

No. 24-43

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In the Supreme Court of the United States

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WEST VIRGINIA, ET AL., *Petitioners*,

*v.*

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

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On Writ of Certiorari  
to the United States Court of Appeals  
for the Fourth Circuit

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**BRIEF OF *AMICUS CURIAE*  
INDEPENDENT WOMEN'S LAW CENTER  
SUPPORTING PETITIONERS**

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## INTRODUCTION AND INTEREST OF *AMICUS CURIAE*<sup>1</sup>

In thwarting state efforts to protect women’s sports, the decision below harms women and girls who will be forced to compete with males for athletic opportunities. Indeed, allowing even a single male to compete in women’s sports can deprive women and girls of numerous opportunities—not only to win, but also for roster spots, playing time, leadership roles, and scholarships.

This threat to women’s and girls’ athletic opportunities is of significant concern to *amicus curiae* Independent Women’s Law Center (“IWLC”), which is a project of the Independent Women’s Forum (“IWF”), a nonprofit, non-partisan 501(c)(3) organization founded by women to foster education and debate about legal, social, and economic issues. IWF promotes policies that advance women’s interests by expanding freedom, encouraging personal responsibility, and limiting the reach of government. IWLC supports this mission by advocating for equal opportunity, individual liberty, and the rights of women and girls. As organizations comprised primarily of women, IWF and IWLC believe that women and girls deserve equal opportunities in athletics, which can be achieved *only* by protecting and promoting women’s sports.

For the reasons stated by Petitioners, IWLC agrees that the Court of Appeals erred in concluding

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<sup>1</sup> This brief was not authored in whole or in part by counsel for any party and no person or entity other than *amicus curiae* or its counsel has made a monetary contribution toward the brief’s preparation or submission.

that Title IX prohibits state efforts that aim to protect women's and girls' sports by limiting participation to women and girls. IWLC writes to further explain the specific harms that holding poses to women and girls—harms that provide ample additional reasons for reversal.

### SUMMARY OF ARGUMENT

There is no question that allowing male athletes to take roster spots on women's sports teams harms the women and girls who are cut in favor of the male athletes. And even on no-cut teams, women and girls lose out when coaching resources and playing time that would otherwise be devoted to them are instead directed toward their male teammates. Likewise, in individual events with limited spots—such as swimming and track-and-field—each male athlete who competes results in one fewer opportunity for a woman or girl to showcase her athletic ability and competitive drive.

Moreover, these reduced opportunities—for roster spots, for playing time, for coaching resources—result in fewer women and girls winning championships, receiving other honors and recognition, taking leadership roles on their teams, gaining the notice of college scouts, and earning scholarships. By preventing state efforts to ensure that women's sports proceed as *women's* sports, the decision below thus reduces numerous athletic opportunities for women and girls.

And this is not a matter of women and girls lacking competitive drive. Rather, it is a matter of physical differences between male and female athletes. And



those physical differences give male athletes an *unfair* competitive advantage over women and girls. Indeed, that unfair competitive advantage is why the Title IX athletic regulations permit single-sex sports—to give women and girls an equal playing field.

In turning Title IX on its head and preventing state efforts to limit women’s sports to female athletes, the decision below has the consequence of harming the very women and girls that Title IX and its related athletic regulations were promulgated to protect—taking away their athletic opportunities, undermining their confidence in their athletic abilities, and reducing their chances to earn scholarships. For these reasons, and the reasons stated by Petitioners, the decision below should be reversed, and West Virginia should be allowed to ensure that women and girls are not forced to compete against males for athletic opportunities.

