



BASKETBALL
AUSTRALIA

BASKETBALL AUSTRALIA
TRANSGENDER ELIGIBILITY POLICY FOR
ELITE BASKETBALL

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Acronyms	Full form
BA	Basketball Australia
FIBA	International Basketball Federation
ANADP	Australian National Anti-Doping Policy
NBL	National Basketball League
TUE	Therapeutic Use Exemption
WNBL	Women's National Basketball League

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1. Purpose

- 1.1 This Policy outlines the eligibility criteria and assessment process for the participation of transgender athletes in elite level basketball. The measures that should be taken to promote the participation of Transgender and Gender Diverse Athletes in Community Basketball are contained within the *Transgender and Gender Diverse Inclusion Policy for Community Basketball*.
- 1.2 The *Sex Discrimination Act 1984* (Cth) makes it unlawful to treat any person less favourably than another person in a similar situation because of the gender-related identity, appearance, mannerisms, or other gender-related characteristics of the person. Federal and State Legislation does, however, provide an exemption that enables sport to exclude participants based on gender where the strength, stamina or physique of athletes is relevant, where participation is necessary to progress to national or international elite-level competition, or the exclusion intends to facilitate participation by people of a particular sex.
- 1.3 BA and its State and Territory Members are committed to providing a safe, fair, and inclusive environment for all people. This Policy seeks to create opportunities for all persons to participate in fair, meaningful and, where appropriate, gender-based competition.
- 1.4 BA recognises that both intentional and unintentional transphobic behaviours exist within sport, which often leads to significant adverse consequences for individuals and communities. People who are subjected to ongoing discrimination or harassment feel excluded, shameful, hide their true self, and/or choose not to participate in basketball. These outcomes are unacceptable, and BA is committed to the inclusion and respectful behaviour at all levels of basketball to ensure all people can participate.
- 1.5 BA recognises that the inclusion of Transgender and Gender Diverse people within sport can be complex and emotive for many people.
- 1.6 BA is a member of FIBA and the IWBF. BA's national teams participate in FIBA and IWBF events, Olympic Games, Paralympic Games and Commonwealth Games. Accordingly, BA must comply or align with relevant policies and regulations of FIBA, the International Olympic Committee (IOC), the International Paralympic Committee (IPC) and the Commonwealth Games Federation. The applicability of these guidelines to Elite Level Basketball is addressed in section 4 of the Policy.

2. Scope and limitations

- 2.1 This Policy applies to all persons and organisations participating, or intending to participate, in any Elite Competition or Event sanctioned or recognised by BA as the governing body for the sport of basketball in Australia.
- 2.2 It is the duty of each person and organisation, to which this Policy applies, to comply with and, so far as is lawfully possible, to require any other basketball-related entity or participant, who or which is not directly bound by this Policy but who or which is participating in basketball in any capacity in Australia, to comply with this Policy.
- 2.3 This Policy should be read in conjunction with the *Transgender and Gender Diverse Inclusion Policy for Community Basketball*, which contains additional information and practical guidelines. All definitions in the *Transgender and Gender Diverse Inclusion Policy for Community Basketball* apply to this policy.

3. Assessment Panel

- 3.1 The Basketball Australia Board will establish an Assessment Panel to assess any applications made under this Policy.
- 3.2 The Assessment Panel will comprise any such individuals as deemed necessary by the Board to assess the relevant information and must include at least one qualified medical practitioner.

