IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF KING

J. DOE A, in their individual capacity, and on behalf of their minor child; JANE DOE B and JANE DOE C, in their individual capacities and on behalf of their minor child; JANE DOE D, in their individual capacity and on behalf of their minor child; JANE DOE E and JOHN DOE F, in their individual capacities and on behalf of their minor child; JOHN DOE G, in their individual capacity and on behalf of their minor child; TRANSFAMILIES, a nonprofit organization; and WASHINGTON EDUCATION ASSOCIATION, a nonprofit organization,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

No.

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Contact Information for Individual Plaintiffs' Counsel Found Within Signature Blocks

I. INTRODUCTION

1.1 For nearly two decades, Washington has maintained separate sports teams for boys and girls and has allowed transgender students to participate on those teams.[1] This successful policy has been championed by the Washington State Superintendent of Public Instruction and the Washington State PTA. In schools across the state, the existing policy has fostered community and belonging and supported student safety. Initiative Measure No. 638 ("Initiative" or "I-638") reverses that longstanding practice and violates the Washington Constitution in multiple ways.[2] By subjecting all girls who want to play girls' sports to a new and harmful sex-verification requirement that does not apply to students participating in boys' sports, the Initiative infringes the privacy rights of girls, treats them unequally, and disrupts their educational opportunities. The Initiative also requires schools to discriminate against transgender girls by excluding them from girls' sports.

1.2 The Initiative requires every girl to prove her sex before participating in girls' sports. A student who wants to join a girls' team must first obtain "a health examination" by "the student's personal health care provider," verifying her "biological sex." I-638, Sec. 3(2). That verification must be based on one or more of three specified criteria: her "reproductive anatomy," her "genetic makeup," or her "normal endogenously produced testosterone levels." *Id*. By expressly requiring verification based on these criteria, the Initiative authorizes and invites inspection of the child's genitals, a genetic test, or a blood test for testosterone. No comparable requirement applies to boys. Under the Initiative, a girl's ability to play school sports would depend not simply on her willingness and ability to play, but on her ability to satisfy the State's demands

[1] Most people have a gender identity that matches their sex assigned at birth and are therefore "cisgender." By contrast, a "transgender" person is someone whose gender identity differs from their sex assigned at birth—for example, a person who was assigned female at birth, but whose gender identity is male. "Nonbinary" describes someone whose gender identity does not fall within the traditional binary of "male" or "female." "Gender identity" is the medical term that refers to a person's innate, deeply held sense of their own gender.

[2] For ease of reference, this Complaint refers to students who participate or seek to participate in girls' sports as "girls." The Initiative's requirements also burden nonbinary students and other students who participate in girls' sports, and Plaintiffs' allegations apply equally to them.

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concerning her sex. And transgender girls are barred from playing girls' sports altogether regardless of ability, physiology, or conduct, solely because they are transgender. No comparable rule applies to boys' teams.

1.3 Transgender students who have lived for years consistent with their gender identity would effectively be forced to disclose their transgender status to classmates, coaches, and school personnel who may not have known about their private medical information. Children with intersex traits may learn of those traits for the first time through a medically unnecessary test and will also have to disclose this private medical information to classmates, coaches, and school personnel.

1.4 The Initiative violates four separate provisions of the Washington Constitution.

1.5 First, the Initiative violates the right to privacy under article I, section 7 of the Washington Constitution. A student's body, genes, and hormone levels are as private as anything can be, and the Initiative makes disclosing that information the price of playing school sports.

1.6 Second, the Initiative violates the Washington Equal Rights Amendment ("ERA"), which forbids the State from denying or abridging "[e]quality of rights and responsibility under the law . . . on account of sex." The Initiative violates the ERA because it imposes on girls an intrusive sex-verification regime it does not impose on boys.

1.7 Third, the Initiative also violates article IX, section 1 of the Washington Constitution, which guarantees every child an education "without distinction or preference on account of . . . sex." School sports are part of that education, and the Initiative conditions girls' access to them on a requirement boys never face.

1.8 Finally, the Initiative silently alters the rights secured by the Washington Law Against Discrimination ("WLAD"), the Equal Educational Opportunity Law ("EEOL"), and Washington's Parental Rights statute (RCW 28A.605.005(2)(g)) without setting forth those changes, in violation of article II, section 37. These existing Washington State laws explicitly prohibit discrimination on the basis of sex, gender expression, and gender identity, in public accommodations and schools. Yet, the Initiative explicitly requires discrimination on the basis of

sex, gender identity, and gender expression.

1.9 The Initiative takes effect on December 3, 2026. Unless the Court intervenes, girls across Washington will be required to verify their sex to participate in school athletics, and transgender and intersex girls will be removed and prospectively barred from teams on which they have long been permitted to play. Those injuries cannot be undone by a judgment months or years later. Plaintiffs therefore ask the Court to declare the Initiative unconstitutional and to enjoin it from being implemented or enforced.

II. PARTIES

A. PLAINTIFFS

2.1 **Plaintiff Doe A** is the parent and legal guardian of their 17-year-old daughter, who is transgender and attends a public school in Seattle. Plaintiff Doe A brings this action on behalf of their daughter and on their own behalf, including as a resident of Seattle and a taxpayer in Washington State. Plaintiff Doe A's daughter is currently in the 12th grade and plays on girls' sports teams at her high school, and will therefore be subject to the Initiative's sex-verification requirement and prohibition on transgender girls' participation in girls' sports. Plaintiff Doe A's daughter has participated in girls' sports for years, and it is a core aspect of her identity. Plaintiff Doe A is concerned that absent relief, their daughter will be outed as transgender to people who are unaware of her transgender status. The prospect of being subject to the Initiative's discriminatory and invasive procedures will cause Plaintiff Doe A's daughter severe harm and compromise her well-being. Plaintiff Doe A attends the vast majority of their daughter's games and is an integral part of the team community. Plaintiff Doe A's engagement with their daughter's teams is central to how they parent their child—including supporting their daughter through losses and disappointments. Plaintiff Doe A will move for leave to proceed in pseudonym to protect the privacy of their child and the confidentiality of the child's transgender status and medical information.