## ARGUMENT

### **I. Women’s Sports Increase Athletic Opportunities for Women and Girls.**

The goal of the Title IX athletic regulations was to increase opportunities for women and girls<sup>2</sup> in high

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<sup>2</sup> This brief uses the term “sex” to refer to an individual’s immutable biological classification as either male or female. It uses the term “women” or “girls” to mean adult and juvenile human females, respectively, and the term “female” to mean a person belonging to the sex that produces the large reproductive cell. Similarly, this brief uses the term “male” to mean a person belonging to the sex that produces the small reproductive cell—regardless of whether the person identifies as transgender.

school and college sports. Indeed, as the Third Circuit has explained:

[A]lthough Title IX and the [athletic] regulation apply equally to boys as well as girls, it would require blinders to ignore that the motivation for [the] promulgation of the regulation on athletics was the historic emphasis on boys' athletic programs to the exclusion of girls' athletic programs in high schools as well as colleges.

See *Williams v. School Dist. of Bethlehem*, 998 F.2d 168, 175 (3d Cir. 1993).

Thanks to Title IX, women's sports—at every level—have made remarkable progress over the past 50 or so years. During the 1971-1972 school year, there were fewer than 300,000 sports slots for high school girls, and only one in 27 participated in organized sports.<sup>3</sup> In contrast, by the 2018-2019 school year, there were over 3.4 million sports slots for high school girls, and three in five girls participated.<sup>4</sup> Likewise, fewer than 30,000 women played college sports during the 1971-1972 school year—but that number reached 236,315 during the 2023-2024 school year.<sup>5</sup> Indeed,

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<sup>3</sup> See Women's Sports Found., *50 Years of Title IX* (2022), <https://tinyurl.com/wccu4865>; Women's Sports Found., *Title IX and the Rise of Female Athletes in America* (Sept. 2, 2016), <https://tinyurl.com/3ts4b92e>.

<sup>4</sup> *50 Years of Title IX*, *supra* note 3.

<sup>5</sup> Indep. Women's L. Ctr. ("IWLC"), *Competition: Title IX, Male Athletes, and the Threat to Women's Sports* 12 (3d ed. 2025), <https://www.iwf.org/competition-report/> (citing Lisa Maatz et al., *Title IX at 40: Working to Ensure Gender Equity in Education*,

women comprised about 43% of NCAA athletes that year.<sup>6</sup> And in 2022, “women received 45% of athletic scholarship dollars.”<sup>7</sup> Title IX has therefore been a smashing success in increasing the athletic opportunities for women and girls.

And that has come with a host of other benefits. High school girls who play sports are less likely to become pregnant and more likely to get better grades and graduate than those who do not play sports.<sup>8</sup> Likewise, women and girls who play sports have more confidence and more positive body image than those who do not.<sup>9</sup> Sports also help women and girls develop skills that will help in the workforce, and participating in sports provides exercise that improves their health in a variety of ways.<sup>10</sup>

But by preventing state efforts to prohibit male athletes from competing in women’s sports, the decision below threatens to turn back the clock on athletic opportunities for women and girls. The simple

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Nat’l Coal. for Women & Girls in Educ. 8 (2012), <https://tinyurl.com/28b48tcd>; Nat’l Coll. Athletic Ass’n (“NCAA”), *NCAA Sports Sponsorship and Participation Rates Database*, <https://tinyurl.com/2kmykvaj> (last visited Sept. 19, 2025)).

<sup>6</sup> *Id.* at 12 (citing *NCAA Sports Sponsorship and Participation Rates Database*, *supra* note 5).

<sup>7</sup> *Ibid.* (citing NCAA, *Title IX 50th Anniversary: The State of Women in College Sports* 27-30 (2022), <https://tinyurl.com/3bhshn58>).

<sup>8</sup> Women’s Sports Found., *Benefits – Why Sports Participation for Girls and Women* (Aug. 30, 2016), <https://tinyurl.com/2vk62dxdp>.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

scientific reality is that, on average, male bodies are physically stronger, faster, and more powerful than female bodies.<sup>11</sup> And the male-female athletic differential is not the result of human variation between top athletes and non-athletes. In fact, research confirms that, overall, “[t]here is [a] 10 to 12% difference between male and female athletic performance.”<sup>12</sup> Nor is it the result of socialization, unequal opportunity, or lack of funding. Rather, the male-female athletic gap is almost entirely the result of biology.<sup>13</sup> And studies also make clear that testosterone suppression cannot completely eliminate the gap or the male athletic advantage.<sup>14</sup> Accordingly, allowing males to compete in women’s sports is “deeply unfair”—as Gavin Newsom, Democratic Governor of California, recently acknowledged.<sup>15</sup>

