournament and championship eligibility. A man participating on a women's team makes the team a "mixed team" which therefor makes the team ineligible for a women's NCAA championship but remains eligible for a men's NCAA championship.<sup>6</sup> If a woman participates on a men's team however, the team is still eligible for a men's NCAA championship.<sup>6</sup> Overall, it is clear that this organization has fully discussed this issue. The NCAA released a book, "NCAA Inclusion of Transgender Student-Athletes", which is intended to clarify the best practices for NCAA programs to ensure "transgender student-athletes fair, respectful, and legal access to collegiate sports teams based on current legal and medical knowledge".<sup>7</sup> Overall, all of these policies and statements made by the NCAA clearly show the inclusion based mindset of this organization in particular.

Lastly, the policy of USA Powerlifting is important to recognize as it takes on a vastly different stance. The policies of USA Powerlifting make it clear that they respect transgender athletes and the IOC's standing on this issue, however, they also believe that within their particular sport these regulations are significantly less applicable.<sup>8</sup> In general, USA Powerlifting states that the use of testosterone and the participation of male to female transgender athletes in the sport jeopardizes fair play.<sup>8</sup> They believe that this is not discriminatory policy but simply a policy which provides a level playing field, similarly to other policies which restrict age as well as medications which may offer a performance advantage.<sup>8</sup> Overall, the way that USA Powerlifting have creating their policies make it clear that they believe that strength and power sports, such as powerlifting create a increased potential for transgender individuals to gain and unfair advantage. They cite specific biological differences, supported by research, and explain that this advantage goes beyond the regular anthropometric advantages that other sports organizations have cited in support of transgender inclusion.

In general, these three organizations describe policies of inclusion and exclusion at various levels and show that the debate over the fairness of allowing transgender athletes to compete goes far beyond a simple yes or no answer. These organizations have clearly attempted to use scientific and ethical evidence to create and support their policies. This is why it is so important to understand the reasons behind these guidelines and therefore expand and improve upon them as the issue of transgender rights continues to play such a major role in society

### Past and Present Transgender Athlete Participation:

Just as understanding these policies is important towards fully comprehending this debate, it is also imperative to have knowledge about the athletes that these policies affect. For example, Kristen Worley, a transgender cyclist claims that the hormone range restriction prevented her from participating in her sport at an elite level.<sup>4</sup> Her statements forced her governing body to reassess their policies and create better and more evidence based guidelines for transgender athletes.<sup>4</sup> Joanna Harper was a male to female transgender distance runner who advocated for transgender athlete rights. She stated that her post transition body was like a “large car with a small engine competing against small cars with small engines”.<sup>9</sup> Fallon Fox, a mixed martial arts fighter privately transitioned from male to female, causing massive legal issues over the fact that she had not identified herself as transgender prior to competition.<sup>10</sup> In the NCAA, Kye Allums was born female and identified as male, he was prohibited from using medications or having surgery while competing on the women’s team and was referred to as the first “publicly transgender person” to play NCAA Division 1 college basketball.<sup>10</sup> Keelin Godsey, a NCAA Track and Field thrower transitioned from female to male. He changed his name but was also prohibited from taking any medications to aid in his transition while competing on the women’s team.<sup>10</sup>

Overall, these individuals demonstrate the true scope of this issue through depicting the people and teams that these policies effect. Looking at the experiences of these athletes it is important to consider both arguments for inclusion and exclusion and their possible impacts.

### Arguments for Inclusion:

Many organizations, scientists, and specialists have made the argument that transgender athletes should be included in high levels of sport because their transition or the sex they were born does not give them an unfair advantage against their cisgender competitors.

At the collegiate level, the NCAA policy of inclusion discusses several reasons as to why it does not offer an advantage to transgender athletes, but simply provides them with their right to compete and participate at a high level of competition. At the level of college sports, athletes have a certain number of seasons of eligibility which they must use within a set amount of time. Compared to the IOC, the NCAA decreases the two year waiting period for an athlete to fully transition to only one year since it is more in light with the practice of medical redshirt which allows the athlete to extend their eligibility for one year due to medical reasons.<sup>5</sup> Similarly to why the waiting period is decreased for college athletes, the NCAA also states that at the college level it is unrealistic to assume that transgender athletes have had surgery before puberty.<sup>10</sup> This shows that in accordance with their statement on this topic, the NCAA truly does attempt to allow as many athletes to compete and as an organization they seem to be determined to balance the fairness to cisgender athletes with the inclusive policies that the NCAA prides itself on.

