

# Creating Inclusive Environments for Trans Participants in Canadian Sport

## Guidance for Sport Organizations

Developed by the Trans Inclusion in Sport Expert Working Group

“Inclusion is not bringing people into what already exists; it is making a new space, a better space for everyone.”

- *Dr. George Dei*

## Acknowledgements

Thank you to the individuals who contributed significant knowledge, empathy and time in the development of this policy guidance. To the members of the Expert Working Group, to the sport organizations, to the members of the trans community, and to the trans and cis athletes who brought critical perspectives, thank you.

Members of the Expert Working Group were:

- **Jeremy Ainsworth** – Associate Director, Operations, BC Hockey
- **Barb Besharat** – Senior Specialist, Sport and Recreation – Strategic Partnership Initiatives, 519 Church Street Community Centre
- **Ryan Dyck** – Director of Research, Policy and Development, Egale Canada Human Rights Trust
- **Dr. Stephen H. Feder** – Head, Adolescent Health Clinic, Children’s Hospital of Eastern Ontario
- **Dr. Hilary Findlay** – Associate Professor, Department of Sport Management, Brock University, co-founder of Sport Law & Strategy Group
- **Dr. Bruce Kidd** – Professor, Faculty of Kinesiology and Physical Education, University of Toronto
- **Karin Lofstrom** – Executive Director, Canadian Association for the Advancement of Women and Sport and Physical Activity
- **Yvonne McKinnon** – Research and Policy Analyst, Sport Canada (replaced Tim O’Malley, Senior Policy Analyst, Sport Canada)
- **Paul Melia** – CEO, Canadian Centre for Ethics in Sport
- **Bjorn Osieck** – former CEO, West Ottawa Soccer Club
- **Danika Smith** – Student-Athlete Services, Compliance Officer and Coach, University of Ottawa
- **Sylvie Turner** – Safety Consultant, Direction de la promotion de la sécurité, Secteur du Loisir et du Sport, Ministère de l’Éducation et de l’Enseignement supérieur
- **Alaina Hardie** – Athlete
- **Dr. Kris Wells** – Faculty Director, Institute for Sexual Minority Studies and Services, University of Alberta, and You Can Play Ambassador

Assistance with the facilitation of the Expert Working Group and the preparation of this guidance was provided by Jennifer Birch-Jones and Kirsten Brouse from:



[www.intersol.ca](http://www.intersol.ca)

The CCES would like to acknowledge the financial support of the Government of Canada through Sport Canada and the Department of Canadian Heritage.



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# Overview and Context

Canadian sport organizations consistently work to adapt and improve their policies and practices. In recent years, an increasing number of national, provincial and local sport organizations have sought support from the Canadian Centre for Ethics in Sport (CCES), and others, to understand and improve their policies and practices as they relate to trans participants. This has been driven both by an increasing number of trans participants choosing to participate in sport at all levels, as well as organizations that are proactively making their policies more inclusive in anticipation of trans participants.

Over the past two years, the CCES has facilitated an Expert Working Group tasked with understanding the existing research, issues and best practices concerning the inclusion of trans participants in sport, and providing guidance to sport organizations at all levels of the Canadian sport system. This document outlines the Expert Working Group’s policy and practice recommendations, and is being made available to Canadian sport organizations to help in their work towards making their sport more inclusive.

This document is organized into four sections:

The first section provides background knowledge and definitions that will help sport organizations become better informed about concepts and terms related to sex and gender, and their intersection with sport.

The second section focuses on practice and policy guidance for recreational and developmental sport. Since the vast majority of Canadian sport participation is at the recreational or developmental level, adopting welcoming and inclusive policies and practices at this level will have the greatest impact.

The third section addresses issues and considerations that are unique to the high-performance level of sport in Canada. Although the policy and practice recommendations in this section apply to a very small proportion of Canadians, there has been a disproportionate focus on this aspect in the development of trans inclusion policies, to date.

Finally, the Appendices include further detailed guidance on best practices and additional resources.

This document is primarily written for the largely cisgender group of individuals responsible for setting policies in Canadian sport organizations. However, the information in this document is important for trans and gender-diverse people, too. Gaining a deeper understanding of how your sport organization should support you can also help to drive and sustain change. It is important that you are aware of your rights and understand that you are to be treated with dignity and respect. But it is not solely the role of trans people to make sport inclusive; everyone has a part to play in this process and there are respectful things that everyone can do.

While the Expert Working Group recognized this guidance is an important next step in creating a Canadian sport system that is welcoming and inclusive to trans participants, continued efforts and resources are also needed to further support sport organizations in their efforts to educate their members on trans inclusion and proactively adopt best practices.

## Work To Date

This guidance is a continuation of a number of steps taken by sport over the past 10 years. In 2007, CCES, Sport Canada, AthletesCAN and the Canadian Association for the Advancement of Women and Sport and Physical Activity (CAAWS) conducted Canada’s first theoretical and practical inquiry on the topic of trans inclusion in Canadian sport. This work resulted in the publication of a series of literature reviews and discussion papers (five in total) in 2009, which are collectively titled *Promising Practices: Transitioning and Transitioned Athletes in Sport*.<sup>1</sup> This collection represented an important first step

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1 The five documents making up *Promising Practices: Transitioning and Transitioned Athletes in Sport* (2009) are:

1) Including Transitioning and Transitioned Athletes in Sport – Issues, Facts and Perspectives – Summary

towards making Canadian sport more fair, safe and open to trans athletes, and informed the work on trans athlete inclusion that followed in the United States.

Building on this foundational work, a stakeholder group was formed in 2011, comprised of the aforementioned partners, along with representatives from sport organizations, elite athletes and medical experts, to discuss lessons, implications and ethics that surrounded the inclusion of trans people, and people with variations of sexual development, in sport. These examinations resulted in a comprehensive discussion paper in 2012, entitled *Sport in Transition: Making Sport in Canada More Responsible for Gender Inclusivity*.<sup>2</sup>

In the spring of 2013, the CCES commissioned an environmental scan of existing best practices and policies in trans inclusion in sport. With this knowledge base, the CCES convened the Expert Working Group, supporting its work as well as participating as a member in the discussions and deliberations. As part of the sport community consultation, CCES solicited feedback on key aspects of the guidance through a formal survey of sport organizations and individuals known by the CCES to have an interest in the issue, as well as conducting additional conversations with a small number of female cisgender high-performance athletes.<sup>3</sup>

## Why is this Guidance Needed?

Recent reports suggest that as many as 1 in 200 adults may be trans; that is around half of one percent of our population, or as many as 175,000 Canadians.<sup>4</sup> And, we are learning more about trans kids, youth and adults daily as more and more people speak publically about their lived experience.<sup>5</sup> We now have a better understanding of how to meaningfully include more diverse gender identities and expression in our everyday lives.

We now know that sex and gender are not the same thing, and that individuals are born with different combinations of sex and gender as part of their identity. Increasingly this reality is being recognized by decision-makers within society. For example, the medical community now recognizes that being trans is generally a consistent and core part of a person's experience. As a welcome result, the development of intervention protocols no longer seek to "treat" trans individuals for a disorder, but rather strive to help individuals to live as fully as possible as the gender with which they identify.

Indeed, as we continue to better understand gender and the range of ways in which it can be expressed, new laws, policies, programs and practices are being introduced to protect the rights of individuals who identify as trans. In Canada, as of December 2015, all provinces and territories protect trans rights; some provinces and territories protect trans rights through explicitly listing "gender identity" or "gender identity and gender expression," while others interpret trans rights implicitly under other grounds.<sup>6</sup> And, there are plans to re-introduce federal legislation to further protect trans rights.

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2) Including Transitioning and Transitioned Athletes in Sport – Issues, Facts and Perspectives – Discussion Paper

3) Working with Transitioning or Transitioned Athletes in Sport – Emerging Themes

4) Social Science Literature on Sport and Transitioning – Transitioned Athletes

5) Do Transitioned Athletes Compete at an Advantage or Disadvantage as compared with Physically Born Men and Women – A review of the Scientific Literature. Access at: [www.caaws.ca/working-with-transitioning-and-transitioned-athletes-in-sport/](http://www.caaws.ca/working-with-transitioning-and-transitioned-athletes-in-sport/).

2 Access at: [www.cces.ca/sites/default/files/content/docs/pdf/cces-paper-sportintransition-e.pdf](http://www.cces.ca/sites/default/files/content/docs/pdf/cces-paper-sportintransition-e.pdf).

3 Two telephone focus groups with female high-performance cisgender athletes were arranged and promoted through AthletesCAN. Unfortunately, only two athletes were available at that time, both of whom were interviewed.

4 Ayden I. Scheim, Greta R. Bauer. Sex and Gender Diversity Among Transgender Persons in Ontario, Canada: Results From a Respondent-Driven Sampling Survey. *Journal of Sex Research*. Vol. 52, Iss. 1, 2015.

5 Or in the case of children and youth, their parents.

6 Trans Equality Society of Alberta. Fact Page | Human Rights Across Canada. Access at: [www.tesaonline.org/human-rights-across-canada.html](http://www.tesaonline.org/human-rights-across-canada.html).

Building on the work of the Canadian Teachers' Federation<sup>7</sup>, school boards, including those in Edmonton, Vancouver, Winnipeg and Toronto, have introduced policies reinforcing their support for trans youth in order to create inclusive environments in schools. And we know that teachers and sport coaches in schools are one of the supports that trans youth in Canada reach out to, with varying degrees of success.<sup>8</sup>

A number of organizations are helping sport organizations in Canada become more inclusive. CAAWS, You Can Play, Egale Canada Human Rights Trust, Trans\* Athlete, and Athlete Ally are doing important work to make sport more welcoming to those who identify as lesbian, gay, bisexual, transgender or queer (LGBTQ). With the exception of Trans\* Athlete, however, there has been less of a focus on the "T" to date.

Making sport inclusive for trans participants is made more challenging because of the continued reliance on the binary categories of "men" or "women" as the primary basis by which programs and competitions are organized, and by which the conditions for fair competition or playing field are pursued.

So as our society continues to progress towards an environment in which more trans individuals are able to live openly and safely, sport organizations are increasingly being approached by individuals who want to participate in sport, but who do not fit easily into these two narrow categories. While many, if not all, sport organizations in Canada recognize the importance of including trans participants, they are sometimes unsure how to go about it in a way that is respectful and fair.

Unfortunately, there have been instances in which sport's strict adherence to binary gender categories has been the source of significant pain and, indeed some would argue, discrimination against trans athletes. Some Canadian trans athletes have been subjected to humiliating and traumatic forms of gender testing, discrimination and other structural barriers to participation in sport that go against the very values that we hope for and expect from our sport system in Canada.

But progress is being made. Building on the early work done in Canada, the National Collegiate Athletics Association (NCAA) implemented their policy and guidance on inclusion of trans athletes in 2011.<sup>9</sup> In Canada, a small number of sport organizations have already developed trans inclusion policies. In a 2014 landmark case, the Ontario Human Rights Legal Support Centre and a youth ice hockey player negotiated a settlement requiring Hockey Canada to allow all players in Ontario to use locker rooms that match their self-identified gender identity, review and revise its procedures to protect privacy around players' trans status and provide training to all Ontario coaches on gender identity and related discrimination and harassment.<sup>10</sup>

So, how can sport organizations be part of the solution and develop progressive trans inclusion policies in sport in keeping with our own Canadian values and beliefs that respect human rights and create exceptional sporting experiences so that everyone can benefit? We believe that careful consideration of this guidance is a critical next step in becoming educated on trans inclusion and how to make your sport more welcoming to trans participants.

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7 Canadian Teachers' Federation (2012). Supporting Transgender and Transsexual Students in K–12 Schools. Access at: [www.ismss.ualberta.ca/sites/www.ismss.ualberta.ca/files/Supporting\\_\(Wells,Allan,Roberts,2012\).pdf](http://www.ismss.ualberta.ca/sites/www.ismss.ualberta.ca/files/Supporting_(Wells,Allan,Roberts,2012).pdf).

8 Veale J, Saewyc E, Frohard-Dourlent H, Dobson S, Clark B & the Canadian Trans Youth Health Survey Research Group (2015). Being Safe, Being Me: Results of the Canadian Trans Youth Health Survey. Vancouver, BC: Stigma and Resilience Among Vulnerable Youth Centre, School of Nursing, University of British Columbia. (pp. 63–64) Access at: [www.saravyc.sites.olt.ubc.ca/files/2015/05/SARAVYC\\_Trans-Youth-Health-Report\\_EN\\_Final\\_Web2.pdf](http://www.saravyc.sites.olt.ubc.ca/files/2015/05/SARAVYC_Trans-Youth-Health-Report_EN_Final_Web2.pdf).