Indeed, given what this Court has long recognized as the “enduring” “[p]hysical differences between men and women,” *United States v. Virginia*, 518 U.S. 515, 533 (1996), women and girls are disadvantaged if

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<sup>11</sup> See IWLC, *supra* note 5, at 20-22 (citations omitted) (providing detailed overview of the scientific literature on the significant and enduring nature of the male-female athletic gap).

<sup>12</sup> Tim Layden, *Is It Fair for Caster Semenya to Compete Against Women at the Rio Olympics?*, Sports Illustrated (Aug. 11, 2016), <https://tinyurl.com/jh5mazht>.

<sup>13</sup> See IWLC, *supra* note 5, at 19-20 (citations omitted).

<sup>14</sup> Jennifer C. Braceras, *FACT CHECK: Can Transgender Athletes Eliminate the Male Athletic Advantage by Suppressing Testosterone?*, Indep. Women’s Forum (“IWF”) (Jan. 13, 2022), <https://tinyurl.com/yfz4388b>.

<sup>15</sup> See Christopher Cadelago, *Gavin Newsom Breaks with Democrats on Trans Athletes in Sports*, Politico (Mar. 6, 2025), <https://tinyurl.com/na887w58>.

forced to *physically* compete against males for opportunities. For example, Democratic Senator Mazie Hirono of Hawai‘i recently expressed concern that women applying to join the Federal Bureau of Investigations would be unable to satisfy the pull-up requirement because “physiological differences” between men and women mean “a lot of women cannot” do a certain kind of pull-up.<sup>16</sup> And, as Democratic Senator Chris Murphy of Connecticut put it, “We cannot avoid the biological/evolutionary differences between men and women.”<sup>17</sup> Those physical differences are the reason why women’s sports exist—to give women and girls an equal playing field. But all the progress that women’s sports have made over the past five decades is at risk if women’s teams must allow males to compete.

## **II. Opening Women’s Sports to Males Reduces Athletic Opportunities for Women and Girls.**

Many states have acted to protect women and girls against that threat. Specifically, twenty-eight states—including West Virginia—have now passed laws protecting women’s and girls’ sports by limiting competition to women and girls.<sup>18</sup> The women and girls in these twenty-eight states who will be harmed most if this Court affirms the decision below, because

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<sup>16</sup> See Jasmine Baehr, *Patel Defends FBI Pull-up Test after Hirono Decries It as Gender Bias in Senate Showdown*, Fox News (Sept. 16, 2025), <https://tinyurl.com/umjxvz7h>.

<sup>17</sup> Chris Murphy (@ChrisMurphyCT), X (July 2, 2023, at 8:54 AM), <https://x.com/chrismurphyct/status/1675488172812140544>.

<sup>18</sup> See *Independent Women: State Action*, Indep. Women’s Voice, <https://www.iwvoice.com/state-action/#map> (last visited Sept. 19, 2025).

they would be forced to compete against male athletes for roster spots, playing time, leadership roles—and championships. And the experiences of girls in the states that *already* allow males who identify as transgender to compete in girls’ high school sports demonstrate that the resulting harm to women and girls will be severe and pervasive.<sup>19</sup>

So too for the experiences of female collegiate athletes prior to 2025, when the NCAA allowed males who identified as transgender to compete in women’s sports if they met certain requirements related to hormone suppression and testosterone levels.<sup>20</sup> The NCAA updated its participation policy in February 2025 to prevent male athletes from competing in women’s sports.<sup>21</sup> But if the decision below stands, it threatens this hard-won NCAA policy protecting women competing in college athletics.

