

No. 24-43

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

WEST VIRGINIA, *et al.*,  
*Petitioners,*  
*v.*

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

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

**BRIEF OF AMICUS CURIAE CALIFORNIA  
WOMEN'S LAW CENTER IN SUPPORT OF  
RESPONDENT**

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

The California Women’s Law Center (CWLC) is a statewide nonprofit organization dedicated to advancing the civil rights of women and girls through law and policy. CWLC’s mission is to foster a more just and equitable society by dismantling systemic barriers and empowering women and girls through impact litigation, policy advocacy, and education. Since its founding in 1989, CWLC has prioritized the elimination of all forms of discrimination against women. As a recognized authority on Title IX athletics enforcement, CWLC provides training and guidance to legal professionals and community leaders, including local Parks and Recreation Departments, on effectively implementing Title IX and other gender equity in sports mandates. CWLC has successfully litigated multiple Title IX athletics cases and remains one of the few organizations in the nation focused specifically on advancing gender equity in sports at the K–12 level.

## SUMMARY OF ARGUMENT

High school athletics play a transformative role in the lives of girls and women, offering documented lifelong benefits in education, career advancement, and physical and mental health benefits. While Title IX has been instrumental in opening the doors for female athletes across the nation, more than fifty years after its passage, its enforcement remains necessary to combat active discrimination. Girls today continue to

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<sup>1</sup> Pursuant to Supreme Court Rule 37.6, *amicus* affirms that no counsel for a party authored this brief in any part, and that no person or entity, other than *amicus* and its counsel, made a monetary contribution to fund its preparation and submission

face fewer opportunities to take part in athletics, play with inferior facilities and equipment, are led by less experienced coaching, and receive diminished institutional support compared to their male peers. These inequities are even more severe for girls of color, who meet additional barriers such as limited program offerings, financial hardship, and lack of access to safe and inclusive athletic environments. Yet, despite the clear evidence that athletic participation enhances academic success, economic opportunity and overall wellbeing, schools across the nation, including in California, remain far from achieving gender equity in sports.

CWLC has spent over thirty years dismantling systemic barriers through Title IX enforcement and is recognized nationally for its deep legal knowledge and practical experience in ensuring gender equity in K–12 sports. The national athletics opportunity gap for girls as compared to boys dwarfs the small number of transgender student athletes across the country. As an expert in Title IX athletics enforcement at the K–12 level, CWLC emphatically argues that the persistent inequity in girls' athletics is not caused by the inclusion of transgender students, but rather the longstanding and pervasive discrimination that favors boys' sports over girls' sports. The true threat to girls' sports has been unequal treatment, lack of investment, and the failure to fully enforce well-established Title IX athletics equity mandates. The threat to girls' sports is not and has never been the presence of transgender girls looking to play alongside their peers. CWLC's work makes clear that protecting the integrity of girls' athletics means confronting and

remedying ongoing sex discrimination, not excluding or scapegoating transgender students.

The crisis in girls' athletics has never been inclusion; it has always been inequity.

## **ARGUMENT**

### **I. PARTICIPATION IN HIGH SCHOOL SPORTS PROVIDES GIRLS AND WOMEN WITH SUBSTANTIAL LIFELONG BENEFITS**

The benefits of athletic participation alone are dramatic, and girls reap significant advantages from involvement in high school sports both in the immediate and long-term. High school athletic participation promotes lifelong benefits in educational performance, career achievement, and physical, social, and emotional health outcomes for all participants, not simply those who win. These benefits are enhanced for girls and women of color. Title IX is crucial in preserving and progressing these benefits. These benefits come not from awards, medals or titles, but from mere participation in youth athletics.