9 NCAA Office of Inclusion (2011). NCAA Inclusion of Transgender Student-Athletes. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).

10 Ontario Human Rights Commission (2015). Annual Report 2014–15. Access at: [www.ohrc.on.ca/ar/node/14651](http://www.ohrc.on.ca/ar/node/14651).



# Principles for Developing Trans Inclusive Sport Policy and Practice

The following set of general principles guided the Expert Working Group:

- Trans athletes should have equal opportunity to participate in sport and strive for excellence.
- Policies governing the participation of trans athletes should nurture fair play, honesty and respect, and preserve the integrity of sport.
- Policies governing the participation of trans athletes should embrace diversity and offer a positive sporting experience, free of discrimination.
- Participation in sport should celebrate differences and focus on the benefits and the joy of sport.
- Policies governing the participation of trans athletes should be evidence-based and recognize the necessity to protect the privacy rights of the athletes and strive to prevent physical, emotional and mental harm.
- Policies governing the participation of trans athletes should foster access and equitable participation for all participants.
- Practices that encourage understanding and support of trans athletes need to be enhanced to acknowledge the challenges and recognize the value of advocating for sport that is fair, safe and open to everyone.<sup>11</sup>

The Expert Working Group further sought a balance among the seven True Sport Principles. Sport, at its best, balances a series of principles to create a fair, safe, inclusive and open environment. Depending on the level of sport, these principles need to exist in different degrees and proportions. Creating good sport policy is about finding a balance between these principles while keeping all of them present in a way that makes sport a positive experience for everyone.

**Figure 1: True Sport Principles**



The vast majority of sport participation in Canada focuses on recreation and development. At this level, the True Sport Principles of *Include Everyone*, *Stay Healthy*, *Keep It Fun* and *Respect Others* provide clear policy and practice guidance. These principles emphasize the importance of trans participants being welcomed and encouraged to participate in sport as they are, in whichever gender category they feel best suits them, and their needs, at the time of participation.

A very small minority of Canadians participate in high-performance sport. For those who do, the True Sport Principles of *Play Fair* and *Go For It* become more relevant, and in particular, the notion of competitive advantage and its implications for eligibility. The Expert Working Group took these principles into careful consideration in its advice for high-performance sport. The Expert Working Group believes that the practice and policy guidance that follows will enable Canadian sport organizations to respect the rights of both trans and cisgender (non-trans) athletes in high-performance sport.

<sup>11</sup> Adapted from the NCAA Office of Inclusion's 2011 Trans Student – Athlete Guidelines and the True Sport Principles. The NCAA Guidelines can be accessed at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf). The True Sport Principles can be accessed at: [www.truesportpur.ca/true-sport-principles](http://www.truesportpur.ca/true-sport-principles).

# Building Our Understanding of Sex and Gender

Trans rights, issues and concerns are being raised increasingly in Canadian society, but less so to date in Canadian sport. As such, it is important to provide some basic information in this section that will be helpful to those less familiar with issues related to sex and gender in sport.

## Definitions: What Terms Should I Know?

Over time, and across different geographies and cultures, terminology can vary significantly. You may have heard terms such as cisgender, transgender, transsexual, two-spirited or transition, and you might not be familiar with what these terms mean. It is important to recognize the impact that our language can have in creating positive environments, and as a result, keeping up to date on the most appropriate terminology is critical. For the purpose of consistency and respect, the following key definitions are used in this guidance:<sup>12, 13, 14, 15</sup>

### Sex and Gender

Whereas “sex” is a person’s physical characteristics, “gender” is about what it means to be a man or woman in society. Gender is the expectations and stereotypes about behaviours, actions and roles linked to being a “man” or “woman.” Social norms related to gender can vary depending on the culture and can change over time.

**Sex:** The classification of people as male, female or intersex. Sex is usually assigned at birth and is based on an assessment of a person’s reproductive system, hormones, chromosomes and other physical characteristics.

**Gender:** The complex relationship between physical traits and one’s internal sense of self as male, female, both or neither as well as one’s outward presentations and behaviours related to that perception. Biological sex and gender are different; gender is not inherently connected to one’s physical anatomy.

**Gender identity:** Each person’s internal and individual experience of gender. It is a person’s sense of being a woman, a man, both, neither or anywhere along the gender spectrum. A person’s gender identity may be the same as or different from their birth-assigned sex.

For most people, their sex and gender identity align. For some, it does not. A person may be born with physical and biological male characteristics but identify as a woman, or assigned at birth female but identify as a man. Other people may identify outside the categories of woman/man, or may see their gender identity as fluid and moving between different genders at different times in their life. “Gender queer” and “gender diverse” are increasingly common terms used to identify this fluidity.

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12 Canadian Collegiate Athletics Association (CCAA) (2012). Transgendering CCAA Student-athletes. Policy Excerpt, CCAA. Access at: [www.sportlaw.ca/wp-content/uploads/2012/06/CCAAPolicyExcerpts.pdf](http://www.sportlaw.ca/wp-content/uploads/2012/06/CCAAPolicyExcerpts.pdf).

13 NCAA Office of Inclusion (2011). NCAA Inclusion of Transgender Student-Athletes. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).

14 These terms are also in line with Canadian trans associations (519, Trans Pride Canada).

15 Ontario Human Rights Commission (2014). Policy on preventing discrimination because of Gender Identity and Gender Expression, pp. 58–60. Access at: <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>.

**Gender expression:** How a person publicly presents or expresses their gender. This can include behaviour and outward appearance such as dress, hair, makeup, body language and voice. A person’s chosen name and pronoun are also common ways people express their gender. Others perceive a person’s gender through these attributes.

All people, regardless of their gender identity, have a gender expression and they may express it in any number of ways. For trans people, their chosen name, preferred pronoun and apparel are common ways they express their gender. People who are trans may also take medically supportive steps to align their body with their gender identity.

**Gender binary:** A social system whereby people are thought to have either one of two genders: man or woman. These genders are expected to correspond to birth sex: male or female. In the gender binary system, there is no room for interpretation, for living between genders or for crossing the binary. The gender binary system is rigid and restrictive for many people who feel that their natal sex (sex they were labelled with at birth) does not match up with their gender or that their gender is fluid and not fixed.

**Gender norms:** The gender binary system influences what many people consider “normal” or acceptable behaviours, dress, appearances and roles for women and men. Gender norms are a prevailing force in everyday lives. Strength, action and dominance are stereotypically seen as “masculine” traits, while vulnerability, passivity and receptiveness are stereotypically seen as “feminine” traits. A woman expressing masculine traits may be stereotyped as overly “aggressive,” while a man expressing “feminine” traits may be labelled as “weak.” Gender norms can contribute to power imbalances and gender inequality in the home, at work and in communities.

**Cisgender (adjective) and cisnormativity:** Most people are cisgender (not trans); that is, their gender identity is in line with or “matches” the sex they were assigned at birth. Cisnormativity (“cis” meaning “the same as”) refers to the commonplace assumption that all people are cisgender and that everyone accepts this as “the norm.” The term is used to describe prejudice against trans people that is less overt or direct and more widespread or systemic in society, organizations and institutions. This form of systemic prejudice may even be unintentional and unrecognized by the people or organizations responsible.

## Trans

**Trans (adjective):** An umbrella term that describes people with diverse gender identities and gender expressions that do not conform to stereotypical ideas about what it means to be a girl/woman or boy/man in society. Trans can mean transcending beyond, existing between or crossing over the gender spectrum. It includes but is not limited to people who identify as transgender, transsexual, cross dressers (adjective) or gender non-conforming (gender diverse or genderqueer).

Trans includes people whose gender identity is different from the gender associated with their birth-assigned sex. Trans people may or may not undergo medically supportive treatments, such as hormone therapy and a range of surgical procedures, to align their bodies with their internally felt gender identity.

Trans people may identify their gender in many ways. There is no single or universal experience of what it means to be trans. As a result, different trans people face distinct forms of discrimination in society, and this may relate to whether they identify as male, female, a person with a trans history, a person in the process of transitioning, a trans man, trans woman, transsexual or gender non-conforming.

**Two-spirit (adjective):** A term used by Aboriginal people to describe, from a cultural perspective, people who are gay, lesbian, bisexual, trans or intersex. It is used to capture a concept that exists in many different Indigenous cultures and languages. For some, the term two-spirit describes a societal and spiritual role that people played within traditional societies—such as mediators, keepers of certain ceremonies—transcending accepted roles of men and women, and filling a role as an established middle gender.

**Gender non-conforming/gender diverse/genderqueer (adjectives):** Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. They may identify and express themselves as “feminine men” or “masculine women” or as androgynous, outside of the categories “boy/man” and “girl/woman.” People who are gender non-conforming may or may not identify as trans.

**Transsexual (adjective):** A person whose gender identity differs from their sex assigned at birth. They may or may not undergo medically supportive treatments, such as hormone therapy, sex reassignment surgery or other procedures, to align their bodies with their gender identity. They may also undertake other changes to align their external attributes and appearance with their gender identity.

**Transition:** The process by which a trans individual seeks to achieve consistency with their gender identity and which may, but not necessarily, include changing the person’s body through hormones and/or surgical procedures. It is important to recognize that the transition to living in a way that is consistent with one’s gender identity can look different for each person. For many, the transition process involves some combination of social transition, hormonal transition and/or surgical transition, but for others it may not.

**Transitioning:** Refers to a host of activities that some trans people may pursue to affirm their gender identity. This may include changes to their name, sex designation, dress, the use of specific pronouns and possibly medically supportive treatments, such as hormone therapy, sex-reassignment surgery or other procedures. There is no checklist or average time for a transition process, and no universal goal or endpoint. Each person decides what meets their needs.

**Transphobia:** The aversion to, fear or hatred or intolerance of trans people and communities. Like other prejudices, it is based on stereotypes and misconceptions that are used to justify discrimination, harassment and violence toward trans people.

## Other Terms

**Sexual orientation:** Sexual orientation describes human sexuality, from gay and lesbian to bisexual and heterosexual orientations. A person’s gender identity is fundamentally different from and not related to their sexual orientation. Because a person identifies as trans does not predict or reveal anything about their sexual orientation. A trans person may identify as gay, lesbian, queer, straight, bisexual or asexual, just as people who do not identify as trans.

**Intersex (adjective):** A term used to describe a person born with reproductive anatomy, chromosomes and/or hormones that are not easily characterized as male or female. This might include a woman with XY chromosomes or a man with ovaries instead of testes. Intersex characteristics occur in one out of every 1,500 to 2,000 births. Typically, intersex people are assigned one sex, male or female, at birth. Some intersex people identify with their assigned sex, while others do not. Some choose to identify as intersex. Intersex people do not typically identify as transgender or transsexual.

**Cross-dresser:** A person who, for various reasons, wears gender atypical clothing. They may or may not self-identify as a cross-dresser. Cross-dresser tends to refer to men with sometimes strong preferences for clothing, often those worn by women.

**Bona fide:** A term meaning “made in good faith without fraud or deceit.”

As language will no doubt continue to evolve, it will be important to continue to re-visit and reaffirm the continued relevance of these definitions for use in a Canadian context, particularly as culturally appropriate definitions continue to emerge. But what is most important to remember is that the language we use with trans participants should be respectful both in the words we use and the tone in which they are conveyed. Additional information about appropriate language is available in the section titled Creating Trans Inclusive Policies and Practices, and in the Appendix.

# A Short Introduction to Sex and Gender

For a long time, we have operated on the assumption that human diversity comes in two major categories: male and female. We have developed a number of our societal structures and institutions based on this assumption, sport being one of them. We now know that human diversity is not limited to male and female. In fact, these notions of “male” and “female” are complex social constructs largely made up of two separate continuums that are often confused—that of sex and gender.

