

Testimony of Chad C. Nodland
Before the North Dakota Senate Judiciary Committee
March 16, 2021 – 2:30pm
In Opposition to HB 1298

I live in Bismarck and am a parent to two boys. I'm not here as a lobbyist or representative of anybody. I'm just a dad whose older son was a youth swimmer with team AquaStorm here in Bismarck but has moved on to college now. And my younger son is a fifth grader and is currently a swimmer with AquaStorm. I am concerned that this bill, if it becomes law, will not only kill my son's swim club, but also destroy many other options kids – including my son – might have for participating in youth club sports in North Dakota. My understanding – based upon a data sheet from the North Dakota club swimming statewide organization (which I've attached to my testimony) – is that somewhere between 1,500 and 2,000 other kids, like my kids, who participate in club swimming in North Dakota. So maybe 750 to 1,000 families. And that's **just** club swimming. Add all the hockey, baseball and wrestling families, and you're probably talking about tens of thousands of North Dakota families with kids, grandkids, etc., in youth club sports.

Most youth club sports operate under national and international parent organizations. This includes youth club swimming, but also includes youth club wrestling, hockey, little-league baseball, gymnastics and possibly others. But swimming is the primary youth sport on my mind right now. With swimming clubs, it's "USA Swimming." With many other sports, it's just the word "USA" followed by the sport. "USA Hockey" for example, for the Bismarck Hockey Boosters or Mandan Hockey Club and all the teams they play against around the state and region. It also includes the Bismarck "Gorillas" wrestling club, and the teams they compete

against around the region. And “USA Gymnastics” and the local gymnastics club. Also, USA Boxing, USA Shooting. If you are interested in a specific sport – let’s say archery – just Google the words “USA Archery diversity inclusion policy” (without the quotation marks) and you’ll probably find the youth sport’s policy on this specific issue.

Most of the local youth club sport programs in North Dakota are feeder programs for national and international amateur competition. We’re talking about – among other things – the Olympics. One of the requirements for having competitive events – or events at all – with trained/sanctioned USA Swimming officials, etc., is to have the event sanctioned by the national parent organization. Having a USA Swimming sanctioned event draws swimmers in from all over the state, and from many neighboring states. At USA Swimming-sanctioned events you’ll see people on the pool deck wearing white polo shirts with “USA Swimming” patches on the chest or sleeve. That’s how I know it’s a USA Swimming sanctioned event. If the “white shirts” are there, I know my kid’s time could count for getting into state, regional and national competitions. I assume (but don’t know) there are similar things at other club sports that show a competition is sanctioned by the national organization.

If a North Dakota youth swimmer wants their time considered as an “official time” for purposes of getting into a state, regional or national competition, the race has to take place at a USA Swimming-sanctioned event. For the event to be USA Swimming-sanctioned, the event has to follow USA Swimming rules.

Most or all of these national/international club organizations have adopted their own rules regarding participation by transgender athletes. (I believe they all have.) If North Dakota House Bill 1298 (“HB 1298”) passes and is signed into law by Governor Burgum, it will mean – at a minimum – North Dakota kids will not be able to participate in sanctioned competitions in North Dakota. Worst-case-scenario it will mean the end of youth club sports – little-league

baseball, gymnastics, wrestling, hockey, etc... -- in North Dakota. Why? Because the clubs have to follow the national rules, and HB 1298 prohibits them from doing so.

Now you may be a transphobic person and that's your prerogative, I guess. But let's set your transphobia aside for just a moment. Let's also forget about all the non-transgender kids who are going to lose their sports clubs. What about the businesses that will be impacted? What about all the employees of those businesses, and their families? How many hotel rooms do you think get filled up in Grand Forks or Fargo when there's a youth hockey tournament? How many families fill their cars with gas at gas stations, eat in restaurants, or shop at the local mall or shopping center while on their way to and from a club wrestling tournament in Mandan? Hundreds of families – and extended families – travel to the club state swim tournaments every year. Those are hosted in Bismarck, West Fargo or Grand Forks, usually, because they have huge public facilities they can use until HB 1298 passes. Imagine the economic impact it will have on the businesses in the communities that host these youth sports competitions. We're talking about tens of millions of dollars in economic impact, at a minimum.

Okay, so let's stop forgetting about the kids. What about these kids? Lots of these kids – hockey players, swimmers, baseball players – love their sports. So do the parents. The kids learned lots of life skills in these clubs. They learn about hard work. They learn about leadership. They learn about sportsmanship. They learn about respect. They learn social skills. I, personally, have dozens of friendships and acquaintances across the state because of my kids' involvement in youth club swimming. HB 1298 will destroy the sanctioned sports these kids love to participate in. And the parents, siblings, grandparents and extended family, too. And all those club organizations have paid employees and officials, too. And they have relationships with local facilities. Maybe they pay rent for use of the pool or auditorium they use. Maybe they get some help from the local CVB. Will all that go away? Yes. It looks like it will.