#### **A. Participation in High School Sports Improves Girls' Academic Performance, Career Achievement, and Health Outcomes for a Lifetime**

The educational and professional benefits that girls and women obtain from high school sports participation are impressive and undeniable. Female high school athletes are more likely to have higher

grades and standardized tests scores, fewer disciplinary issues, better attendance, greater higher education attainment, and an increased graduation rate as compared to their non-athlete peers.<sup>2</sup> It has also been well documented that female athletes are more likely than other female students to make important gains in historically male-dominated academic subjects, such as math and science.<sup>3</sup> This difference is critical since women are underrepresented in the burgeoning science, technology, engineering, math (“STEM”) workforce.<sup>4</sup> After high school, women who were athletes are more likely to attend and graduate from college and are more likely to participate in the workforce and earn higher wages.<sup>5</sup> For example, a survey

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<sup>2</sup> NAT’L WOMEN’S L. CTR., *The Battle for Gender Equity in Athletics in Elementary and Secondary Schools* (“Battle for Gender Equity”), 2 (2023), [https://nwlc.org/wp-content/uploads/2022/06/MM\\_NWLC\\_K12\\_50th\\_FS.pdf](https://nwlc.org/wp-content/uploads/2022/06/MM_NWLC_K12_50th_FS.pdf); Heather Barber et al., *Developing Physically Active Girls: An Evidence-based Multidisciplinary Approach* (“Developing Physically Active Girls”), TUCKER CTR. FOR RSCH. ON GIRLS AND WOMEN IN SPORT, 7 (2018), [https://www.cehd.umn.edu/tuckercenter/library/docs/research/2018-Tucker-Center-Research-Report\\_Developing-Physically-Active-Girls\\_Full-Report.pdf](https://www.cehd.umn.edu/tuckercenter/library/docs/research/2018-Tucker-Center-Research-Report_Developing-Physically-Active-Girls_Full-Report.pdf); Ellen Staurowsky et al., *Her Life Depends on It III: Sport, Physical Activity, and the Health and Well-Being of American Girls and Women* (“Her Life Depends on It”), WOMEN’S SPORTS FOUND., 97 (2015), [https://www.womenssportsfoundation.org/articles\\_and\\_report/her-life-depends-on-it-iii/](https://www.womenssportsfoundation.org/articles_and_report/her-life-depends-on-it-iii/).

<sup>3</sup> *Her Life Depends on It*, supra n.2, at 99.

<sup>4</sup> NAT’L GIRLS COLLABORATIVE PROJECT, *The State of Girls and Women in STEM*, 1 (2023), <https://ngcproject.org/sites/default/files/downloadables/2023-02/NGCP-TheStateofGirlsInSTEM-March2023-FINAL.pdf>.

<sup>5</sup> *Battle for Gender Equity*, supra n.2 at 2; see also Ellen J. Staurowsky et al., *Chasing Equity: The Triumphs, Challenges, and Opportunities in Sports for Girls and Women*,

of 400 female executives in four countries found that a remarkable 94% of these women were athletes and that wages for athletes were 7% higher than wages for non-athletes.<sup>6</sup>

Women’s academic and professional gains since Title IX’s enactment cannot be dismissed as coincidental. One especially rigorous study compared econometric data for 25 to 34-year-olds from the 1980 Census (before Title IX) and 2000 Census (after Title IX).<sup>7</sup> After controlling for students’ underlying ability and resources, the study concluded that “sports participation induced by Title IX had a large and statistically significant effect on female educational attainment” and “a statistically significant increase in labor force participation.”<sup>8</sup> In fact, “Title IX may explain roughly one-fifth of the rise in female educational attainment during this period” and “up to 40% of the overall rise in the employment of 25-34 year old women.”<sup>9</sup> This explanation also shows Title IX is responsible for “15 percent of the rise in female employment in male occupations,” which are generally higher-paying, and “*all* of the growth in employment of women in

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7, 24-29, WOMEN’S SPORTS FOUNDATION (2020), <https://www.womenssportsfoundation.org/wp-content/uploads/2020/01/Chasing-Equity-Full-Report-Web.pdf>.

<sup>6</sup> *Developing Physically Active Girls*, *supra* n.2 at 7 (discussing a study by Ernst & Young in 2016).

<sup>7</sup> See Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports*, 284-301, NAT’L BUREAU OF ECON. RSCH., Working Paper No. 15728 (Feb. 2010), <https://www.nber.org/papers/w15728>.

<sup>8</sup> *Id.* at 15, 16.