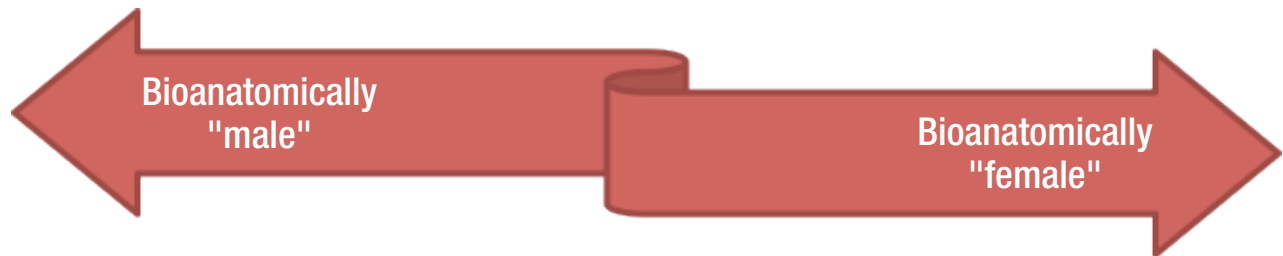
## The Sex Continuum

When we’re talking about “sex,” we’re talking about:

- Number and type of sex chromosomes;
- Type of gonads—ovaries or testicles;
- Sex hormones;
- Internal reproductive anatomy (such as the uterus in females); and
- External genitalia.

While most individuals are born with male typical or female typical anatomy and hormonal function, intersex conditions blur these categories. These are conditions wherein there may be ambiguity of both anatomy and/or hormonal profile that challenge the traditional categorization into male and female categories. They represent points along the sex continuum. It is estimated that one in 100 individuals has anatomy and/or physiology differing from the stereotype.<sup>16</sup>

### Sex



## The Gender Continuum

“Gender,” is about:

- One’s internal sense of self as a man, woman, both or neither; and

“Gender expression” is about:

- One’s outward presentations and behaviours related to that perception.

Building on these assumptions about sex, we also tend to assume that those born towards the traditional male end of the sex continuum also identify their gender as a man, or toward the masculine end of the gender continuum. We use this assumption every time that we assign a gender to a child at birth. For example, if a baby has external male genitalia, we say that they are male, or a boy (a male-assigned gender).

This assumption has stood for a long time because it is accurate for a large portion of the population and because, as a society, we tend to like simple categories.

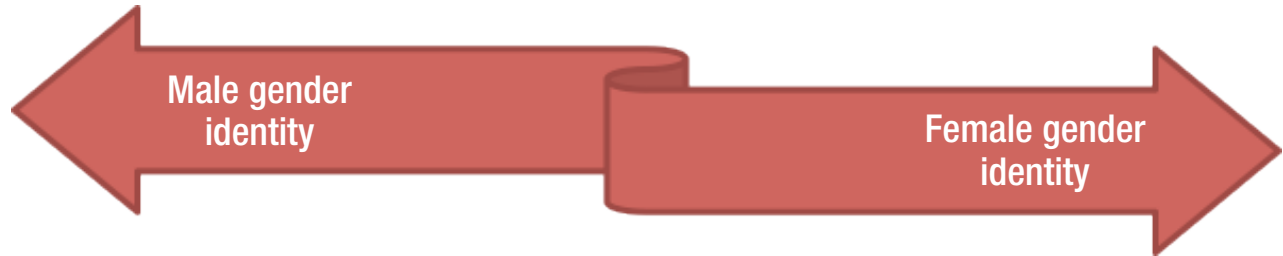
However, for an estimated 1 in every 200 children, this assumption proves to be incorrect.<sup>17</sup> Somewhere between 18 months and three years of age, children begin to develop a sense of self and come to understand their own gender

<sup>16</sup> Intersex Society of North America. Access at: [www.isna.org/faq/frequency](http://www.isna.org/faq/frequency).

<sup>17</sup> Ayden I. Scheim, Greta R. Bauer (2015). Sex and Gender Diversity Among Transgender Persons in Ontario, Canada: Results From a Respondent-Driven Sampling Survey. *Journal of Sex Research*. Vol. 52, Iss. 1.

identity. Just as there is a continuum for sex, there is a continuum for gender identity. Many people identify as either a man or a woman. However, others may identify, to varying degrees, as both a man and a woman or may not identify with either gender category. The way that individuals may identify at any point along this gender continuum is another dimension of our human diversity.

## Gender



For the purposes of this guidance, we will focus on policies and practices that support the participation of **trans men** and **trans women** in Canadian sport. In other words, we will focus on the participation of individuals whose gender identity is different from the gender assigned at birth.

While our focus will be on trans participants in sport, it is helpful to recognize that for many individuals, notions of sex and gender are not so clear. Many individuals do not identify with any place on the gender continuum. These individuals may identify as a male or female, non-binary, gender non-conforming and/or genderqueer. Similarly, individuals may identify as trans and choose to go by gender-neutral pronouns, such as *they* and *them* instead of *his*, *her*, *he* or *she*.<sup>18</sup>

## Respecting Everyone's Individual Gender Journey

Each individual experiences gender differently. Each trans person may make different choices about how they express their gender identity at different points in their personal and sporting life. For some, this may mean keeping their gender identity private. For others, this journey may include a period of transition from presenting as one gender, to another.

Transition (the process by which an individual comes to live consistently with their gender identity) involves a series of highly personal decisions and can look very different for different people. For some, transition can be a social process. This might involve coming out as trans to friends, family and teammates, and presenting outwardly in a way that is consistent with their gender identity.

Other individuals may choose to undergo hormone therapy, which will introduce bodily changes that may help those individuals feel more aligned with their gender identity and may make it easier for them to present socially as the gender with which they identify. For some, the transition process may include surgery, although surgery is currently undertaken by less than a quarter of trans individuals, according to a recent US survey.<sup>19</sup>

It is important for sport organizations to understand that each individual is different. There is no single transition process and each person will make different choices about: how they choose to live their true gender; how they present their gender socially; to whom they disclose personal information; and, whether they undertake hormonal or surgical transitions, at various points in their life.

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<sup>18</sup> Additionally, individuals may use “ze” and “zir” as gender-neutral pronouns.

<sup>19</sup> Ayden I. Scheim, Greta R. Bauer (2015), pp. 2–3.

Sport organizations can, and must, support the individual's participation in sport as they navigate their own personal journey around gender identity.

In order for us to create sporting environments that are truly inclusive, it is important to realize that if an individual does not fit our ingrained assumptions about sex and gender, it is up to sport to adapt, not the individual. As a society and a sporting community, we now have ample experience, evidence and understanding to recognize that the experiences of trans individuals are real and represent an important element of our broader human diversity. With this knowledge, we need to be careful not to place the impetus on trans individuals to adapt to a system that was not designed with them in mind. Instead, we, as the people who make and shape the sport system in Canada, have an interest and a responsibility to look at our policies and structures and find ways to reflect the lived experience of all Canadians. When we look at what changes are needed in sport—profound though some may seem—all are certainly within the realm of possibility for each and every sport organization in Canada.

## Creating Trans Inclusive Policies and Practices

This section will address what organizations can do to create a more inclusive sport environment through best practices, which build on important earlier work by a number of groups, including the Ontario Human Rights Commission, the Canadian Teachers' Federation, The 519, the Government of Alberta, the NCAA and the Victorian Equal Opportunity & Human Rights Commission (Australia). More detailed guidance from these organizations is available in Appendix A.

The Expert Working Group emphasized the importance of sport organizations framing their policies and practices from an inclusion-first perspective. Instead of focusing only on eligibility criteria, which can sometimes have a tone of *keeping people out of sport*, inclusive policies and enlightened best practices have the potential to affirm and encourage individuals to *participate* in sport rather than feeling marginalized or unwelcome. These policies and practices should address issues that affect trans participants, but not be exclusive to them.

By proactively implementing best practices, sport organizations can demonstrate that they are prepared to support *everyone*, in having a positive sporting experience.

There are a number of best practices that sport organizations need to think about as they work to make their organizations and their sport more inclusive. These include best practices related to the verbal and emotional environment, as well as the physical environment, as each has a significant impact on making *everyone* feel included and supported.

First and foremost, organizations will benefit from assigning responsibility for implementing best practices to a specific leader, or safe contact, in the organization. This person could become the key contact person for individuals seeking support, and also be responsible for overseeing the implementation and ongoing work towards the best practices outlined below, and the policy guidance that follows.

Additional information and guidance on each of these best practices is found in Appendix A.

## Best Practices that Foster a Positive Verbal and Emotional Environment for All

- 1. Ensure that key organizational documents proactively state the organization's intention to be inclusive.**

These documents would include bylaws, strategic frameworks (vision, mission and values), policies relating to ethics and conduct (including prohibited grounds for discrimination), employment policies and employment agreements, policies governing athletes and coaches, including athlete agreements, and other orientation materials.
- 2. Enquire about and respect an individual's right to determine their preferred name and gender markers.**

All individuals have the right to be addressed by their chosen name and to choose pronouns that align with their gender identity and/or gender expression. This is true whether or not the individual has obtained legal documentation of a change of name or gender designation.
- 3. Ensure that information gathered from all participants is necessary and appropriate. Avoid seeking information, unless it is truly relevant, that might unwittingly oblige individuals to divulge personal information.**

Ensure that the questions asked of participants are truly necessary, especially if the questions could reveal someone's trans identity (that is, before asking about legal name, gender or medical information, ensure it is a legitimate and necessary request). If a legal name is necessary, ask for it as well as the name by which they prefer to be called.
- 4. Maintain information and records in a way that respects an individual's right to privacy and confidentiality.**

Ensure that administrative processes are organized to be able to change a participant's name and gender when needed, and protect an individual's trans status. No information should be given out concerning someone's gender identity or stage of transition status, without the individual's express consent.
- 5. Ensure all written materials and websites use inclusive language and images.**

Organizations should ensure that all written and online materials demonstrate their commitment to trans inclusion.
- 6. Have clear and documented organizational processes in place that respond to participants' individual needs.**

There should be discrete and informed processes to assist athletes at various stages of transition. Individuals have different needs, and the support that works for one person may not work for another. Organizations should ensure that organizational supports are available and tailored and adapted to the individual needs of participants. For example, organizations can work with trans participants to develop an individual transition plan that outlines how the organization will support the individual during transition. More information is available in Appendix A.
- 7. Provide learning opportunities that build the capacity of staff, volunteers, participants and spectators to understand and support diverse gender identities and gender expressions.**

Organizations are also encouraged to participate in and/or sponsor awareness training on trans issues for everyone involved in their sport, especially those in positions of leadership and authority. In addition to this guidance, additional educational resources are available in Appendix B.

## Best Practices that Foster a Positive Physical Environment for All

- 8. Providing safe access to washrooms and change-room facilities.**

Facilities must provide gender neutral bathroom and dressing room facilities to avoid individual's or teams having to make special requests and thereby risk exposing a trans athlete. All environments should be safe and inclusive.



**9. Ensure uniforms and dress codes respect an individual's gender identity and gender expression.**

A flexible and gender-inclusive uniform or dress code recognizes that all participants have the right to dress in a manner consistent with their gender identity or gender expression.

**10. Avoid forms that capture unnecessary information, such as declaration of gender, and ensure that when such information is required that categories be inclusive.**

When creating forms, consider whether information about gender is critically important to the service being provided. It is important for organizations to consider why they are asking for this information, be it for entry categorization or for demographic or reporting purposes. If they do require this information, the organization is expected to communicate the purpose, to respect and abide by each person's right to self-define their gender, and to maintain confidentiality.

In addition to implementing the above best practices, sport organizations should also have clear processes in place for dealing with complaints and disputes. Additional information on this is available in Appendix A.

