

Nos. 24-38, 24-43

---

IN THE  
**Supreme Court of the United States**

BRADLEY LITTLE, GOVERNOR OF IDAHO, ET AL.,  
*Petitioners,*

v.

LINDSAY HECOX, ET AL.,  
*Respondents.*

\_\_\_\_\_  
WEST VIRGINIA, ET AL.,  
*Petitioners,*

v.

B.P.J., BY HER NEXT FRIEND AND MOTHER, HEATHER  
JACKSON,  
*Respondent.*

**On Writs of Certiorari to the United States Courts  
of Appeals for the Ninth and Fourth Circuits**

\_\_\_\_\_  
**AMICI CURIAE BRIEF OF SIX HIGH SCHOOL  
ATHLETES IN SUPPORT OF PETITIONERS**

\_\_\_\_\_  
ANNA ST. JOHN  
HAMILTON LINCOLN LAW  
INSTITUTE  
1629 K Street NW  
Suite 300  
Washington, DC 20006  
(917) 327-2392  
anna.stjohn@hlli.org

LEIGH ANN O'NEILL  
SARAH HEATH  
BRIAN KELSEY  
(Counsel of Record)  
AMERICA FIRST POLICY  
INSTITUTE  
1455 Pennsylvania Ave.,  
NW, Suite 225  
Washington, DC 20004  
(202) 503-4305  
bkelsey@  
americafirstpolicy.com

---

## TABLE OF CONTENTS

TABLE OF CONTENTS .....	i
TABLE OF AUTHORITIES .....	iii
STATEMENT OF INTEREST .....	1
SUMMARY OF ARGUMENT .....	2
ARGUMENT.....	3
I. Historically, the Equal Protection Clause prohibited discrimination based on sex, using a definition that was objective and immutable.....	3
II. The history and purpose of Title IX demonstrate the strong legal tradition of having separate sports based on biological sex differences. ....	5
III. Allowing biological males to compete in girls' sports creates a hostile environment under Title IX.....	8
IV. The wide-ranging benefits for female athletes can only be realized if women's sports are maintained for biological women. ....	10
V. <i>Amici's</i> experiences demonstrate the importance of maintaining single-sex sports for women.....	16
A. F.S., a 15-year-old basketball player from Washington State .....	16
B. S.N.C., a 16-year-old high-jumper from the State of Oregon.....	17

C. Reese Eckard, Oregon State Championship high-jumper .....	20
D. Madelyn Eischen, Oregon high- jumper .....	22
E. Alexa Anderson, Oregon State Championship pole vaulter and high-jumper .....	23
F. Sophia Castaneda, Oregon state high school female record holder for fastest sophomore girl 400m runner in Oregon history .....	25
CONCLUSION .....	27

## TABLE OF AUTHORITIES

### Cases

<i>Adams v. Sch. Bd. of St. Johns Cty.</i> , 57 F.4th 791 (11th Cir. 2022).....	10, 14
<i>Anderson v. Oregon School Activities Association</i> , No. 3:25-cv-01302-YY (D. Or.) .....	1
<i>Bostock v. Clayton Cnty., Georgia</i> , 590 U.S. 644 (2020) .....	4, 7
<i>Castaneda v. Oregon Dep’t of Educ.</i> , No. 3:25-cv-011170-SB (D. Or.).....	1
<i>Clark, By &amp; Through Clark v.</i> <i>Arizona Interscholastic Ass’n</i> , 695 F.2d 1126 (9th Cir. 1982) .....	4
<i>D. C. v. Heller</i> , 554 U.S. 570 (2008) .....	3
<i>Davis Next Friend LaShonda D. v.</i> <i>Monroe Cnty. Bd. of Educ.</i> , 526 U.S. 629 (1999) .....	8-9
<i>F.C.C. v. Beach Commc’ns, Inc.</i> , 508 U.S. 307 (1993) .....	4
<i>Frontiero v. Richardson</i> , 411 U.S. 677 (1973) .....	3-4
<i>Michael M. v. Superior Court of Sonoma Cnty.</i> , 450 U.S. 464 (1981) .....	7
<i>Neese v. Becerra</i> , 640 F. Supp. 3d 668 (N.D. Tex. 2022).....	14
<i>United States v. Virginia</i> , 518 U.S. 515 (1996) .....	3, 4, 7

<i>Yellow Springs Exempted Vill. Sch. Dist. Bd. of Ed. v. Ohio High Sch. Athletic Ass’n., 647 F.2d 651 (6th Cir. 1981)</i> .....	9
--	---

### **Constitutional and Statutory Provisions**

U.S. Const. amend. XIV .....	3, 4
20 U.S.C. § 1681(a) .....	13
34 C.F.R. § 106.31(b)(7) .....	5
34 C.F.R. § 106.41 .....	6
34 C.F.R. § 106.41(a) .....	5
34 C.F.R. § 106.41(c)(1) .....	5
Idaho Code § 33-6203(1) .....	6
Idaho Code § 33-6203(2) .....	6
Sup. Ct. R. 37.6 .....	1
W. Va. Code § 18-2-25d(b) .....	6
W. Va. Code § 18-2-25d(c)(2) .....	6
W. Va. Code § 18-2-25d(c)(3) .....	6

### **Other Authorities**

Gary Adornato, <i>High School Sports Participation Hits All Time High in 2024-25, Fueled by Growth in Girls Programs</i> , Sports Illustrated (Aug. 18, 2025) .....	11
Genevieve Carlton, <i>Best Colleges; Celebrating Progress: Women’s Representation in NCAA Sports, Leadership Roles</i> , NCAA Media Center (Mar. 1, 2025) .....	11

