

Reasoning for Amendment to MSHSL Bylaws

to define eligibility for MSHSL sex-separated sports teams by biological sex at birth

for consideration and voting by all MSHSL Member Schools in 2026 under *MSHSL Constitution §215.00*



Why propose this amendment to MSHSL Bylaws?

The MSHSL Board and State leaders newly required Member Schools to sort high school sports teams based on gender identity rather than on biological sex through Board policy passed in 2014 rather than using the Member School voting process. Many of those affected by this decision support decency and concern for athletes struggling to accept their biology while also expecting safety and fair play in girls' sports. Member Schools have opportunity to adopt this popular and lawful biology-based eligibility policy without dependence on activists, legal brinksmanship or legislative action using the Member School voting process laid out in the MSHSL Constitution.

Why propose this amendment now?

Four reasons: 1) Minnesota girls face the compromises of MSHSL's gender affirmation maximalist approach to safety and fair play whenever they compete. 2) Member Schools are in imminent jeopardy of losing federal funding after the MSHSL's year of defiance and legal battle for not adopting a Title IX compliant (biology-based) definition of sports eligibility. 3) The authority of the MSHSL to officiate rules-based events continues to erode by its own flaunting of official oversight and Member School objections. 4) Lastly, while the *West Virginia v BPJ* decision by the Supreme Court released on June 30, 2026, did not automate an eligibility change in Minnesota as it did in many other states, it resolved precedent-setting questions at the federal level that make sex-separated sports team eligibility legally acceptable in Minnesota and determine that biology-based eligibility is not discrimination based on gender identity.

What does the amendment propose to change?

1. It adds a requirement to MSHSL Bylaw 101 that students participating on sex-separated teams compete on the team consistent with their biological sex at birth. It further instructs that the attestation of eligibility document¹ that is signed by students and a parent as a condition of participation be updated to include this new requirement.
2. It repeals the MSHSL Board declaration that Member Schools must allow biological males (described as transgender girls) to compete on girls' teams and the associated appeal procedure that the MSHSL Board adopted in 2014 and 2016. Future disputes regarding eligibility related to sex or gender will be handled through the same processes that the Member School and the MSHSL Board use for other eligibility disputes.
3. It repeals the statement on DEIB that the MSHSL Board adopted in 2023 which is used to advance reinterpretations of common terms like *inclusivity*, *discrimination* and *belonging* and to require compliance with novel concepts such as *gender fairness*. Related MSHSL trainings and marketing make personal endorsement of the participation of certain males (those claiming a feminine gender identity) on female teams a condition of good sportsmanship/good standing (which is an eligibility requirement for student athletes and coaches). Future disputes regarding conduct and good standing will be evaluated using established MSHSL bylaws and policies.

¹ [Eligibility Information Brochure for MSHSL Programs](#)

Does the amendment correct the Title IX violation that jeopardizes Member Schools' funding?

Yes. In February 2025, the Minnesota Attorney General issued a legal opinion² to the MSHSL outlining his legal reasoning for why Minnesota schools and MSHSL could not bring themselves into compliance with Title IX by adopting a biology-based definition of eligibility for girls sports, saying that doing so would violate the state law (the Minnesota Human Rights Act) intended to prevent discrimination based on gender identity. Minnesota and its school districts agree to comply with Title IX as a condition of receiving federal funds and, because the state refused to bring itself into compliance under administrative enforcement, the Department of Justice sued Minnesota³ in 2026. No one knows whether or when that case will be decided, but the financial risks for all Member Schools are substantial. Adopting the proposed amendment would again permit Minnesota school districts to bring themselves into compliance with Title IX, curing the Title IX violation and presumably making the lawsuit and any fiscal disciplinary action unnecessary.

Does the amendment discriminate against athletes that assert novel gender identities?

No. A new Supreme Court decision on June 30, 2026, in *West Virginia v BPJ*⁴ established that sport team eligibility determined by biology-based definitions of sex is both compliant with Title IX and permissible under the Equal Protection Clause of the Constitution's Fourteenth Amendment. The decision further determined that defining eligibility for sex-separated teams is not a form of discrimination based on gender identity but, rather, a permissible form of discrimination based on sex because it is necessary to ensure the acceptable competing goods of athlete safety and fair competition. The proposed amendment adopts a federally-permitted definition of eligibility by birth sex which is now protected under federal civil rights law. The Supreme Court decision overrides Minnesota's previous maximalist gender affirmation arguments that were premised on framing biology-based eligibility as discrimination against transgender students under state law and settlements. Future legal activism is to be expected, but legal claims (beyond team eligibility) such as new claims regarding locker room use, bathroom use and overnight lodging accommodations will be more difficult to win under the civil rights logic established in *West Virginia v. BPJ*.

This document should not be construed as legal advice. The amendment language is for consideration by Member Schools and the support documentation is provided as a resource for anyone to review and use.

² [Minnesota Attorney General letter to MSHSL, February 20, 2025](#)

³ [United States of America v. Minnesota Department of Education; and Minnesota State High School League](#)

⁴ [West Virginia v. BPJ](#)