<sup>9</sup> *Id.* at 16, 17.

sports-related occupations between 1980 and 2000.”<sup>10</sup> It is clear that girls’ access to sports via Title IX increases their likelihood of future academic and career successes.

Participating in high school sports also yields meaningful short- and long-term benefits in girls’ and women’s physical and mental health. Female athletes have “higher levels of self-efficacy, confidence, self-esteem, physical competence, self-worth, and body esteem.”<sup>11</sup> Female athletes are also less likely than non-athletes to smoke cigarettes, use drugs, engage in high-risk sexual behavior, become pregnant, or suffer from depression in high school.<sup>12</sup> Women who were high school athletes are less likely to develop heart disease, diabetes, osteoporosis, breast cancer, Alzheimer’s disease, and other health problems later in life.<sup>13</sup> Not only does access to interscholastic sports help girls in school, sports also better their health outcomes.

Notably, none of these benefits are connected to winning, medals won, or place of finish.<sup>14</sup> It is the

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<sup>10</sup> *Id.* at 18, 19.

<sup>11</sup> *Developing Physically Active Girls*, *supra* n.2 at 3.

<sup>12</sup> *Battle for Gender Equity*, *supra* n.2 at 2; *Her Life Depends on It*, *supra* n.2 at 62, 74, 80; *Developing Physically Active Girls*, *supra* n.2 at 6-7.

<sup>13</sup> *Battle for Gender Equity*, 2; *Her Life Depends on It*, at 19; *see also Chasing Equity*, at 7, 24-29; *Developing Physically Active Girls*, at 6.

<sup>14</sup> *See Developing Physically Active Girls*, *supra* n.2 at 68 (explaining that for better health outcomes for girls, best practice

mere participation that instills life-long benefits for these athletes and produces the tremendous advantages connected to youth sports.

### **B. The Benefits of Participation in High School Sports Are Enhanced for Girls and Women of Color**

As girls' participation in sport is largely shaped by access and opportunity, the variety of choice of school sports offered impacts girls' participation. Girls often play on more sports teams if they are offered a wider variety of non-traditional, more inclusive variety of options from which to choose.<sup>15</sup> Given the vast gaps in options and resources available in heavily minority high schools, girls of color have far fewer athletic participation opportunities, thus far less athletic participation than those in typically heavily white high schools. Specific to female athletes, 40% of heavily minority high schools have large shortfalls in athletic opportunities compared to 16% of heavily white high schools.<sup>16</sup>

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is to emphasize sports' intrinsic value rather than extrinsic rewards like winning the game)

<sup>15</sup> Keith M. Drake *et al.*, *High School Sports Programs Differently Impact Participation by Sex*, 4 J. SPORT & HEALTH SCI. 3 (2015), 286, 282-288.

<sup>16</sup> NAT'L WOMEN'S L. CTR. AND POVERTY & RACE RESEARCH ACTION COUNCIL, *Finishing Last: Girls of Color and School Sports Opportunities ("Finishing Last")*, 2 (2015), <https://nwlc.org/resource/finishing-last-girls-of-color-and-school-sports-opportunities/>.

In comparison to the available playing areas dominated by boys and men, girls of color face myriad barriers to athletic participation including, but not limited to, fewer programs and resources, less access to safe and secure playing areas, and a lack of cross-cultural sensitivity for families who speak English as a second language or who are religiously observant.<sup>17</sup> Half of African American and Latinx parents report that their communities offer more sports programs for boys than for girls, and a third of African American parents report that financial issues precluded their daughters' from participating in athletic programs compared to less than a fifth of white parents.<sup>18</sup>

Those who can move past those barriers and participate in athletic sports teams can reap the vast benefits of athletic participation at heightened levels. For example, girls of color on sports teams show high levels of self-esteem and higher rates of participation in other extracurricular activities than minority girls who do not play sports who express greater levels of depressive symptoms and lower levels of positive self-esteem than other white counterparts.<sup>19</sup> Latina girls have specifically reported positive benefits related to

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<sup>17</sup> *Developing Physically Active Girls*, *supra* n.2 at 17-19.