Another inclusion-based argument which I found extremely interesting is based on the claim that although transgender athletes, especially those transitioning from male to female may have an advantage this advantage is not more than another athlete who excel at their chosen sport. This argument was clearly stated by Erin Buzuvis in her article “Including the Transgender Athlete in Sex-Segregated Sports.” Buzuvis states that sport institutions such as the NCAA do not exclude women from sport who are born exceptionally tall or strong or with any other attributes which provides them with an athletic advantage, therefore, it is not necessary to exclude a women because

she was born with a male body.<sup>5</sup> Karkazis et al. also back up this claim by stating that the possible advantages that transgender athletes many have fall within the normally accepted range that is present in athletes that compete at extremely high levels of sport.<sup>11</sup> I think that this argument, which seems to appear extremely frequently in the literature is interesting because it makes a comment about fairness in sport as a whole.

It is clear, by watching any professional sport, whether that be the Superbowl or gymnastics in the Olympics, or even by watching college basketball during March Madness that there is a certain body structure and skill set that allows athletes to be the best at what they do. People born with certain physical attributes have a greater ability to be successful in a sport, they have an advantage. The major question which must be answered regarding transgender athletes is if the natural advantage athletes get through their body structure is the same as the advantage a male athlete transitioned to a female would have. Some people believe that this is the case, others believe that there is a reason for sex segregation in sport and allowing transgender athletes to compete as the gender they identify with would undermine those reasons.

The article, “Beyond Fairness: the ethics of inclusion for transgender and intersex athletes” written by Gleaves and Lehrbach provides an in-depth argument for the inclusion of transgender athletes. Specifically, Gleaves and Lehrbach dissect these policies of exclusion by stating that the reasons that people believe that transgender athletes have an unfair advantage based on their unequal physical characteristics is fundamentally incorrect because sports by definition are unequal. Gleaves and Lehrbach state that “equality is a mistaken conception of sport”, sport does not require equality because with equality there would be no competition.<sup>12</sup> Gleaves and Lehrbach also make a social commentary by stating that the exclusion of transgender athletes would feed into cis-normative gender binary where one must conform to the norm, and everyone who is

considered abnormal must prove that they fit in.<sup>12</sup> If one then states that if these tolerance rules are put into place, males will take advantage and transition to female in order to gain advantage in a certain sport and therefor gain the monetary and social gains and advantages that come with athletic success.<sup>12</sup> Gleaves and Lehrbach believe that this statement perpetuates two unfounded myths; one that men are so far superior to women that they will compete at a significantly higher level than females and therefor be more successful and second that men are untrustworthy to a level where this would become a problem.<sup>12</sup> Gleaves and Lehrbach negate this argument by stating that if a male were to do this and take advantage of transgender inclusive policies their success and victories would be seen as fraudulent and as poor sportsmanship.<sup>12</sup> Overall, policies for inclusion can be applied to both NCAA and international level competition. These arguments clearly use several basic beliefs and assumptions to support the idea that allowing transgender athletes to participate in high level athletic competitions will not disadvantage or negate the work of their cisgender counterparts.

#### Arguments for Exclusion:

As stated by Jennifer Sinisi's article published by Villanova University, many people believe that allowing transgender athletes to participate in sports at high levels challenges the ethics of fair play and the overall integrity of the game.<sup>6</sup> This statement summarizes the argument which believes that transgender athletes should be excluded from competing in sports, especially at a high level, because their participation challenged the equality and fairness created through sex segregation and the overall policies created in order to provide a level playing field for all athletes. These arguments come in many different contexts and are perpetuated by many different organizations and people.