Genevieve Carlton, <i>How Title IX Impacts Women's Equality in College Athletics</i> , Best Colleges, Nov. 19, 2021 .....	10
Committee on Adolescent Health Care, <i>Female Athlete Triad</i> , American College of Obstetricians and Gynecologists, Committee Opinion No. 702 (June 2017).....	15
ESPN Press Room, <i>Female Athletes Make Winning Entrepreneurs, According to New EY/ESPNW Report</i> (May 3, 2017) .....	13
Exec. Order No. 14168, 90 Fed. Reg. 8615 (2025).....	1
Sandra L. Hanson & Rebecca S. Kraus, <i>Women, Sports, and Science: Do Female Athletes Have an Advantage?</i> , 71 <i>Sociology of Education</i> 93 (1998) .....	11-12
Hunter, Sandra K. <i>et al.</i> , <i>The Biological Basis of Sex Differences in Athletic Performance: Consensus Statement for the American College of Sports Medicine</i> , <i>Med. Sci. Sports Exerc.</i> 2023 Dec 1;55(12):2328-2360 .....	9
Kimberly H. McManama, <i>et al.</i> , <i>Psychological Resilience in Young Female Athletes</i> , National Library of Medicine (Aug. 17, 2021) .....	12
MassMut. Fin. Group, <i>New Nationwide Research Finds: Successful Women Business Executives Don't Just Talk a Good Game... They Play(ed) One</i> (Feb. 2022) .....	13
Nat'l Center for Biotech Info., <i>Physical Activity in Adolescence and Young Adulthood and Breast Cancer Risk: A Quantitative Review</i> (Feb. 2004) .....	12

Nat'l Women's Law Ctr., <i>Finishing Last: Girls of Color and Schools Sports Opportunities</i> (2015) .....	12
NCAA, <i>Title IX 50th Anniversary: The State of Women in College Sports</i> 15 (2022) .....	10-11
Pub. L. 93–380 (HR 69), § 844, 88 Stat. 484 (Aug. 21, 1974).....	5
Betsey Stevenson, <i>Beyond the Classroom: Using Title IX to Measure the Return to High School Sports</i> , Nat'l Bureau of Economic Research 1, 4 (2010) .....	13
Philip Veliz, & Sohaila Shakib, <i>Gender, Academics, and Interscholastic Sports Participation at the School Level: A Gender-specific Analysis of the Relationship between Interscholastic Sports Participation and AP Enrollment</i> , 47 Sociological Focus (2014) .....	12
Women's Sports Foundation, <i>Benefits of Sport: The Universal Truths</i> (2011).....	11, 12
Women's Sports Foundation, <i>Sport and Teen Pregnancy</i> (May 1998).....	12
Women's Sports Foundation, <i>The Decade of Decline</i> (Oct. 2012).....	12

## STATEMENT OF INTEREST<sup>1</sup>

Laws like those of West Virginia and Idaho put up a shield for female high school students. When that protection is not in place, girls get harmed. This brief details those stories.

*Amici* F.S., S.N.C., Reese Eckard, Madelyn Eischen, Alexa Anderson, and Sophia Castaneda are all female high school student athletes, current or former, who were forced to compete against males. This brief characterizes the negative impact of having to play sports on an unequal playing field. Their stories represent a sampling of those that high school girls are experiencing all over the nation.<sup>2 3</sup>

---

<sup>1</sup> This brief was authored in whole by counsel for *amici curiae*, the America First Policy Institute and Hamilton Lincoln Law Institute. No person or entity other than counsel for *amici curiae* made a monetary contribution to the preparation or submission of the brief. Sup. Ct. R. 37.6.

<sup>2</sup> S.N.C., Madelyn Eischen, and Sophia Castaneda are also plaintiffs in *Castaneda v. Oregon Dep't of Educ.*, No. 3:25-cv-011170-SB, (D. Or.), challenging the Oregon policy of allowing boys to play in girls' sports as a violation of Title IX. Reese Eckard and Alexa Anderson are also plaintiffs in *Anderson v. Oregon School Activities Association*, No. 3:25-cv-01302-YY, (D. Or.), detailing a violation of Free Speech for being shunned from the podium and denied their medals for protesting boys playing in girls' sports.

<sup>3</sup> For clarity, *amici curiae*'s use of the terms "girls" or "women" herein are references to females. By "females," we mean "a person belonging, at conception, to the sex that produces the large reproductive cell." Exec. Order No. 14168, 90 Fed. Reg. 8615 (2025).



## SUMMARY OF ARGUMENT

Biological males playing girls' sports is impacting thousands of female student-athletes all over the United States. Conservative estimates indicate that it affects approximately 4,000–6,000 distinct high-school girls per year during the regular season. The figure increases further when the postseason is included. These are not abstractions; they are lost placements, advancement, roster spots, records, and scholarship-relevant exposure—the very opportunities Title IX was enacted to secure. In addition to the concrete, quantifiable losses sustained, thousands of girls each season face a hostile environment where they are compelled to assent to a fundamental untruth: that males are females. This spectacle is rigorously policed by a few militant ideologues, while the many are cowed into silence.

West Virginia and Idaho legislated to protect these girls by preserving sex-separate eligibility grounded in biological sex. The legal questions that follow are straightforward: sex-based eligibility rules satisfy the Equal Protection Clause because they serve important objectives and are substantially related to achieving them; Title IX's text, history, and regulations authorize sex-separate athletics keyed to biological sex; policies compelling female athletes to compete against males create hostile environments; and female athletes can only receive the wide ranging benefits of women's sports with the protection of laws like those of West Virginia and Idaho. The Court should uphold these laws.

