

GOVERNOR'S VETO MESSAGE

April 2, 2024

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 377** in its entirety.

This bill requires school boards, independent charter schools, and private schools participating in a parental choice program (“educational institutions”) that offer athletic teams to designate each team as male, female, or male and female (coed), based on the sex of allowed participants, defined as the sex as determined at birth and reflected on the participants’ birth certificate.

This bill ignores a transgender student-athlete policy created by the Wisconsin Interscholastic Athletic Association in 2015. The policy vests power at the member school level to determine which sports a student may participate in after consideration of written statements from the student, peers, teachers, and medical professionals, and in consideration of therapies relating to gender confirmation.

Further, this bill may conflict with existing federal law. In 2020, the U.S. Supreme Court case *Bostock v. Clayton County* concluded that discrimination based on sexual orientation or gender identity inherently involves treating individuals differently due to their sex in the context of employment under Title VII of the Civil Rights Act of 1964. Due to similarities between Title VII and Title IX, on June 16, 2021, the U.S. Department of Education released a notice of interpretation declaring that the Title IX prohibition on discrimination on the basis of sex is inclusive of sexual orientation and gender identity, which is inclusive of transgender students. Additionally, the U.S. Department of Education has proposed a rule to clarify the role of gender identity in sports participation for schools receiving federal funding (including K-12 schools), developed in consideration of thousands of comments from parents, schools, coaches, and students. The proposed rule would prohibit schools from categorically banning transgender students from participating in athletics consistent with those students’ gender identity. Although not yet final, the proposed rule reflects the intent and spirit of Title IX protections for student athletes. Therefore, ultimately, this bill may be a violation of Title IX’s guarantee of rights to athletic participation for all students, not a protection of the rights of a subset of students.

Finally, and importantly, I believe this bill fails to comport with our Wisconsin values. We expect our kids to treat each other with kindness, respect, empathy, and compassion, and we should be able to expect adults to lead by example. I urge the Republican majority to do so while fully considering

the harmful consequences its efforts and actions have on our kids prior to introducing similar legislation in the future.

I am vetoing this bill in its entirety because I object to codifying discrimination into state statute and the Wisconsin State Legislature’s ongoing efforts to perpetuate hateful and discriminatory rhetoric and policies targeting LGBTQ Wisconsinites, including our transgender and gender nonconforming kids. LGBTQ kids, including transgender and gender nonconforming kids, deserve our love and respect and support just like any other kid. I restate again today: this type of legislation, and the harmful rhetoric beget by pursuing it, harms LGBTQ Wisconsinites’ and kids’ mental health, emboldens anti-LGBTQ harassment, bullying, and violence, and threatens the safety and dignity of LGBTQ Wisconsinites, especially our LGBTQ kids. I will veto any bill that makes Wisconsin a less safe, less inclusive, and less welcoming place for LGBTQ people and kids, and I will continue to keep my promise of using every power available to me to defend them, protect their rights, and keep them safe.

States across this country may give way to radical policies targeting LGBTQ individuals and families and threatening LGBTQ folks’ everyday lives and their ability to be safe, valued, supported, and welcome being who they are. As long as I am the governor of this great state, Wisconsin will not be among them.

Respectfully submitted,
TONY EVERS
Governor