<sup>18</sup> WOMEN'S SPORTS FOUND., *Report Brief: Her Life Depends on It III & Girls and Women of Color* ("Girls and Women of Color") 1-2 (2015), <https://eric.ed.gov/?q=Report+Brief%3a+Her+Life+Depends+on+It+III+%26+Girls+and+Women+of+Color+&id=ED588367>.

<sup>19</sup> *Finishing Last*, *supra* n.15 at 7; *Developing Physically Active Girls*, *supra* n.2 at 25.

their participation in sports teams as a push back against racist and gender-based stereotypes.<sup>20</sup>

Furthermore, the limited opportunities for girls of color to participate in sports before and during high school also plays out at the college level, where women of color make up 25 percent of female college students but only 15 percent of female college athletes.<sup>21</sup> Given the impact that athletic scholarships can have on the financial ability of many students to go to college, regardless of sex or race, more women of color would no doubt attend college if they had more athletic participation opportunities in high school.<sup>22</sup>

High school sports are especially important in the lives of girls and women of color, who face higher barriers to participation and are at greater risk of falling victim to the negative outcomes that athletic participation helps mitigate. Failing to provide girls of color and those experiencing barriers due to their minority status equal opportunities to play sports in high school thus deprives them of the lifelong academic, financial, and health advantages enjoyed by athletes.

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<sup>20</sup> See Vera Lopez, *No Latina Girls Allowed: Gender-based Teasing Within School Sports and Physical Activity Contexts*, 51 YOUTH & SOC'Y 3 (2019), 377, 390-391.

<sup>21</sup> *Finishing Last*, *supra* n.15 at 8.

<sup>22</sup> *Id.* at 7.

## II. THE PURPOSE OF THE TITLE IX ATHLETICS MANDATES WAS TO ADDRESS GENDER DISCRIMINATION GIRLS FACE IN SPORTS

Sports are transformative for the wellbeing of girls throughout their lifetimes, and the passage of Title IX made high school athletics more accessible for girls by making illegal the discrimination they have always faced. Title IX of the Education Amendments of 1972 prohibits educational programs receiving federal financial assistance from discriminating against students on the basis of sex. 20 U.S.C. § 1681, *et seq.* Title IX's implementing regulations specifically provide: "No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis." 34 C.F.R. § 106.41(a). This single sentence changed the landscape for girls' athletics nationwide.

In the 1971-1972 school year, the last school year before Title IX passed, only 7% of all high school athletes were girls.<sup>23</sup> To put this into context, the numbers were about 294,000 girls and 3,667,000 boys playing high school athletics before Title IX.<sup>24</sup> *Id.* By

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<sup>23</sup> Namarta Vadhera, *Impact of Title IX on Women's Participation in Sports: A Drastic Revolution in the Arena of Sports*, 3 INT'L J. OF PHYSIOLOGY, NUTRITION AND PHYSICAL EDUC. 2 (2018), 512, 516.

<sup>24</sup> *Id.*

2010-2011, the participation of girls in high school athletics had risen by over 1000% to nearly 3.2 million. Notably, the number of girls playing in 2010 was still less than the boys playing back in 1971.

The increase in high school sports participation is also due to Title IX's mandate that schools' athletic treatment and benefits for girls must be equal to boys. 44 Fed. Reg. 71,413 (1979), the Department of Education, Office of Civil Rights 1979 Policy Interpretation. Equal treatment and benefits are assessed based on an overall comparison of the athletic treatment and benefits the school provides to male and female student athletes, including an analysis of the following factors, among other considerations: "The provision of equipment and supplies; Scheduling of games and practice time; Opportunity to receive coaching . . . ; Assignment and compensation of coaches . . . ; Provision of locker rooms, practice and competitive facilities; Provision of medical and training facilities and services; Publicity" and a school's "failure to provide necessary funds for teams for one sex." 34 C.F.R. § 106.41(c)(2)–(10). When schools deal with these underlying discriminatory factors, they in turn make programs more welcoming, competitive, and enticing for girls, leading to more girls playing.

