



LEGISLATIVE
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2022 H.B. 11 Update: Litigation and Implementation

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1. Current Litigation Challenging 53G-6- Part 9, Participation in Female Sports (Prohibiting Transgender Females)
2. Effect of the Court Granting a Preliminary Injunction: Triggering 53G-6- Part 10, Student Eligibility in Interscholastic Activities (the Commission process)
3. Concerns with Implementation



1. Current Litigation Challenging 53G-6- Part 9, Participation in Female Sports (Prohibiting Transgender Females)

Prohibition – Part 9

Utah Code Ann. § 53G-6-902

Effective
July 1, 2022



Prohibition:

- “a student of the **male sex** may not compete, and
- a **public school or LEA may not allow** a student of the male sex to compete,
- with a team designated for students of the **female sex**
- in an **interscholastic athletic activity”**

Practice Exception:

Nothing “prohibits an LEA or school from allowing a student of **either gender from participating** with a team designated for students of the female sex, consistent with school policy, **outside of competition in an interscholastic athletic activity . . . ”**

Definitions

Interscholastic athletic activity:

“means that a student represents the student's school or LEA in **competition against another school or LEA** in an athletic or sporting activity.”

-Not limited to public schools

Sex:

“means the **biological, physical condition** of being male or female, determined by an individual's **genetics and anatomy at birth.**”



Litigation: Jenny Roe v. UHSAA et al

Plaintiffs

- Senior targeting volleyball
- 8th grader targeting swim (23-24)
- 9th grader targeting track

Defendants

- UHSAA
- Relevant school districts and district superintendents

Relief Sought

- Declaratory and Injunctive Relief

Claims

- Uniform Operation of Laws
Utah Const. art. I, § 24 (“All laws of a general nature shall have uniform operation.”)
- Equal Rights
Utah Const. art. IV, § 1 (“Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.”)
- Due Process
Utah Const. art. I § 7 (“No person shall be deprived of life, liberty or property, without due process of law.”)

Status

- Denied motions to dismiss
- Pending ruling on injunction





2. Effect of the Court Granting a
Preliminary Injunction:
Triggering 53G-6- Part 10, Student
Eligibility in Interscholastic Activities
(the Commission process)

Commission – Part 10

Utah Code Ann. § 53G-6-1002

Contingently
Effective

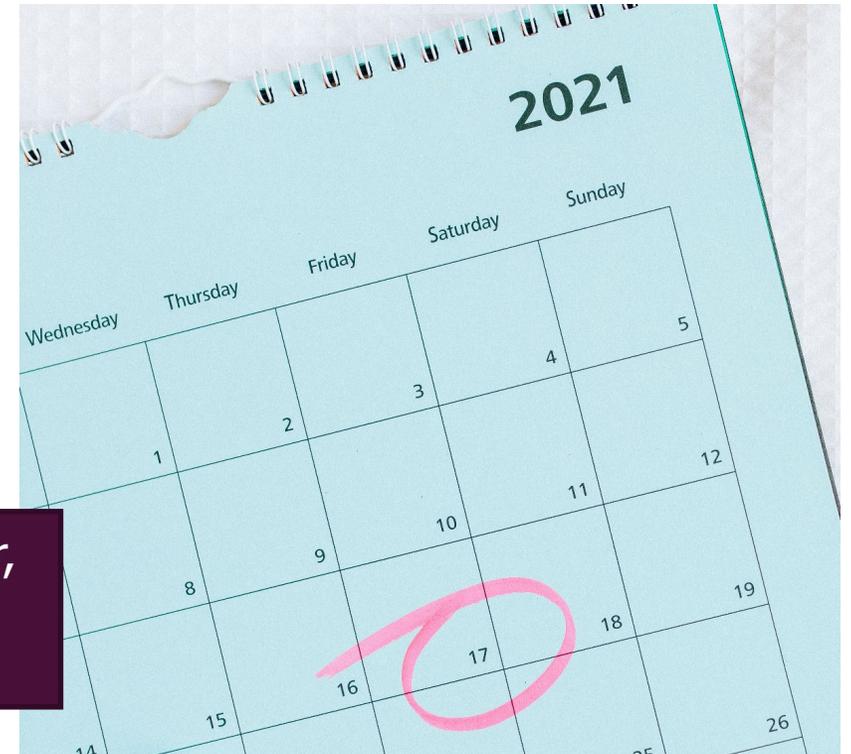


Contingent Effective Date:

Part 10's Commission process "becomes effective if a court of competent jurisdiction **invalidates** or **enjoins**" Part 9's prohibition on transgender females competing on female teams in interscholastic competition.

Conclusive ruling of unconstitutionality

Temporary restraining order, preliminary injunction, permanent injunction, etc.



Commission – Part 10

Contingently
Effective



Utah Code Ann. § 53G-6-1003

Definitions

Interscholastic athletic activity:

✓ Same

Gender identity:

Definition in housing discrimination bill, § 34A-5-102:

- Meaning in the DSM-5, shown by evidence, including:
 - medical history
 - care or treatment
 - consistent and uniform assertion, or
 - “other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.”

Student:

“a student who is **enrolled in a public school** that participates in interscholastic activities.”