**A. Women and girls are less likely to succeed in athletics if forced to compete with males.**

Indeed, if allowed to stand, the decision below will have “the perverse effect of enabling non-elite boys and men to win spots and championships from elite girls and women.”<sup>22</sup>

1. Recent data confirms this is what’s *already* happening when male athletes compete in women’s

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<sup>19</sup> See IWLC, *supra* note 5, at 13, 43.

<sup>20</sup> See *id.* at 13.

<sup>21</sup> See *ibid.*

<sup>22</sup> Doriane Lambelet Coleman, *Sex in Sport*, 80 L. & Contemp. Probs. 63, 97 (2017).

sports. In 2023, male athletes won 677 of the 2,322 women’s events in which they competed, finishing in the top three 1,207 times.<sup>23</sup> Those numbers were similar in 2024, when male athletes won 631 of the 2,040 women’s events in which they competed, finishing in the top three 1,061 times.<sup>24</sup> And as of June 1, 2025, male athletes participated in 605 women’s events, winning 189 and finishing in the top three 302 times.<sup>25</sup>

Moreover, if the decision below stands—removing the protection that West Virginia and twenty-seven other states currently provide to women’s sports—the number of male athletes competing in and winning women’s events will inevitably increase. And, as more male athletes compete in women’s sports, the number of women and girls harmed will also continue to increase.

2. The experiences of female collegiate athletes before the NCAA updated its policy to prevent male athletes from competing in women’s sports showcase this danger. Indeed, under the NCAA’s prior policy, male athletes who identified as transgender were regularly taking podium spots from female athletes in college competitions. For example, Lia Thomas swam on the men’s team at the University of Pennsylvania for three years before “coming out” as transgender and competing on the women’s team. Thomas then won the

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<sup>23</sup> See IWLC, *supra* note 5, at 33 (citing 2023-2025 results for all sports found at *Female Competitions Won by Male Athletes, Totals*, HeCheated.org, <https://tinyurl.com/yc7syadh>).

<sup>24</sup> See *id.* at 34.

<sup>25</sup> See *ibid.*

national championship in the NCAA Division I women's 500-yard freestyle.<sup>26</sup>

Likewise, June (formerly Jonathan) Eastwood held state track and cross-country titles in the men's division, and competed on the University of Montana men's cross-country team for the first three years of college.<sup>27</sup> During the 2019-2020 school year, Eastwood began competing in the women's division<sup>28</sup>—taking podium spots and earning honors, such as Big Sky Athlete of the Week, that would have otherwise gone to women.<sup>29</sup>

Similarly, Cece (formerly Craig) Telfer competed for three years on the men's track and field team at Franklin Pierce University, before joining the women's team as a fifth-year senior.<sup>30</sup> In 2019, Telfer won the NCAA Division II title in women's 400-meter hurdles—beating the second-place finisher by more than a second.<sup>31</sup> Minna Svärd, the woman who lost out on a NCAA championship because of Telfer, wrote in 2025: “I cried a lot that day—not because I lost, but because of how I lost. I also knew I wasn't the only victim. Every time a male athlete enters a female competition, a woman gets cut from the roster to make

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<sup>26</sup> Andrea Jones & Clare Hepler, *Males Don't Belong in Women's Sports—Even If They Don't Always Win*, Heritage Found. (Nov. 27, 2019), <https://tinyurl.com/5dyc7vb6>.

<sup>27</sup> *Ibid.*

<sup>28</sup> IWLC, *supra* note 5, at 34 (citations omitted).

<sup>29</sup> Jones & Hepler, *supra* note 26.