## ARGUMENT

### **I. Historically, the Equal Protection Clause prohibited discrimination based on sex, using a definition that was objective and immutable.**

The Fourteenth Amendment prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV. Among other things, the Equal Protection Clause prohibits states from discriminating based on sex. *United States v. Virginia*, 518 U.S. 515, 532 (1996). The statutes at issue in these cases can be analyzed in two ways, and they survive both levels of scrutiny. First, to the extent the statutes classify by sex, they satisfy intermediate scrutiny because they advance important governmental objectives—fairness, safety, and equal athletic opportunity for girls—and are substantially related to those objectives, as shown by the record in Sections IV and V, *infra*. Second, even if a challenger reframes the issue as gender-identity-based rather than sex-based, such claims receive rational-basis review, which the statutes easily satisfy for the same reasons.

In determining the meaning of discrimination based on sex, the words of the Constitution should be interpreted according to their original public meaning. *See D.C. v. Heller*, 554 U.S. 570, 577 (2008). The original public meaning of sex discrimination did not include discrimination based on one’s changeable gender fluidity. On the contrary, historically, all Americans believed that “sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth.” *Frontiero v. Richardson*, 411 U.S. 677,

686 (1973). As Justice Alito stated of the time period one hundred years *after* the Fourteenth Amendment was adopted, transgenderism is “a concept that was essentially unknown to the public at that time.” *Bostock v. Clayton Cnty., Georgia*, 590 U.S. 644, 716 (2020) (Alito, J., dissenting). Therefore, based on the original public meaning of the Fourteenth Amendment, the Equal Protection Clause does not include transgenderism in its protection against discrimination based on sex.

Alternatively, transgender discrimination does not receive the intermediate level of scrutiny that sex discrimination receives, *see Virginia*, 518 U.S. at 533, but rather, receives the rational basis scrutiny that all unprotected classes receive. *F.C.C. v. Beach Commc’ns, Inc.*, 508 U.S. 307, 314 (1993). It is perfectly rational to treat biological males differently from biological females and exclude them from girls’ sports because of “the physiological fact that males would have an undue advantage competing against women.” *Clark, By & Through Clark v. Arizona Interscholastic Ass’n*, 695 F.2d 1126, 1131 (9th Cir. 1982). Since rules protecting girls’ sports for biological females have a basis in reason, they do not violate the Equal Protection Clause. The same physiological realities that justify sex-based eligibility under equal protection are built into Title IX’s text, history, and regulations.

**II. The history and purpose of Title IX demonstrate the strong legal tradition of having separate sports based on biological sex differences.**

The fundamental purpose of Title IX is to protect athletic opportunities for women and girls. These protections are implemented by providing for sex-segregated athletics. This separation ensures that females have access to the benefits of athletic participation described in Section IV, *infra*. After first enacting Title IX, Congress passed the Javits Amendment, which directed the Secretary of Education to publish regulations “implementing the provisions of Title IX . . . which shall include with respect to intercollegiate activities reasonable provisions considering the nature of the particular sports.” Pub. L. 93–380 (HR 69), § 844, 88 Stat. 484 (Aug. 21, 1974). To that end, the implementing regulation of Title IX states that in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex, limit any person in the enjoyment of any right, privilege, advantage, or opportunity. 34 C.F.R. § 106.31(b)(7). The provision applying to athletics states specifically that a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. 34 C.F.R. § 106.41(a). In such circumstances, men and women are not similarly situated because of their physiological differences. Separate sex teams thus ensure that female athletes are afforded an equal opportunity to participate. 34 C.F.R. § 106.41(c)(1) This is precisely what the West Virginia and Idaho laws accomplish, in direct and careful adherence to the original intent of the law.

When male athletes began demanding to participate in women's sports by "identifying" themselves as such, states legislatures passed laws to ensure female athletes did not lose the benefits of Title IX. West Virginia's Save Women's Sports Act provides that girls' sports teams based on "competitive skill" or "involv[ing] . . . a contact sport" should not be open to biological males, similar to Title IX's implementing regulation. *Compare* W. Va. Code § 18-2-25d(c)(2) *with* 34 C.F.R. § 106.41. Male students may play on male or co-ed teams, while female students may play on all teams. *Id.* § 18-2-25d(c)(3). The law defines "male" and "female" based on biology, *i.e.*, "reproductive biology and genetics at birth." *Id.* § 18-2-25d(b). Meanwhile, Idaho's Fairness in Women's Sports Act provides that student sports "designated for females, women, or girls shall not be open to students of the male sex," with such designations "based on biological sex." Idaho Code § 33-6203(1), (2). Like Title IX, the laws were based on the inherent physiological differences between women and men that require sex-segregated sports in order for women to have an opportunity to compete safely and competitively.

If the West Virginia and Idaho laws are struck down, Title IX and women's sports programs across the nation will follow. Such a result is contrary to decades of law that allows for—and the practical reality that demands—sex-separate sports in order to provide girls and women an opportunity to participate in sports.

Justice Ruth Bader Ginsburg recognized the need for sex-based distinctions when she wrote the opinion in a landmark women's equality case declaring that sex-based classifications are sometimes permissible.

*Virginia*, 518 U.S. at 533. The opinion demonstrates that Justice Ginsburg, and a majority of the Court, understood the innate, physiological differences between men and women and declared them “enduring.” *Id.*; see also *Michael M. v. Superior Court*, 450 U.S. 464, 469 (1981) (sexes are “not similarly situated in certain circumstances” due to enduring physical differences in male and female physiology). In other words, unlike race, when it comes to sex, equality sometimes requires separation.