## Eligibility Considerations

In addition to the above best practices, sport organizations will also need to clarify their eligibility requirements for trans participants. The following section outlines the Expert Working Group's guidance on eligibility considerations at the developmental and recreational level, and the high-performance level. Policy guidance is provided on three types of eligibility requirements, which need to be considered when developing a policy that includes trans participants. That is, in order to participate in sport at different levels, should trans individuals be required to:

1. Undergo hormone therapy?
2. Disclose their trans status to the sport organization?
3. Undergo surgical intervention?

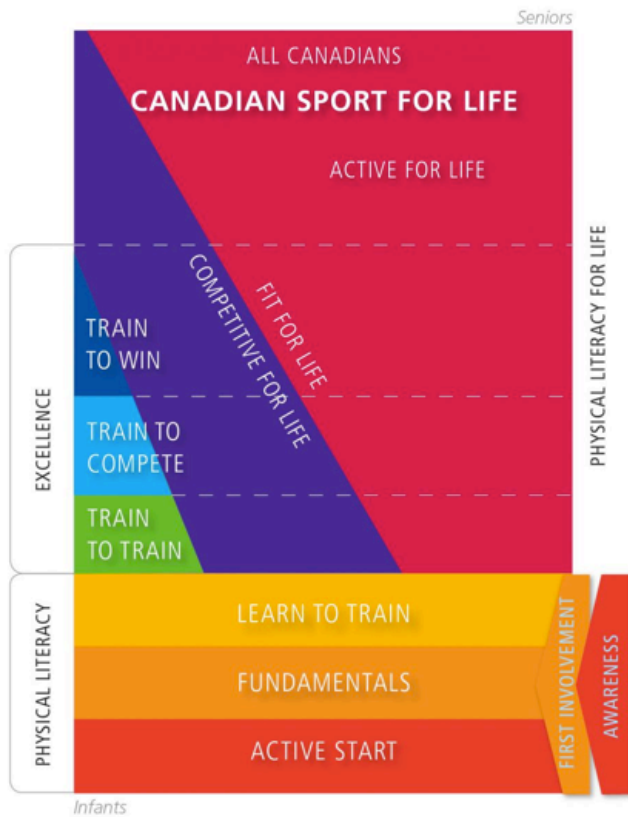
The guidance also addresses the issue of "competitive advantage" in sport as this is central to many of the debates about trans inclusion in sport.

Taking the level of competition into consideration is critical, and should be explicitly referenced in any inclusion-first policy. Recognizing this, the Expert Working Group felt the considerations at the recreational and development sport level were much more straightforward than those at the high-performance level. Consequently, this section on eligibility has been divided into two parts: the first addresses policy guidance for recreational and development sport; the second addresses additional considerations for high-performance sport.

This policy approach is aligned with the Long-Term Athlete Development (LTAD) model, which identifies seven stages of development:

- Active Start: Development of basic movement skills (generally 0–6 years)
- FUNdamental: Improving movement competency (generally girls 6–8, boys 6–9)
- Learn to Train: Acquiring sport skills (generally girls 8–11, boys 9–12)
- Train to Train: Developing capabilities to progress (generally girls 11–15, boys 12–16)
- Train to Compete: Challenging to national podium performances and representing Canada internationally (generally girls 15–21, boys 16–23)

- Train to Win: Competing at the highest level internationally, challenging for medals (generally girls 18+, boys 19+)
- Active for Life: Participating in sport and physical activity for competition, fitness, or recreation (any age participant).



The Expert Working Group advised that policy guidance for recreational and developmental sport should be applied to Active Start, FUNdamentals, Learn to Train, Train to Train and Train to Compete (until international federation rules become a factor), together with Active for Life, which includes Competitive for Life and Fit for Life. The policy guidance on high-performance sport should apply to Train to Compete (once international federation rules become a factor), and all those in Train to Win. As this LTAD graphic demonstrates, these high-performance stages make up a small minority of sport in Canada.

The following sections look more specifically at policy guidance for the developmental, recreational and high-performance levels of Canadian sport.

## Developmental and Recreational Sport

For the vast majority of sport in Canada—sport that is focused on recreation and athlete development—the policy guidance and the accompanying rationale is simple. The human right of non-discrimination and the True Sport Principles of *Include Everyone*, *Stay Healthy*, *Keep It Fun* and *Respect Others* mean that everyone should be welcome to participate in sport as they are and in the gender with which they identify.

### Policy Guidance #1:

Individuals participating in developmental and recreational sport, that is LTAD stages Active Start, FUNdamental, Learn to Train, Train to Train, Train to Compete (until international federation rules apply) and Active for Life, should be able to participate in the gender with which they identify and not be subject to requirements for disclosure of personal information beyond those required of cisgender athletes. Nor should there be any requirement for hormonal therapy or surgery.

### Rationale for Policy Guidance #1

An inclusion-first philosophy that is in line with human rights law means that no one is excluded, and everyone is included as they are, unless there is a reasonable and bona fide requirement that dictates otherwise. It is a human right to be recognized as the gender with which you identify.

The Expert Working Group held strongly to the principle that the inclusion of all athletes, based on the fundamental human right of gender self-determination overrides any consideration of potential competitive advantage at these stages of the LTAD. Requiring someone to modify their body through hormone therapy in order to meet sport’s definition of a “boy,” “girl,” “man” or “woman” to be able to participate at these LTAD stages is invasive and cannot rationally be justified at these levels, unless there is a reasonable and bona fide requirement that dictates otherwise.

The issue of safety was considered. The EWG felt that any risk to safety based on size or strength should be controlled by establishment and adherence to weight or skill categories rather than by exclusion based on gender identification. Most sports do not currently regulate other participants based on their size, strength or weight to ensure safety (that is, a cisgender female basketball player would not be prohibited from playing just because she was a foot taller than everyone else in the league) and, therefore, a sport should not do so for trans participants. In sports for which size, strength or weight do pose safety concerns, self-regulation through competitive categories based on these variables (for example, boxing weight classes) is an option.

Overall, the Expert Working Group did not feel there was a reasonable rationale that would require trans participants to make any changes to their bodies whatsoever in order to participate fairly at these LTAD stages in the gender with which they identify. (Note: More detailed information on hormonal therapy and surgery can also be found under policy guidance #2 and #4, respectively.)

Nor did the Expert Working Group feel that there was a justified requirement for a trans participant to disclose their trans status to a sport organization at these stages, unless they willingly choose to do so. (Note: More detailed information on disclosure can also be found under policy guidance #3.)

It is also very important that sport organizations set policies that are level appropriate, and not a reflection of requirements at the next level of competition. For example, high school athletics should adopt a policy that is appropriate for high school participants. Their policy should NOT be based on the requirements at the next level of competition, for example, having eligibility requirements for high school athletics which reflect more stringent criteria set by university or college athletic associations. Each participant has the right to decide for themselves if they wish to meet the eligibility requirements set at each subsequent level of competition. It is important that high-performance policies do not trickle down and restrict individuals who wish to participate in developmental and recreational sport. (Note: More detailed information on extra-jurisdictional eligibility can also be found under Other Considerations below.)

## High-Performance Sport

The inclusion-first philosophy continues to apply when developing policy at the high-performance level. While the True Sport Principles of *Play Fair* and *Go For It* receive greater consideration at this level, it remains important to start from the assumption that it is a fundamental human right for everyone to be recognized in the gender with which they identify. Nor should there be any requirement for disclosure of trans status.

Any sport wanting to introduce an eligibility clause, such as an obligation to take hormones for a specified time, would be obliged to provide evidence that this requirement is reasonable and bona fide.

From this starting point, the following section provides background information, policy guidance and rationale on hormone therapy, and disclosure to appropriate individuals within the sport organization at the higher performance levels. It also addresses surgical intervention, which has recently been removed from the International Olympic Committee's (IOC) consensus on trans athletes<sup>20</sup> and is no longer considered a valid requirement at any level of sport.

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20 IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism November 2015. Access at: [www.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf).

## Understanding Policy Guidance on Hormone Therapy

### Policy Guidance #2:

Hormone therapy should not be required for an individual to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, in the gender category that is consistent with their gender identity, unless the sport organization can prove that hormone therapy is a reasonable and bona fide requirement.

Hormone therapy is seen as a hugely important treatment option for those whose gender identity is different from their assigned sex. As previously noted, not every trans individual will decide to, or have the option to, undergo a hormonal transition. According to a recent study of trans individuals in Ontario, only 30% overall of trans individuals were not using hormones. Older individuals and transfemales were more likely to access hormones.<sup>21</sup> For the majority of trans individuals, hormone therapy is an important part of their transition process. It can offer significant relief to the psychological discomfort, while simultaneously making it easier for individuals to be recognized socially as the gender with which they identify. Elective hormone therapy may include the initiation of puberty blockers such as leuprolide (Lupron), temporarily arrests further pubertal development and can be initiated in the early stages of puberty (Tanner 2-3) according to the World Professional Association of Transgender Health Standards of Care (version 7).<sup>22</sup> It may also include the administration of cross-sex hormones (testosterone to assigned-at-birth females or estrogen to assigned-at-birth males) in doses that mimic natural puberty.

While most individuals who socially transition undergo hormone therapy, individuals may choose not to do so for a number of reasons, which could include:

- 1. Some people do not want to undergo hormone therapy.** It is important to remember that each individual has the right to choose their own approach. An individual's personal choice to not use hormones does not make them any less trans nor do these choices change their right to be recognized as the gender with which they identify—man, woman, both or other.
- 2. Difficulty accessing or tolerating hormone therapy.** Even though trans individuals have a number of clear treatment options, individuals often have a difficult time finding a doctor who is able or willing to help them.<sup>23</sup> Even for individuals who are able to access medical practitioners who are qualified to supervise hormone therapy, treatment can be expensive and may not be a viable option for everyone. And in some cases, discomfort with the potential or actual side effects experienced with hormone therapy may make this option untenable.<sup>24</sup>

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21 Scheim AI, Bauer GR. Sex and Gender Diversity Among Transgender Persons in Ontario, Canada: Results From a Respondent-Driven Sampling Survey. *The Journal of Sex Research* 2015; 52(1): 1-14.

22 Conceptually, pubertal maturation can be described in terms of sequence, timing, and tempo (Puberty consists of a series of predictable events, and the sequence of changes in secondary sexual characteristics has been categorized by several groups. The staging system utilized most frequently is that published by Marshall and Tanner and the sequence of changes is commonly referred to as "Tanner stages". Access more information at: [www.childgrowthfoundation.org/CMS/FILES/Puberty\\_and\\_the\\_Tanner\\_Stages.pdf](http://www.childgrowthfoundation.org/CMS/FILES/Puberty_and_the_Tanner_Stages.pdf).

23 Trans Pulse. Trans Health Advocacy Summit (August 2012). Improving the Health of Trans Communities: Findings from the Trans PULSE Project. Presentation. Access at: [www.transpulseproject.ca/wp-content/uploads/2012/08/Trans-Health-Advocacy-Summit-2012-Results-vFINAL.pdf](http://www.transpulseproject.ca/wp-content/uploads/2012/08/Trans-Health-Advocacy-Summit-2012-Results-vFINAL.pdf).

24 Ontario Human Rights Commission. Policy on Preventing Discrimination Based on Gender Identity and Gender Expression, pp. 43–44. Access at: <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

## Policy Background

Hormone therapy is at the centre of significant policy discussions and debate around how to ensure that trans participants are fairly included in sport environments. There is significant difference between sport organizations in how hormone therapy is handled in eligibility policies, and in almost all instances some part of the policy is controversial.

### NCAA Policy on Trans Student-Athlete Participation

1. A trans male student-athlete... may compete on a men's team, but is no longer eligible to compete on a women's team... “
2. A trans female student-athlete being treated with testosterone suppression medication... may continue to compete on a men's team but may not compete on a women's team... until completing one calendar year of testosterone suppression treatment.”

The recent (November 2015) IOC consensus meeting stated that female trans athletes must undergo hormone therapy for a minimum of one year before they are eligible to compete. This is a change from the IOC's Stockholm Consensus (2003) which required trans athletes be on hormone therapy for at least two years before being eligible. This aspect was contentious as there is no direct scientific evidence suggesting that two years are required in order for any physiological changes to be sustained.

The 2011 NCAA policy views one year of hormone therapy as an appropriate transitional time for trans athletes before they are able to compete fairly in sport as the gender with which they identify. The basis of this NCAA policy is some early evidence that androgen deprivation and cross sex hormone treatment reduces muscle mass.

Unfortunately neither the IOC's 2015 consensus meeting nor the NCAA policy is supported by direct scientific evidence that hormone levels significantly and consistently impact athletic performance. Research has not been done to make this determination.<sup>25</sup> Whereas it is recognized that lean body mass (LBM) appears to at least partially explain the differential between elite female and male athletes in terms of their athletic performance, there is no direct scientific

data to link this parameter exclusively to testosterone levels per se. This assertion was supported by the July 2015 ruling by the Court of Arbitration for Sport on the Dutee Chand case, which found that “there is no available evidence...as to the quantitative effect on female athletic performance of levels of endogenous testosterone...”<sup>26</sup> There are other biological as well as environmental factors such as limb length and body shape, access to superior training, socioeconomic level that contribute to accomplishment in sport. Moreover, in instances where strength, stamina or physique can be proven to provide direct and significant advantage in a particular sport, organizations have the ability to account for this through competitive categories specific to these advantages (for example, boxing weight classes, weightlifting categories, etc.).

