

New York State Public High School Athletic Association



May 21, 2024

Honorable Lester W. Young, Jr., Chancellor
Honorable Betty A. Rosa, Commissioner
New York State Education Department
89 Washington Avenue
Albany, New York 12234

Chancellor Young & Commissioner Rosa,

Over the past year, I have appreciated the opportunity to be a part of the ongoing discussions being led by the New York State Education Department (NYSED) to address equality and inclusivity in interscholastic athletic participation. The New York State Public High School Athletic Association (NYSPHSAA) is certainly supportive of regulatory revisions focused on creating equity and equality in interscholastic athletic participation such as the proposed amendments to Sections 135.1, 135.4, and 135.5 relating to Mixed Competition and Extra Class Athletic Activities.

Respectfully, however, I would like to share some concerns raised by NYSPHSAA member schools relating to Mixed Competition and the Athletic Placement Process and offer recommendations. We feel these recommendations will improve the proposed amendments thus ensuring our member schools are able to implement the regulations as intended and provide valuable interscholastic participation opportunities for all students.

The following items represent areas of concern:

Significant Adverse Effect:

The proposed amendments will remove the ability of a school district and/or Section to determine if a male student-athlete will have a “*significant adverse effect*” upon the participation opportunities of female student-athletes. The ability of schools to have local authority in these cases is important and critical to ensure the integrity of female participation is maintained. NYSPHSAA member schools aim to ensure female student-athletes are not displaced by allowing unrestricted access for all male student-athletes to try out for a team when a male equivalent sport is not offered (i.e., field hockey, volleyball, gymnastics, flag football, etc.).

NYSPHSAA fully supports providing access in a less restrictive manner to female student-athletes to promote participation by the historically underrepresented gender in a fair competitive environment. NYSPHSAA also recognizes that combining genders for competition purposes should be done carefully and cautiously to avoid negatively impacting female participation opportunities.

NYSPHSAA recommends adopting an objective criterion for determining “*significant adverse effect*” for students and schools to rely upon when a male is interested in participating on a female team. For more than a decade, Pennsylvania has successfully utilized specific criteria for determining when teams can be mixed gendered (*PIAA Handbook: Constitution & Bylaws; Article 16 Section 4.C. Mixed Gender*



Participation); this criterion could help to resolve many issues with mixed competition participation. [See PIAA attachment]

Transgender Student Participation:

The proposed amendments (*page 5*) references “*self-identified gender*”:

“The proposed amendment requires that if no selection process is employed for participation in a particular extra class athletic activity, all students must be permitted to participate equally, regardless of self-identified gender.”

It is important to note NYS PHSAA continues to advise school districts to place students on interscholastic teams that most appropriately align with the student’s gender identity. During the Fall 2023 forums, many comments from participants centered on gender identity concerns, which are separate from mixed competition concerns. Furthermore, New York State’s anti-discrimination laws already address transgender participation.

NYS PHSAA recommends ensuring separating mixed competition amendments from transgender student participation but still allow our member schools to continue providing biological females access to male teams and biological males access to female teams when appropriate.

Uniform Team Selection Process for All Athletes:

The proposed amendments require team selection criteria to be posted on a school district’s website if equivalent male and female sports are not available (i.e., football, field hockey, gymnastics, flag football, etc.) and if a board of education utilizes the APP to allow students to move up or down. Requiring coaches to list criteria for team selection removes their ability to select their team on factors that are not easily defined such as technical ability, game, field, court awareness, physical aspects, attitude, motivation and personal traits. Additionally, providing selection criteria is going to subject the school district to additional parental criticism when students are not selected for the team. Furthermore, other school activities do not have similar requirements for selection (i.e., theatre, band, debate, choir, etc.).

NYS PHSAA recommends removing this requirement from the proposed amendments as school districts should continue to have the ability to employ coaches who can determine their team’s roster during an evaluation period.

Athletic Placement Process and Tanner Rating:

The proposed amendments remove the requirements within the Athletic Placement Process for 7th and 8th grade students to try out for the high school team. The intent of the Athletic Placement Process is to provide a protocol for those districts that choose to allow 7th and 8th grade students to move up or for 9th – 12th grade students to move down, allowing them to participate safely at an appropriate level of competition based upon physical and emotional readiness and athletic ability rather than age and grade alone.

The current Athletic Placement Process states:

“Students do not mature at the same rate, and there can be tremendous developmental differences between students of the same age. The APP is not to be used to fill positions on teams, provide additional experience, provide an opportunity for middle school or junior high students when no modified program is offered, or to reward a student. Instead, it is aimed at the few, select students who can benefit from such placement because of their level of readiness.”

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NYSPHSAA fully supports elimination of the use of the Tanner Sexual Maturity Rating as the proposed amendments state:

“The Department recommends elimination of the Tanner Scale, which is intrusive and demeaning. Instead, the Department recommends that schools use research-based factors that affect the likelihood that a student would be more susceptible to injury, including: age; kinematics/biomechanics (movement of the body); body composition (% fat, bone, and muscle in the body); previous injury; grade of competition; training load (hours per week); position played; competition or practice; strength; player experience; checking, tackling, body contact; and environmental factors.”

NYSPHSAA’s concern is who will be responsible for assessing the above factors and using the research-based factors if all students are permitted to try out with informed parental consent. With the movement towards greater specialization in youth sports, schools will be faced with an influx of students or parents who believe they are capable of trying out for a high school team before they are ready. The ability to try out for a high school team should continue to be determined by the school district and the coaches they employ, not solely by the student-athlete’s parents.

NYSPHSAA recommends removing any mention of the Tanner scale from the Athletic Placement Process and retaining the fundamental principles of this longstanding process.