This Court has not backed away from the need for certain sex-based distinctions, particularly in the context of Title IX, where such distinctions are necessary to ensure equal and fair treatment for female athletes. Exemplifying such, the Supreme Court took care to note that its decision in *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 681 (2020), does not alter Title IX or its implementing regulations and instead was limited solely to the question before it in the employment context under Title VII. The narrow issue addressed in *Bostock* was whether an employer violated Title VII by terminating an employee on the basis of their transgender identification. In other words, unlike *Bostock*, where the Court said extending protection on the basis of “gender identity” did not violate another employee’s rights under Title VII, the harms that would flow from reinterpreting Title IX to effectively prohibit sex-based athletic competitions would disproportionately harm female athletes.

An interpretation of “sex” in Title IX to mean anything other than biological sex ignores at least two critical points essential to a proper understanding of sex-segregated sports:

(1) A male athlete's self-identification as female does not subject him to the same obstacles female athletes face, so he retains an innate, biological competitive advantage regardless of his subjective identity claims; and

(2) A female athlete does not escape any of these obstacles, nor does she gain any competitive advantage by self-identifying as male.

In other words, when women are forced to compete against males claiming transgender status, there is an unfair playing field that upends the purpose and text of Title IX. Female student athletes unquestionably lose under these types of discriminatory practices, and this Court has long recognized such disparate impact to establish a *prima facie* case of discrimination. Title IX regulations permit differential treatment specifically to achieve equal opportunity for girls and women. Reinterpreting "sex" to mean anything other than biological sex would undermine the mechanism Congress used to deliver equal opportunity to women and girls.

### **III. Allowing biological males to compete in girls' sports creates a hostile environment under Title IX.**

Laws that allow biological males to play girls' sports also violate Title IX by creating a hostile environment. The four elements of a Title IX hostile environment claim require that a school be "[1] deliberately indifferent [2] to sexual harassment, [3] of which they have actual knowledge, [4] that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school." *Davis Next Friend LaShonda D. v. Monroe Cnty. Bd. of*

*Educ.*, 526 U.S. 629, 650 (1999). Where a school adopts a policy authorizing male participation in girls' categories, actual knowledge and deliberateness are inherent in the policy itself, *see id.* at 643; the remaining question is the severity and pervasiveness of the resulting harm, which the record answers.

In this case, the educational benefit being deprived is that of athletically competing against one's own biological sex, a benefit that has existed for American schoolgirls since at least the nineteenth century. *See Yellow Springs Exempted Vill. Sch. Dist. Bd. of Ed. v. Ohio High Sch. Athletic Ass'n*, 647 F.2d 651, 671 (6th Cir. 1981). When boys are introduced into the single-sex, female environment, it discriminates against girls, who do not share the same muscle mass, speed, and lung capacity on average as boys of the same age and training. Hunter, Sandra K. *et al.*, *The Biological Basis of Sex Differences in Athletic Performance: Consensus Statement for the American College of Sports Medicine*, *Med. Sci. Sports Exerc.* 2023 Dec 1;55(12):2328-2360. Allowing boys, who maintain clear physiological advantages, to compete against girls is fundamentally unfair and constitutes harassment. Regardless of the outcome, being forced to compete against boys can cause severe mental and emotional harm to girls. *See infra* Section V. It deprives girls of the benefit of competing against their own biological sex, and it is, therefore, "severe, pervasive, and objectively offensive." Thus, it creates a hostile environment, in violation of Title IX.



The same analysis applies to facilities access: the record shows compelled exposure and loss of privacy in settings where disrobing and showering occur. Allowing biological males to use the same locker rooms as biological females creates a hostile environment that violates Title IX. Girls maintain a privacy interest inside the locker room because that is where they disrobe, use the toilet, and sometimes shower. As the Eleventh Circuit found, “[C]ourts have long found a privacy interest in shielding one’s body from the opposite sex in a variety of legal contexts.” *Adams v. Sch. Bd. of St. Johns Cty.*, 57 F.4th 791, 805 (11th Cir. 2022) (*en banc*). This privacy interest is violated when girls are forced to share locker rooms with the opposite sex: “the bathroom, . . . like a locker room or shower facility, is one of the spaces in a school where such bodily exposure is most likely to occur.” *Id.* Intentionally subjecting girls to this severe, pervasive, and objectively offensive invasion of their privacy constitutes harassment and creates a hostile environment in a space designed to protect their privacy and allow for preparation for athletic competition. This hostile environment in the locker room violates Title IX.

**IV. The wide-ranging benefits for female athletes can only be realized if women’s sports are maintained for biological women.**

Women’s participation in sports has skyrocketed since Title IX was enacted with bipartisan support over fifty years ago. The number of high school girls participating in sports grew 1150% from 1972 to 2019. Genevieve Carlton, *How Title IX Impacts Women’s Equality in College Athletics*, Best Colleges, Nov. 19, 2021; NCAA, *Title IX 50th Anniversary: The State of*

*Women in College Sports* 15 (2022). In 2024-25, girls' high school sports participation reached a record high of over 3.5 million. Gary Adornato, *High School Sports Participation Hits All Time High in 2024-25, Fueled by Growth in Girls Programs*, Sports Illustrated (Aug. 18, 2025). Similarly, the number of women playing college sports increased from 30,000 in 1981 to a record high of over 235,000 in the 2023-24 academic year. Genevieve Carlton, Best Colleges; *Celebrating Progress: Women's Representation in NCAA Sports, Leadership Roles*, NCAA Media Center (Mar. 1, 2025).