Based on this background and available evidence, the Expert Working Group felt that trans athletes should be able to participate in the gender with which they identify, regardless of whether or not they have undergone hormone therapy. Exceptions could be made if a sport organization is able to provide evidence that demonstrates hormone therapy is a reasonable and bona fide requirement (i.e., a necessary response to a legitimate need) to create a fair playing field at the high-performance level.

## Rationale for Policy Guidance

There is a persistent, ingrained assumption in sport, based on comparison of athletic achievement, that individuals whose biology and physiology are at the male end of the sex spectrum have a competitive advantage over individuals whose biology and physiology are at the female end of the sex spectrum (that is, that men are generally faster, stronger and better at sport than women). Indeed, the Dutee Chand v. Athletics Federation of India (AFI) & The International Association of Athletics Federation (IAAF) case accepted that “male athletes have a competitive advantage over female athletes to the order of 10–12%.”

25 Bermon et al. (2014). Serum Androgen Levels in Elite Female Athletes, *The Journal of Clinical Endocrinology & Metabolism*. 99:11.

26 Court of Arbitration for Sport. July 24, 2015. Interim Arbitral Award, p.150. Access at: [www.tas-cas.org/fileadmin/user\\_upload/award\\_internet.pdf](http://www.tas-cas.org/fileadmin/user_upload/award_internet.pdf).

In recognition of this assumption, the EWG, in developing this policy guidance at the high performance levels, considered the potential for competitive advantage for trans women athletes who choose to not undergo hormonal intervention. Specifically, the EWG acknowledges the concern that trans women athletes who grew up biologically male and who do not undergo hormonal intervention may be at a competitive advantage when competing in high-performance women's sport. Nonetheless it is recognized that transfemales are not males who became females. Rather these are people who have always been psychologically female but whose anatomy and physiology, for reasons as yet unexplained, have manifested as male. The EWG therefore, in parallel with the Dutee Chand decision, opt against any ruling that might render a female ineligible to compete due to intrinsic factors that are beyond their control.

As such, the EWG felt that the policy guidance stated above is the best choice for sport organizations in Canada for the following reasons:

**1. We currently lack the scientific evidence to directly and consistently connect endogenous hormone levels with athletic performance.**

While we can observe that participants in men's sport, on average, out-perform participants in women's sport, current science is unable to isolate why this is the case. Growing up male likely confers physical, hormonal, social and economic factors that contribute to this performance gap, but we cannot say that it is specifically due to testosterone in a way that is significant and predictable. More precisely, there is no empirical data to demonstrate that the administration of luprelide and/or estrogen to a trans women athlete would neutralize this observed advantage. As a result, it seems it would be difficult to argue that hormone therapy is a reasonable and bona fide requirement in response to a human rights challenge.

Although there are studies that demonstrate a positive correlation between testosterone levels and measures such as lean body mass, red blood cell counts and muscle mass, these can only be considered *indirect* contributors to performance.<sup>27</sup> There have not been any studies that look at hormone levels as they correlate to objective measures of athletic performance (for example, time trials, weight lifted, goals scored, etc).<sup>28,29</sup>

**2. Individuals have the right to be recognized as the gender with which they identify, unless there is evidence to support other reasonable and bona fide requirements.**

Canadian human rights law states that in order for an institution to make discriminatory requirements (requirements of one segment of the population that are different from others) or place restrictions, they must be able to demonstrate on a balance of probabilities (more likely than not) that this is reasonable and necessary to achieve a specific purpose, and will not impose undue hardship (the bona fide requirement test) on the individual.

More specifically, organizations must demonstrate that:

- there is irresolvable conflict with a competing principle (in this case, that of a fair playing field);
- all other options have been considered; and
- it is the least restrictive option, short of undue hardship.

Most sports do not currently have an evidence base that is likely to pass this test. There is simply not the evidence to suggest whether, or to what degree, hormone levels consistently confer competitive advantage, or are effective at modifying performance in a way that meaningfully levels the playing field.

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27 Gooren, LJJ, Bunck MC (2004). Transsexuals and Competitive Sport? *European Journal of Endocrinology*. 151(4):425-9.

28 This is true, with the exception of data extracted from doping programs in female athletes in the former German Democratic Republic. These studies are often discredited based on the lack of consent of participants.

29 Andy Brown. June 12, 2015. Sports' Gender Policies: An Affront on Human Rights. The Sports Integrity Initiative website. Access at: [www.sportsintegrityinitiative.com/sports-gender-policies-an-affront-to-human-rights/](http://www.sportsintegrityinitiative.com/sports-gender-policies-an-affront-to-human-rights/).

This analysis suggests that if a sport can demonstrate a consistent discrepancy in performance based on male advantage that cannot be controlled through the existence of competitive categories or other arrangements, it could make the case for requiring trans participants to undergo hormone therapy. The onus of proof, however, will rest entirely with the sporting organization.

### 3. Trans individuals are currently vulnerable in our society.

They face much higher than average instances of discrimination, harassment and exclusion.<sup>30</sup> It is critical that our sport system demonstrate openness and inclusivity that is consistent with sport's most fundamental principles. Trans participants must be welcomed into sport in a way that is neither discriminatory nor disproportionately burdensome to them, specifically where there is no evidence to justify additional burden.

## Additional Considerations for Sport Organizations

This is an instance where two rights may be in competition with each other, and in such instances it can be difficult to predict how any rights-based challenges might play out in court. Case law in Canada has not yet ruled on how the right to self-identified gender is reconciled with the right of individuals to fair competition. However, the governments of Australia and the UK have specifically declared that in order to require participants to make changes to their bodies—through hormone therapy or other requirements—sport organizations must be able to demonstrate, through evidence, that the requirements are *absolutely prerequisite* to fair competition.

While the interpretation of this *bona face* requirement in Canada will need to be tested through case law, sport organizations should consider their ability to justify that it is the least restrictive option, short of undue hardship, any requirements made of trans participants that are not the same requirements for other participants.

Ultimately sport organizations will need to determine for themselves how they will navigate this policy area in light of not yet having clear evidence to make the decision obvious. Organizations should recognize that without clear evidence they are at risk of legal challenges from trans athletes who may challenge discriminatory requirements that compel them to undergo hormone therapy to compete. It is also possible that, in the absence of these requirements, cisgender female athletes may challenge the organization on fair access to opportunities and fair competition.

This puts sport organizations in a challenging position, one that will be aided hopefully in the coming years by additional research and legal challenges that are forthcoming.

**A note of caution:** It is recognized that an unintended consequence of this policy guidance on hormone therapy for high-performance sport may be that a trans individual consider, or be pressured to consider, delaying the use of hormone therapy in order to realize some perceived or real competitive advantage in their sport. This is of particular concern for trans youth who would otherwise benefit from the early initiation of hormone therapy. Delaying this intervention will allow natural feminization or masculinization to occur. These changes are irreversible and will in many cases make it harder, more complicated, less effective and potentially more expensive for the individual to reconcile their physical bodies with their felt gender. This increases the likelihood of being routinely and systematically mis-gendered (i.e. not passing as their preferred gender) and is a risk factor for a host of negative outcomes, including violence, depression and suicide. As such, any suggestion from a sport organization, or an individual associated with that organization, to delay the onset of hormone therapy to gain a perceived or real competitive advantage would be extremely unethical and indeed potentially damaging to an individual's long-term well-being. An explicit and prominent strategy must be implemented to educate athletes, parents and coaches about this concern. This would include a policy or code of conduct statement prohibiting this behaviour and imposing appropriate sanctions in the event that this code is transgressed.

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<sup>30</sup> Ontario Human Rights Commission (2014). Policy on preventing discrimination because of gender identity and gender expression: Section 4. Bias and prejudice. Access at: [www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/4-bias-and-prejudice](http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/4-bias-and-prejudice).

## Understanding Policy Guidance on Disclosure and Evidence Requirements

### Policy Guidance #3:

Individuals should not be required to disclose their trans identity or history to the sport organization in order to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, unless there is a justified reason requiring them to do so.

Most high-performance policies that address eligibility requirements for trans participants stipulate a requirement for hormone therapy and/or surgery, and participants are, therefore, required to disclose their trans identity or history to the organization, and provide evidence that they meet these requirements. For example, in the NCAA, it is recommended that trans participants provide a letter to the director of athletics, including a letter from a physician documenting prescribed hormonal treatments.<sup>31</sup>

However, the policy guidance provided by this Expert Working Group recommended that all individuals should be able to participate in sport in the gender category with which they identify without being required to undergo any kind of medical intervention. As a result, a sport organization would not need to know an individual's trans identity or history and as such, disclosure would not be required. In some cases, however, trans participants will feel it necessary to disclose their trans status to the organization in order to move from one competitive gender category to another during transition.

In situations where high-performance international eligibility requirements for trans athletes are more stringent, the onus would be on the trans athlete to demonstrate they meet the requirements for participation.

In the same way as organizations should have proactive policies in place at the recreational and development levels, so too should organizations have clear policies at the high-performance level. Policies should include the same transparent, safe process by which trans participants are able to disclose their trans identity or history to the organization, if they choose to do so. By proactively putting this process in place, trans participants may be more likely to engage with the organization, which in turn would help the organization ensure that adequate support is provided to the individual, and allow a proactive approach to being ready to respond effectively to any challenges concerning trans eligibility.

### Rationale for this Policy Guidance

This policy guidance is based on two considerations:

- 1. Default to protecting the privacy of the individual.** An individual's trans identity or history is part of their personal medical information and they should not be required to disclose it, unless there is a specific, justified reason to do so. Unwanted or inadvertent disclosure may be a breach of privacy legislation.
- 2. Without need to verify hormone therapy, there is no rationale for requiring disclosure to the sport organization.** The policy guidance presented in this document does not recommend that organizations place eligibility requirements that require individuals to undergo hormone therapy. As such, in the absence of a direct challenge, there is no foreseen instance in which a sport organization would require an individual to disclose their personal medical information.

Exceptions may include instances where an athlete subject to doping control requires a Therapeutic Use Exemption (TUE) for use of testosterone related to hormone therapy, and/or where a participant wishes to transition while still training and competing in their sport. These instances might naturally lead to a situation in which an athlete would choose to disclose information to sports administrators, teammates and coaches, but would likely not require a specific policy requiring them to do so. Instead, open policies that invite disclosure in these instances might be more suitable.

<sup>31</sup> NCAA Office of Inclusion (2011). NCAA Inclusion of Transgender Student-Athletes. p. 14. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).



## Understanding Policy Guidance on Surgical Intervention

### Policy Guidance #4:

Surgical intervention should not be required for an individual to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, in the gender category that is consistent with their gender identity.

Some trans individuals may choose to undergo some form of surgery as part of their transition process. Examples include gonadectomies (removal of the testicles or ovaries), chest reconstruction or augmentation mammoplasty (removal or enlargement of the breasts), hysterectomy (removal of the uterus) and genital reconstruction surgeries. While surgery may be an important part of the transition process for some, it is critical to remember that many trans individuals choose not to, or do not have the resources to, undergo surgery. The largest survey of trans individuals in the US found that 20% to 25% of trans women underwent surgery, while only 21% of trans men had a hysterectomy and 6% had genital surgery.<sup>32</sup>

There are a number of reasons why an individual may choose not to undergo a major, invasive surgery such as those that may be associated with transition. A few of these are:

1. **Some people do not want surgery.** For these individuals, surgery is simply not part of their transition plan. This does not make them any less trans, nor does it change their right to be recognized in the gender with which they identify.
2. **Surgery is expensive and may have long wait times.** In some provinces and territories, the cost of the surgery can be covered by health insurance, but other provinces have no financial assistance available to trans individuals wanting to undergo surgery as part of their transition process. Assessment for surgery and surgery wait times vary by province/territory but can take any number of years.<sup>33</sup>
3. **No surgery is risk free.** Most surgery options related to transition, including gonadectomies and hysterectomies, are highly invasive and come with health risks, especially for those with pre-existing health concerns.
4. **Surgery is invasive.** The health, societal and political implications of requiring an individual to undergo this type of surgical experience in order to be eligible to participate fully in our society are profound and should not be taken lightly.
5. **In many cases, surgery results in sterilization.** Forfeiting the ability to reproduce is not a small decision. Furthermore, policies that require surgery effectively force the sterilization of trans people, and run a high risk of being found in violation of international and domestic human rights laws and standards.