<sup>30</sup> *Ibid.*

<sup>31</sup> IWLC, *supra* note 5, at 34 (citation omitted).



room.”<sup>32</sup> Telfer also won titles at the Northeast-10 championships in various women’s events, taking those honors from female athletes as well.<sup>33</sup> Title IX guarantees a fair shot, but forcing female athletes to compete against male athletes is inherently *unfair*.<sup>34</sup>

4. This same experience unfortunately extends to high school and middle school athletics in the states that do not protect women’s sports. For example, Chelsea Mitchell, a high school track star in Connecticut, lost four state championship titles, two all-New England awards, and many other podium spots to two male runners who identified as transgender.<sup>35</sup>

And she was not the only girl deprived of opportunities by those two male runners. Selina Soule, a 4-time track-and-field National Qualifier, “lost out on qualifying for the indoor New England regional track and field championships by just two spots, with

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<sup>32</sup> Minna Svärd, *My Stolen NCAA Championship*, Wall St. J. Op. (Mar. 17, 2025), <https://tinyurl.com/z82fvf47>.

<sup>33</sup> Jones & Hepler, *supra* note 26.

<sup>34</sup> See Jackson Thompson, *Pete Buttigieg Doubles-down on Questioning Fairness of Trans Athletes in Women’s Sports*, Fox News (Aug. 7, 2025), <https://tinyurl.com/mr24dfmu> (former U.S. Secretary of Transportation Pete Buttigieg stated that “there are serious fairness issues” in allowing male athletes to compete against women and girls).

<sup>35</sup> Chelsea Mitchell, *I Was the Fastest Girl in Connecticut. But Transgender Athletes Made It an Unfair Fight*, All. Def. Freedom (“ADF”) (rev’d June 6, 2024), <https://tinyurl.com/3jcatfau>.

the top two spots being taken by males.”<sup>36</sup> Because of that, Selina “was robbed of the chance to show off [her] talents in front of college scouts, perform at a much faster track, and possibly put a better time out to put [her] in better standing with college recruitment.”<sup>37</sup> As Alanna Smith, another Connecticut track star forced to compete against those male runners, put it: “[T]he addition of males to girls’ sports fills me with a sense of defeat before I even get set up in the blocks.” JA501.<sup>38</sup>

Indeed, in just three track seasons (2017, 2018, and 2019), the two male athletes against whom Chelsea, Selina, and Alanna competed—Terry Miller and Andraya Yearwood—set 17 state records and won 15 women’s championships in track.<sup>39</sup> Those 15 titles had been held by *nine* different girls in 2016, the season before Miller and Yearwood began competing.

Miller and Yearwood also took from girls at least 85 opportunities to participate in higher level high school track competitions.<sup>40</sup> For example, Miller—the “overwhelming favorite”—beat Selina and Alanna, as

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<sup>36</sup> IWF, *Female Athletes Call for Equal Athletic Opportunity in Charleston, WV, During the Take Back Title IX Summer 2024 Bus Tour* (June 20, 2024), <https://tinyurl.com/54uce9mv>.

<sup>37</sup> *Ibid.*

<sup>38</sup> See also *Hearing on H.B. 1298 Before the S. Jud. Comm.*, 2021 Leg., 67th Sess. 9584 (N.D. 2021) (statement of Alanna Smith), <https://tinyurl.com/mr2che9s>.

<sup>39</sup> See IWLC, *supra* note 5, at 34.

<sup>40</sup> Mitchell, *supra* note 35.

well as five other girls, in the Connecticut State Open Outdoor Championships, and it wasn't even close.<sup>41</sup>

The trend of male athletes taking top spots in girls' high school events continued at the 2025 State Track and Field Championships—including events in California, Oregon, Washington, and Maine.<sup>42</sup> Lauren Matthews, who lost the Washington state title in the 400-meter dash to a male athlete for the second year in a row, skipped the awards ceremony and later posted a photo to social media holding a sign describing her as the “Real Girls 2A 400m Champion.”<sup>43</sup>

This experience also extends to girls' middle school sports. In fact, as Judge Agee highlighted in his dissent in part in this case, B.P.J. in *one* track-and-field season: (1) “displaced at least one hundred biological girls”; (2) “pushed multiple girls out of the top ten”; and (3) prevented at least two girls from participating in the conference championships, in two separate events. Pet. App. 55a. And that is the impact on girls of just *one* male athlete competing in *one* season.

