



Testimony of Vajra Ma, Chair, Women's Human Rights Campaign USA

Before the New Mexico House of Representatives

H.B. No. 304

## **SUPPORT**

February 21, 2021

Thank you, members of the New Mexico House of Representatives, for allowing me the opportunity to provide written testimony in support of H.B. No. 304.

The Women's Human Rights Campaign (WHRC) is a global nonpartisan group of volunteer women dedicated to protecting women's sex-based rights. Our volunteers include academics, writers, organizers, activists, lawyers, and health practitioners. [The Declaration on Women's Sex Based Rights](#) was created by the founders of WHRC to lobby nations to maintain language protecting women and girls on the basis of sex rather than "gender" or "gender identity." The Declaration re-affirms women and girls' sex-based rights and challenges the discrimination we experience from the replacement of the category of sex with that of "gender identity."

I am the chair of WHRC USA, the U.S. chapter of WHRC. My interest in the legislation before the House of Representatives today, H.B. No 304, is based upon Article 7 of our Declaration, "Reaffirming women's rights to the same opportunities as men to participate actively in sports and physical education." This is in keeping with Article 10 (g) of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, which provides that Parties shall ensure "[t]he same Opportunities to participate actively in sports and physical education" for girls and women as for boys and men.

Article 7 of our Declaration is consistent with Title IX of the Education Amendments of 1972, which states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance," further specifying in Section 106.41 (b) of its implementation regulations that "a recipient may operate or sponsor separate teams for

members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.”

In recent years, there has been an incursion of men and boys into women’s and girls’ athletic competitions on the basis of so-called “gender identity,” a linguistic mechanism by which men and boys claim the identity of women and girls. This claim has no basis in material reality and is contrary to Article 1 of WHRC’s Declaration on Women’s Sex-Based Rights, which states that “the inclusion of men who claim to have a female ‘gender identity’ into the category of women in law, policies and practice constitutes discrimination against women by impairing the recognition of women’s sex-based human rights.”

WHRC USA maintains that the provision of single-sex sports is necessary if women and girls are to have opportunities that are on a par with those of men and boys. As Eric Vilain, a professor of human genetics at UCLA and consultant to the IOC medical commission has [noted](#), “We separate men and women into categories because we want women to be able to win some competitions. There is a 10 to 12% difference between male and female athletic performance.” Significant differences in the average bone density, heart size, lung volume, hemoglobin levels, and muscle development of men and women, among other physical differences, result in men being able to generate higher speed and power during physical activity. Even after two years of testosterone suppression, males [retain physical advantage over females](#), especially when it comes to speed.

Girls’ ability to compete fairly in athletics matter in concrete, material ways. Participation in high school athletics is the basis upon which athletes are recruited onto college teams, and girls and young women often depend upon participation in athletics to be eligible for scholarships. If males are permitted to compete in female sports, there is a likelihood that top spots will go to boys. A notable example is [Cece Telfer](#), formerly known as Craig Telfer, a NCAA Division II track athlete who attends Franklin Pierce University in New Hampshire. While on the men’s team, Telfer was a middling athlete: in 2016 and 2017 Telfer ranked 200th and 390th, respectively, in men’s 400m hurdles. Telfer did not compete in 2018, and in 2019, he came back as Cece Telfer to compete on the women’s team, winning the 2019 DII national title for women’s 400m hurdles. Such an improvement in a single year is unheard of. Women and girls cannot overcome the inherent physiological advantages that males have by “training harder.”

If sex segregation in sports continues to be eroded, more and more women and girls will lose their spots on teams and podiums to males. This is in direct opposition to Title IX, legislation created to ensure girls and women have equal opportunities in education. By passing H.B. No. 304, New Mexico would guarantee the sex-based rights of women and girls and ensure fairness for all student athletes.