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THOMAS NEUBERGER ZOOM LIVE TESTIMONY ON SB 215, JANUARY 28, 2026

Neuberger Qualifications

Q-I am calling you as a legal expert. What are your credentials?

A-For almost 52 years now I have been the top Civil Rights and Constitutional law lawyer in the Delaware Bar.

It started in girls sports and under Title IX. In the 1970s I forced the public schools to offer girls their own girls soccer teams, there were none before. I also forced them to pay women who coached girls the same higher rate of pay that men received. I then was the lawyer for all high school sports under the DIAA's predecessor in the 80s. Later, in 1995 I forced the NCAA to drop its 15 yard penalty rule for kneeling and saying a prayer after scoring a touchdown. The Washington Post said back then that I had saved the Hail Mary Pass.

I went on to women's rights, and in 2002 I forced the Pentagon to drop its orders in Saudi Arabia to women officers in the Air Force forcing them to wear a black long burka when on official duty. In 1996 I beat the DuPont Company on how to prove a woman has been discriminated against at work.

Before there were any Gay rights laws here in Delaware I prevailed anyway in the late 90s for Walter Decyk, a brutally beaten and injured gay man, who lost his job due to his sexual orientation. You can find a memorial to Walter at Camp Rehoboth.

I am a published book author, newspaper columnist and legal article writer.

Merits Questions for Neuberger

Title IX

Q4-What did Title IX do for girls sports? A- Reportedly, prior to the 1972 passage of Title IX, which enabled present day high school and collegiate women's sports, only 1 in 27 high school girls were in sports, in 2016 it was 2 in 5 playing sports in high school. This participation is threatened today and is why SB 215 is needed.

Q5-Can you give us an example of what could happen in girls cross country? A-For example, consider girls cross country from my old teammate, the Joe O'Neill cross country invitational 2021 tournament, the results for the 5,000 meters. The Boys champion won in 15:46.90 minutes. The Girls champion won in 18:43.60 minutes. The Boys champion time is almost 3 minutes better than the best Girls time in Delaware.

Males outperform females

Q12-Do males outperform females in sports? A-“Tennis player Serena Williams is widely regarded as one of the greatest athletes of all time. Yet, in 1998, the 203rd-ranked men’s player, Karsten Braasch, beat both Serena and her sister Venus.”

Why Care? Lost opportunities for girls.

Q10-At present if the threatened harm in Delaware is less because the push here has not fully started yet, why care? A-While the total number of natal males seeking to compete in women’s sports is relatively small at present, the harm they cause is not insignificant.

The inclusion of male-bodied athletes in women’s sports harms female athletes by: (a) decreasing the chances of female athletic success; (b) taking away roster spots, playing time, and potential scholarships from female athletes; and (c) in some sports increasing the chances of injury, as to the third point, such as in soccer, field hockey, and lacrosse.

For example, in just a few short years, two biological males, Terry Miller and Andraya Yearwood, set 17 Connecticut track meet records and captured 15 women’s State Championship titles previously held by girls. Chelsea Mitchell, who ran for Canton High School in Connecticut, lost four state championships, two all-New England awards, and various other honors to Miller and/or Yearwood.

There is an announced plan to eliminate girls high school sports.

Q7-Have you followed constitutional law trends during your 52 year legal career? A-Yes.

Q8-Is there something afoot in the legal world to eliminate girls sports teams? A-There were previous efforts in an old H.B. 199 in the General Assembly around 2022.

Some gender ideologues argue for the elimination of sex-specific sports altogether. These activists claim that allowing males and females to compete in separate divisions reinforces pernicious stereotypes about male and female abilities and perpetuates the presumption that sex is binary.

Let me be clear here. These activists will claim that separate sports teams for boys and girls is just like separate water fountains for blacks and whites, or separate black and white schools under Jim Crow laws.

Writing in the Washington Post in April 2021, for example, Professor Elizabeth Sharrow of the University of Massachusetts argues that single-sex athletic teams are a form of segregation that damages women and girls. For gender activists, like Sharrow, trans-inclusion is not a goal in and of itself: it is a vehicle for abolishing single-sex sports.

Sharrow’s goal of mandatory sex-integration in sport could very well become the law of the land if the United States or Delaware ever adopts the proposed Equal Rights Amendment (ERA) [or HB 199] to their Constitutions. Although the ERA makes no mention of sports, its

language is sufficiently broad that courts could likely interpret it as prohibiting the separation of the sexes in most contexts, including athletics.

The same result will obtain if the Delaware Constitution is ever amended to add the undefined legal term “gender identity,” which will be an open invitation to litigation in the Delaware courts to define that term to include ending segregation in girls sports in Delaware, the separation of the sexes.

/S/THOMAS S. NEUBERGER