When considering the discrimination in athletics that girls face today, and in determining what the root of the discrimination is, it is necessary to understand the history and purpose of Title IX athletics mandates: to put girls, the historically underrepresented sex, on an even playing field with boys.

### III. FIFTY YEARS AFTER TITLE IX WAS PASSED, DISCRIMINATION AGAINST GIRLS IN FAVOR OF BOYS PERSISTS IN SCHOOL SPORTS

Despite Petitioners’ and their *amici*’s assertion that the problems facing female athletes today are due to the presence of transgender girls playing sports with them, nothing could be farther from the truth. For decades, sex discrimination in sports favoring boys’ sports over girls’ sports has been the defining problem facing female athletes, especially in high school. Title IX’s athletic regulations were adopted to solve this very problem—girls not being able to play sports on a level playing field with boys. And the problem remains today more than fifty years after Title IX was passed.

As the Women’s Sports Foundation has noted, the vast majority of states fail to ensure equal athletic participation opportunities for girls.<sup>25</sup> Because most states fail to report accurate athletic participation data for their schools, the problem is likely worse than available data indicates. “Unlike the college and university level, the high school level does not have an equivalent federal law like the Equity in Athletics Disclosure Act that results in the creation of a central, national database with information regarding each high school in the country, participation opportunities

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<sup>25</sup> Ellen Staurowsky, *et al.*, *50 Years of Title IX: We’re Not Done Yet* (“50 Years of Title IX”) at 9, WOMEN’S SPORTS FOUNDATION (2022), <https://www.womenssportsfoundation.org/wp-content/uploads/2022/05/Title-IX-at-50-Report-FINALC-v2-.pdf>.

and allocation of resources.”<sup>26</sup> For example, one analysis of athletics participation at twenty Maryland public school districts found that, “in all but four cases, federal data describes a more favorable situation for female athletes than what the districts’ own records show.”<sup>27</sup> The same report found that “all districts have fewer opportunities for female athletes.”<sup>28</sup> While girls in high school play sports in far greater numbers than they did in 1972, their numbers still lag behind boys. Indeed, as of 2018-19, girls participated in sports at numbers far lower than boys did in 1972.<sup>29</sup>

In California, high schools are required to report their athletic participation data to the California Interscholastic Association. *Amicus’s* review of the reported data shows that from 2018-19 school year through the 2024-25 school year, there is a participation gap for female athletes ranging from 4.3% to 6.1% which amounts to 70,000-95,000 girls who could be participating in high school sports if there was parity between girls and boys.<sup>30</sup> Notably, the data often overstates the number of female athletes by counting sideline cheer which is not counted as a sport under

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<sup>26</sup> *Id.* at 30

<sup>27</sup> Kara Newhouse, *Federal Title IX data on sports participation is unreliable*, CAP. NEWS SERV. (Apr. 11, 2022), <https://cnsmaryland.org/2022/04/11/title-ix-federal-sports-data/>.

<sup>28</sup> *Id.*

<sup>29</sup> *50 Years of Title IX*, *supra* n.24 at 20, Tab. 1.

<sup>30</sup> CAL. WOMEN’S L. CTR., *Title IX: Participation & Opportunity Trends in California* (2025), <https://www.cwlc.org/title-ix-participation-opportunity-trends-in-california/>.

Title IX.<sup>31</sup> The Women’s Sports Foundation’s review of 2018-19 national data found that “it would take 952,498 athletic opportunities to close the gap for females” nationwide.<sup>32</sup>

**A. The Participation Gap Girls Face in School Sports is Driven by Partiality to Boys’ Sports, Not by Inclusion of Transgender Athletes**

There is no conclusive data on the number of trans kids playing high school sports, but even using the highest estimates found, less than two percent of high school athletes across the country are transgender.<sup>33</sup> Other information suggests much smaller numbers: experts in California Governor Gavin Newsom’s office, for example, assert there are as few as 9 trans athletes among California’s student athletes.<sup>34</sup> Using even the higher numbers, excluding trans girls from girls’

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<sup>31</sup> *Id.*

<sup>32</sup> *50 Years of Title IX*, *supra* n.24 at 30.

