

Position Statement: Trans Inclusion in Sport

Introduction

Canadian Women & Sport (formerly CAAWS) is dedicated to creating an equitable sport and physical activity system in which girls and women are actively engaged as participants and leaders. Since more and more Canadian children, youth and adults are choosing to live their lives in the gender that is more congruent to their sense of self, rather than their assigned sex, Canadian Women & Sport wishes to affirm its position with respect to the participation of girls and women in sport who identify as transgender, two-spirit, gender-fluid, and gender non-binary.

Background

Over the years, Canadian Women & Sport has consistently led the call for the removal of gender policing in women's sports (which is often premised on the need to "protect" women's sports), most notably at the international level where it has been much more prevalent. As part of its mandate to create safer and more welcoming environments for women in sport, Canadian Women & Sport has also been a leader in working within the sport system to create a more inclusive environment for those who identify as lesbian, gay, bisexual, trans, two-spirited, queer or questioning through its *Leading the Way* LGBTQ sport inclusion initiative.¹

By virtue of its vision and mission, Canadian Women & Sport is committed to inclusion as a core principle of sport. While the organization's immediate focus is on inclusion of girls and women, it supports this principle broadly as it applies to all marginalized groups.

In the Spring of 2016, Canadian Women & Sport was a member of the Trans Inclusion in Sport Expert Working Group convened by the Canadian Centre for Ethics in Sport (CCES) that published progressive guidance for sport organizations on creating inclusive environments for trans participants in Canadian sport.² Consistent with existing human rights legislation in Canada, Canadian Women & Sport fully supports the CCES guidance; that is to support participation in the gender in which an individual identifies. This will ensure that all who identify as girls and women and boys and men will have the same opportunities to participate in and benefit from sport participation at all levels of sport in Canada.

Despite the progress being made in human rights legislation, policies and practices in recognizing and affirming gender rights, particularly transgender rights, and the greater awareness of Canadians on gender issues, there continue to be concerns about participation by trans and gender-fluid girls and women in sport. As a leader for gender equity in sport, Canadian Women & Sport recognizes the importance of its role in advocating for sport that is inclusive and welcoming to all girls and women in sport.

Position Statement

Consistent with existing human rights legislation and Canadian Women & Sport's ongoing commitment to achieving equity for girls and women, Canadian Women & Sport supports the full participation of all individuals in sport and physical activity in the gender in which they identify.

¹ Canadian Women & Sport's Leading the Way Sport Inclusion Initiative can be accessed at: <https://womenandsport.ca/resources/publications/leading-the-way/>

² Canadian Centre for Ethics in Sport (2016). Creating Inclusive Environments for Trans Participants in Canadian Sport - Guidance for Sport Organizations. Access at: <http://cces.ca/gender-inclusivity>

Rationale

Sport inclusion is a fundamental value for Canadian Women & Sport and a True Sport principle. Sport must not and cannot exclude participants based on differences, whether this is gender identity or expression, sexual orientation, race, national or ethnic origin, colour, religion, age, sex, marital status, family status or disability. And inclusion for the majority at the expense of a minority cannot be justified.

With the recent passage of amendments to the *Canadian Human Rights Act*³ to now include gender identity and expression, transgender rights are now protected at the federal as well as the provincial / territorial levels throughout Canada. And in a 2014 landmark case, the Ontario Human Rights Legal Support Centre and a youth ice hockey player negotiated a settlement requiring Hockey Canada and its Ontario branches to allow all players to use locker rooms that match their self-identified gender identity, review and revise their procedures to protect privacy around players' trans status, and provide training to hockey coaches on gender identity and related discrimination and harassment.⁴ These legal milestones affirm the position that sport in Canada must become more inclusive than it has been in the past to those who are transgender and gender-fluid, affording them the full benefits of sport at all levels of the long-term athlete development (LTAD) model.

Those who have denied transgender and gender-fluid girls and women full access to opportunities in women's sport have argued that these individuals have an unfair competitive advantage in sport over cisgender girls and women and / or that their participation will make sport unsafe for cisgender girls and women. Canadian Women & Sport rejects these arguments first and foremost on the basis that inclusion of and equity for women and girls should not and cannot imply the exclusion of other marginalized groups. Canadian Women & Sport instead advocates for sport organizations at all levels to take proactive measures to create inclusive environments that enable *all* to participate and compete, regardless of their gender identity and expression. Canadian Women & Sport acknowledges that this is a complex topic with many policy and practice implications. Fortunately, the CCES guidance document provides fulsome and constructive policy and practice recommendations in this regard.

