



**WORLD
AQUATICS**

POLICY ON ELIGIBILITY FOR THE MEN'S AND WOMEN'S COMPETITION CATEGORIES

(BOTH APPROVED BY THE FINA BUREAU AND RATIFIED BY THE FINA CONGRESS ON 19 JUNE 2022)

version in force as 24 March 2023

A. Introduction

World Aquatics, formerly known as FINA, is the international federation recognised by the International Olympic Committee (IOC) for administering international competitions in Aquatics. Its primary mission is to promote and encourage the advancement of Aquatics in all possible aspects, throughout the world. It does this through the promotion of Aquatics health, education, and development, and the staging of World Aquatics competitions, including the World Aquatics World Championships, World Cups, Grand Prix, World Leagues, and World Series events and tournaments. World Aquatics is responsible for promulgating appropriate rules and regulations for the disciplines of Swimming, Open Water Swimming, Diving, Water Polo, Artistic Swimming, and High Diving, as well as for Masters programme/activity.

As part of its mission, World Aquatics is responsible for developing and administering eligibility criteria for its sport and competitions. In this respect, World Aquatics is committed to providing safe, fair, inclusive, and non-discriminatory opportunities for all Aquatics athletes wishing to compete in World Aquatics competitions.

Historically, Aquatics sport has been separated into men's and women's competition categories. The separation reflects the sport's commitment to: (1) ensuring equal opportunity for both male and female athletes to participate and succeed in the sport, including through the equal representation in its programs and competitions of athletes of both biological sexes; (2) ensuring competitive fairness and physical safety within its competition categories; and (3) developing the sport and promoting its popular appeal and commercial value. Because of the performance gap that emerges at puberty between biological males as a group and biological females as a group, separate sex competition is necessary for the attainment of these objectives. Without eligibility standards based on biological sex or sex-linked traits, we are very unlikely to see biological females in finals, on podiums, or in championship positions; and in sports and events involving collisions and projectiles, biological female athletes would be at greater risk of injury.

B. Background of the Policy

In November 2021, the IOC issued its Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations (IOC Framework), which encouraged all international federations to develop eligibility criteria for the women's competition category that reflect the specificities of their particular sports but that include to the maximum extent possible athletes who, without regard to their sex or sex-linked traits, identify as women.

Specifically, the IOC Framework rejects the presumption that the male sex confers an athletic advantage, and discourages continued reliance on a testosterone proxy as the exclusive basis for eligibility for the women's category. Where evidence-based concerns about safety or fairness mean it is not possible to include male-to-female transgender athletes (transgender women) and athletes with 46 XY differences of sex development (46 XY DSD)

and a female legal gender and/or gender identity in the women's competition category, it encourages consideration of alternative opportunities within the sport, such as open events.

In January 2022, the International Federation of Sports Medicine and the European Federation of Sports Medicine Associations issued a joint position statement (Joint Position Statement) responding to what those organisations considered to be failures of the IOC process and recommendations. According to the Joint Position Statement, the IOC's focus on only one aspect of the human rights analysis meant that it failed to take proper account of "the scientific, biological or medical aspects," in particular that "high testosterone concentrations, either endogenous or exogenous, confer a baseline advantage for athletes in certain sports" such that "it is clear to uphold the integrity and fairness of sport that these baseline advantages of testosterone must be recognized and mitigated."

In response to the IOC Framework and the Joint Position Statement, World Aquatics convened a working group to consider the best available statistical, scientific, and medical evidence concerning sex differences in sports performance, and any associated male sex-based advantage. Its charge was to use this evidence to establish eligibility criteria to regulate the participation of transgender and 46 XY DSD athletes in the men's and women's categories in Aquatic sports that are consistent with World Aquatics' FOI mission and core commitments. The working group included (a) an athlete group (Athlete Group), (b) a science and medicine group (Science Group), and (c) a legal and human rights group (Legal and Human Rights Group).