2.2 **Plaintiffs Doe B and Doe C** are the parents and legal guardians of an 11-year-old daughter, who is transgender and attends a public school in Seattle. Plaintiffs Doe B and Doe C

bring this action on behalf of their minor child and themselves, including as residents of Seattle and taxpayers in Washington State. Their daughter is currently in the 6th grade and registered for a girls' sports team at her middle school this spring, but may play only if she will submit to the Initiative's intrusive sex-verification requirement. Plaintiffs Doe B and Doe C believe that access to sports is a critical part of all children's education. Further, the Initiative harms their family. Plaintiffs Doe B and Doe C believe that the Initiative's effects will not be limited to sports and will embolden discrimination that will impact their daughter and other transgender girls far beyond school sports. Plaintiffs Doe B and Doe C will move for leave to proceed in pseudonym to protect the privacy of their child and the confidentiality of the child's transgender status and medical information.

2.3 **Plaintiff Doe D** is the parent and legal guardian of a 15-year-old daughter, who is cisgender and attends a public school in Seattle. Plaintiff Doe D brings this action on behalf of her daughter and on her own behalf, including as a resident of Seattle and taxpayer in Washington State. Plaintiff Doe D's daughter is currently in the 10th grade and plays on a girls' sports team at her high school and will therefore be subject to the Initiative's intrusive sex-verification requirement. Sports are a key part of Plaintiff Doe D's daughter's identity. Sports have helped her learn how to play on a team and support her teammates. Plaintiff Doe D will move for leave to proceed in pseudonym to protect the confidentiality of her child.

2.4 **Plaintiffs Doe E and Doe F** are the parents and legal guardians of two daughters, ages 15 and 17, who are cisgender. Plaintiffs Doe E and Doe F bring this action on behalf of their daughters and on their own behalf, including as residents of Seattle and taxpayers in Washington State. Plaintiffs Doe E and Doe F's daughters both attend a public school in Seattle and play girls' sports at their high school and, because of the Initiative, will now be subject to the intrusive sex-verification requirement. For both of their daughters, sports are a central part of their lives. Sports have helped each teenage girl form friendships, community, and a core sense of self. Sports have helped each grow into confident, physically active, resilient young people who make healthy, positive choices for themselves. Plaintiffs Doe E and Doe F vehemently object to the sex-

verification requirement under the Initiative because it is burdensome and invasive. Plaintiffs Doe E and Doe F will move for leave to proceed in pseudonym to protect the privacy of their children.

2.5 **Plaintiff Doe G** is the parent and legal guardian of a 15-year-old daughter, who is cisgender and attends a public school in Seattle. Plaintiff Doe G brings this action on behalf of his daughter and on his own behalf, including as a resident of Seattle and taxpayer in Washington State. Plaintiff Doe G's daughter is currently in the 9th grade and plays on a girls' sports team at her high school and will therefore be subject to the Initiative's intrusive sex-verification requirement. Plaintiff Doe G's daughter has played her sport since kindergarten and, throughout the years, it has helped her build friendship, community, and a sense of purpose such that it has become a central part of her identity. Through sports, she has learned how to set goals and work hard to achieve them. Plaintiff Doe G will move for leave to proceed in pseudonym to protect the privacy of his child.

2.6 **Plaintiff TransFamilies** is a nonprofit organization, founded in Seattle and based in Washington State, that has been supporting transgender children and their families since 2008. Plaintiff TransFamilies brings this action on behalf of itself and its members. The mission of TransFamilies is to advance the well-being of gender diverse children by offering support and education to them and their parents, caregivers, and extended families. The organization has approximately 2,000 members nationwide, with approximately 900 of those families located in Washington State. The organization offers community support and education as well as parent support groups (including grandparent groups and fathers' groups), with more programs in development. TransFamilies works to ensure that gender diverse children are able to access all the same benefits and experiences as all other children, including participating in school sports. TransFamilies has members whose children play on girls' sports teams in Washington. Many of TransFamilies's member families are Washington State residents and taxpayers. TransFamilies operates under the laws of Washington State and is a taxpayer in Washington State.

2.7 **Plaintiff Washington Education Association ("WEA")** is a Washington nonprofit organization representing over 80,000 members statewide, including teachers, education

support professionals, other public school employees, and public higher education faculty and staff. Its principal place of business is in Federal Way, Washington. WEA's members include coaches, athletic directors, school nurses, counselors, and teachers who will be responsible for implementing and explaining the Initiative's exclusion and sex-verification requirements. Many WEA members are Washington taxpayers and parents or guardians of children who play school sports. WEA operates under the laws of Washington State and is a taxpayer in Washington State.

B. DEFENDANT

2.8 Defendant is the State of Washington.

III. JURISDICTION AND VENUE

3.1 The Court has subject matter jurisdiction of this matter pursuant to RCW 2.08.010.

3.2 The Court has authority to issue declaratory judgment in this matter pursuant to chapter 7.24 RCW (Uniform Declaratory Judgments Act). The Court has authority to issue an injunction in this matter pursuant to RCW 7.40.010.

3.3 Venue is proper in this Court pursuant to RCW 4.92.010 because the residence or principal place of business of one or more of the Plaintiffs is in King County, Washington.