<sup>33</sup> Elana Redfield, *The Impact of Transgender Sports Participation Bans on Transgender People in the US*, WILLIAMS INST. (February 2025), <https://williamsinstitute.law.ucla.edu/publications/impact-trans-sports-ban-eol/> (estimating 122,000 trans student athletes); *Participation in High School Sports Tops Eight Million for First Time in 2023-24*, NAT’L FED. OF STATE HIGH SCH. ASS’NS (September 10, 2024), <https://nfhs.org/stories/participation-in-high-school-sports-tops-eight-million-for-first-time-in-2023-24> (indicating that 8,062,302 participants were involved in high school sports that year).

<sup>34</sup> Juliet Macur, *Trump Threat Over Trans Athlete Puts Spotlight on California Track Meet*, N.Y. TIMES (May 30, 2025), <https://www.nytimes.com/2025/05/30/us/transgender-girls-athletes-california.html>.

sports does not remedy the wide participation gap that exists in favor of boys. Whichever estimates are correct, the same conclusion is true: trans athletes are not the obstacle in the way of girls' participation opportunities in high school sports. Rather, the historic and longstanding preference given to boys' athletics programs to the detriment of girls' continues to drive the opportunity gap.

### **B. The Persistent Disparities Favoring Boys Sports**

In addition to the grave disparities in athletic participation opportunities, female high school athletes face blatant discrimination with respect to athletic treatment and benefits as compared to boys. “In addition to the sheer lack of athletic participation opportunities for girls, when they do have a chance to play, they are relegated to worse facilities, uniforms, and equipment; inexperienced coaches; less support and publicity from their schools; and a whole host of other inequalities that send a corrosive message to girls that they are ‘less than’ their male peers. When some brave girls, parents, and coaches have complained, schools frequently engage in unlawful retaliation against them, creating a chilled environment where others are afraid to speak up.”<sup>35</sup>

Over the past twenty plus years, CWLC and its Fair Play for Girls in Sports Project have received a

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<sup>35</sup> Elizabeth Kristen, *Reflections on Progress Without Equity: Title IX K-12 Athletics at Fifty*, 30 AM. U.J. GENDER SOC. POL'Y & L. 2, 227, 229 (2022); see also Suzanne Eckes, *Title IX at 45: Equal Treatment of Students in High School Athletic Programs*, 25 AM. U.J. GENDER SOC. POL'Y & L. 4, 391 (2017).

multitude of complaints about sports inequity issues from high school girls and their parents from across the country. CWLC has resolved dozens of matters without litigation and has litigated notable and high-profile Title IX athletics discrimination matters. In all of these cases, the fundamental issues have been schools treating girls worse than boys in violation of Title IX. CWLC's cases also demonstrate that girls are often subject to retaliation when they complain about discrimination. By contrast, CWLC does not receive complaints about transgender girls participating in sports. Sadly, there are few resources for girls to rely on to bring Title IX athletics discrimination claims, especially with the current state of the Department of Education Office for Civil Rights and its misguided prioritization of trans girls in sports.<sup>36</sup>

Even today, girls are not afforded the equity they were promised by Title IX decades ago. High school girls still experience blatant discrimination in sport where boys have more opportunities to play, and boys' sports are favored with better resources, as evidenced by the decades of Title IX athletics complaints and cases CWLC has brought and witnessed.

In CWLC case, *Cruz v. Alhambra*, the facts centered around the girls' softball program and how their facilities were in poor condition as compared to the new and pristine baseball fields for boys. See No. 04-

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<sup>36</sup> Press Release, U.S. Dep't of Educ., U.S. Department of Education Finds California Department of Education and California Interscholastic Federation in Violation of Title IX (June 25, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-finds-california-department-of-education-and-california-interscholastic-federation-violation-of-title-ix>.