The Athlete Group was comprised of current and retired Aquatics athletes and coaches (including transgender athletes and coaches), who brought to account their views and the views of their broader communities. The view of the majority of the Athlete Group was that competitive fairness must remain the primary objective in the establishment of competition categories. Moreover, it was highlighted that by reason of their sex and sex-linked traits, females often enjoy fewer societal opportunities compared to males, including fewer sporting opportunities, and sex-separated competitions are necessary to help address this inequality. In the majority view, World Aquatics should remain committed to the separation of athletes in sport into men's and women's categories based on biological sex and should allow male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD with a female gender identity to compete in the women's category pursuant to eligibility criteria that are consistent with, and do not undermine, that commitment.

The Science Group was comprised of independent experts in the fields of physiology, endocrinology, and human performance, including specialists in sex differences in human performance and in transgender medicine. The task of the Science Group was to examine the most up-to-date scientific knowledge on (1) the impact of biological sex on athletic performance, and (2)

the impact of gender-affirming medical transition on factors that influence athletic performance, and to produce a report setting out their findings.

The Science Group reported that biological sex is a key determinant of athletic performance, with males outperforming females in sports (including Aquatics sports) that are primarily determined by neuromuscular, cardiovascular, and respiratory function, and anthropometrics including body and limb size. The extent of the male/female performance gap varies by sport and competition, but the gap universally emerges starting from the onset of puberty. The group reported that there are sex-linked biological differences in Aquatics, especially among elite athletes, that are largely the result of the substantially higher levels of testosterone to which males are exposed from puberty onwards. Prior to puberty, testosterone levels are similar in females and males. During puberty, however, testes-derived testosterone concentrations increase 20-fold in males, while testosterone concentrations remain low in females so that post-pubescent males have circulating testosterone concentrations at least 15 times higher than post-pubescent females (15-20 nmol/L in adult males versus c.1 nmol/L in typical females of any age). High testosterone levels generate not only anatomical divergence in the reproductive system but also measurably different body types/compositions between sexes.

According to the Science Group, if gender-affirming male-to-female transition consistent with the medical standard of care is initiated after the onset of puberty, it will blunt some, but not all, of the effects of testosterone on body structure, muscle function, and other determinants of performance, but there will be persistent legacy effects that will give male-to-female transgender athletes (transgender women) a relative performance advantage over biological females. A biological female athlete cannot overcome that advantage through training or nutrition. Nor can they take additional testosterone to obtain the same advantage, because testosterone is a prohibited substance under the World Anti-Doping Code.

The Legal and Human Rights Group was comprised of legal experts in sex discrimination, human rights, and international sports law, including the jurisprudence of the Court of Arbitration for Sport (CAS). This group accepted the lawfulness of World Aquatics' mission, authority and responsibility, and World Aquatics' core commitment to equality of opportunity for both male and female athletes, all as summarised above. It was informed of the views of the Athlete Group and the scientific evidence produced by, and conclusions of, the Science Group. Thus, its task was to reflect World Aquatics' commitment to a sex-based women's category as necessary to ensure that World Aquatics does not discriminate against—and is able to empower—female athletes, and that Aquatics is able to promote male and female athletes and male and female sport equally. It is also understood that, as with any form of affirmative action, World Aquatics' effort not to discriminate against female athletes and thus to ensure a sex-based women's category itself has exclusionary effects. In this instance, those effects are on male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD whose gender identity is female. The Legal Group has tailored World Aquatics' eligibility rule narrowly, so

that (a) it is neither under- nor over-inclusive, and (b) it includes provisions throughout that are designed to ensure that the requirements and restrictions for transgender women and 46 XY DSD athletes with a female gender identity to compete in the women's competition category are limited to what is necessary and proportionate to achieve World Aquatics' overarching objectives.

C. The Policy

Taking into account all of the matters outlined above, World Aquatics issues this policy (the Policy) establishing the criteria for eligibility (a) to compete in the men's category or in the women's category in the World Aquatics World Championships, World Cups, Grand Prix, World Leagues, and World Series events and tournaments, and other international competitions events (World Aquatics competitions), and (b) to set World Aquatics World Records in the men's category or in the women's category in World Aquatics competitions and in other events recognised by World Aquatics, wherever they are held.