4. Participation - Elite Basketball

- 4.1 The Elite Basketball Eligibility Criteria and Application process aims to provide a fair and safe pathway for the participation of elite level Transgender or Gender Diverse players in a category that is consistent with their gender identity, so long as the Transgender or Gender Diverse player does not, based on their strength, stamina or physique, have an unfair competitive advantage over other competitors in the same category and the participation of the Transgender or Gender Diverse player does not present a risk of physical safety to other players.
- 4.2 Eligibility Criteria for Elite Basketball do not apply to persons under the age of 15. Upon attaining the age of 15, a Transgender or Gender Diverse player wishing to participate in Elite Basketball will be required to comply with the Eligibility Criteria and Application Process and will be required to complete a yearly review until the age of 25, or until such time as the Assessment Panel deems such a review is unnecessary.
- 4.3 A Transgender player who applies to participate in Elite Basketball must participate at the community level prior to and while the application is being assessed, subject always to compliance with the *Transgender and Gender Diverse Inclusion Policy for Community Basketball*.
- 4.4 Elite Basketball is defined as any basketball game or program (included 5x5, 3x3 and wheelchair basketball) that is associated with:
 - International Level Tournaments and Events;
 - BA National Team Programs and the Centre of Excellence;
 - the NBL, WNBL, NBL1 and Big V Championship;
 - the National Wheelchair Basketball League and Women's National Wheelchair Basketball League;
 - any National Championships hosted by BA, including junior age championships, the Kevin Combs Cup and Ivor Burge Championship; and
 - any National 3x3 competition (i.e. a competition associated with qualifying for international competition).

5. Elite Basketball Eligibility Criteria and Application Process

Application Process

- 5.1 Transgender Females shall only be eligible to compete in Elite Women's Basketball if the Basketball Australia Board determines that they do not, based on their strength, stamina and physique, (to be assessed on a case-by-case basis, in accordance with this Eligibility Criteria and Application Process), have an unfair competitive advantage or present a safety risk or their game performance is inconsistent with the women's game.
- 5.2 A Transgender Female seeking to participate in Elite Women's Basketball must submit an application to the Basketball Australia Board, prior to competing in the requested competition, which must include:

5.2.1 Applicant Declaration

- a) A truthful written and signed declaration which states that the applicants Biological Sex was male at birth and gender identity is female;
- b) A signed authorisation and waiver allowing a BA Assessment Panel and BA Board access to relevant medical information.
- c) A statement from the Applicant detailing their gender transition, including copies of original documents confirming the transition (for example, birth certificate, comprehensive medical reports from treating physicians, serial laboratory tests, surgical reports, and radiological reports where relevant etc.), and any previous names;

5.2.2 Medical Evidence

A medical report statement from a treating practitioner detailing a robust and appropriate adequate medical treatment program that would enable the Applicant to fulfil the Transgender Female Eligibility Criteria on an on-going basis, including:

- a) Continuously maintaining a concentration of testosterone in their serum below 2.5 nmol/L for the two years immediately preceding the Transgender Eligibility Application; and
- b) Plans and commitment to continuously maintain the concentration of testosterone in their serum below 2.5 nmol/L for so long as they wish to remain eligible to compete in the Women's Category.
- c) Psychological or psychiatric reports relevant to the transition - prior to the medical transition and at least one year following the commencement of medical treatment;
- d) Documented evidence of maintenance of the serum testosterone level at or below 2.5 nmol/L for at least two (2) years: (a) in principle, by submitting copies of quarterly investigations of testosterone, ideally with at least two of which being LCMS alongside any assay result, or; (b) evidence of an orchiectomy (or other surgical intervention that suppresses or eliminates testosterone production) that took place at least two (2) years prior to the application date;
- e) Certified copies of prescriptions or dispensing pharmacy report for all transition related medications;
- f) Any other medical information as determined by the BA Board to be necessary to fully evaluate whether the applicant is subject to a robust and adequate treatment program referred to in Section 5.2.2(b); and
- g) Evidence of regular review by the treating specialist both during and after the 2-year transition period in the form of supplementary medical reports, at least 2-3 times yearly.

5.2.3 Participation Details

- a) Details of consistent participation in the women's category of community-level basketball competitions for a minimum of three years;
- b) Details of the team, club or association with whom they intend to play at the Elite Level;
- c) Any available video footage and other game data (for example, GPS or game statistics) of the Applicant competing and training in the women's category of community level basketball competitions; and

- d) Performance specific testing in the form and duration requested by the BA Board; and
- e) Any other specific information, including the above information, as determined by the BA Board.

5.3 The length of the Transgender Eligibility Application process will depend on the circumstances of the individual case of the Applicant, noting the timelines indicated in sections 5.2.2 and 5.2.3 above.