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<sup>41</sup> See ADF Media Rels., *CIAC State Open Outdoor Championships* (Vimeo, Feb. 26, 2021), <https://tinyurl.com/29brjwbx> (June 3, 2019 100m Preliminaries, Terry Miller (lane 5) beats Selina Soule (Lane 8) & Alanna Smith (Lane 6)).

<sup>42</sup> IWLC, *supra* note 5, at 35 (citation omitted).

<sup>43</sup> See Valerie Richardson, *High School Girls Speak Out as Transgender Track Competitors Take State Honors*, Wash. Times (June 2, 2025), <https://tinyurl.com/4zwuxfx2>.

In short, it is fundamentally unfair to force women and girls to compete with male athletes in sports. And these examples illustrate the shattered dreams and lost opportunities for women and girls that result when women's sports are not protected. This Court should reverse the decision below to allow states to ensure that their female athletes will not suffer the same harm as Chelsea, Lauren, and so many others.

**B. Women and girls receive fewer athletic opportunities and are exposed to greater physical risks if forced to compete with male athletes.**

Even putting aside championships, a decision to allow *any* male athlete to join a girls' or women's team harms women and girls in other ways—including reduced resources and increased health risks.

1. Allowing male athletes to join girls' or women's teams takes away playing time and resources that would otherwise be devoted to female players.<sup>44</sup> For example, because there are limited lanes in the pool during a swim meet, a female swimmer was deprived of the opportunity to participate each time swimmer Lia Thomas took to the pool.<sup>45</sup> Likewise, because there are limited lanes on a track, a female runner was

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<sup>44</sup> See Coleman, *supra* note 22, at 97-98 & nn.173-176.

<sup>45</sup> IWLC, *supra* note 5, at 38. See also Kaylee McGee White, *The Women Who Lost to Lia Thomas*, IWF (Mar. 21, 2022), <https://tinyurl.com/3v26a2ry> (as swimmer Reka Gyorgy explained, every event a male athlete competed in “was one spot taken away from biological females”).

deprived of the opportunity to compete each time Terry Miller and Andraya Yearwood ran in a meet.<sup>46</sup>

Similarly, male athletes take roster spots away from women and girls in women's team sports. In Hawai'i, for example, a girl lost her starting spot on the girls' volleyball team when a male athlete joined the team.<sup>47</sup> And losing roster spots, playing time, and the opportunity to compete in meets results in further harms for the women and girls affected—including reducing their chances for leadership roles and scholarships.

2. Competing against male athletes also poses serious risks to women and girls' physical health and safety. In the 2010 Western Massachusetts Division I field hockey title game, for example, a male player scored the winning goal “on a late breakaway, colliding at full speed” with the female goaltender, who experienced a concussion on the play and suffered from severe headaches for about six months thereafter.<sup>48</sup>

And in 2022, Payton McNabb—a high school volleyball player in North Carolina—suffered a serious injury after a male athlete on the other team spiked a ball at her head.<sup>49</sup> McNabb “experienced trauma to the head and neck” as well as concussion

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<sup>46</sup> See IWLC, *supra* note 5, at 34.

<sup>47</sup> *Id.* at 38.

<sup>48</sup> Mike Cullity, *Equal Rights vs. Title IX*, ESPN (June 15, 2012), <https://tinyurl.com/25wemr4p>.

<sup>49</sup> See IWLC, *supra* note 5, at 38-40.

symptoms from the hit.<sup>50</sup> Her school board later decided to forfeit all future games against the other school “due to safety concerns.”<sup>51</sup>

Unfortunately, injuries to women and girls caused by male athletes are occurring with increasing frequency. Just last year, a girls’ high school basketball team in Massachusetts forfeited at halftime after a series of injuries in the first half—two involving a male athlete on the other team.<sup>52</sup>

And sometimes teams forfeit before the game even starts to avoid the risk of injury. For example, after it was revealed that a male athlete, Blaire Fleming, was playing on the San Jose State University’s women’s volleyball team, five opposing teams forfeited seven matches in about two months.<sup>53</sup> Such situations are unfair to the forfeiting team, who “forgo competition” to “protect the safety and fairness of their female athletes.”<sup>54</sup>

3. But the women on the team with the male athlete are also deprived of athletic opportunity, because they do not get to play. This unfairness to the

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<sup>50</sup> *Id.* at 40.

