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March 15, 2021

North Dakota Capitol  
600 E. Boulevard Ave.  
Bismarck, ND 58505

Re: House Bill 1298 and Athletic Participation for Transgender Students

Dear Senator,

We write on behalf of Human Rights Watch to share our concerns about House Bill 1298, which would only permit transgender students to participate in athletics consistent with their “biological sex,” which would be “based solely on an individual’s reproductive biology and genetics at birth.”

Human Rights Watch has interviewed hundreds of students, teachers, administrators, and parents about lesbian, gay, bisexual and transgender (LGBT) issues in US schools. We have documented the impact of laws and policies that discriminate against transgender students in two reports: [Shut Out: Restrictions on Bathroom and Locker Room Access for Transgender Youth in US Schools](#) and [“Like Walking Through a Hailstorm”: Discrimination Against LGBT Youth in US Schools](#). We believe House Bill 1298 is unnecessary and would have negative consequences for students, school districts, and the State of North Dakota, especially the transgender students you represent.

Research suggests that transgender children are more likely to face significant mental health stressors and have higher rates of obesity and disordered eating than their cisgender peers.<sup>1</sup> Often, transgender students also face isolation and exclusion in school environments, which threaten their physical and mental well-being as well as their ability to learn.<sup>2</sup>

Instead of supporting transgender kids, House Bill 1298 would effectively exclude them from the physical, intellectual, and social benefits that students who are not transgender are allowed to derive from extracurricular participation. It would also pose significant safety risks for transgender students, who are highly vulnerable to bullying, harassment, and assault when they are required to participate in activities and use facilities that are inconsistent with their gender identity. And it would raise serious privacy concerns for students whose peers may not know they are transgender, exposing their personal and medical history by requiring them to participate according to their sex assigned at birth.

<sup>1</sup> Johns, Michelle M. et al., “Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students – 19 States and Large Urban School Districts, 2017,” *Morbidity and Mortality Weekly Report*, 68.3 (2019): 67-71; Schvey, Natasha A. et al., “Obesity and Eating Disorder Disparities Among Sexual and Gender Minority Youth,” *JAMA Pediatrics* (2020): doi:10.1001/jamapediatrics.2020.5152.

<sup>2</sup> GLSEN et al., *Separation and Stigma: Transgender Youth and School Facilities*, 2017, [https://www.glsen.org/sites/default/files/2019-11/Separation\\_and\\_Stigma\\_2017.pdf](https://www.glsen.org/sites/default/files/2019-11/Separation_and_Stigma_2017.pdf) (accessed March 7, 2021).

North Dakota should not take this step. Legislation like House Bill 1298 is not necessary to preserve fairness; transgender athletes do not necessarily have a competitive advantage over their peers. Many states have had inclusive policies for years, and transgender kids competing alongside cisgender kids, without any detriment to competitive equity. All children should be able to participate in school athletics, and the few transgender kids who have trained hard and succeeded at a statewide level should be celebrated rather than punished for their success.

A number of other states have addressed the inclusion of transgender students in extracurricular activities. Adopting House Bill 1298 would not only put North Dakota at odds with most states in the United States,<sup>3</sup> but would impose a more rigid standard than the National Collegiate Athletics Association (NCAA),<sup>4</sup> the International Olympic Committee (IOC),<sup>5</sup> and other sports organizations that do not look only to an athlete's sex assigned at birth as decisive proof of their gender. We urge you to ensure that every student's gender identity is respected.

Please do not hesitate to contact us if we can provide further information. We appreciate your attention to this important matter.

Sincerely,



Zama Neff  
Executive Director, Children's Rights  
Human Rights Watch



Ryan Thoreson  
Researcher, LGBT Rights  
Human Rights Watch

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<sup>3</sup> TransAthlete, "High School Policies," <https://www.transathlete.com/k-12> (accessed March 4, 2021).

<sup>4</sup> Office of Inclusion, National Collegiate Athletic Association, NCAA Inclusion of Transgender Student-Athletes, August 2011, [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf) (accessed March 4, 2021).

<sup>5</sup> International Olympic Commission, IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism, November 2015, [https://stillmed.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf) (accessed March 4, 2021).