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To the Central Bucks School Board:

The Education Law Center was contacted by several members of the Central Bucks school community regarding Policy 123.3 - Sex-Based Distinctions in Athletics. For the reasons set forth in the accompanying policy statement, ELC urges members of the School Board to vote against proposed Policy 123.3 as the policy violates federal and state civil rights laws.

As reflected in the attached, the U.S. Supreme Court as well as federal appellate and district level courts have held that discrimination on the basis of gender identity is a form of sex discrimination. In addition, both the Department of Education and Department of Justice have made it clear that they will enforce Title IX protections to challenge policies that discriminate against transgender athletes. Recent regulations adopted under the Pennsylvania Human Relations Act also expressly prohibit discrimination on the basis of sex, which includes gender identity. Moreover, the Family Educational Rights and Privacy Act ("FERPA") prevents schools from requiring medical information absent parental consent or state guidance directs school districts to refrain from requiring students to submit original birth certificates as a condition for enrolling in school.

For these reasons and those more fully delineated in the attached ELC Policy Statement, ELC asserts that proposed Policy 123.3 – *Sex-Based Distinction in Athletics* would violate both Federal and State law, including standing 3<sup>rd</sup> Circuit and Supreme Court precedent, and therefore we urge the school board to vote nay on October 10, 2023.

Sincerely:

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Cc: Mr. Jeffrey Garton, Esq. Solicitor