cv-1460, 2012 WL 13167767, at \*1, 3 (C.D. Cal. Aug. 3, 2012). In addition to these obvious facilities disparities, girls also had fewer participation opportunities as compared to boys and had worse and fewer locker rooms, uniforms, coaches, practice and game times, access to weight training, publicity and promotional support, and booster club money. “Lauren Cruz said her softball team must change out of school clothes and into softball uniforms in a tin shed alongside the school field. In the lawsuit she and three other plaintiffs filed, they said there were no working toilets at the field and inadequate maintenance of the bumpy, weedy playing surface.”<sup>37</sup> By contrast, the “boys’ baseball team plays in a place they call the ‘Field of Dreams,’ ... a city facility that Alhambra recently spent more than \$900,000 to renovate.”<sup>38</sup>

In CWLC’s landmark case, *Ollier v. Sweetwater Union High School District*, a class of female athletes at Castle Park High School in Chula Vista, California, sued their school for widespread athletic disparities for girls including failure to provide equal participation opportunities, disparities in athletic treatment and benefits as well as retaliation against the class of female athletes. 768 F.3d 843 (9th Cir. 2014). After years of litigation, the plaintiffs prevailed, and the

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<sup>37</sup> Bill Pennington, *High School Sports; Title IX Trickles Down To Girls of Generation Z*, N.Y. TIMES (Jun. 29, 2004), <https://www.nytimes.com/2004/06/29/sports/high-school-sports-title-ix-trickles-down-to-girls-of-generation-z.html>.

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

parties entered into a 10-year consent decree to improve conditions for girls at Castle Park High.<sup>39</sup>

In *Working v. Lake Oswego School District*, a class of female athletes again challenged unequal participation opportunities and unequal athletic treatment and benefits at their high school. No. 3:16-cv-00581, (D. Or. June 29, 2017). While the case began with a focus on softball disparities as compared to boys' baseball, the case expanded to cover all the athletics inequities experienced by the girls including in locker rooms, equipment and supplies, scheduling of games and practice times, coaching, medical and training services, fundraising opportunities, travel, and publicity. The case resolved with an agreement for improvements for female athletes at Lake Oswego High School.<sup>40</sup>

In *T.S. v. Red Bluff Joint Union High School District*, a class of female athletes sued their northern California high school for a host of Title IX athletics violations involving athletic participation opportunities as well as athletic treatment and benefits. *See*

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<sup>39</sup> Elizabeth Kristen & Cacilia Kim, *Unequal Play*, 38 LOS ANGELES LAWYER 24 (2015); *See also* Testimony of Elizabeth Kristen, California State Assembly Committee on Arts, Entertainment, Sports, Tourism & Internet Media (Aug. 8, 2008), <https://aart.assembly.ca.gov/sites/aart.assembly.ca.gov/files/hearings/08082008Testimony%20of%20Elizabeth%20Kristen.pdf>.

<sup>40</sup> *See* Jillian Daley, *Tentative agreement reached in Title IX case*, LAKE OSWEGO REV. (Jul. 17, 2017), <https://lakeoswegoreview.com/2017/07/17/tentative-agreement-reached-in-title-ix-case/>.

No. 2:17–CV–0489 (E.D. Cal. June 28, 2017). The settlement resulted in girls’ softball fields being improved to ensure that girls experienced the same facilities as boys’ baseball such as cinderblock dugouts, sound systems, press boxes, and field quality; equipment storage capacity. The school also agreed to improve girls’ locker and team room facilities as well as fundraising opportunities and athletics budgeting to ensure girls’ and boys’ teams are equitably treated and benefited.<sup>41</sup>

In CWLC’s *A.B. v. Hawaii State Department of Education*, a class of female athletes at Hawaii’s largest public school sued for widespread Title IX violations, including unequal participation opportunities, athletic treatment and benefits and retaliation. 30 F.4th 828 (9th Cir. 2022). The female athletes did not have access to equitable locker rooms and were forced to change under the bleachers or at the local fast-food restaurant. Meanwhile male athletes had a stand-alone athletic locker room that they used year-round. The girls also alleged that the school retaliated against the girls’ water polo team for raising Title IX concerns.<sup>42</sup> The case resolved and improvements for

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<sup>41</sup> LEGAL AID AT WORK, *Northern California school district agrees to settle gender equity claims* (Nov. 1, 2017), <https://legalaidatwork.org/northern-california-school-district-agrees-settle-gender-equity-claims/>; see also Bob Cook, *Angry Girls’ Sports Parents Rack Up Another Title IX Win*, FORBES (Nov. 8, 2017), <https://www.forbes.com/sites/bobcook/2017/11/08/angry-girls-sports-parents-rack-up-another-title-ix-win/>.