5.4 By submitting a Transgender Eligibility Application, the Applicant agrees to:

- 5.4.1 comply in full with this Policy;
- 5.4.2 cooperate and provide all information and evidence requested in accordance with this Policy;
- 5.4.3 ensure that all information provided in connection with the Application is accurate, up-to-date and complete;
- 5.4.4 consent to the disclosure to the BA Assessment Panel by their treating physician(s) of any relevant medical information or evidence that BA deems necessary to its assessment (as outlined in section 5.2.2 above);
- 5.4.5 consent, to the fullest extent permitted and/or not prohibited by any applicable data protection law, to the collection, processing, disclosure and use of information (including sensitive personal information) as required;
- 5.4.6 consent to the collection of urine or blood samples, to be used to determine compliance with this Policy or the Transgender Eligibility Criteria; and
- 5.4.7 consent that a decision made pursuant to this Policy is final and to not bring any proceedings in any other court or forum.

5.5 If the Applicant fails to comply with any of the conditions set forth in Section 5 at any time, including after the approval of a Transgender Eligibility Application, BA may:

- 5.5.1 deem the Transgender Eligibility Application withdrawn;
- 5.5.2 dismiss the Transgender Eligibility Application; or
- 5.5.3 revoke the approval of the Transgender Eligibility Application.

5.6 Transgender Eligibility Applications and all further submissions regarding the application shall be submitted in writing with all supporting evidence to the following email address: integrity@australia.basketball.

Decision Making Threshold

5.7 In assessing the application, the Board must be comfortably satisfied on the information provided by the Assessment Panel, the Applicant, based on their strength, stamina and physique, does not:

- 5.7.1 have a Transgender-related unfair competitive advantage in the Women's Category; or
- 5.7.2 present a safety risk to any other competitors in the Women's Category, or
- 5.7.3 have a style of play inconsistent with the style of play in the Women's Category.

Decision Making Framework

5.8 In considering the relative strength, stamina and physique of an Applicant, the Board will have regard to the following factors:

- 5.8.1 **Nature of the activity:** Whether the exemption, within the rules and structure of basketball, is necessary to protect the safety of those competing, and the fairness of competition.
- 5.8.2 **Characteristics of the person seeking to participate:** The level of risk associated with the person's potential difference to other competitors.
- 5.8.3 **Alternative measures:** The availability and effectiveness of alternative measures that could be taken to address any concerns rather than discriminate against the athlete.
- 5.8.4 **Evidence:** Scientific or otherwise.
- 5.8.5 **Proportionality:** Is the exemption proportionate to the concern the exemption was attempting to relieve from. It is a careful balancing act to protect the safety or fairness of the activity, those competing in it, and the right to participate without discrimination.

Decision Making Process

5.9 Medical Evaluation:

- 5.9.1 The Medical Evaluation shall be performed by the qualified medical practitioner(s) appointed to the Assessment Panel, who have been endorsed by the BA Chief Medical Officer.
- 5.9.2 The purpose of the Medical Evaluation will be to determine whether the Applicant fulfils the criteria set forth in Section 5.2.2.
- 5.9.3 The application will only proceed if the medical criteria are fulfilled.

5.10 Fairness and Safety Evaluation:

- 5.10.1 The Fairness and Safety Evaluation shall be performed by the Assessment Panel.
- 5.10.2 The purpose of the Fairness and Safety Evaluation is to determine whether the Applicant has met the criteria set forth in Section 5.2.3 and to make an assessment of that information in accordance with Section 5.7.

5.11 Eligibility Decision:

- 5.11.1 If, in its sole discretion, at any point in the application process, the BA Board, with regard to any information provided by the Assessment Panel, decides that the Applicant:
 - a) does not fulfil the Transgender Female Eligibility Criteria, the BA Board shall issue a decision dismissing the Application.
 - b) does fulfil the Transgender Female Eligibility Criteria, the BA Board shall provide a certification that the Application is approved along with any conditions of the approval.
- 5.11.2 At any time following the approval of a Transgender Eligibility Application, the BA Board may request that the Applicant provide proof of on-going compliance with this Policy.
- 5.11.3 If the Application is denied or dismissed, the Applicant may re-apply at a date determined by the BA Board, noting the relevant timeframes included in this Policy.
- 5.11.4 The BA Board may issue a decision to suspend or terminate an approval under this Policy if, at any time, the Transgender Female player does not fulfil any ongoing eligibility conditions as set forth in Section 5.2.2 or 5.2.3, any conditions set forth in the eligibility decision, or obligations as otherwise required by this Policy, or where otherwise necessary to safeguard the fairness and/or integrity of a competition.