This issue is currently heavily debated in the news and through social media. The Chicago

Tribune article written by David Crary provides excellent background on the history of the issue as well as the major professional athletes who use their influence to spread awareness about both sides of this debate. Martina Navratilova stated that "A man can decide to be female, take hormones if required by whatever sporting organization is concerned, win everything in sight and perhaps earn a small fortune, and then reverse his decision and go back to making babies if he so desires, it's insane and it's cheating."<sup>13</sup> This comment created a significant amount of backlash from LGBT advocacy groups which has previously supported Navratilova as a gay-rights activist. After this comment Navratilova continued this debate by tweeting "You can't just proclaim yourself a female and be able to compete against women. There must be some standards and having a penis and competing as a woman would not fit that standard."<sup>13</sup> Navratilova is not the only professional athlete who has voiced her concern about this issue. Ana Paula Henkel, a four-time Olympian for Brazil in volleyball shared her beliefs about trans-inclusive policies in an open letter to the IOC. She wrote, "This rushed and heedless decision to include biological men, born and built with testosterone, with their height, their strength and aerobic capacity of men, is beyond the sphere of tolerance, it represses, embarrasses, humiliates and excludes women."<sup>13</sup> These statements made by Navratilova and Henkel make it clear that there is genuine concern from athletes themselves about the fairness of these policies.

Although these statements are clearly not scientifically supported, they still have merit and significance. If athletes themselves, even those like Martina Navratilova who strongly supports LGBT activism, see issues with this increased inclusivity there must be a reason and I believe that those reasons must be acknowledged and understood by the sport's governing bodies.

There have also been statements in support of excluding transgender athletes from the NCAA. These policies allowing transgender athletes to compete, and then revoking a team's

ability to win a NCAA championship can have serious repercussions for colleges. NCAA championships are major events for these institutions, through their success in this high-level competition they can draw in fans looking for the experience of going to a major sports-oriented school, as well as significant funding and sponsorships from major sportswear companies and other highly recognized businesses. Excluding these major colleges and universities due to the participation of a transgender athlete can put them at risk for backlash from students, coaches, and fans as well as jeopardizing TV and brand contracts which will ultimately greatly affect the recognition of the university as well as their athletic programs.<sup>10</sup> This is another aspect of this change in policy which must be considered, and its impact fully understood. Many high-level Division 1 schools rely on athletics both for enrollment as well as funding. Forbidding these institutions to participate in NCAA championships due to a transgender member of their team can have implications for hundreds of people. I think that this is where the NCAA must decide if this change for a handful is worth affecting hundreds. Again, adding another level to the complexity of this debate as well as adding another ethical consideration that needs to be made.

The biological aspect of this debate which also must be considered. One study published by Handelsman et al. reports that testosterone levels have a significant impact on athletic performance and the 10 nmol.L cited by the IOC is too high, their study recommends that the use of 5 nmol.L should be the upper limit of testosterone for participation in female athletics.<sup>14</sup> Other more quantitative studies suggest that regardless of an athlete's transition the presence of testosterone in biologically male athletes leads them to outperform females in athletic events by about 11-18%.<sup>15</sup> Along with this, in 2008 there was a 17.2% difference between world records for men and women in the high jump, 22.6% difference in the pole vault, and 37.4% difference in the javelin.<sup>10</sup> This data supports the claim that biologically male and female athletes are innately

different and simply based on biology men have an advantage. Although this research is not specifically on transgender athletes, these gender difference support the argument of not allowing transgender athletes to compete as their gender identity based on the known advantages of biologically male athletes, and the unknown effect that transitioning can have on decreasing or eliminating these advantages. Several other journal articles suggest that an unfair advantage comes from the fact that men transitioning to women still have some aspects of male physiology, which clearly gives them an advantage over their biologically female competitors.<sup>16</sup> This statement supports Brazilian Olympians Ana Paula Henkel's comment about the innate advantage that male to female transgender athletes have, simply from the fact that they will never lose their male strength, height or aerobic capacity.

Another study published in the British Journal of Sports Medicine states that trans women still have some aspect of male physiology leading them to have an advantage over biologically female competitors.<sup>17</sup> Supporters of transgender inclusive policies have stated that the transition from male to female, and the hormone therapy and surgical intervention which comes with it makes these male characteristics nonexistent, however, these articles provide conflicting results. This is another example of how even with scientific backing supporting one side of this argument, there is always support of the opposing position. This ultimately makes finding the correct decision very difficult. Also, this clear lack of definitive scientific evidence also shows the importance of a multidisciplinary approach to reaching a conclusion. Since science cannot give a concrete answer, other area such as ethics, law and psychology must be used to create a clearer picture of the problem and the many different perspectives that are intertwined through this debate.