This increased participation has had enormous benefits for women and girls. Athletic participation provides significant and comprehensive benefits to female athletes in physical health, mental health, academic achievement, body esteem, social skills, confidence, job performance, and numerous other areas. The potential rewards for achievement are great both within the sport and in the athlete's broader life during and well after she stops competing—from simply making the team, to being a starting player, winning a state or local championship, earning scholarships, and beyond. When the recognition and honors are unfairly denied, so are the intangible rewards. This harm is demonstrated by empirical evidence as well as *amici's* own experience.

Academically, girls who play sports have higher grades and score higher on standardized tests than non-athletes. *Benefits of Sport: The Universal Truths ("Benefits")*, Women's Sports Foundation (2011). Participating in sports in high school "may have a positive influence on achievement in science, especially for young women," and positively impacts academic performance generally. See Sandra L. Hanson & Rebecca

S. Kraus, *Women, Sports, and Science: Do Female Athletes Have an Advantage?*, 71 *Sociology of Education* 93 (1998); Philip Veliz, & Sohaila Shakib, *Gender, Academics, and Interscholastic Sports Participation at the School Level: A Gender-specific Analysis of the Relationship between Interscholastic Sports Participation and AP Enrollment*, 47 *Sociological Focus* (2014). Girls who participate in sports are more likely to graduate compared to non-athletes with a particularly strong correlation for African American and Latina girls. *The Decade of Decline*, Women's Sports Foundation 54 (Oct. 2012). At the college level, girls who receive sports scholarships graduate at higher rates than those who do not. *Finishing Last: Girls of Color and Schools Sports Opportunities*, Nat'l Women's Law Ctr. 7 (2015). Female athletes are more likely than female non-athletes to postpone sexual activity and are half as likely to have an unintended pregnancy. *Id.*; *Sport and Teen Pregnancy*, Women's Sports Foundation 8, 10 (May 1998). They experience lower rates of depression and substance abuse, have higher self-esteem, and are even less likely to get breast cancer later in life. *Benefits*, Women's Sports Foundation; *Physical Activity in Adolescence and Young Adulthood and Breast Cancer Risk: A Quantitative Review*, Nat'l Center for Biotech Info. (Feb. 2004); see also Kimberly H. McManama, et al., *Psychological Resilience in Young Female Athletes*, National Library of Medicine (Aug. 17, 2021). Sports also provide scholarship opportunities, prize money, titles, professional careers, and other awards which serve as great incentives for girls and women to invest their time and effort into these activities.

Even after the close of an athletic career, sports participation leads to better business and employment opportunities for women. See Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports*, Nat'l Bureau of Economic Research 1, 4 (2010). Women have additional résumé items, confidence, encouragement from a network of coaches, teammates, and other supporters, coaching opportunities, and job opportunities. A survey of senior female executives found that 94% of women in the C-suite played sports, including 52% at the university level. Also, 74% of respondents said that a background in sports can help accelerate a woman's career. *Female Athletes Make Winning Entrepreneurs, According to New EY/ESPNW Report*, ESPN Press Room (May 3, 2017). Female executives further reported that their involvement in sports provided them with early leadership skills, discipline, and the ability to work in a team. *New Nationwide Research Finds: Successful Women Business Executives Don't Just Talk a Good Game... They Play(ed) One*, MassMut. Fin. Group (Feb. 2022).

The opportunity for women, and not just men, to realize these benefits was cemented into law over five decades ago. The key directive of Title IX of the Education Amendments of 1972 is contained in 37 simple words: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

Prior to Title IX, girls and women largely lacked teams of their own, and they did not have opportunities comparable to men to participate in sports at any

level. Title IX changed this imbalance by prohibiting schools from discriminating on the basis of sex. It treats sex as limited to the binary categories of male and female, both objective and fixed. *See Adams v. Sch. Bd. of St. Johns Cty.*, 57 F.4th at 813 (“[R]eading in ambiguity to the term ‘sex’ ignores the overall statutory scheme and purpose of Title IX, along with the vast majority of dictionaries defining ‘sex’ based on biology and reproductive function.”); *see also Neese v. Becerra*, 640 F. Supp. 3d 668, 680 (N.D. Tex. 2022) (“Title IX presumes sexual dimorphism in section after section, requiring equal treatment for each ‘sex.’”).

For athletic participation to continue to benefit female athletes, the meaning of “sex” under Title IX cannot be desecrated. Without sports dedicated exclusively to participation by women and girls, women and girls would be wholly excluded from the benefits of athletic participation. Sex-separated sports exist because of biological and physiological sex differences that are highly relevant to athletics. All sports have eligibility criteria, with only the highest performing athletes selected to join a team, compete in a particular event, qualify for the next level of competition, or receive scholarship funds. This is usually a zero-sum environment, such that there are a designated number of slots, and if one person is selected for an opportunity, another person necessarily misses out. When female athletes are unfairly forced to compete in *de facto* coed teams, they are deprived of titles, records, medals, scholarships, and opportunities to win, not to mention all the ancillary benefits that sports participation provides.

Single-sex teams not only level the playing field competitively, but they also protect women from the

increased injury that arises from competing against males who are naturally larger, faster, and stronger. Unsurprisingly, women are at an increased risk of injury when playing contact sports with men. Girls and women have the additional physiological challenge of being far more prone to severe injury and to a condition called Female Athlete Triad, which causes osteoporosis, increases in fractures, and psychological issues such as depression, anxiety, body dysmorphia, and eating disorders. Committee on Adolescent Health Care, *Female Athlete Triad*, American College of Obstetricians and Gynecologists, Committee Opinion No. 702 (June 2017).