<sup>42</sup> David Chen, *Sex Discrimination Case in Hawaii Could Change High School Sports Across the U.S.*, N.Y. TIMES, (Oct. 22, 2022), <https://www.nytimes.com/2022/10/22/sports/title-ix-lawsuit-hawaii.html>.

girls' sports are ongoing under a seven-year compliance plan.<sup>43</sup> However, available data indicates that unequal participation issues for girls persist at Hawaii High Schools.<sup>44</sup>

In CWLC's most recent case, a class of female high school athletes sued their Bay Area California school for failure to provide equitable softball facilities as compared to baseball as well as a host of other athletic inequities and failure to provide equal participation opportunities. *J.D. v. Mt. Diablo Unified Sch. Dist.*, 4:24-cv-00908 (N.D. Cal. 2024). The matter settled with an ongoing monitoring period and promised renovations to the inferior softball facilities.<sup>45</sup>

Despite the promise of Title IX, girls are not afforded the equity they were promised more than 50 years ago. The critical issue facing millions of high school girls in sports is the blatant discrimination

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<sup>43</sup> David Chen, *Hawaii Settles Sex Discrimination Case With High School Female Athletes*, N.Y. TIMES (Oct. 27, 2023), <https://www.nytimes.com/2023/10/27/us/hawaii-title-ix-settlement.html>.

<sup>44</sup> Megan Tagami, *Girls Remain Underrepresented In Hawai'i High School Sports*, CIVIL BEAT (Sep. 9, 2025), <https://www.civilbeat.org/2025/09/girls-remain-underrepresented-in-hawaii-high-school-sports/>.

<sup>45</sup> CAL. WOMEN'S L. CENT., *Press Release: Settlement in J.D. et al. v. Mt. Diablo Unified School District* (Jul. 18, 2025), <https://www.cwlc.org/jd-et-al-v-mt-diablousd-pressrelease/>; see also Jaelyn Watson and Alexandra Gopin, *Field conditions, amenities fuel many Title IX legal disputes*, CAP. NEWS SERV. (Apr. 11, 2022), <https://cnsmaryland.org/2022/04/11/title-ix-high-school-field-lawsuits/> (describing other examples of the multitude of high school sports inequity cases filed by girls).

they are subjected to when boys have more opportunities to play, and boys' sports are favored with better resources across the board. Ostracizing transgender athletes does not remedy these inequities. Righting the fundamental unfairness between girls' and boys' sports is what is vital to eradicating gender discrimination in girls' athletics.

## CONCLUSION

Title IX has been a vital tool in ensuring that girls have access to equitable opportunities in athletics. Yet, pervasive disparities in participation, facilities, coaching, and resources persist in favor of boy's programs. CWLC's decades of experience enforcing Title IX athletics law demonstrate that remedial efforts focused on dismantling structural barriers have a tangible impact on girls' athletic participation and outcomes. High school sports participation empowers the youth to excel academically, pursue higher education, reach economic independence, and achieve lifelong health and social benefits. These benefits are magnified for those who experience intersecting forms of discrimination, making fair access to sports a matter of both civil rights and social justice.

Excluding or scapegoating transgender students does not remedy these entrenched inequities. Instead, this focus misdirects attention and resources away from the real work necessary to ensure girls can participate on a level playing field with boys. Protecting the integrity of girls' athletics means confronting the historical and ongoing discrimination that denies them fair opportunities, not erecting new barriers based on fear or misunderstanding.

The crisis in girls' athletics has never been inclusion; it has always been inequity. Addressing that inequity requires a commitment to enforcement and equal opportunity. By focusing on the true sources of discrimination and supporting the implementation of Title IX mandates, we can ensure high school athletics fulfill their transformative promise for *every* girl, today and for generations to come.

Respectfully submitted,

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