As previously mentioned, I believe that USA Powerlifting is an excellent example of a policy which explains why transgender athletes should not be allowed to compete as their chosen

gender. Specifically, USA Powerlifting explains that the first reason their organization excludes transgender athletes has to do with the use of testosterone and other androgens in the female to male transition. They state the due to the anabolic nature of these compounds they are prohibited. They go further to explain that this policy is not strictly for transgender athletes but also includes other medical conditions that may be treated through the use of androgens.<sup>8</sup>

Their second argument in support of excluding transgender athletes involves the participation of male to female competitors. They believe that through analysis of the naturally occurring androgens necessary for male development, males transitioning to females still have an advantage from these hormones which cannot be eliminated entirely. These hormones are vital for male development and play major roles in the increase of body and muscle mass, as well as bone density and structure and connective tissue strength.<sup>8</sup> The increase of mass and strength of these body structures offer athletes a significant advantage in training and competition, especially in the sport of powerlifting.<sup>8</sup>

Lastly, I believe that their closing statement of this issue is very powerful and important towards the argument of why transgender athletes should not be allowed to compete as the gender with which they identify. USA Powerlifting states that they understand the decisions of other organizations, like the IOC, but they also believe that they have the right to determine policies for their own sport through an understanding of the mechanisms of the sport and the advantage that the process of transitioning can give transgender athletes.<sup>8</sup>

As for discrimination, an issue that seems to be readily discussed by people supporting trans-inclusive policies, USA Powerlifting believes that “the term discrimination is used to catch the attention of the public” and is often misused.<sup>8</sup> They believe that the sole purpose of the rules and policies that they have created are to provide a fair and level playing field. Just like there are

age restrictions, restrictions of medications, or testing for performance enhancing drugs which provide an unfair advantage, there must also be policies which protect competitors from the innate advantage that some transgender athletes have.<sup>8</sup> This statement shows that although there are organizations which believe that there are ways to fairly include transgender athletes, there are also other organizations that truly believe that the competitive advantage of transgender athletes cannot be ignored or removed and therefore they should not be permitted to compete as their chosen gender. I think that statements like this, although controversial, should be considered as an important part of this debate.

### Conclusion:

The research previously stated, arguing for both exclusion and inclusion, provides valid data and information. I believe, however, that for the most part arguments for inclusion tend to circumvent the issue and avoid the arguments being presented by the opposing side. Specifically, arguments for inclusion as presented by Buzuvis and Karkazis et al. state that the transgender athlete's advantage is no more than a cis-gender athlete with the body composition or physiology which naturally allows them to excel at their specific sport.<sup>5</sup> This statement as well as others like it completely avoid the biological argument at the core of the belief that transgender athletes should be excluded from high level athletics. An article by Handelsmann et al. regarding specific testosterone levels, as well as a study published by the British Journal of Sports Medicine stating that males transitioning to females still have male characteristics that cannot be negated through surgical intervention or hormone therapy.<sup>14,17</sup> Both articles clearly show that biology still plays a role in athletic performance and more specifically, that transgender athletes have an advantage through the biology they were born with.

Finally, I fundamentally disagree with the belief that sports are unequal to begin with. I

believe and support, athletes such as Martina Navratilova and organizations like USA Powerlifting in their statements that sports need to maintain their equality in order to fulfill their purpose.<sup>8,13</sup> At their core, sports help teach people competition through fair play as well as the values which come from winning and losing those competitions. I believe that those values will be negated if transgender athletes are allowed to participate at high levels. Athletes having to compete within unfair and unequal circumstances will shift the focus of sport away from healthy competition to something beyond that. People will have advantages that were neither there truly biologically nor earned through practice and skill. Due to this reason, as well as the clear biological argument that is supported by research, I believe that transgender athletes should not be allowed to compete on the professional or NCAA level, as their participation will definitively alter the fairness of athletics.

Acknowledgement:

I wanted to sincerely thank Professor Amanda Moras for her help with this paper. She not only helped through the editing process, but she also made me think through my ideas and opinions and ensure that I was using my research to reach an educated and well thought-out conclusion.

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