

Three reasons why it's problematic to track student athletes' menstrual cycles

February 21 2023, by Lindsey Darvin et al



PREPARTICIPATION PHYSICAL EVALUATION (Page 2 of 4)
This medical history form should be retained by the healthcare provider and/or parent
This form is valid for 365 calendar days from the date signed below

EL2
 Revised 6/23

Student-athlete name: _____ Date of birth: ___/___/___ School: _____

BONE AND JOINT QUESTIONS		Yes	No	MEDICAL QUESTIONS (continued)		Yes	No
14	Have you ever had a stress fracture or an injury to a bone, muscle, ligament, joint or tendon that caused you to miss a practice or game?			25	Do you worry about your weight?		
15	Do you have a bone, muscle ligament, or joint injury that currently bothers you?			26	Are you trying to or has anyone recommended that your gain or lose weight?		
MEDICAL QUESTIONS		Yes	No	27	Are you on a special diet or do you avoid certain types of foods or food groups?		
16	Do you cough, wheeze or have difficulty breathing during or after exercise or has a provider ever diagnosed you with asthma?			28	Have you ever had an eating disorder?		
17	Are you missing a kidney, an eye, a testicle, your spleen or any other organ?			29	Have you had a menstrual period? <i>If yes, answer questions 30 - 32</i>		
18	Do you have groin or testicle pain or a painful bulge or hernia in the groin area?			30	How old were you when you had your first menstrual period?		
19	Do you have any recurring skin rashes or rashes that come and go, including herpes or methicillin-resistant staphylococcus aureus (MRSA)?			31	When was your most recent menstrual period?		
20	Have you had a concussion or head injury that caused confusion, a prolonged headache, or memory problems?			32	How many periods have you had in the past 12 months?		
21	Have you ever had numbness, had tingling, had weakness in your arms or legs, or been unable to move your arms or legs after being hit or falling?			Explain "yes" answers here:			
22	Have you ever become ill while exercising in the heat?						

Questions about students' menstrual history were removed from the Florida High School Athletic Association's physical evaluation form. Credit: Florida High School Athletic Association

[Concerns are being raised](#) across the U.S. about whether schools have a right to compel female athletes to provide information about their

menstrual cycles.

The [Florida High School Athletic Association](#) Board of Directors [rejected a proposal](#) in February 2023 that would have required [high school girls](#) to answer [four questions about their menstrual cycles](#) in order to play on school sports teams. The questions had previously been optional.

The four questions were: Have you had a menstrual cycle? How old were you when you had your first menstrual period? When was your most recent menstrual period? How many periods have you had in the past 12 months?

The answers, along with the rest of students' [medical history](#), would have been entered into an online platform and stored on a third-party database called [Aktivate](#). [School personnel](#) would have had access to this information.

While Florida decided to scrap the questions from their student forms, many states currently ask similar questions of their female athletes prior to participation in their sport.

As researchers who are experts in [Title IX](#), sports and health care equity, and [constitutional law](#), we have identified three reasons why schools and states tracking female athletes' menstrual history may conflict with federal laws.

1. It may violate federal anti-discrimination law

[Title IX](#), a [federal policy](#) passed in 1972, prohibits federally funded schools from discriminating against students based on sex, sexual orientation or [gender identity](#). The goal of the policy is to [end sex discrimination, sex-based harassment and sexual violence](#) in education.

While Title IX applies to all school settings, it is [often most associated with athletics](#).

Requiring female student-athletes to submit menstrual cycle data to their schools could be a form of [sex discrimination](#) and therefore violate [Title IX](#). The reason it is potentially discriminatory is because girls are the only students at risk of being denied the opportunity to play sports if they choose not to provide schools with details about their menstrual cycles.

In a [2020 Harvard Journal of Law and Gender study](#), three scholars argue that schools should create [educational settings](#) free of "unnecessary anxiety about the biological process of menstruation."

"Because menstruation is a biological process linked to female sex," they write, "educational deprivations connected with schools' treatment of menstruation should be understood as a violation of Title IX's core proposition."

2. It threatens constitutional rights

Tracking [female athletes'](#) menstrual history may be downright unconstitutional.

Forcing only females to disclose private medical information may violate the [equal protection clause](#) of the [14th Amendment](#) of the U.S. Constitution, which prohibits sex-based discrimination.

Also, [11 states](#) have a "right to privacy" written into their state constitutions. For example, the [Florida Constitution](#) states that "all natural persons, female and male alike, are equal before the law and have inalienable rights," including "the right to be let alone and free from governmental intrusion into the person's private life."

While other states do not explicitly provide a right to privacy in their constitutions, legal precedent has determined that this right is [implicit in the U.S. Constitution](#).

And finally, federal laws that protect [medical](#) and [educational](#) records do not have [standards](#) for maintaining medical records that are shared with schools and stored on third-party databases. This lack of precedent may result in privacy breaches.

3. It could be used against transgender students

The recent passage of several anti-LGBTQ+ policies in Florida made the Florida High School Athletic Association's attempts to track and digitally store menstrual data particularly worrisome to trans rights advocates.

In June 2021, Gov. Ron DeSantis [signed a bill prohibiting trans girls from playing on girls athletic teams](#).

In March 2022, DeSantis signed the Parental Rights in Education bill, better known as the ["Don't Say Gay" bill](#). It prohibits classroom instruction on sexual orientation and gender identity in K-3 public school classrooms.

And just one week after the proposed mandate was struck down, a [Florida House committee advanced a bill](#) that would place the Governor's office in control of the Florida High School Athletic Association.

As more states try to [ban trans youth from receiving gender-affirming medical care](#)—including [hormone therapy](#), surgical procedures and other treatments—menstrual tracking in athletes could serve as another mechanism to harm and criminalize transgender youth.

Tracking menstrual cycles could "out" trans youth if they are required to disclose information about their [menstrual cycle](#)—whether that is the presence or absence of a cycle. If a school is responsible for outing trans kids, they violate both [constitutional rights](#) and [Title IX policy](#), and they risk endangering the outed students' welfare.

Protecting period privacy

While the proposed Florida mandate was rejected, we have found that most states do in fact collect data on high school athletes' [menstrual cycles](#).

Based on our collection of sports pre-participation forms, only four states—Mississippi, New Hampshire, New York and Oklahoma—as well as Washington, D.C., do not currently ask any questions about menstrual history on the sport pre-participation medical forms provided by their state athletic association.

Following the vote on the Florida proposal, [three House Democrats introduced legislation](#) called the Privacy in Education Regarding Individuals' Own Data Act, or [PERIOD Act](#). It would prohibit schools from collecting menstrual information altogether.

If this legislation is adopted, the estimated [3 million American high school girls](#) who play sports in a state that still asks about menstrual history will no longer have to share this information.

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