6. Delegation of Authority and Expert Advice

- 6.1 The BA Board may, in its absolute discretion, delegate any or all of its power or authority under this policy and/or engage or seek the support of relevant subject matter experts as deemed necessary from time to time.

7. Registration, personal information and privacy

- 7.1 Personal information should only be collected from participants if absolutely necessary and with the individual's consent, or where the individual is under the age of 18, the consent of a parent/guardian. Participants under 18 who choose not to consult their parent/guardian will be considered on a case-by-case basis.

8. Anti-Doping

- 8.1 Nothing in this Policy is intended to undermine or affect in any way the requirements of the FIBA Anti-Doping Regulations or the Australian National Anti-Doping Policy (ANADP) as adopted by BA and, to the extent of any inconsistency, these anti-doping codes will prevail. Nothing in this Policy will be deemed to permit, excuse, or justify any noncompliance with anti-doping requirements including, without limitation, any requirement for a Player to obtain a TUE for the use of a prohibited substance, such as testosterone.
- 8.2 For example, if a person is transitioning and is taking testosterone, they would not be permitted to compete in a female competition at any level after commencing testosterone as a TUE for testosterone cannot be approved for a female competition. However, they may be eligible for a TUE for testosterone to participate in a male competition. BA, State and Territory Members and its affiliated associations, will seek to find appropriate opportunities for any person.
- 8.3 A player may consult with the Integrity Unit to seek advice on the ANADP.

9. Complaint Handling

- 9.1 Complaints arising under this Policy will be managed in accordance with the procedures set out in BA's National Integrity Framework.
- 9.2 The AHRC or State or Territory Human Rights Commission may also assist individuals in relation to any complaints of discrimination, harassment and/or victimisation under Federal or State and Territory laws.

10. Confidentiality

- 10.1 A decision by the BA Assessment Panel that a Transgender or Gender Diverse person is not permitted to play (or continue to play) in an Elite Basketball competition will be notified to the Transgender or Gender Diverse person, relevant Affiliated Association or League and applicable State or Territory Body (if required) on a confidential basis. The decision will not be disclosed to any third party without the consent of the Transgender or Gender Diverse person. Any public disclosure made by the gender diverse person regarding the decision may be taken as their implied consent for BA to publicly address its decision (provided at all times that no medical information will be disclosed by it).

10.2 Failure to adhere to the confidentiality requirements may result in a breach of BA Privacy Policy.

11. Related Policies

- Basketball Australia National Integrity Framework
- Australian National Anti-Doping Policy
- Basketball Australia Privacy Policy
- Basketball Australia Transgender and Gender Diverse Inclusion Policy for Community Basketball

12. Definitions

Term	Definition
Australian Basketball Organisation	<ul style="list-style-type: none">• Member Associations, being the governing body of basketball in each Australian State and Territory known as Basketball ACT, Basketball New South Wales, Basketball NT, Basketball Queensland, Basketball SA, Basketball Tasmania, Basketball Victoria, and Basketball WA;• Affiliated Associations, being those regional or metropolitan Basketball associations which are members of, or affiliated to, a Member Association;• Affiliated Clubs, being those Basketball clubs which are a member of or affiliated to a Regional Association and/or Member Association.
Basketball Australia Assessment Panel	the panel appointed by Basketball Australia and its Constituent Association Members to assess eligibility and safety matters arising under this policy from time-to-time
Community Basketball	any basketball competitions or activities affiliated with an Australian Basketball Organisation that are not Elite basketball competitions or activities.
Elite Basketball	as defined in Section 4
Event	a one-off Competition, or series of individual Competitions conducted by Basketball Australia or an Australian Basketball Organisation (for example international matches, national championships, or domestic leagues)
Member	a member of Basketball Australia admitted in any category of membership in accordance with clause 5 of the Basketball Australia Constitution
Participant	Athletes, Athlete and Team Support Personnel, Administrators and Officials participating in or engaged with the delivery of Competitions and Events, Directors, Employees and Volunteers