Furthermore, Canadian Women & Sport opposes medical intervention of any kind (surgery or hormone therapy regulation) as a condition of participation or competition, consistent with the guidance of the CCES Expert Working Group. To elaborate:

- Canadian Women & Sport understands that gender confirming surgery and / or hormonal therapy is an invasive medical procedure, that choosing any medical intervention to assist in transitioning is an extremely personal choice, and that this is not something that all transgender individuals want to undergo. Imposing hormonal therapy as a prerequisite for participation and / or competition—as the International

³ Amendments to the *Canadian Human Rights Act* explicitly recognizing gender identity and expression as a protected right received Royal Assent on June 19, 2017. Access at: <http://www.parl.ca/DocumentViewer/en/42-1/bill/C-16/royal-assent>

⁴ See for example, the Ontario Human Rights Commission's case settled in 2014 involving a transgender hockey player denied access to the locker room of his choice. Access at: <http://www.ohrc.on.ca/en/access-locker-rooms-trans-amateur-hockey-players-jt-v-hockey-canada-et-al>

Olympic Committee's (IOC)⁵ and the U.S. National Collegiate Athletic Association's (NCAA) transgender guidelines⁶ currently do—is an exclusionary measure by its nature and has a chilling effect on transgender participation in sport.

- The notion of a universal competitive advantage is based on an inaccurate stereotype that all boys and men are bigger, stronger and more athletically gifted than all girls and women.
- Canadian Women & Sport recognizes that sport accepts without question wide variations in other biological attributes that may result in a perceived or actual competitive advantage. For example, being tall may be advantageous if your sport is basketball but that is accepted. But being tall may not be advantageous if you are an artistic gymnast or a cox in rowing. Furthermore, sport's acceptance of wide variation in sport within a gender is selective; it is not yet readily applied when the variation exists in a transgender, gender-fluid girl or woman athlete, especially when they are excelling.
- Canadian Women & Sport notes that where there remains a sustained competitive performance gap between men and women in a particular sport or discipline that has been found to result from advantages in size and strength, organizations are able to put in place classifications such as weight categories.
- Canadian Women & Sport believes that where there continues to be a sustained competitive performance gap between men and women in a sport or discipline, the onus is on the sport organization to prove that the performance advantage is solely a result of higher levels of testosterone in a transgender or gender-fluid girl or woman athlete. And this evidence must be based on proven scientific fact before it can be used to justify any requirement for a medical intervention involving hormonal therapy. Canadian Women & Sport does not believe that this scientific evidence currently exists.

Finally, Canadian Women & Sport recognizes that gender-segregated sport today is not inclusive to gender-fluid and non-binary identities. And while the primary rationale for gender-segregated sport remains to enable girls and women to have the same opportunities as boys and men to fully participate in sport, gender-fluid and non-binary identities who want to participate in sport are most often required to choose one gender or the other and end up having to conform with a gender that does not align with their identity and experience. It is our hope that sport will evolve to be more responsive to and inclusive of all gender identities.

For further exploration of trans inclusion, Canadian Women & Sport refers organizations and individuals to the CCES trans inclusion guidance available at www.cces.ca/gender-inclusivity.

⁵ International Olympic Committee (November 2015). IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism. Access at:

https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf

⁶ NCAA (August 2011). NCAA Inclusion of Transgender Student-Athletes. Access at:

<http://www.ncaapublications.com/p-4335-ncaa-inclusion-of-transgender-student-athletes.aspx>

Looking Ahead:

Canadian Women & Sport acknowledges that challenges remain in achieving the full participation of all girls and women in sport and physical activity in the gender in which they identify and that further education and more conversations are required. We remain committed to continuing our contribution to this important work through our *Leading the Way LGBTQ Sport Inclusion* initiative. To this end, Canadian Women & Sport's *Leading the Way: Working with LGBTQ Athletes and Coaches* resource was recently revised (May 2017) to reflect the CCES trans inclusion guidance for Canadian sport organizations as well as acknowledge the revised IOC guidelines.

Canadian Women & Sport will also continue to monitor the legal basis upon which this position statement is based, as well as evolving scientific, sociological and other evaluative evidence, and will revise this position statement as warranted.

Canadian Women & Sport welcomes feedback on this position statement which can be submitted by email to info@womenandsport.ca.

Definitions⁷

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.

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.

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.

Cisgender (adjective): Most people are cisgender (not trans), that is, their gender identity is in line with or matches" the sex they were assigned at birth.

⁷ As defined in the CCES's *Creating Inclusive Environments for Trans Participants in Canadian Sport - Guidance for Sport Organizations* (2016). Access at: <http://cces.ca/gender-inclusivity>

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. It includes but is not limited to people who identify as transgender, transsexual, cross dressers (adjective) or gender non-conforming (gender diverse or genderqueer).

Two-spirit (adjective): A term used by Indigenous 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.

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.