Another concern I have is that some of you may ask that this bill be amended to make it only apply to high school competitions. While you might be doing less harm by doing that, you will still be doing a lot of harm. Why? Because – with swimming as my example again – USA Swimming officials are on the pool deck at some high school swim meets, but I'm not sure how many. I am certain they officiate at the state swimming championships. I think they may also be at regionals, the WDA and EDC competitions. Maybe they officiate at some invitationals, but I don't remember. (I'd urge you to reach out to the organizations and truly inform yourselves about this, if you hope to do the right thing.) The USA Swimming officials officiate at high school meets to ensure those high school swim meets comply with USA Swimming rules so kids' times can be used as qualifying times for USA Swimming events. An example of why this is important for a lot of swimmers is that the boy's high school state swimming championships were about 10 days ago. The USA Swimming sectionals competition– in Des Moines – was this past weekend. The 11 and older club championship meet is next weekend. The high school boys get their best – and maybe their only – qualifying times for state and sectionals at the high school championships. The youth athletes want to be able to use their high school times to get into those bigger state and regional meets and they want to be properly seeded. If you pass some other version of this bill, the USA Swimming officials probably won't be able to officiate at high school meets (because the meets don't comply with USA Swimming rules), and all those kids will miss out on swimming at the club state championships, and sectionals. You're killing these kids' dreams.

The ND Swimming state organization has info about this bill on its website. It's very informative. Here's a link, but I have also copy-and-pasted their information after this page.

<https://www.teamunify.com//team/czndslsc/page/news/273529/ndlsc-swimming--nd-athletics--the-future-is-in-question>

NDLSC Swimming / ND Athletics – The Future is in Question



ND Swimming - LSC
Feb 25, 2021

NDLSC Membership:

The purpose of this message is to inform you of: (a) legislation that is being discussed in the ND Senate; (b) policies in place at the level of NDHSAA and USA Swimming (USAS); (c) the impact on activities, including swimming, of the legislation; and (d) action items you may choose to take.

Note: If this passes as written, there is no USA Swimming in ND.

Legislation that is being discussed in the ND Senate

[House Bill 1298](#) (please read attached) is what many are hearing as the “transgender bill”. Our focus is not to debate one's beliefs on trans athletes, that is each person's decision. Our focus is on the broad sweep of impacts this bill has that may be unintended or unknown. Some people, including some lawmakers, believe this bill is narrowly targeted at HS sports in ND. Discussions with current legislators gives a far broader impact. It would do two things that would dramatically affect our sport, ALL other HS activities and many other Club sports.

1. Lines 16-20 would not allow any publicly funded or owned facility to host ANY event designated as exclusively for boys or girls in which a transgender athlete of the opposite birth gender under the age of 18 may be allowed to participate. Examples of these publicly funded facilities that could be affected include the majority of the facilities utilized by our member team, i.e. all of those owned by your City, Park District, University/College, all high school facilities such as the Hulbert Aquatic Center, high school pools, etc.
2. Many meets across our host cities are sponsored by the local Convention and Visitor's Bureau (CVB). Since the CVB receives public funding in the form of lodging tax dollars, lines 13-15 of this bill would effectively eliminate their ability to support (financially or otherwise) any of those events, even if the event is held at a privately owned facility.
3. Legal interpretation of it is that these sanctions would apply simply if a sport's governing body has a policy in place that would allow for a transgender athlete to participate. It would not matter whether one actually is participating or not. **The policy alone is enough to enact the above restrictions.**

Policies in Place at the Level of ND High School Activities Association and USAS

NDHSAA and NDLSC are governing and sanctioning bodies that have national governing bodies of the National Federation of HS Athletics and USAS. The decision on where, when,

if and how a transgender athlete be allowed to participate in sporting events **has already** been decided by these governing and sanctioning bodies. These policies do not allow "transient" decisions as some may be inclined to interpret. Each requires a minimum of 12 months of hormone treatment before any process of gender identity reassignment and competition could occur, it requires legal changes of identity. If we are OK with having our children compete as they do now in HS and Club sports, we are tacitly OK with the national governing body policies.

Impact on Activities, Including Swimming

USA Swimming sanctions all of swimming in the US; there is no other entity. As written, our Governing Body has a Diversity, Equity, and Inclusion policy that would be in violation of HB 1298. Therefore every pool in ND, would be prohibited from use for any swim team. This is 1500 - 2000 athletes across the state today that will be negatively impacted in Club swimming alone. This isn't a "what if", it is a "will happen" decision at the level of USAS. It is not about our personal opinions of the bill, it's about what will happen to our teams if we don't take action.

It's also not limited to swimming. This impacts other club sports such as hockey, wrestling, Little League baseball, and all of NDHSAA activities. While we are reaching out as the NDLSA, we are asking you to reach out widely to everyone in ND.

Action Items You May Choose to Take

1.Reach out beyond our swim community. Talking points for non-athlete families include:

- This legislation is an assault on local control. It takes decision making processes out of the hands of local leaders.
- The effect will be raising property taxes by restricting who school districts and public facilities can rent to providing no alternative other than tax revenue.
- Dramatic impact on local communities

2.Find out who your District Senator is. Be ready to CALL your local Senator next week (not yet!) and say you are a voting constituent and state your opposition. Leave a message if no answer. Share this link with your ND network so they can call too.

<https://www.legis.nd.gov/lcn/assembly/constituentViews/public/findmylegislator.htm>

3.Be ready to send emails and testimonial to the Senate Judiciary committee the weekend before the hearing is announced (still be to determined).

4.Attend the hearing if able. Links will be provided.

We wanted to make you aware of the next steps and provide enough background to understand the decision process.