

Initiative 109: Male and Female Participation in School and Collegiate Sports

Placed on the ballot by citizen initiative • Passes with a majority vote

Initiative 109 proposes amending the Colorado statutes to:

- require that all elementary through collegiate school-based athletic teams and sports be designated as male-only or female-only based on biological sex, unless the team or sport is designated as open to participation by individuals of any sex or gender;
- require schools and school districts to implement policies to ensure that students are assigned to gender-designated teams that align with their biological sex; and
- prohibit investigations of, or penalties for, a school that designates a team or sport as female-only.

What Your Vote Means

YES

A “yes” vote on Initiative 109 means that all school-based athletic teams and sports must be designated as being for biological males or biological females only, or as mixed, and requires schools and school districts to adopt policies on gender eligibility for sports.

NO

A “no” vote on Initiative 109 means that individual schools, school districts, and athletic associations may continue to set their own policies in alignment with current state and federal law about who is eligible to participate on a team or in a sport.

Summary and Analysis of Initiative 109

What does the measure do?

The measure requires that any school-based team or sport be explicitly designated as being:

- for biological males only;
- for biological females only; or
- coeducational or mixed.

Under the measure, students must compete on teams that match their biological sex or on a coeducational team. Biological females are allowed to participate on a team or sport designated for biological males if there is no equivalent female team offered for that sport. Participation on a coeducational or mixed team or sport is open to all. In addition, the measure prohibits any

government entity, licensing or accrediting organization, or athletic association from investigating or penalizing a school for designating a team or sport as being only for biological females.

How does the measure define biological males and females?

The measure defines biological sex in terms of production of reproductive cells. "Male" is defined as children or adults whose biological reproductive system is organized around the production of sperm cells. "Female" is defined as children or adults whose biological reproductive system is organized around the production of ova, or egg cells. The measure does not impose a specific method for determining or demonstrating biological sex. Individual schools or school districts must determine their own verification procedures.

What teams does the measure apply to?

The measure applies to all teams and sports organized by schools or athletic associations, including teams that compete against other schools, in-house intramural sports, and after-school programs sponsored by schools. Schools include all public, charter, private, and religious school teams and sports from elementary through high school, and all public or private colleges, universities, and community colleges. Athletic associations are defined in the measure as organizations that administer extracurricular athletic competitions for schools. The measure does not apply to youth sports and leagues that operate separately from schools.

The governing body of every school or district must adopt a policy implementing the requirements established by the measure. For public K-12 schools, if a school district does not follow the measure's requirements, the state Commissioner of Education must first notify the district of its noncompliance. If the school district does not respond to this notification with a good-faith attempt to comply, then the commissioner must take corrective action. The measure does not establish an enforcement mechanism for private K-12 schools, colleges and universities, or athletic associations that do not adhere to the measure's requirements.

How does the measure interact with state and federal anti-discrimination law?

The Colorado Anti-Discrimination Act (CADA) prohibits discrimination in employment, housing, and places of public accommodation based on a person's sex, sexual orientation, gender identity, and gender expression. Public K-12 schools, colleges, and universities may not exclude students from extracurricular activities that align with their gender identity, even if their gender identity is different from their biological sex. It is unclear at this time how the measure will impact current state law.

At the federal level, Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in federally funded education programs. Courts and presidential administrations have interpreted Title IX in a variety of ways, sometimes including and sometimes excluding gender identity under the definition of "sex." On February 5, 2025, the President issued Executive Order 14201, "Keeping Men Out of Women's Sports," which directs federal agencies to interpret Title IX as prohibiting biological males from participating in female sports. States that do not adhere to federal policy may face cuts in federal funding, and state laws or policies that conflict with federal law may face legal challenges from the federal government. At least seven Colorado

schools and school districts have adopted policies restricting biological males who identify as female from participating in female sports. In June 2026, the U.S. Supreme Court ruled that states are permitted to adopt laws that ban biological males from participating in female sports, and that defining "sex" as biological sex for the purpose of separating athletic teams does not violate Title IX.

