



Testimony in Support of LD 2239:

“An Act to Designate School Sports Participation and Facilities by Sex”

Senator Carney, Representative Kuhn, and distinguished members of the Joint Standing Committee on Judiciary, my name is Montana Towers, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free market think tank, a nonpartisan, nonprofit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to submit testimony in support of LD 2239, “An Act to Designate School Sports Participation and Facilities by Sex.”

LD 2239 establishes clear, objective standards for participation in school athletics and the use of sex-specific facilities by defining eligibility based on biological sex. The bill requires schools to designate athletic teams accordingly and maintain separate private spaces, while also preserving protections for individuals with medically verifiable differences in sex development. Maine Policy Institute supports LD 2239 because it promotes fairness, safety, and administrative clarity in Maine’s public schools.

Objective Standards Ensure Fairness

A foundational principle of sound public policy is the use of clear, objective, and consistently applied standards. By defining eligibility based on biological sex, LD 2239 establishes a bright-line rule that is both easily understood and enforceable.

As we have noted in prior testimony on similar legislation, policies grounded in biological reality eliminate ambiguity and provide a level playing field for all students. Unlike subjective standards based on self-identification, biological sex is verifiable and stable, allowing schools to administer policies consistently across districts.

This clarity is particularly important in athletics, where physical differences between males and females are well documented and materially impact competitive outcomes.¹ Maintaining sex-based distinctions in sports ensures that female athletes retain meaningful opportunities to compete, succeed, and benefit from the protections long recognized under Title IX.

Administrative Simplicity and Legal Clarity

From a governance standpoint, LD 2239 reduces confusion and legal risk for Maine schools. Policies based on subjective standards create uncertainty, invite disputes, and expose schools to potential litigation from multiple directions. By contrast, a biological

¹https://journals.lww.com/acsm-msse/fulltext/2023/12000/the_biological_basis_of_sex_differences_in.21.a.spx



standard provides: consistency across districts and athletic associations, predictability for students, parents, and administrators, and legal clarity by explicitly stating that compliance does not violate the Maine Human Rights Act. This type of clarity is essential for effective governance and helps ensure that school officials can focus on education rather than navigating conflicting mandates.

Protecting Safety and Privacy in School Facilities

LD 2239 also addresses the use of private spaces such as locker rooms, restrooms, and showers, areas where expectations of privacy are especially high. The bill ensures that these facilities remain separated by biological sex while preserving accommodations required under federal disability law.

This approach reflects a balanced and practical policy framework: it protects the privacy rights of all students while recognizing the need for clear, enforceable rules. Schools should not be placed in the untenable position of adjudicating subjective identity claims in contexts where privacy and safety are paramount.

Private Right of Action Ensures Accountability

LD 2239 also appropriately includes a private right of action for students who are deprived of athletic opportunities or harmed by violations of the law. This provision is critical to ensuring that the policy is not merely symbolic, but meaningfully enforceable.

Too often, statutory protections exist only on paper, with little recourse for individuals when institutions fail to comply. By empowering students and families to seek injunctive relief, damages, and attorney's fees, this bill places enforcement in the hands of those directly affected.

This approach aligns with the core principle of good governance that individual rights must be paired with accessible remedies. Rather than relying solely on administrative enforcement or bureaucratic oversight, LD 2239 allows harmed parties to defend their rights directly through the courts. Additionally, this provision creates a strong incentive for schools and governing bodies to adopt clear, compliant policies from the outset—reducing confusion, minimizing disputes, and promoting uniform adherence statewide.

Conclusion

LD 2239 is a measured and commonsense proposal that reinforces fairness, protects student privacy, and provides much-needed clarity for Maine schools. It reflects a



commitment to objective policymaking and the responsible administration of public education.

For these reasons, Maine Policy Institute strongly urges this committee to vote “Ought to Pass” on LD 2239. Thank you for your time and consideration.