From the International Olympic Committee's consensus meeting on sex reassignment:

*To require surgical anatomical changes as a pre-condition to participation is not necessary to preserve fair competition and may be inconsistent with developing legislation and notions of human rights.  
(November 2015)*

<sup>32</sup> Ayden I. Scheim, Greta R. Bauer (2015). pp. 2–3.

<sup>33</sup> For example, the government of Ontario recently introduced measures to reduce wait times for assessment and surgery as the current wait time is at least two years. Access at: [www.theglobeandmail.com/news/national/ontario-to-expand-medical-referrals-for-sex-reassignment-surgery/article27146437](http://www.theglobeandmail.com/news/national/ontario-to-expand-medical-referrals-for-sex-reassignment-surgery/article27146437).

## Policy Background

In the past, organizations around the world have adopted different policies on the requirement for trans individuals to undergo surgery in order to be eligible to participate in sport as the gender with which they identify. In November 2015, the IOC convened a scientific consensus meeting, which amended their Stockholm Consensus on Sex Reassignment in Sports.<sup>34</sup> As noted earlier, the IOC no longer advises international sport organizations to require trans athletes undergo surgery to be eligible to compete in their sport.

However, at the time of writing, a number of international sport federations, including the IAAF, have not yet changed their policies that continue to require surgical intervention.<sup>35</sup>

The requirement for athletes to undergo surgery has been contested for years by a number of groups and remains highly controversial from a human rights perspective.<sup>36</sup> These groups point to the fact that there is a lack of scientific evidence that connects anatomy and performance. They further argue that, without conclusive evidence, surgery does not meet the legal test of being a reasonable and bona fide requirement and, therefore, is against human rights law. It seems that the IOC now agrees with these groups, as it cites human rights as one of the drivers for its amended consensus statement.<sup>37</sup>

There are a number of other trans policies—including those of the NCAA in the United States and the Canadian Collegiate Athletic Association (CCAA) in Canada—that have rejected this requirement, and do not require surgery for trans individuals to participate in sport. These policies have recognized that surgery is not necessary in order to achieve competitive fairness for trans participants.

The Expert Working Group felt very strongly that surgical intervention should not be required for an individual to participate in sport at any level, in the gender category that is consistent with their gender identity.

**To be absolutely clear:** No sport organization should require an individual to undergo surgery for any reason. Any suggestion from a sport organization, or an individual associated with that organization, that an individual should pursue gender-affirming surgery would risk violating human rights law and may be considered a significant form of discrimination.

## Other Considerations

### Complying with the Canadian Anti-Doping Program (CADP)

All athletes who are subject to doping control must be aware of the TUE rules and requirements that apply to them and, where necessary, apply for an exemption to ensure compliance with the World Anti-Doping Code requirements. The relevant rules and requirements will vary depending on the athlete's level of competition and will determine when and to which organization an athlete must submit a TUE application. Trans athletes subject to doping control are encouraged to seek out information in confidence from the CCES to determine whether a TUE is required and, if so, work with their physician to complete the necessary documentation and submit this to the CCES.<sup>38</sup>

34 International Olympic Committee (2003). Statement of the Stockholm Consensus on Sex Reassignment in Sports. Access at: [www.olympic.org/documents/reports/en/en\\_report\\_905.pdf](http://www.olympic.org/documents/reports/en/en_report_905.pdf).

35 IAAF POLICY ON GENDER VERIFICATION (2006), Prepared by the IAAF Medical and Anti-Doping Commission 2006. Access at: [www.oii.org.au/wp-content/uploads/2009/01/iaaf\\_policy\\_on\\_gender\\_verification.pdf](http://www.oii.org.au/wp-content/uploads/2009/01/iaaf_policy_on_gender_verification.pdf)

36 Griffin, P., & Carroll, H. J. (2010). On The Team: Equal Opportunity for Student Athletes. p. 12. Access at: [www.wiaa.com/ConDocs/Con550/TransgenderStudentAthleteReport.pdf](http://www.wiaa.com/ConDocs/Con550/TransgenderStudentAthleteReport.pdf).

37 International Olympic Committee (November 2015). IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism. Access at: [www.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](http://www.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf).

38 More information on TUEs, including the process by which to apply, is available from the CCES at: [www.cces.ca/medical-exemptions](http://www.cces.ca/medical-exemptions).

## **Complying with Extra-jurisdictional Policies on Trans Eligibility**

There are a number of policies regulating the eligibility of trans athlete participation in sport that may be more or less inclusive than the policies developed by Canadian sport organizations. This is particularly true for those competitions governed by international sport organizations, within Canada and abroad, in which trans athletes, at the more advanced stages of their sport's long-term athlete development model, are currently competing in or may do so in the future. Just as each athlete has the right to make their own personal decisions about where they compete, so too will each trans athlete. For competitions where eligibility requirements are more onerous than those of the trans athlete's own sport organization in Canada, the decision on whether or not to comply and compete lies with the athlete. In addition, the Expert Working Group hoped that all Canadian sport organizations will outline clear and enforceable expectations with respect to eligibility in order to ensure trans athletes are fairly considered for selection, regardless of the possibility for current or future personal decisions.

Over time, the Expert Working Group hopes that all international sport policies on trans eligibility will become more inclusive and evidence-informed. In the meantime, sport organizations can play a role in advocating for changes to policies that they feel are unfair, discriminatory and damaging to their trans athletes.

## **Gender Fluid and Gender Non-Binary Athletes**

The Expert Working Group recognized that not all people identify within the sex/gender binary as either male or female, man or woman. Additionally, not everyone experiences their gender identity as constant. As such, the Expert Working Group considered the possibility of individuals moving between men's/women's teams more than once, or simultaneously participating on a men's team in one sport and the women's team in another.

Given the Expert Working Group's consensus that all individuals should be welcome to participate in sport in accordance with the gender with which they identify without having to undergo medically supportive treatments, it was agreed that the above policy guidance should apply equally to gender fluid or gender non-binary individuals. Unless a sport organization can provide evidence that hormone therapy is a reasonable and bona fide requirement, these individuals should be able to participate in the gender with which they feel most comfortable and safe, which may not be the same in each sport or consistent in subsequent seasons. The Expert Working Group's inclusion-first approach suggested that the onus is on sport organizations to adjust to become more inclusive of participants who are gender fluid or gender non-binary. Further, it was noted that existing procedures around try-outs and general eligibility would inhibit individuals from repeatedly moving between men's and women's teams during a season due to a perceived or real competitive advantage (for example, failing to make the playoffs in one team and so moving to the other later in the season).

## Summary of Policy Guidance on Eligibility

In summary, the Expert Working Group provided the following policy guidance:

1. Individuals participating in developmental and recreational sport, that is LTAD stages Active Start, Fundamentals, Learn to Train, Train to Train, Train to Compete (until international federation rules apply) and Active for Life, should be able to participate in the gender with which they identify and not be subject to requirements for disclosure of personal information beyond those required of cisgender athletes. Nor should there be any requirement for hormonal therapy or surgery.
2. Hormone therapy should not be required for an individual to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, in the gender consistent with their gender identity, unless the sport organization can provide evidence that hormone therapy is a reasonable and bona fide requirement.
3. Individuals should not be required to disclose their trans identity or history to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, unless there is a justified reason requiring them to do so.
4. Surgical intervention should not be required for an individual to participate in high-performance sport, that is LTAD stages Train to Compete (once international federation rules become a factor) and Train to Win, in the gender category that is consistent with their gender identity.

## Concluding Thoughts

As our awareness and understanding of trans issues grows, an increasing number of children, youth and adults are choosing to participate more visibly and fully in society in a way that is consistent with their gender identity. This includes sport. For Canadian sport organizations, it is not if, but when, you will be asked to help a trans participant to navigate your sport. Sport organizations in Canada have the choice to be proactive, and to take steps now to ensure that your organization is inclusive and welcoming to everyone.

In addition to the policies and processes that can help make your sport more inclusive, awareness and education are essential to creating an inclusive verbal and emotional environment in which everyone can be authentic. To the extent that organizations are able to invest in training and awareness resources and opportunities, Canadian sport will benefit. This guidance is a starting point.

This document captures language and best practices that are relevant right now. It is important that sport organizations stay informed and up to date as language and practices evolve and change. Sport organizations will benefit when they are able to ground their inclusive practices in the direct experiences of trans participants. Everyone will benefit when sport organizations are active and engaged allies, helping to make sport safe, open and welcoming to all.

The Expert Working Group welcomes feedback on this guidance document, as well as sharing success stories and learnings from those working on trans inclusion in Canadian sport. This knowledge and experience may be used to inform future resources and guidance.

Please contact the CCES: [info@cces.ca](mailto:info@cces.ca) or 613-521-3440.

# Appendix A: Best Practices

## Best Practices: Verbal and Emotional Environment

### 1. Ensure key organizational documents proactively state the organization's intention to be inclusive.

All sport organizations in Canada are subject to provincial and territorial human rights laws, which are designed to protect against discrimination on the grounds of sexual orientation, gender identity and gender expression. It does no harm, and in fact it achieves a great deal of good, for a sport organization's governing documents to reinforce that the organization does not discriminate on the basis of legislatively protected grounds. Rather than creating a separate inclusion policy, the preferred option is to ensure existing organizational documents explicitly reference the organization's commitment to inclusive practices and the respect of human rights.

These documents would include bylaws, strategic frameworks (vision, mission and values), policies relating to ethics and conduct (including prohibited grounds for discrimination), employment policies and employment agreements, policies governing athletes and coaches, including athlete agreements, and other orientation materials.

Sample wording for a fully inclusive statement might be:

*"Sport organization X is an inclusive organization and welcomes full participation of all individuals in our programs and activities, irrespective of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability."*<sup>39</sup>

The Victorian Equal Opportunity & Human Rights Commission<sup>40</sup> in Australia makes the following recommendations:

- Review and update existing policies and procedures to ensure that they comply with the respective human rights and legal obligations (at the provincial/territorial levels, as well as federally) to provide equal opportunity for all people, including trans people. The policy should:
  - clearly state that discrimination, prejudice and victimization on the basis of personal attributes, including gender identity (and gender expression in some provinces), is a violation of human rights;
  - include general information about gender identity discrimination;
  - include a statement about diversity and welcoming people from a range of backgrounds as part of the organization's core values;
  - address rights and responsibilities in all areas that are relevant to your organization;
  - if relevant, include information on competitions and state that where a trans person is seeking to participate in a competition, the organization will facilitate participation;
  - provide details about how to get more information or raise any complaints or concerns under the policy.

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39 Personal correspondence between Jennifer Birch-Jones and Rachel Corbett, Sport Law and Strategy Group, January, 16, 2014.

40 Victorian Equal Opportunity & Human Rights Commission. (2015). Guideline: Transgender people and sport > Complying with the Equal Opportunity Act 2010. Access at: [www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/ea-practice-guidelines/item/1125-guideline-transgender-people-and-sport-complying-with-the-equal-opportunity-act-2010](http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/ea-practice-guidelines/item/1125-guideline-transgender-people-and-sport-complying-with-the-equal-opportunity-act-2010).

## 2. Enquire about and respect an individual's right to determine their preferred name and gender markers.

All individuals have the right to go by the name and pronoun that they choose. Ask all individuals, both trans and cisgender, what name and pronoun they wish to use. If the person is changing their name and/or pronoun, ask them when they would like others to start using their new name and how they would like you to communicate this information to others.<sup>41</sup>

The 519 *Creating Authentic Spaces* resource provides the following advice on the misuse of names and pronouns:

The misuse of pronouns and names occurs when a trans woman is referred to with male pronouns (i.e., he, his) or a trans man is referred to with female pronouns (i.e., she, her). This can happen by mistake but it can also be done deliberately. If someone doesn't "believe" that a trans woman or trans man is a "real" woman or man, they will enforce their prejudice on that person by continuing to use the wrong pronouns. See page 26 of *Creating Authentic Spaces* for further discussion on this topic.