D. Policy Definitions

World Aquatics recognises that some individuals and groups may be uncomfortable with the use of medical and scientific terminology related to sex and sex-linked traits. World Aquatics respects all Aquatics athletes and has sought to avoid sensitive terminology that may cause offense. Nevertheless, some use of sensitive terminology is needed to be precise about the sex characteristics that justify separate competition categories and to ensure that the Policy's terms are understood by all Aquatics stakeholders. Some of those terms are explained in this section.

For purposes of this Policy:

"Differences of sexual development" (DSD) are a group of conditions where external genital appearance is discordant with internal sex organs (testes and ovaries). This Policy is only concerned with 46 XY DSD, i.e., DSD affecting athletes with testes (males as defined below).

The word "female" means possession of XX chromosomes and (in the absence of medical intervention) ovaries and increased circulating oestrogen and progesterone starting at puberty.

The word "male" means possession of XY chromosomes and (in the absence of medical intervention) testes and increased circulating testosterone starting at puberty.

The word "sex" denotes natural biological differences between females and males, including chromosomes, sex organs, and endogenous hormonal profiles. This Policy uses the word "sex" and the term "biological sex" interchangeably.

The term "Tanner Stages" denotes the five stages of puberty during which individuals develop secondary sex characteristics. Tanner Stage 2 denotes the

onset of puberty. The normal time of onset of puberty ranges from 8 to 13 years old in females, and from 9 to 14 years old in males.

The term “transgender” refers to individuals whose gender identity and/or expression differs from what is typically associated with their sex.

E. The Policy Objectives

World Aquatics is committed to the inclusion of all Aquatics athletes from all countries in the sport, subject to the eligibility requirements set out in this Policy.

It is committed to the separation of Aquatics sports into men’s and women’s categories according to sex, as this is necessary for the attainment of the goals for that category that are set out in the Introduction to this Policy. It is also committed to providing the opportunity for transgender and 46 XY DSD athletes to compete in Aquatics competitions pursuant to eligibility criteria that are consistent with and do not undermine those goals.

In light of these commitments, the objectives of this Policy are:

- to maintain the separation of Aquatic sports into men’s and women’s categories according to scientifically-grounded, sex-based criteria;
- to provide opportunities for transgender and 46 XY DSD athletes to compete in World Aquatics competitions in the competition category that reflects their gender identity based on eligibility criteria that are consistent with and do not undermine World Aquatics’ goals for the women’s category; and
- to provide a clear, fair, respectful, and confidential process by which athletes may establish their eligibility for World Aquatics competitions.

F. The Eligibility Requirements for Competition and for setting World Aquatics Records in the Men’s and Women’s Categories

1. Eligibility

a. Subject to the requirements set forth below, all Aquatics athletes are eligible to compete in the men’s category or in the women’s category in World Aquatics competitions and to set World Aquatics World Records in World Aquatics competitions and other events recognised by World Aquatics, whatever their legal gender, gender identity, or gender expression. No athlete is excluded from a World Aquatics competition or from setting World Aquatics World Records based on their legal gender, gender identity, or gender expression.

b. All issues relating to the eligibility of an athlete under this Policy to compete in a particular sex category will be determined by World Aquatics following consultation, as necessary, with one or more independent scientific and medical experts appointed by the World Aquatics Executive. It is an important part of this Policy that the experts can assess whether a given athlete meets

the eligibility criteria set out below. To that end, World Aquatics may ask the athlete to provide further information and documents and/or to submit to one or more medical examinations. All costs associated with this assessment will be borne by World Aquatics.