IV. STANDING

4.1 Plaintiffs have standing on multiple independent grounds.

4.2 Plaintiffs have standing as taxpayers or as representatives of taxpayers. Plaintiffs Doe A, B, C, D, E, F, and G are residents and taxpayers in Washington State. Plaintiffs TransFamilies and WEA operate under the laws of Washington State and are taxpayers in Washington State. On November 6, 2026, Plaintiffs made the required demand on the Attorney General. *See* Exhibit A. To date, the Attorney General has not initiated an investigation or legal proceedings.

4.3 Plaintiffs, and the children they represent, are also directly injured. Girls who play school sports will be required to submit to the verification regime. A declaration that the Initiative is unconstitutional and an injunction against its implementation will redress these injuries.

4.4 Organizational Plaintiffs, and the members they represent, are also directly injured.

Members of WEA will be required to implement and explain the verification regime. Many families who are members of TransFamilies will be harmed because they live in Washington and have daughters who play sports, who will be subject to the sex-verification requirement and some of whom will be excluded from girls' sports. Additionally, TransFamilies is directly harmed because it is diverting resources to address family questions and concerns about how to navigate the new requirements and whether to continue to have their children participate in sports.

4.5 Independently, this case presents questions of substantial public importance that immediately impact every school district, every girl who plays school sports, and every transgender student in Washington.

V. FACTS

A. SCHOOL SPORTS ARE AN INTEGRAL PART OF WASHINGTON STATE'S EDUCATION SYSTEM BECAUSE OF THE DEMONSTRATED LIFELONG BENEFITS OF PARTICIPATION

5.1 School sports are an essential part of the public education provided to children in Washington State, including for children who are transgender. According to the Washington Interscholastic Activities Association ("WIAA"), sports programs provide students "with valuable life skills and are an integral part of the total education process."[3]

5.2 To ensure the growth and development of student athletes, Washington's existing policies governing school sports account for student safety and are structured to allow student athletes to compete against students at a similar competitive level. Over the course of decades of inclusion, transgender students have participated in school sports without compromising safety or fairness.

5.3 Participating in school sports teaches children important life skills and offers unique learning opportunities. Participating in athletics allows students to develop important qualities including hard work, resilience, leadership, teamwork, and fair play.

5.4 Athletic participation also promotes children's physical health. Playing school sports offers one critical way that children get exercise and time outdoors. These physiological

[3] About Us, WIAA, https://www.wiaa.com/about-us/ (last visited Nov. 8, 2026).

benefits lead to increased physical health, including lower rates of obesity among student athletes.[4]

5.5 Research has also found that student athletes experience mental health benefits from school sports.[5] Student athletes are at lower risk for anxiety and depression, suicide attempts, and tobacco and illegal drug use.[6] Sports participation has also been associated with increased self-esteem and self-confidence, improved academic performance, stronger feelings of school connectedness and school-based social support, and broader community connectedness.[7]

5.6 A study of nearly 140,000 high school students revealed that "athletes earned higher grades, graduated at a higher rate, dropped out of school less frequently, and scored higher on state assessments than did non-athletes."[8]

5.7 Student athletes experience the joy of mastering a new skill, celebrate the success of their peers, and form lifelong relationships with other children who share the same athletic interests.

5.8 School sports are one of the primary ways many parents attend school activities, support and encourage their child, and watch their child grow and develop. School sports allow

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[4] Edward Y. Hu et al., *Obesity Among High School Students in the United States: Risk Factors and Their Population Attributable Fraction*, 15 Preventing Chronic Disease 1–11 (2018).

[5] Molly C. Easterlin et al., *Association of Team Sports Participation with Long-term Mental Health Outcomes Among Individuals Exposed to Adverse Childhood Experiences*, 173 JAMA Pediatrics 681–88 (2019).

[6] Sari L. Reisner et al., *Mental Health of Transgender Youth in Care at an Adolescent Urban Community Health Center: A Matched Retrospective Cohort Study*, 56 J. Adolescent Health 274–79 (2015); Norman P. Spack et al., *Children and Adolescents with Gender Identity Disorder Referred to a Pediatric Medical Center*, 129 Pediatrics 418–25 (2012); Jason Rafferty, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, Am. Acad. of Pediatrics (Oct. 1, 2018), https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for.

[7] Christy Greenleaf et al., *High School Sport Participation and Subsequent Psychological Well-Being and Physical Activity: The Mediating Influence of Body Image, Physical Competence, and Instrumentality*, 61 Sex Roles 714–26 (2009); Elizabeth Daniels & Campbell Leaper, *A Longitudinal Investigation of Sport Participation, Peer Acceptance, and Self-Esteem Among Adolescent Girls and Boys*, 55 Sex Roles 875–80 (2006).

[8] Angela Lumpkin & Judy Favor, *Comparing the Academic Performance of High School Athletes and Non-Athletes in Kansas in 2008-2009*, 4.1 J. of Sport Admin. & Supervision 41–62 (2012); *see* Ryan D. Burns et al., *Sports Participation Correlates with Academic Achievement*, 127 Perceptual & Motor Skills 448–67 (2020); Susan Rankin et al., *The Influence of Climate on the Academic and Athletic Success of Student-Athletes: Results from a Multi-Institutional National Study*, 87 J. of Higher Educ. 701–30 (2016); Dara Shifrer et al., *College-Going Benefits of High School Sports Participation: Race and Gender Differences over Three Decades*, 47 Youth & Soc'y 295–318 (2015).

community members an opportunity to cheer on their young people.