Insisting on calling someone by their legal or birth name is very similar to insisting on using the wrong pronouns. It demonstrates that you are not allowing this person to proceed through their transition. No one has the right to take that process away from anyone. This is also considered a form of harassment...<sup>42</sup>

The resource also helps organizations understand how they might proceed if they do mistakenly use the wrong name or pronoun:

Using the wrong name and pronouns is hurtful. If you do use the wrong name or pronouns, quickly correct yourself. Afterward, consider approaching the person privately to let them know that you want to be respectful and would like their direction on how to go about correcting or apologizing in the moment. Also ask how you can support them if and when you witness other people making mistakes. Here is an example of something you could say:

*"I realize I made a mistake with your name/pronoun. I want to be respectful and supportive, so what is the best way for me to do that? Would you like me to apologize in the moment, or correct myself without drawing attention to the mistake? Would you like me to deal with other people who might make the same mistake? If so, would you like me to address the issue in the moment or pull the person aside and give them a reminder?"*

Remember that disclosing someone's trans identity, even if by mistake, can put them at risk of harm or harassment. It is important to practice using the right name and pronouns. Practice in your head and practice with other people who are likewise aware. Ensure you hold each other accountable.<sup>43</sup>

## 3. Ensure that information gathered from all participants is necessary and appropriate. Avoid seeking information, unless it is truly relevant, that might unwittingly oblige individuals to divulge personal information.

Ensure the questions you ask of participants are truly necessary, especially if those questions could reveal someone's trans identity. Consider whether there is a legitimate need to collect information about sex/gender. If yes, consider asking for this information in a secure and confidential way. Provide options beyond male/female, or allow people to self-identify their sex or gender identity. The option of a blank box, for example, is the most inclusive.

It is important to create an environment in which trans participants have full control over the disclosure of their trans status, and where they can choose to self-identify or not, depending on what they feel is best for them.

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41 Ontario Human Rights Commission (2014). Appendix C: Best practices checklist, pp. 58–60. Access at: [www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/appendix-c-best-practices-checklist](http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression/appendix-c-best-practices-checklist).

42 The 519. *Creating Authentic Spaces: A Gender Identity and Gender Expression Toolkit to Support the Implementation of Institutional and Social Change*, p. 13. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

43 The 519. *Creating Authentic Spaces: A Gender Identity and Gender Expression Toolkit to Support the Implementation of Institutional and Social Change*, p. 27. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

It is important to recognize that all individuals have the right to decide for themselves to whom they disclose personal information regarding their transition, and this includes an individual's trans identity or history. Policies or forms that require individuals to disclose their trans identity or history to sport organizations could be seen to disproportionately burden trans participants and could even be a violation of human rights.<sup>44</sup>

Increasingly, trans youth are being able to choose to transition earlier in their development, allowing them a more seamless and easier transition process. Sport organizations are likely to experience increasing numbers of trans participants whose trans identity or history may not be known to those around them (in some cases, including their parents/guardians). As such, it is important for sport organizations to seriously consider to what extent, and for what purpose, they would ask questions that could disclose trans identity or history (for example, legal name, sex, etc.).

Participants may need to disclose their status to a sport organization in order to move from one team to another, or they may choose to disclose their trans status for other reasons. Sport organizations need to be prepared to receive this information and provide appropriate support and confidentiality. A policy statement that proactively welcomes trans participants and outlines a clear process and point of contact through which to disclose personal information, is a good start. This statement should clearly reinforce confidentiality and articulate the policies and processes in place to support trans participants.

The Victorian Equal Opportunity & Human Rights Commission in Australia makes the following recommendations:

- You need to be able to show you need the information for a legitimate and lawful purpose:
  - when seeking information from trans people, including any identity documents, you should be aware that some may have inconsistent information appearing on their records due to barriers imposed by policies and practices, and by legislation.
- Your organization may have an obligation to comply with either federal or provincial/territorial privacy and/or human rights law, which may include a legal duty not to disclose a person's gender identity or birth-assigned sex.

#### **4. Maintain information and records in a way that respects the rights to privacy and confidentiality.**

Ensure that administrative processes are organized in order to be able to change participant's name and gender when needed, and protect individual's trans status. No information should be given out concerning someone's gender identity or stage of transition status to anyone, anytime, without express permission.

Sport organizations have a legal and moral responsibility to maximize the privacy and confidentiality of any information related to a trans person's gender identity. A person's trans history and medical information is private and confidential, and should be shared only as necessary to meet the person's needs, and with that person's explicit consent. In addition to being a violation of their privacy, disclosing someone's trans status without their permission has the potential to put them in danger. People who identify as trans are often at an increased risk of emotional, physical and sexual violence and harassment than cisgender (non-trans) people.<sup>45</sup>

Policies should explicitly state that a trans individual's privacy and confidentiality will be respected, should they choose to identify themselves to the organization, or seek organizational support.

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<sup>44</sup> In addition to human rights protection, provinces and territories also have specific privacy protections that are relevant to disclosure requirements and protection of this information by the organization.

<sup>45</sup> The 519 (2015). *Creating Authentic Spaces: A Gender Identity and Gender Expression Toolkit to Support the Implementation of Institutional and Social Change*. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

The Victorian Equal Opportunity & Human Rights Commission in Australia makes the following recommendations:

- You need to be careful about how you manage this information once you have collected it. As a general rule, you should:
  - only collect the information with consent and after you have explained why you need it and how you will use it.
  - only use information about the status of a trans person's sex or gender transition/affirmation to assess whether an exception may be relevant.
  - restrict access to the information to the people who "need to know."
  - store the information securely to protect it from misuse, loss or unauthorised disclosure.
  - make sure that any communication about the information is private.
  - destroy the information when it is no longer required.

The NCAA (2011) emphasizes the importance of training individuals as a means of ensuring use of proper terminology and protecting confidentiality:

- Protecting the privacy of trans athletes must be a top priority for all sport organizations and staff, particularly when in the presence of the media. All medical information shall be kept confidential in accordance with applicable federal/provincial/territorial privacy and human rights laws.
- All sport organizations or athletes' representatives (sports information departments and personnel, administrators, team members and coaches) who are authorized to speak with the media should receive information about appropriate terminology, use of names and pronouns, and the organization's policies regarding the participation of trans individuals in sport.<sup>46</sup>

**5. Ensure all written materials and websites use inclusive language and images.**

Make sure all your written and online material demonstrates your commitment to trans inclusion.

**6. Have clear and documented organizational processes in place that respond to participants' individual needs.**

There should be discrete and informed processes to assist athletes at various stages of transition. Individuals have different needs, and the support that works for one person may not work for another. Organizations should ensure that not only are organizational supports available, but that they are tailored and adapted to the individual needs of participants.

One reason that a trans participant may choose to disclose their trans identity to a sport organization is if they have decided to transition and wish to change the gender category in which they participate. In this instance, it is helpful if the organization has guidelines in place *before* a transitioning participant comes forward.

Organizational guidelines should provide clear direction for administrators, coaches and others on how to help transitioning individuals, while still recognizing the obligation to consider each individual's unique situation and needs.

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46 NCAA (2011). NCAA Inclusion of Transgender Student-Athletes, p. 21. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).



Having such a document in place sends a signal to everyone that transitioning individuals will be supported.

The Ontario Human Rights Commission recommends that guidelines should include:

- A lead contact person to assist the transitioning individual;
- What a transitioning individual can expect from the organization;
- Expectations of administrators, coaches and others, as well as the transitioning individual in facilitating a successful transition in sport;
- Related policies and practices for assisting with the transition process, such as: washroom policies, dress code policies, confidentiality and privacy, recognizing the person's chosen name and pronouns in documentation and records, anti-harassment policies, dealing with any individual accommodation needs as well as training for administrators, coaches and other participants.

Organizations should also have a process in place for working with a transitioning participant to develop an individual transition plan. Working together, the sport organization and the participant may wish to create a plan to address what, if any, accommodations are needed related to the transition process. Each trans person's situation will vary, and an individual transition plan will make clear how the organization can support the needs of the particular person.

The Ontario Human Rights Commission provides guidance on what an individual transition plan should include:

It can be useful to discuss timelines and dates when the participant would like to:

- Be addressed by their new name and new pronoun;
- Begin expressing their gender identity through clothing or other outward expression;
- Use washroom and other facilities in their lived gender identity;
- Take time off from training or competition for any medical treatments related to their transition, if needed.

The plan should also address:

- When and how any related records, documents and databases will be updated to reflect the person's new name and affirmed gender (for example, human resources and administrative records, email and phone directories, etc.);
- If, when and how other participants, coaches, teammates, referees and others will be informed of the person's new name and affirmed gender identity;
- Anti-harassment planning, which is a simplified process to deal quickly and effectively with any harassment the transitioning participant may experience;
- When and how training for other participants, coaches, teammates, referees and others will be provided to help them understand the transition process, if appropriate;
- How the sport organization will show support for the transitioning participant, if appropriate.

## **7. Provide learning opportunities that build the capacity of staff, volunteers, participants, and spectators to understand and support diverse gender identities and gender expressions.**

This guidance, including the more detailed information on best practices in Appendix A, is an educational resource that sport organizations can use. Additional resources can also be found in Appendix B.

## Best Practices: Physical Environment

### 8. Providing safe access to washrooms and change-room facilities.

Facilities must provide gender neutral bathroom and dressing room facilities to avoid individual's or teams having to make special requests and thereby risk exposing a trans athlete. All environments should be safe and inclusive.

Organizations have a responsibility to protect the right for everyone to access facilities based on their gender identity, regardless of the preferences or negative attitudes of others. It is a best practice for organizations to provide privacy options that anyone in a change room may use (for example, add curtains or stalls around showers and changing areas).

The Victorian Equal Opportunity & Human Rights Commission in Australia makes the following recommendations:

- If you encounter resistance from others about the use of toilets and facilities:
  - Meet with them to discuss their concerns and attempt to resolve the issue
  - Remind them that you both have legal obligations to prevent discrimination and that this includes allowing transgender people to use the appropriate facilities
- In most situations, allowing trans people to use toilets and facilities that are appropriate to their affirmed gender should not affect others and not allowing them to do so may be distressing for the individual and potentially unlawful
- When you are building or upgrading toilets and change room facilities – you can help to meet your positive duty obligations by creating an environment that will help prevent discrimination. Try to create private spaces for everyone to use rather than large open areas.

**Note:** Should a cisgender person remain uncomfortable about sharing toilets and facilities with a trans teammate, it is the cisgender person who can seek out alternate arrangements and not the trans person. All too often, accommodation is at the expense of the trans person when, in fact, the reverse is required if trans discrimination is to be avoided.

The NCAA (2011) provides additional advice around competitions and hotel rooms:

- **Competitions**—If a trans athlete requests a particular accommodation to ensure access to appropriate changing, showering or bathroom facilities, administrators and coaches, in consultation with the trans athlete, should notify the competition coordinator prior to competition to ensure that the athlete has access to facilities that are comfortable and safe. This notification should maintain the athlete's confidentiality. Under no circumstances should an athlete's identity as a trans person be disclosed without the athlete's express permission.
- **Hotel rooms**—Trans athletes generally should be assigned to share hotel rooms based on their gender identity, with a recognition that any athlete who needs extra privacy should be accommodated whenever possible (and at no extra cost to them).

### 9. Ensure uniforms and dress codes respect an individual's gender identity and gender expression.

A flexible and gender-inclusive uniform or dress code recognizes that all participants have the right to dress in a manner consistent with their gender identity or gender expression.

Do not base dress codes on gender stereotypes, and apply codes consistently to all people, regardless of their gender identity or expression. Identify that everyone may dress (including uniforms) in accordance with their gender identity or gender expression.

**10. Avoid forms that capture unnecessary information such as declaration of gender and ensure that when such information is required that categories be inclusive.**

When creating forms, consider if information about gender is critically important to the service provided. It is important to consider why you are asking for this information. If you do require this information, your organization is expected to respect and abide by each person's right to self-define their gender.<sup>47</sup>

Forms can be made more inclusive by removing assumptions. For example:

- If you must ask for someone's legal name, also provide a space for their preferred or chosen name;
- If any paperwork has a question that legitimately requires a person's biological sex information, provide a blank space that allows them to self-identify their gender.<sup>48</sup>

Recognize a trans person's preferred name and gender in all administrative systems and documents (including hard copies and electronic). Undertake system reviews to identify how electronic databases, IT systems and other relevant information processes can be modified to recognize a person's gender identity and chosen name when it does not match legal documents.

## Enforcement, Complaints and Disputes

It is important that sport organizations have inclusive policies in place that set clear expectations for everyone involved in the sport. It is also helpful for them to be clear about the consequences should these policies not be followed.

The NCAA (2011) policy provides the following guidance on enforcement and non-retaliation:

- **Enforcement**—Any member of a sport organization who has been found to have violated that organization's policy by threatening to withhold athletic opportunity or harassing any individuals on the basis of their gender identity or expression, or by breaching medical confidentiality, should be subject to disciplinary action, up to and including discharge or expulsion from the organization. The sport organization should take appropriate remedial action to correct the situation. Any member of the sport organization who becomes aware of conduct that violates the policy should report the conduct to the appropriate person within the organization.
- **Retaliation**—Retaliation is specifically forbidden against anyone who complains about discrimination based on gender identity or expression, even if the person was in error. Sport organizations should take steps to prevent any retaliation against any person who makes such a complaint.