The stakes are high. The goal of increasing women's participation in sports—an activity that has incredible life-long benefits—is compromised when the playing field is unfair and women's sports are open to biological males. If biological males are permitted to compete in women's sports, it will mark a negative turning point for women's rights. Women are being told to give up their rights and accept being relegated once again to treatment as the less-deserving half of the population. We have only just begun to see the devastating effects of this injustice, caused by ignoring objective reality, blindly adhering to platitudes of equality, and adopting irrational and oversimplified concepts of inclusion.

*Amici* have witnessed themselves and their female teammates and competitors lose motivation when the playing field includes biological males who have an innate competitive advantage in strength, agility, body size, muscle mass, bone density, body fat percentages, and explosive power. See *infra* Section V. These female athletes are being cheated when a male takes their

spot in a competition. Unless something is done to stop it, women's sports participation will revert back to pre-Title IX levels. Policies enacted to allow male participation in girls' sports dismantle the very opportunities Title IX was enacted to secure.

**V. *Amici's* experiences demonstrate the importance of maintaining single-sex sports for women.**

Our firsthand accounts illustrate predictable, concrete harms when males compete in girls' events: displacement of roster and podium spots and postseason opportunities; heightened injury risk; chilled participation; and an environment that is objectively hostile.

**A. F.S., a 15-year-old basketball player from Washington State**

In 2025, I found myself in a position I never imagined. I was a fifteen-year-old sophomore playing on the girl's junior varsity basketball team when a male athlete was allowed to take the court against us. I made the hardest choice of my season: I sat out my very last basketball game because I refuse to compete against any biological male in any sport I play. I watched as he overpowered and brutalized my teammates. I was incredibly distraught because no one would step up for us girls—not the staff, not the coaches, not the referees, and not even the other girls' parents.

After the game, I wrote about my experience, honestly, as an athlete who just wanted fair competition. I explained what I saw, how my family was treated, and how it felt to watch adults dismiss my concerns and threaten my younger brother for simply recording the game. What followed shocked me. My post was

flooded with comments, some supportive but many threatening. A parent of the male athlete even obtained my family's private number, sending repeated calls and texts, threatening to come to our home, attack my father's job, and even weaponize my father's illness against us.

The threats became overwhelming, and I eventually removed the post at my family's urging. Instead of standing with me, the school district launched an investigation into me for "misgendering." They accused me of bullying and harassment, even though I did not scream slurs or exaggerate. I simply told the truth: that a boy was playing in a girl's game. Later, the district admitted I had violated policy but chose not to discipline me "at this time." I was being warned. If I speak up again, I could face suspension or worse.

What has followed has been just as hard. Teachers and staff posted publicly in support of boys playing girls' sports, while blaming me for the backlash. State leaders defended the policy with misleading statements. Meanwhile, I have been left to carry the weight of being labeled the problem. As a fifteen-year-old, I am still expected to show up to school each day in an environment where my rights and my safety feel ignored. I have not given up. If anything, this has shown me just how much pressure is being used to silence girls like me. Please stop this tragedy of injustice.

### **B. S.N.C., a 16-year-old high-jumper from the State of Oregon**

I have been a high-jumper for nearly six years, training intensively and pouring myself into this event. During my junior year, I competed in the girls' high jump with the goal of taking my career to the next



level. I am NCAA-eligible, and I dream of competing in college and earning an athletic scholarship. My training, discipline, and results, such as finishing 7th at the 2024 Oregon School Activities Association (OSAA) 6A State Track and Field Championships, demonstrate my commitment to competing at the highest level.

All my training has shown in my results. I won first place in high jump at the 2024 Chehalem Classic and placed second at the Pacific Conference 6A Championships in both 2024 and 2025, which sent me to State Championships each year. I also consistently placed among the top six jumpers at other competitive meets during the 2025 outdoor season.

That spring, my first three meets went well. I placed 6th, 1st, and 2nd. When I arrived at my fourth meet, I was shocked to learn that a male athlete would be competing in the girls' high jump. OSAA allowed him to compete against us girls. When I heard, I cried. It was horrible.

When I got to the high jump pit, it was obvious this was not normal. Extra security and police officers stood near the pit. The presence of law enforcement made us girls feel like we were the problem—like we were being silenced and pressured into accepting something we knew was wrong.

It was overwhelming. I knew that competing under these circumstances would be agreeing to something deeply unfair. I also knew how other female athletes had been attacked online simply for speaking out about situations like this. The psychological and emotional pressure was crushing. I felt helpless, betrayed, and unprotected by the very institutions meant to safeguard fair competition for girls. In the end, I could

not bring myself to jump. A few other girls and I sat out in protest. It was one of the hardest decisions I have ever made because I knew what it would cost me. My record shows a “no height” for that meet, a designation which looks like failure to anyone who does not know the truth. That mark will follow me on my permanent record.

I tried to move forward, gathering my strength for the rest of the season. At the Pacific Conference 6A District Championships, I placed second and qualified for the State Championships. I was ranked 8th in the state for high jump.

When I arrived at Hayward Field for the State Championships, I warmed up with the other girls and listened to the OSAA officials brief us on the rules. The male athlete was not there, and we were all relieved. Then, just before the event began, he walked in, escorted by a security guard, even though he had skipped check-ins, warm-ups, and the officials’ meeting. The mood was heavy and emotional. Girls were crying, frustrated, giving their all only to lose to a boy. I was trying to focus on my own event while listening to the crowd boo and watching the tension build. It was heartbreaking and surreal. The police presence on the field distracted and intimidated the rest of us.