5.9 Girls who play sports tend to perform better academically than their peers who do not play sports, including getting better grades and enrolling in more advanced courses.[9] Playing sports also benefits girls' self-esteem, body image, and mental health.[10] Sports participation is associated with other health benefits, including lower rates of teen pregnancy.[11] Participation in school sports is correlated with higher wages in adulthood.[12]

5.10 The benefits of school sports are particularly crucial for transgender and gender diverse children, who are at increased risk for family and peer rejection, victimization, stigma, and discrimination. Transgender children are already more likely than their cisgender peers to report worse mental health, including substantially higher risk of depression, suicidal ideation, and suicide attempts.[13] Transgender children are substantially more likely than their cisgender peers to experience bullying, victimization, harassment, violence, and rejection from their peers.[14] Yet, where transgender children encounter accepting policies and peers, including transgender-inclusive sports policies, their risk of poor mental health and suicidality decreases.[15] For children

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[9] David McLeod et al., *Why Sports Participation Matters for Girls in Urban Core Public Schools*, J. of Youth Dev., Sept. 1, 2026, at 1–15 (finding that, in a study of student athletes in Oklahoma, the effect size of athletic participation on academic outcomes was greater for girls than for boys).

[10] Rod Dishman et al., *Physical Self-Concept and Self-Esteem Mediate Cross-Sectional Relations of Physical Activity and Sport Participation with Depression Symptoms Among Adolescent Girls*, 25 Health Psych. 396–407 (2006).

[11] D.F. Sabo et al., *High School Athletic Participation, Sexual Behavior and Adolescent Pregnancy: A Regional Study*, 25 J. Adolescent Health 207–16 (1999).

[12] Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports* (Nat'l Bureau of Econ. Rsch., Working Paper No. 15728, 2010), https://www.nber.org/system/files/working_papers/w15728/w15728.pdf.

[13] Marla E. Eisenberg et al., *Risk and Protective Factors in the Lives of Transgender/Gender Nonconforming Adolescents*, 61.4 J. of Adolescent Health 521–26 (2017) (finding over 60% of gender diverse youth reporting ever considering suicide and almost one in three reporting an attempt).

[14] Paul R. Sterzing et al., *Social Ecological Correlates of Polyvictimization Among a National Sample of Transgender, Genderqueer, and Cisgender Sexual Minority Adolescents*, Child Abuse & Neglect, May 2017, at 1, 8–10; David Martin-Castillo et al., *School Victimization in Transgender People: A Systematic Review*, 119 Children & Youth Servs. Rev. (2020).

[15] Sarah M. Kaja et al., *Sports Team Participation, Bias-Based Bullying, and Mental Health Among Transgender and Gender Diverse Adolescents*, 96 Rsch. Q. for Exercise & Sport 590, 596–98 (2025).

who are transgender, inclusion in school sports is one way to form prosocial connections and find acceptance by their peers. Accordingly, the beneficial impacts of inclusive school sports policies are very significant. Conversely, the harmful impacts of discriminatory policies, like the Initiative, will be devastating to the well-being of gender diverse youth in Washington.

B. THE INITIATIVE DEPARTS FROM LONGSTANDING STATE LAW PROHIBITING SEX DISCRIMINATION AND PERMITTING ATHLETIC PARTICIPATION CONSISTENT WITH GENDER IDENTITY

5.11 Since 2006, Washington law has explicitly prohibited discrimination on the basis of gender identity.[16] Washington was the first state in the country to adopt a policy allowing transgender high school student-athletes to compete on teams aligned with their gender identity.[17] In Washington, athletic opportunities are available to both boys and girls. The overwhelming majority of athletic opportunities are sex separated, and schools maintain boys' teams and girls' teams.

5.12 In Washington, each school district's board of directors has the authority to control, supervise, and regulate the conduct of interschool athletic activities. RCW 28A.600.200. By law, a board of directors may delegate that authority to the WIAA or any other voluntary nonprofit entity. *Id.* WIAA is a private, nonprofit 501(c)(3) service organization and is authorized to function as the rule-making body for interschool athletics. *Id.*

5.13 According to its website, "The WIAA oversees athletics and fine arts in Washington state and hosts 120 WIAA state championship events for the following sports and activities: baseball, basketball, bowling (girls), cheerleading, cross country, dance/drill, debate, drama, flag football (girls), football, golf, gymnastics (girls), music, softball, swimming & diving, soccer, tennis, track & field, volleyball and wrestling."[18]

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[16] RCW 49.60.030; RCW 49.60.040; Engrossed Substitute House Bill 2661 (2006).

[17] WIAA & Gender Diversity, *Gender Diverse Youth Sport Inclusivity Toolkit* 4, https://assets-rst7.rschooltoday.com/rst7files/uploads/sites/652/2024/05/29125133/Gender-Diversity-Toolkit_2024.pdf (last visited Nov. 9, 2026); Dan Beekman & Ryan Nguyen, *All Eyes on WA as Voters Consider Trans Athlete Initiative*, Seattle Times (Oct. 25, 2026, at 6:00 a.m.), https://www.seattletimes.com/education-lab/all-eyes-on-wa-as-ban-on-trans-girl-student-athletes-goes-to-voters/.

[18] About Us, WIAA, https://www.wiaa.com/about-us/ (last visited Nov. 8, 2026).

5.14 School sports play an important role in helping children safely understand and express their authentic selves, including their gender identity. Accordingly, since 2007, WIAA has maintained a policy governing the inclusion of transgender children in school sports.

5.15 In 2007, the WIAA convened a broad stakeholder group to create a model policy for transgender and gender diverse youth in sports. The policy has been amended over the years to meet the needs of children in Washington. These statewide, inclusive policies have been championed by the Washington State Superintendent of Public Instruction[19] and the Washington State PTA.[20] The State's existing, inclusive policies comply with the state Constitution and state statutes and further the well-being of all children in Washington, including transgender children. The success of these policies has made Washington a model for other states and school districts.