<sup>51</sup> *Ibid.*

<sup>52</sup> See Abby Patkin, *Injuries Involving Trans Basketball Player at Mass. School Spark Controversy*, Boston.com (Mar. 4, 2024), <https://tinyurl.com/2m56ry64>.

<sup>53</sup> See Grant Atkinson, *San Jose State Women’s Volleyball Coach Fired for Speaking Out*, ADF (Nov. 25, 2024), <https://tinyurl.com/mr9e4t4t>.

<sup>54</sup> See IWLC, *supra* note 5, at 40 (citing ESPN News Servs., *SJSU, After 6 Forfeit Wins, Gets Bye in MWC Volleyball Tourney*, ESPN (Nov. 25, 2024), <https://tinyurl.com/246vd2cp>).

male athlete's teammates is highlighted in a recent lawsuit filed by three female high school varsity volleyball players and their families against Jurupa Valley High School ("JVHS") in California.<sup>55</sup> At least six opposing teams forfeited or cancelled matches against the JVHS girls' volleyball team for the 2025-2026 season because of their male teammate.<sup>56</sup> So, rather than playing interscholastic games, the JVHS girls' volleyball team instead arranged scrimmages—including with the school's boys' volleyball team.<sup>57</sup> But such scrimmages are not the same as games, and the girls involved are therefore deprived of a meaningful opportunity to compete.

The above examples demonstrate that female athletic ability and competitiveness are overshadowed when women's sports are forced to allow male athletes to participate, undermining decades of progress. Maintaining single-sex teams is thus vital to preserving opportunities for women and girls to excel in sports—and the twenty-eight states that have chosen to pass laws protecting women's sports should be permitted to do so.

### **III. The Decision Below Advances the Radical Objective of Eliminating Single-Sex Sports.**

Some proponents of allowing males to compete on girls' and women's teams seem to be motivated by

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<sup>55</sup> See Jackson Thompson, *California Girls' High School Volleyball Players File Lawsuit over Transgender Teammate*, Fox News (Sept. 9, 2025), <https://tinyurl.com/bdz97hkf>.

<sup>56</sup> See Compl. ¶¶ 126-129, *McPherson v. Jurupa Uni. Sch. Dist.*, No. 5:25-cv-02362 (C.D. Cal. Sept. 9, 2025), ECF No. 1.

<sup>57</sup> See *id.* ¶ 133.

another purpose—that is, eliminating single-sex sports altogether. Opponents of single-sex sports argue that separate men’s and women’s athletic teams constitute a form of segregation that damages women and girls.<sup>58</sup>

But women’s sports abolitionists are wrong—single-sex sports do not harm women and girls. Just the opposite: Women’s sports provide a level playing field allowing women and girls to thrive—to learn that their bodies *are* good enough, and that they *can* succeed when they work hard, so long as they are given a fair shot.

The decision below takes away that fair shot—forcing women’s teams to allow men to compete and inevitably depriving women and girls of athletic and other opportunities.

## CONCLUSION

Women and girls deserve athletic opportunities on par with those offered to males. The decision below thwarts state efforts to protect women’s sports, thereby reducing the opportunities provided to women and girls. It should therefore be reversed.

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<sup>58</sup> See, e.g., Elizabeth Sharrow, *Five States Ban Transgender Girls From Girls’ School Sports. But Segregating Sports By Sex Hurts All Girls*, Wash. Post (Apr. 16, 2021), <https://tinyurl.com/2p9y723b> (arguing that single-sex teams reinforce gender stereotypes and arguing in favor of open-sport).



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