I am interested in discussing these membership concerns and potential solutions with you at your earliest convenience. I appreciate your attention to this matter.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Zayas", with a horizontal line extending to the right.

Dr. Robert J. Zayas
NYSPHSAA Executive Director

Cc:
NYSPHSAA Section Directors
NYSPHSAA Officers

activities). This provision is to promote student safety in football-related activities that do not include Physical Contact.

4. Outside the PIAA-defined football season, in addition to PIAA member school sponsorship of activities defined in Section 2.A(3) of this ARTICLE, PIAA member schools may sponsor non-contact 7v7 programs provided that any participation by Coaches and/or students is voluntary.

5. In recognition of the unique circumstances within those PIAA member schools that are absent of any junior high/middle school interscholastic football program, students enrolled in and attending those member schools in grades 7 and 8 may annually participate in the out-of-season interscholastic football program organized and operated as National Football League (NFL) Junior Player Development. A student's participation shall be limited to a maximum of two weeks per year.

6. Nothing in this Section shall prevent any student from participating, up through the completion of 8th grade, on community based non-school affiliated youth fall football programs through December 31st of that fall football season.

D. Competitive Spirit.

Competitive spirit was adopted by the PIAA Board of Directors, as an opportunity to expand competitive opportunities for girls. Because of the unique elements of competitive spirit, application of certain PIAA Bylaws is not practical. To the extent inconsistent with the following, then, other PIAA Bylaws are waived:

1. Season. Competitive spirit squads may not Practice or participate in any Inter-School Practice, Scrimmage, and/or Contest on more than six days in any Calendar Week. Within that limitation, they may participate in Practices, Inter-School Practices, Scrimmages, and/or Contests at any time and at the discretion of the Principal of the competitive spirit squad's member school. There is no maximum number of Inter-School Practices, Scrimmages, and/or Contests in which a competitive spirit squad may participate.

2. Contest Officials. Competitive spirit judges do not register with PIAA. They are retained by the Tournament organizers under standards set by the Tournament organizers.

3. PIAA Championships. Annual Competitive Spirit Championships shall be held by PIAA at a date and location to be determined by the PIAA Board of Directors. PIAA may license a third party to organize and manage said Championships.

E. Open Gyms.

This activity, as defined in the Glossary, is to encourage participation in a sport. Open Gyms are limited to two hours per day and three days per calendar week outside the defined sport season during the school year.

Weight training and conditioning activities are not considered Open Gyms and may be held daily so long as they are voluntary and not compulsory.

Effective July 1, 2019: Within 10 days prior to the start of each sports season, no student enrolled at a PIAA member high school may participate in any team competition on a team on which all other players and at least one coach are also affiliated at that student's school.

Section 3. Reporting of and Procedure for Alleged Violations.

Violations of this ARTICLE shall subject the Student, Team and/or school to any and all possible penalties provided for in Sections 2 through 9 of ARTICLE XIII of the PIAA Bylaws.

Section 4. Mixed Gender Participation.

PIAA strongly supports and encourages participation by both boys and girls in interscholastic athletics. Based upon real

and demonstrable physical and competitive differences between similarly aged and trained boys and girls in athletic performances, PIAA recognizes that combining genders for competition purposes would have a chilling effect on female participation in interscholastic athletics. PIAA further recognizes that, historically, girls' participation has been much more limited than boys' participation. To promote participation by the historically underrepresented gender in a fair competitive environment, PIAA, therefore, classifies sports by gender and limits mixed gender participation as follows.

A. If a school has a Boys' Team in a sport, boys at the school are not eligible to play on the school's Girls' Team in that sport. If a school has a Girls' Team in a sport, girls at the school are not eligible to play on the school's Boys' Team in that sport. The Principal may waive this limitation for a girl seeking to play on a Boys' Team if the Principal believes that the girl's skill level is such that participation on the Girls' Team would not provide meaningful competition for the girl.

B. Girls may play on a Boys' Team if the student's school does not sponsor a comparable Girls' Team in that sport. NOTE: softball and baseball are not viewed as being comparable sports. Despite some differences in rules, boys' volleyball and girls volleyball, as well as boys' lacrosse and girls' lacrosse, are viewed as comparable sports.

C. Boys may play on a Girls' Team if the student's school does not sponsor a Boys' Team in that sport and the Principal determines that;

1. the overall boys' athletic program at the student's school provides fewer opportunities for boys to participate than for girls;

2. the boy would not displace any girl from the Team's roster;

3. the boy would likely not, due to his physical size, athletic ability, and/or other characteristics, pose an increased risk of harm to opponents beyond that which would be posed by an average-sized and skilled participating girl; and

4. the boy would not provide his Team with a significant competitive advantage (as applicable herein, this means that the boy's participation would likely cause the Team to be noticeably more competitive than it would be without the boy's participation on the Team).

In considering whether to permit participation, with regard to factors 3 and 4, above, the Principal shall be guided by the following:

a. Where there is a question as to the risk posed to opponents or to a possible significant competitive advantage to the Principal's Team, such questions should be resolved in favor of the health and safety of opponents and in favor of preventing significant competitive advantage.

b. Due to the increased risk of injury to opponents in direct contact sports (field hockey, lacrosse, soccer and volleyball), particular scrutiny should be applied by the Principal to requests in these sports.

Notwithstanding any other provision in this Section, boys are permitted to participate on a Spirit Team without Principal approval.

D. Rules applicable to Mixed Gender Teams: Because PIAA does not have a Mixed Gender classification, the following provisions govern participation by Mixed Gender Teams:

1. For Postseason purposes, Mixed Gender Teams (other than in the sport of Spirit) shall compete only in the sport classifications designated for boys.

2. For enrollment classification purposes, a Mixed Gender Team shall be classified by using the school's