



Prepared Remarks
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Good afternoon, Chairman Payne and members of the committee. My name is Nneka Ewulonu, my pronouns are they/them, and I am a staff attorney with the ACLU of Georgia. The ACLU of Georgia opposes SB 435 because transgender students are, first and foremost, students.

Bills like SB 435 deprive a subset of students the opportunities afforded to their cisgender peers – students whose gender identity aligns with their assigned sex at birth – and send an exclusionary message to vulnerable trans youth. While the bill claims the goal of promoting fairness in sports, in reality, it harms students of any gender identity. By allowing any other student to allege a violation of these provisions, cisgender students – especially Black and brown girls who are already frequently deemed “too masculine” by society – will find themselves facing complaints alongside transgender students. Intersex children, who are born with physical and genetic traits that do not always conform to binary notions of “male” or “female” bodies, may find themselves unable to join any sports team and comply with this bill. And trans students, who already face significantly higher rates of physical and sexual assault, will be subjected to bigotry, humiliation, and ostracization.

In addition to the many harms to all students this bill would cause, SB 435 violates the civil and constitutional rights of transgender students. When a law singles out people based on the fact that they have a gender identity that does not match the sex assigned to them at birth, it necessarily discriminates on the basis of sex and trans status, thus triggering heightened equal protection scrutiny under the Constitution. Federal courts across the country have found that anti-transgender bans violate Title IX, and the Biden administration has made clear their intentions to enforce Title IX consistent with the Supreme Court’s holding in *Bostock*.

There are real problems of sex-based inequality in youth school sports. High school girls receive over 1 million fewer opportunities than high school boys to participate in sports. Rather than promoting youth participation and gender equity in sports, anti-transgender bans have been linked to lower athletics participation by cisgender girls. SB 435 does little to address the real harms faced by all girls in sports and chooses to instead invent a threat of trans athletes where no such threat exists.

All Georgia students just want to live their lives without intrusion from our state legislature. Transgender students deserve the chance to succeed and thrive like any other student. For these reasons, the ACLU of Georgia opposes SB 435. Thank you for your time; I yield for any questions.