5.16 The current WIAA policy is as follows:

PHILOSOPHY OF GENDER IDENTITY PARTICIPATION: *The WIAA encourages participation for all students, regardless of their gender identity or expression. Further, most local, state and federal rules and regulations require schools to provide transgender and other gender-diverse student-athletes with equal opportunities to participate in athletics. The purpose of this policy is to offer clarity with respect to the participation of trans and gender-diverse student-athletes. Additionally, this policy encourages a culture in which student-athletes can compete in a safe and supportive environment, free of discrimination.*

18.16.0 GENDER IDENTITY PARTICIPATION: All students have the opportunity to participate in WIAA athletics and/or activities in a manner that is consistent with their gender identity. Currently, most athletic programs are offered separately for boys and girls as outlined in Appendix 2. Athletes will participate in programs consistent with their gender identity or the gender most consistently expressed. School personnel responsible for student eligibility will work collaboratively with the student-athlete to determine eligibility. Once the student has been granted eligibility to participate in the sport consistent with their gender identity, the eligibility is granted for the duration of the student's participation and does not need to be renewed every sports season or school year. The WIAA Staff is willing to collaborate with any Member School seeking assistance regarding gender equity. For additional information on Gender Identity, refer to Appendix 3.

5.17 The WIAA recently considered amendments to its Handbook that would have barred transgender girls from girls' sports.[21] The Civil Rights Division of the Attorney General's Office reviewed the amendments and concluded they would violate state law.

5.18 The Initiative will require dramatic changes to existing policy. These new

[19] *State Superintendent Chris Reykdal's Statement on President Trump's Order to Discriminate Against Trans Female Athletes*, Wash. Off. of Superintendent of Pub. Instruction (Feb. 6, 2025), https://ospi.k12.wa.us/about-ospi/news-center/news-releases/state-superintendent-chris-reykdals-statement-president-trumps-order-discriminate-against-trans.

[20] *Washington State PTA Opposes Initiative IL26-638*, Wash. State PTA (Aug. 6, 2026), https://www.wastatepta.org/washington-state-pta-opposes-initiative-il26-638/.

[21] *2025 Proposed Amendments*, WIAA, https://www.wiaa.com/proposed-amendments-2025/ (last visited Nov. 9, 2026).

requirements will lead to serious confusion in the administration of school athletics throughout Washington State.

5.19 Section 2 of the Initiative changes state law regarding the regulation of interschool athletic activities and other interschool extracurricular activities, making those rules subject to Section 3 of the Initiative. I-638, Sec. 2.

5.20 Section 3 requires school boards and nonprofit entities like the WIAA to "prohibit biologically male students from competing with and against female students in athletic activities with separate classifications for male and female students[.]" The Initiative requires any student "who elects to participate in individual or team competition activities intended for female students only" to provide a consent form or other statement signed by the student's personal health care provider that "verifies the student's biological sex, relying only on one or more of the following: The student's reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels." I-638, Sec. 3.

C. THE MECHANICS OF SCHOOL SPORTS PARTICIPATION AND THE NEW ELIGIBILITY REQUIREMENTS

5.21 To play school sports, currently, the parent or guardian of a student must submit a form completed by a health care provider who has completed a sports physical on the student athlete. School districts are permitted to either use the WIAA's model form or their own forms. This process has two steps: 1) families may complete a medical history form to give *to the medical provider*, and 2) the medical provider must complete the medical eligibility form for the family to give *to the school*. Only the medical eligibility form completed by the medical provider is submitted to the school. The form can be uploaded onto a web portal operated by the school district.

5.22 For example, Seattle Public Schools uses the following form[22]:

[22] The complete form is available here: https://www.seattleschools.org/wp-content/uploads/2021/07/Student-Physical-Participation-Exam-History-ADA.pdf.

PREPARTICIPATION EVALUATION – MEDICAL ELIGIBILITY FORM **RETURN ONLY THIS FORM TO SCHOOL**

(DIRECTIONS: Top of form is to be filled out and signed by provider. Provider, return this form following appointment for school record/documentation.)

Name: _____ Date of Birth: _____

☐ Medically eligible for all sports without restriction

☐ Medically eligible for all sports without restriction with recommendations for further evaluation or treatment for: _____

_____

_____

☐ Medically eligible for certain sports:

_____

☐ Not medically eligible pending further evaluation

☐ Not medically eligible for any sports

Recommendations: _____

_____

_____

I have examined the student named on this form and completed the preparticipation physical evaluation. The athlete does not have apparent clinical contraindications to practice and participate in the sport(s) as outlined above. A copy of the physical exam findings is on record in my office and can be made available to the school at the request of the parent or guardian. If conditions arise after the athlete has been cleared for participation, the physician may rescind the medical eligibility until the problem is resolved and the potential consequences are completely explained to the athlete (and parents/guardians).

Name of Health Care Professional (Print/Type): _____ Date of Exam: _____

Address: _____ Phone: _____

Signature of Health Care Professional: _____,*MD, DO, ARNP, PA or NP

**WIAA approved medical providers licensed to perform this exam: Medical Doctor (MD), Doctor of Osteopathy (DO), Advanced Registered Nurse Practitioner (NP), Physician's Assistant (PA), or Naturopathic Physician (NP)*

5.23 Seattle Public Schools' form is substantially the same as the model form available on the WIAA website.[23]

5.24 Currently, no information about sex assigned at birth, gender identity, hormones, reproductive anatomy, or genetics is included on the model medical eligibility form developed by WIAA. The existing WIAA model medical eligibility form does not require a medical provider to verify the sex of the student at all, and therefore does not require any physical examination or medical tests to verify sex. Rather, the existing medical eligibility form only indicates whether the child has apparent clinical contraindications to play a particular sport or sports.

