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May 8, 2025

Hon. Anne Carney, Senate Chair
Hon. Amy Kuhn, House Chair
Committee on Judiciary
100 State House Station
Augusta, ME 04333

RE: Opposition to LDs 233, 868, 1134, and 1337

Dear Senator Carney and Representative Kuhn:

I am writing to in opposition to LDs 233, 868, 1134 and 1337, all of which seek to limit the participation of transgender athletes in school sports.

While certainly there are some elite school athletes who receive college athletic scholarships, and even a few who go on to compete on a professional level, that is not the experience of the vast majority of students. Most students who participate in school-sponsored athletics do so because of their love of the sport, the camaraderie of being part of a team, the opportunities to build social connections, and to maintain physical fitness. Being part of school athletics helps boost confidence and self-esteem, enhances school engagement and a sense of belonging, and teaches students valuable social, emotional, and other life skills that will serve them well long after graduation. Given all of these benefits, we should be encouraging students to participate in school athletics.

These bills do the exact opposite – by singling out transgender students, they set up roadblocks to participation in school athletics. The bills would force transgender students to choose between participating on a team of a gender with which they do not identify or not participating at all. Many transgender students will not view this as a real choice at all because it would require them to sacrifice their identity and act contrary to who they are. So they will simply not participate in school sports. And for any transgender students who do decide to participate on a team of the other gender, it will likely not be a positive experience and will not provide the benefits that athletic participation normally provides.

To be clear, federal law does not require bills like these that limit the participation of transgender athletes. To my knowledge, not a single court has ever held that Title IX or any other federal law prohibits schools from allowing transgender athletes to participate on the team

of the gender with which they identify. To the contrary, the Fourth Circuit Court of Appeals held last year that a transgender girl's rights under Title IX were violated by a state law prohibiting her from participating on girls' teams. *B.P.J. v. W. Virginia State Bd. of Educ.*, 98 F.4th 542 (4th Cir. 2024).¹ Also last year, the Ninth Circuit Court of Appeals held that two transgender girls were likely to prevail on their claim that a state law prohibiting transgender female athletes from playing on female teams violated the Equal Protection Clause of the United States Constitution. *Doe v. Horne*, 115 F.4th 1083 (9th Cir. 2024). While we are currently being sued by the United States Department of Justice because transgender girls in Maine schools are allowed to participate on girls' teams, we are vigorously defending the case and I am confident that we will prevail.

I urge you to vote Ought Not to Pass on any bill that seeks to limit the participation of transgender athletes in school sports.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Aaron M. Frey". The signature is fluid and cursive, with the first name "Aaron" and last name "Frey" clearly legible.

Aaron M. Frey
Attorney General

¹ The United States Supreme Court was asked to review the Fourth Circuit's decision, but it declined to do so. 145 S. Ct. 568 (2024).