2. Certification

- a. All athletes must certify their chromosomal sex with their Member Federation in order to be eligible for World Aquatics competitions. Failure to do so, or provision of a false certification, will render the athlete ineligible.
- b. Member Federations must confirm their athletes' certifications of chromosomal sex when registering their athletes to compete in World Aquatics competitions.
- c. World Aquatics reserves the right to include a chromosomal sex screen in its anti-doping protocol to confirm such certification.

3. Eligibility for the Men's Category

- a. All male athletes, including athletes with 46 XY DSD, are eligible to compete in World Aquatics competitions and to set World Aquatics World Records in the men's category, regardless of their legal gender, gender identity, or gender expression.
- b. Female-to-male transgender athletes (transgender men) are eligible to compete in World Aquatics competitions and to set World Aquatics World Records in the men's category, except that:
 - i. For the disciplines of Water Polo and High Diving, the athlete must provide to World Aquatics an assumption of risk form (in the form set out in Appendix One to this Policy) signed and dated by the athlete or, if the athlete is a minor, by their legal proxy.
[Comment to Section F.3.b.i: It is strongly recommended that the athlete speaks with a qualified medical specialist prior to competition to ensure their physical ability to participate in the event in the men's category and to ensure that they understand the attendant risks.]
 - ii. All athletes who are undergoing treatment involving testosterone or other anabolic substances as part of female-to-male gender-affirming hormone treatment are required to obtain a Therapeutic Use Exemption (TUE) for that treatment in accordance with the World Aquatics Doping Control Rules (AQUA DCR).

4. Eligibility for the Women's Category

- a. All female athletes are eligible to compete in World Aquatics competitions and set World Aquatics World Records in the women's category, regardless of their legal gender, gender identity, or gender expression, under the following conditions:
 - i. Athletes who have previously used testosterone as part of female-to-male gender-affirming hormone treatment (with or without a TUE) but are no longer following that treatment are eligible to compete in the

women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category in World Aquatics competitions and in other events recognised by World Aquatics if they can establish to World Aquatics' comfortable satisfaction that (a) the testosterone use was for less than a year in total (i.e., from the date of first use to the date of last use) and did not take place during pubertal growth and development, and (b) their testosterone levels in serum (or plasma) are back to pre-treatment normal and any associated anabolic effects have been eliminated.

ii. Female athletes who have used testosterone in violation of the World Anti-Doping Code or AQUA DCR (or any other applicable anti-doping rules) may return to competition after they have served their period of ineligibility.

b. Male-to-female transgender athletes (transgender women) and athletes with 46 XY DSD whose legal gender and/or gender identity is female are eligible to compete in the women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category in World Aquatics competitions and in other events recognised by World Aquatics if they can establish to World Aquatics' comfortable satisfaction that they have not experienced any part of male puberty beyond Tanner Stage 2 or before age 12, whichever is later. Specifically, the athlete must produce evidence establishing that:

i. They have complete androgen insensitivity and therefore could not experience male puberty; or

ii. They are androgen sensitive but had male puberty suppressed beginning at Tanner Stage 2 or before age 12, whichever is later, and they have since continuously maintained their testosterone levels in serum (or plasma) below 2.5 nmol/L.

iii. An unintentional deviation from the below 2.5 nmol/L requirement may result in retrospective disqualification of results and/or a prospective period of ineligibility.

iv. An intentional deviation from the below 2.5 nmol/L requirement may result in retrospective disqualification of results and a prospective period of ineligibility equal or commensurate in length to periods imposed under the World Aquatics DRC for intentional anti-doping rule violations involving anabolic steroids.

[Comment to Section F.4.b: For purposes of the Policy, all measurements of serum testosterone must be conducted by means of liquid chromatography coupled with mass spectrometry.]

5. Process for Application

The process for applications for eligibility is set forth in the Operational Requirements (see Appendix Two to this Policy).