During the event, I had to jump right after him. I gave everything I had, but he still beat me by two inches, eliminating me from the competition. The difference was obvious: height, strength, muscle, explosive power. No matter how hard I had trained, I could not erase the biological advantage he had. Sitting on the bench afterward, I was forced to watch as he continued to clear higher bars. The experience left me frustrated and defeated. My ranking dropped because

of his entry. If he had not been permitted to compete in the girls' high jump, I would have finished 9th in the state. Instead, I left the championships feeling robbed of both placement and the meaningful experience I had worked toward all season.

This is not just about one athlete. There is a pattern. Males are entering the girls' events and taking them over. I have seen it firsthand. Competing against biological males has harmed me. It has stolen fair results, hurt my chances at college opportunities, and taken away the joy I should feel in the sport I have worked so hard for. Some of the best moments of my high school career have turned into the hardest. Even with all this, I try to stay strong in my faith. I want to fight for what is right, not just for myself, but for my little sister who is also a high-jumper. I do not want her to face the same unfairness I have. Please stop this from happening to my little sister and all the other younger girls who want to compete.

### **C. Reese Eckard, Oregon State Championship high-jumper**

I have been dedicated to track and field since middle school. I started out in gymnastics and found that I loved jumping. I come from a big family with six siblings. I am a quiet person by nature, very focused, and I do not enjoy speaking publicly. I put that energy into training and competing. High jumping is my passion and my pathway to college. My personal record is 5'4", and I am ranked first in my district. I have trained year-round to improve that mark and qualify for State. I train every day. In the mornings, I do a ninety-minute workout, and after school I have team practice for more than two hours.

Everything changed in April 2025. I learned that a male athlete would be competing in my event. He had jumped as a boy the season before, and now he was entered in the girl's high jump. My seed mark of 5'4" made me the top ranked jumper at the meet. I was on track to win, earn team points, and have another shot at improving my personal record. Instead, I faced a biological male with obvious physical advantages.

When I saw him in the warmup area, I broke down crying with another jumper. That is not like me. I am usually calm and focused, even in high pressure meets. I could not shake the stress and confusion. In the end, I did not jump. I recorded a "DNS" (Did Not Start), which now sits on my official athletic record. That decision cost me points for my team, a chance to raise my personal record, and possibly opportunities with college recruiters.

Several of us scratched that day in silent protest. I left that meet devastated. High jumping is my passion, and I have given everything to this sport. To have it overshadowed by unfairness was crushing.

It happened again at the State Championships. The girls were forced to compete against a boy in the high jump. The male athlete did not even go through the same check in process as the rest of us. At Hayward Field, one of the best track facilities in the country, we checked in at tents, had our spikes measured, and received instructions about behavior and rules. He bypassed all of that, arriving later with a special escort and skipping the normal process altogether. It felt like the rules applied to us but not to him. It does not make sense that girls cannot take performance enhancing substances, that our spike lengths are checked, and

that all of these other rules are enforced to stop an unfair advantage, but biological males are allowed to compete against us while carrying natural physical advantages we can never match.

I achieved a years' long goal by medaling in high jump at the Oregon State Track and Field Championships, but I could not enjoy it. A male athlete stood on the podium next to us. I and another female athlete made the decision together to step down from the podium during the awards ceremony as a silent protest.

OSAA did not respect our decision. Instead, officials forced us to remove our "Save Women's Sports" shirts, pulled us away from the podium, withheld our medals, and excluded us from the official championship photo. We were punished for expressing our belief that girls' sports should be for girls.

#### **D. Madelyn Eischen, Oregon high-jumper**

During the 2024–2025 school year, I was a senior in high school and a varsity scholar-athlete. I have been competing in track and field for four years, specializing in high jump and triple jump. My personal records are 5'0" in high jump and 35'4" in triple jump. I trained rigorously year-round and was a strong contender for district and state qualification. I also served as captain of my high school track and field team.

In 2025, a male athlete showed up to compete in the girls' high jump. He was surrounded by police and security and the whole meet instantly felt tense and intimidating. Instead of feeling excited to compete, I was shaken and distracted. Despite my discomfort, I locked in and opened with a jump at 4'6". Once the male athlete officially entered the competition, however, I withdrew in protest. Along with other athletes,

including S.N.C., I scratched from the event as a matter of principle. I could not, in good conscience, compete under such blatantly unfair circumstances. The atmosphere of the meeting was emotionally charged and disorienting. The male athlete was even allowed to jump after all the girls had finished, which broke event rules and gave him an advantage we were denied. For me, already on the edge of state qualification with a personal record of 5'0", this put my ranking in jeopardy. I did not make the State Championships. He received protection and special treatment while we were forced to compete under added stress and unequal conditions.

There is no process for me to formally object without risking my competitive standing. No girl should ever have to line up knowing the event is already lost, or step onto the field and feel silenced and unprotected. We work too hard, give up too much, and love this sport too deeply to have it taken away.

**E. Alexa Anderson, Oregon State Championship pole vaulter and high-jumper**

I graduated from high school in 2025. I am a dedicated track and field athlete. I am almost six feet tall, and while I'm strong in both pole vault and high jump, pole vault is my passion. I train 20–25 hours a week, balancing technique, strength and conditioning, and travel for national competitions. My training has paid off: I qualified for state in both pole vault and high jump, placed second in the state championship for pole vault, and earned a wildcard spot in high jump. My personal record in high jump is 5'6". Throughout high school, I was proud to become one of the top vertical jumpers in the state. I earned second at State in pole

vault, competed in nationals, and consistently ranked among the best in Oregon. Along the way, I became known not just for my performances but for my sportsmanship and leadership, and I formed lasting friendships with other athletes.