5.25 To encourage school sports participation, many schools offer opportunities for students to have their school sports form completed, including at a school-based health clinic or other community medical provider. Schools use a variety of strategies to ensure that sports physicals are not a barrier to school sports participation. Some school districts host large events

[23] The model form is available online at: https://wiaa-dna4aga5arc0gyeb.westus2-01.azurewebsites.net/results/Forms/PPE-Medical-Eligibility-Form.pdf.

with volunteer medical providers, sometimes in school gymnasiums or other settings with limited or no privacy. These examinations typically focus on cardiovascular and musculoskeletal health, vital signs, and a brief medical history. Such events help students obtain the medical clearance needed to participate in school sports. These events help ensure that all children can play sports safely. Medical providers volunteer for these events because they understand the importance of school sports to a child's overall health. But such events will be more burdensome under the Initiative, which authorizes and invites invasive examinations of girls' genitals, genetic testing, and blood tests to measure testosterone levels. Providers who undertake these procedures would face demands beyond those associated with routine sports physicals. Genital examinations, in particular, would require privacy that may not be available at these events, as well as appropriate safeguards to protect the safety and comfort of the children being examined. By making the sports physical process more onerous, the Initiative threatens to create new barriers to girls' participation in school sports.

5.26 Many children in Washington visit a pediatrician annually for a well-child visit. Sometimes this is the same pediatrician that the child has seen for years. A pediatrician who has a longstanding relationship with a child may not find it necessary to conduct any additional examination or test to "verify" the child's sex on the sports eligibility form because they have longstanding knowledge about the child's sex assigned at birth. However, a pediatrician's general knowledge of a child's sex assigned at birth would not, by itself, establish verification based on the specific criteria required by the Initiative—reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels.

5.27 Many children in Washington do not receive routine well-child care or routinely see the same health care provider. According to the Washington State Department of Children, Youth, and Families, in 2024 only 45% of children on Medicaid ages 3–11 in King County received a well-care visit; in Clallam County that number was 28%.[24] Nationally, from 2023–

[24] WA State Dep't of Children, Youth & Families, *Percent of 3-11 Year Olds on Medicaid Receiving One or More Well-Care Visit in 2024*, https://dcyf.wa.gov/node/3260 (last visited Oct. 16, 2026).

2024, roughly one in five children ages 3–17 had no well-child visit in the prior year.[25]

5.28 As a result, many girls go to a new, unfamiliar medical provider for the purpose of having their medical eligibility sports form signed. Many girls rely on a school nurse, school-based health clinic, or community events to have their medical eligibility form completed. The impact of the Initiative on these interactions for these girls will be significant. Under the Initiative, there are only three acceptable bases to verify: the student's reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels. I-638, Sec. 3. By a straightforward reading of the terms of the Initiative, review of the student's reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels would be required.

5.29 Therefore, a medical provider meeting with a girl for the first time, who must "verify" her sex before signing her medical eligibility form, faces difficult choices.

5.30 As an initial matter, there is no blood test for "endogenous testosterone" levels, only circulating testosterone levels. Thus, a test of a girl's "testosterone levels" will not necessarily "verify" a girl's sex.

5.31 A blood test is also extremely burdensome. The girl and her caregiver would likely need to travel to a lab to have blood drawn from her arm for the purpose of this test. Because the test is not medically necessary, it is unlikely that it would be covered by health insurance, creating an additional cost for girls who want to play sports.

5.32 If, instead, the medical provider elects to test the girl's "genetic makeup," they would likely order a karyotype, a type of genetic test. A karyotype reveals a person's chromosomes. But chromosomes do not always align with a person's other sex characteristics. A girl with an intersex trait, for example, may have chromosomes that differ from those typically associated with girls. Like a test for testosterone, a karyotype typically requires a blood draw and a lab test, which are often at an off-site lab and cost a significant amount, and results may take

[25] *Well-Child Visit in United States*, UnitedHealth Found., https://www.americashealthrankings.org/explore/measures/wellchild_visit_3to17_component (last visited Oct. 16, 2026).

time to return. Karyotype is also available by cheek swab, although the limited availability of this type of test, along with the cost, will make it difficult to access.

5.33 Because of the substantial burdens associated with hormone and genetic testing—including time, money, and invasive medical tests—many girls who wish to play girls' sports will face significant pressure to choose the third method the Initiative permits: a verification of their "reproductive anatomy." The term "reproductive anatomy" is not defined in the Initiative. At a minimum, it authorizes and invites medical providers to examine external genitalia and internal genitalia, as well as conduct other examinations.

5.34 The Initiative thus places medical providers in a difficult position by authorizing and inviting invasive examinations of girls' reproductive anatomy. Any visual or physical verification of a girl's genitals or anatomy is intrusive. Here, unlike other medical examinations, like listening to a child's heart for signs of hypertrophic cardiomyopathy (HCM) or even inspecting the genital area of a child assigned male at birth for signs of hernia, there is no medical need to observe or verify the reproductive anatomy of a girl to determine whether she can play sports.

5.35 Due to increased public awareness, largely because of the many women who came forward about their assault at the hands of the sports doctor Larry Nassar and others, it is now well understood that a small number of medical providers, including sports doctors, have used their position of authority to groom and abuse girls. The Initiative increases the risk of this kind of abuse by inviting unnecessary examinations of girls' reproductive anatomy.