G. Competitive Opportunities within and outside of the Men's and Women's Categories

1. Classifying athletes on the basis of sex is necessary to meet World Aquatics' goals for female Aquatics athletes and the women's competition category. World Aquatics' eligibility standards for the women's category are narrowly tailored so that they can achieve those goals without unnecessarily limiting participation by gender-diverse athletes.
2. Male-to-female transgender athletes (transgender women) and athletes who have a 46 XY DSD and a female legal gender and/or gender identity are eligible to compete in the women's category in World Aquatics competitions and to set World Aquatics World Records in the women's category at World Aquatics competitions and other events recognised by World Aquatics if they meet the applicable eligibility conditions.
3. Female-to-male transgender athletes (transgender men) are eligible to compete in the men's category at World Aquatics competitions and to set World Aquatics World Records in the women's category at World Aquatics competitions and in other events recognized by World Aquatics if they meet the applicable eligibility conditions.
4. Otherwise, everyone who qualifies according to the applicable eligibility conditions has a place in World Aquatics' competition categories based on their sex.
5. Within those categories, gender diversity is welcome. For example, female-to-male transgender athletes (transgender men) who are not using exogenous androgens remain eligible for, and are welcome to compete in, the women's category; and male-to-female transgender athletes (transgender women) remain eligible for, and are welcome to compete in, the men's category whether or not they are suppressing their endogenous androgens.
6. Athletes who do not meet the applicable criteria for the men's category or the women's category may compete in any open events that World Aquatics may develop in the future. World Aquatics will begin work following the final promulgation of this Policy to determine the feasibility of establishing an open category in Aquatics sport disciplines, in which an athlete who meets the eligibility criteria for that event would be able to compete without regard to their sex, their legal gender, or their gender identity.
7. Athletes may also seek to qualify for and compete in events that are organised and sanctioned by bodies other than World Aquatics. World Aquatics does not seek to limit the development by others of opportunities to participate in different competitions.

8. World Aquatics recommends that each Member Federation adopts its own sex and gender policy to determine eligibility to compete in events taking place under its jurisdiction. World Aquatics recommends that Member Federations use that policy to create a safe environment for their athletes, transgender or otherwise, that respects the inclusion of all Aquatics athletes.
9. Member Federations may use this Policy as a guideline for national-level and age-group competition, to be tailored based on any relevant requirements within their jurisdiction. For the avoidance of doubt, however, any policy applied at a national level will not determine the eligibility of athletes to compete in World Aquatics competitions or to set World Aquatics World Records. Instead, that will be determined exclusively by reference to this Policy. In addition, any policy adopted and enforced by a Member Federation remains within the jurisdiction of the Member Federation. It follows that any decision taken by a Member Federation concerning the applicability of its policy, or this Policy, is not considered a World Aquatics decision.
10. World Aquatics recommends that organisers of recreational (non-competitive or non-elite) Aquatics events consider their local circumstances and goals in their determination of whether or not separate sex competition is also necessary for them.

H. Continued Involvement

While all athletes have a place in Aquatic sports, World Aquatics acknowledges that the application of this Policy means that certain individuals may not be able to compete in the category that best aligns with their legal gender, gender identity, or gender expression. Individuals who exercise the choice not to compete because of these eligibility standards are encouraged to consider coaching, officiating, administration, and/or other ways to stay involved with Aquatics.

For more information on how to become involved, please contact World Aquatics or your Member Federation.

I. Application

This Policy will come into effect on 20 June 2022. It governs eligibility to compete in World Aquatics competitions and to set World Aquatics World Records at World Aquatics competitions and other events recognised by World Aquatics, taking place from that date forward

World Aquatics is committed to reviewing this Policy periodically to take account of all relevant scientific and medical developments. It may be amended from time to time by World Aquatics based on such developments.

J. Assistance with this Policy

World Aquatics is committed to the inclusion of all Aquatics athletes in accordance with the eligibility requirements set out in this Policy. Any individual seeking information on the application of this Policy should contact World Aquatics for assistance at eligibility@worldaquatics.com

Appendices (Operational Requirements):

- Appendix One: Assumption of Risk Form;
- Appendix Two: Operational Requirements in relation to World Aquatics' Policy on Eligibility for the Men's and Women's Competition Categories