My experience was disrupted when I learned that a biological male would be competing in the girls' high jump. It wasn't the first time I'd heard about males entering girls' events, but it was the first time I would have to compete directly against one. The news caused immediate tension and anger among us. We felt blindsided by administrators who had decided without asking or even informing the girls it would affect.

I watch the male athletes compete in the men's categories at our competitions. I know the difference in height, starting heights, and overall personal records. Male athletes have biological advantages in strength, speed, and explosiveness that girls cannot train our way out of. I train as hard as I can, constantly pushing myself to improve, but I will never be able to match the same physical advantages. It felt unfair and wrong to be told to just accept it.

The decision left me with both a moral and competitive choice. By the time I reached the State Championships, the pressure was overwhelming. I had already seen another girl forced to compete against a boy at State the year before, and I remembered the anger and helplessness I felt watching her lose to someone with male advantages. Now I knew it was my turn. I had long conversations with my mom about what to do. I did not want to treat it like just another meet, because it was not. It was unfair.

At State, I noticed unusual things that I had never seen before. There were two or three officials in blue

shirts stationed in the athlete area, not running the meet but sitting and watching me and the other girls who wore “Save Women’s Sports” shirts. That kind of surveillance is not normal, and it made me feel singled out and silenced.

I tried to focus on competing, but the environment made it nearly impossible. The years of training I had put in did not matter that day. I was anxious, distracted, and angry. The spirit of the meet, the camaraderie, the joy, the sense of fairness was gone.

When I medaled, I should have been celebrating. Instead, I and another female winner felt we had to step quietly down from the podium in protest. We did not want to support the acknowledgement of a male athlete’s defeat of girls. For that, we were punished, forced to take off our “Save Women’s Sports” over-shirts, shuttled away, excluded from the official photos, and denied the medals and the recognition we had earned.

I felt angry and betrayed by the adults who imposed these policies without protecting us. We are teenagers, yet we are being forced to stand up because the adults who should be protecting us are not. No one is protecting us.

**F. Sophia Castaneda, Oregon state high school female record holder for fastest sophomore girl 400m runner in Oregon history.**

I have loved sports since I was a little kid. I played baseball with my brother, basketball, volleyball, and soccer. Running with my grandma is what made me fall in love with running. I joined track in 5th grade



and never looked back. I train hard, 5–6 days a week, almost all year round.

By my sophomore year, my hard work paid off; I ran the fastest 400m ever recorded by a sophomore girl in Oregon state history. Suddenly, I was at the very top of my event statewide. College recruiters were reaching out, and I was pursued by the media. It should have been one of the happiest moments of my life. Instead, when a biological boy began competing in the girls' races, everything shifted. The joy was replaced by stress and hopelessness; it was no longer fair competition, and the opportunities I had earned were taken away from me.

Midway through the 2024 season, my teammates and I noticed a new name on the girls' heat sheets; someone none of us knew, which was unusual since Oregon's top girls all race and train together. At the Sherwood Need for Speed Classic, we were stunned when this athlete, a boy, beat one of my friends in the 400m and went on to defeat 60 girls in the 200m and 48 girls in the 400m. The field we had worked so hard to build was suddenly upended. I was devastated, and so were the other girls. Our personal records felt meaningless, and the whole situation left us angry, frustrated, and helpless.

By the time we reached the state meet, the pressure was crushing. State is usually my favorite meet, full of energy and excitement, but this time it was tense and overwhelming. The night before, I called my mom in tears, unsure whether I should protest, race, or even stand on the podium. At just 15, I felt paralyzed by fear of making the wrong choice and ruining my scholarship chances.

Racing the boy was one of the hardest experiences of my life. He was given special treatment: police escorts, private warm-up areas, and exceptions none of us girls were allowed. In the clerk's tent, while we followed every rule, he had access to his bag and phone. After races, he would change clothes, check his rankings, and brag about being among the top in the nation. Meanwhile, we were stuck standing in sweaty singlets with no privileges. It was humiliating.

At the 2024 State Championships, I raced him three times and lost every time. For someone who had already made Oregon history in the 400m, it was devastating. I was heartbroken, angry, and crushed by how helpless it felt. I've sacrificed so much—years of training, holidays, weekends—and none of it mattered. No matter how hard I tried, I couldn't beat him. He was bigger and faster, and all of us knew it. The moment I had worked toward for years was erased.

It didn't feel like the usual heartbreak of losing a fair race; it was heavier, filled with hopelessness, unfairness, and the sense that something was deeply wrong. I am asking for someone to protect us because no girl should ever have to experience this.

## CONCLUSION

For more than fifty years, sex-separate athletics based on biological sex has delivered the opportunities Title IX promised to women and girls. West Virginia's and Idaho's laws preserve that lawful framework. They comport with the Equal Protection Clause and Title IX. *Amici* respectfully ask the Court to uphold them.

Respectfully submitted,

ANNA ST. JOHN  
HAMILTON LINCOLN LAW  
INSTITUTE  
1629 K Street NW  
Suite 300  
Washington, DC 20006  
(917) 327-2392  
anna.stjohn@hlli.org

September 19, 2025

LEIGH ANN O'NEILL  
SARAH HEATH  
BRIAN KELSEY  
(Counsel of Record)  
AMERICA FIRST POLICY  
INSTITUTE  
1455 Pennsylvania Ave.,  
NW, Suite 225  
Washington, DC 20004  
(202) 503-4305  
bkelsey@  
americafirstpolicy.com