5.36 All children have an interest in maintaining the privacy of their genitals, reproductive anatomy, chromosomes, and hormone levels.

D. THE INITIATIVE DISCRIMINATES AGAINST ALL GIRLS AND VIOLATES THEIR PRIVACY

5.37 The Initiative imposes eligibility requirements on all students who wish to participate in girls' sports. Those eligibility requirements are not imposed on children who participate in boys' sports. The Initiative therefore imposes burdens on every girl who wishes to play girls' sports that it does not impose on any boy who wishes to play boys' sports.

5.38 The Initiative will forcibly out transgender girls by creating the conditions in which they will have to disclose that they were assigned male at birth.

5.39 The Initiative will also harm children with intersex traits. Some intersex children can have reproductive anatomy that differs from what is typically associated with their sex. Also, some children with intersex traits may not know that they are intersex. The Initiative will force some students to learn and then reveal their intersex traits just to play on a girls' sports team. Some girls with intersex traits may be excluded from girls' school sports.

E. THE INITIATIVE WILL CAUSE WIDESPREAD CONFUSION IN THE ADMINISTRATION OF YOUTH ATHLETICS THROUGHOUT WASHINGTON STATE

5.40 The Initiative will lead to widespread confusion and inconsistency in the administration of youth athletics statewide. Because the Initiative requires each school district board of directors or delegated nonprofit entity to adopt its own implementing policies, its many undefined terms will be interpreted differently from district to district, and provider to provider. This confusion and inconsistency will disproportionately impact girls' sports, and will therefore harm all girls, including transgender girls.

5.41 Currently, a girl can play school sports in Washington so long as her medical provider completes the medical eligibility form, she complies with other eligibility requirements, and she makes the team (if there are tryouts). The current medical eligibility form is valid for two years of sports participation. Many girls playing sports in Washington recently completed the required form and, therefore, expect to remain medically eligible for another two years. However, existing medical eligibility forms generally do not require verification of a student's sex based on the criteria specified in the Initiative. Therefore, when the Initiative becomes effective on December 3, 2026, girls whose existing forms lack that verification will need to obtain additional documentation to satisfy the Initiative's new requirements, even if their medical eligibility forms remain valid under existing WIAA rules.

5.42 Families of girls who want to play sports will face financial and logistical burdens to obtain updated medical eligibility forms that meet the Initiative's requirements that families of

boys will not face. Some Washington medical practices charge families a fee for completing the sports physical form. Some families who recently paid for this form will have to pay again. Families of girls will need to schedule hurried mid-season medical appointments—and possibly blood tests or genetic tests—in order to continue playing a fall or winter sport.

5.43 Implementation of the "sex verification" requirements, relying on "reproductive anatomy, genetic makeup, or normal endogenously produced testosterone levels," will also cause confusion and will not be easily administered. The Initiative does not define what testosterone level is "normal" or what age groups different tests may apply to. Prior to puberty, which covers many of the grades subject to the rule, levels of circulating testosterone do not significantly differ between people assigned male and female at birth. Additionally, intersex children may have differences of sex development involving chromosomes, hormones, reproductive organs, and/or genitals, such that a provider may not be able to verify their sex under the methods the Initiative permits. These children would be foreclosed from playing girls' sports.

VI. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT

A. VIOLATION OF WASHINGTON STATE CONSTITUTION ARTICLE I, SECTION 7

6.1 Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

6.2 Article I, section 7 states, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law."

6.3 The Initiative significantly intrudes on students' fundamental right of privacy. A student athlete has a genuine and fundamental privacy interest in controlling access to information about their bodies and in the privacy of their reproductive anatomy, genitals, blood, hormones, genetics, and chromosomes, as well as their sex assigned at birth and transgender or intersex status.

6.4 The Initiative requires every student seeking to play girls' sports to undergo a medical evaluation that "verifies" the student's "biological sex," relying on only one or more of the following: "The student's reproductive anatomy, genetic makeup, or normal endogenously

produced testosterone levels." I-638, Sec. 3. This sex-verification requirement intrudes upon girls' private affairs by compelling disclosure of intimate information about their bodies, without any individualized basis for questioning their eligibility, as a condition of participating in school sports.

6.5 Such government intrusion into the private affairs of students is not justified by any authority of law. A statute provides authority of law only if it is consistent with the Washington Constitution. The intrusion is not justified by a warrant, exigent circumstances, searches incident to a valid arrest, inventory searches, the plain view doctrine, or an investigative stop. Nor is it justified by consent. A student's submission of a verification, given only because the State has made it a condition of participating in school sports, is not voluntary consent. Rather, the Initiative compels girls seeking to participate in school sports to submit to medical verification of their sex, without individualized suspicion or other lawful justification, in violation of article I, section 7 of the Washington Constitution.

B. VIOLATION OF WASHINGTON STATE CONSTITUTION EQUAL RIGHTS AMENDMENT, ARTICLE XXXI

6.6 Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

6.7 Article XXXI, section 1 ("The Equal Rights Amendment") states, "Equality of rights and responsibility under the law shall not be denied or abridged on account of sex."

6.8 The Initiative requires every student who seeks to play girls' sports to obtain a provider's verification of her "biological sex." No student who seeks to play boys' sports must verify their sex. The Initiative thus imposes a burden on girls that it does not impose on boys, solely on account of sex. The Initiative therefore denies and abridges equality of rights and responsibility under the law on account of sex, in violation of article XXXI of the Washington Constitution.