How do athletic associations currently address this issue?

The Colorado High School Activities Association (CHSAA), the association that oversees high school sports, recognizes a right for transgender athletes to participate in school activities. Its rules allow CHSAA to review schools' athletic eligibility decisions for transgender students. In 2025, eight schools and school districts in Colorado filed a federal lawsuit challenging CHSAA rules and CADA requirements related to classification of sports teams by sex. The group of schools and districts and CHSAA reached a settlement agreement in December 2025 that allows schools to maintain separate sports teams and facilities for biological males and biological females without being penalized or sanctioned by CHSAA. However, the portion of the lawsuit challenging CADA is still ongoing.

At the collegiate level, the National Collegiate Athletic Association (NCAA) rules state that competing in female sports is limited to student athletes who are assigned female at birth, and student athletes assigned male at birth cannot receive athletic scholarships designed for females, regardless of their gender identity. The NCAA rules do not apply to intramural collegiate sports.

Arguments For Initiative 109

- 1) Females should be able to compete against other females. Allowing biological males to participate on female teams creates an unfair advantage for the males and can prevent female athletes from achieving wins, records, podium spots, and scholarship opportunities. The measure protects the accomplishments of female athletes and creates a consistent, statewide standard for participation on female teams. Without uniform rules, female athletes across the state compete under different policies and conditions, resulting in an uneven playing field. The measure ensures that all female athletes can compete fairly no matter where they live.
- 2) Allowing biological males to participate on female teams or in female sports jeopardizes the safety and physical and emotional boundaries of female athletes. Regardless of one's gender identity, genetic differences between biological males and biological females can affect physical strength, stature, lung capacity, muscle tone, and growth. Males and females are separated in certain sports due to the physical differences between the sexes and the risk for injury. Beyond the field of play, shared locker rooms raise privacy concerns. The measure creates a reasonable policy grounded in biological sex that promotes the safety of all participants.

Arguments Against Initiative 109

- 1) The measure does not protect fairness; it turns athletic eligibility into a body inspection and manufactures new grounds for discrimination. It could subject many athletes, not just those who are transgender, to uncomfortable physical inspections. Requiring schools and districts to create their own separate policies will likely lead to unfair and uneven treatment of student athletes across the state. Some athletes may be forced to undergo invasive or expensive testing to prove their biological sex, while others may be able to simply provide a note from a doctor. Certain athletes could even be targeted for additional testing based on their physical strength, appearance, or athletic success.
- 2) School sports should be a space where all kids can build confidence, health, and belonging and have the opportunity to learn teamwork, leadership, and goal setting. Targeting an at-risk group of students by preventing them from playing on teams with their peers and instead requiring them to play on teams that do not match their gender identity leads to harassment, shame, embarrassment, and feelings of isolation and exclusion. The measure's rigid participation standards apply to kids of all ages and abilities, affecting even young children who just want to play on teams with their friends and peers and are not competing for championships or scholarships.

Information about the organizations supporting and opposing this measure is available on the Colorado Secretary of State's website:

www.coloradosos.gov/pubs/elections/Initiatives/ballot/contacts/2026.html

Fiscal Impact of Initiative 109

State Spending

Initiative 109 will increase workload and legal costs by an indeterminate amount in the Colorado Department of Education if a school district is intentionally out of compliance with the measure and the Commissioner of Education is required to take remedial action. Legal services are provided by the Department of Law.

In addition, state institutions of higher education will have increased costs to adopt or update policies for interscholastic or intramural athletic programs to align with the requirements in the measure. Any costs are assumed to be paid by institutional revenue, such as tuition, fees, or athletic department revenue.

Local Government Spending

Initiative 109 will increase workload and may increase costs for schools, school districts and charter schools that offer interscholastic or intramural athletic programs to update their policies. These costs are expected to be minimal. To the extent the Colorado Department of Education takes remedial action for noncompliance, legal and other costs may also increase for school districts.