The Victorian Equal Opportunity & Human Rights Commission in Australia makes the following recommendations about dealing with complaints about harassment or discrimination:

- Have an effective complaints process and respond appropriately if discrimination occurs. An internal complaints process can be strengthened by:
  - including information about the complaints process in any equal opportunity policy;
  - ensuring that the person(s) hearing the complaint are impartial and independent (that is, free of any conflict of interest);
  - dealing with complaints in a way that is fair, prompt, transparent and confidential;

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<sup>47</sup> The 519. Creating Authentic Spaces: A Gender Identity and Gender Expression Toolkit to Support the Implementation of Institutional and Social Change, p. 33. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

<sup>48</sup> Ibid., p. 31. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

- listening to the complainant in an open and impartial way;
- keeping complaints confidential;
- communicating about the progress of complaints; and
- ensuring that the person who has made a complaint or their friends or relatives are not victimized because they made a complaint.

Additionally, sport organizations may want to consider how it might deal with any complaints about “gender impostors” in high-performance sport. It is important to recognize that cheating of this type—presumably men masquerading as women in order to achieve a perceived advantage in women’s sport—is unprecedented and considered highly unlikely. Indeed, it is one of the more enduring stereotypes and false assumptions around trans participation in sport.<sup>49</sup>

Despite the low probability of occurrence, organizations need to be able to protect their sport from unethical behaviour and malicious intent of all kinds. It is important for each sport organization to have in place a transparent and multi-levelled complaint and appeals process that:

- requires reasonable grounds to consider malicious intent;
- provides discrete and measured responses to complaints;
- is based not on biological factors (sex), but rather on psychosocial parameters (gender);
- recognizes self-determination as a valid measure of gender identity; and
- extends trans individuals the benefit of the doubt.

Organizations will need to carefully consider whether any complaint about a trans individual’s authenticity is well founded and merits further consideration through a more formal appeals process. If a complaint is based on the complainant’s disagreement with the organization’s policies on trans inclusion, and/or their own personal beliefs regarding gender identity, it should not be further considered.

## Training and Awareness

In order for sport organizations to create safe, inclusive environments for trans participants, it is essential that everyone involved in sport be aware of trans issues, and how they can contribute to making sport a more positive experience for everyone.

The NCAA (2011) and the Victorian Equal Opportunity & Human Rights Commission in Australia provided the following advice:

Educate all members of the sport organization (including staff, athletes, coaches and parents) about policies governing the participation of trans athletes in sport, trans identity, preferred terminology and confidentiality requirements.

- Ensure athletes/players and staff members (administrators, coaches) are trained and aware about discrimination, including discrimination on the basis of gender identity, such as:
  - Training about legal rights and responsibilities, gender identity issue to address any myths and misconceptions;

<sup>49</sup> Victory Equal Opportunity & Human Rights Commission. Website (2015). Guideline: Transgender people and sport > Complying with the Equal Opportunity Act 2010. Access at: [www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/eoa-practice-guidelines/item/1125-guideline-transgender-people-and-sport-complying-with-the-equal-opportunity-act-2010](http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/eoa-practice-guidelines/item/1125-guideline-transgender-people-and-sport-complying-with-the-equal-opportunity-act-2010).

- Consider including guidelines and other information about discrimination and the organization’s policies in any registration and induction materials;
- Continue to raise awareness about discrimination and the organization’s policies at least once a year and consider providing training on discrimination every two years.
- Examine communications between the organization’s staff and new or existing athletes/players, including language between players during matches. Consider the following:
  - While sport generally prides itself on the principles of fairness and positive team values, sport can also be a hostile environment where teasing, bullying or ridicule occurs;
  - Sport organizations and those who may observe or have control over these communications, such as administrators and coaches, should set clear expectations about respectful communication and the consequences of disrespectful communication or other behaviours.

While dealing with spectator behaviours may be difficult to control and won’t necessarily give rise to legal liability, there are steps an organization can take to prevent players experiencing discrimination in the form of verbal abuse from spectators.

- Provide statements wherever possible—such as in terms and conditions of entry, signs or policies—that outline that discrimination and discriminatory verbal abuse on the basis of protected attributes, including gender identity and gender expression, will not be tolerated at sporting events;
- While it may not be possible to include detailed information about discrimination in terms and conditions on ticketing information (e-tickets), organizations can limit the information by simply outlining that discrimination of any kind will not be tolerated;
- Outline the repercussions if discriminatory behaviour does occur; and
- Ensure the organization has staff and processes in place to respond appropriately to any incidents.

## What Does Allyship Look Like?

The 519 resource *Creating Authentic Space* has a very useful section on being an ally. The extent to which sport organizations can adopt an ally perspective, the more they will be able to create inclusive spaces for everyone.

### **Taking Responsibility and Being an Effective Ally**

*As with all movements for equality, trans movements need allies and supporters. It is important to understand that trans allies and supporters should take their lead from trans people. It is also important to understand the role that an organization can take to support trans-inclusive behaviour.*

*To be an effective ally, an organization should understand how it can work with and for trans people. When working toward trans inclusion, the lived, daily experiences of trans people should be at the forefront of those discussions. In what ways can an organization better serve its employees and participants?*

What does allyship look like? It includes the following:

### **Compassion and empathy**

A really great first step in supporting people is to demonstrate simple compassion and empathy.

Ask someone how their day went or how they are doing, and really care about the answer. Build relationships, and create welcoming and kind social environments; everyone needs a place to sit and talk sometimes.

### **Active listening**

It is difficult to provide support when you have not taken the time to hear and clarify someone's needs. Listen without judgement, and respect and affirm what someone is saying to you. Don't be afraid to ask clarifying questions.

### **Providing support**

People who identify as trans are strong and have been doing this work for a long time, but they do need support. Validate trans people in this fight, and take cues from them. When a trans-identified person discusses a way that you can provide support, if you don't agree with it, take the opportunity to understand where they are coming from. When conceptualizing how to provide support, imagine what it means to stand in front of someone, beside someone, and behind them.

### **Facilitating frank and upfront discussion**

If you are aware of employees or service users who identify as trans, consider approaching them privately to ask if they would feel safe having open discussions about their experiences with your organization. If so, take any feedback seriously. If they do not wish to speak directly with you or the organization's management, ask if they might consider speaking with an outside facilitator or holding a separate focus group. Make sure that any information provided is kept confidential and their privacy is protected.

Additionally, don't automatically defer to one trans person's view on any situation. Trans and other gender non-conforming people and communities are wonderful, complicated, and diverse. It is important that any decisions made by your organization are respectful of difference.

### **Learning about cisgender privileges**

Compared with trans people, cisgender people can have very different experiences in their lives. They don't necessarily know what it is like to have to fight for the right to be addressed in a particular way or what it is like not being able to use the washroom due to fear of harassment or violence. Think about the ways in which your position as a cisgender person gives you power and privilege every day.

### **Maintaining openness and a willingness to learn**

Invest time and energy into learning about trans issues within your organization and the broader world. The more you know, the more effective an ally you can be. If someone addresses an issue with you, listen and be willing to learn. No one is perfect and that is okay.

### **Saying something**

If you witness transphobia, don't ignore it. Say or do something about it. Don't put yourself at risk, but do try to figure out a way to address the issue. Can you address the issue in the moment? If not, wait until a safe time. Can you address the person who is being transphobic? If not, talk to a manager or a co-worker (a colleague) and strategize about ways to address the matter.

### Thinking big

Being an ally to trans people doesn't stop at working against transphobia. Just like identities, oppressions intersect, so while addressing transphobia, you can also address instances of racism, classism, and sexism (to name just a few).

Make being an ally a verb. It is about listening, learning, and acting.<sup>49</sup>

The NCAA (2011) also provides specific best practices to help coaches and athletes be better informed, more able to take responsibility for being allies, and actively creating positive sporting environments for everyone.<sup>51</sup>

## Best Practices for Coaches

Best practices for coaches focuses on acquiring knowledge about trans athletes, understanding legal and ethical obligations, maintaining professional conduct and ensuring that those with whom coaches work are also educated and aware of these issues.

1. Become knowledgeable about your organization's non-discrimination and harassment policies that include gender identity and expression.
2. Become knowledgeable about your organization's policy regarding the participation of trans athletes in sports.
3. If your organization does not have a policy addressing the participation of trans athletes, ask your executive director to create one.
4. Educate athletes/players on your team/in your organization about trans identity, inclusive language and the organization's policies regarding the participation of trans athletes in sports.
5. Be prepared to talk with parents of athletes/players about trans athletes' participation in sports.
6. Use respectful and inclusive language and terminology when discussing trans athlete participation or interacting with a trans athlete.
7. Anticipate and address trans athlete access issues proactively and in accordance with the organization's policy regarding locker room use, toilet and shower availability, hotel room assignment, uniforms and dress codes.
8. Recommend that coaches' associations to which you belong adopt fair and inclusive policy statements addressing the participation of trans athletes.
9. Recommend that coaches' associations to which you belong sponsor educational programs that address the participation of trans athletes.
10. If you are aware of discriminatory or harassing behaviour from opposing teams, spectators or teammates based on the perceived or actual gender identity or expression of an athlete/player/coach, talk to your director, league offices and/or the opposing coach (when applicable).

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50 The 519 (2015). Creating Authentic Spaces: A Gender Identity and Gender Expression Toolkit to Support the Implementation of Institutional and Social Change. Access at: [www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces](http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces).

51 The NCAA guidance also has best practices guidance for athletics administrators. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).

11. Respect the right to privacy of all athletes regarding their own personal information (including whether an athlete is trans) when discussing gender identity and expression, and understand that all personal and/or medical information must be kept confidential, in accordance with applicable federal/provincial/territorial privacy and human rights laws.

## Best Practices for Athletes

Best practices for athletes who have trans teammates focus on respectful behavior, safety and valuing diversity.

1. Use respectful and inclusive language and terminology when discussing trans athlete participation or interacting with a trans teammate.
2. Become familiar with the organization's policy governing the participation of trans athletes in sports.
3. Learn about the organization's non-discrimination and harassment policies that include gender identity and expression.
4. Encourage other athletes to use respectful language when discussing trans issues in sports or interacting with a trans athlete.
5. Respect the right to privacy of all athletes regarding personal information (including whether an athlete is trans) when discussing gender identity and expression.
6. Ask your coach and director for the organization's educational training concerning trans athlete participation.
7. If taunting or harassment from spectators or opponents occurs during competition, take the approach that these actions are never acceptable for any reason, including taunting or harassment based on gender identity or expression. Make your coaches and/or officials aware of discriminatory or harassing behaviour so proper actions can be taken to address the discriminatory behaviour.
8. Ask your organization to plan an activity that focuses on the participation of trans athletes in sport, and frame the issue as one of equal opportunity in sport and fair treatment for all.<sup>52</sup>

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<sup>52</sup> NCAA Office of Inclusion (2011). NCAA Inclusion of Transgender Student Athletes. pp. 17–18. Access at: [www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](http://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).



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## Trans Inclusion Policies and Guidance

### Sport Specific

**Note:** There are a wide range of trans inclusion policies developed to date for use at various levels of sport. Many of these existing policies have varying degrees of requirements, and a number of these policies have also been developed from a lens of exclusion rather than inclusion. When developing a policy, both the tone and language is important, as well as the substantive requirements. For example, good practice policies are often entitled “gender identity” not “transgender eligibility.” The sample of policy references that follow reflect a range of policies; the asterisked policies have been identified as “good” policies by Trans\* Athlete<sup>53</sup> and/or Dr. Pat Griffin.<sup>54</sup> However, the absence of an asterisk does not mean it isn’t a good policy. For example, both policies of the provincial athletic association for Alberta and Manitoba are very progressive in tone, language and content, as are the National Intramural Recreational Sports Association (NIRSA) and International Golf Federation. The NIRSA policy guidance is also an example of a policy that provides additional guidance on best practices, serving as a further educational tool. A comprehensive listing of trans inclusion sport policies can be found on Chris Mosier’s Trans\* Athlete.com website at [www.transathlete.com](http://www.transathlete.com).

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## Other Organizational Resources

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