C. VIOLATION OF WASHINGTON STATE CONSTITUTION RIGHT TO EDUCATION, ARTICLE IX, SECTION 1

6.9 Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

6.10 Article IX, section 1 states, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex." The Initiative violates article IX because it requires that athletic opportunities, which are part of the educational opportunities offered to children in this state, be offered in a manner that discriminates on the basis of sex.

D. VIOLATION OF WASHINGTON STATE CONSTITUTION ARTICLE II, SECTION 37

6.11 Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

6.12 Article II, section 37 of the Washington Constitution (the "Improper Amendment Rule") provides: "No act shall ever be revised or amended by mere references to its title, but the act revised or the section amended shall be set forth at full length."

6.13 Under article II, section 37, a new enactment must not render erroneous a straightforward determination of the scope of rights or duties under existing statutes. The Initiative violates the Improper Amendment Rule, because it improperly amends existing laws without setting forth those amendments in full.

6.14 The Initiative amends, without setting forth, several Washington statutes including but not limited to: the Washington Law Against Discrimination (WLAD), which prohibits discrimination based on sex and gender identity; Washington's Equal Educational Opportunity Law (EEOL), which prohibits discrimination based on sex and gender identity in Washington's public schools; RCW 28A.640.010, which prohibits sex discrimination in Washington public schools; and Washington's Parental Rights statute, which gives parents the right to have their child receive a public education in a setting in which discrimination on the basis of sex, gender expression, or gender identity is prohibited. *See* RCW 49.60 *et seq.*; RCW 28A.642 *et seq.*; RCW 28A.640.010; RCW 28A.605.005(2)(g).

6.15 As a result, voters were unaware of the impact of the Initiative on existing state law. Further, the Initiative renders erroneous a straightforward determination of the scope of rights

or duties under these state laws.

6.16 Plaintiffs are harmed by the Initiative's violation of article II, section 37.

E. DECLARATORY JUDGMENT

6.17 For reasons including but not limited to those stated herein, an actual dispute exists between Plaintiffs and Defendant State of Washington, in which the parties have genuine and opposing interests, which interests are direct and substantial, and of which dispute a judicial determination would be final and conclusive.

6.18 Plaintiffs are entitled to a declaratory judgment that the Initiative is unconstitutional, as well as such other and further relief as may follow from the entry of such a declaratory judgment.

VII. SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF

7.1 Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

7.2 The Initiative violates the Washington Constitution for the reasons alleged above. Plaintiffs seek preliminary and permanent injunctive relief prohibiting its implementation and enforcement. Plaintiffs have a clear legal and equitable right to be free from the Initiative's unconstitutional requirements. Plaintiffs have a well-grounded fear of immediate invasion of that right when the Initiative takes effect on December 3, 2026. The Initiative's implementation will result in actual and substantial injury to Plaintiffs, including by subjecting girls to new sex-verification requirements and requiring educators and schools to implement and enforce the Initiative. No adequate remedy at law exists to remedy this invasion of Plaintiffs' rights. Further, the balance of equities and the public interest favor the issuance of an injunction.

7.3 Plaintiffs are entitled to preliminary and permanent injunctive relief prohibiting implementation and enforcement of the Initiative.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

A. That the Court enter a declaratory judgment that the Initiative violates article I, section 7, article XXXI, article IX, and article II, section 37 of the Washington Constitution;

B. Such other and further relief as may follow from the entry of a declaratory judgment;

C. Entry of a permanent injunction prohibiting implementation or enforcement of the Initiative;

D. Reasonable attorneys' fees, expenses, and costs, to the fullest extent allowed by law and equity; and

E. Any further relief as the Court deems necessary and proper.

DATED this 9th day of November, 2026.

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EXHIBIT A

SENT VIA ELECTRONIC MAIL

Nick Brown, Washington State Attorney General
Noah Purcell, Solicitor General for the Washington State Attorney General's Office
PO Box 40100
Olympia, WA 98504

November 6, 2026

Re: Request for the Attorney General to Investigate and Institute Legal Proceedings on the Unconstitutionality of Initiative Measure No. 638.

Dear Attorney General Brown and Solicitor General Purcell,

The ACLU of Washington, Legal Voice, and Pacifica Law Group represent a group of taxpayers of Washington State, including residents and organizations with taxpayer members and constituents, who seek injunctive and declaratory relief against the State of Washington to address the constitutional violations in Initiative No. IL26-638 ("Initiative") before it takes effect. As a prerequisite to suing on behalf of our clients, we request, under *State ex rel. Boyles v. Whatcom Cnty. Superior Court*, 103 Wn.2d 610, 694 P.2d 27 (1985), that you investigate and promptly bring suit on behalf of Washington State taxpayers to obtain this relief. We request that you advise us as soon as possible, and in any event no later than **Wednesday, November 11, 2026,** whether you will file suit to redress the constitutional violations described below.

IL26-638 was filed on June 2, 2025, appeared on Washington ballots in the November 2026 election, and is poised to pass. If passed, the Initiative would prohibit transgender girls from playing on school sports teams that align with their gender identity and require all girls to undergo sex verification in order to participate in girls' sports.

The Initiative reverses Washington's longstanding protections for transgender students' access to athletic participation, and it violates numerous provisions of the Washington State Constitution, including the right to privacy (article 1, section 7), the Equal Rights Amendment (article 31), and article 2, section 37.

Because of the critical interests at stake and the constitutional deficiencies of Initiative No. IL26-638, we request that you advise us as soon as possible, and in any event no later than November 11, whether you will file suit to redress these constitutional infirmities. Barring any positive response by November 11, we intend to file a taxpayer lawsuit against the

State of Washington seeking declaratory judgement that the Initiative violates the Washington State Constitution and an injunction prohibiting its implementation.

Sincerely,

/s/ Adrien Leavitt
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