- Not private school students

Eligibility:

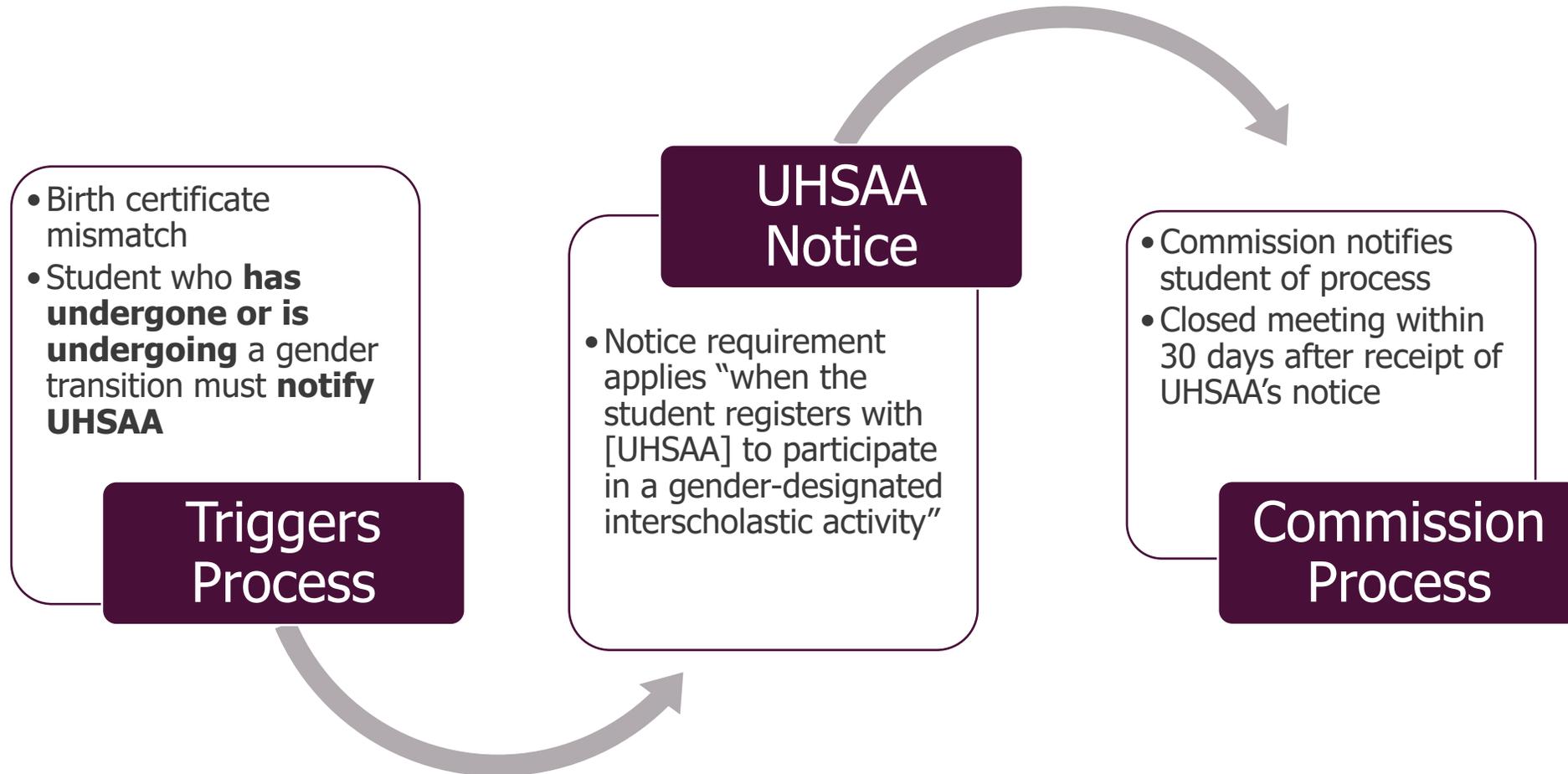
- Approval of the commission = permission “to participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate”
- No approval of the commission = no permission

Affirmative Requirement:

- “A student who **has undergone or is undergoing** a gender transition **shall obtain the eligibility approval** of the commission . . . to participate in a gender-designated interscholastic activity that corresponds with the student's gender identity.”



Registration Process under Part 10





3. Concerns with Implementation

UHSAA's 2022-2023 Policies

"With the consent of parents or a legal guardian, a student **shall be permitted** to participate on a gender specific sports team that is consistent with the public gender identity of that student . . ."

"The UHSAA **will require that member school districts and schools** make a determination of a student's eligibility to participate in gender specific sports team for a particular season **based on the gender identification of that student** (1) in current school records, and, (2) daily life activities in the school and community at the time that sports eligibility is determined."

"A male to female transgender student athlete who is taking a medically prescribed hormone treatment under a physician's care for the purpose of gender transition may participate on a boys team at any time, but **must complete at least one calendar year of medically prescribed hormone treatment** under a physicians care for the purpose of gender transition **before competing on a girls team.**"

- *2022-23 UHSAA Handbook, Interps & Guidelines*
1.1.4: TRANSGENDER PARTICIPATION



'Register My Athlete' Questionnaire

Application Questions

If TEST has transitioned and/or is in the process of transitioning genders from the sex at birth, please click 'YES'. Otherwise just submit this page as is.

YES

Please answer the following questions and follow the instructions.
The UHSAA will consider this information to be confidential.

Choose one of the following:

Transfemale Transmale

Is TEST taking or has taken medically prescribed hormone treatment under a physician's care for the purpose of a gender transition?
for at least one calendar year?

YES NO

UHSAA policy states that the student may participate on a boys team at any time, but must complete one year of hormone treatment related to the gender transition before competing on a girls team.
Please work with your school's athletic administration to inquire into the process for eligibility of transgender participants.

By clicking 'YES', I acknowledge that I have read and understand the [UHSAA Interps & Guidelines 1.1.4: Transgender Participation policy](#)

YES



Questions?



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