



That *all* might be free.

August 21, 2026

Cathy Engelbert
Commissioner
Women's National Basketball Association
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Dear Commissioner Engelbert,

I am an attorney with Alliance Defending Freedom (ADF), a nonprofit legal organization that fights to protect free speech and defend fairness in women's sports. On behalf of our team, I wanted to reach out regarding two incidents at WNBA games where fans tried to advocate for fairness in women's sports. ADF worries that the WNBA has betrayed its commitment to equality, women, and open dialogue, all because the league has embraced the lie of gender ideology. This may eventually expose the WNBA and its partners to legal liability as well.

ADF calls on the WNBA to embrace common sense and the indisputable truth that men aren't women, and no amount of drugs can change that. Women deserve equal athletic opportunity. And WNBA fans deserve the opportunity to express these truths in peaceful ways—just as other fans are allowed to express opposing views at WNBA games. The WNBA should stand up for women and free expression, not sacrifice them out of fear.

Two recent incidents highlight our concern. According to media reports, security personnel approached two fans during the recent Atlanta Dream versus Indiana Fever game and directed them to either cover their clothing or leave the arena. Their clothing depicted branding of XX-XY Athletics, a business devoted to protecting women's sports. The WNBA later admitted that "[t]his should not have happened." And the Atlanta Dream released a similar statement. But the damage was done. A special mother-daughter outing was ruined.

A few days earlier, during a game between the Seattle Storm and the Indiana Fever, a Storm co-owner confronted teenage fans holding signs supporting Sophie Cunningham's comments about protecting women's sports. The co-owner berated the fans with profanity and called them insane. This incident left at least one of the teenage girls in tears.

The message these incidents send is clear. Fans who know what it means to be a woman and who support fairness in women's sports aren't welcome at WNBA games.

Beyond the unfortunate message sent by these incidents, this concerning trend may also expose the WNBA and its partners to legal liability. While the WNBA and its teams are private entities that are not typically bound by the First Amendment, many of the stadiums where those teams play are owned by public entities and built with public funds. And courts sometimes consider actions by private entities to be "state action" based on the nature of the private-public relationship. *Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 721–22 (1961). When that happens, the private actors must abide by First Amendment rules and allow speakers to express their views consistent with the nature and purpose of the venue—in this case, a sporting event.

But the fans who expressed their support for fairness in women's sports were respectfully conveying their views on important questions facing the WNBA. Their messages were not vulgar, profane, or disruptive. Yet their viewpoint was silenced. When using public facilities and acting in concert with public officials, private entities like the WNBA and its partners cannot censor these views without violating the First Amendment.

Censorship like this could also violate some state and local public accommodations laws. Most states and localities have laws that prevent private entities from denying services to individuals based on protected characteristics, such as race, sex, or religion. And some municipalities like Seattle also ban discrimination based on political ideology. Taking action against a fan because of their religious or political message about the debate surrounding fairness in women's sports would risk violating those public accommodations laws.

So what can the WNBA do to protect itself against potential violations? And what can it do to send a strong signal to women and girls that you see them and have their backs?

We'd suggest educating league partners and event staff on the legal principles mentioned above. Additionally, the league can adopt policies that lock in its commitment to allowing peaceful expression of diverse views at games. There is no reason to exclude fans of one view when your games should be open to all. Surely, the league's commitment to being open and welcoming should include those who support fairness in women's sports. We are happy to assist with drafting suggested policies that could apply across the league.



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Thank you for considering the information we've offered. If any organization should stand up for women's sports – and lead with courage and clarity so others might follow – it should be the organization whose very name begins with Women. We encourage the league to live up to its name. Don't silence fans who want to put women first.

Best regards,



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